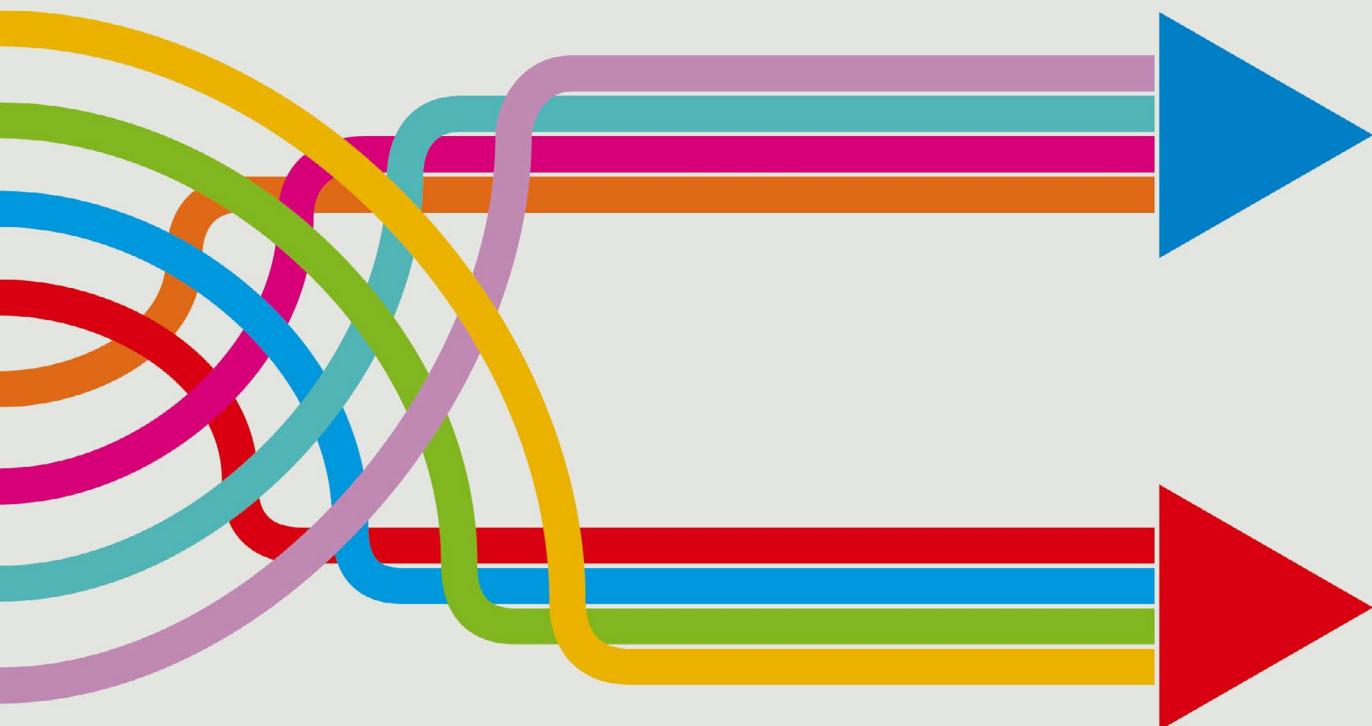




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Currently applicable asylum procedures at the border in view of implementing the Pact on Migration and Asylum

**European Migration
Network Inform**
January 2026

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Explanatory note

This inform was prepared on the basis of national contributions from 25 EMN NCPs (AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK) collected via an AHQ developed by the EMN NCPs to ensure, to the extent possible, comparability. The information contained in this inform refers to the situation in the abovementioned EMN Member up to May 2025.

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1. KEY POINTS TO NOTE

Note to the reader: the data presented in this inform relate to the application of the existing legislation and it does not relate to the Asylum Border Procedure which is mandatory under the new Asylum Procedure Regulation (APR) and which is not yet applicable.

- In 12 EMN Member Countries, asylum procedures can be carried out at the border or transit zones.¹ Out of these countries, Austria, the Czech Republic, and Germany provide for border procedures at airports only. Conversely, 13 EMN Member Countries do not carry out border procedures.
- In those EMN Member Countries implementing border procedures, two forms of public authorities are involved: law enforcement and determining authorities.
- Most EMN Member Countries implementing asylum procedures at the border have specific deadlines for issuing a decision on the application, which range from two working days to four weeks. Ten countries explicitly clarify that if a decision is not taken within a specific timeline, entry to the territory should be granted to continue the procedure.
- The Asylum Procedures Directive provides for two types of procedures which can be conducted at the border, one focusing on the admissibility of an application (Article 43(1)(a)) and the other on the substance of an application (Article 43(1)(b)). Hungary and Latvia only provide for an admissibility procedure under Article 43(1)(a) of the Asylum Procedures Directive. Eleven EMN Member Countries transposed Article 43(1)(b) of the Directive.
- Seven EMN Member Countries have transposed all ten grounds under Article 31(8) of the Asylum Procedures Directive for an examination of the application on substance at the border or rejection of the application as manifestly unfounded.
- Various measures are foreseen in EMN Member Countries for dealing with cases where the person poses a security risk, including involving security services and/or police, using the exclusion clause, applying detention, or further accelerating the procedure.
- Eight EMN Member Countries apply the Dublin procedure, at least partially and in certain cases, at the border. Of these countries, five can implement a Dublin transfer within the border procedure.
- To carry out the procedure at the border and prevent the asylum applicant from entering the territory, seven countries can apply detention and five countries can impose restrictions on freedom of movement or detention.
- In six EMN Member Countries, some categories of vulnerable persons cannot be subject to border procedures, including unaccompanied children and persons in need of special procedural guarantees. In six EMN Member Countries, persons in need of special procedural guarantees cannot be subject to a border procedure if these guarantees cannot be provided in the context of this procedure. In two EMN Member Countries, unaccompanied children can only be subject to a border procedure if specific admissibility grounds under Article 33(2) of the Asylum Procedures Directive or grounds to accelerate the procedure under Article 31(8) of the Asylum Procedure Directive are met.



2. INTRODUCTION

Directive 2013/32/EU (the Asylum Procedures Directive) establishes that, under certain conditions, EU Member States may process applications for international protection at the border or transit zones.²

According to Recital 38 of the Directive, “many applications for international protection are made at the border or in a transit zone of a Member State prior to a decision on the entry of the applicant. Member States should be able to provide for admissibility and/or substantive examination procedures which would make it possible for such applications to be decided upon at those locations in well-defined circumstances.”

A distinctive feature of border procedures is that they take place at the border and that the persons concerned are thus not allowed to enter the territory. Currently, border procedures are governed by provisions laid down in the national law of each EU Member State in accordance with

the Asylum Procedures Directive. However, the relevant provision on border procedures (Article 43) is a “may clause,” meaning that it is not mandatory for EU Member States to provide for a border procedure, and this provision is thus not transposed into national law in all EU Member States. As such, border procedures vary between countries.

The Pact on Migration and Asylum,³ adopted in May 2024, establishes a common procedure for international protection within the EU, including provisions for a mandatory asylum procedure at the border under Regulation (EU) 2024/1348 (the Asylum Procedure Regulation).⁴ This framework aims to ensure more coordinated, efficient, and expedited procedures while maintaining robust borders and upholding the right to asylum. As Recital 64 explains, “Given that the purpose of the border procedure is, inter alia, to allow for the expeditious assessment of applications that are likely to be inadmissible or unfounded, with a view to enabling the swift return of those with no right to

1 Note for the reader: key points provide a summary of the main information contained in the inform. For ease of reading, key points do not contain footnotes. Please note that EMN Member and Observer Countries referred to in the key points are thoroughly listed in the relevant sections.

2 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) Directive - 2013/32 - EN - Asylum Procedures Directive - EUR-Lex, accessed 13 May 2025.

3 European Commission, Pact on Migration and Asylum, https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en, accessed 13 May 2025.

4 Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (articles 43 to 54), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32024R1348>, accessed 13 May 2025.

stay, that procedure should not be applied or should cease to apply where the determining authority considers that the grounds for rejecting an application as inadmissible or for applying the accelerated examination procedure are not applicable or no longer applicable.” These procedures will be carried out in accordance with established procedural standards and effective fundamental rights safeguards, ensuring full compliance with the principle of non-refoulement. The Pact also establishes a Return Border Procedure under Regulation (EU) 2024/1349.

By June 2026, EU Member States must establish the necessary procedures and ensure sufficient capacity to process asylum claims at borders. In doing so, they will need to address several key considerations including how to channel asylum applicants into and out of the procedure;

the applicable processes and procedural consequences; the national authorities responsible at each stage of the procedure; reception conditions to be provided to asylum applicants during the process; how specific procedural/reception needs will be met; and how to ensure that decisions, including on appeals, are taken within the prescribed 12-week timeframe.

In this context, it is important to have a complete understanding of the border procedures currently applied by EMN Member Countries in application of the Asylum Procedures Directive. In the framework of this inform, the term “border procedure” is used as described in the 2013 Directive and the term “Dublin transfers” when mentioned in the inform refer to the (physical) transfer of an applicant.



3. AIM AND SCOPE OF THE INFORM

In the context of the implementation of a common asylum procedure at the external borders by 2026 as part of the Pact on Migration and Asylum, this inform aims to enhance the understanding of the border procedures currently applied by the EMN Member Countries in application of the Asylum Procedures Directive. As such, the inform complements the ongoing work done by EU Member States and the European Commission in relation to the implementation of the Pact and the previous studies on border procedures by the European Union Agency for Asylum (EUAA)⁵ and the European Parliament Research Service (EPRS).⁶ By showing various features of border procedures in the EMN Member Countries, the inform aims to support states in their implementation of the Pact. It will also allow for comparative analyses of pre- and post-Pact procedures in the future.

Specifically, the inform discusses which EMN Member Countries currently have border procedures in place (section 4), the authorities involved (section 5), the timelines of these procedures (section 6), the types of the procedures used and corresponding grounds (section 7), security considerations (section 8), the Dublin procedure in the border context (section 9), the use of detention and restriction on freedom of movement (section 10), and the approaches to persons with special needs (section 11). The inform includes three annexes, which outline the legal basis for border procedures (annex 1), definitions used in the inform (annex 2), and grounds for examining an application within a border procedure under Article 31(8) of the Asylum Procedures Directive (annex 3).



4. APPLICABLE BORDER PROCEDURES

Fifteen EMN Member Countries reported having a legal basis for the border procedure in their national legislation, which transposes the Asylum Procedures Directive.⁷ (see annex 1)

In 12 EMN Member Countries, asylum procedures can be implemented at the border or a transit zone.⁸ Of these countries, Austria, the Czech Republic, and Germany only

provide for border procedures at airports, as there are no EU external land borders.

Conversely, there are no border procedures carried out in 13 EMN Member Countries.⁹ Among these countries, Croatia, Estonia, Hungary, and Slovenia reported having provisions in law, but not implementing them in practice,¹⁰ while seven countries reported not having a legal basis for such a procedure.¹¹

5 EUAA, Border Procedures for asylum applications in EU+ Countries, <https://euaa.europa.eu/publications/border-procedures-asylum-applications-eu-countries#:~:text=This%20report%20outlines%20current%20legislation%20and%20the%20different,border%20procedures%20to%20process%20asylum%20applications%20more%20efficiently>, accessed 19 February 2025.

6 European Parliament Research Service, Asylum procedures at the border, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_STU\(2020\)654201](https://www.europarl.europa.eu/thinktank/en/document/EPRS_STU(2020)654201), accessed 19 February 2025.

7 AT, BE, CZ, DE, EL, ES, FI, FR, HR, HU, IT, LV, NL, PT, SI.

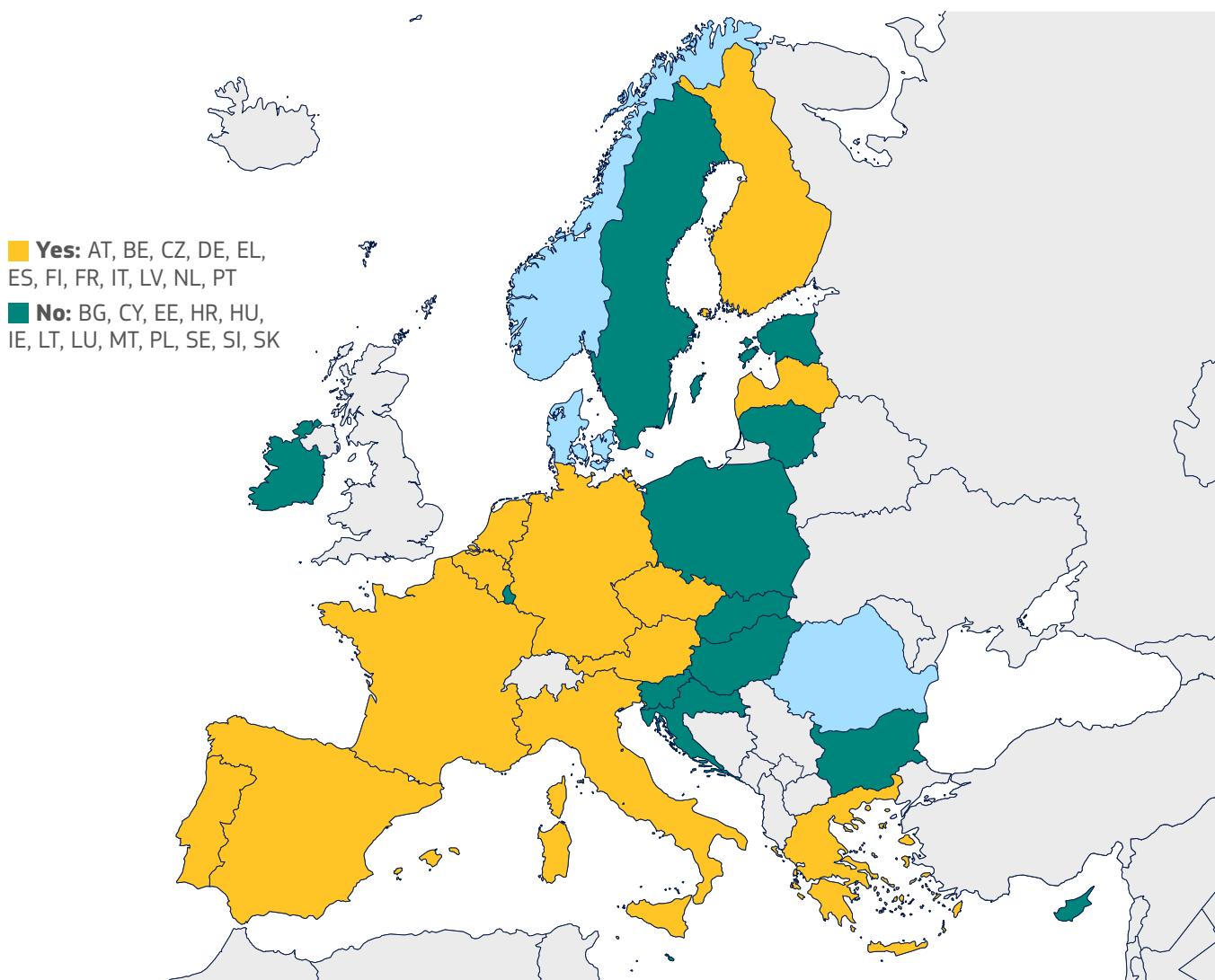
8 AT, BE, CZ, DE, EL, ES, FI, FR, IT, LV, NL, PT.

9 BG, CY, EE, HR, HU, IE, LT, LU, MT, PL, SE, SI, SK. Lithuania relies on the procedure called ‘examination of applications for asylum as to substance as a matter of urgency’ which is equivalent to the border procedure in its purpose but is not conducted at the border (it is based on Article 76.4 of the Law on the Legal Status of Foreigners).

10 Estonia’s legislation provides for an accelerated procedure which can be conducted at the border it is however not implemented in practice.

11 BG, CY, IE, LU (airport procedure), PL, SE, SK.

Figure 1. Member States implementing border procedures



A distinctive feature of border procedures is that they take place at the border and that the persons concerned are thus not allowed to enter the territory. To compare, in most countries which do not apply border procedures, including Ireland, Luxembourg, Poland, and Sweden, border guards or police receive the application made at the border and refer the person to the determining authority within the country for registering, lodging, and assessing the application. In Bulgaria, the application can be lodged at the border before being transferred into the territory, in Lithuania it is registered and in Estonia, it is simultaneously registered and lodged, before being transferred into the territory.

Box 1: Challenges reported in relation to applying border procedures

Border procedures can be challenging to implement. Germany reported that in addition to the necessary IT systems, sufficient specially trained personnel must

be available to carry out their tasks within the short deadlines of the border (airport) procedure.

As observed by France, Greece, and the Netherlands, the increased numbers of persons to process at the borders, together with the fluctuating nature of arrivals, place high yet unpredictable demands on national authorities. Services need to adapt quickly in the event of an unexpected increase in the number of arrivals, by deploying additional staff and resources. The pressure due to increased numbers of applications processed through border procedures also poses challenges to legal assistance and interpretation.

Having the capacity to comply with such shorter timelines can be a challenge, as specified by eight EMN Member Countries. Finland and France mentioned that this situation could arise if the number of applications was very high.



5. AUTHORITIES INVOLVED IN BORDER PROCEDURES

In EMN Member Countries, two forms of public authorities are most often involved in border procedures: law enforcement and determining authorities.

Law enforcement authorities (including police,¹² border guards,¹³ the coast guard)¹⁴ are involved in the process to varying extents. While in five countries, law enforcement authorities are only responsible for receiving applications,¹⁵ in Latvia, they also register the application. In Finland, Italy, and Spain, individuals also lodge applications with these authorities.¹⁶ In Greece, First Reception Service can also receive applications.

In most countries, determining authorities issue a decision like in the regular asylum procedure. Two exceptions were reported. In France, the determining authority (the French Office for the Protection of Refugees and Stateless Persons (OFPRA)) issues an opinion on whether the asylum application is or is not inadmissible or (manifestly) unfounded, but it is the Ministry of Interior¹⁷ which decides on the entry, based on the OFPRA's opinion. Similarly, in Spain, the Directorate General for International Protection issues a proposal, but it is the Minister of Interior who issues a decision on the application.

Additionally, six EMN Member Countries highlighted the role of administrative courts as competent to receive appeals on decisions taken in the context of the border procedure.¹⁸ In Belgium, appeals against decisions in the border procedure should be submitted to the Council for

Alien Law Litigation (CALL) and in Greece to the Appeals Authority.

Box 2: Good practices reported in relation to authorities involved in border procedures

For France and Italy, cooperation between the various authorities involved is an example of good practice. In France, the border procedure is efficiently implemented thanks to smooth communication between competent authorities whose missions are interdependent, while in Italy, efficient implementation of the border procedure is based on continuous communication between all the authorities involved in the consecutive phases of the procedure. In Germany, good practices include ensuring specially trained and sufficient staff for quick investigation and clarification of facts, quick exchange of information between the authorities, and the clear separation of responsibilities between the authorities involved.

Box 3: Challenges reported in relation to authorities involved in border procedures

Cooperation between different authorities, each with their own distinct mandates and operational frameworks, including the need to respect each other's areas of responsibility, can be challenging, as reported by Germany and Greece.



6. LEGAL PROCESSING TIMES

Fourteen EMN Member Countries have specific deadlines for issuing a decision within the border procedure. Ten countries reported that if a decision is not reached within the specific timeline, entry to the territory is granted to continue the asylum procedure.¹⁹ In Italy, according to a recent ruling from the Court of Cassation, in case of a violation of the procedural deadlines of the

accelerated procedure, the applicant would acquire the right to enter and remain in Italy for the entire duration of the procedure. In France, in principle, the placement in the waiting zone cannot be extended beyond 26 days. When the judge decides not to extend the stay, or when it cannot be extended any longer, the individual is admitted onto the territory.

Table 1. Timelines in the border procedure in EMN Member Countries

EMN Member Country	Registration timeline	Decision timeline	Other timelines
Croatia, ²⁰ Finland, Greece, Hungary, ²¹ Netherlands		4 weeks	
Czech Republic, Belgium	3 working days	4 weeks	
Spain		8 days	
Portugal	3 days	7 working days	
Greece ²²		7 days	

¹² CZ, DE, EL, IT, LU, PT. The border police in BE, ES, FR. The harbour police in NL.

¹³ FI, LT, LV, NL (the military police).

¹⁴ EL.

¹⁵ BE, CZ, EL, LT, LU, PT.

¹⁶ In Finland, there is currently only one phase, so making, registering, lodging an application take place together.

¹⁷ Directorate-General for Foreigners in France/Directorate for Asylum/Department for Cooperation and the External Dimension of Asylum.

¹⁸ DE, FI, FR, HR, IT, NL. In Croatia, the border procedure is not implemented in practice.

¹⁹ BE, CZ, DE, EL, ES, FI, HU, LV, NL, PT. In Hungary, the border procedure is not implemented in practice.

²⁰ In Croatia, the border procedure is not implemented in practice.

²¹ In Hungary, the border procedure is not implemented in practice due to a 'state of danger due to mass immigration', declared in 2016 and extended several times.

²² In Greece, asylum legislation provides for an exceptional border procedure in case of mass arrivals of applicants, which is implemented by a joint ministerial decision, and provides, among others, for a short deadline (7 days) for the issuance of the first instance decision. Since January 2022 Greece has not applied the exceptional border procedure.

EMN Member Country	Registration timeline	Decision timeline	Other timelines
Italy		7 days	7 days to appeal; 5 days for the court to decide on the suspension request
Latvia	2 working days	5 working days	5 working days to appeal; 5 working days for the court to decide.
Germany		2 working days	3 days to appeal; 14 days for the court to decide.
France		2 working days for OFPRA; No explicit deadline for the Ministry of Interior but maximum stay in the transit zone is 26 days. ²³	2 days to appeal; 3 days for the court to decide.

Box 4: Short processing times in border procedures as a good practice

While the maximum processing times vary between EMN Member Countries, short processing times were perceived as a good practice because of the speed

of the procedure in France, Germany and Spain, and related advantages, such as prioritisation of applications throughout the process (Finland) and certainty for the applicant about the prospects of success of their application (Germany).



7. TYPES OF DECISIONS TAKEN AT THE BORDER

The Asylum Procedures Directive provides for two types of decisions that can be taken at the border - one focusing on the admissibility of an application (Article 43(1)(a)) and the other on the substance of an application (Article 43(1)(b)). Two EMN Member Countries reported examining cases only based on their admissibility or having a legal basis for it,²⁴ while eleven countries consider both admissibility and merits at the border.²⁵

7.1. Admissibility decisions

Regarding admissibility (Article 43(1)(a) of the Asylum Procedures Directive), Article 33(2) lists the grounds on which Member States may consider an application for international protection as inadmissible. These grounds are:

- (a) Another Member State has granted international protection;
- (b) Another country is considered as a first country of asylum;
- (c) Another country is considered as a safe third country;
- (d) The application is a subsequent application without new elements or findings;

(e) The application is lodged by a dependant of the applicant after they have consented to have their case be part of an application lodged on their behalf, without there being facts justifying a separate application.

Hungary and Latvia only transposed Article 43(1)(a) which provides for an admissibility procedure at the border.²⁶ In Latvia, applications may be considered inadmissible on any of the four grounds under Article 33(2)(a)-(b)-(c)-(d) of the Directive.

7.2. Substance of an application or application qualified as manifestly unfounded

In terms of the substance of the application (Article 43(1)(b) of the Directive), under Article 31(8), Member State may provide for an examination procedure to be conducted at the border or in a transit zone if any of ten circumstances arise (see Annex 3).²⁷ Under Article 32(2), these circumstances also allow Member States to qualify an unfounded application²⁸ as a manifestly unfounded application.

Eleven EMN Member Countries have transposed Article 43(1)(b) of the Asylum Procedures Directive, meaning they can issue decisions on the merits of the application at

²³ In France, in the majority of cases, the Ministry's decision is taken without delay, on the same day as OFPRA's opinion.

²⁴ HU and LV. Hungary, however, does not apply border procedures in practice.

²⁵ AT, BE, CZ, DE, EL, ES, FI, FR, IT, NL, PT.

²⁶ Hungary, however, does not apply border procedures in practice.

²⁷ Under Article 32(2), these circumstances also allow Member States to qualify an unfounded application as a manifestly unfounded application. Under Article 32(1) of the Asylum Procedures Directive, Member States may only consider an application to be unfounded if the determining authority has established that the application does not qualify for international protection.

²⁸ Under Article 32(1) of the Asylum Procedures Directive, Member States may only consider an application to be unfounded if the determining authority has established that the application does not qualify for international protection.

the border.²⁹ In France, the examination of the application leads to an opinion of the determining authority on its admissibility or substance (manifestly unfounded or not). This opinion leads to a decision from the competent service of the Ministry of Interior, which allows or refuses entry onto the territory based on it.

In Finland, the application is examined on substance at the border if the application is inadmissible on grounds reflected in Article 33(2) of the Asylum Procedures Directive (see Section 8.1), or the procedure is accelerated under Article 31(8) (see Annex 3). In Italy, the examination of the merits is carried out at the border if the person comes from a safe country of origin (Article 31(8)(b)) or has been apprehended for evading or attempting to evade the relevant

controls, and in Greece and Portugal if any of the grounds under Article 31(8) of the Directive applies.

In Germany, the authorities assess the grounds for rejection as manifestly unfounded and grounds for international protection or asylum within the same procedure at the border. In Belgium and Lithuania, various (separate) procedures may be applied within the border procedure, including an admissibility examination, an accelerated examination, and a regular in-merit examination.

Seven EMN Member Countries transposed all ten grounds³⁰ and four countries transposed selected grounds under Article 31(8)³¹ under which they can conduct the in-merit examination of the application within the border procedure (see Table 2).

Table 2. Grounds under Article 31(8) of the Asylum Procedures Directive transposed by EMN Member Countries to decide that the examination of an application on its merits should take place within the border procedure

Grounds under Article 31(8) of the Asylum Procedures Directive	EMN Member Countries
(a) Raising issues which are not relevant	BE, CZ, EL, ES, FI, FR, IT, NL, PT
(b) Coming from a safe country of origin	AT, BE, CZ, EL, ES, FI, IT, NL, PT
(c) Misleading authorities	AT, BE, CZ, EL, FI, IT, NL, PT
(d) Destroying or disposing of identity documents	BE, CZ, EL, FI, IT, NL, PT
(e) Making clearly inconsistent, clearly false or obviously improbably representations	AT, BE, CZ, EL, ES, FI, FR, IT, NL, PT
(f) Introducing a subsequent application that is not inadmissible	BE, CZ, EL, FI, IT, NL, PT
(g) Making an application merely to delay or frustrate the process	BE, CZ, EL, FI, IT, NL, PT
(h) Failing to make an application as soon as possible after an unlawful entry	BE, CZ, EL, FI, IT, NL, PT
(i) Refusing to allow fingerprints to be taken	BE, CZ, EL, FI, IT, NL, PT
(j) Posing a danger to the national security or public order	BE, CZ, EL, ES, FI, IT, NL, PT

8. SECURITY CONSIDERATIONS

Under Article 31(8)(j) of the Asylum Procedures Directive, EU Member States may provide examinations conducted at the border or in a transit zone in accordance with Article 43(1)(b), if the applicant may, for serious reasons, be considered a danger to national security or public order or the person has been forcibly expelled for serious reasons of public security or public order. The same grounds can justify the qualification of an unfounded application as a manifestly unfounded application (Article 32(2)).

Nine EMN Member Countries transposed this ground into their national legislation, envisaging different measures for handling security cases.³² EMN Member Countries reported various practices to take into account security

considerations within their border procedures. France, Portugal, and Spain explicitly pointed to consulting law enforcement databases. In eight EMN Member Countries security services and/or the police are involved.³³ Germany, the Netherlands, and Portugal reported using the exclusion clause as an additional framework to consider such cases.³⁴ In Finland and Lithuania (accelerated procedure), detention is possible in such circumstances, and in Italy, the case is further accelerated (it must be decided within five days). In Germany, the asylum applicant will be personally accompanied by the Federal Police during the application and the interview if special protection measures are required for BAMF employees (e.g. terrorism) and will be interviewed by a case officer specially trained in security-related cases.

29 AT, BE, CZ, DE, EL, ES, FI, FR, IT, NL, PT.

30 BE, CZ, EL, FI, IT, NL, PT.

31 AT, DE, ES, FR.

32 BE, CZ, EL, ES, FI, IT, LT, NL, PT. EE has transposed the ground but is currently not applying it to the border procedures.

33 DE, EE, EL, ES, FR, LT, NL, SE. However, Sweden does not apply border procedures.

34 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011 <https://eur-lex.europa.eu/eli/dir/2011/95/oj/eng> gives possibility to Member States to exclude the person from being a refugee (Article 12) or being eligible for subsidiary protection (Article 17) on various grounds including related to security considerations.



9. THE DUBLIN PROCEDURE

There are variations in whether and how EMN Member Countries apply the Dublin procedure at the border.

Germany (in some circumstances – see below), Finland, Latvia, and Spain do not apply the Dublin procedure at the border, meaning that the applicant would be allowed to access the respective territory of the Member State, when the Dublin procedure is applied. In Finland, the border procedure and the Dublin procedure are not both applied at the same time. In case conditions for applying both the border procedure and the Dublin procedure are present, Finland will choose between applying one or the other. In Latvia, persons subjected to the border procedure are allowed to enter the country where there are grounds to believe that they could be subject to the Dublin procedure, meaning that the applicant can access the national territory. In Spain, applications with a Eurodac hit in another EU Member State are admissible, meaning that such applicants are granted access to the territory, and referred to the Dublin service of the Directorate General for International Protection to take charge or take back requests. In Germany, if a person comes from a Member State where the Dublin procedure applies, they do not remain in the transit area. They are questioned by the federal police regarding their asylum application and are taken into detention. The formal asylum application is submitted at the Federal Office of Migration and Refugees (BAMF) during the interview. When the Dublin procedure begins, a take charge or take back request can be sent to the Member State. Pending the response from the Member State, the person would already be outside the airport area – either in deportation detention (by court order) or in a reception centre.

Eight EMN Member Countries apply the Dublin procedure, at least partially, at the border.³⁵ The Czech Republic applies the Dublin procedure at the border only to applications for international protection lodged at the Prague International Airport, noting that this amounts to only a few cases per year. If no decision on the transfer to the Member State responsible has been taken within 28 days from the application (the maximum length of the border procedure, see Section 6 above), the Czech Republic must admit the person to its territory. In Germany, if a person comes from a third country, they are refused entry and remain in the transit area. Usually, the formal asylum application is submitted. When the Dublin procedure begins, a take charge or take back request can be sent to the Member State. Until the response from the Member State comes, the person must stay in the asylum applicant accommodation centre in the transit area because of a court order.

Among countries applying the Dublin procedure in the context of a border procedure, five reported implementing transfers within the asylum procedures at the border.³⁶ In France, the limited timeframe during which asylum applicants are kept at the border can make it challenging to fully conduct the Dublin procedure.

In Austria, if the application to take charge is rejected by another Member State, the foreign national must be admitted to the asylum procedure and therefore allowed to enter the country.³⁷ Conversely, in France, when a transfer decision cannot be implemented, a decision on the application to enter the territory on asylum grounds can still be taken based on an opinion provided by its determining authority (OFPRA) provided the delay to issue such an opinion was respected and the delay to hold the claimant at the border is still ongoing.



10. CONDITIONS OF DETENTION AND RESTRICTION OF MOVEMENT

In order to carry out the asylum procedure at the border and prevent the applicant from entering the territory, countries apply restriction on freedom of movement or detention.

Seven EMN Member Countries can impose detention during the border procedure.³⁸

In four countries, applicants are not allowed to leave the premises of the reception centre where they are placed, or the area of such a centre, to enter the territory.³⁹ In Austria, applicants may be required to stay at a specific location within the border control area or in the area of the initial reception centre. In Finland, applicants are not allowed to leave the specific area of the Joutseno reception centre. In Germany, applicants are placed in a designated area within the airport premises to which access is restricted. In France, applicants stay in closed “waiting areas” under the surveillance of authorised officials, the largest being at

the Charles-De-Gaulle airport. Conversely, Greece applies restrictions on freedom of movement to a broader geographical area. Specifically, applicants who are subject to the EU-Türkiye statement and enter Greece via the Aegean Islands are restricted to the island through which they entered Greek territory. They are placed in one of the Closed-Controlled Access Centres which they are allowed to exit, subject to time-limits.

Box 5: Annual discussion about the functioning of the waiting zones in France

According to French law, a meeting must be held each year between the competent authorities, UNHCR and accredited civil society organisations, on the functioning of the waiting zones, in particular, aspects relating to the asylum procedure, taking account of vulnerabilities and safeguarding fundamental rights. These annual discussions were reported as good practice by France.

³⁵ AT, BE, CZ, DE (in certain circumstances, as explained below), EL, FR, NL, PT.

³⁶ BE, FR, LT, NL, PT.

³⁷ If however the rejection is unjustified, a remonstration procedure is conducted immediately (Art. 5 para. 2 of Regulation No 1560/2003).

³⁸ BE, CZ, ES, IT, LV, NL, PT.

³⁹ AT, DE, FI, FR. In France, applicants are allowed to leave for another country where they can be legally admitted.

Box 6: Alternatives to detention for families with children in Belgium as a good practice

In Belgium families with minor children are not detained, but instead accommodated in designated family units located within local communities, designed to provide appropriate and humane living conditions. The Immigration Office assigns families to these units, which they are allowed to leave for essential activities such as attending school, medical appointments, or legal consultations, provided that one adult remains present in the residence. This arrangement applies to families staying irregularly, in a border procedure, or awaiting a decision on their legal status. Each family is supported by a return coach who guides them through the return, border, or regularisation procedure. Coaches assist in understanding legal procedures,

facilitate communication with authorities, embassies, legal representatives, and NGOs, and encourage the cooperation of the detained family. Families also have access to voluntary return and reintegration programmes, implemented in cooperation with the International Organization for Migration (IOM). Families granted residence are directed to the competent authorities for registration and further support.

Premises where applicants are placed during border procedures provide diverse support services. These include health care,⁴⁰ food,⁴¹ social services,⁴² hygiene products,⁴³ legal assistance/counselling (including through NGOs),⁴⁴ and financial assistance.⁴⁵



11. PERSONS WITH SPECIAL NEEDS

In six EMN Member Countries, some categories of vulnerable persons cannot be subjected to border procedures.⁴⁶ These categories include unaccompanied minors,⁴⁷ unaccompanied minors under the age of 15,⁴⁸ unaccompanied minor victims of trafficking in human beings, torture, rape, or other serious forms of psychological, physical or sexual violence,⁴⁹ and persons in need of special procedural guarantees.⁵⁰

In other cases, the exemption of some categories of vulnerable persons is conditional. In Belgium, Finland, France, Greece, the Netherlands and Portugal, persons in need of special procedural guarantees will be processed in the regular procedure if these guarantees cannot be provided in the context of the border procedure. In Latvia, applicants in need of special procedural guarantees, in particular unaccompanied children or victims of torture, rape, or other forms of serious psychological, physical or sexual violence, can only be subject to the border procedure when they are a threat to national security or public order. In the Netherlands, families with minor children will not be processed at the border unless there is a threat to public order or family ties are deemed implausible.

In France and Greece, unaccompanied minors can only be subjected to the border procedure if specific admissibility grounds under Article 33(2) of the Asylum Procedures Directive (see Annex 3) or grounds to conduct a border procedure under Article 31(8) (see Annex 3) are met. In

the case of France, grounds to process an unaccompanied minor in the border procedure are those in Article 31(8) b, c, d, f and j. In the case of Greece, applications of unaccompanied minors under the age of 15, as well as minors who are victims of trafficking in human beings, torture, rape or other serious forms of psychological, physical or sexual violence, are always examined in accordance with the regular procedure. However, border procedures may apply for unaccompanied minors, but only if the unaccompanied minor comes from a country, which is included in the list of safe countries of origin; has submitted a subsequent application; may, for serious reasons, be considered a danger to the national security or public order of the Member State, or has been forcibly deported due to serious reasons of national security or public order; there are reasonable grounds for a country to be considered a safe third country for the unaccompanied minor, if this serves the minors' best interests; has misled the authorities by submitting false documents, or maliciously destroyed or lost an identity document or travel document that would help determine their identity or nationality.

Where border procedures are applied to vulnerable persons, their specific needs can be addressed through the inclusion of specific guarantees within the process. In the Netherlands, for instance, several times during the border procedure, the authorities assess whether the application can indeed be handled within the border procedure due to the applicant's special needs.⁵¹

40 Including in CZ, DE, EL, ES, FI, FR, NL, PT.

41 Including in BE, CZ, EL, ES, FI, FR, NL, PT.

42 Including in CZ, DE, EL, FI, NL.

43 Including in BE, CZ, EL, FI, FR, NL, PT.

44 Including in BE, CZ, ES, FI, FR, NL, PT.

45 Including in CZ, EL, FI.

46 BE, CZ, EL, ES, IT, NL, PT.

47 BE, CZ, ES, IT, NL.

48 BE, CZ, EL.

49 BE, CZ, EL.

50 IT, PT.

51 Lithuania, which does not apply border procedure, in the accelerated procedure applies a structured vulnerability assessment to asylum applicants held in temporary reception centres or State Border Guard Service detention facilities.

Box 7: Vulnerability experts in Germany

The employees of the responsible BAMF field office examine the file of the Federal Police, check whether the asylum applicant has any kind of vulnerability and whether this vulnerability should be given special consideration in the asylum procedure. If the asylum claim submitted to the Federal Police regarding the reasons for persecution suggests that the person may be a victim of trafficking in human beings, for example, an asylum case officer trained in such cases (Vulnerability Expert) will be appointed for the personal interview at the BAMF. Vulnerability experts for gender-specific persecution, traumatised persons and victims of torture, victims of human trafficking, security and, if necessary, unaccompanied minors are available for the personal interviews with asylum applicants. Vulnerability experts for victims of gender-based persecution, victims of torture, trauma, and trafficking in human beings are available for the hearings. If required, vulnerability experts for unaccompanied minors may also be appointed.

Box 8: Good practices related to vulnerability

For Greece, the Netherlands, Portugal, and Spain, the fact that vulnerability is identified and considered in their border procedures, including by exempting certain categories of vulnerable persons from such procedures, is an example of good practice. In the waiting zone of Charles-de-Gaulle international airport in France, cultural mediators/interpreters from the Red Cross are available 24 hours a day. This allows for the best possible consideration of vulnerability and specific needs, limits risks of tension between the individuals in the waiting zone and provides for easier communication with authorities.

ANNEX 1: LEGAL BASIS FOR DECISIONS TAKEN AT THE BORDER

Table 3: Legislation relating to border procedures⁵²

EMN Member Country	National legislation
Austria	Asylum Act 2005
Belgium	Law of 15 December 1980 regarding the entry, residence, settlement and removal of aliens (Immigration Act) Royal Decree of 8 October 1981 regarding the entry on the territory, residence, settlement and removal of aliens
Croatia⁵³	Act on International and Temporary Protection
Czech Republic	Act No. 325/1999 on asylum (Asylum Act)
Finland	Aliens Act 301/2004
France	Code on the Entry and Residence of Foreign Nationals and the Right of Asylum (CESEDA)
Germany	Asylum Act
Greece	Asylum Code
Hungary	Act 80 of 2007 on Asylum
Italy	Legislative Decree 25/2008
Latvia	Asylum Law
Netherlands	Aliens Act 2000
Portugal	Law 27/2008 of 30 June 2008
Slovenia	International Protection Act
Spain	Asylum Law 12/2009

ANNEX 2: DEFINITIONS

The inform uses the following definitions, which are based on the EMN Asylum and Migration Glossary unless otherwise stated.⁵⁴

Term	Definition
Admissibility of an application for international protection	Prerequisite of an application for international protection to comply with the requirements necessary to be accepted for examination to decide whether the applicant qualifies as a beneficiary of international protection.
Alternative to detention	Non-custodial measure used to monitor and/or limit the movement of third-country nationals in order to ensure compliance with international protection and return procedures (an alternative to detention can be applied only if a legitimate ground for detention exists). ⁵⁵
Applicant with special reception needs	A vulnerable person who is in need of special guarantees in order to have their rights protected and to comply with the obligations of international protection.

⁵² AT, BE, CZ, DE, EL, ES, FI, FR, HR, IT, LT, LV, NL, PT.

⁵³ Croatia has transposed Article 43 of the Asylum Procedures Directive into its national legislation, but it is not implemented in practice.

⁵⁴ EMN Glossary, Version 10.0, https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en, accessed on 1 April 2025.

⁵⁵ Recital 20 of Directive 2013/33/EU (Recast Reception Conditions Directive), available at [Directive - 2013/32 - EN - Asylum Procedures Directive - EUR-Lex](https://eur-lex.europa.eu/eli/directive/2013/32/oj), accessed 7 March 2025

Term	Definition
Border procedure	<p>NB A term derived from the current EU migration acquis:</p> <p>A specific procedure, in accordance with the procedural guarantees, to be applied at the border or in the transit zones of an EU Member State for certain categories of applicants for international protection with the aim of making an assessment of whether their applications are inadmissible or unfounded in cases when the applicants have misled the authorities by providing false information or withholding information or have failed to cooperate, come from a safe country of origin, have entered unlawfully, or pose a security risk (the full list of circumstances is reproduced in Section 8(2) below).⁵⁶</p> <p>The new Asylum Procedure Regulation expands the use of the border procedure and makes it mandatory on certain grounds.⁵⁷</p>
Detention	<p>In the international protection context, the confinement (i.e. deprivation of liberty) of an applicant for international protection by an EU Member State within a particular place, where the applicant is deprived of their personal liberty.</p>
Determining authority	<p>In the context of international protection, any quasi-judicial or administrative body in an EU Member State responsible for examining applications for international protection that is competent to take decisions in the first instance in such cases.</p>
Dublin procedure	<p>The process of determining the (EU) Member State responsible for examining an application for international protection lodged in one of the (EU) Member States by a third-country national or stateless person.</p>
Dublin transfer	<p>The (physical) transfer of an applicant to the (EU) Member State considered to be responsible for examining the merits of an application following a Dublin procedure.⁵⁸</p>
Transit zone	<p>A clearly designated and limited area located in an airport, in a port or at the external land borders on the territory of a State, where a third-country national, who has not crossed a border control and has not yet passed a checkpoint, is temporarily placed until a decision concerning the entry or the refusal of entry into the territory of the State in question is taken by the competent authorities of that State.⁵⁹</p>
Unaccompanied minor	<p>A minor</p> <ul style="list-style-type: none"> - a person who arrives on the territory of an EU Member State unaccompanied by the adult responsible for them by law or by the practice of the EU Member State concerned, and for as long as they are not effectively taken into the care of such a person; or - a person who is left unaccompanied after they have entered the territory of the EU Member State.
Vulnerable person	<p>A person in a position of vulnerability such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.⁶⁰</p>

ANNEX 3: GROUNDS FOR EXAMINING AN APPLICATION WITHIN A BORDER PROCEDURE UNDER ARTICLE 31(8) OF THE ASYLUM PROCEDURES DIRECTIVE

- (a) The applicant, in submitting his or her application and presenting the facts, has only raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection.
- (b) The applicant is from a safe country of origin within the meaning of this Directive.
- (c) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity and/or nationality that could have had a negative impact on the decision.

⁵⁶ EMN based on Article 43 of Directive 2013/32/EU (Recast Asylum Procedures Directive) in connection with Art. 33 and 31(8) of the same Directive, available at [Directive - 2013/32 - EN - Asylum Procedures Directive - EUR-Lex](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:2013/32/EN), accessed 7 February 2025. This procedure was introduced with the intention to carry out examinations within a shorter procedural period.

⁵⁷ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (Articles 43 to 54), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32024R1348> accessed 7 February 2025.

⁵⁸ The EMN glossary includes in its definition a second meaning of Dublin transfer as "the transfer of responsibility for the examination of the merits of an application for international protection from one EU Member State to another EU Member State."

⁵⁹ Iate, European Union Terminology, transit zone, available at <https://iate.europa.eu/entry/result/3535456>, accessed 7 February 2025.

⁶⁰ This list of vulnerable persons is non-exhaustive ; some directives use narrower definitions such as [Directive 2008/115/EC \(Return Directive\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:2008/115/EC) in its Article 3(9).

(d) It is likely that, in bad faith, the applicant has destroyed or disposed of an identity or travel document that would have helped establish his or her identity or nationality.

(e) The applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict sufficiently verified country-of-origin information, thus making his or her claim clearly unconvincing in relation to whether he or she qualifies as a beneficiary of international protection.

(f) The applicant has introduced a subsequent application for international protection that is not inadmissible.

(g) The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal.

(h) The applicant entered the territory of the Member State unlawfully or prolonged his or her stay unlawfully and, without good reason, has either not presented himself or herself to the authorities or not made an application for international protection as soon as possible, given the circumstances of his or her entry.

(i) The applicant refuses to comply with an obligation to have his or her fingerprints taken in accordance with the Dublin Regulation and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes.

(j) The applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.



FOR MORE INFORMATION

EMN website: <http://ec.europa.eu/emn>

EMN LinkedIn page: <https://www.linkedin.com/company/european-migration-network>

EMN X account: <https://x.com/emnmigration>

EMN YouTube channel: <https://www.youtube.com/@EMNMigration>

EMN NATIONAL CONTACT POINTS

Austria www.emn.at/en/

Belgium www.emnbelgium.be/

Bulgaria www.emn-bg.com/

Croatia emn.gov.hr/

Cyprus www.moi.gov.cy/moi/crmd/emnncpc.nsf/home/home?opendocument

The Czech Republic www.emncz.eu/

Estonia www.emn.ee/

Finland emn.fi/en/

France www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2

Germany www.bamf.de/EN/Themen/EMN/emn-node.html

Greece <https://migration.gov.gr/emn/>

Hungary www.emnhungary.hu/en

Ireland www.emn.ie/

Italy www.emnitalyncp.it/

Latvia www.emn.lv

Lithuania www.emn.lt/

Luxembourg emnluxembourg.uni.lu/

Malta emn.gov.mt/

The Netherlands www.emnnetherlands.nl/

Poland www.gov.pl/web/european-migration-network

Portugal rem.sef.pt/en/

Romania www.mai.gov.ro/

Spain www.emnspain.gob.es/en/home

The Slovak Republic www.emn.sk/en

Slovenia emnslovenia.si

Sweden www.emnsweden.se/

Norway www.udi.no/en/statistics-and-analysis/european-migration-network---norway#

Georgia migrationcommission.ge/

The Republic of Moldova bma.gov.md/en

Ukraine dmsu.gov.ua/en-home.html

Montenegro www.gov.me/mup

Armenia migration.am/?lang=en

Serbia kirs.gov.rs/eng

The Republic of North Macedonia <https://mvr.gov.mk/>

Albania