



Practical Measures to Reduce Irregular Migration

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ANNEX I – DEFINITIONS RELATED TO IRREGULAR MIGRATION¹

Irregular Migration

Movement that takes place outside the regulatory norms of the sending, transit and receiving countries.

Synonyms: illegal migration, clandestine migration, unauthorised migration

Source: IOM Glossary on Migration

Irregular Migrant

In EU context, a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State (from illegal stay, Return Directive);

In global context, someone who, owing to illegal entry or the expiry of his or her legal basis for entering and residing, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorized to remain in the host country

Synonym: insufficiently documented/undocumented/illegal/clandestine/unauthorised migrant

Narrower Term: Third-country national found to be illegally present, Illegally resident / staying Migrant

Related Terms: Illegal stay, Illegal entry, Illegal employment, Overstay(er)

Notes:

1. European Commission tends to use the term Third-Country National found to be illegally present or Illegally resident / staying Third- Country National in legislative acts.
2. This term is not commonly used in NL, used more often by NGOs.

Illegally resident/staying Migrant / Third-country National found to be illegally present

A third-country national who is officially found to be on the territory of a Member State and who does not fulfil, or no longer fulfils, the conditions for stay or residence in that Member State.

Source: [Regulation \(EC\) No 862/2007](#) (Migration Statistics)

¹ These terms are also available, along with the other 300+ terms with translations, from www.emn.europa.eu > 'Glossary'

Illegal Entry

In EU context, this means the entry of a third-country national into an EU Member State which does not satisfy Article 5 of Schengen Borders Code.

In a global context, this means crossing borders without complying with the necessary requirements for legal entry into the receiving State.

Source: [Regulation \(EC\) No 562/2006 \(Schengen Borders Code\)](#)

Illegal Stay

The presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State.

This definition is derived from, and is the same as, the definition of ‘Illegal Stay’ outlined in Article 3(2) of [Directive 2008/115/EC](#) of the European Parliament and of the Council (common standards and procedures in Member States for returning illegally staying third-country nationals).

Illegal Immigration

The movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents or carrying false documents.

Source: ILO Thesaurus

Synonym: Irregular immigration, clandestine immigration.

Related Term: Entry (Illegal)

Illegal Employment

Gainful occupation carried out in violation of provisions set by legislation

In the EU context, this covers both the illegal employment of a third-country national who is illegally staying on the territory of a Member State, and of a legally resident third-country national working outside the conditions of their residence and/or without a work permit.

Source: ILO Thesaurus

Employment of ILLEGALLY resident third-country national

The employment of an illegally staying third-country national.

Broader Term: Illegal Employment

Related Term: Third-Country national found to be illegally present

Note: The term itself has been slightly modified from the Employer Sanctions Directive definition in order to be more explicit.

Source: Directive 2009/52/EC of the European Parliament and of the Council (Employer Sanctions)

Employment of LEGALLY resident third-country national (Illegal)

Employment of a legally staying third-country national working outside the conditions of their residence and/or without a work permit. This is subject to each Member States' national law.

Broader Term: Illegal Employment

Source: Derived by EMN on basis of Employer Sanctions Directive ([2009/52/EC](#))

NB: *In some Member States, third-country migrants who have a legal right to reside in the Member State, but who work irregularly, are considered 'irregular migrants.' Where this is the case, EMN NCPs should highlight this in their National Report.*

Smuggling of migrants

The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the [illegal entry](#) of a person into a Member State of which the person is not a national or a permanent resident.

Source: [Council Decision 2006/616/EC](#)

The EMN Glossary also lists the following definitions, which have relevance for this study on irregular migration, but which are not derived from the EU Acquis and may therefore not be used consistently across all Member States. They should rather be used by EMN NCPs as a guideline for the purpose of this study. In light of the findings of this study, these definitions may subsequently be refined.

Informal Economy

All economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. Their activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that – although they are operating within the formal reach of the law, the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs.

Source: ILO Bureau of Library and Information Services

Synonym: Black Market, Clandestine Employment

Overstay(er)

In the EU context, a person who has legally entered but then stayed in a Member State beyond the allowed duration of their permitted stay without needing a visa (typically 90 days or six months), or of their visa and/or residence permit.

In a global context, to remain in a country beyond the period for which entry was granted.

Source: IOM Glossary on Migration

ANNEX II – RECENT AND ONGOING STUDIES ON IRREGULAR MIGRATION

This Annex highlights some recent studies into the phenomenon of irregular migration in the EU, including EMN outputs; studies on fundamental rights of irregular migrants in the EU; studies related to EU policy and legislation on irregular migration; publications outlining trends and risk assessments on irregular migration in the EU; and studies which aim to estimate the total number of irregular migrants present in the EU.

EMN outputs in the area of irregular migration

In 2005, the EMN undertook a Study on [Illegally Resident Third-Country Nationals](#)² with inputs from nine Member States.³ The Study identified that the EU and Member States were going through a “transitional phase” in institution-building and in international, national and EU cooperation, which would be likely to impact on irregular migration. This present Study aims then also to assess the extent to which the situation has developed since 2005. The Study also complements a body of information on irregular migration produced via EMN Ad-Hoc Queries⁴; in particular, three recent Ad-Hoc Queries have been summarised, providing up-to-date information relevant to this Study.⁴ In addition, the EMN Annual Conference of 2011 focused on [Combating irregular migration: practical responses](#)⁵ concluding that effective tools have been developed in the EU Member States that are impacting on the scale of irregular migration of third-country nationals, however that practical measures must be sensitive to the geopolitical factors that influence irregular migration, and take account of differences across regions. In addition, in 2012 the EMN produced its first Focussed Study on *Misuse of the Right to Family Reunification*.⁶ The Study provide information on the scale and scope of marriages of convenience and false declarations of parenthood providing clear evidence and statistics, to the extent possible, of these types of misuse and how best to address them. The study was presented at the public hearing of the EU [public consultation](#) on the right to family reunification of third-country nationals living in the EU (Directive [2003/86/EC](#)).⁷ Finally, the EMN has recently produced a Study on *Visa Policy as a Migration Channel*, which assessed the extent to which visa policy impacts on the management of migration, both in terms of facilitating legal migration and preventing irregular migration.

Studies on the fundamental rights of irregular migrants in the EU

The Fundamental Rights Agency’s *Fundamental Rights of Irregular Migrants* Study highlighted a number of areas where irregular migrants can be subject to restrictions on their rights. These include access to healthcare, where obstacles include lack of awareness on the part of irregular migrants as well as service providers of entitlements and data exchanges between service providers and immigration enforcement authorities; housing, where irregular migrants are over-represented in over-crowded, insecure dwellings often without access to the most basic services such as running

² Available at: www.emn.europa.eu > ‘Studies’

³ **Austria, Belgium, Germany, Greece, Ireland, Italy, Netherlands, Sweden, United Kingdom**

⁴ These are Ad-Hoc Query 210 on [Illegal Migration in the Mediterranean Sea Basin](#); Ad-Hoc Query 298 on [National definitions of irregular migrants and available data](#); and Ad-Hoc Query 345 on [Practical Measures to Reduce Irregular Migration](#). See www.emn.europa.eu > ‘illegal immigration’

⁵ All the conclusions, as well as a description of the presentations is available on the EMN website: www.emn.europa.eu > [‘EMN Communication and Dissemination Tools](#) > EMN Conferences

⁶ The Synthesis Report and National Reports are available at: www.emn.europa.eu > ‘Studies’

⁷ More information on the public consultation is available via the DG HOME website <http://ec.europa.eu/home-affairs> > ‘Policies’ > ‘Immigration’ > ‘Family Reunification’

water and electricity; education, where access is often restricted as a result of documentation requirements and the practice of allocating funding to schools on the basis of official residents rather than actual population numbers; and labour rights, which are often infringed as a result of difficulties proving an employment relationship, fear of detection and lack of security of residence which breeds dependency on employers.⁸ Another recent FRA study found that irregular migrants employed in domestic work are particularly susceptible to labour rights infringements as this is an occupational area that tends to be less regulated by legal standards and enforcement mechanisms.⁹

In relation to national measures, in the wake of the adoption of a Directive on Employers' Sanctions (2009/52/EC), another study looked at the situation of employment of irregular migrants and has raised serious questions about the level of protection being granted to the victims of labour exploitation.¹⁰ In 2011, the European Parliament published a Study on Abused Domestic Workers in Europe with a focus on au-pairs in six EU Member States (Denmark, **Germany, Ireland, Netherlands, Poland, Spain**). The study found that according to EU law, EU citizens employed as au pairs are mobile EU workers, but that third-country national au pairs are often subjected to exploitative and sometimes abusive conditions. For example, host families with children or elderly people sometimes use au pairs as cheap domestic and care workers. Other studies have highlighted the importance of training government officials working with irregular migrants, so that they become aware of the complexity of mixed migration flows and are able to identify and cater to the needs of asylum-seekers and other vulnerable groups, such as victims of trafficking, unaccompanied minors and persons who have been subjected to gender-based violence.¹¹ Related to this, the need to strike a balance between law enforcement and protection of the fundamental rights of irregular migrants has also featured in publications. Enforcement measures, such as reporting obligations, data sharing or arresting migrants in an irregular situation in front of schools, can have a negative and often disproportionate impact on the effective exercise of the fundamental rights of irregular migrants. A FRA study on the detention of third-country nationals involved in return procedures¹² also found that procedural safeguards, such as the right to be informed of the reasons for detention in a language the person understands, the right to judicial review of the detention decision and legal assistance, set up at national level in order to reduce the risk of arbitrary or unlawful detention, are often infringed when the detention involves irregular migrants. Moreover, while international law strongly discourages the detention of minors, the study also found that the detention of children to prevent unauthorised entry or to facilitate their removal is not uncommon in Europe, including in facilities that are not equipped to cater for their needs.

A number of studies and reports have addressed the role and responsibility of authorities in addressing irregular migration in the EU. These include publications and Internet resources of migrant support groups and associations, such as PICUM and the Migrants Rights Association. PICUM, for example, has outlined its concerns for undocumented migrants living in the EU¹³

⁸ European Union Agency for Fundamental Rights, 'Fundamental Rights of Migrants in an Irregular Situation in the European Union', Luxembourg: Publications Office of the European Union, 2011.

⁹ European Union Agency for Fundamental Rights, 'Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States', Luxembourg: Publications Office of the European Union, 2011.

¹⁰ Irina de Sancho Alonso, 'Access to Labour Rights for Undocumented Migrants',

¹¹ Cholewinski, Ryszard. Irregular Migration and Mixed Flows. Background Paper. World Migration Report. 2010, p. 12.

¹² European Union Agency for Fundamental Rights, 'Detention of third-country nationals in return procedures', Luxembourg: Publications Office of the European Union, 2010.

¹³ 'PICUM's Main Concerns about the Fundamental Rights of Undocumented Migrants in Europe (2010)', PICUM,

noting the importance of preventing irregular migration through such as guaranteeing secure and regularised entry routes for asylum-seekers, implementing fair and transparent asylum procedures, and recognising the economic need for unskilled migrants within the EU. Indeed, adopting a 'holistic approach' by recognising the economic, political and cultural 'push factors' which often force people to leave their countries of origin has been forwarded by other actors. One study recommends European countries to contribute to the sustainable development of the regions of origin by increasing financial support and ensuring that it is properly managed, and, where necessary, by strengthening interventions and other measures to ensure peace, under the patronage of the United Nations or other multinational organisations.¹⁴ Nevertheless, it is well known that development aid, at least in the initial stage, would encourage migration outflows (this trend is called by scholars "migration hump" (see Martin (1993))).

Studies related to EU policy and legislation on irregular migration

Some studies have addressed specific EU policies and legislation, such as the EU's border surveillance and the Returns Directive. Recent years have seen important developments in this respect, with considerable investments directed at improving the EU's land and maritime border surveillance capacity¹⁵ and some critics have pointed to the financial and practical limitations inherent in these efforts, given the fact that immigrants are often compelled to migrate as a result of overwhelming needs and argued that, as heavy border controls make it harder for individual migrants to comply with national regulations, they may actually encourage greater irregularity.¹⁶ In relation to the Return Directive, its effectiveness has been questioned by a number of observers,¹⁷ while others have highlighted the need to pay more attention to the repercussions of the implementation of the Return Directive for the fundamental rights of irregular migrants, especially the right to family life and the right not to be subjected to torture and inhuman or degrading treatment.¹⁸ There is also a growing body of comparative literature mapping the regularisation practices across the EU. This is notable, especially, as regularisations were used increasingly across the EU Member States.¹⁹ Regularisations include both individual regularisations schemes and 'mass' regularisation programmes, with the latter being criticised for encouraging irregular migration still further and for acting only as a temporary measure, with many migrants who take advantage of this procedure falling back into irregularity. However, the evidence available from recent large regularisation programmes has not shown either of these to be the case.²⁰

October 2010.

¹⁴ Cherti, Myriam, 'Beyond Irregularity: Towards a sustainable approach to dealing with irregular migration from sub-Saharan Africa to Europe', Institute for Public Policy Research (funded by the EU).

¹⁵ Commission Staff Working Paper - Report on progress made in developing the European Border Surveillance System (EUROSUR) (SEC (2009) 1265 final)

¹⁶ Migrants Rights Network, Working for the Rights of All Migrants. *Irregular Migrants: The Urgent Need for a New Approach*, May 2009, p. 14

¹⁷ Baldaccini, A. 'The Return and Removal of Irregular Migrants under EU Law: An Analysis of the Return Directive', in *European Journal of Migration and Law*, vol. 11 (2009).

¹⁸ Carrera, S. and E. Guild 'Undocumented Migrants and the Stockholm Programme: Ensuring Access to Rights?', in Massimo Carrera, S. and M. Merlino (eds.), *Assessing EU Policy on Irregular Immigration under the Stockholm Programme* (2010), p. 7.

¹⁹ Apap, J. et al 'Regularisation of Illegal Aliens in the European Union. Summary Report of a Comparative Study', in *European Journal of Migration and Law*, 2000, pp. 263-308.

²⁰ Baldwin-Edwards, M. and A. Kraler (ICMPD) *REGINE. Final Report. Regularisations in Europe: Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU* (2009).

Studies on trends in irregular migration and risk assessment

Other ongoing research is that undertaken by the International Centre for Migration Policy Development (ICMPD)²¹ Amongst this research are the ICMPD's Annual Reports which provide information on trends in apprehensions at the border – e.g. the number of apprehensions, source countries of irregular migration, the most common routes and points of entry used by irregular migrants and the most common ways of entering the EU irregularly. It also summarises legislative changes in Member States and relevant developments in third countries, providing also detailed country reports for these countries. The Interactive Map on Migration (i-Map) project,²² which was initially developed in 2006 by ICMPD, Europol and Frontex aims to facilitate intergovernmental exchanges of strategic and situational information by providing a visual resource for displaying up-to-date information on migration trends and developments between participating states.

Frontex, in its annual risk analysis reports,²³ provides a situational summary of developments at the external borders and in relation to irregular migration. This includes trend analysis of detected irregular crossings and detections of irregular stay, as well as an analysis of the most common irregular migration routes and the methods used to enter irregularly. As with other reports, Frontex finds that overstaying is probably the most common 'modus operandi' for irregular migration to the EU (see [Section 3.3](#)). Other means of irregular migration are irregular border crossing, use of false documents, absconding from the asylum process, and irregular border crossings. Frontex statistics and analysis suggests that the most common method of irregular border crossing is in small groups at night with the support of 'facilitators' Reports suggest that irregular entrants take advantage of changes of staff at the border. Frontex has also identified that third-country nationals sometimes provide false declarations of nationality as a means to preventing return. This is particularly the case when the third-country national originates from a third country with which the Member State has a readmission agreement in place (i.e. to avoid 'fast-tracked' return).

Studies estimating numbers of irregular migrants in the EU

In recent years, a number of studies have focused on calculating (estimating) the total number of irregular migrants in Europe. These studies have tended to demonstrate that irregular migration in Europe is in overall decline; although localised 'surges' of irregular migration flows - such as those which followed the 'Arab Spring' in 2011 (see [Section 2.6](#)) - have continued, peaking in the summer of 2008.²⁴ Such studies include the Clandestino project, the Prominstat project, the Annual ICMPD Reports and other studies.²⁵ These studies consistently highlight the challenges involved in this exercise. Firstly, the hidden character of irregular migration makes any quantification difficult and always produces estimates rather than 'actual' statistics. Secondly, these estimates are based on a variety of different methodologies which produce results of varying quality and raise issues of comparability. These methodologies include (among others) 'residual' estimation techniques (where the differences between the census and other registries of immigrants are counted); 'multiplier' estimation techniques (where the size of an unknown variable – in this case the

²¹ <http://www.icmpd.org/>

²² www.imap-migration.org

²³ See www.frontex.europa.eu > 'Publications'

²⁴ See Morehouse and Blomfield (2011) 'Irregular Migration in Europe' for the Migration Policy Institution, available at: <http://www.migrationpolicy.org/pubs/TCMirregularmigration.pdf>

²⁵ For example, Morehouse, C and M. Bloomfield (2011), Triandafyllidou (2010) and Jandl (2006). For full references of these studies see bibliography in [Annex VI](#)

irregular population – is assumed to have a stable relationship with a variable that can be measured – for instance, the stock of regular migrants); surveys of employers (who are asked to give their own estimates of the percentage of irregular workers in their industry); and data collected through regularisations. Thirdly, some studies include third-country nationals without legal residence status in the country they are residing in, while other studies also include legal residents who perform work without the necessary permits.²⁶

The aim of the Clandestino project was to provide country-specific estimates of the number of irregular migrants present (estimate of stock) for 12 EU countries²⁷ for the years 2000-2007, as well as comprehensive aggregate estimates for all EU Member States for the years 2003, 2005 and 2008. A variety of methods were used to estimate the statistics. For example, for the estimate for **Germany**, a multiplier method using police crime statistics as compared to general population statistics was used; whereas in **Spain**, which has a Municipal Population Register, the estimate was obtained by calculating the difference between the number of third-country nationals registered and third-country nationals holding a valid residence permit, then subtracting student residence permits and an estimated 10% of expired permits that end up being renewed after the deadline or through positive silence. The methods were also evaluated as to their relative ‘quality’ (high, medium, low) and the estimates were presented as a range, rather than a single figure.

The Clandestino project identifies a clear decline in total stocks of irregular resident populations during the six year period. In 2002, an estimated 3.1 to 5.3 million irregular foreign residents lived in the European Union. In the same region of the EU15, the aggregation for 2008 resulted in only 1.8 to 3.3 million irregular foreign residents. The estimate for the EU of 2008 with its 27 Member States is only slightly higher: 1.9 to 3.8 million, as most of the irregular resident population is estimated to live in the old Member States. As mentioned above, the estimates used were based on different methods of varying quality, and so adjustments were made in order to achieve approximate comparability.

²⁶ For a succinct overview of the available methods and techniques for estimating irregular migration, and a critical discussion of their respective merits and drawbacks, see Jandl, M. ‘The Estimation of Illegal Migration in Europe.’ *Studi Emigrazione/Migration Studies*, XLI (153), pp. 141-155.

²⁷ Austria, Croatia, Czech Republic, Germany, Italy, Slovenia, Cyprus, Hungary, Poland, Slovakia, Spain and Switzerland.

ANNEX III - EU ACTIONS TO REDUCE IRREGULAR MIGRATION AND LIST OF RELEVANT EU LEGISLATION

This Annex provides an overview of EU actions to reduce irregular migration over the last decade. It begins by describing the overall policy approach ([Section I](#)) then describes the adoption of new legislation (such as the Return and Employer Sanctions Directives – see [Section II](#)); the work of EU agencies ([Section III](#)); the establishment of EU instruments (such as EUROSUR ([Section III](#)) and the Immigration Portal ([Section IV](#)); and funding instruments ([Section V](#)). It also provides an overview of EU responses to the recent high influx of mixed migration flows from North Africa ([Section VI](#)) and the EU’s Action on Migratory Pressures – A Strategic Response ([Section VII](#)). [Section VIII](#) then provides a list of EU legislation relevant to irregular migration.

I. Overall Policy approach

Reducing irregular migration constitutes an important element within the EU’s overall approach to effectively balance and manage migration flows, within a common immigration policy framework at EU level. Within European policy there is a central focus on return, as well as on border control, although specific legislation also focuses on stay / work. Articles 77 to 80 of the Treaty on the Functioning of the European Union (TFEU) outline the European Union’s legal basis for measures on border checks, asylum and immigration, specifically stating that the European Parliament and the Council “*shall adopt measures (in the area of) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation*” (Art. 79 (2c).

Two major policy documents: the [European Pact on Immigration and Asylum](#),²⁸ adopted by the European Council in October 2008, and the [Stockholm Programme](#),²⁹ which was adopted in December 2009, reiterated the policy importance of combating irregular migration. More recently – in 2011 - the [Global Approach to Migration and Mobility](#) (GAMM)³⁰ outlined ‘preventing and reducing irregular migration and trafficking in human beings’ as one of its four thematic pillars to ensuring a migrant-centred approach to migration policy. The GAMM was designed to respond to the aspirations and problems of those concerned, rather than focusing on the traditional ‘flows’, ‘stocks’ and ‘routes’, and to empower migrants through the provision of access to information about opportunities, rights and obligations. The GAMM also highlights the human rights of migrants.

II. EU legislation aimed at irregular migration

Two key Directives aimed at reducing irregular migration are: [Directive 2008/115/EC](#) (“the Return Directive”),³¹ which establishes common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights and

²⁸Council of the European Union, European Pact on Immigration and Asylum September 2008, available from <http://register.consilium.europa.eu/pdf/en/08/st13/st13440.en08.pdf>

²⁹Stockholm Programme: An Open and Secure Europe serving and protecting citizens, available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:EN:PDF>

³⁰ See Commission Communication on ‘The Global Approach to Migration and Mobility’(COM(2011) 743 final), available at: http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v9.pdf

³¹ Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> Denmark, Ireland, and the United Kingdom have not opted into this Directive. Norway, as a member of the Schengen Area, transposes this Directive

international law; and [Directive 2009/52/EC](#) (“the Employers Sanctions Directive”),³² which lays down minimum common standards on sanctions and measures to be applied in the Member States against employers who infringe the prohibition to employ illegally staying third-country nationals in the EU. The overall aim of the Return Directive is to provide for clear, transparent and fair common rules for the return and removal, the use of coercive measures, detention and re-entry, while fully respecting the human rights and fundamental freedoms of the persons concerned. The overall aim of the Employer Sanctions Directive is to help to irradiate the informal labour market which acts as a pull-factor for irregular immigration. See [Section 6.2.2](#) for more on this.

III. EU Agencies

In addition to legislation and policy, the EU agencies also play a major role in preventing and reducing irregular migration. The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ([Frontex](#)) was established in 2004 via [Council Regulation \(EC\) 2007/2004](#) with the aim of strengthening cooperation in the area of migration, asylum and security. This Regulation was later amended by the [Regulation \(EC\) No 863/2007](#) establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers and was last amended by [Regulation \(EU\) No 1168/2011](#) amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

Frontex supports and develops European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management. Its main areas of activities are coordinating joint operations using Member State staff and equipment at the external borders (see [Section 5.5](#)); training of border guards; risk analysis to identify short- medium- and long-term trends, as well as migratory routes (see [Section 4.6](#) and [Section 5.5](#)), as well as other forms of research such as research into new technologies; coordinating the European Border Guard Teams (EBGT) pooled resource for rapid response capability and assisting Member States in joint return operations (see [Section 7.2](#) providing “situational awareness” reports for border control authorities in the EU).

In February 2008, the Commission offered Member States a roadmap for gradually developing a [European Border Surveillance System \(EUROSUR\)](#).³³ EUROSUR is an information sharing and cooperation mechanism enabling Member States’ authorities carrying out border surveillance activities and Frontex to collaborate at a tactical, operational and strategic level. The aims of EUROSUR will be to:

- increase the internal security of the European Union (EU) by preventing cross-border crime;
- reduce the number of irregular migrants entering the Schengen area undetected; and,
- considerably reduce the death toll of migrants at sea.

³² Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0052:EN:NOT> Denmark, **Ireland**, and the **United Kingdom** have not opted into this Directive. **Norway**, as a Directive.

³³ Communication examining the creation of a European Border Surveillance System (EUROSUR), COM(2008) 68 final of 13 February 2008.

A recent [Commission Staff Working Paper](#)³⁴ set out the achievements and challenges in establishing EUROSUR to date. These included *inter alia* the establishment of national coordination centres (often using External Borders Fund funding) and a communication network to link them; the provision of support to neighbouring third countries for the setting up of border surveillance infrastructure; and use of research into border surveillance performance.

IV. EU Funding instruments

In addition to the work of agencies, the EU provides support to Member States in reducing irregular migration through its [General Programme "Solidarity and management of migration flows"](#) (SOLID),³⁵ in particular the [External Borders Fund](#)³⁶ and the [European Return Fund](#).³⁷ The External Borders Fund provides funding to Member States for which the implementation of the common standards for control of the EU's external borders represents a heavy burden in order to establish financial solidarity between [Schengen States](#). The Fund also finances Frontex and supports actions for building a [common EU visa policy](#). The EU allocated €1 820 million to the External Borders Fund for 2007–13. All Member States except for **Ireland** and the **United Kingdom**, as well as the non-EU countries associated with the implementation, application and development of the Schengen acquis (**Norway**, Iceland, Switzerland and Liechtenstein), participate in the EBF. The Return Fund has the aim of developing cooperation between EU states and with countries of return, for example by funding assisted return projects and voluntary return assistance implemented by Member States. The EU has allocated €676 million to the Return Fund for the period 2008–13. All Member States except for Denmark participate in this funding programme.

V. The EU Immigration Portal

In 2011, the European Commission established the [EU Immigration Portal](#),³⁸ which is a website designed at providing important information to third-country nationals wishing to migrate to and EU Member State. For example, the website has information on the requirements prior to leaving (e.g. visas, travel documents, etc.); how to avoid falling victim to situations such as trafficking and smuggling; how EU policy on migration works, and where to go for more information and advice. The website also contains links to other relevant websites, such as that of the EMN. The aim of the website is to help to prevent migrants from getting themselves into an irregular situation.

VI. EU Responses to the 'Arab Spring'

In 2011, the rapid growth in mixed migration to the Southern Mediterranean borders of the EU, following political unrest in North African (the so-called 'Arab Spring') created a need for joint EU Action to address the issue and to provide solidarity and support to those Southern EU Member States (mainly **Greece**, **Italy** and **Malta**) receiving the greatest numbers of migrants. In March 2011, the Commission outlined its approach to building a "[Partnership for Democracy and Shared Prosperity with the Southern Mediterranean](#)" and highlighted EU actions undertaken in response to recent political changes in North Africa.³⁹ In early May, the Commission's Communication on

³⁴ Determining the technical and operational framework of the European Border Surveillance System (EUROSUR) and the actions to be taken for its establishment SEC(2011) 145 final, available at: <http://ec.europa.eu/home-affairs/policies/borders/docs/20110128EUROSURCSWPSEC2011145%20final.pdf>

³⁵ Information available at: http://ec.europa.eu/home-affairs/funding/solid/funding_intro_en.htm

³⁶ Information available at: http://ec.europa.eu/home-affairs/funding/borders/funding_borders_en.htm

³⁷ Information available at: http://ec.europa.eu/home-affairs/funding/return/funding_return_en.htm

³⁸ Available at: <http://ec.europa.eu/immigration/>

³⁹ Available from: http://www.eeas.europa.eu/euromed/docs/com2011_200_en.pdf

Migration⁴⁰ reaffirmed the importance of building partnerships with North Africa, and of a consistent policy on Mobility, including visas, as well as distinguishing between irregular migrants and genuine refugees in mixed migration groups. In relation to preventing irregular migration it underlines the importance of the Return Directive and Readmission Agreements, as well as the Employer's Sanctions Directive. The EU's plans for improved mobility and legal migration options for third countries and for dealing with migratory pressures in Southern Europe both in the short and long term were further developed in the Communication on a "[Dialogue for Migration, Mobility and Security with the Southern Mediterranean](#)"⁴¹ of 24th May 2011.

The following [Justice and Home Affairs Council meeting](#)⁴² supported the main lines of action proposed by the Commission in these Communications and reaffirmed that it will continue to give high priority to the fight against illegal immigration. In relation to strengthening external borders, the Council reaffirmed the work of the Frontex Agency and its Rapid Border Intervention Teams (RABITs⁴³) in supporting Member States in the control and surveillance of the external borders and invited Frontex to continue to provide assistance to Member States in protecting sections of the external border subject to exceptionally high migratory pressures; to develop a European Border surveillance system called EUROSUR; to increase cooperation with third countries, in particular so as to increase the effectiveness of return; to increase information exchange and to work with Europol, Eurojust and Frontex to ensure the dismantling of networks of irregular immigration and trafficking. In anticipation of upcoming legislative proposals on EUROSUR, on smart borders including an entry/exit system and the Registered Travellers Programme and the upcoming establishment of the Agency for the operational management of large-scale IT systems, the Council reaffirmed the importance of technology in meeting the twin objectives of the 'integrated border management' of facilitating legal access and preventing irregular migration. It also highlighted the importance of a balanced visa policy and commended the substantial progress made by the Commission and Member States in the development of the Visa Information System. The conclusions also confirmed that the Global Approach to Migration should continue to serve as the general framework for the external relations of the European Union in the field of migration.

VII. EU Strategic response for EU Action on Migratory Pressures

More recently, in April 2012, the Council of the European Union approved a [Strategic Response for EU Action on Migratory Pressures](#)⁴⁴ outlining a number of non-exhaustive Strategic Priority Areas:

- Strengthening cooperation with third countries of transit and origin on migration

⁴⁰ COM(2011) 248, available from http://ec.europa.eu/home-affairs/news/intro/news_intro_en.htm. further related Commission papers are planned for end May 2011.

⁴¹ A dialogue for migration, mobility and security with the southern Mediterranean Countries COM (2011) 292.

⁴² The Conclusions of the meeting are available at: http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/122508.pdf

⁴³ Rapid Border Intervention Teams (RABITs) made up of 'guest officers' from 26 Member States were sent to Greece between November 2010 and March 2011 to support Greece in controlling the large number migrants irregularly entering Greece through its border with Turkey. The operation helped the Greek authorities to apprehend and identify irregular migrants and to gather information on migration routes and facilitator networks. Since the deployment of RABITs, the numbers of irregular crossings have dropped by approximately 75 %. More information is available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/130&format=HTML&aged=0&language=EN&guiLanguage=fr>

⁴⁴ Note from the Presidency to the Council Mixed Committee of 23rd April 2012, document No. 8714/1/12 REV 1. Available at: <http://register.consilium.europa.eu/pdf/en/12/st08/st08714-re01.en12.pdf>

- management,
- Enhanced border management at the external borders,
 - Preventing illegal immigration via the Greek-Turkish border,
 - Better tackling of abuse of legal migration channels,
 - Safeguarding free movement by preventing abuse by third-country nationals,
 - Enhancing migration management including return.

For each priority area a number of key challenges, future goals and potential and planned measures – or actions - are outlined. The Strategy proposes that future EU Presidencies will be responsible for updating the list of actions set out in the Annex on a biannual basis, taking into account developments in relation to migratory pressures and the progress achieved by previous Presidencies. The Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) Committee will oversee the implementation and update of the list of actions.

The first priority area lists a number of actions aimed at improving the capacity of third countries to manage their own mixed migration flows. Actions listed include equipping the countries of first asylum with the necessary means to be able to guarantee refugees protection that meets international standards thus avoiding secondary movements; increased application and the further development of EU readmission agreements; capacity building and increasing use of Mobility partnerships in third countries; enhancing dialogue with Eastern Partnership countries and non-EU Prague Process partners and acting on the particular challenges faced by migratory flows from the Southern Mediterranean countries and via the Western Balkans route.

The second priority identifies future actions for strengthening political guidance and the legal framework for border control in the EU by concluding negotiations on the Schengen Borders Code and the Schengen Governance package, as well as EUROSUR and to submit proposals on an Entry/Exit system and the Registered Travellers Programme. It also lists implementing the Frontex Regulation and enhancing Member State actions, such as cooperation with other Member States, use of advanced passenger information, and identification of irregular migration routes into the EU.

The third priority area focuses specifically on the challenges met by the EU with migratory pressure at the Greek-Turkish Border. Action proposed in the Strategy include negotiating working arrangements between Turkey and Frontex; increasing Greece's capacity (e.g. by intensifying support for Frontex Operation Poseidon); strengthening the capacity of Turkey in border control, asylum and visa systems; and signing and concluding the EU-Turkey readmission agreement.

The fourth priority area lists measures aimed at tackling misuse of legal migration channels – in particular by third-country nationals originating from third countries with visa liberalisation regimes. Specifically, this priority area is aimed at decreasing the number of unfounded asylum applications from visa free third countries and decreasing the level of the illegal workforce. These measures include carrying out an assessment of risks to internal security before launching visa liberalisation dialogues; assessing the functioning of existing readmission agreements with potential visa liberalised third countries before launching a visa liberalisation dialogues; monitoring the effects of current visa free regimes.

The fifth priority area focuses on measures aimed at tackling misuse of free movement rights – i.e. misuse of the right to family reunification. Actions listed include use of Join Investigation Teams; gathering and analysing information on EU documentation fraud and facilitators detected at the external border; improving information sharing between Member State authorities involved in registering marriages and legal protection of children; and identifying and taking direct action to tackle abuse.

The final priority area has a more general focus on migration management, with the aim of

maximizing a coordinated EU approach. Priority actions listed include ensuring full implementation of the Return Directive and the Employer Sanctions Directive in Member States; ensuring statistics and analysis on migration management are available; and ensuring that return is swift and sustainable under a common EU approach – e.g. by carrying out research under the presidency into possible EU common approaches and best practice in Member States. Other measures listed include the creation of Frontex Code of Conduct on Return and continued support voluntary return programmes, and the specific measure of closely monitoring migration movements from Syria.

VIII. Relevant EU legislation

In relation to the EU legislative framework, the following legislative instruments are of particular relevance in the context of irregular migration.

- [Directive 2008/115/EC](#) on common standards and procedures in Member States for returning illegally staying third-country nationals;⁴⁵
- [Directive 2009/52/EC](#) providing for sanctions against employers of illegally staying third-country nationals;⁴⁶
- [Regulation \(EC\) No 562/2006](#) of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code);⁴⁷
- [Council Decision 2006/616/EC](#) on the conclusion, on behalf of the European Community, of the Protocol Against the Smuggling of Migrants by Land, Sea and Air.⁴⁸
- [Directive 2004/82/EC](#) of 29 April 2004 on the obligation of carriers to communicate passenger data;⁴⁹
- [Directive 2003/110/EC](#) of 25 November 2003 on assistance in cases of transit for the purposes of removal by air;⁵⁰
- [Regulation \(EC\) No 377/2004](#) of 19 February 2004 on the creation of an immigration liaison officers network;⁵¹
- [Directive 2002/90/EC](#) defining the facilitation of unauthorised entry, transit and residence;⁵²
- [Framework Decision 2002/946/JHA](#) on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence;⁵³

⁴⁵ Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

⁴⁶ Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0052:EN:NOT>

⁴⁷ Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:105:0001:0032:EN:PDF>

⁴⁸ Supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of this Protocol fall within the scope of Articles 179 and 181a of the Treaty establishing the European Community. Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006D0616:EN:NOT>

⁴⁹ Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:261:0024:0027:EN:PDF>

⁵⁰ Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:321:0026:0031:EN:PDF>

⁵¹ Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:064:0001:0004:EN:PDF>

⁵² Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:328:0017:0018:EN:PDF>

⁵³ Available from: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&numdoc=32002F0946&model=guichett&lg=en

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- [Directive 2001/51/EC](#) supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985;⁵⁴
- [Directive 2001/40/EC](#) on the mutual recognition of decisions on the expulsion of third-country nationals;
- [Directive 2001/51/EC](#) supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 on the obligations of carriers to return third-country nationals;
- The recent [Proposal for a Regulation amending Regulation \(EC\) No 562/2006](#)⁵⁵ and the [Proposal for a Regulation amending Regulation \(EC\) No 377/2004](#)⁵⁶ are also of relevance.

Relevant financial instruments adopted are:

- [Decision No 574/2007/EC](#) establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’;⁵⁷
- [Decision No. 575/2007/EC](#) establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme ‘Solidarity and Management of Migration Flows’.⁵⁸

⁵⁴ This Directive introduces provisions clarifying Article 26 of the Schengen Convention in relation to obligations on carriers to ensure the return of third-country nationals refused entry at Member State borders. Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:187:0045:0046:EN:PDF>

⁵⁵ Published 10.03.2011. Available from <http://ec.europa.eu/home-affairs/news/intro/docs/SBC%20amendment%20EN.pdf>

⁵⁶ Published 08.07.2009. Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0322:FIN:EN:HTML>

⁵⁷ Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:144:0022:0044:EN:PDF>

⁵⁸ Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:144:0045:0065:EN:PDF>

ANNEX IV – OVERVIEW OF NATIONAL LEGISLATION

| Member State | Main Legislation | Supportive legislation | | | | |
|-----------------------|---|------------------------|---|--|---|--|
| | | Borders | Return | Detention | Employment of third-country national | Other relevant legislation |
| Austria | Aliens Police Act | | | | Aliens' Employment Act, Settlement and Residence Act | Asylum Act |
| Belgium | Aliens Act | | | | Act of 30 April 1999 on the employment of foreign workers | |
| Czech Republic | Act No. 326/1999 Coll. on the Residence of Foreign Nationals | | Act No. 326/1999 Coll., Ordinance No. 447/2005 of 3 November 2005 | | | Act No. 40/2006 Coll., the Criminal Code (criminal prosecution of those aiding and abetting irregular migration) |
| Estonia | Aliens Act | State Borders Act | Obligation to Leave and Prohibition on Entry Act | Obligation to Leave and Prohibition on Entry Act | Aliens Act | Granting Aliens International Protection Act |
| Finland | Aliens Act (301/2004)68 | Border Guard Act | Administrative Procedure Act (434/2003) | Act on the Treatment of Aliens Placed in Detention and on Detention Units (116/2002) | | |
| France | Code on entry and residence of foreign nationals and right of asylum (CESEDA) | | | | | |
| Germany | Residence Act | | | | | |
| Greece | Law 3386/2005 (Gov. Gazette vol.212) | | Law 3907/2011 | Law 3907/2011 | Law 4052/2012 | Law 3772/2009, Gov. Gazette 112, issue A (carriers) |

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| | | | | | | |
|----------------|---|--|---|---|---|---|
| Hungary | <p>Act II of 2007 on the admission and right of residence of third-country nationals (Third-Country Nationals Act)</p> <p>Government Decree 114/2007 (V. 24.) on the implementation of Act II of 2007 on the admission and right of residence of third-country nationals (Third-Country Nationals Decree)</p> | <p>Act CV of 2007 on cooperation and information exchange within the Schengen Implementation Agreement (SIS Act)</p> <p>Government Decree 328/2007 (XII. 11.) on the recognition of travel documents for the purposes of entry in Hungary by third-country nationals</p> | <p>Decree 26/2007. (V.31.) of the Ministry of Justice and Law Enforcement on the rules of implementation of expulsion</p> | <p>Decree 27/2007 (V.31.) of the Ministry of Justice and Law Enforcement on the executive rules of alien policing detention</p> | | <p>Act I of 2007 on the admission and residence of persons with the right of free movement and residence (Free Movement Act)</p> <p>Government Decree 113/2007 (V. 24.) on the implementation of Act I of 2007 on the admission and residence of persons with the right of free movement and residence (Free Movement Decree)</p> |
| Ireland | <p>Aliens' Act 1935 as amended</p> <p>Immigration Act 1999</p> <p>Immigration Act 2004</p> | <p>Immigration Act 2004</p> <p>Immigration Act 2003</p> | <p>Immigration Act 1999</p> <p>Immigration Act 2003</p> | <p>Immigration Act 1999</p> <p>Immigration Act 2004</p> | <p>Employment Permits Act 2003</p> <p>Employment Permits Act 2006</p> | <p>Illegal Immigrants (trafficking) Act 2000</p> |
| Italy | <p>Consolidated Act of measures governing immigration and norms on the condition of foreign citizens (Legislative Decree No. 286 of July 25, 1998 and following amendments)</p> | | | | | <p>Law No. 189/2002</p> |
| Latvia | <p>Immigration Law and subordinated regulations of the Cabinet of Ministers</p> | | | | | |

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| | | | | | | |
|--------------------|---|--|---|--|---|---|
| Lithuania | Law on the Legal Status of Aliens (Official Gazette, 2004, No 73-2539) | Law on the on State Border and its Protection (Official Gazette, 2000, No 42-1192) Law on the State Border Guard Service (Official Gazette, 2000, No 92-2848) | | | | Law on Police Activities (Official Gazette, 2000, No 90-2777) Consular Statute of the Republic of Lithuania (Official Gazette, 1995, No 43-1047) |
| Luxembourg | Law of 1 July 2011 relating to free movement of persons, immigration and international protection | | Law of 1 July 2011 relating to free movement of persons, immigration and international protection | Law of 28 May 2009 on the establishment and organisation of the Detention Centre | Law of 31 July 2006 introducing the Labour Code | |
| Netherlands | Aliens Act 2000 and its subordinate legislation: Aliens Decree 2000, the Aliens Regulations 2000, and the Aliens Act Implementation Guidelines 2000 | Sovereign Decree 1813 grants the Minister of Foreign Affairs the power to issue visas | | | Foreign Nationals (Employment) Act | Benefit Entitlement (Residence Status) Act |
| Norway | Immigration Act (Act of May 15th 2008 No. 35) and its corresponding Regulation of Immigration (IR of October 15th 2009 No. 1286) | | | | | |
| Poland | Act of 13 June 2003 in foreigners (Dz.U. 2006, No 234, item 1694) | Act of 12 October 1990 on the Border Guard (Dz. U. 2005, No 234, item 1997) | | | Act on the effects of granting work to foreigners staying illegally on the territory of Poland (Dz.U. 2012, poz. 769) | Act of 13 June 2003 on granting protection to foreigners in the territory of the Republic of Poland (Dz. U. 2006, no 234, i. 1695) |
| Slovenia | Aliens Act | State Border Control Act | | | | International Protection Act |

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| | | | | | | |
|------------------------|--|---|--|--|---|---|
| Slovak Republic | Act No. 48/2002 Coll. on Stay of Aliens and on Changes and Amendments of Certain Other Acts - replaced by <i>Act No. 404/2011 Coll. on Stay of Aliens</i> which entered into force on 1 January 2012. | Act on State Border Protection (from 1.1.2012 replaced by the Act No. 404/2011 Coll. on Stay of Aliens) | | | Act No. 5/2004 Coll. on Employment Services and on Changes and Amendments of Certain Other Acts, Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on Changes and Amendments of Certain Other Acts | Act No. 300/2005 Coll. Criminal Code , Act No. 480/2002 Coll. on Asylum and on Changes and Amendments of Certain Other Acts, Act Stay of Aliens (tolerated stay) Act on the Organisation of Government Activities and on the Organisation of the Central State Administration, Act on the Police Force |
| Spain | Organic Law 4/2000, on the rights and freedoms of aliens in Spain and their social integration | | | | | |
| Sweden | Aliens Act (2005:716) and supplementary regulations, such as the Swedish Aliens ordinance 4 | | | | | |
| United Kingdom | Immigration Act 1971 | 2007 UK Borders Act | | | | |

ANNEX V – PENALTIES IMPOSED IN MEMBER STATES IN RELATION TO IRREGULAR MIGRATION

This Annex provides information on the system of penalties imposed in Member States on both those third-country nationals found to be irregular present or irregularly entering the EU and those facilitating such entry or stay.

Penalties on the irregular migrant

In addition to removal orders and re-entry bans, (Member) States may issue other sanctions for irregular entry and stay and related offences. In **Germany** illegal entry and stay is considered a criminal offence. This was also the case in **Italy** under *Law 94/2009* until the provision was ruled no longer valid under Decision C-61/11/PPU of April 2011 of the *European Court of Justice*. In its letter to the *Dutch House of Representatives* of 6 July 2011, the Cabinet of the **Netherlands** made proposals to make irregular stay of third-country national adults a minor criminal offence. In **Austria, France, Spain and the United Kingdom** illegal entry / stay are not considered criminal offences; however, they are punishable by fine or in the **United Kingdom** also by imprisonment of up to six months. In **Austria** if the fine is not collected imprisonment of up to 2 weeks may be issued, or the offence of entry is repeated 3 weeks, and the offence of stay repeated 4 weeks of imprisonment.

Finland, Lithuania and Sweden consider violation of their Aliens Act (i.e. entering, staying and/or working irregularly) an offence, although **Finland and Lithuania** also separately consider the offence of illegal border crossing (i.e. entry) more severe and punishable by imprisonment. In **Estonia**, illegal border crossing is considered a ‘misdemeanour’ offence punishable by a fine unless it is committed in disregard of a stop signal or order given by a border guard official; by a group; using transport in a location not intended for crossing; or if it is a repeated offence, in which case it is a criminal offence punishable by prison. The penalty imposed increases further if there is violence involved or serious damage to health. In **Ireland** under the *Immigration Act* of 2004, entry without the correct documentation is an offence liable to a fine or imprisonment of up to one year. In **Sweden** illegal entry is also subject to stronger penalties than illegal stay; whereas in **Austria and Slovak Republic** the opposite is true.

In **Greece**, all third-country nationals *entering/leaving* the Member State or *attempting* to enter/leave are obliged to fulfil certain administrative requirements on entry/exit and a failure to do so is punishable by imprisonment or a fine. Some Member States (**Czech Republic, France, Ireland**) consider evasion from the execution of a removal order a specific offence in itself. Similarly, **Luxembourg** sanctions third-country nationals who have returned to the Member State in violation of a re-entry ban. Other offences related to irregular migration include forgery offences (punishable as a criminal offence) and offences against public authorities (e.g. falsely registering a birth or marriage or otherwise providing false information). In **Italy provisions** introduced through *Law 94/2009* to make irregularity an ‘aggravating circumstance’ subject to a possible further six months imprisonment added to any sentence for any irregular migrant caught committing an offence were declared unconstitutional by the Constitutional Court in July 2010.⁵⁹

⁵⁹ Judgement 249 of 8 July 2010.

Penalties on those facilitating irregular migration (i.e. smuggling)

In relation to irregular entry, (Member) States make provisions to penalise smuggling. For example, **Austria, Czech Republic, Finland, Germany, Greece, Italy, Latvia, Lithuania, Netherlands, Slovak Republic** and **Norway** consider smuggling a criminal offence punishable by imprisonment. In most cases the penalty increases if the smuggler has gained financial benefit or if there was an element of criminal organisation, or if the smuggling put people's life at risk. For example, in **Finland** smuggling is punishable by fine or up to two years imprisonment or up to six years if the offence is aggravated; in **Lithuania** smuggling is punishable by fine or imprisonment of up to 6 years, but up to 8 years where it poses a risk to human life and up to ten if it involves organised crime. In accordance with Article 26(2) of the Schengen Convention and Council Directive 2001/51/EC, Member States also impose sanctions on carriers that transport third-country nationals who do not carry the correct documentation.⁶⁰ Many also impose sanctions on carriers for failing to provide advanced passenger information ('API' - see [Section 4.3](#)), in accordance with [Directive 2004/82/EC](#) ('API Directive').⁶¹

Penalties on those employing irregular migrants

In many Member States, employment of irregular migrants is considered an offence (see [Section 6.2.2](#)). It is considered a criminal offence in **Czech Republic**. In **Estonia**, employment of a third-country national who has no legal basis for employment, is an administrative offence; whereas employment of an illegally-staying migrant is in certain conditions a criminal offence. **Belgium** obliges those employing irregular migrants to pay the costs of return and subsistence prior to return. In **Finland** an employer may be sanctioned with a fine for employing a third-country national or giving false or misleading information to the authorities on the terms of employment of under the Aliens Act but also fined or imprisoned for up to one year for a 'work permit offence' for hiring a third-country national not in possession of a requisite work permit. In **Spain** a total of 5 821 sanctions were issued to employers in 2010 amounting to €46 million for authorities. In **United Kingdom**, civil penalties of up to £10 000 (approx. €12 000) per worker may be issued to employers third-country nationals without legal right to work. More information on employer sanctions is provided in [Section 6.2.2](#).

Penalties on those facilitating irregular stay

In **Czech Republic, Greece** and **Italy** facilitating illegal stay is also considered a criminal offence. Indeed, in **Greece** criminal penalties may also be imposed on public officers providing services to irregular migrants. In **Germany** inciting others to illegally enter or stay, aiding and abetting such acts for financial gain, or repeatedly facilitating irregular entry or stay of third-country nationals is subject to criminal prosecution; however the provision of services (e.g. health or social services, including education) are not considered to be included. In **Estonia** providing accommodation or other services and failing to notify the authorities of irregular migrants using public services are considered misdemeanours, or more serious if they are committed as a group or using violence. The provision of accommodation to an irregular migrant as well as false data in order to verify a letter of

⁶⁰ Article 26(2) of the Schengen Convention states that Schengen countries may, "impose penalties on carriers which transport aliens who do not possess the necessary travel documents by air or sea from a Third State to their territories". Council Directive 2001/51/EC these provisions by harmonising financial penalties imposed by European Union (EU) countries on carriers who are breaching their obligations.

⁶¹ Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data, available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0082:en:NOT>

invitation for a third-country national is also considered an offence in **Lithuania**. In **France**, helping foreign nationals with illegal entry, movement or stay has been considered an offence since 1945; although in 1998 family immunity against prosecution was introduced and in 2009 the concept of ‘humanitarian immunity’ was also introduced to protect those helping in order to "safeguard the life or physical integrity of the foreign national" from "imminent or actual danger." The Cabinet of the government of **Netherlands** in its letter of 2011 (see above), also proposed to ensure that complicity in illegal stay, such as providing accommodation or food to irregular migrants for humanitarian reasons, will not be made a criminal offence. **Ireland's** *Aliens Act* provides that a person who obstructs the police (*Gardaí*) in carrying out searches or investigations, or gives a name or address which is false or misleading, will be liable to a fine not exceeding €3 000 or to imprisonment for a term not exceeding 12 months or both. In **Spain**, facilitation of irregular stay through fraudulent municipal registration is a serious offence which may be sanctioned with fines of between €501 and €10 000 or €10 001 and €100 000 if the proponent has gained a profit. Marriage of convenience is also considered a separate offence in **France**, punishable with a prison sentence of five years and a fine of €15 000.

[Table V.1](#) below provides an overview of these penalties.

Table V.1 Table of penalties per Member State

| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|---------|---|---|--------------|--------------------------------------|---------------------------------------|--|---|---|----------------------|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| Austria | Administrative Fine: €100 - 1 000 If the offence is repeated: Fine:€1 000 - 5 000 Prison: 3 weeks | Administrative Fine:€500 - 2 500 or Prison: 2 weeks If the offence is repeated: Fine: €2 500 - 7 500 Prison: 4 weeks | | | | | | Criminal offence Prison:2 -3years, and 5 years if commercial concerning a larger number of persons, or in a manner that subjects the person concerned to a state of torture for a prolonged period of time, or up to 10 years for smuggling as part of an organised criminal group or in a way that threatens the life of a person | |
| Belgium | | | | | | Administrative Fine: not specified | Administrative Other: costs of repatriation and subsistence of | | |

⁶² More information on the sanctions imposed on employers is provided in the 2011 Annual Policy Report of the EMN, available at: www.emn.europa.eu > 'Annual Policy Reports'

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|----------------|---|--|--|--------------------------------------|---------------------------------------|---|---|--|--|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² returnee | Smuggling | Other 'facilitators' |
| Czech Republic | | No fines, expulsion only | | | Criminal offence | | Criminal offence Prison: not timing of the sentence specified | Criminal offence Prison: not timing of the sentence specified | |
| Estonia | Fine: up to 200 fine units or arrest if committed by a group; in disregard of a stop signal or orders given by a Border Guard Pecuniary Punishment or Prison: up to 1 year if committed by using violence or causing serious damage to health Prison: 4 to 12 years | At the border Fine: up to 200 fine units for illegal stay at the border; or up to 300 fine units or arrest for illegal stay without a legal base Aliens who stays without a legal basis at least twice within a year Prison: up to one year | Administrative Fine: up to 300 fine units or arrest | | | Fine: up to 300 fine units or up to €6,400 if committed by a legal person for failure to forward or forwarding incorrect passenger data For illegal transportation of an alien Pecuniary Punishment or Prison: up to 1 year; or up to 3 years if committed by using violence or by a group; 4 to 12 years if serious health damage was caused | Fine: up to 300 fine units if committed by a legal person: up to €3,200 In cases of payment of salary to an alien lower than the established rate - up to 300 fine units or €3,200 if committed by a legal person In special cases (e.g. involving 3 or more aliens, a minor alien, an alien victim of a crime related to human trafficking) Pecuniary Punishment or | Fine: up to 300 fine units for direct conveying of an illegal alien or €6400 per each conveyed person if committed by a legal person | Conclusion of a rental agreement Fine: up to 300 fine units for of if committed by a legal person up to €3200 |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|---------|--|--|-----------------------|--------------------------------------|---------------------------------------|---|--|---|--|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| | | | | | | | Prison: up to 3 years | | |
| Germany | Criminal offence Fine: not specified Prison: not specified | Criminal offence Fine: not specified Prison: not specified | | | | Fine: €1,000 to €5,000 for each illegal migrant transported; if the airline continues to transport illegal passengers – the fine increases by €500 each time; in serious cases a restraining order is issued | Criminal offence | Criminal offence: if for gain and as organised group or if results death Prison: 1 - 3 years | |
| Greece | Fine: at least €1 500 , and Prison: at least 3 months If wanted by the police or judicial authorities, or has tax or other obligations Fine: €3 000, and Prison: at least 6 months | Fine: at least €1 500 , and Prison: at least 3 months If wanted by the police or judicial authorities, or has tax or other obligations Fine: €3 000, and Prison: at least 6 months | Prison: not specified | | | Penal, administrative and economic sanctions Carriers of all kinds of transport Prison: up to 10 years, and Fine: €10 000 to €30 000 per person transported if the offender acts on speculation, a recidivist, has | Fines: € 3 000 – 15 000 if related to prostitution: at least €6 000. If a minor: €10 000 – 100 000 Prison: at least 3 months; if repeated at least 6 months Closure of the business: up to 6 months | Penal, administrative and economic sanctions Fine: not less than €20 000, and Prison: up to 10 years If the above person acted because of speculation or habit or committed by two or more Fine: not less than €50 000, and | Providing accommodation to illegal migrant Fine: €1 500 - 3 000 |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|---------|---|---------------------|--------------|--------------------------------------|---------------------------------------|---|---|---|---|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| | | | | | | the status of civil servant, shipping or travel agent, or if 2 or more are acting together Fine: €30 000 to 60 000 per person transported and Prison: at least 10 years if the act may be a risk for people Fine: at least €200 000 per person transported and Prison: at least 15 years if death occurs Fine: €700 000 for each person transported Prison: life sentence | | Prison: at least 10 years | |
| Finland | Fine: not specified Prison: up to 1 year | Fine: not specified | | | | | Fine: not specified Prison: up to 1 year | Fine: not specified, or Prison: up to 2 years; or at least 4 months and up to 6 years in cases | Preparing false documents Fine: not specified, or Prison: up to 2 years; at least |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|--------|---|---|--------------|--------------------------------------|---|---|--|--|--|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| | | | | | | | | of aggravated arrangement of illegal migration | four months and up to four years if the document falsified has significant probative value Producing, transporting or the likes of false documents Fine: not specified, or Prison: up to 6 months |
| France | Fine: €3 750, or Prison: up to 3 years | Fine: €3 750, or Prison: up to 3 years | | Prison: 5 years and Fine: €15 000 | Prison: 3 years sentence Entry ban: up to 10 years | Fine: €5 000 per passenger Fine for failure to transmit passenger data: €50 000 for each journey | Prison: 5 years and Fine: €15 000 if committed by an organised gang Prison: 10 years Fine: €100 000 | Fine: €30 000 and Prison: 5 years if the offence is committed by an organised gang, expose the foreign nationals to risk of death or injury or other adverse conditions Fine: €750 000 and Prison: up to 10 years For legal persons the fine is 5 times higher than for physical persons | Producing fraudulent documents Prison: 1 year Fine: €3 000 |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|---------|--|--|---|--------------------------------------|--|--|--|--|--|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| Hungary | | Fine: up to HUF 10 000 | | | | | | | |
| Ireland | Under Immigration Act 2004 Fine: up to €3 000, or Prison: not exceeding 12 months, or both | Under Immigration Act 1999 Fine: up to £1 500, or Prison: not exceeding 12 months, or both Under Immigration Act 2004 Fine: up to €3 000, or Prison: not exceeding 12 months, or both | Employee fine of up to € 3,000 and/or up to 12 months in prison | | Under Immigration Act 1999 Fine: up to £1 500, or Prison: not exceeding 12 months, or both | Immigration Act 2003 €1,500 per passenger rising to €3,000 if the carrier takes the matter to Court | Employer fine of up to € 250,000 and/or up to 10 years in prison | Immigration-related offences Fine: £1 500 or Prison: not exceeding 12 months or to both. | Forging / fraudulently altering documentation in relation to asylum claim: Fine: not exceeding £1 500, or Prison: not exceeding 12 months, or both Providing false information in asylum application Fine: up to £1 500, or Prison: not exceeding 12 months, or both |
| Italy | | Fine: €5 000 to 10 000 (to € 20 000 when the migrant is obliged to leave the country, but - owing to the expiration of the detention period | | | Fine: €€3,000 to 18,000 | | Criminal penalties: <i>not specified</i> | Criminal penalties: <i>not specified</i> | Criminal offences providing housing to irregular migrants forgery of residence permits |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|-----------|---|---|---------------------------------------|--------------------------------------|---------------------------------------|---|---|---|---|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| | | - has not been expelled yet and is apprehended by the police. | | | | | | | |
| Latvia | Administrative and criminal penalties: <i>not specified</i> | Administrative and criminal penalties: <i>not specified</i> | Administrative penalty: 100 – 500 LVL | | | Administrative penalties: a fine of 1 700 – 2 8000 LVL | Administrative penalties: a fine of 100-10 000 LVL : Criminal penalties: deprivation of liberty, community service, fine not exceeding 200 times the minimum monthly wage | Administrative and criminal penalties: <i>not specified</i> | |
| Lithuania | Fine: 2 000 - 10 000 litas for negligent border crossing Prison: up to 2 years | Warning of fine 250 – 1 000 litas | | | | 11 000 – 18 000 litas for every for each person transported without documents | Fine: 32 000 – 103 000 litas, Prison: up to 2 years | Fine, arrest or prison for a term of up to six years, or up to 8 years for mercenary reasons or threat to human life; | Forgery of a document or possession or producing of a forged document Fine, arrest or prison for a term of up to 3 years - where this incurs major damage, up to 5 years Provision of |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|--------------------------|---|--|--------------|--------------------------------------|---|---|--|--|---|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| | | | | | | | | | false data in order to verify letters of invitation Fine: 250 – 1 000 litas. Offering accommodation to illegal immigrants: Fine: 1 000 to 2 000 litas or 2 000 to 3 000 litas for a person previously convicted. |
| Luxembourg ⁶³ | Fines and imprisonment: 8 days and/or fine of €251 to €250 : imprisonment of 1 month to two years and/or fine from €251 | Fines and imprisonment: <i>not specified</i> | | | Prison sentence of 6 months to 3 years, and/or fine of €251 to €3 000 | Fine: up to €4.000 per transported passenger without valid travel or residence documents; | Fine: €251 to 20 000 Prison: from 8 days to 1 year Other sanctions: temporary interdiction to exercise | Fines: €5 000 to €125 000 Prison: 6 months to 5 years | |

⁶³ The 'Sanctions directive' had not been transposed into national law when drafting this report.

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|-------------|---|---|--------------|--------------------------------------|---------------------------------------|--|--|-----------|----------------------|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| | to € 3 000 if the illegal entrant uses forged documents | | | | | up to €5.000 per carried-out transport for non- or late-transmission of relevant information | professional activity (up to 3 years) or temporary closure of the company (max.5 years or definitive). | | |
| Netherlands | Criminal offence: <i>not specified</i> | Criminal offence: <i>not specified</i> | | | | | Administrative Fine: €8 000 per employed illegal immigrant or €4 000 in case of private persons | | |
| Poland | | Administrative A ban to enter the territory of Poland or Schengen Member States for 1 year in case of a decision to leave; or 3 years in cases of an expulsion order | | | | | | | |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|-----------------|--|--|-------------------|--------------------------------------|---------------------------------------|--|--|--|--|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| Slovak Republic | Fine: up to €800 for illegal border crossing, Fine: up to €1 600 euro if presenting fraudulent documentation | Fine: up to €1 600 | Fine: up to €331. | | | The carrier is obliged to immediately ensure transportation or substitute transportation of the third-country national and bears the related costs, or if substitute transportation is not possible, the carrier must take over responsibility for the costs of accommodation and return of the third-country national | Financial sanction that can be imposed upon an employer in the event of breach of the prohibition of illegal employment amounts from €2 000 to €200 000. Failing to comply with obligation of employers in connection with the employment of third-country nationals. stipulated in the Act on Employment Services may result in imposing a fine of up to €33 193. | Sanctions in their strictest form can result in imprisonment of up to 20 years | For facilitation or provision of help in relation to illegal stay or illegal employment in the SR, individuals willing to obtain illegal financial or other property benefits through such activities will be held criminally liable, and the upper limit of imprisonment will be 8 years. |
| Slovenia | Criminal offence: <i>not specified</i> | Criminal offence: <i>not specified</i> | | | | | | | |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|-------|---------------------------------|--|---|---|---------------------------------------|---|--|---|---|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² | Smuggling | Other 'facilitators' |
| Spain | | Administrative offence: Fine of 501 to 10,000 euro or removal | Administrative offence: Fine of up to 500 euro If the foreigner does not have a valid residence permit the penalty could be a fine of 501 to 10,000 euro or expulsion | Administrative offence: Fine of 501 to 10,000 euro | | Administrative offence: Fine of 10,001 to 100,000 euro. In the case of transporting aliens without having checked the validity and currency of their passports, travel documents or identity documents, or, if appropriate, of the relevant visas the fine shall be 5,000 to 10,000 euro for each traveller transported or a lump-sum minimum of 750,000 euro, irrespective of the number of travellers transported | Criminal offence for those who employ foreigners without a work permit in conditions that suppress, disadvantage or restrict the rights recognised by law, collective agreement or individual contract, thus placing the immigrants in exploitative labour situations. Prison: 2 to 5 years Administrative offence for those hiring migrant workers without a permit or simulating a | Criminal offence Prison: 4 to 8 years If acted for profit or with violence, intimidation, deception or abuse of position or endangering the life, health or safety of individuals the penalty may be extended Prison: 6 to 8 years | Criminal offence Human trafficking Prison: 5 to 8 years Administrative offences Promotion of illegal entry by invitation, facilitating fraudulent residence permit or municipal registration Fine: €501 to €10 000 In the case of fraudulent municipal registration If very serious when done for profit Fine: €10 001 to €100 000 |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|----------------|--|------------------------------------|---------------------|--------------------------------------|---------------------------------------|--|--|--|---|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers | Employers ⁶² working relation: Fines of: €10 001 – 100 000 | Smuggling | Other 'facilitators' |
| Sweden | Fine: not specified or Prison: up to 1 year | Fine: not specified | Fine: not specified | | | The carrier shall be obliged to reimburse the state for: 1. the cost of the alien's travel from Sweden, 2. the cost of travel from Sweden and back for the security personnel who need to accompany the alien, and 3. the cost for the alien's stay | Fine: not specified or Prison: up to 1 year | Prison: up to 2 year In case of gross offence - at least six months and at most six years | Any person who intentionally assists an alien Fine: not specified or Prison: up to 2 year |
| United Kingdom | Fine: £5,000 Prison: six months | Fine: £5,000 Prison: six months | | | | Non-compliance in providing passenger document information Fine: up to £5 000 Prison: up to 6 | Administrative Fine: up to £10,000 per illegal worker Criminal prosecution of employers Fine: £5 000 for each person employed | | |

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| | Penalties on irregular migrants | | | | | Penalties on those facilitating irregular migrants | | | |
|--------|---|---|---|---|---------------------------------------|---|-----------------------------------|--|---|
| | Illegal entry / border crossing | Illegal stay | Illegal work | Marriages / adoptions of convenience | Failure to comply with a return order | Carriers months | Employers ⁶² illegally | Smuggling | Other 'facilitators' |
| Norway | Rejection/expulsion. Fine or prison, up to 6 months | Expulsion. Fine or prison, up to 6 months | Expulsion or fine or prison, up to 6 months | Expulsion or fine or prison, up to 6 months | Fine or prison, up to 6 months | Air/sea transporters: Fine and obligation to transport back to start of journey | Fine or prison up to 2 years | Criminal offence: not specified Fine or prison up to 2 years | Punishment for people who facilitate irregular migrants Criminal offence: not specified Fine or prison up to 2 years |

Notes: Legislation in Ireland pre-dates introduction of the Euro and amounts for fines are therefore given in £

**ANNEX VI – EXAMPLES OF PROJECTS FUNDED BY THE EUROPEAN RETURN FUND AND THE EXTERNAL BORDERS FUND IN
(MEMBER) STATES (AS PROVIDED IN NATIONAL REPORTS)**

| Member State | External Border Fund | European Return Fund |
|-----------------------|---|---|
| Austria | <i>No information in National Report</i> | (i) Preparation of return for third-country nationals in detention pending deportation (ii) Counselling on voluntary return and organisation of return for the target group of the fund (iii) Measures for country and/or target group specifically with regard to return and reintegration (iv) Pilot Project to develop organisational structures to support voluntary return of female victims of trafficking |
| Belgium | (i) Maison Schengen Kinshasa (ii) Ministerial Conference on UAMs crossing the external borders of the EU (iii) Installation field workers to support consular staff (iv) Implementation of the VIS | (i) Implementation of the Observation and Orientation Centres (OOC) and alternative accommodation for families in detention (ii) Special Needs Programme has created concrete and sustainable projects for some families in their country of origin. (iii) Training for courts and special services in prisons |
| Czech Republic | (i) Activities aimed at providing better technical equipment for the border checks at the external borders | (i) Activities by IOM to provide advisory services to assist irregular migrants to return to their country of origin. |
| Estonia | Activities aim to increase the safety of the external border: (i) Update the infrastructure (ii) Establishment monitoring systems (iii) Development information systems for implementation SIS (iv) Creation border guard management information system | Development and implementation voluntary return: (i) Financing forced expulsion, including escorting (ii) Development operative cooperation with authorities of third-countries responsible for managing return (iii) Training to relevant authorities in country of origin |
| Finland | Finland used the EU External Border Fund for 40 projects which broadly aim to upgrade technical surveillance and develop or improve border control equipment for Finnish Border Guards in addition to improving visa processing by providing training of personnel and cooperative authorities. | (i) Improving the effectiveness of removal (ii) Development of a country of origin information system on Iraq |

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| | | |
|------------------|---|---|
| Germany | (i) Procurement of document reading and inspection devices (ii) Procurement of equipment for helicopters at the European sea borders, (iii) Delegation of document and visa advisors as well as border police liaison officers, (iv) Investments in the development of VIS and SIS-II (v) Training of personnel in document examination techniques and equipment. | (i) Projects to reduce structural problems in practical cooperation with individual countries of origin. (ii) Projects to overcome difficulties to obtain return travel documents to repatriate irregular migrants. |
| Greece | (i) Implementation of common training developed by Frontex in the police education system (ii) Control and detection of forged travel documents (iii) Language training for Police personnel and border guards in Albanian, Turkish and Arab (iv) Training of police, port and customs personnel for the proper implementation of the Schengen acquis | (i) Assistance in voluntary returns (by for example organisation of charter flights) (ii) Training personnel involved in expulsion |
| Ireland | Ireland does not participate in Decision No. 574/2007/EC establishing the External Borders Fund as the legal basis is founded on the Schengen Agreement | (i) Funds provided to the IOM in Ireland to support voluntary return activities and funding for research projects. (ii) GNIB received funding for two forced return flights (iii) Development Voluntary Return Hotline Project |
| Latvia | Numerous projects focused on: (i) Improving migration process control (ii) Ensuring data exchange with central VIS and providing training to users of VIS (iii) Upgrading Border Crossing Sites (iv) Facilitating cooperation between Member States | Numerous projects which focused on: (i) providing training to personnel involved in return measures, including language training (ii) improvement of qualitative data (information and recording system on returned individuals) (iii) Development digital archive |
| Lithuania | (i) Installation of modern border monitoring systems (ii) Installation of technical surveillance measures for monitoring of the territorial sea, the Curonian Lagoon and inland border waters (iii) Upgrade of vehicles for external border controls and information systems | (i) Maintenance of third-country nationals and their forced or voluntary returns (ii) Development of reintegration programs for third-country nationals in their country of origin |

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| | | |
|------------------------|--|---|
| | (iv) Development of modern document analysis and checking equipment (v) Reconstruction border pikes and official trainings (vi) Development National Schengen Information and National Visa Information System | |
| Luxembourg | (i) Extension of the SIS for integration of the new Member States (ii) Development and installation of programmes for reading the data supplied by the document readers at Luxembourg airport (iii) Installation of document readers at Luxembourg Airport connected to SIS (iv) Putting into application a portable digital fingerprint reader connected to SIS, AFIS and VIS | NI |
| Netherlands | Projects focus on: (i) European Visa Information System (ii) The equipment of the control room of the Seaport Police (iii) The Innovation Border Management Renewal Programme (iv) Schengen Information System | Funds were used for several projects aimed at facilitating the return of persons illegally staying in the Netherlands. |
| Poland | (i) Material supply: equipment of transport, investment in construction, networking and information technology | (i) Financing return (ii) Provide trainings to improve qualifications of the Border Guards officers and |
| Slovak Republic | In 2010: (i) Measures to promote security and speed up interventions in the performance of surveillance on the external land border with Ukraine; (ii) Measure to improve communication and the performance of external border protection at international airports; (iii) Implementation of the camera monitoring system at the border crossing points; (iv) Purchase of technical facilities for the authorities responsible for border control and border surveillance. | In 2010/2011: (i) Enhancement of the organisation and performance of forced returns and improvement of the conditions to carry out returns of migrants to countries of return; (ii) provision of assisted voluntary returns and reintegration, legal assistance, psychological counselling, social assistance and coverage of other special needs of persons in police detention facilities for third-country nationals through IOM and non-governmental organisations. |
| Norway | Norway has approximately 35 ongoing or planned projects which focus on: (i) Practical arrangements to provide for efficient crossing at the | NA |

| | | |
|--|---|--|
| | <p>border crossing point (ii)Software and procedures for obtaining documents at the consulate in question. (iii)Increase control of passengers and crew on ships harbouring Norwegian ports, (iv)Police access to the electronic system SafeSeaNet to facilitate electronic and automatic lists of persons on ships.</p> | |
|--|---|--|

ANNEX VII – ADDITIONAL STATISTICS ON IRREGULAR MIGRATION

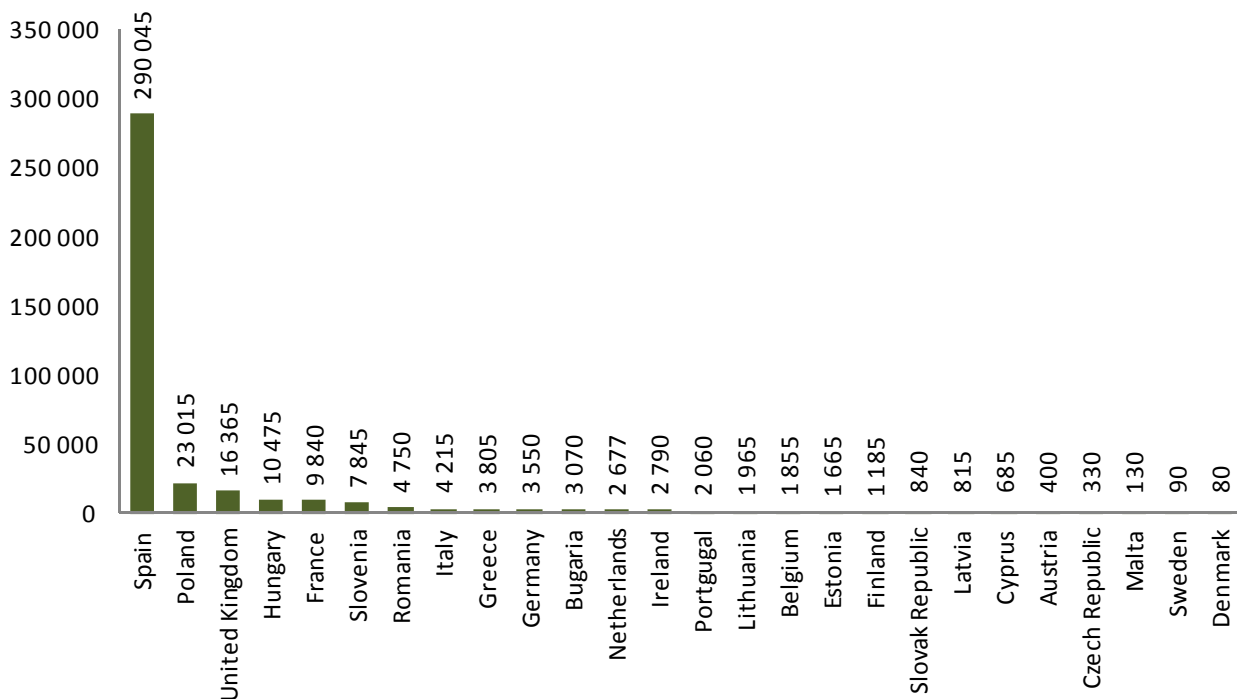
This annex provides supplementary statistics to complement those provided in Sections 5 and 6. It describes the following statistics:

- Third-country nationals refused entry at the border 2008 – 2011, as collected by Eurostat;
- Third-country nationals found to be irregularly present 2008 – 2011, as collected by Eurostat;
- Statistics on specific groups of irregular migrants, e.g. marriages of convenience detected;
- Third-country nationals ordered to leave and those returned (as possible indicators of irregular migration) , as collected by Eurostat; and
- Other relevant statistic, which may be indicative of irregular migration, namely entry bans and negative decisions on asylum applications.

Refusals at the border: 2010

Figure 5.1 in Section 5 showed the number of third-country nationals refused entry at the border in EU27, as reported to Eurostat. [Figure VII.1](#) outlines the numbers for 2010.

Figure VII.1 Third-country nationals refused entry at the external borders, by (Member) States, total and by reason, 2010



Source: Eurostat.

Note: No data for Luxembourg

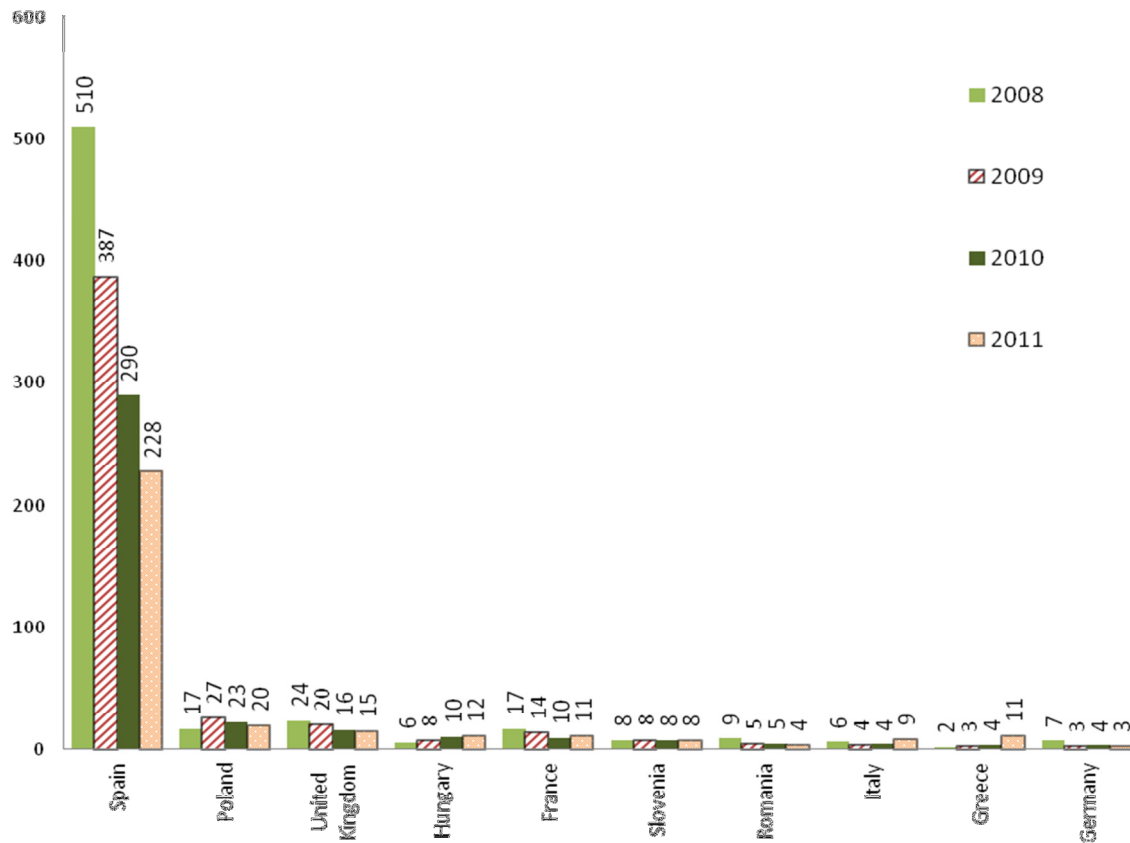
As demonstrated, the Member State with by far the highest number of refusals at the border in 2010 was **Spain** (290 045). The unusually high number in Spain is largely due to the migratory pressures at the external borders of Ceuta and Melilla which are located on the African continent bordering Morocco. According to the Ministry of Interior of Spain, excluding the statistics for these borders in 2010, the number of refusals for Spain would be 9 453, which would be closer to the number of refusals made in France. After Spain, the Member States with the highest number of refusals in 2010 are **Poland** (23 015), **United Kingdom** (16 365), **Hungary** (10 475) and **France** (9 840). These data therefore reflect the situation of the EU: that border management is focused at the

external land and sea borders of the East (**Poland, Hungary**) and the South (**Spain, France**).

Refusals at the border: trends for the ten main Member States, 2008-2011

[Figure VII.2](#) shows the trend in refusals for the ten main Member States, 2008-2011.⁶⁴ As with overall numbers, there has been a decrease in the number of refusals in most of these (Member) States, except for **Greece, Hungary** and **Italy**. There was also a slight increase in refusals from 2009 to 2010 in **Germany**. The numbers in **Slovenia** have been more or less consistent 2008 to 2011.

Figure VII.2 Third-country nationals refused entry at the external borders, ten main (Member) States, in 1 000s, 2008-2011



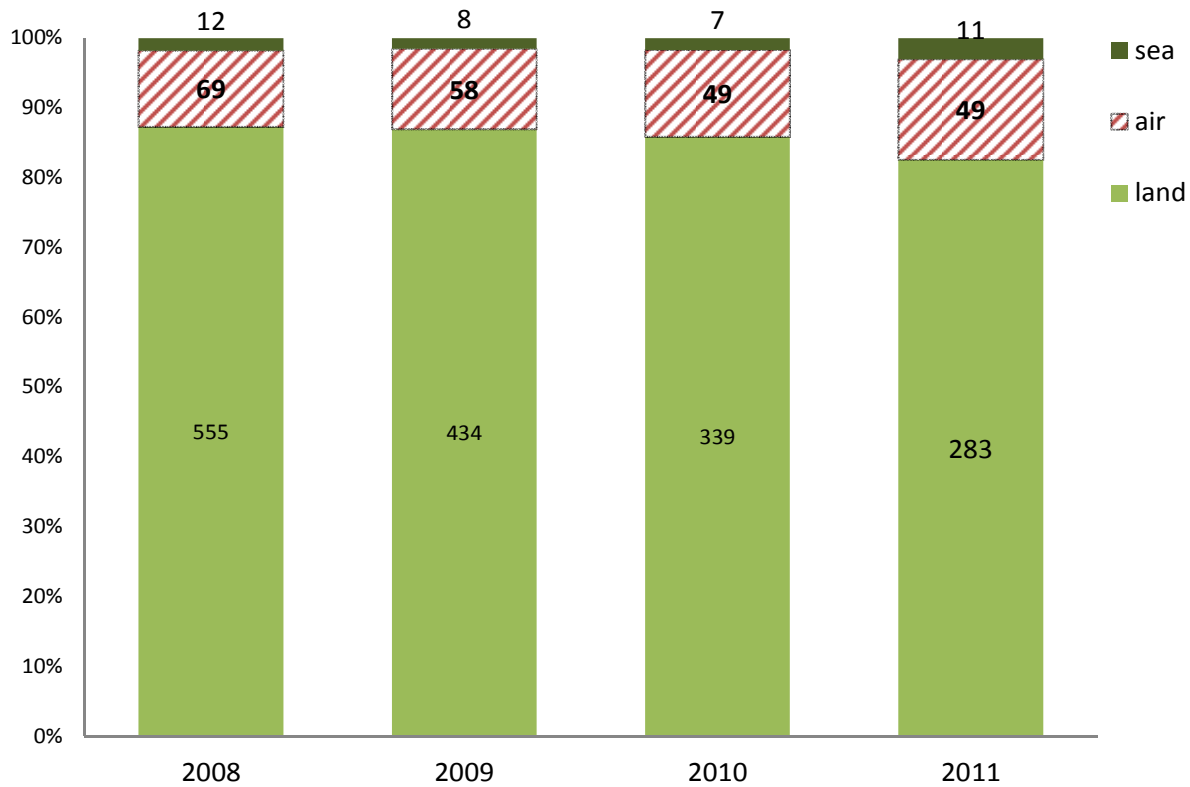
Source: Eurostat

Refusals at the border: trends by type of border, 2008-2011

[Figure VII.3](#) shows the proportion of refusals in 2008-2011 according to the type of border (land, air, sea).

⁶⁴ Statistics extracted on 16.04.12. Eurostat statistics are available for the following Member States for 2011: **Belgium, Bulgaria, Czech Republic, Germany, Estonia, Ireland, Spain, France, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Austria, Poland, Romania, Slovenia, Slovak Republic, Finland and Sweden.**

Figure VII.3 Third-country nationals refused entry at the external borders, all (Member) States, in 1 000s, by type of border, 2008-2011



Source: Eurostat.

Note: No data for Luxembourg in 2010

Refusals of entry have been consistently most common at the land borders. This is likely because it is much harder to first embark sea and air vessels to travel to (Member) States without adequate documentation and fulfilment of other conditions. Interestingly, however, the proportion of refusals which were at the land borders decreased in 2011 from previous years – this may be due to the continued impact of the eradication of internal borders within the Schengen Area.

In **Estonia**, 81% of refusals 2005-2010 were at the Estonian sea border (as compared to 17% of refusals at the land border and 2% of the cases at air border). This is regardless of the fact that only about 20% of the total number of the persons crossing the border cross the external border via the sea border. The largest group of individuals trying to cross the Estonian sea border were the crew members of the transport ships that are staying at the Estonian ports, but very often they do not have a valid document or a visa to enter the country (see above) and mostly concerns citizens of India, Philippines, Myanmar and the Russian Federation. External land borders were removed in **Belgium, Hungary, Italy, Luxembourg, Netherlands, Portugal and Spain** and from **Austria, France and Germany** following the implementation of the Schengen Area. From 2008 the majority of refusals at the land border in **Austria** dropped significantly impacting on the overall number of refusals in that Member State. By contrast, refusals at the land border were most common in **Finland, Greece, Hungary, Latvia, Poland, Slovak Republic**. In **Belgium, Ireland, Lithuania, Sweden, United Kingdom and Norway** refusals were most common at the air border.

Refusals at the border: trends by country of origin of those refused, 2008-2011

[Table VII.1](#) shows the main nationalities of those refused entry at the border. The number of Moroccans refused entry is notably high (although these numbers decrease 2008 to 2011), and this is very likely due to the migratory pressures at Ceuta and Melilla in **Spain**. In **Greece**, irregular entrants from Asia and Africa have been increasing in recent years, entering through the Greek-Bulgarian or the Greek-Turkish border. In 2010 there was a shift in the pattern of entry: the number of entrants at the Greek-Turkish sea border notably decreased from 2009 to 2010 while the number of entrants at the Greek-Turkish land border increased. This decrease is related, among other things, to the effective joint operations that Frontex, together with the Greek authorities implemented in the Aegean Sea, shifting irregular migration flows from sea to land borders between Greece and Turkey. Irregular entrants from Albania are also common at the Greek-Albanian border. **Italy** notes disproportionately high proportions of females of specific nationalities refused entry; this concerns women from Moldova, Brazil and Ukraine who aim to work in the home care sector, women from China who aim to work in industry, and women from Nigeria who may have been trafficked into sexual exploitation.

Table VII.1 Third-country nationals refused entry at the EU's external borders, 20 main countries of citizenship, 2008-2011

| 2008 | | 2009 | | 2010 | | 2011 | |
|------------------------|---------|--------------------|---------|--------------------|---------|------------------------|---------|
| Morocco | 497 720 | Morocco | 378 485 | Morocco | 283 060 | Morocco | 220 485 |
| Ukraine | 15 750 | Ukraine | 19 445 | Ukraine | 19 105 | Albania | 16 745 |
| Brazil | 11 920 | Brazil | 8 455 | Russian Federation | 8 675 | Ukraine | 16 435 |
| Russian Federation | 8 680 | Russian Federation | 7 925 | Serbia | 6 380 | Russian Federation | 8 845 |
| China (incl. HK) | 6 320 | Georgia | 6 095 | Brazil | 6 355 | Serbia | 6 585 |
| Moldova | 6 000 | Belarus | 5 005 | Belarus | 5 705 | Belarus | 6 025 |
| Turkey | 5 850 | Croatia | 4 835 | Turkey | 4 285 | Brazil | 4 930 |
| Serbia | 5 745 | Turkey | 4 745 | Croatia | 4 140 | Croatia | 3 860 |
| Croatia | 5 610 | Serbia | 3 620 | FYROM | 4 010 | Turkey | 3 600 |
| Belarus | 4 430 | China (incl. HK) | 3 610 | Georgia | 3 345 | FYROM | 3 220 |
| Nigeria | 3 215 | United States | 3 310 | United States | 2 585 | Georgia | 2 835 |
| India | 3 140 | Nigeria | 2 365 | Albania | 2 365 | United States | 2 540 |
| United States | 3 060 | FYROM | 2 280 | China (incl. HK) | 2 220 | Moldova | 2 390 |
| Paraguay | 2 300 | India | 2 260 | India | 2 205 | China (incl. HK) | 1 720 |
| FYROM | 2 125 | Moldova | 2 235 | Moldova | 2 115 | Bosnia and Herzegovina | 1 715 |
| Venezuela | 1 840 | Venezuela | 2 010 | Nigeria | 1 900 | India | 1 600 |
| Senegal | 1 670 | Albania | 1 975 | Paraguay | 1 475 | Nigeria | 1 550 |
| Bosnia and Herzegovina | 1 640 | Paraguay | 1 650 | Venezuela | 1 280 | Venezuela | 1 405 |
| Pakistan | 1 535 | Argentina | 1 505 | Pakistan | 1 165 | Algeria | 1 355 |
| South Africa | 1 530 | Pakistan | 1 470 | Algeria | 1 010 | Paraguay | 1 315 |

Source: Eurostat **Notes:** no data for Luxembourg in 2010 and presumably data rounded up or down to nearest 5?

Third-country nationals found to be irregularly present

Eurostat statistics on third-country nationals found to be irregularly present according to national immigration legislation (i.e. apprehensions of persons who have either entered the country irregularly by evading border controls or have entered legally, but overstayed their permissions) is disaggregated by age, sex, and by citizenship of the third-country national concerned. This information is available for 2008 to 2010.⁶⁵ In addition, some of the National Reports produced for this Study describe statistics from 2005 (**Austria, Belgium, Estonia, Finland Greece, Latvia, Lithuania, Netherlands, Slovak Republic, Slovenia**); however, it should be noted that there are likely to be differences in the data collection methods and parameters between the national statistics collected up to 2007 and those provided to Eurostat from 2008, which may limit cross-country comparisons prior to 2008 and create breaks in time series in individual Member States across the two periods.

[Table VII.2](#) below presents the same figures (of third-country nationals found to be irregularly present) as a percentage of the total population for 2011. It shows that the Member States where the number of irregular migrants apprehended are greatest, proportional to overall population are in Cyprus (1.01% of total population) and **Greece** (0.79%). The proportion in **Malta** is also comparatively high at 0.41% of the total population; however, in other countries, the proportion is much smaller. Notably, the proportion of total population that are third-country nationals found to be irregularly present in **Greece** fell between from 1.02% of the population in 2010 to 0.79% in 2011.

Table VII.2 Number of third-country nationals found to be irregularly present in EU Member States in 2011 as a proportion of the total population

| Member State | Total | % | Member State | Total | % | Member State | Total | % |
|-----------------------|--------|-------|--------------------|--------|-------|------------------------|--------|-------|
| Austria | 20 080 | 0.24% | Greece | 88 840 | 0.79% | Romania | 3 365 | 0.02% |
| Belgium | 13 550 | 0.12% | Hungary | 3 810 | 0.04% | Slovenia | 4 350 | 0.21% |
| Bulgaria | 1 355 | 0.02% | Ireland | 2 470 | 0.06% | Slovak Republic | 1 145 | 0.02% |
| Cyprus | 8 230 | 1.02% | Italy | 29 505 | 0.05% | Sweden | 20 765 | 0.22% |
| Czech Republic | 3 085 | 0.03% | Latvia | 130 | 0.01% | United Kingdom | 54 175 | 0.09% |
| Denmark | 400 | 0.01% | Lithuania | 1 895 | 0.06% | Norway | 1 925 | 0.04% |
| Estonia | 1 020 | 0.08% | Luxembourg | 0 | 0.00% | | | |
| Finland | 3 305 | 0.06% | Malta | 1 730 | 0.41% | | | |
| France | 57 975 | 0.09% | Netherlands | 6 145 | 0.04% | | | |
| Germany | 56 345 | 0.07% | Poland | 6 875 | 0.02% | | | |
| Spain | 68 825 | 0.15% | Portugal | 9 230 | 0.09% | | | |

Source: Eurostat

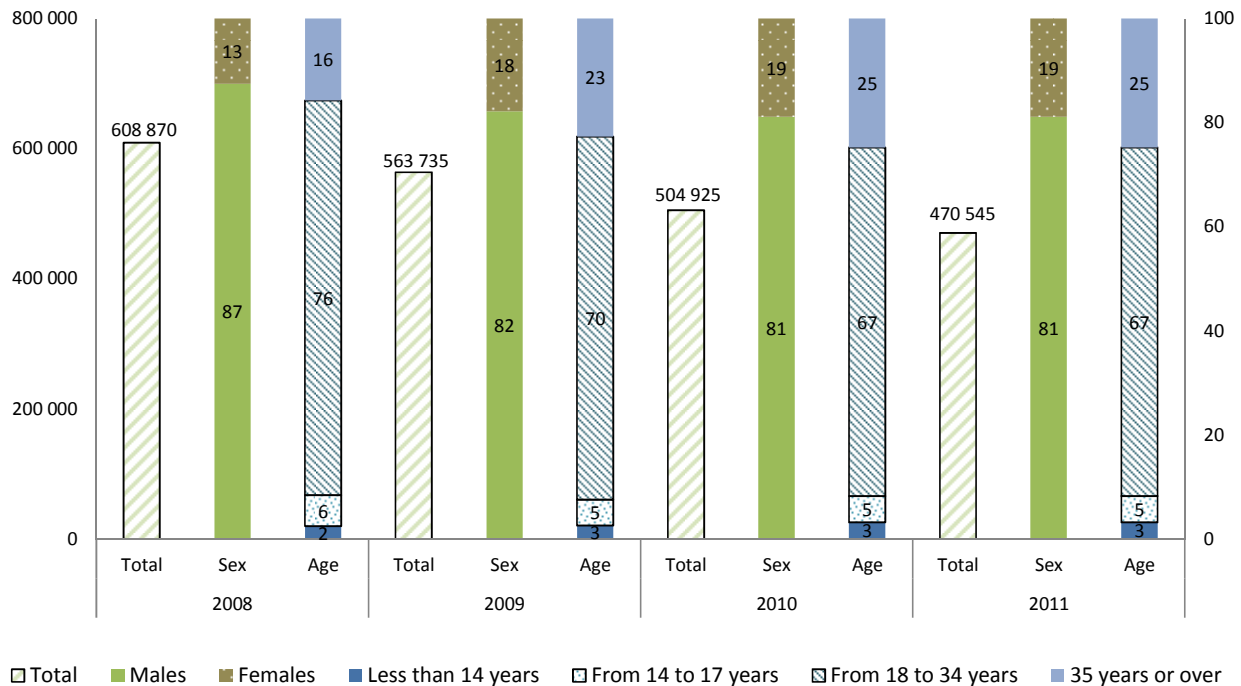
Third-country nationals found to be irregularly present: trends by gender and age, 2008-2011

[Figure VII.4](#) presents the total number of third-country nationals found to be irregularly present by age and sex for 2008-2011. As shown, irregular migrants apprehended are predominantly men

⁶⁵ 2011 statistics are available now.

(around 85%); however the data show that the number of females found to be irregularly present has slightly increased 2008-2010, although this does not appear to be statistically significant. The figures do differ from overall migration, which is also predominantly male but in a much lower proportion (53% among third-country nationals immigrating to the EU and Norway in 2010 and 2011⁶⁶). The data also show that the largest age group of apprehended irregular migrants is 18-34 (around 70%). Again, the share of youth is slightly higher than in overall legal migration - although the age categories are not exactly the same: the proportion of legal migrants in the age group 15-34 in 2010 was 63% (55% if the category includes only 20-34)⁶⁷.

Figure VII.4 Third-country nationals found to be irregularly present, all (Member) States, total, by sex and age, 2008-2011



Source: Eurostat

Notes: LU and NO not included because of missing data. No age breakdown for BG. In 2008, no age and sex breakdown for DE, ES and PT

In **Estonia**, an average of 65% of the persons found to be irregularly present are stateless persons (2005 -- 75%; 2007 -- 60%, 2010 -- 63%). They are mainly persons residing permanently in Estonia whose residence permit has expired and they have, for some reason, failed to renew it. The years 2004-2006 were the years when many of the temporary residence permits issued for five years expired. In the **United Kingdom** the majority of those apprehended were overstayers.

⁶⁶ Source: Eurostat (migr_imm1ctz) Missing data for immigration to **Belgium, Bulgaria, Cyprus, Latvia, Hungary, Netherlands, Poland**

⁶⁷ Source: Eurostat (migr_imm1ctz) Missing data for immigration to **Belgium, Bulgaria, Cyprus, Latvia, Hungary, Netherlands, Poland and Romania**.

Third-country nationals found to be irregularly present: trends by country of origin of those refused, 2008-2011

[Table VII.3](#) illustrates the twenty main countries of origin of third-country nationals apprehended in the EU 2008-2011. As shown in the tables, the most common countries of origin for third-country nationals found to be irregularly present are Albania, Afghanistan, Morocco, Iraq and Pakistan. From 2008 to 2010, the number of Albanians apprehended was much higher than that of any other nationality, but in 2011 the number of Albanians found to be irregularly present rapidly declined – this is largely due to a decline in numbers in **Greece** from 63 140 in 2009 through 47 120 in 2010 to 11 225 in 2011. In 2008 there were also high numbers of apprehensions of third-country nationals from Brazil from 2009 onwards this became less common. In 2011 there were much higher numbers of Pakistanis apprehended than in the three previous years - again this appears to be related to the number of apprehensions of Pakistanis in **Greece**, which grew from 4 295 in 2009 through 8 485 in 2010 to 18 275 in 2011; this may be due to a reported increase in the flow entry of nationals of Asian and African origin. Apprehensions are also common of third-country nationals from China, India, and Algeria, and the number of Tunisians apprehended also increased from 2010 to 2011.

Table VII.3 Third-country nationals found to be irregularly present, 20 main countries of citizenship, 2008-2011

| 2008 | | 2009 | | 2010 | | 2011 | |
|--------------------|--------|-----------------------|--------|-----------------------|--------|-----------------------------|--------|
| Albania | 72 675 | Albania | 69 005 | Albania | 52 375 | Afghanistan | 45 455 |
| Afghanistan | 49 780 | Afghanistan | 49 755 | Afghanistan | 41 410 | Pakistan | 32 510 |
| Morocco | 39 775 | Morocco | 32 570 | Morocco | 29 670 | Morocco | 28 890 |
| Iraq | 37 425 | Iraq | 23 670 | Pakistan | 19 370 | Tunisia | 24 120 |
| Brazil | 32 945 | Brazil | 18 570 | Algeria | 19 235 | Algeria | 17 965 |
| Eritrea | 21 095 | China (incl. HK) | 17 070 | Nigeria | 16 900 | Albania | 17 235 |
| India | 20 285 | Somalia | 16 850 | Iraq | 16 680 | India | 15 130 |
| Bolivia | 17 460 | India | 16 675 | China (incl. HK) | 15 345 | Nigeria | 14 155 |
| China (incl. HK) | 17 025 | Nigeria | 16 480 | India | 14 995 | Iraq | 12 450 |
| Nigeria | 16 585 | Algeria | 15 945 | Somalia | 14 620 | Ukraine | 11 890 |
| Algeria | 15 785 | Pakistan | 15 500 | Brazil | 14 340 | China (including Hong Kong) | 11 755 |
| Tunisia | 14 080 | Bolivia | 14 835 | Serbia | 12 050 | Bangladesh | 11 260 |
| Ukraine | 13 995 | Tunisia | 13 885 | Ukraine | 10 880 | Iran | 11 115 |
| Turkey | 13 955 | Vietnam | 12 980 | Tunisia | 10 765 | Brazil | 10 630 |
| Serbia | 13 350 | Turkey | 11 795 | Turkey | 10 725 | Turkey | 10 445 |
| Pakistan | 13 210 | Ukraine | 11 230 | Iran | 10 115 | Russia | 9 465 |
| Somalia | 10 965 | Palestinian territory | 11 020 | Bangladesh | 9 775 | Serbia | 9 415 |
| Senegal | 10 700 | Eritrea | 10 890 | Palestinian territory | 9 475 | Somalia | 8 925 |
| Russian Federation | 10 260 | Russian Federation | 10 370 | Vietnam | 9 210 | Eritrea | 8 130 |
| Iran | 9 580 | Iran | 9 345 | Russian Federation | 9 010 | Vietnam | 6 525 |

Source: Eurostat

In **Germany**, as for many countries, the dominant nationalities amongst irregular migrants are those countries with which Germany has historical migration relations (e.g. Turkey, former Yugoslavian countries) and the Russian Federation; those from countries with large populations, such as China and India; or those from countries that generate large flows of refugees, such as Afghanistan, Iran and Iraq. Between 2008 and 2010 the number of persons irregularly present originating from Afghanistan in Germany almost quadrupled. The number of irregularly-resident Afghans also rose in **Estonia** in 2009 – previously they had only used Estonia as a transit country to **Finland** or **Sweden**. However, the largest group (approximately one quarter) of apprehended immigrants in **Estonia** were citizens of the Russian Federation ((2005 – 22%; 2007 – 29%, 2010 – 25%).

In **Netherlands** there has been a decrease in the number of apprehensions of Chinese nationals following a decision of the administrative high court there to prohibit forced removals of these persons who would not have lawful residence in their country of origin. By contrast there was an increase in the number of Somalis detained due to the high number of asylum applications, and subsequent failed applications 2009 to 2010 and the abolishment of the protection policy for this third country from May 2009.

Distance and geography are also factors which affect the flow of irregular migration. For example, the most common nationalities of irregularly-resident third-country nationals apprehended in Eastern European Member States, such as **Czech Republic, Estonia, Latvia, Lithuania, Poland** and **Slovak Republic** are from the Russian Federation, Ukraine, Belorussia, and Moldova.⁶⁸ There are a high number of apprehensions of Serbians in **Austria**, as well as Russians and Afghans; and in **Finland** the largest national groups apprehended are Somalis, Iraqis and Russians. In **Ireland** the main countries of citizenship of apprehended irregularly-present third-country nationals are Nigerians, Chinese nationals and Pakistanis and in the **United Kingdom** the most dominant nationalities amongst those apprehended were from Nigeria and India. In **Luxembourg** apprehended irregularly-present third-country nationals are most commonly from former Yugoslavian Balkan countries.

Third-country nationals found to be irregularly present: possible causes of the decrease in apprehensions

Figure 6.2 in Section 5.2.2 demonstrated an overall decline in third-country nationals apprehended as irregularly present in Member States 2008-2011. In **Austria** and **Belgium** there was an even greater decrease of apprehensions from 2006 to 2007 of 38 579 (2006) to 14 216 (2007) in **Austria** and 17 323 (2006) to 11 642 (2007) in **Belgium**. One of the reasons **Austria** cites for the decrease is EU enlargement. EU enlargement would likely have such an impact both because citizens of accession countries gained access (albeit limited at first in some cases) to free movement, and because this changed the dynamics of irregular migration inflows into the EU (by increasing the number of routes and target countries through which the EU could be entered. **Belgium** also cites the accession of Romania and Bulgaria to the EU as the reason for this temporary decrease.

Other Member States (**Estonia, Finland, Latvia, Poland, Slovak Republic, Slovenia**) have also witnessed an overall downward trend in the number of apprehensions. In **Estonia** during the period 2005-2010, the number of apprehensions of persons staying irregularly in the country decreased by 67% (2005 - 2703 persons, 2010 - 893 persons); the greatest decreases were between 2005 and 2008 – due in part to the large number of expirations of the five-year residence permit during this period; since then the numbers have remained more stable. **Finland** saw the number of third-country nationals apprehended rise from 1 689 in 2006 to 6 660 in 2009,⁶⁹ but then decrease quite rapidly to 3 755 in 2010. These trends in third-country nationals apprehended correspond to growths or decreases in influxes of asylum applicants. **Latvia** also notes a decrease in numbers of

⁶⁸ The highest number of apprehensions in **Czech Republic** were from Ukraine followed by Vietnam; in **Latvia** the most common nationalities are Moldovan, Russian, Ukrainian and Georgian; in **Lithuania** they are also most commonly Russian, Belorussian and Ukrainian; in **Poland** from Ukraine, Russia and Vietnam; and in **Slovak Republic** most commonly from Ukraine, followed by Moldova, India, Russia and Pakistan.

⁶⁹ Here, as mentioned above, breaks in data collection methods 2007-2008 and possible distortions of the data thereof should be taken into consideration.

apprehensions from 310 in 2008 to 245 in 2009 which it accredits to effective operations implemented following its entry into the Schengen area. The **Slovak Republic** also attributes its significant decline from 6 662 in 2007 to 2 320 in 2008 to accession to the Schengen area – i.e. due to measures implemented by the **Slovak Republic** in order to meet the requirements imposed through the accession process (including enhancing border controls and combating organised irregular migration). However, it should be noted that apprehensions in the Member State include both those at border crossings (i.e. for irregular crossing) and apprehensions of those already irregularly residing; from 2005 to 2007 there was a higher proportion of apprehensions for irregular crossing, but with the collapse of internal borders following 2008, a higher proportion of apprehensions were made for irregular stay in the **Slovak Republic**. In **Poland** the number of apprehensions decreased from 5 430 in 2008 to 4 005 in 2010, which **Poland** attributes to improved effectiveness of its work, inter alia through numerous trainings of the state border guards and other relevant authorities.

Statistics on specific ‘groups’ of irregular migrants

It is also possible to obtain a picture of trends and numbers on specific groups or irregular migrants, such as absconders, persons regularised, and detected marriages of convenience. These statistics provide some indication of trends. However, it is difficult to gain an overall picture of trends in irregular migration in general by looking at individual sets of statistics, which have their own specific contexts and variables.

France, Ireland and Sweden provide statistics on the number of orders to leave the territory not executed. In **France**, the rate of non-execution of prefectural removal orders 2006-2010 remained more-or-less stable at around 74.7% (for orders to be escorted to the border). Between 2008 and 2010, total orders to be removed not executed declined somewhat from 85% not executed (a total of 72 975 non-executed orders) to 79.4% (a total of 56 849 non-executed orders) in 2010. In **Ireland** one quarter (1 677 orders) of all deportation orders issued in the period 2005-2010 (6 710 in total) were executed. In **Sweden** 2008 to 2010 the Swedish Migration Board reported around 8 000 people per year had absconded from reception centres. However, while the statistics may include persons who have absconded and become irregular, but it may also represent persons who left of their own accord and therefore cannot be taken as a complete picture of absconders. In **Germany**, registered third-country nationals who stay irregularly, but are neither placed in detention centres nor ordered to return, are registered with the Electronic System for Distributing Irregularly Present Foreigners (VilA system). The number of persons registered on this system has been rising – nationalities include Serbia, Bosnia, Vietnam, Turkey. **Finland** provides statistics on assisted irregular entries: the number has fluctuated since 2005 with the highest number identified in 2009 (1 812) and 515 in 2011.

Asylum applicants may also become irregular when they fail to follow specific procedures. In **Germany** in 2010 2,595 asylum applicants (6.1% of all applications) registered their application but then failed to contact the reception centre. In some cases this was because the applicant travelled to another city / region instead of to the one to which they had been assigned; this is referred to as ‘traveller atrophy’. Most notably 24.3% of applicants (3 633 persons) who first arrived at Berlin in 2010 failed to move on to their assigned reception centre. Traveller atrophy was most common amongst Vietnamese nationals as well as nationals from Bangladesh, Congo, Lebanon and the Russian Federation. This may be because there are sizable “communities” of foreign nationals in Berlin that asylum seekers prefer to join while at the same time accepting that this inevitably means to become “irregular.”

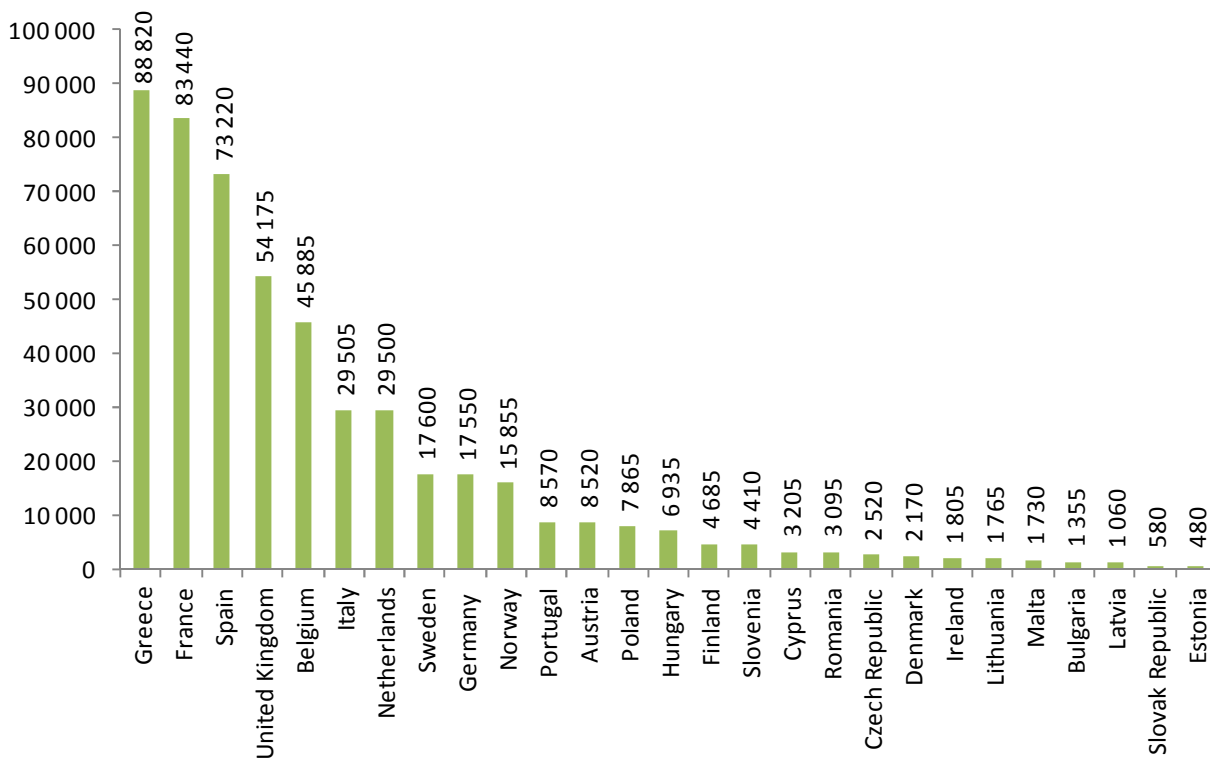
Misuse of the right to migration for family reunification represents another form of irregular

migration. **Finland, Germany and Lithuania** provide statistics in their National Reports on marriages that have been found to be fraudulent. **Ireland's** National Report provides data on marriage patterns the Department of Justice and Equality believes to be suspicious. Further data on marriages of convenience is available in the EMN Study on *Misuse of the Right to Family Reunification*.

Third country nationals ordered to leave and returned, 2011

Statistics on third-country nationals ordered to leave and those actually returned can also be indicative of trends in irregular migration. [Figure VII.5](#) below outlines the number of third-country nationals ordered to leave 2008-2011 for each Member State

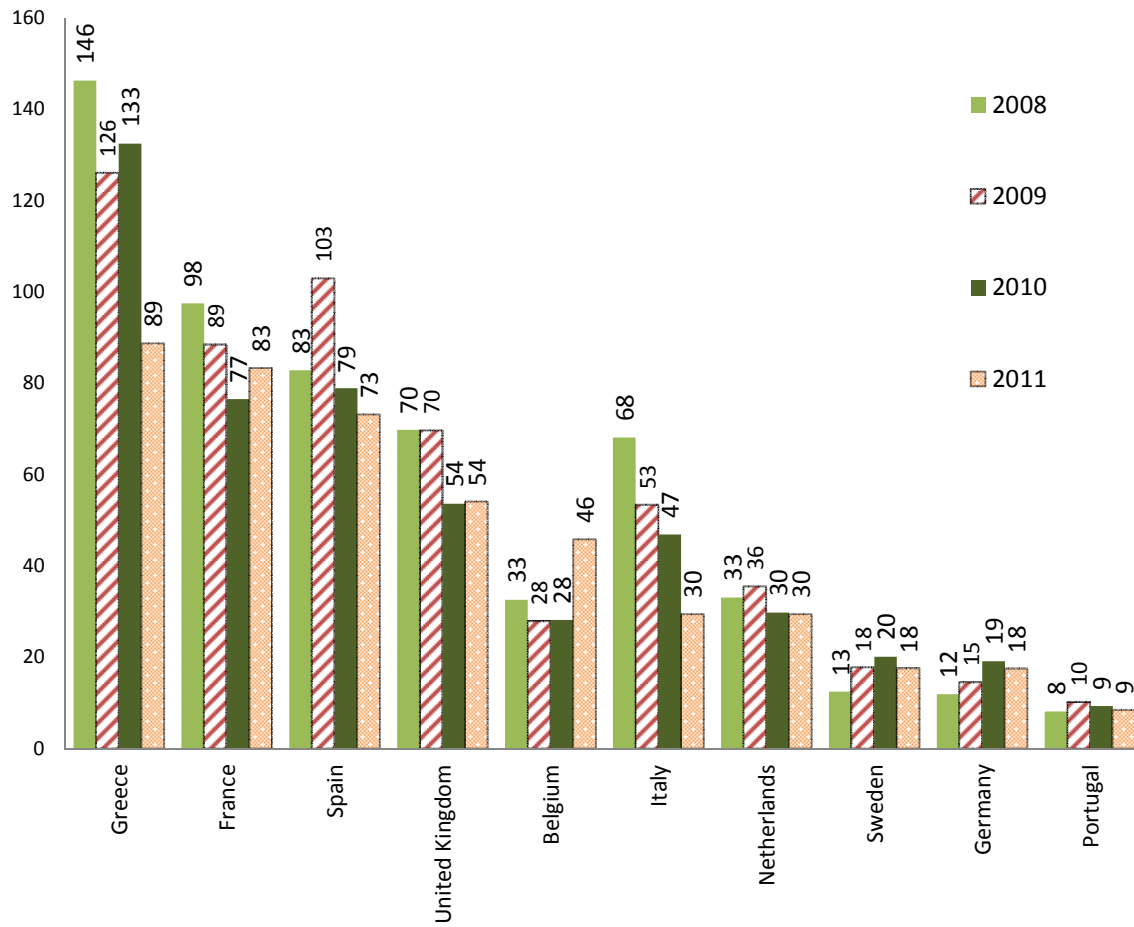
Figure VII.5 Third-country nationals ordered to leave, by (Member) States, total, 2011



Source: Eurostat

Notes: No statistics for Luxembourg

Similar to the statistics provided in Figure 5.1 on apprehensions (Section 5.2.1), the four main Member States for third-country nationals ordered to leave are **Greece, Spain, France** and the **United Kingdom**. However, in comparison with Figure 5.1, **Italy, the Netherlands, Sweden, Germany, Austria and Poland** have high numbers of third-country nationals ordered to leave. [Figure VII.6](#) shows that the number of third-country nationals ordered to leave has been generally decreasing 2008-2011 in the ten main Member States. It is only in **Belgium** that the numbers increased notably from 2010 (28 000) to 2011 (46 000).

Figure VII.6 Third-country nationals ordered to leave, ten main (Member) States, in 1 000s, 2008-2011

Source: Eurostat

[Table VII.4](#) shows that the main nationalities of third-country nationals ordered to leave are more or less the same as those apprehended.

Table VII.4 Third-country nationals ordered to leave, 20 main countries of citizenship, 2008-2011

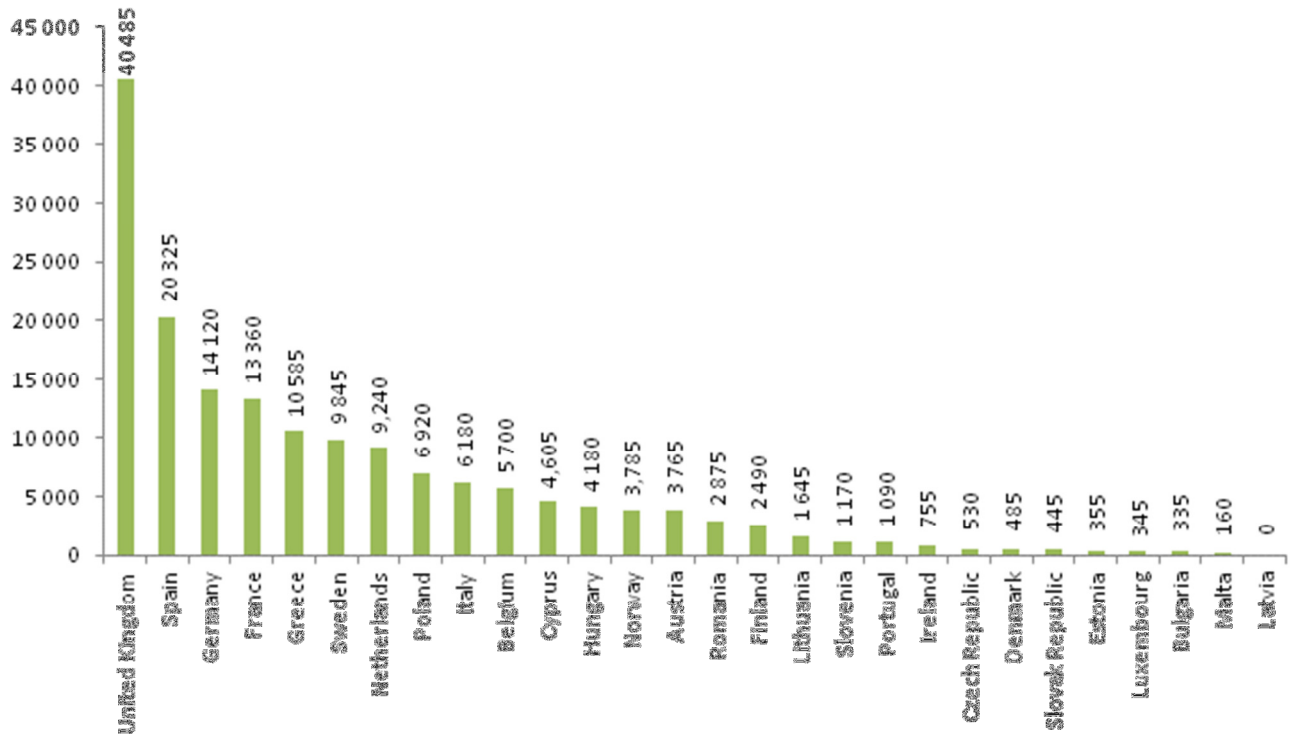
| 2008 | | 2009 | | 2010 | | 2011 | |
|-----------------------|--------|-----------------------|--------|-----------------------|--------|------------------|--------|
| Albania | 78 925 | Albania | 69 200 | Albania | 55 370 | Morocco | 39 020 |
| Morocco | 45 800 | Morocco | 41 795 | Morocco | 37 475 | Afghanistan | 36 645 |
| Afghanistan | 40 155 | Afghanistan | 34 940 | Afghanistan | 37 325 | Pakistan | 32 720 |
| Iraq | 34 130 | Iraq | 25 140 | Algeria | 27 245 | Tunisia | 27 160 |
| Algeria | 21 335 | Algeria | 23 080 | Pakistan | 20 175 | Algeria | 24 920 |
| Brazil | 19 080 | Brazil | 20 710 | Iraq | 17 360 | Albania | 16 905 |
| India | 18 795 | China (incl. HK) | 18 935 | Nigeria | 16 580 | India | 15 325 |
| China (incl. HK) | 18 620 | Bolivia | 18 015 | China (incl. HK) | 16 280 | Nigeria | 14 550 |
| Pakistan | 16 965 | India | 17 025 | Brazil | 15 945 | China (incl. HK) | 13 825 |
| Turkey | 15 860 | Pakistan | 16 775 | India | 15 490 | Brazil | 12 685 |
| Nigeria | 15 800 | Nigeria | 16 245 | Tunisia | 13 120 | Russia | 12 455 |
| Ukraine | 14 615 | Tunisia | 16 160 | Serbia | 13 030 | Serbia | 12 450 |
| Tunisia | 14 590 | Turkey | 15 190 | Ukraine | 12 460 | Bangladesh | 12 160 |
| Bolivia | 14 505 | Palestinian territory | 14 445 | Bolivia | 12 210 | Iraq | 11 990 |
| Serbia | 12 920 | Somalia | 14 140 | Turkey | 11 870 | Ukraine | 11 490 |
| Somalia | 11 625 | Ukraine | 13 420 | Somalia | 11 325 | Turkey | 11 440 |
| Senegal | 10 290 | Russian Federation | 10 665 | Palestinian territory | 11 150 | Kosovo | 8 765 |
| Bangladesh | 8 750 | Senegal | 10 285 | Russian Federation | 10 485 | Somalia | 8 750 |
| Egypt | 8 690 | Bangladesh | 9 615 | Bangladesh | 10 165 | Iran | 8 185 |
| Palestinian territory | 8 605 | Serbia | 9 395 | Senegal | 8 700 | Bolivia | 7 710 |

Source: Eurostat

Notes: No data for Luxembourg in 2008. No data for Norway.

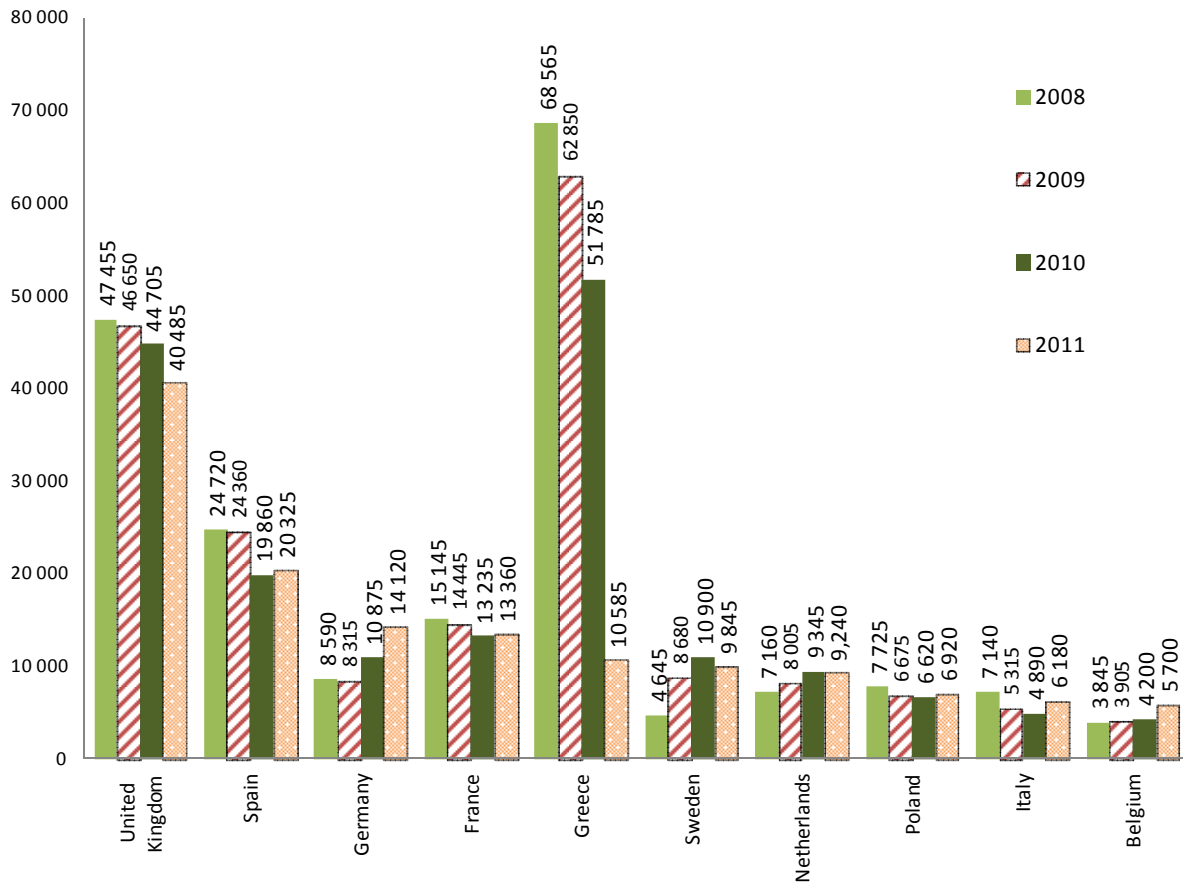
By comparison, [Figure VII.7](#) shows the number of persons returned to a third country for 2011.

Figure VII.7 Third-country nationals returned to a third country, by (Member) State, total, 2011



Source: Eurostat

[Figure VII.8](#) shows that the number of third-country nationals has, like the statistics on apprehensions and on refusals at the external border, generally decreased 2008-2011

Figure VII.8 Third-country nationals returned to a third country, ten main (Member) States, in 1 000s, 2008-2011

Source: Eurostat

In **Spain** the number of readmissions has been decreasing since 2007 from 6 248 (2007) to 1 959 (2010). Readmissions refer to persons removed through readmission agreements with third countries. **Spain** suggests that this decrease demonstrates the effectiveness of readmission agreements in deterring irregular migration (from these countries). By contrast, removals of irregularly-staying migrants (including forced return) have increased in Spain, although this may be, in part, due to an increase in removals of third-country nationals who, in addition to irregular stay, commit a crime or refuse to leave the country after receiving a fine for irregular stay, which are being prioritised by policy makers and accounted for 71% of removals in 2010.

Decreases in the flow of specific types of irregular migrant are also visible in other (Member) States. For example, in **Austria** the number of smugglers apprehended has been in decline since 2005, with numbers declining from 20 807 in 2005 to 6 674 in 2010. Smugglers were mainly from Austria and Greece (27 persons each), followed by smugglers from Turkey (21) and Afghanistan (16). The decline in numbers of recorded smuggled persons (- 35%) and smugglers (-31%) in 2010 as compared to 2009 is likely due to positive developments in the countries of origin Afghanistan, the Russian Federation (Chechen Republic), Serbia and the Kosovo.

[Table VII.5](#) provides an overview of the 20 main countries of citizenship of third-country nationals returned 2008-2011.

Table VII.5 Third-country nationals returned to a third country, 20 main countries of citizenship, 2008-2011

| 2008 | | 2009 | | 2010 | | 2011 | |
|--------------------|--------|--------------------|--------|----------------------|--------|--------------------|--------|
| Albania | 69 145 | Albania | 62 680 | Albania | 50 520 | Morocco | 11 705 |
| Morocco | 13 560 | Morocco | 12 970 | Morocco | 12 645 | Serbia | 9 400 |
| Brazil | 9 170 | Brazil | 9 860 | Serbia | 8 630 | India | 7 575 |
| Ukraine | 9 050 | Ukraine | 7 700 | Ukraine | 7 790 | Albania | 7 495 |
| Turkey | 6 955 | China (incl. HK) | 7 105 | India | 7 790 | Ukraine | 7 165 |
| Serbia | 6 130 | India | 6 660 | Brazil | 7 670 | Pakistan | 6 250 |
| Algeria | 5 660 | Turkey | 5 590 | China (incl. HK) | 6 480 | Russian Federation | 6 230 |
| Nigeria | 5 275 | Iraq | 5 565 | Iraq | 5 755 | Brazil | 5 980 |
| India | 5 125 | Algeria | 5 440 | Nigeria | 5 300 | Tunisia | 5 730 |
| China (incl. HK) | 4 320 | Nigeria | 4 905 | Algeria | 5 200 | China (incl. HK) | 5 150 |
| Russian Federation | 3 760 | Russian Federation | 4 420 | Pakistan | 4 710 | Algeria | 4 545 |
| Pakistan | 3 740 | Pakistan | 4 210 | Russian Federation | 4 640 | Nigeria | 4 515 |
| Iraq | 3 670 | Serbia | 4 105 | Turkey | 4 555 | FYROM | 4 090 |
| Moldova | 3 430 | Bolivia | 3 590 | Kosovo ⁷⁰ | 4 180 | Afghanistan | 3 910 |
| Bolivia | 2 975 | Kosovo | 3 450 | Afghanistan | 2 905 | Kosovo | 3 905 |
| United States | 2 890 | United States | 2 910 | FYROM | 2 765 | Turkey | 3 625 |
| Tunisia | 2 275 | Moldova | 2 735 | Vietnam | 2 635 | Iraq | 3 470 |
| Bangladesh | 2 100 | Tunisia | 2 315 | Bangladesh | 2 600 | Bangladesh | 2 535 |
| Vietnam | 2 060 | Afghanistan | 2 295 | Georgia | 2 460 | United States | 1 940 |
| Malaysia | 2 010 | Vietnam | 2 275 | United States | 2 380 | Egypt | 1 925 |

Source: Eurostat

Notes: No data for Cyprus, Luxembourg in 2008. No data for Latvia and Luxembourg in 2011

⁷⁰ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo Declaration of Independence. All subsequent mentions of Kosovo are also understood to be within the context of this statement'

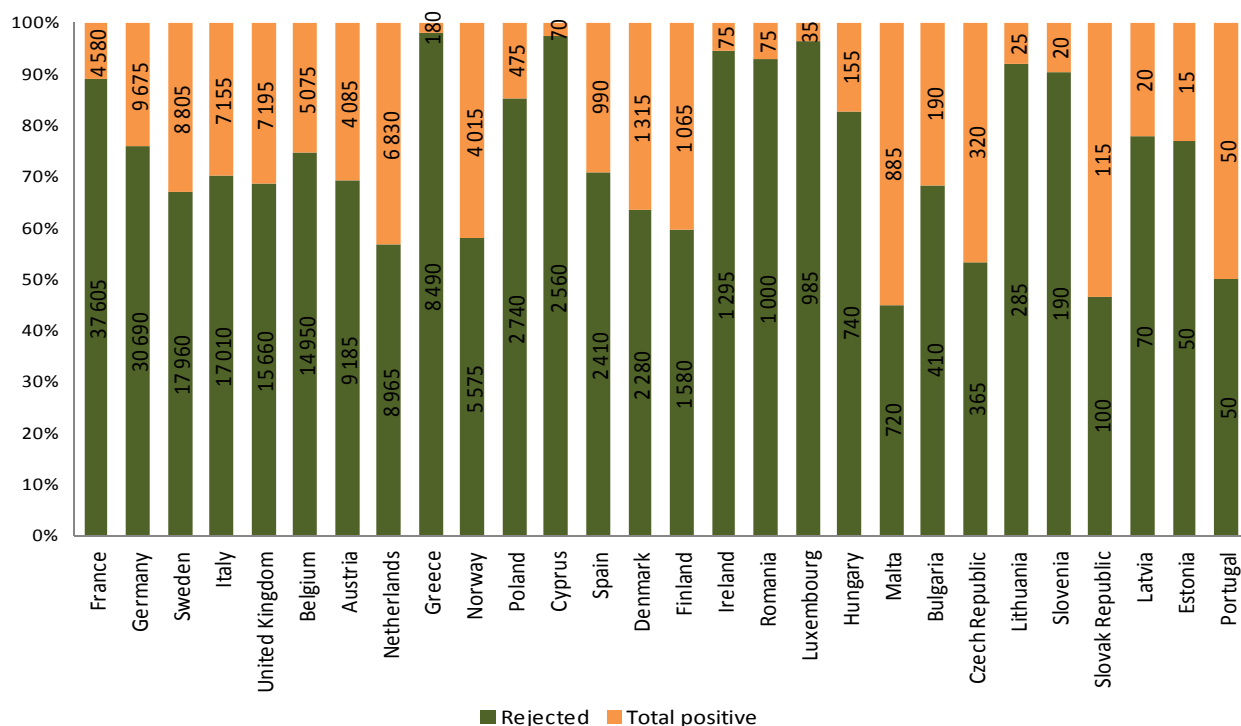
Other relevant statistics: Entry bans and negative decisions on asylum applications

Three Member States (**Austria, Czech Republic, Finland**) provide statistics on entry bans. In **Finland** entry bans have increased markedly since 2008; however, this is largely due to an increase in entry-bans related to crimes; whereas bans related to irregular migration (e.g. fraud, irregular stay, etc.) have remained stable. In 2010, a total of 91 entry bans were issued to persons on the basis of irregular residence; a further 9 were issued for arranging irregular immigration, and there were 15 entry bans issued for forgery or fraud (i.e. 115 entry bans related to irregular migration in total). Three Member States (**Czech Republic, Latvia, Lithuania**) provide statistics on carriers sanctioned for providing incorrect or incomplete passenger information. In **Latvia** 125 carriers were sanctioned in 2010 as compared with 83 in 2008 and 71 in 2009. In **Lithuania** only 6 carriers were sanctioned at Vilnius Airport in 2010; however, overall 64 have been sanctioned 2006 to 2010.

(Member) States also provide statistics to Eurostat on applications for asylum rejected and humanitarian status withdrawn. Such data may be *indicative* of potential absconders. For example, in **Germany** research⁷¹ has shown that asylum-seekers whose cases ended with negative decisions are another major group of irregular migrants.

[Figure VII.9](#) shows the number of first instances on application by (Member) States for 2011.⁷² It shows that a large proportion of applications for asylum are rejected in the first instance across all Member States.

Figure VII.9 First instance decisions on asylum applications, by (Member) State, ordered by decreasing number of rejection, 2011



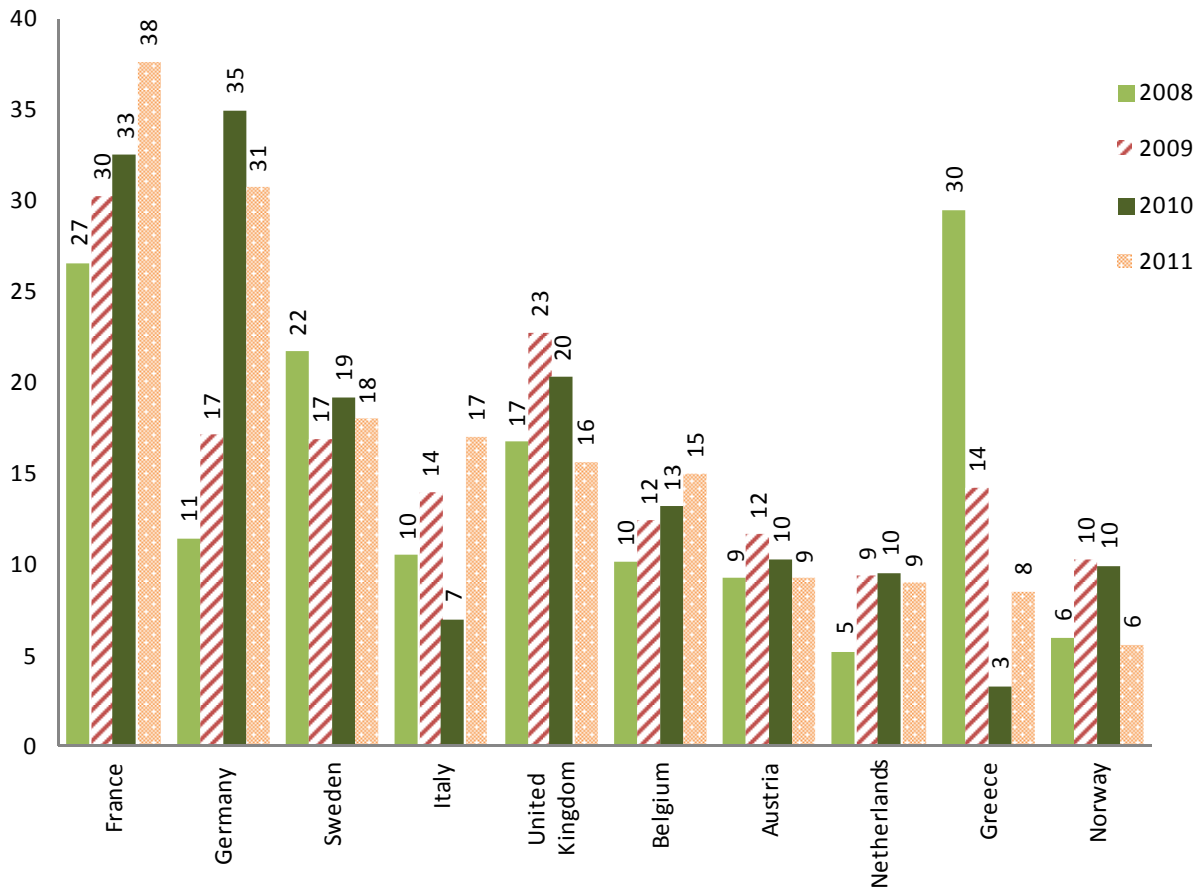
Source: Eurostat

⁷¹ Düvell/Vollmer 2011: 5

⁷² Data extracted on 24.04.2012

[Figure VII.10](#) shows the trend in negative decisions 2008-2011 for the ten main Member States. It shows that in some (Member) States the number of negative decisions has declined in number (e.g. **Austria, Sweden, United Kingdom, Norway** and in **Greece** to 2010 and **Germany** from 2010 to 2011), which may demonstrate a smaller influx of applicants, an increase in the number of non-eligible applicants, or improvements in the asylum processing system. In **France, Italy, Belgium** the numbers have risen.

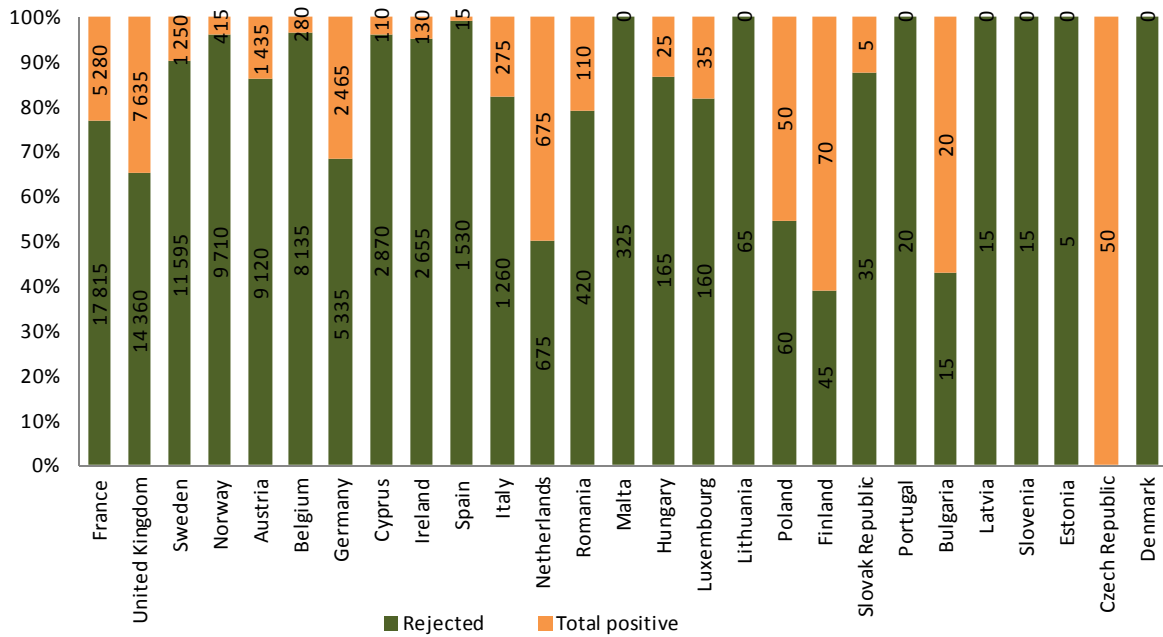
Figure VII.10 First instance negative decisions on asylum applications, main ten (Member) State, in 1 000s, 2008-2011



Source: Eurostat

Figure VII.11 shows the number of final decisions for 2010.⁷³

Figure VII.11 Final decisions on asylum applications, by (Member) State, ordered by decreasing number of rejection, 2010



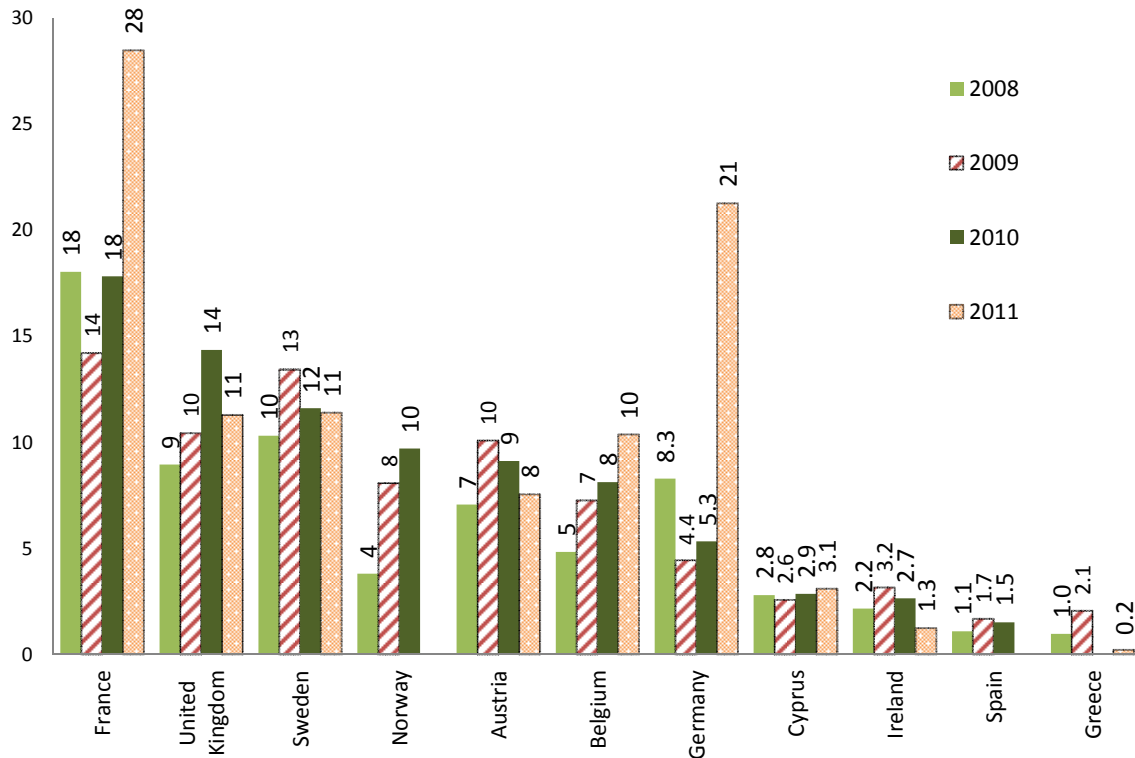
Source: Eurostat

Czech Republic only has data on positive decisions. Denmark only has data on negative decisions.

⁷³ Statistics extracted 24.04.2010.

[Figure VII.12](#) illustrates the trend in final decisions for the ten main (Member) States for 2010 from 2008 to (where available) to 2011.

Figure VII.12 Final negative decisions on asylum applications, main eleven (Member) State, in 1 000s, 2008-2011



Source: Eurostat

Costs of practical measures

Very few Member States were able to provide comprehensive statistics on the costs of implementing measures to reduce irregular migration. This is because practical measures are often implemented as part of general national policies and practices and are therefore difficult to separate into those which are aimed at reducing irregular migration and those which are designed for other purposes. For example, border management is aimed at preventing irregular migrants from entering, but also at facilitating the entry of legal migrants, at preventing the import of dangerous goods, at preventing terrorism and preventing the evasion of customs tax (for example).

Germany makes the point that the costs of reducing irregular migration are incurred by different levels of stakeholder: the European Commission and the EU agencies; national, regional and local authorities (police, courts, immigration authorities, etc.). Indeed, in many Member States the costs of practical measures have been financed in part through the EU, e.g. through the external borders fund and the Return Fund (see [Section 8.2](#)).

Prior to entry, **Latvia** gives an overview of costs of State Border Guard Training, as well as the establishment of immigration liaison officers. **Lithuania** provides statistics on the funds given to the government by the External Borders Fund in 2009 and the European Return Fund in 2009 and 2010. At the border, the border guard in **Finland** used €77.4 million on border checks in 2009 and in 2010, the costs increased to €89.2 million. The budget was set at a lower figure of 87.5 million euro. In **Malta** the *National Audit Office* published a Performance Audit Report in 2011 on

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‘Dealing with Asylum Applications’, which outlined the accommodation and related costs in 2009 for migrants arriving irregularly in Malta at over €17.3 million. Some of the costs of return measures are described further in [Section 7.2.2](#).

ANNEX VIII – BIBLIOGRAPHY**a) Statistical studies on numbers of irregular migrants in Europe**

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