

Enforcement of immigration legislation statistics introduced

Statistics Explained

Data extracted in May 2022

The aim of this article is to provide to the users an overview on the methodological and analytical framework of enforcement of immigration legislation statistics collected by Eurostat. It presents methodological concepts, classifications and definitions as well as the scope, purposes and limitations of those statistics.

Main points

- EIL statistics on third-country nationals refused entry at the EU border provide information on the control of the EU's external borders.
- EIL statistics on third-country nationals found to be illegally present, ordered to leave or having left a Member State provide insights into the management of unauthorised stays by third-country nationals in EU Member States.
- Recent legal changes to the collection of asylum and managed migration data will lead to new information being gathered (on place and grounds for apprehension of third-country nationals illegally present, unaccompanied minors ordered to leave and returned) and will increase the frequency of EIL statistics on returns (quarterly instead of annual data).

General presentation

Scope of EIL statistics

Statistics on the enforcement of immigration legislation (EIL statistics) are based on Articles 5 and 7 of [Regulation \(EC\) No 862/2007](#) on migration and international protection statistics, which was recently amended by [Regulation \(EU\) 2020/851](#). The enforcement of migration legislation covers two policy areas, the control of the EU's external borders and the management of unauthorised stays by non-EU citizens found in an EU Member State. To provide quantitative information on these two matters, Eurostat collects data on third-country nationals being in one of the following situations:

- refused entry at the external border; or
- found to be illegally present on a Member State territory;
- ordered to leave the territory of a Member State;
- returned following an order to leave the territory of a Member State.

EIL data are based on administrative sources and are provided mainly by the ministries of interior or related immigration agencies in the Member States and EFTA countries. All the collected data are disaggregated by citizenship of the third-country nationals. The comparability of EIL data between Member States and EFTA countries can sometimes be limited due to specific national rules and procedures.

The statistical unit (i.e. a unit of observation or measurement for which data are collected) is a person. This means that the data correspond to the number of people covered by an administrative event (e.g. a refusal to entry, an apprehension, an order to leave or return) during the reference period and not the number of administrative events related to the same third-country national. For example, a third-country national who has been refused several times to enter the territory of a Member State during a given year will be reported only once in the EIL statistics.

Table 1 presents all the available EIL data collected and disseminated by Eurostat, whereas Table 2 provides the available breakdowns.

Up to the reference year 2020 (included), EIL statistics available in Eurostat's database¹ provide annual data reported by EU Member States and EFTA countries on the number of third-country nationals that have been: (i) refused entry; (ii) found to be illegally present; (iii) ordered to leave; and (iv) returned following an order to leave. Additional statistics were collected on the circumstances for returns of third-country nationals, in particular whether they were forced or voluntary, as well as the assistance provided and the type of third country of destination.

Following the amendment of the EU Regulation² applicable since the reference year 2021, EIL statistics collected by Eurostat also include:

- statistics on third-country nationals found to be illegally present by 'place of apprehension' and by the 'grounds of apprehension';
- quarterly rather than annual statistics on returns, and mandatory breakdowns by type of return, type of assistance received and destination country;
- statistics on unaccompanied minors ordered to leave and on unaccompanied minors who returned following an order to leave.

From reference year 2021 onwards, annual EIL statistics on returns should be derived from the aggregation of collected quarterly data.

¹ <https://ec.europa.eu/eurostat/web/migration-asylum/managed-migration/database>

² https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2020.198.01.0001.01.ENG

Main EIL variables

Variable	Sub-category	Breakdown	Frequency, Length of time series, Availability
Mandatory data Collection			
Third-country nationals refused entry at the external borders		Citizenship, Type of border, Grounds for refusal	Annual (2008 - ...); M+3
Third-country nationals found to be illegally present		Age, Sex, Citizenship, Grounds for apprehension, Place of apprehension (*)	Annual (2008 - ...); M+3
Third-country nationals ordered to leave	Unaccompanied minors	Age, Sex, Citizenship	Annual (2008 - 2020); M+3 Quarterly (2021 - ...); M+2
Third-country nationals returned following an order to leave		Age, Sex, Citizenship, Destination	Annual (2008 - 2020); M+3
Third-country nationals returned following an order to leave	Unaccompanied minors	Age, Sex, Citizenship, Type of return, Country of destination	Quarterly (2021 - ...); M+2
Voluntary data collection			
Third-country nationals who have left the territory by type of return and citizenship		Citizenship, Type of return	Annual (2008 - 2020); M+3
Third-country nationals who have left the territory by type of assistance received		Citizenship, Type of assistance received	Annual (2008 - 2020); M+3
Third-country nationals who have left the territory to a third country by type of agreement procedure		Citizenship, Type of agreement procedure	Annual (2008 - 2020); M+3
Third-country nationals who have left the territory to a third country by destination country		Citizenship, Country of destination	Annual (2008-...); M+3

(*) Breakdown by grounds for and place of apprehension will be collected for the first time in 2022 for reference year 2021.

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Table 1: Main EIL variables

Most EIL statistics are broken down by citizenship, age and sex of third-country nationals, except for data on third-country nationals refused entry at the external borders and voluntary data collections that are only broken down by citizenship.

Presentation of the classification and breakdown used in EIL statistics

Classification/Breakdown	
Age	Under 14 years-old From 14 to 17 years-old From 18 to 34 years-old 35 years-old or over Unknown
Sex	Female; Male; Unknown
Citizenship	Classification of citizenship based on the ISO-3166 including stateless and unknown nationality
Type of border	Land border Air border Sea border
Ground for refusal	No valid travel document(s) False/counterfeit/forged travel document No valid visa or residence permit False/counterfeit/forged visa or residence permit No appropriate documentation justifying the purpose and conditions of stay Already stayed for 90 days in the preceding 180-day period on the territory of the Member States of the EU No sufficient means of subsistence for the period and form of stay, or any means to return to the country of origin or transit Person for whom an alert has been issued for the purposes of refusing entry Person considered to be a threat to public policy, internal security, public health or the international relations of the Member States of the EU
Grounds for apprehension	Illegal entry Overstay Other reason (including unknown reason)
Place of apprehension	External border area <ul style="list-style-type: none"> o At border crossing point (Sea + Land + Air border) (e.g. upon exit) o Between border crossing points at Sea (e.g. upon entry or exit or unknown direction) o Between border crossing points at Land (e.g. upon entry or exit or unknown direction) Inland area
Type of return and assistance	Assisted voluntary returns Non-assisted voluntary returns Assisted forced returns
Country of destination (returns)	Another country from 'EU + EFTA zone' Third country <ul style="list-style-type: none"> o Country of citizenship o Transit country (only related to returns to third country) o Other third country Unknown
Type of return	Voluntary return Enforced return Other concluded return
Type of assistance received	Assisted return Non-assisted return Unknown
Type of agreement procedure	Returned under EU readmission agreements (EURA) Returned under other readmission agreement(s) Returned without existing a readmission agreement Unknown

The amended EU Regulation increases the available information for EIL statistics, notably by requiring:

- disaggregation by unaccompanied minors of returns;
- disaggregation by grounds of apprehension and by place of apprehension for data on third-country nationals found to be illegally present;
- disaggregation by type of return and assistance received and by country of destination for data on returns.

To ensure the comparability of Member States' data and the timely calculation of the required representative and reliable European aggregates, Eurostat has granted some Member States temporary derogations for their data submissions. Table 3 provides the list of the derogations granted in the field of EIL statistics. The indicated duration of the derogation corresponds to the expected time needed by Member States to provide data. Initial derogations could be extended if necessary up to a maximum of 3 years.

List and duration of the derogations related to new EIL statistics by Member States

Country	Derogation period	Scope of derogation (data items)
Belgium	1 year (2021)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Belgium	1 year (2021)	Transmission of the disaggregation by unaccompanied minors.
Czechia	3 years (2021-2023)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Czechia	3 years (2021-2023)	Transmission of the disaggregation by unaccompanied minors.
Czechia	3 years (2021-2023)	Transmission of the disaggregation by the assistance received
Spain	3 years (2021-2023)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Spain	3 years (2021-2023)	Transmission of the disaggregation by the type of return and assistance received and by the country of destination.
Spain	3 years (2021-2023)	Transmission of the disaggregation by unaccompanied minors.
France	3 years (2021-2023)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Cyprus	3 years (2021-2023)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Cyprus	3 years (2021-2023)	Transmission of the disaggregation by the type of return and assistance received and by the country of destination.
Cyprus	3 years (2021-2023)	Transmission of the disaggregation by unaccompanied minors.
Lithuania	1 year (2021)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Lithuania	1 year (2021)	Transmission of the disaggregation by the type of return and assistance received and by the country of destination.
Lithuania	1 year (2021)	Transmission of the disaggregation by unaccompanied minors.
Malta	3 years (2021-2023)	Transmission of the disaggregation by age and sex.
Netherlands	3 years (2021-2023)	Transmission of the disaggregation by the country of destination.
Netherlands	3 years (2021-2023)	Transmission of the disaggregation by unaccompanied minors.
Poland	3 years (2021-2023)	Transmission of the disaggregation by age and sex.
Portugal	1 year (2021)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Portugal	1 year (2021)	Transmission of the disaggregation by unaccompanied minors.
Romania	3 years (2021-2023)	Transmission of the disaggregation by grounds for apprehension.
Romania	3 years (2021-2023)	Transmission of the disaggregation by unaccompanied minors.
Slovakia	3 years (2021-2023)	Transmission of the disaggregation by age and sex.
Sweden	3 years (2021-2023)	Transmission of the disaggregation by grounds for apprehension and by place of apprehension.
Sweden	3 years (2021-2023)	Transmission of the disaggregation by age and sex.
Sweden	3 years (2021-2023)	Transmission of the disaggregation by the type of return and assistance received and by the country of destination.

Table 3: List and duration of the derogations related to new EIL statistics by Member States

Main concepts and definitions

This part presents the main definitions of the variables, categories and concepts that are used in EIL statistics.

Definition of main variables and categories:

Third-country nationals refused entry at the external border : people who are refused entry at the EU external border because they do not fulfil all the entry conditions laid down in Article 6(1) of the Schengen Borders Code and do not belong to any of the categories of people referred to in Article 6(5) of that Regulation³. The reported third-country national should have made a concrete attempt to enter the Member State territory, meaning that rejected visa applications are not recorded. If a third-country national applies for international protection after having been refused entry, this person will be recorded under the statistics on refused entry since this asylum application will be considered as another attempt to enter. A refusal at the internal border of a Member State where border checks have been temporarily reintroduced is not included in the statistics on refusal of entry since it does not take place at the external border. Each person is counted only once within the reference period, irrespective of the number of refusals issued to the same person.

Third-country nationals found to be illegally present :

Third-country nationals who are detected by Member States' authorities and have been determined to be illegally present under national immigration laws. This category relates to people who have been found to have entered illegally (for example by avoiding immigration controls or by using a fraudulent document) and those who may have entered legitimately but have subsequently remained on an illegal basis (for example by overstaying their permission to remain or by taking unauthorised employment). Only people who are apprehended or otherwise come to the attention of national immigration authorities are recorded in these statistics. These are not intended to be a measure of the total number of people who are present in the country on an unauthorised basis. Asylum applicants who have been rejected in final instance or withdrawn their application or who have applied for asylum after they were found to be illegally present are included in those statistics. Each person is counted only once within the reference period.

Grounds for apprehension

The three main grounds for apprehension (i.e. reasons for being found illegally present in an EU Member State) are:

- **Illegal entry** , which refers to illegal border crossing either by avoiding the border control or by successfully using a fraudulent document to cross the border.
- **Overstay** , which refers to illegal presence after expiry of the right to stay/travel/transit. This includes people who had a valid visa or residence permit, as well as applicants for international protection who had been allowed to stay for the sole purpose of the asylum procedure and whose application was rejected.
- **Other reason (including unknown reason)** , refers to third-country nationals found to be illegally present for whom there is no evidence of either illegal entry or overstay (i.e. cases that do not fit under the above categories). This also covers cases where the situation is unknown as it is assumed that these people are staying illegally.

If a third-country national had the right to stay and crossed the border illegally, they are classified under the most recent situation (illegal entry or overstay).

Place of apprehension

The place of apprehension (i.e. the area within the national territory in which the third-country national is apprehended) can be either an external border area or an inland border area. The external border area includes three categories: (i) border crossing points (sea, land or air border); (ii) external border area close to the sea; and (iii) external border area close to the land.

- The external border area is the area in the immediate proximity of the external border. The Border guard is the main authority performing the border control. The Border guard normally has a specified area of control

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0399&from=EN>

close to the border. In some countries, the Border guard can control the inland area. The result of the inland area control should be recorded in the 'inland area' category.

- The inland area is the area within the national territory not covered by the External Border Area (in practice, the national territory minus the External Border Area).

Third-country nationals ordered to leave :

This category includes third-country nationals found to be illegally present who are subject to an administrative or judicial decision or act stating that their stay is illegal and imposing an obligation to leave the territory of the Member State. These statistics do not include people who are transferred from one Member State to another under the mechanism established by the Dublin Regulation but are collected by Eurostat under Dublin statistics. Each person is counted only once within the reference period, irrespective of the number of notices issued to the same person.

Third-country nationals returned following an order to leave :

This category includes third-country nationals who have left the territory of the Member State after receiving an order to leave for either another EU+EFTA countries or a third country. Up to the reference year 2020, Eurostat data collection for this category was annual. From 2021 onwards (first data collection in 2022), it will become quarterly and will include a breakdown by type of return and assistance. The EIL statistics include forced returns and assisted voluntary returns. Unassisted voluntary returns are also included where these are reliably recorded. They do not include people who are transferred from one Member State to another under the mechanism established by the Dublin Regulation (see Dublin statistics). Each person is counted only once within the reference period. People who left the territory within a given reference period may have been obliged to leave in a previous reference period. The number of people who actually left the territory may therefore differ from the number that were obliged to leave in the same reference period.

Definitions:

This section provides definitions of the main concepts used for the reporting of EIL statistics.

A third-country national (TCN) : is someone who is not a citizen of the EU within the meaning of Article 17(1) of the Treaty. This includes someone who is stateless. For reporting EIL statistics, a third-country national is anyone who is not a citizen of an EU or an EFTA country, unless they have the right to free movement under EU law. This includes:

- citizens of third countries who are family members of EU citizens and exercising their right to free movement under Article 21 TFEU or Directive 2004/38/EC;
- citizens of third countries who are family members of citizens of EEA countries or Switzerland whose right to free movement is equivalent to that of EU citizens.

Citizenship : is the particular legal bond between an individual and their State acquired by birth or naturalisation, whether by declaration, choice, marriage or other means according to national legislation. If the person reported has multiple citizenships, the reporting country should choose the main one for statistical purposes (this decision is taken at national level). For EIL statistics, Eurostat uses ISO 3166 code list (using Alpha-2) for country codes in data collection, with minor adaptations. There have been a few changes to the list of citizenships since 2008:

- From 2011, the Republic of South Sudan ('SS') has been included in the list. The code for the country from which it has been separated remains unchanged: Sudan ('SD').
- From 2014, Croatia ('HR') has been excluded from the list.
- From February 2020, the United Kingdom (with the code 'UK') has been included in the list.

EU+EFTA Zone : refers to the territory covered by the countries in the 'Schengen area' and the 'EU Member States non-members of the Schengen area'.

- Schengen area refers to the following countries (as of June 2020): Austria, Belgium, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland. This list contains several EU Member States and EFTA countries (Iceland, Liechtenstein, Norway and Switzerland).

- EU Member States non-members of the Schengen area (as of June 2020): Bulgaria, Ireland, Croatia, Cyprus and Romania.

External borders : correspond to the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders. For non-Schengen countries, all borders with a foreign country (including internal EU borders) are external borders.

Internal borders : correspond to: (a) the common land borders, including river and lake borders, of the Member States; (b) the airports of the Member States for internal flights; and (c) sea, river and lake ports of the Member States for regular internal ferry connections. According to the Schengen Borders Code, internal borders do not change even when temporary border controls are reintroduced.

Overview on EIL statistics

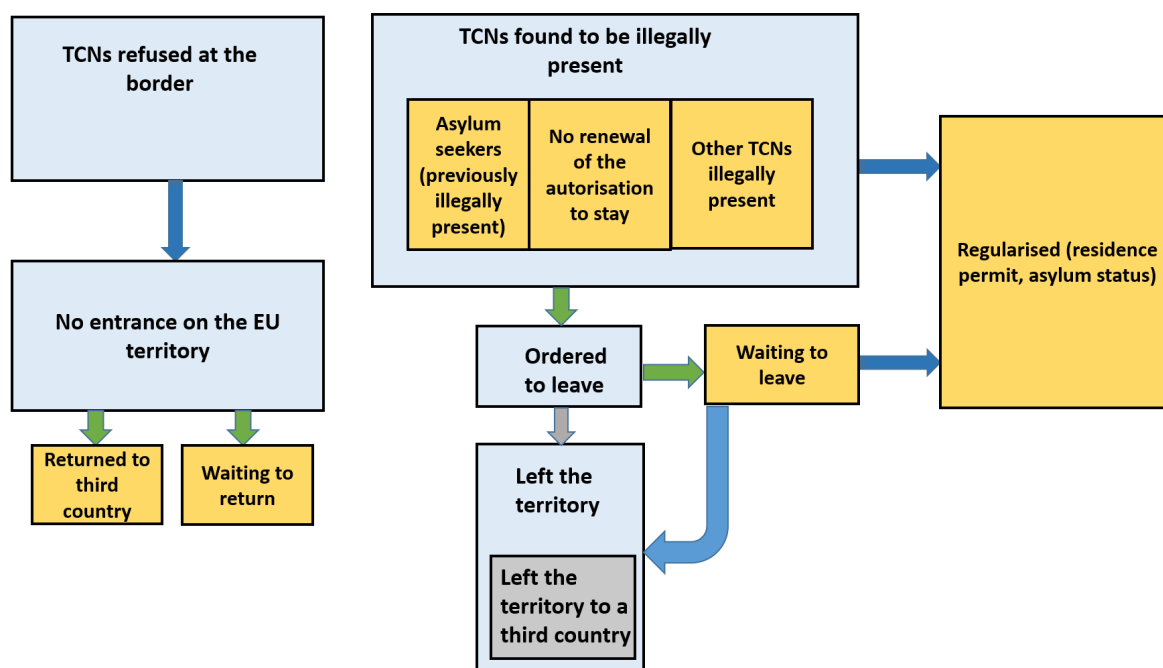


Figure 1: EIL statistics: a possible analytical framework

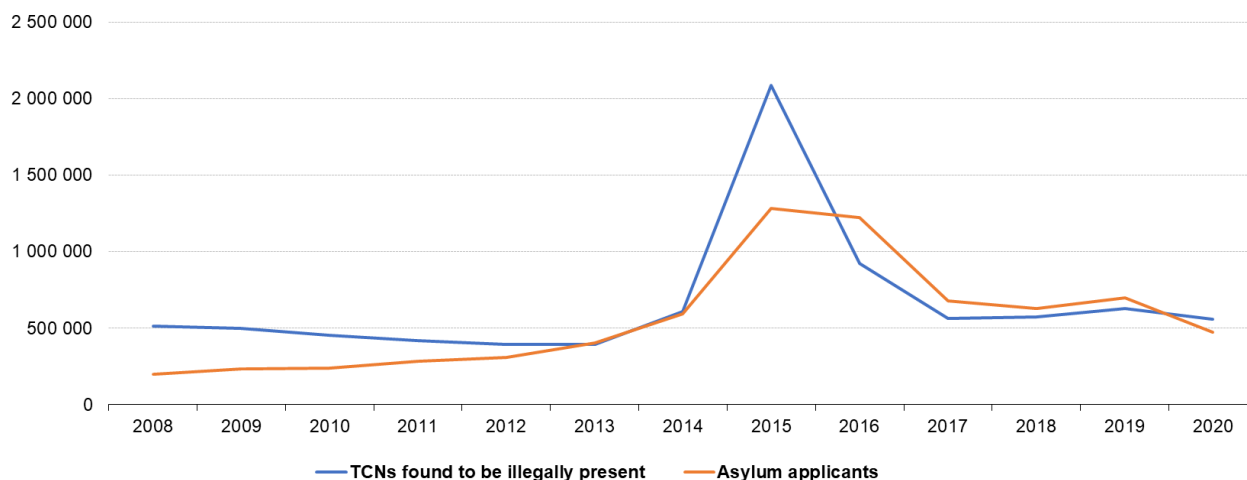
Figure 1 shows an analytical framework that can be used for the analysis and understanding of EIL statistics based on the links between the different populations covered by the various EIL variables collected by Eurostat.

Firstly, third-country nationals refused entry at the EU external border cannot be directly related to other populations of third-country nationals covered by EIL statistics. This population must therefore be analysed separately, even if a third-country national refused entry at the border can go on to enter the EU illegally and be found to be illegally present in a Member State.

The population of third-country nationals found to be illegally present in a Member State includes the two other sub-populations covered by EIL statistics: (i) the third-country nationals ordered to leave; and (ii) those returned following an order to leave. A third population includes third-country nationals returned from a sub-population of the third-country nationals ordered to leave. These three populations can therefore provide useful information on the management of unauthorised third-country nationals found on the territory of an EU Member State.

Of the third-country nationals found to be illegally present in a Member State, the situation of asylum seekers who entered illegally should be highlighted since it seems to be significantly correlated with the increase in the number of third-country nationals found to be illegally present in the EU. (This is shown in Figure 2 below.) Therefore, the analysis of the number of third-country nationals found to be illegally present should take the number of asylum applicants into consideration. In particular, an asylum seeker who entered illegally in the EU will only receive an order to leave if their application has been rejected.

Comparison between the number of Third-Country Nationals (TCNs) found to be illegally present and the number of asylum applicants in the EU



Source: Eurostat (online data codes: migr_asyappctza and migr_eipre)

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Figure 2: Comparison between the number of Third Country Nationals (TCNs) found to be illegally present and the number of asylum applicants in the EU

Lastly, the population of third-country nationals found to be illegally present does not provide an estimate of the population of third-country nationals who are in irregular situations (i.e. are irregular migrants).

Double counting at the EU level

Data on third-country nationals illegally present or ordered to leave are consolidated at Member State level, not EU level. This means that the same third-country national can be recorded as being illegally present or ordered to leave in several Member States during the same reference period. As a result, the EU total may be overestimated. In theory, this can also be the case for the total number of returns, but it is less likely that a third-country national would have left several Member States after an order to leave during the same reference period, particularly if we consider that third-country nationals subject to the Dublin procedure⁴ are excluded from EIL statistics.

What questions can or cannot be answered with available EIL statistics:

To illustrate how users can use EIL statistics, this section sets out a non-exhaustive list of questions that EIL statistics can and cannot answer.

At which external EU border have the most third-country nationals been refused entry to the EU?

Since the Schengen border code is used for compiling EU statistics, the number of third-country nationals refused entry reported by a Member State will provide an answer to this question.

What is the citizenship of third-country nationals refused entry at the border, found to be illegally present, ordered to leave or having left the EU after an order to leave?

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0604&from=en>

EIL statistics are broken down by citizenship, giving the user a detailed picture by citizenship of third-country nationals refused entry, found to be illegally present, ordered to leave or returned.

How many asylum seekers have illegally entered the EU?

Though it can be assumed that a significant proportion of asylum seekers entered the EU illegally, EIL statistics do not provide statistical information on that topic.

Are third-country nationals illegally present found close to the border area or inland?

As information on the place of apprehension has been collected since reference year 2021, users will be able to find the answer to this question.

What is the share of third-country nationals overstaying in a Member State in the total number of third-country nationals found to be illegally present?

As information on the grounds for apprehension has been collected since reference year 2021, users will be able to find the answer to this question.

What are the sex and age of third-country nationals found to be illegally present?

Users can find a breakdown of third-country nationals found to be illegally present by age and sex.

How many illegal migrants are present in each EU Member State?

EIL statistics provide the number of third-country nationals found to be illegally present in a Member State, but do not include those in an irregular situation or who have not been detected.

How many unaccompanied minors are ordered to leave EU Member States?

As specific EIL data on unaccompanied minors has been collected since reference year 2021, users will be able to find the answer to this question.

How many returned third-country nationals have received assistance?

As Member States provide a breakdown by type of return and by assistance given, users will be able to find the answer to this question.

How many third-country nationals have been forced to leave a Member State?

As Member States provide a breakdown by type of return and by assistance given, users will be able to find the answer to this question.

How many third-country nationals have voluntarily left a Member State?

As Member States provide a breakdown by type of return and by assistance given, users will be able to find the answer to this question.

Context

The enforcement of migration law covers two main issues: the control of the EU's external borders and the management of unauthorised stay of non-EU citizens found on the territory of an EU Member State. Coordination between EU Member States on border controls has increased significantly over the last decade. The most noteworthy developments are [Regulation \(EU\) No 2016/399](#) establishing a Code on the rules governing the movement of persons across borders (the Schengen Borders Code) and [Regulation \(EU\) No 2016/1624](#) on the European Border and Coast Guard, which also amended Regulation (EU) No 2016/399 and repealed Regulation (EC) No 2007/2004.

On the management of irregular migrant populations, the '[Return Directive](#)' (2008/115/EC) came into force at the end of 2010 establishing common standards for returning non-EU citizens illegally staying in the EU. The directive provides for clear, transparent, common and fair rules for return and removal, the use of coercive measures, detention and re-entry, while respecting the human rights and fundamental freedoms of the people concerned.

In addition, [Regulation \(EU\) No 1052/2013](#) established the [European border surveillance system \(EUROSUR\)](#). This provides 'a common framework for the exchange of information and for the cooperation between EU Member States and FRONTEX'. This system aims to improve situational awareness and to increase reaction capabilities at the EU's external borders in order to detect, prevent and combat illegal immigration and cross-border crime, while helping to ensure that migrants are protected lives are saved.

On measuring the enforcement of immigration legislation, progress so far in collecting harmonised data stems from [Regulation \(EC\) No 862/2007](#), in particular Articles 5 and 7. This regulation aims to support evidence-based decision making by requiring that EU Member States submit data on the number of non-EU citizens: (i) refused entry at the EU's external borders; (ii) apprehended for being illegally present in the EU; and (iii) removed from the EU as a result of their presence being unauthorised. Irregular migration remains a phenomenon difficult to quantify, especially during times when an effective and humane 'returns policy' is considered by many to be an essential part of migration policy.

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