
TRACING THE CHANNELS REFUGEES USE TO SEEK PROTECTION IN EUROPE



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By Susan Fratzke and Brian Salant

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CONTENTS

- EXECUTIVE SUMMARY 1
- I. INTRODUCTION..... 2
- II. NONHUMANITARIAN CHANNELS OF ENTRY TO THE
ASYLUM SYSTEM..... 4
 - A. *Legal entry* 4
 - B. *Unauthorised entry*..... 7
- III.HUMANITARIAN CHANNELS OF ENTRY 12
 - A. *Resettlement*..... 12
 - B. *Humanitarian admissions programmes*..... 14
 - C. *Humanitarian visas* 16
 - D. *Family reunification* 18
- IV. CONCLUSION..... 19
- WORKS CITED 22
- ABOUT THE AUTHORS 27

EXECUTIVE SUMMARY

Between 2008 and 2016, countries in the European Union (EU) and European Free Trade Association (EFTA) granted international protection to more than 1.7 million people. While some came through the general asylum procedure, tens of thousands of others accessed protection through resettlement and humanitarian admissions channels. The mass influx of asylum applicants and other protection seekers over the course of 2015 and 2016 has raised anew questions about the ability of governments to effectively manage migration flows and meet their international protection commitments.

Amid the rush for solutions, politicians and advocates alike have shown interest in opening additional legal channels of entry to improve the management of asylum flows and provide an alternative to the dangerous, unauthorised journeys many refugees undertake. At the EU level, the European Commission has tabled a proposal for a Common European Resettlement Framework, and national policymakers, including most recently French President Emmanuel Macron, have raised the possibility of using humanitarian visas to allow refugees to apply for asylum from abroad. But if policymakers are to make smart choices about how to implement new legal channels, much more needs to be understood about how such pathways are likely to be used in practice.

At present, very little is known about how protection seekers use existing legal and clandestine channels to enter European countries. This scarcity is rooted in two interrelated challenges. First, there is a dearth of publicly available data regarding which channels protection seekers use to enter EU/EFTA Member States. Databases such as EURODAC have struggled to accurately record migrants entering the bloc without authorisation, particularly in times of increased arrivals, rendering it difficult to connect irregular entries to eventual asylum applications. Data on legal entrants who later apply for asylum are scarce; Dublin request data provide only a small piece of the picture, and the Visa Information System (VIS) that allows Schengen countries to share visa data has only been fully operational since 2015. Moreover, just four EU countries make public data on family reunification that are sufficiently disaggregated to distinguish between immigrants entering to reunite with protection beneficiaries and those reuniting with other legal status holders. Such data gaps reinforce the murky picture of how humanitarian migrants arrive in Europe and impede evidence-based policymaking.

If policymakers are to make smart choices about how to implement new legal channels, much more needs to be understood about how such pathways are likely to be used.

Beneath this lack of clear, reliable data is a second and more fundamental challenge: there is little consistency in how Member States, EU agencies, and international actors define and implement key policies such as resettlement, humanitarian admission, and humanitarian visas. Legal frameworks for these policies often overlap, as do the stated goals that drive programme implementation. This makes identifying the impact of such policies extremely difficult.

Despite these limitations, the data available from EURODAC, Eurostat, Frontex, the United Nations High Commissioner for Refugees (UNHCR), and national databases do suggest several important trends:

- A plurality of people seeking humanitarian protection arrives via unauthorised channels.
- The number of individuals provided protection through formal resettlement each year is generally 10 per cent the number granted protection through spontaneous asylum applications.
- In Member States that make such data available, family reunification appears to be as important a channel for legal entry as asylum for individuals in need of protection.

If European governments are serious about effectively implementing more legal channels to protection for refugees, they will need to invest in more detailed data collection and aggregation. To do so, policymakers should consider measures to improve the collection and reporting of data on the statuses asylum applicants hold prior to submitting a protection claim, as well as on how asylum seekers use existing legal channels such as humanitarian admissions programmes and visas. Such data become a powerful tool to connect the dots between entry, status, and protection outcomes and to foster comparison across European countries.

Relatedly, European governments should seek agreement on how key humanitarian policies are defined and implemented. Without such common definitions, programmes are not only difficult to evaluate, they also risk duplication or a lack of focus that can prevent them from achieving their fundamental aim of establishing safer and more orderly migration routes for the benefit of both protection seekers and the European societies that receive them.

I. INTRODUCTION

In 2015 and early 2016, more than 1 million people sought asylum in Europe. While the circumstances that caused them to leave their homes—from war to crime and violence to poor economic prospects—are complex and deeply individual, the manners in which they arrived were clearly shaped by destination-country protection and migration policies. Asylum policies have long faced a fundamental tension: while protection seekers have the right to apply for asylum once they arrive in a country’s territory, neither international nor national law provide them legal means to travel in search of protection.

As a result, opportunities for individuals seeking protection to move legally are generally few and difficult to access. Humanitarian channels of entry, such as resettlement and humanitarian admissions programmes, admit a fraction of the population seeking protection. Most refugees who arrive in Europe, including those who arrived in 2015 and 2016, are thus compelled to travel without authorisation—often risking their lives—because legal opportunities to enter Europe are not available. In 2016, for example, European Union (EU) and European Free Trade Association (EFTA) Member States¹ welcomed 18,000 people through resettlement, compared to the 699,000 applicants who were granted protection through asylum procedures after arriving in Europe via their own means.²

How individuals seek protection can have a profound impact on their ability to rebuild their lives—and, in receiving countries, on public trust in the ability of government to manage migration. Refugees who find no legal route to safety and instead rely on smugglers and clandestine movement to reach protection risk abuse and additional trauma, potentially affecting their ability to fully integrate into a new society. Clandestine journeys, as well as some humanitarian channels, may also leave refugees waiting for years to resume their lives, prolonging time spent out of the formal labour market or away from education. For governments, distinguishing between refugees and those not in need of protection within a mixed flow of unauthorised migrants can be difficult and resource intensive. Moreover, accepting a large number of asylum seekers who arrive as part of spontaneous or unauthorised flows can undermine confidence in the ability of elected officials to control who crosses national borders and on what terms, potentially limiting the political space governments have to fulfil their protection responsibilities.

1 The geographic scope of this report includes European Union (EU) Member States plus European Free Trade Association (EFTA) countries (Iceland, Liechtenstein, Norway, and Switzerland). Mention of ‘Europe’ should thus be understood as EU and EFTA Member States.

2 Eurostat, ‘Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asyappctza)’, accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyappctza; Eurostat, ‘First Instance Decisions on Applications by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asydcfsta)’, accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfsta; Eurostat, ‘Resettled Persons by Age, Sex and Citizenship. Annual Data (Rounded) (migr_asyresa)’, accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyresa.

At both the national and EU levels, policymakers have expressed a growing interest in opening legal migration channels to refugees and others in need of protection in response to the unprecedented asylum flows of 2015–16. The European Commission’s 2015 European Agenda on Migration included expanding resettlement and ‘other legal avenues’ to protection as a key priority,³ and the Commission introduced a proposal for a common EU Resettlement Framework in July 2016.⁴ Several national leaders have also expressed support for expanding legal humanitarian migration channels. And in July 2017, French President Emmanuel Macron suggested during a visit to an asylum centre that France would explore the option of processing asylum claims in Libya and other transit countries in order to disrupt migrant smuggling networks.⁵

Despite the growing interest in improving the management of the channels protection seekers use to enter the European Union, there is little agreement among policymakers on what concepts such as ‘legal channels to protection’ mean, and even less data on how protection seekers use existing channels (see Box 1). This report provides an overview of what channels of entry (both legal and unauthorised) currently exist and examines what publicly available data show about how these channels have been used over the past decade, highlighting important gaps. It begins by examining recent trends in spontaneous asylum applications and what is known about how these asylum seekers entered Europe. It then considers the extent to which refugees and forced migrants use humanitarian and other legal channels to enter EU/EFTA Member States, before offering initial conclusions regarding the availability of legal mobility options for migrants in need of protection as well as the state of the data available to inform future policy decisions.

Box 1. Data sources and limitations

This report seeks to determine what channels of entry migrants in need of protection used to enter EU/EFTA Member States between 2006 and 2016. To do so, it examines publicly available data from sources including EURODAC, Eurostat, Frontex, the United Nations High Commissioner for Refugees (UNHCR), national migration and statistics agencies, and reports released by the European Parliament and European Migration Network. These sources reveal that data on this topic are incomplete and/or of low quality, particularly with regard to asylum seekers. No source at the EU or national level directly provides figures on the legal status or mode of entry of asylum applicants. While Migration Policy Institute (MPI) Europe researchers used data from EURODAC and Dublin transfer requests to provide an approximation of entry mode, well-known issues regarding undercoverage in the EURODAC database mean that the figures presented in this report are likely underestimates.

This analysis relies primarily on data from 2008 through 2015. EU-level data from Eurostat for years prior to 2008 are not comparable across Member States. Data on 2016 are not included in some places because several Eurostat datasets have not yet been updated with 2016 information. Earlier and more recent data are included where sources allow.

- 3 European Commission, ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration’ (COM [2015] 240 final, 13 May 2015), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf.
- 4 European Commission, ‘Proposal for a Regulation of the European Parliament and of the Council Establishing a Union Resettlement Framework and Amending Regulation (EU) No 516/2014 of the European Parliament and the Council’ (COM [2016] 468 final, 13 July 2016), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160713/resettlement_system_en.pdf.
- 5 Eric Maurice, ‘Confusion Swirls around Macron’s Libya “Hotspots”’, EUobserver, 27 July 2017, <https://euobserver.com/migration/138630>.

II. NONHUMANITARIAN CHANNELS OF ENTRY TO THE ASYLUM SYSTEM

Applying for protection via national asylum systems remains the most widely used pathway to protection in Europe. Migrants and refugees who file an application for asylum do so after finding their way to the territory of the asylum country through a variety of nonhumanitarian channels. An applicant might travel, for example, on a tourist visa or, if he or she is a national of a country with visa-free travel rights, without one. Others may arrive as students or work-visa holders, and subsequently apply for asylum due to a fear of persecution upon return to their country of origin.

Yet many European migration management policies limit access to visas for nationals of countries that produce large numbers of asylum seekers or unauthorised migrants. As a result, large numbers of asylum seekers are thought to reach Europe using primarily clandestine or unauthorised means. The most dangerous of these journeys involve evading border controls to gain entry illegally, as has been seen in the Central and Eastern Mediterranean since 2013. Protection seekers may also pay facilitators to obtain falsified travel documents that can be used to travel by air to European countries, an option that is safer though more expensive than smuggling.⁶

Actual data on the strategies asylum seekers use to reach European territory are scarce.

Member State asylum authorities report anecdotally that they believe most asylum applicants arrive via unauthorised means (such as smuggling or forged documents),⁷ but actual data on the strategies asylum seekers use to reach European territory are scarce. The subsections that follow draw on Dublin, EURODAC, and other data sources to provide a partial picture of how asylum applicants arrive in EU/EFTA territory, including both legal and unauthorised channels of entry.

A. Legal entry

Neither national nor European authorities provide comprehensive, reliable data on the numbers of asylum applicants who enter Europe each year on a valid visa or who apply after residing on European territory with another status (e.g., as students). The Visa Information System (VIS), which tracks all persons entering Schengen countries with a valid visa and allows Member State authorities to check asylum applications against visa records, should theoretically provide the data to answer this question. But the newness of the system, which only became fully operational in February 2016, limits the amount of VIS data available so far. Schengen candidate countries (Bulgaria, Croatia, Cyprus, and Romania) are also currently excluded from the system. In addition, not all Schengen countries use VIS systematically when examining asylum applications, further limiting the validity of the data that can be gleaned from the system.⁸ To date, the data made public by

6 For an overview of the means smugglers use to facilitate unauthorised entry to EU Member States, see Europol and INTERPOL, *Migrant Smuggling Networks – Executive Summary Report* (The Hague and Lyon: Europol and INTERPOL, 2006), www.europol.europa.eu/publications-documents/europol-interpol-report-migrant-smuggling-networks.

7 Dutch authorities, for example, have reported they believe most asylum applicants in the Netherlands have no legal status. Author email correspondence with policy expert, Directorate for Migration, Netherlands Ministry for Security and Justice, 8 February 2017.

8 European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security, and Justice (eu-LISA), *VIS Report Pursuant to Article 50(3) of Regulation EC No 767/2008, VIS Report Pursuant to Article 17 (3) of Council Decision 2008/633/JHA* (Tallinn: eu-LISA, 2016), www.eulisa.europa.eu/Publications/Reports/VIS%20Reports%20on%20the%20technical%20functioning%202015.pdf.

the EU data monitoring agency (eu-LISA) on the use of VIS has been relatively basic; these data do not, for example, specify which countries submitted VIS requests when processing asylum claims and which countries had previously issued visas to individuals now seeking asylum—information that eu-LISA makes available for other data systems, such as EURODAC.⁹

Some evidence of the degree to which asylum applicants enter Europe with legal status can be obtained by examining take-charge requests Member States file under the Dublin Regulation for reasons of documentation and legal entry (see Box 2). Data on Dublin requests filed between 2008 and 2014 are publicly available via Eurostat.¹⁰ During this period, 70,500 Dublin requests were recorded for reasons of documentation and legal entry, meaning that the Member State in which an asylum seeker has filed a claim for protection believes the applicant may have held a visa or other form of authorisation for entry or residence in another Member State, making his or her claim the responsibility of that other country. Students or individuals who enter on a tourist visa would be included in this category, as are those who enter through a visa-free regime. However, as the data do not indicate whether the documents used for entry were valid or fraudulent, individuals who entered on forged travel documents (and thus without authorisation) would also be included in the Dublin data.

Box 2. The Dublin system

The Dublin Regulation determines the Member State responsible for adjudicating an asylum claim submitted within the territory of the European Union. A Member State that believes an asylum applicant to be the responsibility of another Member State may submit a ‘take-charge’ or ‘take-back’ request asking that country to assume (or resume) responsibility for the application. The Regulation lays out a hierarchy of criteria for determining the Member State responsible for assessing an asylum claim.

For the purposes of this report, two provisions of the hierarchy of criteria are relevant:

- **Articles 12 and 14.** Article 12 stipulates that if an asylum applicant possesses, or in the last two years possessed, a valid Member State residence document or visa, the state that issued the document is responsible for adjudicating the asylum claim. Similarly, Article 14 states that if asylum applicants entered on a visa waiver, they will have their claims adjudicated in the Member State through which they entered Europe.
- **Article 13.** If an applicant entered the European Union without authorisation, Article 13 states that the first Member State he or she entered is responsible for assessing the claim (see Section II.B. on unauthorised entry).

Source: ‘Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-Country National or a Stateless Person’, *Official Journal of the European Union* 2013 L180/31, 26 June 2013, <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013R0604>.

Dublin take-charge requests made for documentation reasons have typically amounted to no more than approximately 5 per cent of asylum applications in EU/EFTA Member States, with the exception of 2009 and 2010 (see Table 1). Between 2008 and 2014, Italy consistently received the most or second most Article 12/14 take-charge requests, suggesting that many applicants who enter Europe with authorisation do so via Italy. Spain and France were also major recipients of documentation-related requests between 2009 and 2014.

⁹ Ibid., 26.

¹⁰ Because only Switzerland has reported detailed data on the reasons for take-charge requests after 2014, it is not possible to provide breakdowns of Dublin data beyond that date.

Table 1. Documentation-related Dublin requests (Articles 12 and 14) and their share of first-time asylum applications by non-EU nationals in EU/EFTA Member States, 2008–14

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|-----------------------|-----------------------|----------------------|-----------------------|------------------|----------------------|----------------------|
| Dublin take-charge requests (Articles 12 and 14) | 6,824 | 15,049 | 11,858 | 9,767 | 11,644 | 16,013 | 19,878 |
| Take-charge cases as share (%) of total asylum applications by non-EU nationals | 3.7 | 6.6 | 5.2 | 3.4 | 3.7 | 4.0 | 3.3 |
| Top three take-charge request receiving countries | Greece, Italy, Poland | Greece, Italy, France | Greece, Italy, Spain | Italy, Spain, Hungary | Italy, Spain, UK | Italy, Spain, France | Italy, Spain, France |

Notes: The table includes the total number of Dublin take-charge requests (per Articles 12 and 14 of the Dublin Regulation) reported by EU/EFTA Member States in each year. However, in most years one or more key Member States failed to report (e.g., the Netherlands did not report for 2012 through 2014 and Denmark did not report for 2008 through 2013). EU/EFTA countries include all EU Member States plus European Free Trade Association (EFTA) countries (Iceland, Liechtenstein, Norway, and Switzerland).

Sources: Eurostat, 'Outgoing "Dublin" Requests by Receiving Country (PARTNER), Type of Request and Legal Provision (migr_dubro)', accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_dubro; Eurostat, 'Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asyappctza)', accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyappctza.

However, the information that can be gleaned through data on Dublin take-back requests present several shortcomings. These data do not describe in detail the visa or residence status asylum seekers held at the time of their application for international protection, making closer examination of the types of visas and other channels commonly used by applicants impossible. Moreover, Dublin data only capture those instances in which a take-charge request was issued; cases where a third-country national enters an EU Member State through a legal channel and later seeks protection in the same country will not appear in the data, nor will those where a Member State chooses not to submit a take-charge request to the country that originally admitted the asylum seeker.

Data do not describe in detail the visa or residence status asylum seekers held at the time of their application for international protection.

Other sources of national and EU-level data on legal channels of entry are equally limited. In the United Kingdom, a parliamentary query revealed that between 2011 and 2015, 17,387 individuals who had entered the country on student visas applied for asylum, with students from Pakistan and Sri Lanka representing the largest groups.¹¹ The annual number of claims submitted by students ranged from a low of 1,900 in 2011 to a high of 4,700 in 2013. The Home Office has not, however, made publicly available data on asylum seeker use of other visa channels or data for other years.

Some further information can be inferred by examining the entry channels available to nationals from the countries that produce the most asylum applicants. Nationals from Western Balkan countries were among the largest groups to apply for asylum in EU Member States prior to the 2015–16 Mediterranean migration crisis. In December 2009, the Former Yugoslav Republic of Macedonia, Montenegro, and Serbia entered into visa-free agreements with the European Union, allowing their nationals to travel to EU Member States with-

¹¹ UK Home Office, 'Asylum: Written Question – HL4220', updated 9 December 2015, www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-12-03/HL4220/.

out first obtaining a visa.¹² Two additional Western Balkan countries, Albania and Bosnia and Herzegovina, entered into similar regimes in December of the following year. Nationals from these countries consistently comprised between 8 per cent and 12 per cent of EU/EFTA asylum applications between 2010 and 2015 (see Table 2), and most can be assumed to have entered through the visa-free regime.

Table 2. Asylum applications filed by nationals of visa waiver-eligible West Balkan countries* in EU/EFTA Member States as a share of total first-time asylum applications by non-EU nationals, 2010–16

| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|---|--------|--------|--------|--------|--------|---------|--------|
| Asylum applications filed by Western Balkan nationals | 22,600 | 23,285 | 37,060 | 39,520 | 53,020 | 106,660 | 50,045 |
| Applications filed by West Balkan nationals as a share (%) of total applications by non-EU nationals | 9.8 | 8.0 | 11.8 | 9.8 | 8.9 | 8.0 | 4.1 |

Notes: * For 2010, ‘visa waiver-eligible Western Balkan countries’ include the Former Yugoslav Republic of Macedonia, Montenegro, and Serbia. From 2011 on, this category also includes Albania and Bosnia and Herzegovina. EU/EFTA countries include all EU Member States plus EFTA countries (Iceland, Liechtenstein, Norway, and Switzerland).

Source: Eurostat, ‘Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asyappctza)’.

These data further emphasise the limitations of Dublin requests data, which pick up only a segment of the asylum seekers who enter Europe with authorisation and often fail to capture those who travel visa free. Other types of data that both capture all categories of legal entry and disaggregate cases by visa or residence type are thus required to construct a comprehensive and reliable picture of how many asylum applicants enter Europe with legal status before filing protection claims.

B. Unauthorised entry

For protection seekers who are unable to obtain a visa or access a humanitarian entry programme, the only alternative is to enter Europe by unauthorised means. Under EU and international law, asylum seekers may not be penalised for using unauthorised means of entry and are allowed to submit an asylum claim after arrival. European publics and policymakers alike generally assume that most protection seekers use unauthorised and clandestine means to travel to their destinations. Large unauthorised flows of maritime migrants along both the Central Mediterranean route (from Libya to Italy) and Eastern Mediterranean route (from Turkey to the Greek islands), many of whom later claimed asylum, dominated media headlines in 2015 and 2016. Yet, as with legal modes of entry, data on the number and share of protection seekers who use unauthorised migration channels is scarce, and the data that are available are generally of low quality, with substantial coverage gaps or other reliability issues.

EURODAC fingerprint data provide one approximation of the share of asylum applicants who enter the European Union by crossing an external border without authorisation (see Box 3). Member State authorities

¹² These arrangements stem from Regulation 539/2001. Nationals of these countries may not enter Ireland or the United Kingdom without a visa. See European Commission, ‘Fifth Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries in Accordance with the Commission Statement of 8 November 2010’ (COM [2015] 58 final, 25 February 2015), 2, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20150225_5th_post-visa_liberalisation_report_with_western_balkan_countries_en.pdf.

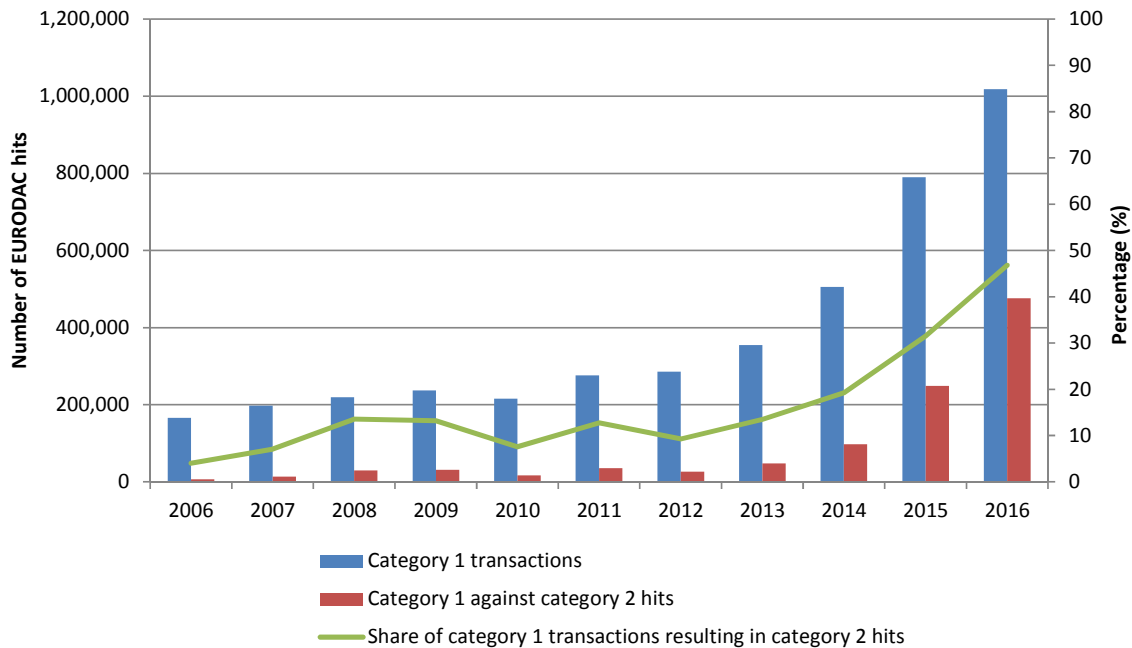
are required to record the fingerprints of all individuals apprehended for crossing into Europe without authorisation in the EURODAC central database. Asylum authorities can then use this database to check whether asylum applicants have a record of entry or irregular stay in another Member State, potentially affecting the admissibility of their claim in the Member State where it was submitted.¹³

Box 3. The EURODAC system

The EURODAC database, established in 2003, is a central collection point for biographical and biometric (i.e., fingerprint) data on individuals who are apprehended for crossing an EU external border without authorisation or who file a claim for asylum. Claims for asylum are recorded in the database as ‘category 1 transactions’, and apprehensions for unauthorised entry are labelled as ‘category 2 transactions’. When authorities determine that an asylum applicant who is recorded in EURODAC was previously apprehended for unauthorised entry, this is known as a ‘category 1 against category 2 hit’.

Data on category 1 against category 2 hits provide an estimate of the numbers of asylum applicants who used unauthorised channels to enter the European Union. A hit also provides evidence that another Member State may be responsible for an asylum seeker’s claim and can be the basis for a take-charge or take-back request under the Dublin system.

Figure 1. EURODAC category 1 transactions and category 1 against category 2 hits, 2006–16



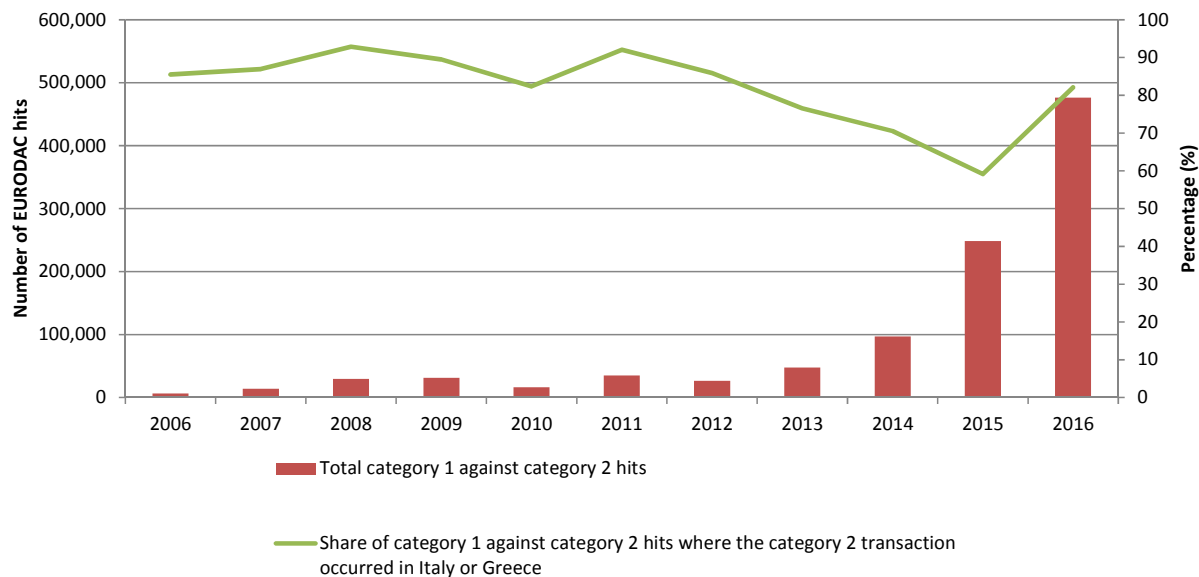
Source: Migration Policy Institute (MPI) Europe analysis of data from the annual EURODAC reports published by the European Commission for 2006–12 and by the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security, and Justice (eu-LISA) for 2013–16. Citations are available in full in the Works Cited.

13 European Commission, Directorate-General for Migration and Home Affairs (DG-HOME), ‘Identification of Applicants (EURODAC)’, accessed 14 February 2017, https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en.

EURODAC annual reports provide data on the number of asylum applicants who were documented as having previously crossed an EU border without authorisation (see Figure 1). These reports also provide information on the countries in which asylum applications were filed and the Member States where applicants were apprehended for unauthorised entry (see Figure 2).

A comparison of total documented asylum applications (category 1 transactions) against records where applicants were found to have entered without authorisation (category 1 against category 2 hits) suggests that between 2006 and 2014, between 10 per cent and 15 per cent of annual asylum applicants entered the European Union through unauthorised channels. In 2015 and 2016, when arrivals of migrants and asylum seekers via the Mediterranean surged, this share jumped to 30 per cent and then nearly 50 per cent. Most unauthorised entries documented in EURODAC occurred in Italy and Greece. From 2006 to 2012, and again in 2016, more than 80 per cent of applicants who entered without authorisation first arrived in one of these two countries (see Figure 2).

Figure 2. Share of category 1 against category 2 hits where the category 2 transaction was recorded in Italy or Greece, 2006–16



Source: MPI Europe analysis of data from the annual EURODAC reports published by the European Commission for 2006–12 and by eu-LISA for 2013–16. Citations are available in full in the Works Cited.

As with other sources, however, significant shortcomings exist within EURODAC data. Most notably, authorities in several Member States, including Italy and Greece, have come under criticism for failing to properly document apprehensions for unauthorised entry in the EURODAC system,¹⁴ leading category 2 data to under-represent the actual number of apprehensions. Documentation proved a particular challenge during the migration and refugee crisis of 2015–16 as asylum authorities were overwhelmed by the sheer volume of new arrivals, suggesting that data from this period is particularly likely to undercount unauthorised entries. Undercounting in Italy and Greece likely explains a significant portion of the gap between all category 2 transactions and those recorded in Italy and Greece during 2015 and 2016 (see Figure 2). Moreover, national asylum authorities have long reported that unauthorised arrivals and asylum applicants frequently seek to avoid

¹⁴ See, for example, Susan Fratzke, *Not Adding Up: The Fading Promise of Europe's Dublin System* (Washington, DC: Migration Policy Institute, 2015), www.migrationpolicy.org/research/not-adding-fading-promise-europes-dublin-system.

having their fingerprints entered in EURODAC by refusing to cooperate with authorities or even damaging their fingers in an attempt to make the prints unreadable; by doing so, many hope to avoid being returned to the first EU country they entered, per Dublin rules.¹⁵ Even with these limitations, the fact that nearly 50 per cent of applicants in 2016 were recorded as having crossed an EU border without authorisation suggests that unauthorised border crossing is currently a primary channel of entry for asylum seekers.

A substantial proportion of Afghan asylum applicants are likely to have arrived through unauthorised channels.

As with authorised forms of entry, data on the nationality of asylum applicants may also shed light on how many applicants use unauthorised means to reach Europe. Afghanistan, for example, has represented one of the top five nationalities for asylum applicants since 2009, consistently amounting to between 6 per cent and 15 per cent of asylum claims in EU/EFTA countries (see Table 3). Afghan nationals have also been among the top five nationalities of migrants apprehended for crossing an external EU/Schengen land or sea border during the same time period (see Table 4), suggesting that a substantial proportion of Afghan asylum applicants are likely to have arrived through unauthorised channels. Somali nationals, who accounted for between 5 per cent and 10 per cent of asylum claims from 2008 to 2012, were also among the top five nationalities apprehended crossing an external border without authorisation during the same period. A similar pattern has emerged with regard to Syrian nationals since 2013.

Table 3. Top five asylum application nationalities as a share of total annual first-time asylum applications by non-EU nationals in EU/EFTA countries, 2009–16

| Year | Total applications | Applicant nationalities and share (%) of total applications by non-EU nationals | | | | |
|------|--------------------|---|---------------------|--------------------|-----------------|-----------------|
| 2009 | 226,725 | Somalia 8.6 | Afghanistan 8.0 | Iraq 7.1 | Russia 6.4 | Kosovo 4.7 |
| 2010 | 229,575 | Afghanistan 7.7 | Serbia 6.8 | Somalia 6.3 | Russia 5.9 | Iraq 5.9 |
| 2011 | 290,905 | Afghanistan 8.3 | Pakistan 5.2 | Nigeria 4.7 | Iraq 4.6 | Somalia 4.6 |
| 2012 | 313,265 | Afghanistan 7.5 | Syria 7.1 | Russia 5.8 | Pakistan 5.6 | Somalia 5.0 |
| 2013 | 403,600 | Syria 12.2 | Russia 8.9 | Afghanistan 5.6 | Eritrea 4.9 | Pakistan 4.8 |
| 2014 | 595,530 | Syria 20.9 | Eritrea 7.7 | Afghanistan 6.6 | Kosovo 5.8 | Pakistan 3.5 |
| 2015 | 1,325,565 | Syria 28.5 | Afghanistan 14.6 | Iraq 9.6 | Kosovo 5.1 | Albania 5.1 |
| 2016 | 1,235,335 | Syria 30.6 | Afghanistan 15.1 | Iraq 10.4 | Pakistan 3.9 | Nigeria 3.8 |

Notes: EU/EFTA countries include all EU Member States plus EFTA countries (Iceland, Liechtenstein, Norway, and Switzerland). Croatia did not report asylum applicants until it joined the European Union in 2013.

Source: Eurostat, 'Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asyappctza)'.

¹⁵ Ibid.

As shown in Tables 3 and 4, the top four nationalities of asylum applicants in 2015 according to Eurostat (amounting to nearly 60 per cent of asylum applications) also appear on the list of top nationalities apprehended crossing a land or sea border without authorisation that same year. This provides some evidence to support the assumption that a substantial portion of asylum applicants travel to Europe without authorisation.

Table 4. Top five nationalities of migrants crossing EU/Schengen external borders by sea and land without authorisation, 2009–16

| Sea crossings | | | | | | |
|---------------|-----------------|--|---------------------|---------------------------------|------------------------|-----------------|
| Year | Total crossings | Migrant nationalities and share (%) of total crossings | | | | |
| 2009 | 47,159 | Afghanistan 25.7 | Somalia 18.8 | Palestine 13.6 | Algeria 8.1 | Eritrea 4.7 |
| 2010 | 14,260 | Afghanistan 21.6 | Algeria 12.6 | Palestine 11.4 | Egypt 5.0 | Tunisia 5.0 |
| 2011 | 71,172 | Tunisia 39.4 | Nigeria 9.0 | Central African Republic 6.6 | Horn of Africa* 6.4 | Ghana 3.8 |
| 2012 | 23,254 | Somalia 15.0 | Afghanistan 14.3 | Tunisia 9.8 | Eritrea 8.4 | Pakistan 6.6 |
| 2013 | 60,173 | Syria 28.2 | Eritrea 18.2 | Afghanistan 8.5 | Somalia 8.4 | Nigeria 4.8 |
| 2014 | 220,188 | Syria 30.3 | Eritrea 15.6 | Sub-Saharan* 12.0 | Afghanistan 5.8 | Mali 4.4 |
| 2015 | 1,033,814 | Syria 48.0 | Afghanistan 20.5 | Iraq 8.8 | Eritrea 3.8 | Pakistan 2.5 |
| 2016 | 354,883 | Syria 23.2 | Afghanistan 11.9 | Nigeria 10.3 | Iraq 7.9 | Eritrea 5.8 |

| Land crossings | | | | | | |
|----------------|-----------------|--|---------------------|---------------------|--------------------|------------------------|
| Year | Total crossings | Migrant nationalities and share (%) of total crossings | | | | |
| 2009 | 57,440 | Albania 66.3 | Iraq 5.8 | Palestine 4.9 | Afghanistan 4.2 | Pakistan 2.3 |
| 2010 | 89,800 | Albania 36.3 | Afghanistan 25.4 | Algeria 7.8 | Somalia 4.6 | Pakistan 4.1 |
| 2011 | 69,879 | Afghanistan 29.2 | Pakistan 19.7 | Albania 7.3 | Algeria 6.7 | Bangladesh 5.1 |
| 2012 | 49,183 | Afghanistan 20.0 | Syria 13.0 | Albania 11.1 | Bangladesh 9.7 | Algeria 8.3 |
| 2013 | 47,192 | Albania 18.7 | Syria 18.2 | Kosovo 13.5 | Afghanistan 9.3 | Not specified** 7.4 |
| 2014 | 62,745 | Kosovo 35.2 | Syria 19.4 | Afghanistan 15.1 | Albania 14.8 | Palestine 1.6 |

Table 4. Top five nationalities of migrants crossing EU/Schengen external borders by sea and land without authorisation, 2009–16 (continued)

| | | | | | | |
|-------------|---------|-------------------------|--------------------|--------------------|----------------|-----------------|
| 2015 | 788,363 | Not specified** 70.6 | Syria 12.4 | Afghanistan 7.0 | Kosovo 3.0 | Pakistan 2.2 |
| 2016 | 135,666 | Not specified** 75.4 | Afghanistan 6.2 | Syria 3.6 | Albania 3.5 | Pakistan 3.2 |

Note: EU and Schengen external borders refer to any EU border with a third country and any border between Schengen Associated Countries (Iceland, Norway, and Switzerland) and third countries.

* In some cases, Member States do not record and report to Frontex a specific nationality for all migrants who cross their borders, and Frontex data thus list ‘unspecified sub-Saharan nationals’ or ‘Horn of Africa’ in some years.

** The high percentage of individuals allowed to cross without having their nationality recorded occurred mainly along the Western Balkan land route in 2015 and 2016, as well as on the Central Mediterranean sea route in 2014 and 2015. In 2015, national authorities failed to identify the nationality of nearly three-quarters of travellers along the Western Balkans route as they crossed from Serbia into Hungary and Croatia. The vast majority of these migrants had already arrived in the European Union via the Eastern Mediterranean sea route to Greece, along which the nationalities of fewer than 200 people were identified (compared with 556,000 in the Western Balkans). Several nationalities common among those reaching Greece (including Syrians, Afghans, Iraqis, and Iranians) were recorded in much smaller numbers in the Western Balkans, suggesting these groups comprise the majority of the ‘not specified’ population.

Sources: Frontex, ‘Migratory Routes Map—Detections of Illegal Border Crossings Statistics Download’, accessed 4 January 2017, <http://frontex.europa.eu/trends-and-routes/migratory-routes-map/>.

III. HUMANITARIAN CHANNELS OF ENTRY

Migration channels such as resettlement, humanitarian admissions programmes, humanitarian visas, and family reunification allow European countries, often working with international agencies, to provide a legal mode of entry for individuals in need of international protection. However, the number of people granted access to these humanitarian channels has typically been small, especially in comparison to the number who travel via unauthorised means or on nonhumanitarian visas.

Ad hoc humanitarian protection and visa schemes have proliferated in Europe since 2013. At the same time, Member States have expanded their resettlement efforts. However, the exact definition of what policies constitute resettlement, humanitarian admission, and other protected forms of entry remains unclear. Further complicating matters, the legal and procedural frameworks used to operate all three channels often overlap. As a result, statistics on humanitarian pathways are often conflated, and it can be difficult to obtain a clear picture of exactly how many spots have been made available in total via resettlement and other channels. If such initiatives are to have a strategic impact on conditions in first-asylum countries or on the decisions refugees and migrants make regarding unauthorised travel, it will be important to improve data collection and harmonisation of terms to support policymakers’ understanding of the current scale of these efforts and how they are being used.

A. Resettlement

The most widely used humanitarian entry pathway is resettlement. Resettlement allows recognised refugees from a country of first asylum to settle in another safe country, typically providing refugees with permanent residence status and, eventually, a pathway to citizenship.¹⁶ According to Eurostat data, EU/EFTA Member States resettled approximately 74,000 refugees between 2008 and 2016, with the number of resettlement spots

¹⁶ United Nations High Commissioner for Refugees (UNHCR), ‘Resettlement’, accessed 14 February 2017, www.unhcr.org/en-us/resettlement.html.

steadily increasing beginning in 2013 (see Table 5). Prior to 2013, nine EU Member States regularly resettled refugees.¹⁷ Sweden, Norway, the United Kingdom, and Finland have consistently been among the top five EU resettlement countries, each resettling approximately 1,000 or more refugees annually in 2015 and 2016.¹⁸ Since 2015, however, several other Member States have introduced resettlement programmes in response to an EU-led push to expand the number of resettlement places available in light of the crisis in the Mediterranean. As of July 2017, 21 Member States had collectively resettled more than 17,000 people under the EU joint resettlement mechanism that was launched in July 2015.¹⁹

The number of resettlement places on offer in Europe has failed to keep pace with the demand for protection.

While the number of resettlement places available each year is slowly growing, the number of refugees resettled remains low relative to the number of individuals granted protection through the asylum system (see Table 5). On the whole, the number of resettlement places on offer in Europe has failed to keep pace with the demand for protection. In 2009, there were nearly ten times more positive decisions on spontaneous asylum claims than there were resettlement places; by 2016, the number of asylum claims had grown to nearly 40 times the number of resettlement places, despite growth in resettlement efforts across Europe.

Table 5. Annual resettlement arrivals and positive decisions on asylum applications in EU/EFTA countries, 2008–16

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|----------------------------------|--------|--------|--------|--------|---------|---------|---------|---------|---------|
| Positive asylum decisions | 65,830 | 73,295 | 68,700 | 70,010 | 100,480 | 119,780 | 187,730 | 327,815 | 699,005 |
| Refugees resettled | 4,850 | 8,510 | 6,025 | 5,320 | 6,185 | 5,855 | 7,850 | 11,175 | 18,175 |

Note: EU/EFTA countries include all EU Member States plus EFTA countries (Iceland, Liechtenstein, Norway, and Switzerland).

Sources: Eurostat, ‘Resettled Persons by Age, Sex and Citizenship. Annual Data (Rounded) (migr_asyresa)’, accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyresa; Eurostat, ‘First Instance Decisions on Applications by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asydcfsta)’, accessed 22 June 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfsta.

Data inconsistencies also plague resettlement statistics. There is no specific definition of what type of admissions programme constitutes resettlement versus humanitarian admission, and Member States thus vary considerably in how they classify their programmes. A brief look at Eurostat resettlement data illustrates this point. While the United Kingdom has reported admissions through its Syrian Vulnerable Persons Resettlement Scheme to Eurostat as a part of its total resettlement admissions (although the initiative in fact operates separately from the annual UK resettlement programme), Germany did not include admissions through its Humanitarian Admission Programme for Syrians in its 2013 through 2015 Eurostat resettlement figures. Obtaining an accurate picture of how many people were admitted across the EU/EFTA bloc specifically via resettlement channels is thus quite difficult.

17 The nine countries with regular resettlement programmes were Denmark, Finland, France, Germany, Ireland, the Netherlands, Norway, Sweden, and the United Kingdom. See Eurostat, ‘Resettled Persons by Age, Sex and Citizenship. Annual Data (Rounded) (migr_asyresa)’.

18 Ibid.

19 There is likely to be some overlap between this resettlement figures (17,000 people between July 2015 and July 2017) and the one mentioned earlier in the paragraph (74,000 people between 2008 and 2016). See European Commission, ‘Migration: Record Month for Relocations from Italy and Greece’ (press release, Brussels, 26 July 2017), http://europa.eu/rapid/press-release_IP-17-2104_en.htm.

B. Humanitarian admissions programmes

In addition to formal resettlement processes through the United Nations High Commissioner for Refugees (UNHCR), a number of Member States have implemented ad hoc arrangements to admit refugees. These humanitarian admissions programmes (HAP) provide safe legal migration avenues for persons displaced by specific humanitarian crises. HAPs are often narrower in scope than formal resettlement schemes, focusing on particular populations in need (e.g., Iraqi or, most recently, Syrian refugees)²⁰ and running as one-time or short-term programmes over a few years. Such programmes offer a range of protection statuses that may be either temporary or permanent, and they may or may not offer access to formal refugee status and its accompanying rights.²¹

As of November 2016, at least 14 humanitarian admission or resettlement arrangements were in place across at least ten EU/EFTA Member States.²² Several other such programmes had been completed prior to 2016. There are no comprehensive statistics on how many individuals have arrived in Europe via ad hoc programmes, but the following examples provide a sense of their scale:

- In the **United Kingdom**, 4,414 Syrians were granted humanitarian protection between January 2014 and September 2016 under the Syrian Vulnerable Persons Resettlement Scheme.²³ In July 2017, the scheme was widened to accept applications from refugees of any nationality who have fled the Syrian conflict.²⁴ In total, the programme aims to admit to 20,000 refugees by 2020.
- In **Ireland**, the Syrian Humanitarian Admission Programme (SHAP) was launched in 2014 to allow Irish citizens born in Syria and Syrian nationals resident in Ireland to apply to bring a maximum of four vulnerable family members from Syria to Ireland. Over the course of the programme, 119 Syrians received permission to stay in Ireland for a period of two years, during which time they are able to apply for asylum.²⁵
- In **Germany**, at least three HAPs have been implemented since 2013. Between 2013 and 2015, 20,000 persons were granted admission to Germany under the HAP Syria programme.²⁶ Another 21,500 Syrians obtained visas to legally enter Germany under HAPs implemented by 15 out of 16 federal states. And 2,000 Afghans were admitted through a separate admissions procedure for Afghan citizens who had worked for German public agencies in Afghanistan. However, an estimated one-third of Syrians admitted through humanitarian channels have since applied for asylum in Germany,²⁷ and as a result are also counted in data on asylum applications.

20 European Migration Network (EMN), *Resettlement and Humanitarian Admission Programmes in Europe – What Works?* (Brussels: DG-HOME, 2016), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_resettlement_synthesis_report_final_en.pdf.

21 Ibid., 5.

22 A 2016 EMN report only included responses from 24 out of 32 EU+ Member States; Switzerland has implemented several humanitarian admission schemes not included in the report. See *ibid.*

23 UK Office of National Statistics (ONS), *Migration Statistics Quarterly Report: Dec 2016* (Newport, Wales: ONS, 2016), www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migration-statisticsquarterlyreport/dec2016.

24 UK Home Office and UK Visas and Immigration, 'Refugees of All Nationalities Fleeing Syria Are Now Eligible for Resettlement in the UK' (news release, 3 July 2017), www.gov.uk/government/news/refugees-of-all-nationalities-fleeing-syria-are-now-eligible-for-resettlement-in-the-uk.

25 Samantha Arnold and Emma Quinn, *Resettlement of Refugees and Private Sponsorship in Ireland* (Dublin: Economic and Social Research Initiative, 2016), http://emn.ie/files/p_201612120402502016_Resettlement%20Report.pdf.

26 Janne Grote, Maria Bitterwolf, and Tatjana Baraulina, 'Resettlement and Humanitarian Admission Programmes in Germany' (working paper no. 68, EMN and German Federal Office for Migration and Refugees, Nuremberg, July 2016), 6, www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/EMN/Studien/wp68-emn-resettlement-humanitaere-aufnahme.pdf?__blob=publicationFile.

27 Author email correspondence with policy expert, Division of Immigration Law, German Federal Ministry of the Interior, 11 April 2016.

- **Denmark** implemented two HAPs in 2007 and 2013 to provide legal entry for certain employees of the Danish armed forces in Iraq and Afghanistan, as well as their families. Approximately 400 Iraqis obtained subsidiary protection through these programmes, which they applied for through asylum procedures after traveling to Denmark on a visa issued through the HAP.²⁸
- Between February 2016 and March 2017, 700 Syrian refugees were transferred from UNHCR camps in Lebanon to **Italy** through the Humanitarian Corridors programme, a resettlement scheme organised by the Community of Sant’Egidio in collaboration with the Federation of Evangelical Churches of Italy and the Waldensian and Methodist Churches. Refugees are admitted on a humanitarian visa and apply for asylum in Italy upon arrival. The Humanitarian Corridors programme is expected to bring 1,000 refugees to Italy by 2018.²⁹ **France** launched a similar Humanitarian Corridors programme in March 2017.³⁰
- Several eastern European Member States also launched HAPs in 2015 and 2016. In December 2015, **Slovakia** admitted 149 Iraqi Christians from a refugee camp in Erbil, Iraq under a one-time, ad hoc scheme.³¹ Under a similar programme, established by Foundation Generation 21 and Barnabas Aid, 153 Iraqi Christians from Erbil were admitted to the **Czech Republic** between January and April 2016.³² And in **Poland**, the Estera Foundation sponsored a programme to admit 158 Syrian Christians in July 2015.³³
- **Switzerland** launched a programme in 2015 to provide legal entrance for 3,000 Syrians over three years. While 2,000 of these places were reserved for traditional resettlement, 1,000 were allocated through humanitarian admission for nuclear family members of Syrian nationals already resident in Switzerland.³⁴

As is the case with resettlement, it is impossible to obtain a full count of the humanitarian admission places available across Europe because of overlapping legal definitions and inconsistencies in how data are reported. HAP data suffer from two specific shortcomings. First, some HAPs, such as the one in Italy, operate in conjunction with the asylum system, and beneficiaries may apply for asylum after they are admitted to the country. In other countries, such as Germany and Ireland, HAP initiatives were separate from the asylum system, but a large proportion of beneficiaries applied for asylum on their own after arriving in the country. In both cases, refugees are likely to be double-counted in national asylum data as both beneficiaries of humanitarian

28 Danish Ministry of Refugee, Immigration, and Integration, ‘Ministeren for flygtninge, indvandrere og integrations besvarelse af spørgsmål nr. 199’ (ministerial response to question on recognition rates in Denmark, 25 February 2011), www.ft.dk/samling/20101/almindel/UUI/spm/199/svar/783737/962190/index.htm; European Parliament, Directorate-General for Internal Policies (DGIP), *Humanitarian Visas: Option or Obligation?* (Brussels: DGIP, 2014), 47, [www.europarl.europa.eu/RegData/etudes/STUD/2014/509986/IPOL_STU\(2014\)509986_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509986/IPOL_STU(2014)509986_EN.pdf).

29 Community of Sant’Egidio, ‘Humanitarian Corridors for Refugees’, accessed 14 February 2017, www.santegidio.org/pageID/11676/langID/en/Humanitarian-Corridors.html.

30 French Ministry of the Interior, French Ministry of Foreign Affairs and International Development, Communauté de Sant’Egidio, Fédération Protestante de France, Fédération de L’Entraide Protestante, Conférence des Evêques de France, and Secours Catholique–Caritas France, ‘Operation D’Accueil Solidaire de Réfugiés en provenance du Liban (Couloirs humanitaires)’ (memorandum of understanding, Paris, 14 March 2017), www.protestants.org/fileadmin/user_upload/Protestantisme_et_Societe/documentation/20170314-Protocole_couloirs_humainitaire.pdf.

31 EMN, ‘Resettlement and Humanitarian Admission Programmes in Europe – What Works? (Slovak Republic)’ (country fact sheet, EMN, n.p., 2016), 2, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-24a_slovak_republic_resettlement_study_en.pdf.

32 Barnabas Aid, ‘Barnabas Fund Team Up with Foundation Generation 21 in the Czech Republic to Save 153 Iraqi Refugees!’ (news release, McLean, VA, 1 July 2016), <https://barnabasfund.org/news/Barnabas-Fund-and-the-Weidenfeld-Fund-team-up-with-Foundation-Generation-21-in-the-Czech-Republic-to-save-153-Iraqi-refugees>; Endowment Fund Generation 21, ‘Úvod’, accessed 22 June 2017, www.gen21.cz/.

33 Polish Chancellery of the Prime Minister, ‘Prime Minister on Accepting Refugees: Poles Were Also Helped Out in the Past’ (news release, Warsaw, 11 July 2015), www.premier.gov.pl/en/news/news/prime-minister-on-accepting-refugees-oles-also-were-helped-out-in-the-past.html.

34 Swiss Refugee Council, ‘Latest Update on the Arrival of Syrian Refugees’, accessed 7 August 2017, www.refugeecouncil.ch/help/latest-update-on-the-arrival-of-syrian-refugees.html.

admission and as asylum seekers. Second, comparative data on resettlement and legal pathways do not always break out HAPs from total resettlement numbers. UNHCR, for example, reports both HAP and resettlement numbers together in its factsheets on Syrian admissions,³⁵ as do some Member States (e.g., the United Kingdom) in their Eurostat resettlement data. It is thus not always possible to determine when humanitarian admissions have been included with resettlement counts and when they have not, or what share of total reported admissions entered via resettlement versus humanitarian admission.

C. Humanitarian visas

Some Member States also offer humanitarian visas that allow vulnerable individuals to enter their territory for the purpose of applying for asylum. Humanitarian visas are often conceptualised within both policy and advocacy communities as a separate legal channel for protection seekers independent of resettlement and humanitarian admissions programmes. Where humanitarian visas operate as an additional legal pathway, they allow individuals to travel legally to an asylum country with the express purpose of filing a protection claim. Often, visa applicants are not vetted or referred by UNHCR, as is usually the case with resettlement and HAPs, nor are they necessarily part of a formal humanitarian programme.³⁶

Where humanitarian visas operate as an additional legal pathway, they allow individuals to travel legally to an asylum country with the express purpose of filing a protection claim.

Countries that issue humanitarian visas for protection purposes rely on a range of legal frameworks to do so. Member States have used two types of visas for humanitarian admissions: Schengen short-stay Type C visas, often with limited territorial validity (LTV), and national long-stay Type D visas issued for humanitarian reasons. The Schengen Borders Code allows Member States to issue LTV visas for a range of humanitarian and medical reasons when regular Schengen rules might otherwise not permit a third-country national to enter. While Member States have varied interpretations of what qualifies as a ‘humanitarian reason’, at least four EU/EFTA Member States (Italy, Malta, Portugal, and Switzerland) have granted this type of visa to individuals for reasons related to international protection concerns.³⁷ Type C visas authorise stays of less than 90 days in a 180 day period, and they do not allow holders to travel to other Schengen countries.³⁸ In addition, at least eight countries (Belgium, Germany, France, Hungary, Italy, Latvia, Luxembourg, and Poland) have legislation that permits them to issue national Type D visas—normally used for family reunification, employment, and study—on humanitarian grounds.³⁹ Type D visas may be valid for up to a year and allow holders to circulate throughout the Schengen area freely for up to 90 days.⁴⁰ In both cases, humanitarian visas do not automatically entitle the holder to protection status, but require those seeking longer-term protection to apply for asylum after arriving in the Member State.

35 See UNHCR, ‘Resettlement and Other Admission Pathways for Syrian Refugees’, updated 30 April 2017, www.unhcr.org/en-us/protection/resettlement/573dc82d4/resettlement-other-admission-pathways-syrian-refugees.html.

36 For a detailed analysis of the difference between humanitarian visas and humanitarian admission, see European Union Agency for Fundamental Rights (FRA), ‘Legal Entry Channels to the EU for Persons in Need of International Protection: A Toolbox’ (policy brief, FRA, Vienna, February 2015), <http://fra.europa.eu/en/publication/2015/legal-entry-channels-eu-persons-need-international-protection-toolbox>.

37 DGIP, *Humanitarian Visas: Option or Obligation?*, 41.

38 *Ibid.*, 23.

39 *Ibid.*, 41; EMN, *Visa Policy as Migration Channel* (Brussels: DG-HOME, 2012), 22, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-channel/00b_synthesis_report_visa_policy_as_migration_channel_final_april2013_en.pdf.

40 EMN, *Visa Policy as Migration Channel*, 22; Italian Ministry of Foreign Affairs and International Cooperation, ‘Visa Types and Validity’, accessed 7 July 2017, www.esteri.it/mae/en/ministero/servizi/stranieri/ingressosoggiornoinitalia/visto_ingresso/tipologie_visto_durata.html.

Determining how many and what types of humanitarian visas have been issued across the European Union is difficult. No EU-level data on visas issued for humanitarian reasons are available, and national data on Type C and D visas usually do not break down which were issued for humanitarian purposes. When such disaggregated data are provided, they rarely specify the type of humanitarian grounds on which the visa was granted, making it difficult to tell if the visa was issued for protection purposes (in addition to asylum purposes, humanitarian LTV visas might, for example, be granted to someone seeking medical treatment).

While no comprehensive data on the use of humanitarian visas are available, there is evidence that at least three countries have recently issued either Type C or Type D visas for protection reasons:

- **In France**, visa regulations permit authorities to issue a *visa au titre de l'asile* (a national Type D visa) to certain categories of visa applicants in need of protection. In 2016, French authorities issued more than 8,500 humanitarian visas,⁴¹ of which 1,500 were granted to Syrians and 1,700 to Iraqis as part of an effort to target those fleeing religious persecution.⁴² France has also issued Type D visas following events such as the Haiti earthquake in 2010 and an attack on Christians in a Baghdad cathedral in 2010, as well as for Algerians applying for asylum in 2001.⁴³
- **Italy** has used national Type D humanitarian visas in the past, most recently to facilitate the movement of North Africans fleeing the immediate aftermath of the Arab Spring.⁴⁴
- **Switzerland** also permits authorities to issue Type C LTV visas at diplomatic consulates and embassies in certain cases.⁴⁵ From September to November 2013, Switzerland made available more than 4,000 visas to nuclear and extended family members of Syrians living in Switzerland,⁴⁶ though it is unclear whether there are any other examples of the humanitarian visa provision being used.

Again, however, the lines between resettlement, humanitarian admission, and humanitarian visas are often blurry. Several Member States have used humanitarian visas as a legal tool to provide entry as part of dedicated HAPs. Italy uses Type C LTV visas to facilitate the entry of beneficiaries of the Humanitarian Corridors programme.⁴⁷ And in France, the Humanitarian Corridors programme relies on national Type D visas to facilitate entry.⁴⁸ In both programmes, refugees must apply for asylum once they arrive in the country.

At the EU level, the exact role humanitarian visas should play as an additional legal channel of entry remains unclear. Many refugee advocacy groups call for Member States to use Type C LTVs to systematically provi-

41 French Ministry of the Interior, 'La délivrance des visas aux étrangers (statistiques)' (fact sheet, 16 January 2017), www.immigration.interieur.gouv.fr/content/download/99968/785931/file/La-delivrance-des-visas-aux-etrangers_16_janvier_2017.pdf.

42 French Ministry of the Interior, 'Diffusion des informations statistiques annuelles en matière d'immigration, d'asile et d'acquisition de la nationalité française' (press release, Paris, 16 January 2017), www.immigration.interieur.gouv.fr/content/download/99976/785991/file/CP-16-janvier-2017-3.pdf.

43 DGIP, *Humanitarian Visas: Option or Obligation?*, 42.

44 Ibid.

45 Cornelia Lüthy, 'Applications for Visas on Humanitarian Grounds' (directive no. 322.126 by the Swiss Secretary of State for Migration, Federal Department of Justice and Police, Bern-Wabern, Switzerland, 30 August 2017), www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/auslaender/einreise-ch/20140225-weis-visum-humanitaer-f.pdf.

46 UNHCR, 'Resettlement and Other Admission Pathways for Syrian Refugees'.

47 Italian Ministry of the Interior, 'Aperto "corridoio umanitario" con l'Etiopia', updated 26 January 2017, www.interno.gov.it/it/notizie/aperto-corridoio-umanitario-letiofia; Community of Sant'Egidio, 'Humanitarian Corridors for Refugees'; Community of Sant'Egidio, 'What Are the Humanitarian Corridors? Interview with Daniela Pompei', updated 15 December 2015, www.santegidiosa.org/2015/12/15/humanitarian-corridors-interview-daniela-pompei/.

48 French Ministry of the Interior, French Ministry of Foreign Affairs and International Development, Communauté de Sant'Egidio, Fédération Protestante de France, Fédération de L'Entraide Protestante, Conférence des Evêques de France, and Secours Catholique-Caritas France, 'Operation D'Accueil Solidaire de Réfugiés en provenance du Liban'.

delegal means of travel for would-be asylum seekers,⁴⁹ in addition to using them to facilitate the implementation of HAPs. A recent decision by the Court of Justice of the European Union, however, found that EU law does not require EU Member States to issue Type C LTVs for protection and asylum reasons, though Member States remain free to grant humanitarian visas under their own national legal frameworks.⁵⁰ The decision has created further confusion regarding how and when humanitarian visas should be used.

D. Family reunification

Individuals recognised as refugees or provided subsidiary protection are usually able to apply for family reunification to bring their spouse and dependents to the country in which they hold protection status.⁵¹ EU law⁵² requires Member States to allow recognised refugees to bring immediate family members (most often limited to a spouse and minor children) to join them in the country where they sought asylum; in practice, most Member States also allow beneficiaries of subsidiary protection to reunite with family members, although several Member States, including Germany and Sweden, have moved to limit or delay family reunification for subsidiary protection beneficiaries following the 2015–16 migration and asylum crisis.⁵³

These limited data suggest that family reunification may be a substantial channel of entry for individuals in need of protection.

While family reunification is an important means of legal entry for those in need of protection, it is difficult to get a clear picture of the scale of arrivals via this channel.⁵⁴ Most Member States publish data on family reunification, but statistics authorities rarely disaggregate data by the protection status of the principal family member, making it impossible to determine how many of those granted admission for the purpose of reunification are likely to have protection needs themselves.⁵⁵

Data on protection-based family reunification is available at the national level for only four European countries (see Table 7). These limited data suggest that family reunification may be a substantial channel of entry for individuals in need of protection. In all four countries, family reunification cases in which the principle applicant was a beneficiary of international protection was comparable to approximately half the positive asylum decisions taken each year (with the exception of Sweden in 2016).

49 See for example a February 2017 policy paper published by the European Council on Refugees and Exiles (ECRE), *Protection in Europe: Safe and Legal Access Channels* (Brussels: ECRE, 2017), www.ecre.org/wp-content/uploads/2017/04/Policy-Papers-01.pdf.

50 See the judgment of the Court of Justice of the European Union in the case of *X and X v État belge*. See Court of Justice of the European Union, ‘Member States Are Not Required, under EU Law, to Grant a Humanitarian Visa to Persons Who Wish to Enter Their Territory with a View to Applying for Asylum, but They Remain Free to Do So on the Basis of Their National Law’ (press release no. 24/17, Luxembourg, 7 March 2017), <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-03/cp170024en.pdf>.

51 UNHCR, ‘Family Reunification in Europe’ (policy brief, UNHCR, Brussels, October 2015), www.unhcr.org/56fa38fb6.pdf.

52 ‘Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification’, *Official Journal of the European Union* 2003 L251, 3 October 2003, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32003L0086>.

53 EMN, *Family Reunification of Third-Country Nationals in the EU plus Norway: National Practices* (Brussels: DG-HOME, 2017), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_family_reunification_synthesis_report_final_en_print_ready_0.pdf.

54 This method of inference assumes that family members reunifying with beneficiaries of international protection are likely to be in need of international protection themselves.

55 For example, the German Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF) published a working paper on family reunification in early 2017. In Tables 10 and 11, where space is left to disaggregate reunification with asylum seekers from other types of family reunification, the abbreviation ‘NI’ (no information) is given in each box. See Janne Grote, ‘Family Reunification of Third-Country Nationals in Germany’ (working paper no. 73, BAMF, Nuremberg, January 2017), 16, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_family_reunification_en_final.pdf.

Table 7. Family reunification visas and residence permits granted to family of protection beneficiaries compared to positive asylum decisions in Denmark, the Netherlands, Sweden, and the United Kingdom, 2008–16

| | Denmark | | Netherlands | | Sweden | | United Kingdom | |
|-------------|----------------------|---------------------------|----------------------|---------------------------|----------------------|---------------------------|----------------------|---------------------------|
| | Family reunification | Positive asylum decisions | Family reunification | Positive asylum decisions | Family reunification | Positive asylum decisions | Family reunification | Positive asylum decisions |
| 2008 | 259 | 730 | - | - | 10,665 | 7,840 | - | - |
| 2009 | 437 | 790 | - | - | 9,273 | 7,095 | - | - |
| 2010 | 508 | 1,345 | - | - | 3,166 | 8,510 | - | - |
| 2011 | 543 | 1,310 | - | - | 3,037 | 8,805 | - | - |
| 2012 | 671 | 1,695 | - | - | 7,897 | 12,400 | - | - |
| 2013 | 1,193 | 2,810 | - | - | 10,673 | 24,015 | 4,699 | 8,550 |
| 2014 | 2,402 | 5,480 | 5,360 | 12,550 | 13,100 | 30,650 | 4,973 | 10,120 |
| 2015 | 8,092 | 9,920 | 13,850 | 16,450 | 16,251 | 32,215 | 5,131 | 13,950 |
| 2016 | 4,312 | 7,125 | 11,810 | 20,810 | 15,148 | 66,585 | 6,368 | 9,935 |

Notes: Swedish and Danish data include residence permits granted to family members of refugees. UK data reflect visas provided to family of protection beneficiaries where the relationship existed in the country of origin. The UK data also include some other forms of family reunification (e.g., elderly relatives not classified as spouses or children). UK data are only included from 2013 because family reunification categories were modified in mid-2012. Netherlands data are only publicly available for 2013 and later.

Sources: Swedish Migration Agency, 'Översikt av beviljade arbets och uppehållstillstånd åren 2005-2015', accessed 8 February 2017, www.migrationsverket.se/download/18.2bbf7de914c17a2ed265510/1485556054814/%C3%96versi-kt-2005-2015.pdf; Swedish Migration Agency, 'Beviljade uppehållstillstånd 2016', updated 1 January 2017, www.migrationsverket.se/download/18.2d998ffc151ac387159ee19/1485556064263/Beviljade+uppeh%C3%A5llstillst%C3%A5nd+2016.pdf; Statistics Denmark, 'Residence Permits (Quarter) by Type of Residence Permit and Citizenship (2006Q1–2016Q4) (VAN77)', accessed 22 June 2017, www.statbank.dk/statbank5a/default.asp; UK Home Office, 'Immigration Statistics: Entry Clearance Visa Tables—vi_04', updated 25 May 2017, www.gov.uk/government/uploads/system/uploads/attachment_data/file/615142/entry-visas-1-jan-mar-2017-tables.ods; Eurostat, 'First Instance Decisions on Applications by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) (migr_asydcfsta)'; Netherlands Immigration and Naturalisation Service, 'De IND in 2014,' accessed 8 August 2017, https://ind.nl/Documents/JR_2014.pdf; Netherlands Immigration and Naturalisation Service, 'De cijfers', accessed 8 February 2017, www.indjaarverslag.nl/indjaarverslag2015#!/cijfers; Netherlands Immigration and Naturalisation Service, 'IND Jaarverslag 2016: Alle Cijfers van 2016', accessed 22 June 2017, www.indjaarverslag.nl/indjaarverslag2016#!/cijfers.

IV. CONCLUSION

The 2015–16 migration crisis has sparked an intense interest among policy, advocacy, and research communities regarding how migration can be made more safe, secure, and orderly—for the benefit of migrants and asylum countries alike. Resettlement, humanitarian admission, and humanitarian visa programmes have captured the attention of governments and refugee groups as possible tools to allow more refugees to move legally, removing the need to use dangerous and unauthorised means to cross borders. Additional legal channels, if deployed strategically, may also potentially change attitudes or improve conditions in first-asylum countries, something of particular interest for governments seeking cooperation on migration management goals with transit and host countries in the region. But if such humanitarian tools are to be used in a strategic way, it will be important for policymakers to understand which modes of entry are currently being used by which protection seekers. Understanding how asylum flows occur and how legal migration channels have been deployed across EU/EFTA countries becomes especially critical if the European Union is to achieve a coordinated asylum and migration response policy.

Yet as this report suggests, obtaining a clear picture of how protection seekers enter Europe and what legal channels are available to them is nearly impossible at present. This problem is rooted in two areas. First, data on the channels of entry refugees and asylum seekers use to enter EU/EFTA territory are extremely limited. No common European dataset exists to document the modes of entry or legal statuses of individual asylum applicants, and few if any Member States systematically report such data at the national level. Moreover, existing datasets such as EURODAC and VIS face substantial issues with undercoverage. The tendency among asylum applicants and unauthorised arrivals to seek to avoid having their fingerprints taken, coupled with the logistical demands of identifying individuals amid large-scale inflows, has made it difficult for authorities to ensure that every case is recorded in EURODAC, per EU rules. The newness and selective Member State adoption of the VIS system means the data it produces are, at least at present, similarly limited. Such challenges limit the completeness and usefulness of these datasets.

Obtaining a clear picture of how protection seekers enter Europe and what legal channels are available to them is nearly impossible at present.

Data on the use of humanitarian channels can be similarly difficult to obtain. While Eurostat provides detailed information on formal resettlement programmes, no similar central database exists to document ad hoc humanitarian admissions programmes and visas. Moreover, the fact that some of these programmes use Member State asylum systems to provide status to additional beneficiaries means that some admissions may show up in both humanitarian admissions and asylum application data.

Three specific steps would substantially improve the data available to policy and research communities:

- Member State asylum authorities should consider systematically recording the legal status of asylum applicants at the time they are registered and regularly reporting this information alongside applicant demographic data to Eurostat.
- Consular authorities should consider recording when visas are issued specifically for protection and asylum purposes and the type of visa issued. Information on the use of humanitarian visas could then be reported with other visa data to Eurostat.
- Finally, Member States could consider agreeing on common criteria for what should be reported as resettlement versus other forms of humanitarian admission. Eurostat and other EU-level data sources could then distinguish between resettlement and humanitarian admission, and ensure that nonresettlement admissions are neither double counted nor overlooked.

The second barrier to understanding how pathways to protection are used is more fundamental and, as a result, potentially more difficult to address. There is a notable lack of agreement among Member States about the exact legal and practical definition of key policy concepts like resettlement, humanitarian admission, and humanitarian visas. Without a common understanding of what these concepts mean and how these policies should be applied, measuring their use in a meaningful way is a nearly impossible exercise. The result is a confusing picture not just of how these channels are currently used, but also of how Member States should coordinate to deploy them effectively in the future.

Despite these limitations, it is possible to make some initial inferences regarding the channels protection seekers use to enter Europe. First, resettlement and humanitarian admissions amount to a small number of protection beneficiaries compared to those granted protection through the asylum system. In 2015, the number of resettlement admissions was 3 per cent the size of positive decisions on asylum applications. Second, a comparison of the top nationality groups among asylum applicants in any given year with the nationalities of migrants apprehended crossing EU/EFTA external borders without authorisation suggests that the plurality of asylum seekers arrive unauthorised, as reported anecdotally by Member State authorities. Finally, while disaggregated information on the use of family reunification channels by protection beneficiaries is only avail-

able for a few Member States, these data suggest that family reunification constitutes an important, though under-recognised, channel of entry for those in need of protection.

The likelihood that most asylum applicants arrive through clandestine channels supports the stated need for more legal pathways to protection in Europe. Such efforts will, however, need to be underpinned by a clear and common definition of the policy tools employed and improved data to better track their use and outcomes. Governments otherwise run the risk that their efforts will lead to duplication or be insufficiently targeted, limiting their ability to create opportunities for safer and more orderly migration.

The likelihood that most asylum applicants arrive through clandestine channels supports the stated need for more legal pathways to protection in Europe.

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ABOUT THE AUTHORS



Susan Fratzke is a Policy Analyst and Programme Coordinator with the Migration Policy Institute (MPI) International Programme, where she primarily works with the Transatlantic Council on Migration. Her research areas include forced migration, asylum, and resettlement policy, with a particular focus on Europe.

Before joining MPI, Ms. Fratzke worked for the U.S. Department of State's Bureau of Population, Refugees, and Migration. Prior to that, she worked with an adult literacy programme serving immigrant and refugee students in Minnesota.

Ms. Fratzke holds an MA in German and European studies, with a concentration in European migration policy, from Georgetown University's School of Foreign Service, where she also received a certificate in refugees and humanitarian emergencies from the Institute for the Study of International Migration. Ms. Fratzke also holds a BA in political science (with honours) from Iowa State University.



Brian Salant is a Research Assistant with the MPI International Programme, where his research focuses on skilled labour mobility, qualifications recognition, and public attitudes toward migration.

Prior to joining MPI, Mr. Salant interned at the Public Diplomacy Section of the U.S. Embassy in Ankara, Turkey, where he coordinated youth outreach programmes, and later at the Meridian International Center in Washington, DC, where he designed exchange programmes to nurture social entrepreneurship among youth leaders from around the world.

Mr. Salant holds a master's degree in European and Russian studies from Yale University, a master's in EU studies from the University of Ghent, and a bachelor of arts from the University of California, Los Angeles.



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www.MPIEurope.org

Residence Palace
155 Rue de la Loi
5th Floor
1040 Brussels
Belgium

Phone: +32 (2) 235 2113