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What relationship is there between irregular and regular migration? An exploratory study of EU residence permits, asylum applications, and orders to leave

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Executive summary

In policy circles and public debates in Europe, it has frequently been suggested that people have been applying for asylum in or migrating irregularly to European Union Member States due to a lack of other pathways for migration. It has also been claimed that opening more legal channels for migration can reduce the number of people applying for asylum or attempting irregular journeys. However, little empirical evidence has built up to support these suggestions and claims.

This report provides an initial exploration of a set of public data from EUROSTAT to empirically tease out some hypothesis of a 'categorical substitution' Migration scholarship has labelled 'categorical and geographical substitution' the process whereby individuals attempt to access, respectively, different legal channels within one state or move to an alternative state, in response to changes in existing migration opportunities. In particular, the paper examines categorical substitution between residence permits, asylum applications and irregular journeys in patterns of migration to the EU over the past decade.

Using such aggregated data, no single, general, over-arching pattern of categorical substitution could be observed across the EU. Furthermore, even in cases where *prima facie* it appears that there may be a process of categorical substitution, close attention needs to be paid to the specificities of the contexts in which it is happening. This means distinguishing between the diverse migration dynamics at play and accepting that categorical substitutions may not be directly observable in available macro-level data on residence permits, asylum applications or irregular immigration. As a result, further research is recommended to unpack the relationship between legal pathways and irregular migration in greater detail.

On the one hand, this is due to the varied and mixed character of contemporary migration. Migration flows between countries are often composed of a range of populations, moving for multiple reasons. There is not a direct zero-sum relationship between different forms of migration: decreases in one do not necessarily and automatically lead to increases in another. Furthermore, the reasons why some people apply for a residence permit, or undertake an irregular journey, or apply for asylum, are shaped not only by the legal channels available to them in countries of destination, but by a broader range of factors relating to their personal motivations and the contexts in countries of origin and transit.

On the other hand, the lack of conclusive evidence is also due to the limitations of the available data. Quantitative data on legal channels for migration can only inform us about respective trends within those channels, but it cannot reveal whether individuals counted within such flows would have used different ways to enter Europe under different circumstances. Even when examining migration between specific countries, the lack of a counterfactual to show what *would have* happened in another situation limits our capacity to know precisely to what extent categorical substitution has taken place.

The report reaches these conclusions by undertaking, firstly, a quantitative description of the main trends in several forms of migration at different levels of aggregation. However, this exercise highlights that aggregated statistics are less suitable than country-level ones to test for categorical substitution. This is for conceptual and empirical reasons. Conceptually, volumes of admission in the area of labour migration is the competence of Member States (as per Article 79(5) of the Treaty on the Functioning of the European Union (TFEU)). Similarly, albeit admission criteria can be harmonised at EU level, when implementing EU directives (for instance, regarding students and researchers, or seasonal workers), Member States still enjoy some discretion. Empirically, aggregating flows by regions makes it more difficult to understand not only whether categorical substitutions have occurred, but also their scale.

Secondly, the report examines data on bilateral migration flows between individual countries. Here, there is also little clear evidence of categorical substitution. For example, it is not possible to understand through the available data sources whether the people who decide to undertake an irregular journey are the same who would have sought a residence

permit, if offered with the opportunity to do so. By the same token, such data cannot shed light on whether the people who have lodged an asylum application wished but could not get a residence permit.

In order to establish causal links between opening of regular channels for migration and reductions in irregular migration, counterfactual analyses would be needed, based on different data sources and case studies, and coupled with well-crafted research designs. No disaggregation of official data – for instance based on demographics such as age or gender – can fill this gap. Large-scale, longitudinal, individual-level surveys could help unpack the different motivations and intentions of people aspiring to or about to undertake an international journey. However, even such surveys would not necessarily shed any light on the causal mechanisms – if any – connecting the opening of regular channels and irregular migration. That being said, previous quantitative analyses of migration determinants have provided consistent evidence that the drivers of labour migration and asylum are, to a substantial degree, different. In this respect, general claims of categorical substitution – at least when considering these two forms of migration – should always be met with caution (Migali et al. 2018, chapters 3, 4).

Thirdly, the report takes a closer look at the available evidence in individual case studies, specifically from Morocco, Nigeria, Albania, and Pakistan. These studies confirm the importance of carrying out analyses that are context-related. In fact, in each there is a complex range of different migration processes occurring over the same period and different intervening factors emerge that shape who migrates, where and when. In particular, the bilateral analyses point towards multiple migration processes:

- **A complex interplay is present between variations in numbers of work-related permits, asylum applications and irregular immigration.** In the cases of Morocco-Spain and Nigeria-Italy, reductions in work-related permits coincide with simultaneous growth in asylum applications; in the case of Albania-Germany, a sudden spike in asylum applications is followed by a bump in work-related permits; sharp decreases in work- and student-related residence permits is coupled with a rise in both asylum applications and irregular immigration in the case of Pakistan-UK.
- **There are different magnitudes of scale between categories of migration** within all case studies: the rise in asylum applications in the Spain-Morocco case is negligible when compared with the reduction in work-related residence permits; the case of Italy-Nigeria shows the exact opposite dynamic at play; the numbers of work-related permits of Albanians in Germany is just a fraction of the asylum applications lodged over the previous years; in the case of Pakistan-UK, reductions in work-related and education-related residence permits are substantially higher than asylum applications and OTLs. In other words, if categorical substitutions are occurring at all, data shows that it is **not necessarily the case** that they occur in a **zero-sum game**.
- **Bilateral trends do not occur in isolation from the broader EU28 context:** the existence of an internal borderless area may facilitate the opportunity of **geographical substitution** in parallel or as an alternative to categorical substitutions. Data and secondary literature suggest that the decline in residence permits for Moroccan people in Spain is coupled with an increase of Moroccan migration to the United States and other southern and central European countries. Similarly, a decrease of work-related permits for Albanians in Italy and Greece takes place together with a growth in asylum applications in Germany and France.
- **Controlling for intervening factors** – primarily, policy frameworks and changes, as well as geopolitical events in countries of destination and transit – is key to verify whether indications of categorical substitutions are genuine. Most Moroccan citizens making an irregular journey to Spain are rapidly returned to Morocco rather than placing an asylum application. The rising number of Nigerian citizens applying for asylum in Italy from 2014 should be understood at least in part as a response to

the increasing instability and insecurity in Libya as that country returned to civil war. The rise in applications of Albanian citizens in Germany may be due to a window of opportunity connected to broader geopolitical shifts rather than a categorical substitution with labour migration in Germany.

1 Introduction

The idea that opening (or closing) regular pathways to migrate to a country may reduce (or increase) asylum applications or irregular immigration has become popular in policy circles and public debates, especially since the so-called 2015 migrants and refugee crisis

In recent years, in both political circles and public debates, it has often been either suggested or assumed that migrants have increasingly made a decision to irregularly cross EU external borders and/or to apply for asylum as a way of entering Europe rather than obtaining a visa or a residence permit prior to making the journey. The argument has been indistinctly used, on one hand, by those claiming that this behaviour amounted to a deliberate abuse of Europe's asylum system and, on the other hand, by those holding that it was the inevitable consequence of restricting or closing other legal channels¹ for regular migration.² Neither perspective is particularly new, as debates on 'bogus asylum seekers' and lack of legal admissions have marked debates about EU migration policy since its inception (inter alia, see Hathaway 1993; Anker, Fitzpatrick, and Shacknove 1998; Neumayer 2005). In parallel, the provision of 'legal pathways' has been repeatedly proposed as an instrument for reducing irregular migration and to 'manage migration better' (Juncker 2015). In this vein, the European Commission has recently proposed to start small-scale 'pilot projects on legal migration' with the intention that this 'will help reduce irregular migration' (European Commission 2018)³. Several think tanks and research institutes have recently published papers advocating for and exploring the idea of increased legal migration pathways to reduce irregular migration (Advisory Committee on Migration Affairs (Adviescommissie voor Vreemdelingenzaken – ACVZ) 2019; Triandafyllidou, Bartolini, and Guidi 2019; Barslund, Di Salvo, and Ludolph 2019; Mortera-Martinez and Oppenheim 2018; Cooper 2019).

Underpinning both the assumptions and proposals described above is the concept of what researchers have called 'categorical substitution' (de Haas 2011; Czaika and De Haas 2013). This is defined as the process whereby people change the form of their migration, such as by attempting to access different legal statuses or move to different places, in response to changes in existing migration opportunities. More precisely, it has been argued that there are four types of 'substitution effects' in terms of chosen destination (*spatial*), legal nature of channels used (*categorical*), time chosen to migrate (*inter-temporal*), and decisions on return (*reverse flow*) (for an overview, see Grubanov-Boskovic et al. 2018). For what concerns 'categorical substitution', this is related to 'a reorientation towards other legal or illegal channels when entry through one particular channel becomes more difficult' (de Haas 2011, 27).

This report searches for and assesses the available empirical evidence of two forms of categorical substitution in migration to the EU over the past decade: between, on the one hand, legal channels as measured by first-time residence permits (with a specific focus on work-related permits) and, on the other hand, asylum applications and irregular migration.

First-time residence permits have been selected as they provide a comprehensive dataset of migration flows by country of origin and destination. They include long-term visas when, according to the national legislation or practices, these may substitute residence permits.

¹ The term 'channels' here is understood as the legal status of an individual that shapes the ways in which they can move to another country. These may be broadly summarised as legal channels (e.g. with a residence permit for employment, family, education or other purposes) or illegal or irregular channels (e.g. without documents, with expired or false documents, and so on). Differences between legal channels and associated residence permits are mentioned later in the report.

² For a discussion of these positions Crawley et al. (2018).

³ In policy circles similar arguments are made to justify provide safe passage to people seeking international protection through resettlement. This report does not look at those dynamics.

Visitor visas (short-term visas) are not analysed as within the available dataset it is not possible to identify the nationality of the applicant and the country of destination.⁴

Asylum applications and irregular migration have been selected as they have often been associated with one another in political discourses. The establishment of new legal channels for migration has also been proposed as one of the tools to be used by the EU to tackle the migration and refugee crisis.⁵ In addition, scholarship on categorical substitution has suggested possible 'reorientation' of people from labour migration to asylum (de Haas 2011, 27). It should be noted, however, that asylum applications are not equated here with irregular entry or stay. Although some people who seek asylum in the EU cross a Member State's border irregularly, not all do. Moreover, people who are seeking asylum have access to rights regarding lawful stay on the territory, as specified by EU law, *inter alia* the Asylum Reception, Qualification, and Procedure Directives, as well as the relevant jurisprudence (Peers 2016, chapter 5).

The report is structured as follows. Chapter 2 discusses briefly why examining substitution effects from an empirical perspective presents several critical challenges, in particular for the EU. The section makes explicit a series of simplifying assumptions that are often behind the categorical substitution hypothesis and should be taken into consideration as caveats that apply to the proposed analysis. Chapter 2 also describes the research design, outlines the addressed research questions, and explains the criteria that guided the selection of the dataset employed. Chapter 3 illustrates the analysis carried out on the relationship between data on first-time residence permits, first-time asylum applications and orders to leave. The EU is treated as a single pole of destination and data are aggregated. The study looks at two levels of origin: by continent and by single country. Chapter 4 provides a deeper insight into cases where signs of possible substitution emerged from the data-driven overview. Four sub-chapters analyse individual country pairs – Morocco-Spain, Nigeria-Italy, Albania-Germany, Pakistan-UK – as a way to underline the relevance of the scale of changes in flows, as well as of context-related intervening factors. These sections expand the scope of the sources beyond statistical data, to include documentary sources and secondary literature.

⁴ Visa statistics for consulates available at the following link, https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en. It is not possible to identify the nationality of applicants and destinations, as applicants can apply in countries different from their country of nationality, and the consulate that receives the application can correspond to the country that is not the final destination.

⁵ The 2015 European Agenda on Migration reads: 'a clear and well implemented framework for legal pathways to entrance in the EU (both through an efficient asylum and visa system) will reduce push factors towards irregular stay and entry, contributing to enhance security of European borders as well as safety of migratory flows' (European Commission 2015).

2 Research design and methodology

2.1 Empirical evidence of categorical substitution

Empirical evidence of categorical substitution is limited by conceptual and empirical challenges

Despite the increasing attention paid to categorical substitution theory, empirical evidence of substitution effects between legal channels for migration and people applying for asylum or undertaking irregular migration has been lacking.⁶ In particular, there is to date no comprehensive analysis of possible substitution effects between migration channels for the whole EU.

The reasons for this knowledge gap are manifold. From a data perspective, measuring irregular immigration is challenging (Vespe, Natale, and Pappalardo 2017). In EU legislation and policy documents, irregular migration refers to a form of mobility (irregular entry) and a residence status (irregular stay). However, there is no single clear measurement of either, and all potential proxies present some shortcomings, such as data on apprehensions, orders to leave (OTLs), people refused entry at borders, and illegal border crossing. The available data is also problematic in terms of its reliability, validity and availability across years.⁷

To illustrate some of the conceptual challenges of an empirical analysis of categorical substitutions, we rely on one of the few papers explicitly examining substitution effects, which has focused on the US-Mexico corridor (Clemens and Gough 2018). The authors examined historical patterns of regular and irregular migration between Mexico and the United States through an analysis of US visas granted to Mexican nationals (a proxy for regular migration) and apprehensions of Mexican nationals at the border (a proxy for irregular migration). They found that regular channels for migration suppressed irregular migration to the US, but only when combined with robust enforcement efforts and sufficient incentives for actors involved in irregular migration to comply. Particularly after the year 2000, apprehensions steeply decreased while visas had been steadily picking up since the mid-1990s. However, Clemens and Gough's analysis raises important challenges for empirical analysis and for policy responses.

First, there are diverse magnitudes of scale between regular and irregular migration. In the US case, increases in visas were measured in the hundreds of thousands, whereas apprehensions were in the millions. This points to the crucial issue that categorical substitution does not necessarily imply substitution of the same magnitude. Another aspect which is not tackled in Clemens and Gough's paper but crucial for policy purposes regards whether the people who decide to undertake an irregular journey are *the same people* who would otherwise have sought to obtain a residence permit? And under what conditions a replacement of one form of migration with another occurs?

Second, there are intervening factors that may condition the extent to which substitution effects do (or do not) take place. In the US case, Clemens and Gough argue that relaxing the visa regime and increasing the number of visas have an impact on irregular migration mostly when implemented alongside increasing border enforcement. Other case studies suggest that the impact of regular channels on irregular migration is also influenced by their timing, scale and communication to potential migrants in countries of origin (for an overview, see Grubanov-Boskovic et al. 2018). Besides this, there is a broad range of contextual variables that may influence the scale of asylum applications or irregular migration. These include visa-exempt channels for entering countries and visa availability for certain nationalities; migration regulations and their degree of enforcement in countries of origin, transit or destination, bilateral arrangements between countries as well as contextual and historical circumstances affecting how, when, where and why people decide

⁶ This is explicitly acknowledged also by the proponents of the theory (see Czaika and De Haas 2013, 505). For a broad overview of the literature, see (Grubanov-Boskovic et al. 2018).

⁷ For a lengthier discussion concerning statistics purportedly related to irregular immigration, see the Annex.

to migrate. What is important here is that intervening factors shape the extent to which categorical substitution can occur and be recorded. Talking about intervening factors is also useful as it draws attention to the varied policy initiatives which would need to be brought together to shape whether categorical substitutions do or do not take place.

Empirical examination of potential categorical substitution across the EU relies on a series of simplifications

To identify patterns across EU Member States, we had to make a series of simplifying assumptions. The first is that we do not analyse categorical substitution based on individual-level data, but on aggregate statistics on residence permits, asylum, and enforcement of EU legislation. These official statistics enable us to observe changes and convergent or divergent patterns in migration categories, but in so doing we lose the possibility of zooming in to the individual level of the people composing these statistics. Thus, what we observe when looking at trends in these statistics are not categorical substitutions in people's intentions, but instead changes in what we record and report in terms of data on migration. While these two – intentions and categories in administrative records – may coincide, that is not necessarily the case.

Second, it is assumed that would-be migrants make rational decisions based on substantial knowledge of the policy frameworks of the countries of desired destination. In reality, the literature has provided mixed evidence for this (McKenzie, Gibson, and Stillman 2013; Farré and Fasani 2013; Gilbert and Koser 2006). Furthermore, migration is not necessarily the result of a single choice of moving from the origin to the destination, but may be a decision process encompassing several choices, reflecting changing motivations and opportunities (Van Hear, Bakewell, and Long 2017), as well as the result of unforeseen events and circumstances (Wissink, Düvell, and Mazzucato 2017).

Third, the alternatives migrants are supposed to be facing in the two cases of categorical substitutions are always assumed to be binary: either to migrate for work-related purposes or to apply for asylum once they cross the borders, and to migrate either regularly or irregularly. While these categorical comparisons are created for analytical purposes, it is increasingly clear that people do not think and act exclusively on such binary options (Crawley and Hagan-Zanker 2018), which ultimately reflect administrative ways to regulate human mobility. More broadly, such binary options, while useful for analytical purposes, may fail to adequately portray the complexity of migration for individuals. Migrants may move several times to different locations, change status in the meantime, return home, and possibly migrate again.

Fourth, the analysis assumes that people lodging an asylum application or migrating irregularly would have applied for a residence permit, if regular/legal channels had been available. This is a simplification of the variety of types of migrants and perspective migrants, who are moved by different types of drivers. With the exception of a similarly important role played by networks in destination countries, the determinants for immigrants not seeking international protection tend to be comparatively different (for instance, see Peri and Ortega 2009; Hooghe et al. 2008; Migali et al. 2018). Moreover, the academic literature has time and again demonstrated that the main drivers for asylum and refugee flows are connected to circumstances in the countries of origin, such as conflicts, civil liberties, and quality of democracy (for instance, see Hatton 2009; Neumayer 2005).

2.2 Research questions and design

A multi-level approach is required to examine trends across all EU Member States, including a focus on specific countries

This report is an exploratory empirical analysis of hypotheses related to categorical substitution applied to some forms of regular and irregular immigration in the EU. More

precisely, this paper looks at the relationships between residence permits (with a focus on work-related residence permits), asylum applications, and irregular immigration. The paper does not seek to establish any causal link between the increase (reduction) in legal pathways and a reduction (increase) of irregular immigration. Besides the high bar of causality, also establishing clear associations between changes in trends is problematic. Indeed, one of the conclusions of this analysis is that we currently lack the data at EU28 level to clarify the relationship between all migration categories considered in this report – work-related residence permits, asylum, and irregular immigration.

The guiding research questions are the following:

- What evidence is there of categorical substitution between different channels of immigration?
- Which is the geography of interest – i.e. regional, national – to be considered to investigate the categorical substitution hypothesis, and why?
- How suitable is the available data across the EU?

To investigate these questions, the study adopts a multilevel approach: it first presents a descriptive quantitative analysis of the relationships between different migration categories, namely work-related residence permits, asylum, and orders to leave, considering the EU a single destination entity and looking at countries of origin within their regional contexts. Second, the study investigates through a series of case studies possible cases of categorical substitutions between individual EU Member States and origin countries (country pairs).

Following the quantitative analysis across all Member States, we focus in more detail on four case studies of bilateral migration corridors, specifically: migration from Morocco-Spain, Nigeria-Italy, Albania-Germany, and Pakistan-UK. The selection criteria for the case studies were:

- *Data-driven observations on types of substitution.* In the Italy-Nigeria case, asylum applications have constantly outnumbered work-related residence permits. In the Spain-Morocco case, the opposite is true. For Germany-Albania, asylum and work-related permits both increase throughout the period. OTLs issued to Pakistani citizens in the UK rose steadily after permits for occupation started to decline, but the former always outnumbered the latter.
- *Bilateral migratory relationships between the considered countries:*⁸ migration links are strong and long-standing between Spain and Morocco, and between the UK and Pakistan; strong but relatively recent link between Nigeria and Italy; and relatively recent and relatively weak between Germany and Albania.
- *Relevant policy changes.* This is based on DEMIG database (de Haas, Natter, and Vezzoli 2015), where all migration-related policies are taken together (in other words, no differentiation is made between policy areas), for the period 2008-2014 (Figure 14 in the Annex). Germany became substantially more liberal, Spain liberalised and then restricted its policies, the UK substantially restricted its policies, and Italy first restricted and then liberalised its policies.

Both the descriptive quantitative analysis and the case studies present limitations, which are outlined in the respective sections. However, when combined, they provide a first overview of potential categorical substitutions in migration to EU Member States.

⁸ For a lengthier discussion of how historical patterns play a role in shaping categorical substitutions see Grubanov-Boskovic et al. (2018).

2.3 Data

Few datasets are available on different forms of migration across all EU Member States, and they each have caveats and limitations to keep in mind.

To answer the abovementioned questions, the quantitative analyses consider the trends for the period 2008-2018 of:⁹

- First legal permits issued for family, education, and employment reasons, with a focus on the latter category.¹⁰
- First time asylum applications.
- Third country nationals ordered to leave (OTL).

We expand more on the selection of these variables, as well as the limits in the data, in the Annex.

We created a dataset containing all the above-mentioned variables,¹¹ across the 28 EU Member States, for 175 countries of origin, and 4 900 possible country pairs. Residence permits, asylum applications, and OTLs are grouped by citizenship of the applicant or of the holder, aggregated according to UNDESA classification of regions and sub-regions of the world (United Nations, Department of Economic and Social Affairs (UNDESA), Population Division 2017a).¹²

With the available data on residence permits, it is not possible to speculate on individuals' intentions to migrate, available migration channels or opportunities for migration in Member States, and the number of people who actually migrate. We adopt the number of first-time residence permits issued as a proxy for opportunities for migration and for individuals' intentions. This simplification is necessary because, unfortunately, thorough data sources to measure intentions and availability/openness of migration opportunities separately are simply not available. While there are large scale surveys of people's aspirations and intentions to migrate (Migali and Scipioni 2018), only some of them inquire about the destination, rarely ask in what form people would migrate (as a student, or a family migrant), none follows the same people over time, and crucially none of them follow up on these questions on aspirations and intentions to check whether international migration has actually taken place (let alone in the form originally envisaged). On migration channels, while several indexes have been produced in recent years to measure policy openness, there is a great variety of analytical frameworks and measuring methodologies, the time availability is limited and policy differences by country of origin are often overlooked (e.g. within bilateral agreements) (Scipioni and Urso 2018).

Within data on residence permits, we focus on work-related permits since they are more subject to policy action, compared to a more rights-based admission such as family reunification (European Commission 1999, 3–6) and a more EU-regulated one such as students (European Union 2016). In addition, the legal competence for volumes of admission of migrants for economic reasons lay with the Member States, which are thus unconstrained by EU rules in setting their national issuance of work-related residence permits.¹³ In short, if the objective is to measure whether changes in one admission channel may affect other migration categories (be it asylum or irregular immigration),

⁹ Data for residence permits are available only until 2017. The numbers asylum applications and OTLs in 2018 are included in the dataset as they are used to calculate lagged correlations even if, at the time of writing (March/April 2019), data for residence permits in 2018 are not yet public.

¹⁰ These statistics are taken in the aggregate, meaning they include legal permits issued for all reasons and durations within these three categories. Therefore, we do not distinguish further into short (3-5 months) or long residence permits (12 months or longer), and do not account sub-reasons, for instance, for the fact that work-related residence permits may be granted for seasonal work, or for highly-skilled employment.

¹¹ The full list of datasets processed for these papers is available in the Annex.

¹² We add as a sub region 'North America', as in the UNDESA dataset this was missing. Some regions or sub regions consisted in handful of states, so we merged them in a broader categorisation.

¹³ As per Article 79(5) of the Treaty of Functioning of the European Union.

measuring such regular pathways with work-related residence permits may be a suitable proxy.

Trends in work-related residence permits are systematically compared with data for asylum and OTLs. OTLs, while far from being an ideal variable related to irregular immigration, it is a valid candidate from a measurement standpoint (Toshkov 2016, 117–19; Kellstedt and Whitten 2013, 98–103). This is mainly because, contrary to other variables, in the case of OTLs at least we know that we are meeting a crucial validity requirement, namely measuring irregular immigration (for more on this, see Section 7.1 in the Annex).

3 Quantitative description of labour migration, asylum, and irregular migration trends

Inverted relations in the trend lines of first permits on the one hand and asylum applications and OTLs on the other hand, as well as negative correlations between them are taken as signs of categorical substitution

The sections below analyse the relationships between, on the one hand, the first-time residence permits – firstly as the sum of all permits for family, education, and work, and secondly exclusively for work – and, on the other hand, first-time asylum applications and OTLs in all of the EU-28 in the period 2008-2018. We consider the EU as a single pole of destination, aggregating permits issued, applications lodged, and OTLs in different EU countries, and look at two levels of origin, i.e. at the regional (by continent) and country level. We carry out a descriptive analysis, looking at the trend lines of residence permits, asylum applications, and OTLs, and looking for signs of an inverted relation. In other words, we would expect to see either

- *the trendline for residence permits pointing downwards and the line of asylum applications/OTLs upwards in the case of a restriction in labour migration resulting in increases in asylum applications/OTLs, or*
- *a growth in labour migration (work-related residence permits going up) coupled with a decrease in asylum applications/OTLs.*

In addition, we look at the relationship between labour migration and asylum/OTLs more systematically through correlation coefficients. We would expect to find negative correlations as a sign of categorical substitution between residence permits and asylum applications/OTLs (i.e. when one increases the other decreases and vice versa). We correlate permits and asylum applications/OTLs in the same year and with a one-year lag, to account for the duration of asylum procedures or issuance of an order to leave, and the potential time that any effect of a reduction in legal residence permits would need in order to materialise in the number of asylum applications/OTLs.

Correlations are useful as an exploratory tool to understand whether there is a relationship between two sources of data (i.e. changes in one are accompanied by changes in another). The added value of including correlation coefficients is that they provide a systematic measurement of whether, on average, trends 'move together relative to their respective means' (Imai 2017, 103–4). However, they are subject of several assumptions and limitations. They do not provide information on the relation between the absolute number of permits or asylum applications, and hence if potential substitution is of the same scale¹⁴. They rest on the assumption that the relationship between variables is linear (for introductory references, see Agresti 2018, 271–90). They are bivariate, and thus do not consider the substantial impact that intervening factors may have on these relationships – e.g. variation in enforcement practices, or changes in the economies of countries of origin and/or destination. Given these limitations, correlations should be interpreted as a starting point for further investigation and consideration, rather than as a clear indication of substitution effects nor as a way to test causal effects such as changes in labour migration determining changes in asylum flows.

¹⁴ Because it is based on z-scores, correlation is not sensitive to different units of measurement being used.

3.1 Comparing trends at regional level

Analysis at regional level is inconclusive due to issues of competence on migration policy, and to the fact that the aggregation overlooks the scale of migration flows at sub-regional level.

In this section, we look at the trends and correlations between residence permits, on the one hand, and asylum applications and OTLs, on the other, at the regional level. There are two main insights from this section.

First, as there have been few empirical studies so far of categorical substitution, it is unclear what the unit of analysis should be, for instance regional, sub-regional, or country level. On a conceptual level, in the case of the EU, migration is a shared competence (Art. 4, TFEU), whereas the competence for policy determining volumes of admission for economic purposes lay exclusively with the Member States (Art. 79(5), TFEU). Focusing on the EU as a whole may overlook significant national differences. In addition, the analysis below shows that aggregating statistics at the regional level makes it harder to appreciate whether categorical substitution occurs at all, and if it does, what is the extent/scale of such purported substitution.

And this takes us to the second point, which is related to issues of scale. Aggregating data at the regional level makes it difficult to capture the extent to which categorical substitutions may have occurred, as the respective contributions of different bilateral trends are averaged out. Further, misleading conclusions may also be drawn, as lumping together in the same region of origin increasingly important source countries of asylum seekers and countries with large but diminishing labour emigration may induce the reader to hastily conclude that a substitution is indeed occurring at the regional level, while two qualitatively different phenomena are occurring.¹⁵

Figure 1 shows, in the two upper panels, the number of first residence permits for reasons of study, family, and work, and of first-time asylum applications by region.¹⁶ In the bottom two panels, the same residence permits this time coupled with OTLs issued by Member States are displayed.

In the case of Africa, it is possible to see a decreasing trend of *residence permits* between 2010 and 2012, followed by a stabilisation up to 2016 and a slight increase afterwards. As for *asylum applications* lodged by citizens of the same continent, the chart shows a sharp increase between 2012 and 2016, followed by a decrease. *Work permits* decreased markedly from 136 670 of the peak year in 2010 to slightly less than 42 000 in 2017. Focusing on work-related permits is helpful as it illustrates the different scales of the two flows, with the peak for asylum in 2016 being nearly 80% greater than the peak for work-related permits in 2010. While these patterns seem to point at an inverted relationship, the correlation between asylum and residence permits (both for the total¹⁷ permits issued and only focusing on work-related permits) is positive and very low (respectively, Pearson's correlation¹⁸ of 0.14 and 0.05).¹⁹

In the meantime, *OTLs*²⁰ fluctuated between a peak of 194 000 in 2008 to a low of 146 000 in 2015, and overall seemed to decline between 2008 and 2016, closely following

¹⁵ All these remarks are equally true also of sub-regional aggregations. We have conducted the same analysis of for that level but have decided not to show them here for reasons of space. They remain available upon request from the authors.

¹⁶ We excluded regions where the number of asylum flows were negligible, namely Northern America and Oceania.

¹⁷ By total we mean the sum of all residence permits for family, education and work related purposes.

¹⁸ All subsequent correlations are Pearson's product-moment correlation, and carried out for all country-pairs between EU and Africa.

¹⁹ These correlations barely change even when we lag asylum flows by 1 year, to account for the likely delay in changes between one admission channels to the other.

²⁰ Apprehended closely trailed OTLs until 2013, but then bumped from 140 thousand to 213 thousand and 243 thousand over the following two years. A substantial portion of this approximately 52% year-on-year rise is down to two countries with relatively high recognition rates (above 58%), namely Eritrea and Somalia. This

trends for residence permits. Such similarity transpires in the correlations²¹ between residence permits and OTLs, both as total²² permits (Pearson's correlation of 0.81) and work-related alone (0.55).

In Asia, in the period 2010 and 2012, the number of *residence permits* decreased, while the number of *asylum applications* increased. While the upward trend continued for asylum applications up to 2016 – more sharply, and mainly due to the Syrian crisis –, the downward trend for residence permits stopped in 2012, when their numbers started to increase again up to present day. If we single out the *work-related residence permits*, after a peak in 2010 (249 700 work-related permits issued), the lowest point was reached in 2015 (145 320 permits), matched by a rising trend in asylum applications. The correlations for both all the residence permits taken together and occupational ones alone are positive and very low (respectively, 0.13 and 0.01)²³.

*OTLs*²⁴ in this period tended to remain stable, from about 210 000 in 2008 to 199 000 in 2017. Unlike the previous case, here the trend for OTLs seems more disconnected from the issuance of residence permits, and indeed correlations between these variables are moderate.²⁵

Looking at the flows coming from other, non-EU European countries, the number of *residence permits* seems to describe a fluctuating pattern until the early 2010s, and then massively increasing²⁶ afterwards. In particular, work-related permits almost exactly mirror the figures for total²⁷ permits. In this period, the number of *asylum applications* has registered limited changes and overall has slightly increased. The chart shows the inverted trend only for selected time windows, and overall correlations are positive and very low.²⁸

Issuance of *OTLs* towards non-EU European countries tended first to decrease between 2008 and 2011, and then picked up again afterwards. This trend partly follows the ones of residence permits, and this is reflected in moderate correlations between them and OTLs.²⁹

In the case of Latin American and Caribbean countries, *residence permits* have generally decreased until 2016, and then reverted that trend. Such decrease is even steeper if only occupational permits are considered (again, until 2016). Conversely, *asylum applications* have been stable up to 2015, and registered an increase afterwards, to such an extent that now asylum flows are on a par with labour migration from that region. This may suggest an inverted relationship, yet correlations are positive, and again very low (respectively, 0.17 and 0.05).

As in previous cases, *OTLs* have closely trailed the downward trend of residence permits both in the aggregate and exclusively for work-related purposes, and this is reflected in relatively high correlations, namely 0.68 between the aggregate of residence permits and OTLs, and 0.73 between work-related permits and OTLs.

This overview of the patterns at regional level, while informative, only provides a description of the main trends in residence permits and asylum from different regions in

underlines how problematic statistics on apprehensions can be if they are interpreted as proxy of irregular immigration, as shown in Figure 16 in the Annex.

²¹ Again, lagged correlations (one year) do not change much.

²² By total we mean the sum of all residence permits for family, education and work related purposes.

²³ Again, lagged correlations (one year) do not change much.

²⁴ The same point related to validity of the apprehended statistics to measure irregular immigration made for Africa (see footnote 20) holds also for Asia. Indeed, much of the increase in 2015 (from about 293 thousand to approximately 1.7 million), is primarily down to Syrians, who went from 118 thousand in the previous year to 859 thousand.

²⁵ More precisely, correlation between the aggregate of residence permits and OTLs is 0.30, whereas correlations between work-related permits and OTLs stands at 0.25.

²⁶ This bump is mainly due to flows of Ukrainians to Poland.

²⁷ By total we mean the sum of all residence permits for family, education and work related purposes.

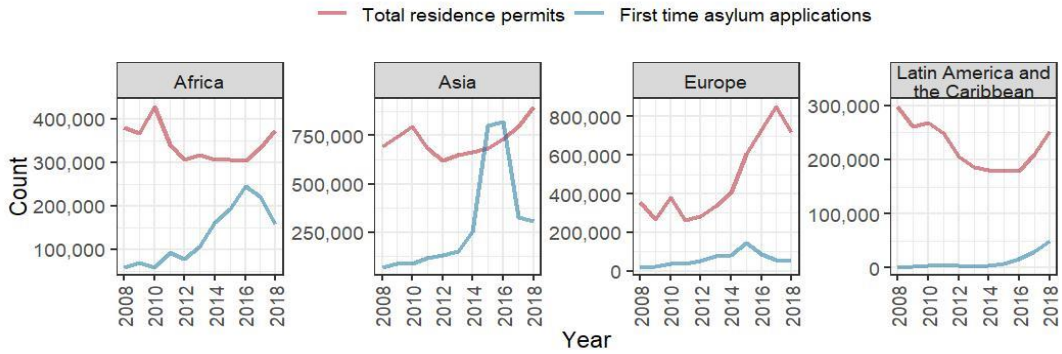
²⁸ Correlations between the aggregate of residence permits and asylum is 0.04, whereas correlation between work-related permits and asylum is 0.02.

²⁹ Correlations between the aggregate of residence permits and OTLs is 0.31, whereas correlation between work-related permits and OTLs is 0.27.

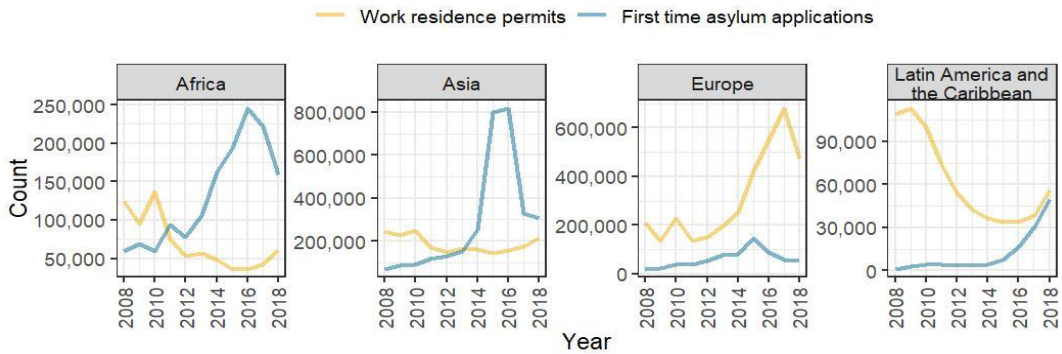
the world. Categorical substitution, if any, would have occurred at bilateral level, where legal competences lay for policy changes potentially affecting the timing, volumes, and composition.

Figure 1. Residence permits for work, study, and family (red), first time asylum applicants (blue), and OTLs (blue)

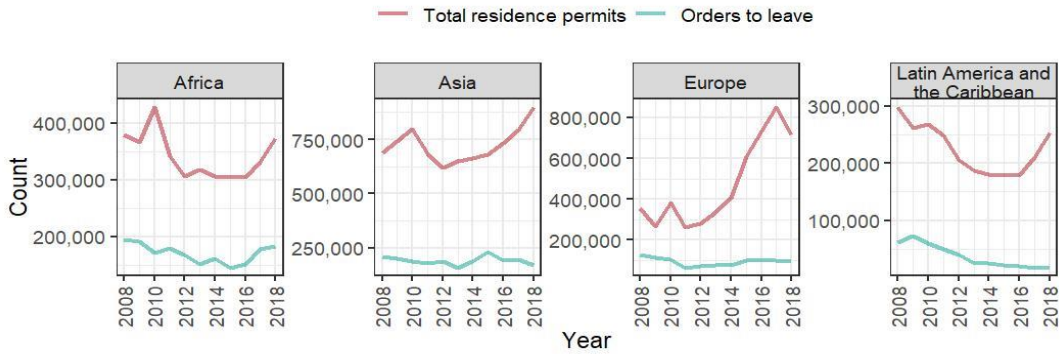
EU-World: Residence permits and asylum



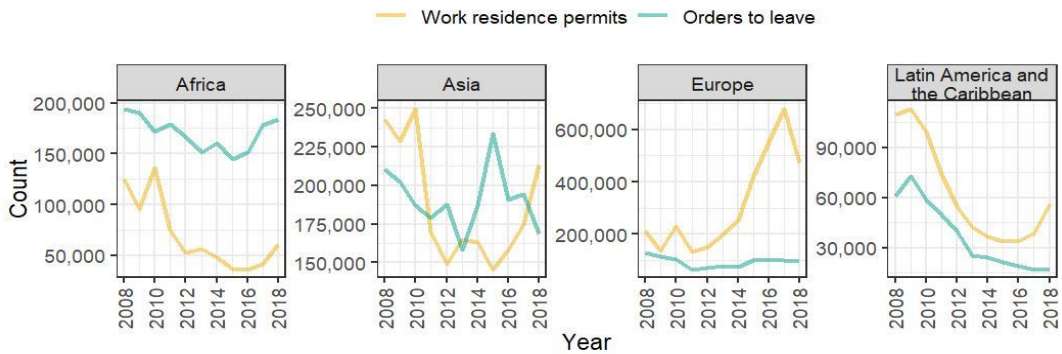
EU-World: Work residence permits and asylum



EU-World: Residence permits and OTLs



EU-World: Work residence permits and OTLs



Source: Eurostat

4 Country pair case studies

To gain insight about the cases where signs of categorical substitution emerge, we need to go more in depth into an analysis of bilateral relationships between countries of origin and destination. Case studies on individual country pairs offer the possibility to describe in more detail apparent signs of categorical substitution, while tackling issues such as the scale of changes in flows, as well as scrutinise more closely context-related intervening factors that may influence bilateral flows. They also provide insights into the possibility of other forms of substitution taking place, such as people deciding to change route or destination. However, in this report we just look at one possible form of 'substitution effects', namely categorical substitutions. To examine other forms of substitutions, such as 'spatial' or 'inter-temporal substitutions', other methodologies and research design strategies would be needed³⁰. Methodologically, these case studies enlarge the scope of sources being investigated, to not only other statistical data, but also documentary sources and secondary literature. The reader should bear in mind that, while these case studies are intended to deepen our understanding of categorical substitution, they do not aim at establishing any causal links between the opening of regular channels and the effect on irregular migration.

4.1 Morocco-Spain

Over the past three decades, the number of people from Morocco who reside in other countries has increased consistently. Whereas in 1990 1.6 million Moroccan citizens were residing outside of Morocco, by 2017 this had increased to 2.9 million, 87% of whom resided in the European Union (United Nations, Department of Economic and Social Affairs (UNDESA), Population Division 2017b). In 2017, 2.5 million Moroccan citizens resided in the EU, with Spain one of the principle destinations. However, Eurostat data shows that the number of permits granted to Moroccan citizens in Spain has declined over recent years. Whereas 54,797 residence permits for education, family, or work were granted to Moroccan citizens by Spain in 2008, in 2017 only 41,995 were. The number of permits for remunerated activities decline from 22,950 in 2008 to 5,960 in 2016 before rising slightly to 8,396 in 2017. In parallel, the number of permits for education or family purposes remained more consistent over the same period. At the same time, the amount of first time applications for asylum by Moroccan citizens in Spain increased from a low of 35 in 2011 to 590 in 2017.

At first glance, Figure 2 appears to suggest a potential case of categorical substitution: as less residence permits have been granted to citizens of Morocco, particularly for employment, more of them have applied for asylum in Spain. However, a closer examination of the available figures and secondary research highlights that the relationship between forms of permit and migration dynamics is more complex.

In 2018 Moroccans constituted the largest single nationality population arriving in Spain after crossing the Western Mediterranean Sea or the border to the Spanish enclaves of Ceuta and Melilla (UNHCR 2019). Eurostat data show that refusals of Moroccans at the Spanish external border have been extremely high throughout the period, albeit decreasing from approximately 496 thousand in 2008 to 196 thousand in 2018 (Figure 2). In addition, an average of 11,620 Moroccans 'were found to be illegally present' in Spain every year over this period. However, just looking at sheer differences in volumes, only a tiny fraction of these arrivals or these apprehensions seems to turn out in data on asylum applications (Figure 2). Research on migration in the Mediterranean during 2015 and 2016 provides further insights into how different forms of substitutions – in this case, geographical and categorical – may take place simultaneously. Interviews³¹ in Greece with people from

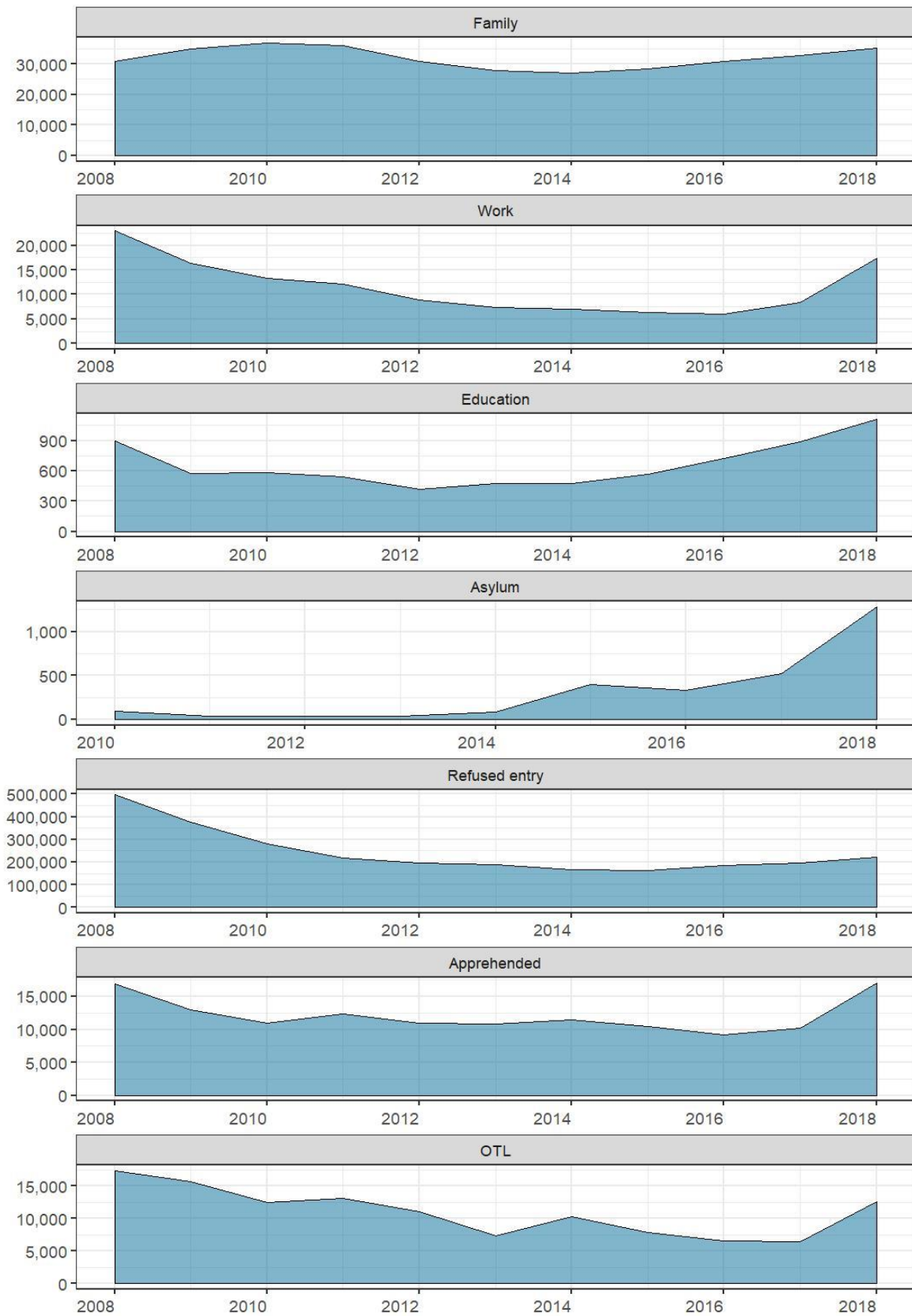
³⁰ Please see the conclusions for suggestions on how to advance the research in these directions.

³¹ Eurostat data further confirms this. The peak year for apprehensions of Moroccans in Greece was 2015 (7,820), and the following three years are the highest on record for Moroccans asylum seekers lodging applications

Morocco who had travelled through Turkey before making the Eastern Mediterranean sea crossing revealed the belief that they would not be granted permits to move regularly to Spain so should attempt a different route, and in doing so they applied for asylum on arrival (Crawley et al. 2018). This may be because majority of those rescued at sea or at Spanish land borders were returned immediately to Morocco (Teevan 2018).

in Greece (460 in 2016, 425 in 2017, and 355 in 2018). In addition, it is important to point out that only a fraction of those apprehended seem to be applying for asylum or are issued with an OTL.

Figure 2. Permits granted to, asylum applications lodged by, and statistics on immigration enforcement regarding Moroccan citizens in Spain



Source: Eurostat

The context in which a reduction in the number of work-related residence permits being granted to Moroccan citizens and the number of asylum applications being made by Moroccan citizens is also noteworthy. Berriane et al (2015) associate a decline in labour migration from Morocco to Spain with the global economic crisis and the economic decline of Spain in particular. Indeed, the decline in Moroccan labour migration to Spain illustrated in Figure 2 reflects a broader pattern of falling international labour migration to Spain³², which went from a peak of 102,700 in 2009 to a low of about 38 thousand in 2016³³. Moreover, the authors also note that the migration preferences of Moroccan citizens have shifted over this time, with the USA increasingly being a preferred destination for highly-skilled Moroccan citizens, for example.

In parallel to investigating bilateral trends between Morocco and Spain, it is also useful to survey the trends in Moroccan emigration towards the rest of the EU Member States over the same period. This is because to the extent that we find similar trends in other EU Member States, it becomes less credible that the trends we record between Morocco and Spain are the result of a policy change at destination.

By comparing trends between Morocco and Spain to those between Morocco and the rest of the EU, we notice that the decrease in labour migration of Moroccan citizens to Spain occurred within the context shrinking labour migration of Moroccan citizens across EU have after 2010 (Figure 3). Indeed, numbers of work-related residence permits fell from 43,488 in 2008 to 5,239. This is not compensated by the steady increase in education residence permits granted to Moroccan citizens across Europe, which went from 7,074 in 2008 to 13,123 in 2017³⁴. In the meantime, asylum applications of Moroccan citizens across the rest of EU27³⁵, while very limited in 2008 (540), had a more than twentyfold increase by 2016, to 10,850. In the case of asylum, destinations for Moroccans also seem to have shifted, as noted above, with Italy and Germany receiving more applications. Despite an increase in the number of applications in Spain in 2018 and 2019, there were still more applications lodged in Italy and Germany. However, apprehensions of Moroccans found to be in an irregular status in Germany have steadily risen since 2011, reaching a peak in 2016 of 6,820. Over the same period, OTLs issued to Moroccans in Germany went a few hundreds to nearly 3 thousand in 2016.

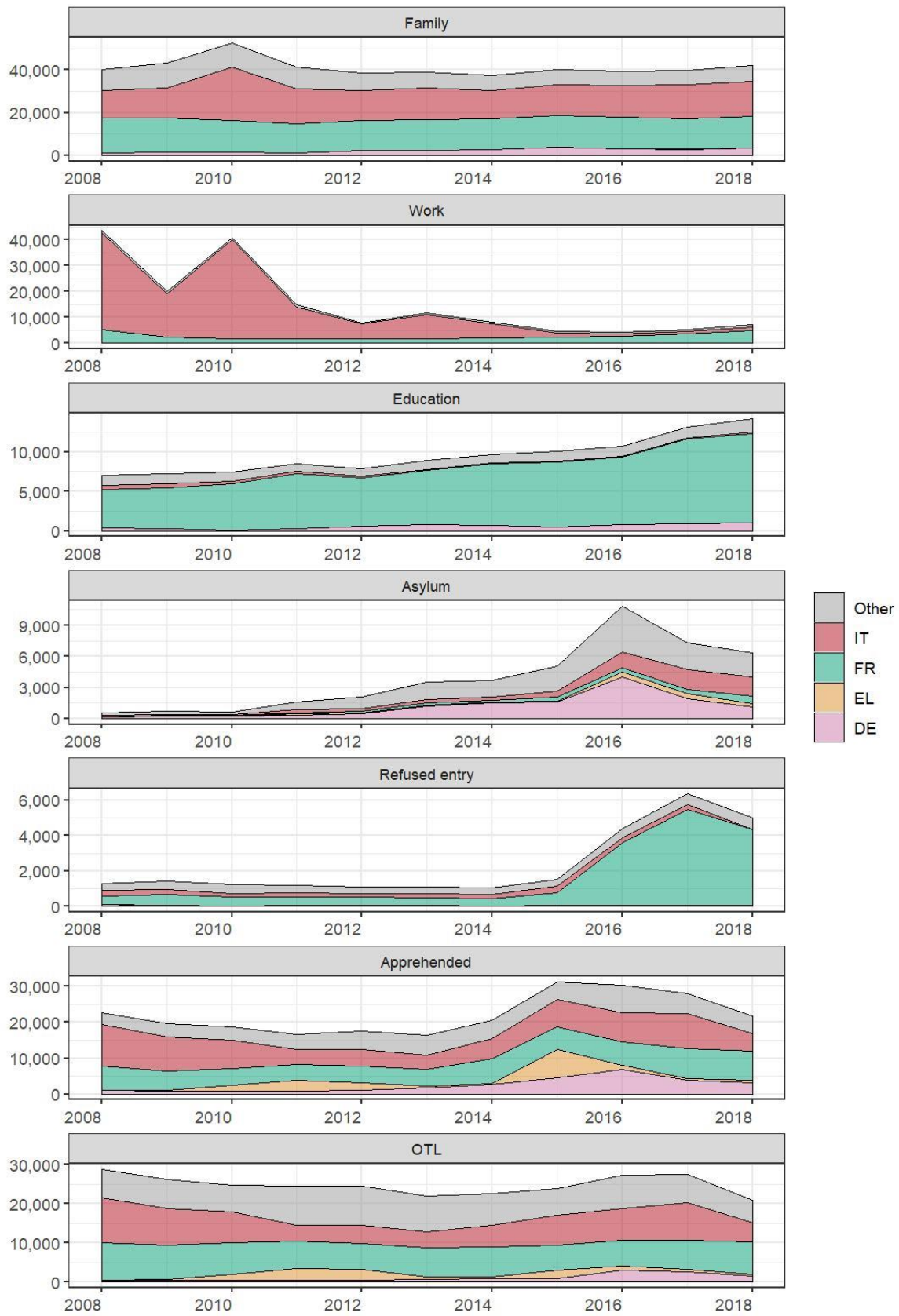
³² See Figure 17, in the Annex.

³³ It is also interesting to note that, while student migration to Spain has nearly doubled in the period 2008-17 to nearly 40 thousand educational residence permits, Moroccans have remained completely outside this trend (numbers fluctuated between 800 and 400).

³⁴ Indeed, the entire rise in student migration is accounted by France, which went from granting 4 919 permits in 2008 to 10 474 in 2017.

³⁵ Excluding Spain.

Figure 3. Immigration of Moroccan citizens into EU27 (excluding Spain)



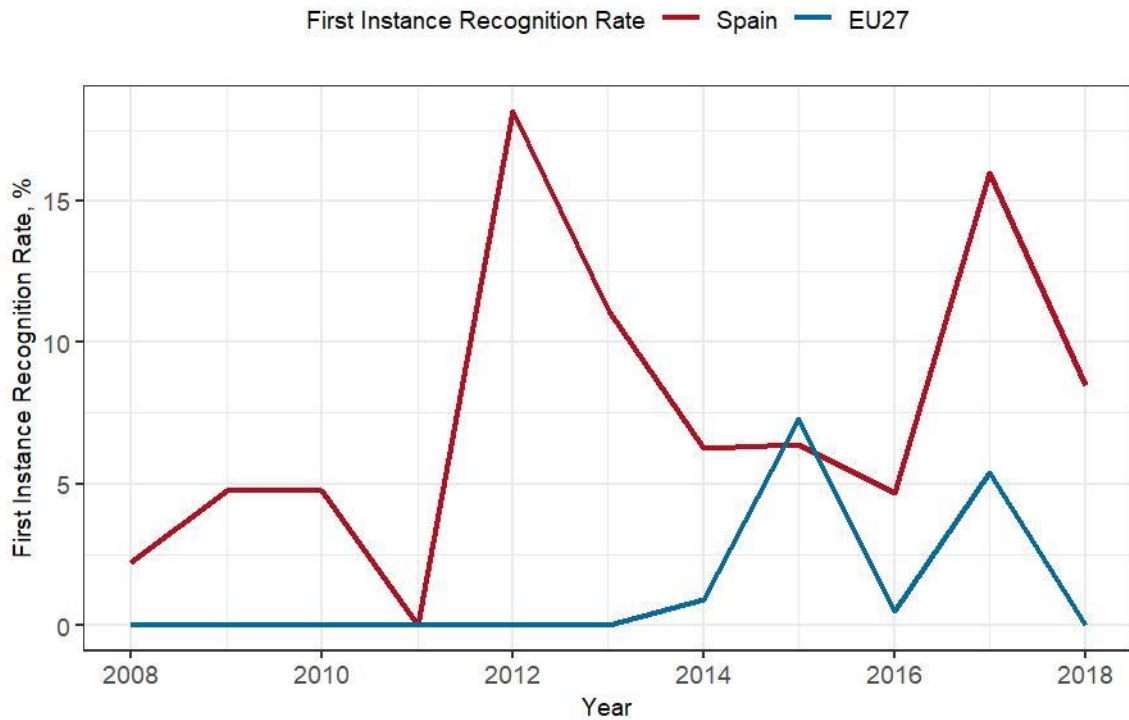
Source: Eurostat

Focusing specifically on Moroccan asylum applications in Spain, in a case of categorical substitution between labour migration and asylum applications, a reasonable expectation is a fall in the proportion of those applications that received positive outcomes. This is because, theoretically, a higher proportion of applications are made by people with lower chances of obtaining some form of international protection. Put simply, if there is a case of 'abuse' of the asylum system for people to enter Europe, there will be more applications that do not fulfil the necessary requirements.

Between 2008 and 2018, the number of decisions taken on asylum applications made in Spain by Moroccan nationals fluctuated between 0 and 18% (Figure 4). First instance positive decisions went from 0 in 2011 to 60 in 2017, whereas negative went from 30 to 310 over the same period. This suggests that two migration processes were happening contemporaneously: on one hand, more people were making the journey who did not have a valid claim to asylum, but on the other hand there were also more people making the journey who did have a valid claim. There may have been a form of categorical substitution in this case, but it is difficult to empirically unpack the extent to which it is the case and it cannot be taken as a generalised dynamic of Moroccan migration at the time. In this way, the complex composition of migration flows cannot be simply described in the form of categorical substitution. If we compare trends in decisions on asylum applications of Moroccan citizens in Spain against trends in the rest of Europe, there is not much difference in terms of recognition rates (Figure 4). Again, this would suggest that, while applications and decisions sharply increased since the early 2010s, the recognition rate for Moroccan citizens in Europe ranged between approximately 7% and 14%³⁶. Such close mirroring would suggest that asylum trends are not peculiar to the Spanish-Moroccan bilateral relationship, but part of a broader set of events. Developments in Morocco offer some insight into these increases in asylum applications of Moroccan citizens in Spain. In June 2017, for example, reports from the Spanish press mentioned people seeking to leave Morocco to escape civil unrest in the Rif region, where there had been mass arrests following protests.

³⁶ When looking at recognition rates, because of administrative lags, it is always better to consider the trend over years rather than year-on-year drops or spikes.

Figure 4. First instance recognition rates on asylum applications in Spain and the EU of Moroccan citizens



Source: Eurostat. Notes: Recognition rates are calculated as the total number of positive first instance decisions out of total first instance decisions. The EU27 line represents the median of all the remaining 27 Member States (except Spain) recognition rates for the same nationality.

In sum, Moroccan migration to Spain may provide evidence of categorical substitution, as people may undertake unauthorised journeys across the Mediterranean or into Ceuta or Melilla in the context of a reduction of work-related residence permits. However, this case study also highlights the limitations of the available data to precisely decipher the dynamics at play between these countries. This is in part because the fall in residence permits cannot be accounted for only by the increase in asylum applications: the increasing number of people applying for asylum remained far below the decrease in people receiving residence permits. Moreover, the available data also points towards multiple migration processes from Morocco, which could contribute to the decline in residence permits and increase in asylum applications. On one hand, evidence suggests that the decline in residence permits for Moroccan people in Spain may be influenced by patterns of geographical substitution, as they decide to move to other destinations such as the United States or other southern and central European countries³⁷. Indeed, categorical substitution, if at all, has occurred jointly with geographical substitution, as the rise of apprehensions and asylum applications of Moroccans in Germany shows. On the other hand, alongside increases in asylum applications of Moroccan citizens without a strong case, there were increases in the number of people who did have a strong case, which shows that it cannot be assumed that people were wholesale 'abusing' the asylum system. Finally, although there is evidence that some Moroccan citizens may have decided to undertake an unauthorised journey to Spain due to an inability to obtain a residence permit, the available data cannot discern the extent to which this is a generalised pattern. This is because most Moroccan citizens making an

³⁷ However, the fact that other countries have simultaneously squeezed the supply of labour migration permits to Moroccans makes the identification of geographical substitution even more difficult. In other words, is the change in routes and the rise in applications in Germany the result of lower opportunities in Spain or in Italy, combined with the opening of the eastern Mediterranean route?

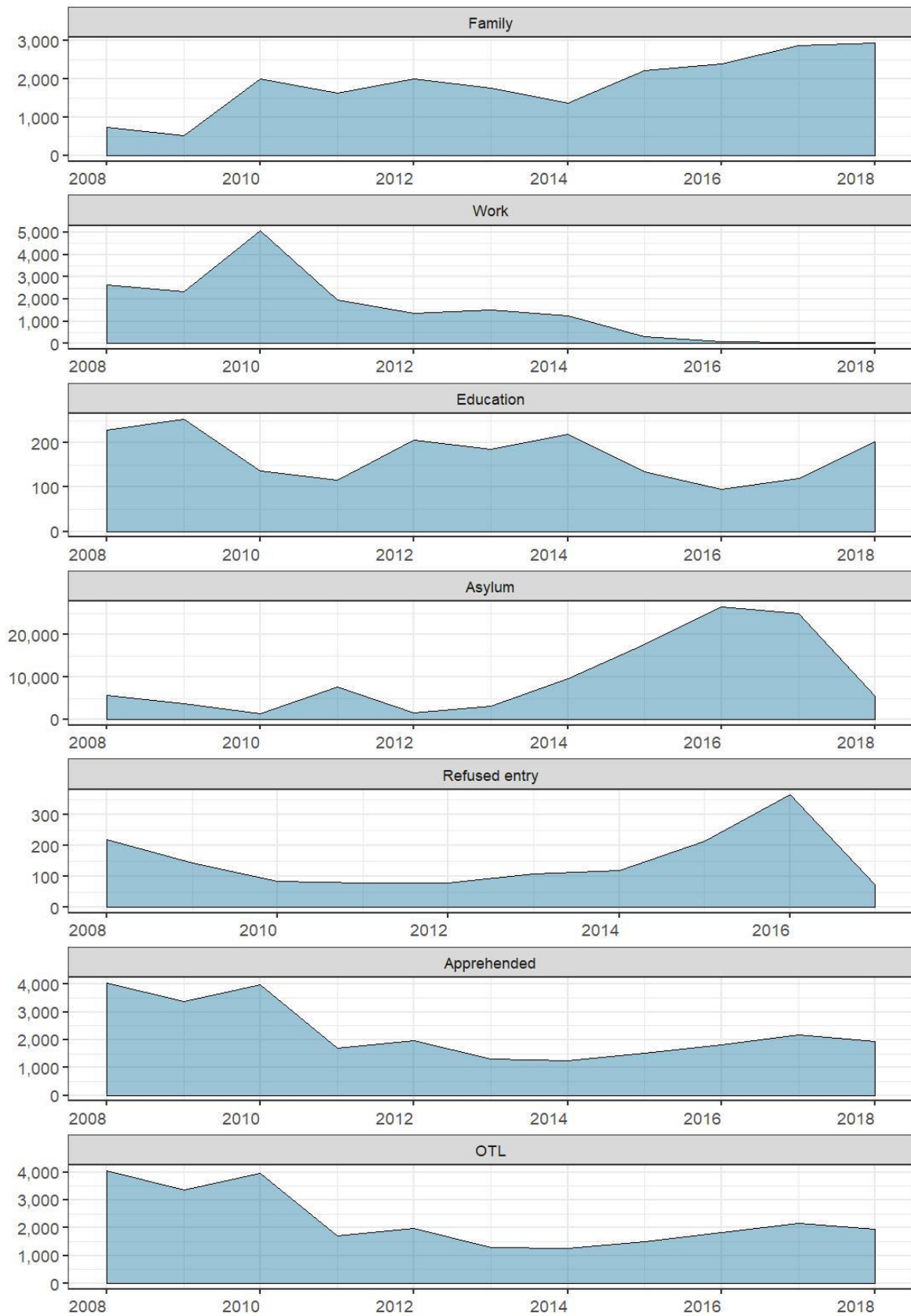
irregular journey to Spain are rapidly returned to Morocco rather than placing an asylum application.

4.2 Nigeria-Italy

Over the past three decades, the number of people from Nigeria who have emigrated to another country has risen constantly. In 1990, the total emigration stock from Nigeria was approximately 466 000, or about 0.47% of the population of the time. By 2017 this had increased to approximately 1.25 million, or about 0.66% of the population, and less than one third of whom (31%) were residing in EU Member States (United Nations, Department of Economic and Social Affairs (UNDESA), Population Division 2017b).

Since 2008, there has been a significant increase in the migration of Nigerian citizens to Italy (Figure 5). Eurostat data shows a significant increase in the number of first time applications for asylum in Italy by Nigerian citizens over the past decade. Whereas in 2008 there were 5 670 first time applications for asylum by Nigerian citizens in Italy, in 2017 there were 24 950. Over the same period, the number of permits granted for work, study or family unification purposes declined from a peak of 7,200 in 2010 to 3,037 in 2017. Work permits in particular fell from a high of 5,060 granted in 2010 to just 55 in 2017. The number of permits granted for family reunification rose slightly from 1,609 in 2008 to 2,874 in 2017, and the number of permits for study purposes varied little.

Figure 5. Permits granted to, asylum applications lodged by, and statistics on immigration enforcement regarding Nigerian citizens in Italy



Source: Eurostat

At first glance, these figures appear to suggest a potential case of categorical substitution: as less residence permits, particularly for employment, have been granted to Nigerian citizens, a parallel increase is recorded in asylum applications. However, a closer examination of the available figures and secondary research highlights that the relationship between forms of permit and migration dynamics is more complex. Indeed, the peak reached by residence permits issued for occupational reasons are only a fraction of the number of people from Nigeria applying for asylum to Italy. In this perspective, the case of Italy-Nigeria is the opposite of Spain-Morocco.

Over the past decade, emigration of Nigerian citizens to non-EU countries has risen more than migration of Nigerian citizens to the EU. Whilst less residence permits have been granted to Nigerians in the EU, more Nigerian nationals have moved to other parts of the world. Data from UNDESA shows that the stock of Nigerian emigrants residing in the EU28 rose by 49% between 2005 and 2017. Over the same period, the stock of Nigerian emigrants residing in non-EU countries³⁸ rose by 66%. These figures suggest that there are multiple potential destinations for Nigerian people seeking to migrate to countries other than EU Member States.

Nigerian migration also does not fit neatly into single categories or stereotypes and this makes it difficult to single out specific dynamics of categorical substitution. For example, there is a common perception that most people emigrate from Nigeria for economic purposes (Isbell and Ojewale 2018). Nigerian emigration has in the past been described as 'employment-driven', meaning that it is considered to be mainly composed of people seeking better economic opportunities elsewhere (Isiugo-Abanihe and International Organization for Migration (IOM) 2016). This has been particularly so in the case of migration to countries of the global North, such as the United States, which is composed primarily of educated, skilled professionals. However, the number of displaced people within Nigeria and refugees or people seeking asylum outside of Nigeria has dramatically increased over recent years. Whereas between 2008 and 2013 UNHCR recorded a modest increase from 24 645 to 52 542 persons of concern³⁹ from Nigeria displaced outside of the country, by 2017 the figure had risen to 295 682. A further 2.9 million people were internally displaced or returnees to Nigeria at that time. The 24 950 asylum applications by Nigerian citizens in the EU in 2017 represented just 8% of the total number of people who had been displaced outside of the country at the time.

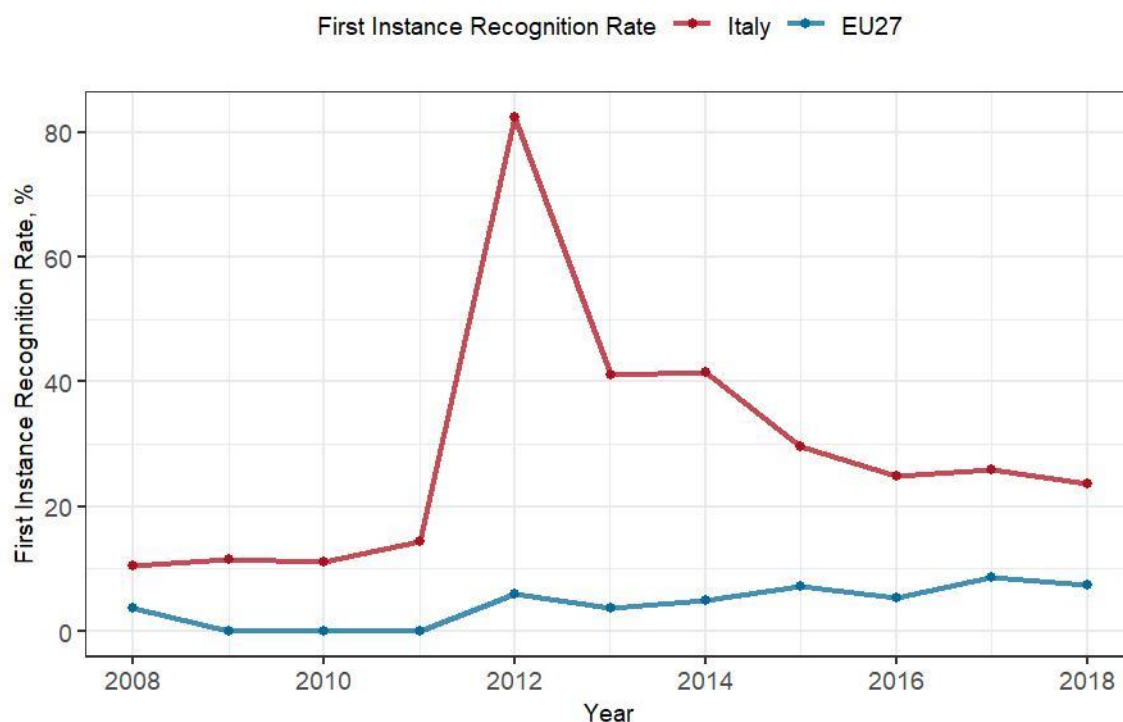
Focusing on migration to Italy in particular, in a case of categorical substitution from work, family or study residence permits to asylum applications, one could expect a fall in the proportion of those applications, which received positive outcomes, as a higher proportion of applications is made by people without a strong case in their favour. In other words, if there was a case of 'abuse' of the asylum system in order for people to enter Europe, then there would be proportionally more applications which did not fulfil the necessary requirements. In the case of Nigerian citizens arriving in Italy, however, the evidence in this sense is mixed. Since 2012, the recognition rate of first instance decisions that were positive for Nigerian citizens in Italy was markedly higher than between 2008 and 2011⁴⁰, (Figure 6). Recognition rates for Nigerians applicants in Italy were constantly higher than the median of all other EU27 Member States' recognition rates for the same nationality (Figure 6). In addition, minors, who were absent prior to 2013, now represent more than a third of the total positive decisions.

³⁸ The number of Nigerian people residing in the USA, for example, rose from 174 148 in 2005 to 282 153 in 2017, an increase of 62%.

³⁹ For a definition, see (UNHCR 2018, 61–62).

⁴⁰ It should also be noted that the proportion of decisions given a positive outcome in 2012 was significantly higher than during the rest of the period. This is because the Italian government granted temporary permits as part of a declared 'state of humanitarian emergency' in response to people arriving by boat from North Africa (European Migration Network (EMN), n.d.). Indeed, 4,530 'humanitarian status' decisions were taken that year out of the total 5,005 total positive decisions (i.e. 90.5%).

Figure 6. First instance recognition rates on asylum applications in Italy and the EU of Nigerians citizens



Source: Eurostat. Notes: Recognition rates are calculated as the total number of positive first instance decisions out of total first instance decisions. The EU27 line represents the median of all the remaining 27 Member States (except Italy) recognition rates for the same nationality.

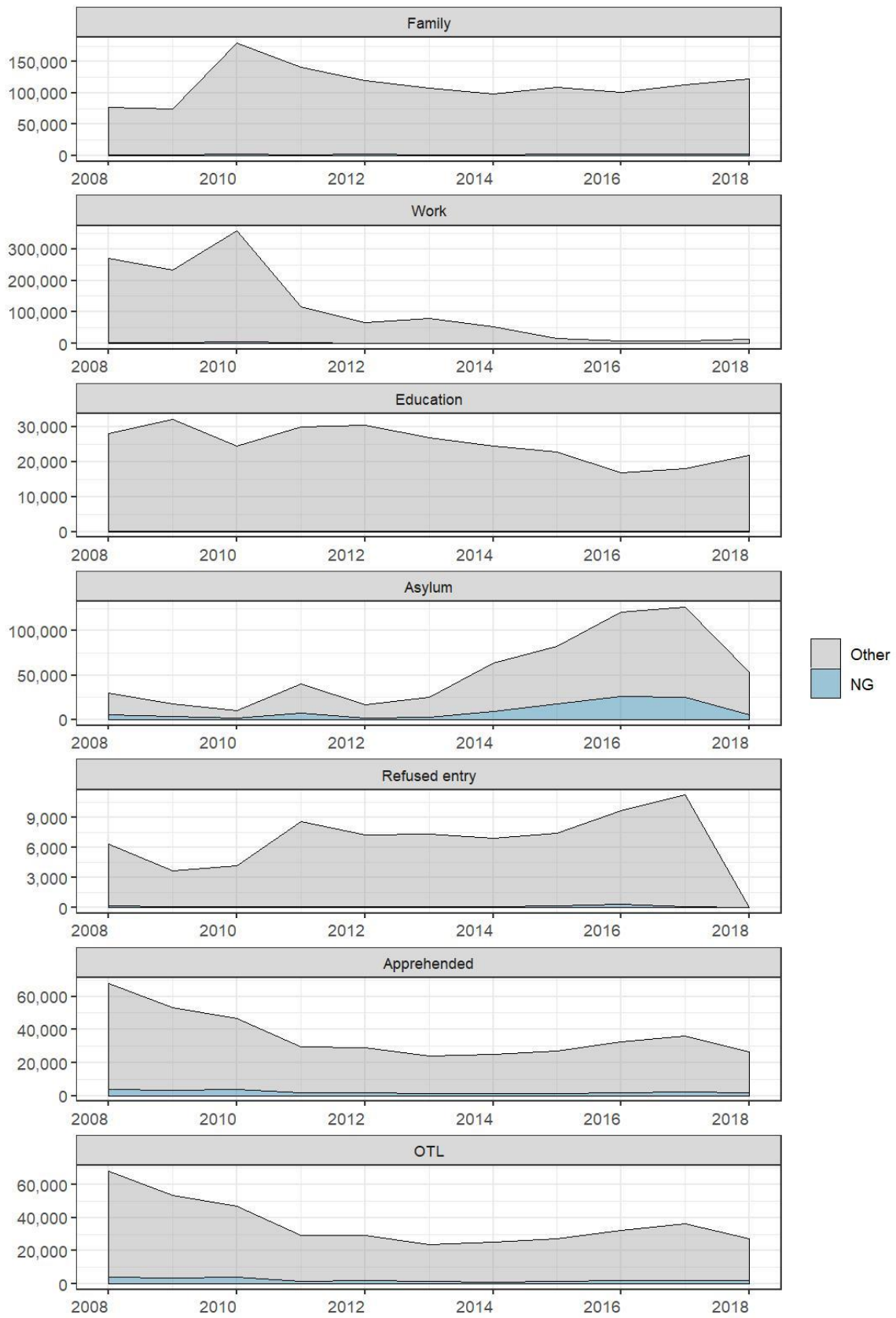
As in the previous case study of Spain-Morocco, a key question is the extent to which trends in the Italian-Nigerian case differ from the broader emigration trends of Nigerians to Europe (Figure 7). Patterns of emigration of Nigerians to Italy only partly mirror those to the EU as a whole. As part of a broader dynamics in Italian labour immigration (Figure 18, in the Annex), work-related permits to Nigerians have witnessed a steep decline since 2010. This downward trend has been more marked in Italy as compared to EU-wide trends for Nigerians.

Asylum applications of Nigerian citizens in Italy have roughly mirrored EU-wide trends of the same nationality (Figure 7). In particular, Italy alone accounts for more than half of the total asylum applications of Nigerians in Europe, followed by Germany. In parallel, asylum applications of Nigerian citizens in Italy reflect an overall increasing trend of asylum applications in Italy as a whole (Figure 18, in the Annex). In other words, asylum trends of Nigerians to Italy do not appear to be exclusive to that country, neither seem to be an isolated case within Italy.

Finally, numbers for apprehended and OTLs⁴¹ issued to Nigerian citizens in Italy have nearly halved over the period 2008-2017. In parallel, apprehended of Nigerian in Germany have risen steeply since 2013, which is coupled with simultaneous increases in terms of asylum and, on a smaller scale, OTLs. Similar to what witnessed in the case of Spain-Morocco, besides a case of categorical substitution between residence permits involving Nigerians in Italy, there may be a parallel case of geographical substitution of flows towards newer countries of destination such as Germany.

⁴¹ The two numbers are indeed the same, as shown in Figure 18 (in the Annex).

Figure 7. Immigration of Nigerian citizens into EU27 (excluding Italy)



Source: Eurostat

There is also a need to look beyond the available data on residence permits and asylum applications to understand the dynamics of how and why Nigerian citizens have been migrating to Italy. Many of those who applied for asylum in Italy over the last decade did so after making an unauthorised journey across the sea from North Africa. Researchers have noted that these journeys were often lengthy and fragmented, passing through multiple countries and evolving as people adapted to opportunities and constraints along the way (Crawley and Hagen-Zanker 2019; Crawley et al. 2018; Svoboda 2016). One study with a particular focus on the decision-making of people from Nigeria who applied for asylum in Italy in recent years found that many of them had not intended to move to Italy at all when they left Nigeria. The authors state that:

'in the majority of cases it was Libya rather than Europe that was the preferred destination: two-thirds of Nigerians told us that they intended to go to Libya when they first left their home country because of the opportunities for work' (Crawley and Hagen-Zanker 2019, 31)

This finding is supported by the fact that, despite a lack of precise, reliable statistics, it is widely accepted that there was significant labour migration to Libya from Nigeria and other countries in sub-Saharan Africa prior to the crisis in the country (Altai Consulting 2015). As a result, the rising number of Nigerian citizens applying for asylum in Italy from 2014 should be understood at least in part as a response to the increasing instability and insecurity in Libya as that country returned to civil war.

Another study did, however, suggest that there could have been cases of substitution. In interviews with researchers some people from Nigeria who had crossed the Mediterranean Sea to Italy and applied for asylum there stated that they would have applied for a residence permit and travelled in a different way if they had known more about their options or considered there to be a realistic chance of obtaining some form of permit before departing (Crawley et al. 2018). However, they often stated that they did not think they would have obtained a permit or that the waiting times were too long.

In sum, the case study of Nigerian migration to Italy highlights the difficulty of observing cases of categorical substitution in practice. Despite macro-level data suggesting correlation between an increase in asylum applications and a fall in the number of residence permits granted, a closer examination of other data sources and research on individuals' motivations and decisions paint a more complex picture. Whilst there is some evidence that some people may have decided to undertake an unauthorised journey and apply for asylum on arrival in Italy because they considered that they would not have been able to obtain any other residence permit, this is unable to account for the overall increase in the number of asylum applications. Indeed, even in the peak year of work-related residence permits (5 060 in 2010), they stood at less than a fifth of the peak year in asylum applications (26 550 in 2016). Contrary to what to expect in the case of categorical substitution, asylum recognition rates increased after 2012, and more so in Italy than in the rest of Europe, despite the fact that Italy received more than half of the total applications of Nigerians in Europe.

4.3 Albania-Germany

Over the past three decades, the number of people from Albania who reside in other countries has increased consistently. Whereas in 1990 179 000 Albanian citizens were counted outside of the country, by 2017 the figure had increased to 1.15 million, 83.5% of whom in the EU28 (90% in Europe) (United Nations, Department of Economic and Social Affairs (UNDESA), Population Division 2017b). In 2017, 958 840 Albanian citizens resided in the EU28, with Italy and Greece as the principal destinations (United Nations,

Department of Economic and Social Affairs (UNDESA), Population Division 2017b)⁴². Similarly, Eurostat data shows that the number of permits granted to Albanian citizens in Germany, while still relatively low in absolute values, has decidedly grown over recent years.⁴³ In 2008, 425 Albanian citizens received residence permits for education, family, or work in Germany. In 2017, the sum of these types of permits was 4 689 (Figure 8).

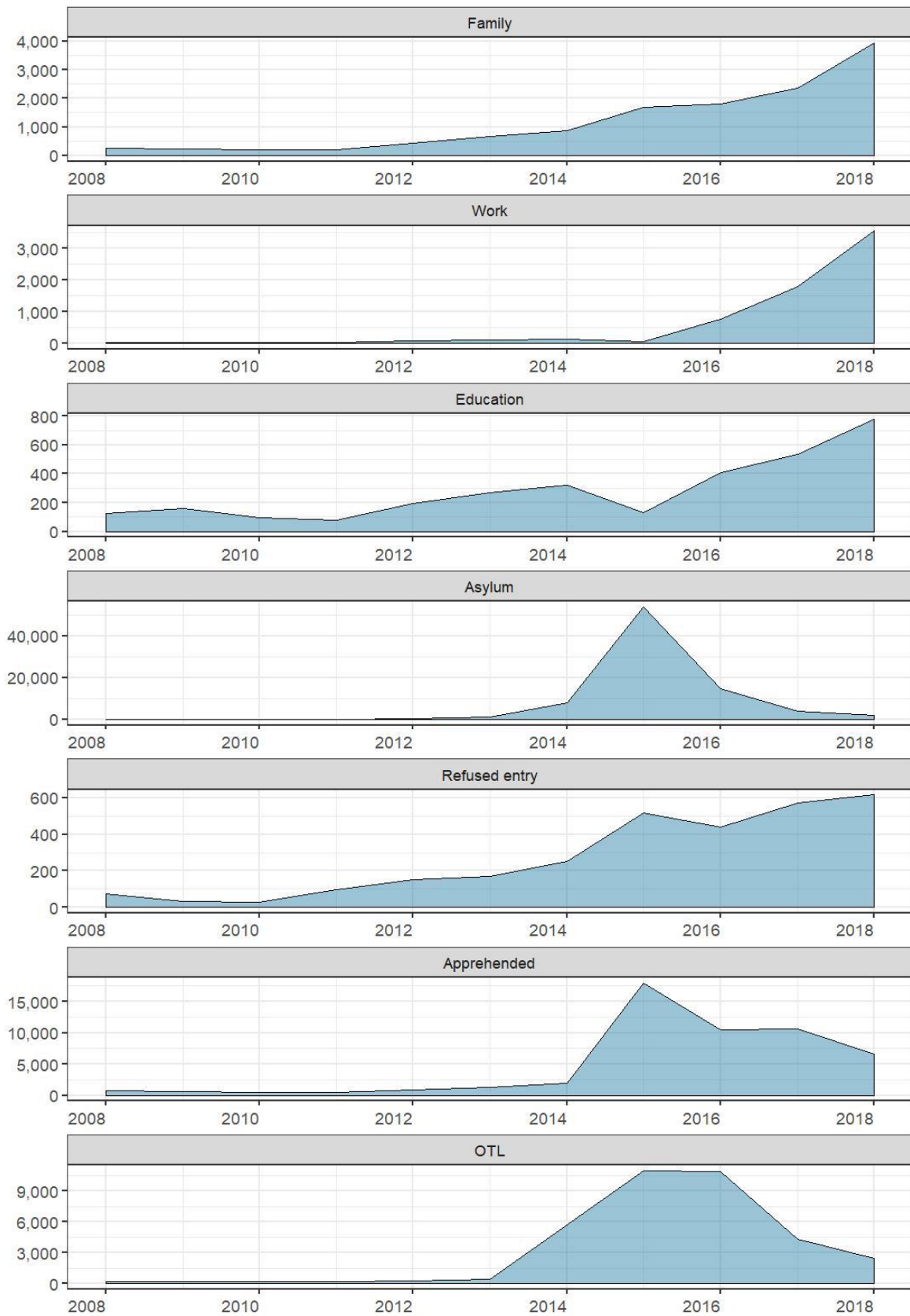
The number of asylum applications lodged by Albanian citizens in Germany was negligible until 2013, when it first reached 1 245 requests. Applications then increased to 7 865 the following year, 53 805 in 2015, and then declined to 3 775 by 2017. It should be mentioned that visa requirement for Albanian citizens was lifted by Germany in December 2010. The measure certainly facilitated short-term mobility between the two countries, and the potential creation of a network migratory system as well as the potential misuse of the visa waiver. However, an analysis of the effects of visa liberalisation for Western Balkan countries between 2010 and 2017, carried out by the German Federal Office for Migration and Refugees, concluded that it is not possible to establish a direct causal link between the visa waiver and the migration dynamics, including humanitarian immigration, between Germany and the involved countries (Hoffmeyer-Zlotnik 2019). Anyway, in German policy circles and public discourse, this unprecedented rise in asylum applications by Albanians – and other Western Balkan citizens – was swiftly described as a misuse of the asylum procedure. Contextually, it triggered calls for the creation of alternative legal pathways targeting Western Balkan citizens (Bundesamt für Migration und Flüchtlinge 2015; Deutscher Bundestag 2015).

The patterns illustrated in Figure 8 do not immediately suggest a potential case of categorical substitution between different channels of immigration. Data show that refusals of entry at German border, apprehensions, and orders to leave for Albanians remained consistently low until they all surged to unprecedented levels, coinciding with and following the peak of asylum applications in 2015. As previously mentioned, residence permits granted to citizens of Albania, including those for employment, have been overall growing in the considered period. The amount of permits for education waxed and waned, but rose from 125 (2008) to 781 (2018). Permits for family purposes increased over the same period from 255 (2008) to 3 939 (2018) following a stable growing trend since 2014. The number of permits for remunerated activities increased from 45 in 2008 to 3 549 in 2017. However, it should be noted that the number of permits for work granted to Albanians had averaged 63.5 per year between 2008 and 2015, with a peak of 126 in 2014. They grew steeply just in the last two years, at the same time when the numbers of applications for asylum dropped dramatically. Are these opposing trends a sign of a possible categorical substitution occurring between asylum and labour migration – a reverse case compared to the other three country-level studies?

⁴² Eurostat does not provide figures on worldwide emigration from Albania. We rely instead on UNDESA estimations on stock immigrant population.

⁴³ Note that Eurostat data on Albanian residents in EU28 differ sensibly from UNDESA Estimates accounting for 506 805 Albanian citizens at 1 January 2018.

Figure 8. Permits granted to, asylum applications lodged by, and statistics on immigration enforcement regarding Albanian citizens in Germany



Source: Eurostat

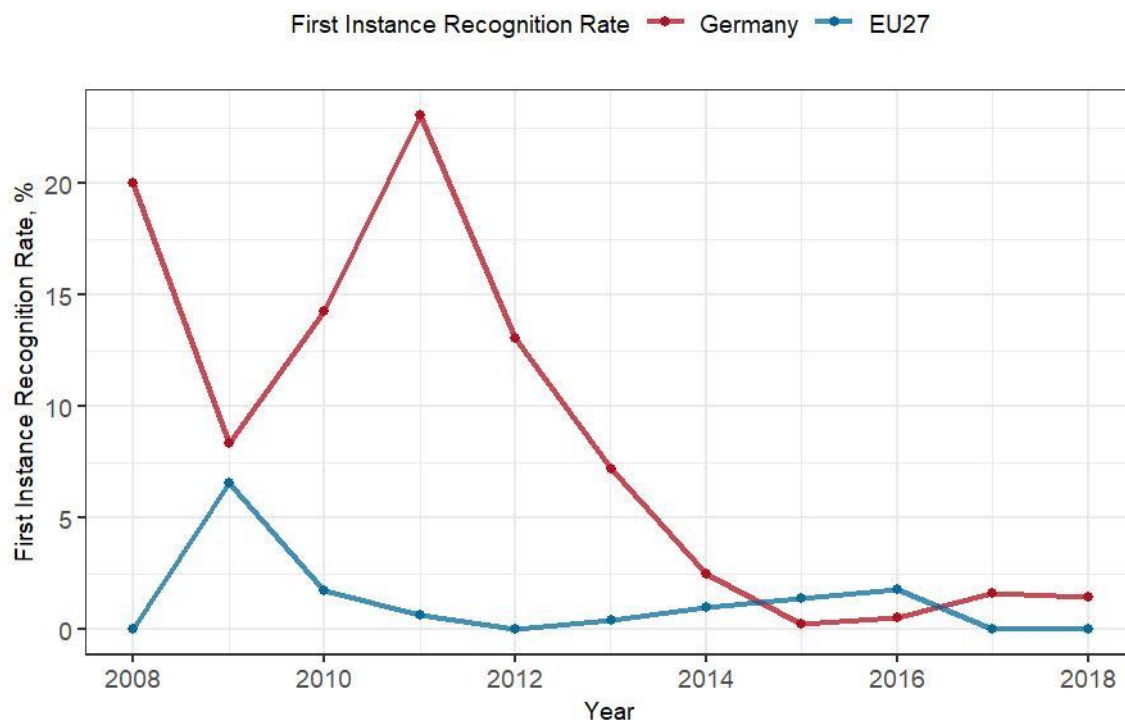
In addressing this question, it is paramount to underline the different magnitude of the two flows and, therefore, the scale of potential substitution. Furthermore, it should be noted that a macro-level data-driven approach does not suggest any correlation between the two immigration channels. Only by examining other sources it is possible to gain insight into these dynamics.

In the period 2014-2017, Germany admitted approximately 1.5 million asylum-seekers the vast majority of which arriving between July 2015 and February 2016. Between spring and summer of 2015, German Chancellor Angela Merkel and her government, in particular the Federal Office for Migration and Refugees (BAMF), announced and adopted a set of policy measures that created a welcoming environment towards the refugees – an action primarily targeted at solving the emergency of displaced Syrians scattered along the Balkan route and Greek refugee camps. Germany even suspended the application of the Dublin mechanism temporarily between August and October 2015 (Federal Office for Migration and Refugees 2016; Deutscher Bundestag 2015)⁴⁴ and promoted a series of country-level agreements (e.g. with Austria, Hungary, and Turkey) to facilitate the entry and movement of asylum seekers (Grote 2018). In this context, the exceptional number of Albanian citizens – and other Western Balkan citizens – applying for asylum in Germany could be explained as the combined side effect of an exogenous factor – that is the movement of thousands of refugees along the so-called Balkan route, primarily of Syrian citizenship, towards Northern Europe – and the temporary relaxation of the enforcement of border and entry controls. Albanian citizens thus possibly joined the flows transiting through their region to reach Germany (Juran and Broer 2017).

Following this phase when many crossed the border without proper control, Germany adopted a multi-pronged action plan, initiated on national level but also in relation to other EU Member States and third countries, aimed at restoring control and management over the flows prompted by the crisis. In particular, the approval of the Asylum Procedures Acceleration Act (*Asylverfahrensbeschleunigungsgesetz*) on 24 October 2015 established a distinction between asylum seekers with good prospects and little prospects to remain in Germany - good prospects was defined as an overall protection rate of more than 50 % over a long period of time. In the same act, Albania – together with Kosovo and Montenegro - was added to the list of safe countries of origin. A status confirmed by EASO that did not report any significant humanitarian emergency in Albania in recent times (EASO 2016a). Consequently, Albanian asylum applicants must refute the safety assumption during the asylum procedure, or their application is rejected as "manifestly unfounded". This is pointedly reflected in the figures concerning the apprehensions and OTLs issued to Albanian citizens, as well as in the low recognition rates for asylum applications (Figure 9).

⁴⁴ For a discussion of these measures in the media and public discourse, see (Faigle, Polke-Majewski, and Venohr 2016).

Figure 9. First instance recognition rates on asylum applications in Germany and the EU of Albanian citizens



Source: Eurostat. Notes: Recognition rates are calculated as the total number of positive first instance decisions out of total first instance decisions. The EU27 line represents the median of all the remaining 27 Member States (except Germany) recognition rates for the same nationality.

In addition, the German Government introduced several legislative amendments on matter of asylum and immigrant integration, as well as a number of decrees and instructions reforming administrative structures and processes (Grote 2018, 30–32). This legislative action, on the one side, facilitated earlier access to the labour market and integration courses for asylum seekers, while, on the other, tightened the conditions for asylum applicants from countries of origin with a lower than average protection rate in particular, enhancing motivation among asylum seekers to return to the safe countries of origin voluntarily and reducing asylum migration from these countries.

The restrictive measures included: asylum seekers from safe countries of origin who had filed their asylum application after 31 August 2015 were not allowed to take up paid employment; they were not eligible to attend courses in German for professional purposes or to participate in the newly established Federal Volunteer Service pertaining to Refugees; asylum seekers staying at initial reception facilities would have access to benefits in kind rather than cash; temporary bans on re-entry for asylum seekers whose asylum applications have been rejected as "manifestly unfounded"; rejected asylum seekers are given only one week to leave the country instead of the usual 30 days and the period within which asylum seekers can file an appeal is shortened to one week and does not have suspensive effect. In addition, the German Federal Police in 2015 assisted the Albanian border police – as well as Serbian and Slovenian - based on bilateral agreements to manage the rise in asylum seekers on the Balkan route.

In parallel, with the intention to decouple asylum migration from labour migration, alongside these restrictive measures for asylum seekers from Albania and the Western Balkan countries, a simplified legal migration channel was created in for Albanians and citizens of other Western Balkan countries (Bosnia and Herzegovina, Kosovo, Macedonia,

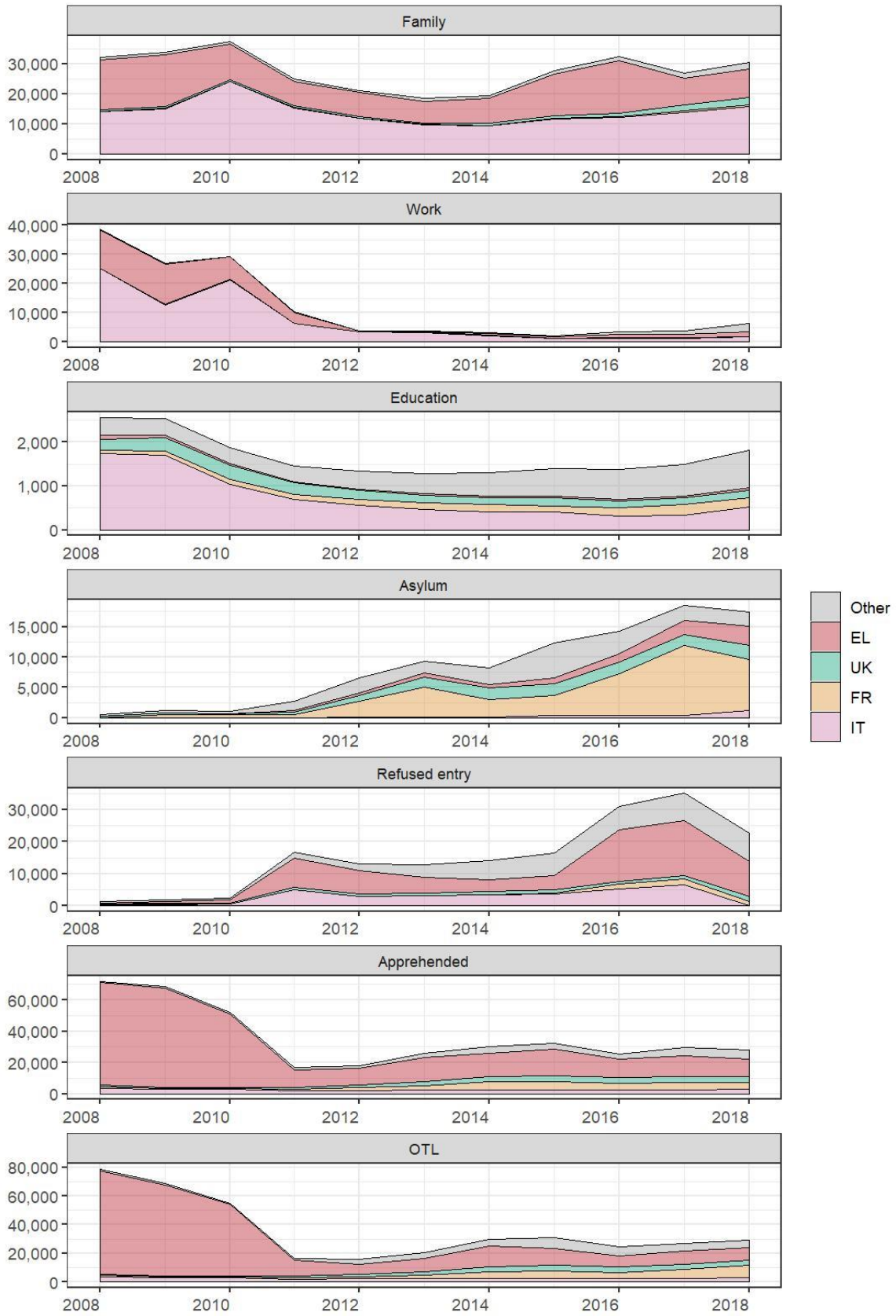
Montenegro and Serbia). Since 1 January 2016, requirements have been eased for the granting of residence permits for the purposes of employment and asylum seekers from these countries can now take up employment regardless of whether they have completed any vocational training or can prove they have a command of the German language. This liberalization is limited until the end of 2020. However, when the Directive for the Labour Market Programme was amended on 12 April 2017, the target of 100,000 work permits per year dedicated to asylum seekers, including those from Western Balkan countries, was abandoned as the anticipated demand failed to materialise.

This was particularly visible in the case of Albanian citizens, as the opening of this legal pathway resulted in extremely low numbers of pre-approval work applications. A possible explanation might lie in the still relatively small dimension of the Albanian diaspora in the country and its capacity to attract fellow nationals. However, "this hypothesis would have to be tested and might not stand as Kosovars, the second largest group of citizens in Germany, also have family ties to Albania" (Bither and Ziebarth 2018, 20).

Overall, the trends of Albanian immigration to Germany would indicate that, despite its relevance in the public and political discourse, there is no compelling evidence that a categorical substitution has occurred between labour migration and asylum or vice versa. The exceptional rise in asylum applications lodged by Albanian citizens in Germany was possibly due to a window of opportunity created by the combined effect of an exogenous factor – emergency along the Balkan route – and a temporary relaxation in Germany's enforcement of immigration legislation.

Finally, if we broaden our view to the EU level, there are possible signs that in the case of Albanian citizens geographical substitution may have occurred. To the progressive and steep decrease of work-related permits for Albanians in traditional destinations such as Italy and Greece, a growth in asylum applications ensued in Germany and France (Figure 10). However, this change in geographical patterns in combination with a shift of legal channel seems to have had no avail in the case of Germany or elsewhere judging by the parallel increase in refused entry. In the case of France, an in-depth analysis as the one offered for this bilateral case study would be necessary to understand the dynamics underlying the current trends.

Figure 10. Immigration of Albanian citizens into EU27 (excluding Germany)



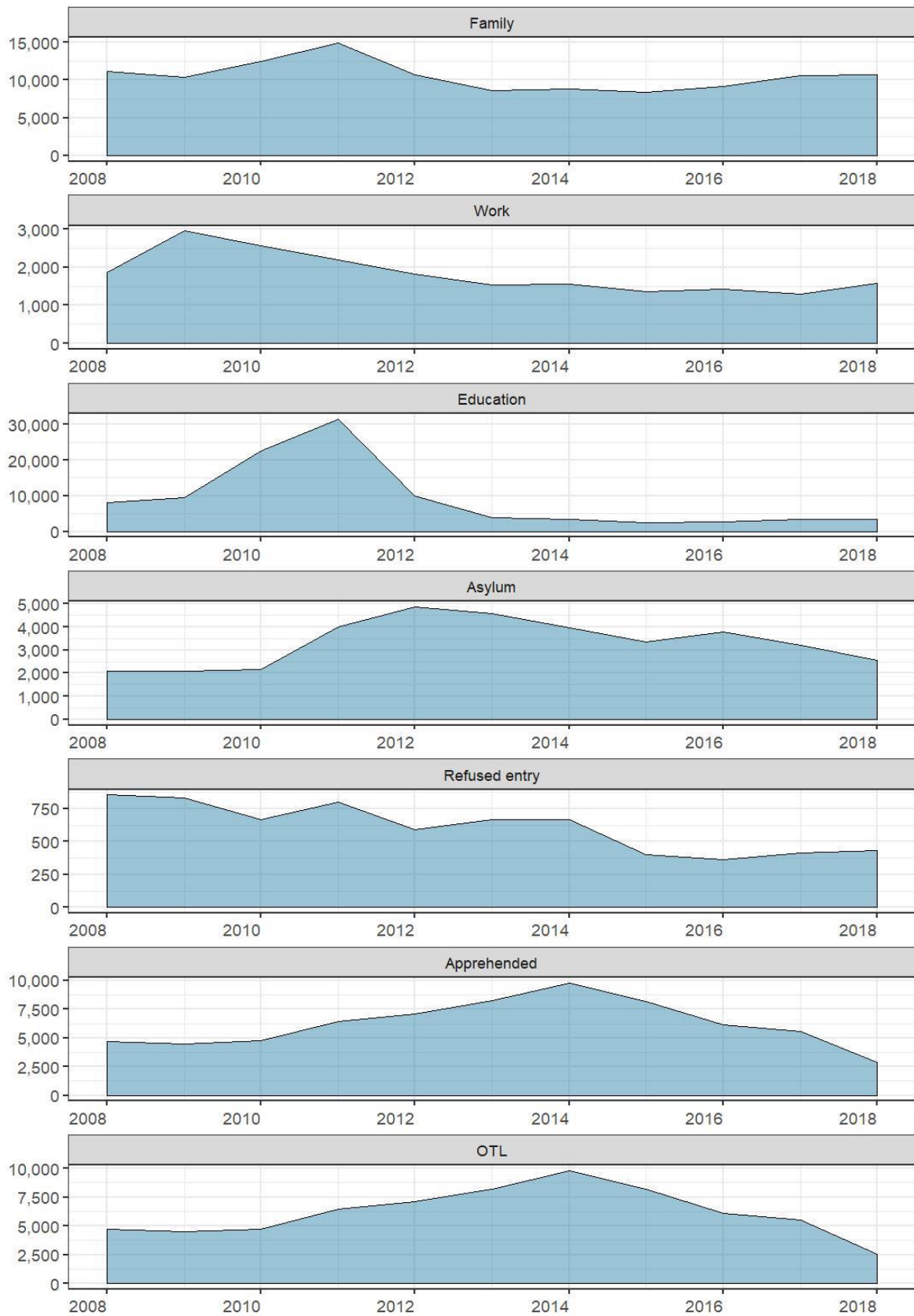
Source: Eurostat

4.4 Pakistan-UK

Migration from Pakistan to the UK is longstanding. According to UNDESA, there were 228 321 people born in Pakistan in the UK in 1990, 380 338 in 2005, and 529 324 in 2017 (United Nations, Department of Economic and Social Affairs (UNDESA), Population Division 2017b). After a peak in 2011 of 48 691 residence permits issued for education, family, and work-related purposes permits, they more than halved by next year, and continued to steadily decrease until 2015, when they started to slowly pick up again (Figure 11). The two main channels of entry have been family and education. Permits for education peaked in 2011 at 31 577, to then sharply drop to less than 4 000 by 2017. This is radically different from nationwide trends of non-EU student migration in the UK, as the latter fluctuated more mildly between 258 000 and 178 000 in the same period. Family reunification fluctuated between a high of 14 924 in 2011 to a low of 8 410 in 2015. Work-related permits were of a much smaller scale, reaching a peak in 2009 at 2 950 to then steadily fall to 1 305 in 2017. This is in contrast with overall trends for labour migration in the UK (Figure 21, in the Annex), which decreased at a much milder rate after 2009 and then quickly stabilises after 2011. In the meantime, asylum flows suddenly increased after 2010, moving from 2 150 applications that year to a peak of 4 865 two years after and then slowly decreased to 3 195 in 2017. Again, this is different from nation-wide trend in the UK, wherein the total number of asylum applications only gradually started to increase from 2010 and peaked in 2015. In parallel, OTLs issued to Pakistani citizens constantly increased from 4 750 in 2010 to 9 790 in 2014.

The abovementioned peak in 2011 for total permits related to family, education, and work is not casual, but a consequence of an extensive revision of the so-called tier systems (Devine 2012, 7, 17–22; Hansen 2014), which regulated labour and student immigration into the country. This was a very consequential reform, for instance in terms of changing the composition of the inflow of labour and student immigrants, increasing the share of those with permits for less than one year (Figure 20, in the Annex). Several measures contained or promised with this reform might have had consequences in terms of substitutions effects. For instance, the government announced the closure by April 2012 of the 'Tier 1 Post-Study Work route (which allowed graduates to remain in the UK for two years to seek work)' (Devine 2012, 21).

Figure 11. Permits granted to, asylum applications lodged by, and statistics on immigration enforcement regarding Pakistani citizens in the UK



Source: Eurostat

Looking at UK-Pakistan bilateral trends, it seems that two possible categorical substitutions have been underway. Some degrees of substitutions between regular pathways (mainly work and education) and asylum may have taken place, and, in parallel, some may have occurred between regular pathways and irregular immigration. Similarly to the previous cases, though, a more careful analysis shows that underlying trends have been more complex.

Figure 12 looks at the broader trends between Pakistan and the EU27,⁴⁵ to contextualise the bilateral relationship between UK and Pakistan. The basic objective of this comparison is to understand to what extent the trends taking place in the bilateral relationship between these two countries are part of a broader pattern of emigration of Pakistani nationals, or specific to this bilateral relationship.

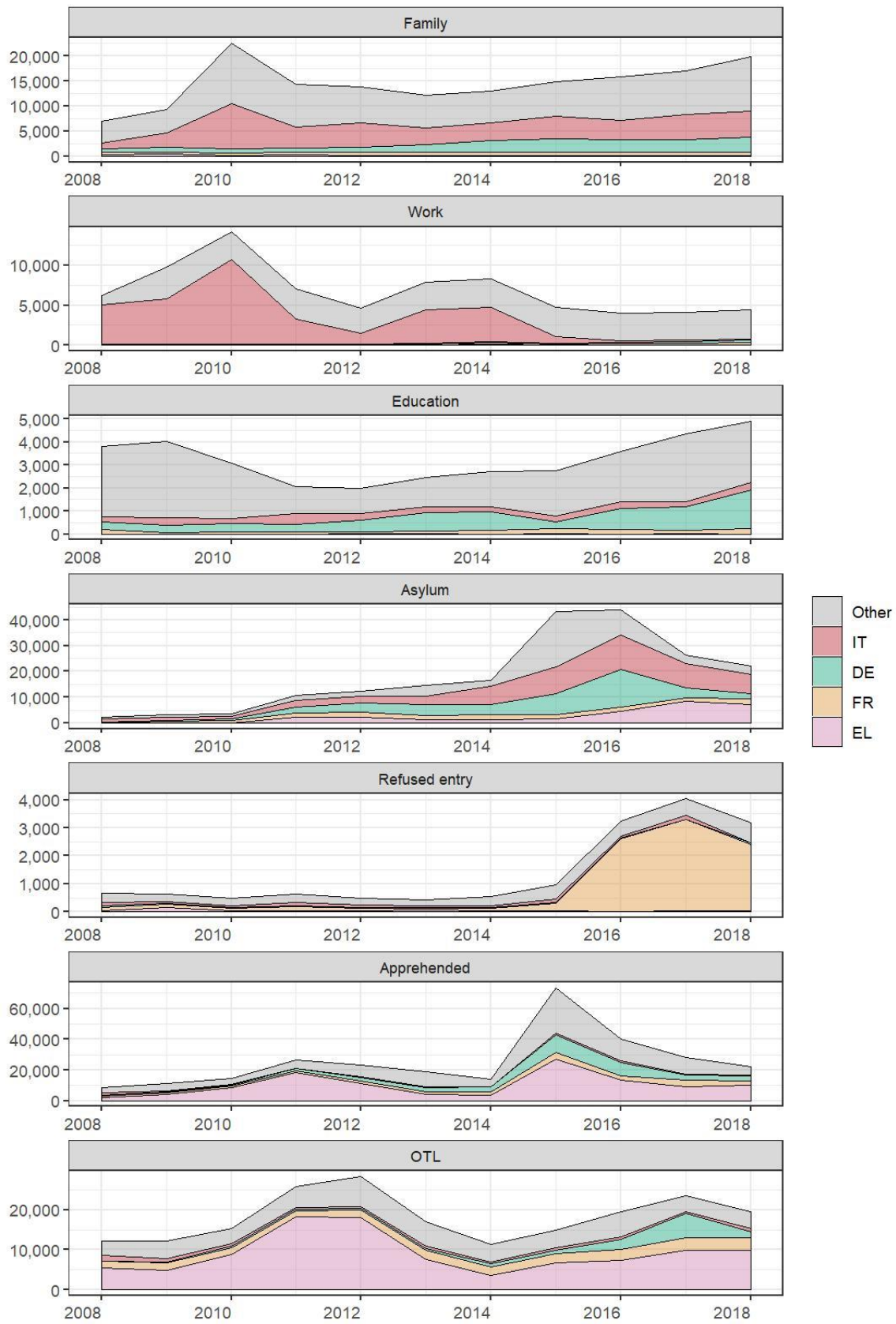
EU27⁴⁶ permits for education to Pakistani nationals are but a fraction of the bilateral trends with UK. In addition, while permits to Pakistani students in the UK peaked in 2011 at 31 577 to drastically drop subsequently, in the rest of the EU the trend fluctuated more and reached peak in 2017. Overall, work-related permits follow the same decreasing trend in the UK and the EU (albeit with a small lag), with Italy as the other main country where this type of permits have witnessed a massive contraction from more than 10 000 in 2010 to 196 in 2017. Family permits tended to gradually decrease amidst substantial fluctuation in the UK, they steadily increased throughout the period in the rest of the EU. Thus, while student migration of Pakistani citizens follows different trajectories and timing in the UK and in the rest of the EU27, labour migration seems to follow a similar path.

As shown above, asylum applications of people from Pakistan in the UK have increased sharply after 2010. The overall pattern in the rest of the EU is similar, but the timing different. While in the UK the change was recorded in 2011 and 2012, in the rest of the EU this occurred after 2014. Furthermore, the increase in UK is marginal if compared to the surges recorded in Italy, Germany, and more limitedly Greece. Also, while refusals of Pakistani citizens at external borders have been a limited phenomenon in the UK, we can notice a sudden rise from 285 in 2015 to 2 590 in France in the following year, signalling the increase in irregular secondary movement. In parallel, apprehensions of Pakistani citizens in an irregular status in Greece first peaked in 2011 at 18 275 and then again 2015 at 27 260, and in Germany in 2015 at 11 720. Finally, number of OTLs in EU27 had, overall, an analogous increasing trend as in the UK, but with again different timing. The numbers in the rest of Europe are driven by Greece, which witnessed a surge between 2011 and 2012, and again after 2014.

⁴⁵ Without the UK.

⁴⁶ The reader should be aware that we excluded the UK from this aggregate.

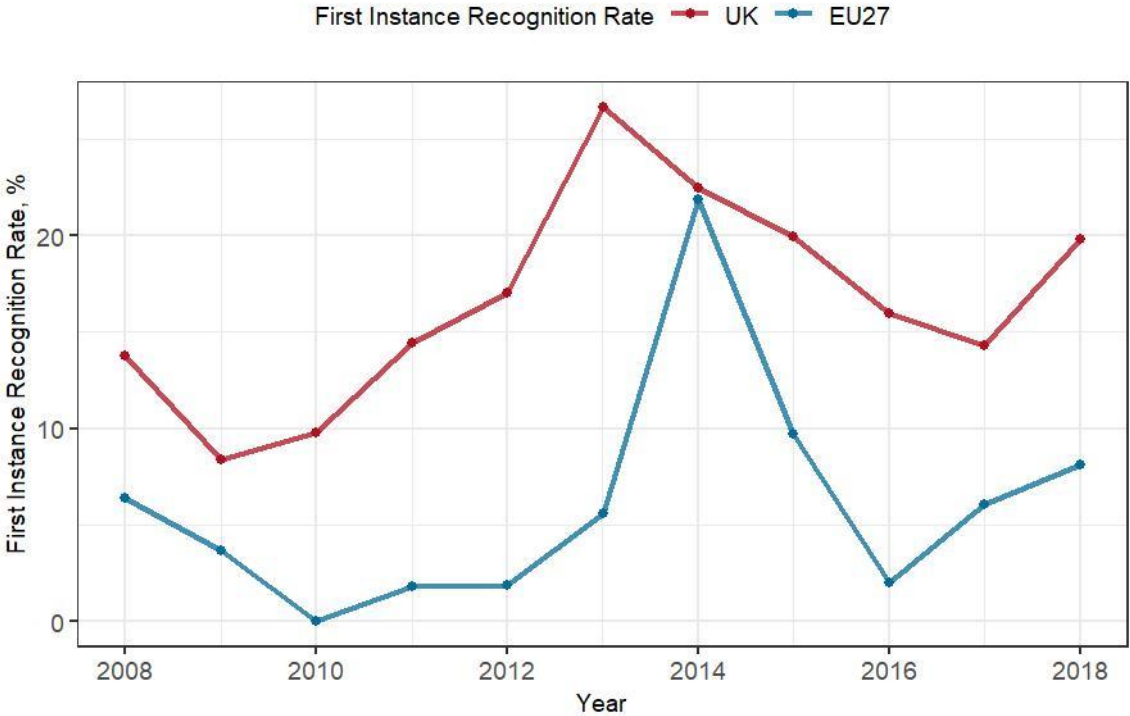
Figure 12. Immigration of Pakistani citizens into EU27 (excluding the UK)



Source: Eurostat

The recognition rates of asylum applications lodged by Pakistani citizens in the UK steadily increased between 2009 and 2013 as more decisions were taken, to then decrease together with decreasing numbers of decisions. In other words, the sudden increase recorded after 2010 in asylum applications was matched with increased recognition rates. This suggests that the increase in asylum flows was not the result of a diversion from other channels to asylum, but indeed answered to an increase in genuine claims for international protection. In addition, between 2011 and 2015, asylum recognition rates for people from Pakistan was steadily increasing throughout the EU as well, again pointing to the fact that there was an increasing acceptance of the need to provide protection to Pakistani claimants across the EU. In the case of asylum applications lodged by Pakistani citizens in the UK, it is also useful to look at what happened on appeal. For most years on records not only the recognition rates on appeal were higher than in first instance⁴⁷, but also the number of positive decisions on appeal were higher than in first instance in eight out of the 11 years between 2008 and 2018.

Figure 13. First instance recognition rate on asylum applications in UK and the EU of Pakistani citizens



Source: Eurostat. Notes: Recognition rates are calculated as the total number of positive first instance decisions out of total first instance decisions. The EU27 line represents the median of all the remaining 27 Member States (except Germany) recognition rates for the same nationality.

To provide some context, EASO, in its description of the asylum situation in the EU in 2012, reported 'Political and religious disturbances, terrorist attacks and State operations to restore law and order in certain areas have created a fragile security situation, which appears to be one of the principal reasons for applications for international protection' (EASO 2013, 14; see also Foreign & Commonwealth Office 2015; EASO 2014, 36). A few years later, EASO concluded in its 2016 Country of Origin Information Report on Pakistan that 'According to several sources, the security situation in Pakistan in 2015 improved

⁴⁷ The figures are not shown here for reasons of space, but available upon request.

compared to previous years' (EASO 2016b, 23). However, it must be considered that the baseline of this 'improvement' was a situation of deadly terrorist attacks, clashes between armed forces and militias, drone strikes, and a general situation of widespread insecurity. Indeed, EASO describes a situation of 'politically-motivated violence' since 2001, where 'sectarian tensions have been on the rise in recent years', 'a number of disappearances and extrajudicial killings' occurred, 'Interethnic violence' was present, and some ethnic and religious groups 'are often the victim of legal, institutional and social discrimination' (EASO 2016b, 14–16). The UNHCR also informed us that the 2011 year-on-year increase in asylum claimants from Pakistan was among the highest in industrialised countries (United Nations High Commissioner for Refugees (UNHCR) 2012). Applications from people from Pakistan overall increased by 66% year-on-year, and in Germany by 202%, to become one of the top-5 countries of origin worldwide for asylum seekers in 2011. This further supports the view that there may be little specific to the asylum increase of people from Pakistan in the UK. In sum, there seem to be little evidence that a categorical substitution between legal pathways and asylum is occurring in the case of Pakistani immigration towards the UK.

To sum up, legal pathways for Pakistani citizens to come to the UK, as measured by issuance of residence permits for different categories, substantially decreased between 2008 and 2017, while in parallel both asylum seekers and OTLs increased. In addition, as compared to the overall trends of non-EU immigration to the UK, the decrease in labour and student migration and the increase in asylum applications were much steeper and had slightly different timings. While *prima facie* this seems to provide some evidence of categorical substitutions between legal pathways and both asylum and irregular immigration, we also observe that the scale of reduction in labour and student migration (as recorded by residence permits issuance for these two categories) is not matched by the increase in either asylum or irregular immigration. Asylum recognition rates for Pakistani citizens rose as applications went up, and this not only in the UK, but across the EU (albeit with different timings). While not ruling out the possibility of some degree of abuse of the asylum system *per se*, the concurrent increase of asylum applications and recognition rates for an extended period of time (4 years) suggests that the rise in asylum applications may be the result of a worsening of the conditions in the country of origin and a genuine need for protection.

5 Conclusions

Enabling people to migrate through legal channels has an important value of its own, disregarding its connection with irregular immigration. It means that people can move with rights, in a safe and regular journey.

But it is also often claimed that less people will undertake an irregular journey if more legal channels are available. Our exploratory study did not find conclusive evidence for, or against, hypotheses of categorical substitution between regular and irregular migration channels. Rather, it highlights that further research is required to better understand the relationships between them.

More specifically, the quantitative analysis at the regional level on residence permits on the one hand, and asylum applications and OTLs on the other hand for all EU28 Member States combined, showed some evidence of inverted relations and thus of a potential categorical substitution only in a limited number of cases. This may be because in the aggregation, individual substitution effects are more difficult to detect. Moreover, the EU28 level of analysis may overlook national varieties that are important since admission policies (volumes and conditions of admissions) are defined by Member States.

The case studies also revealed a far more complex dynamic than simple substitution. Even in cases that suggest potential categorical substitution, the degree of this substitution is far from clear. None of the case studies seem to point to a direct zero-sum relationship between increases (or decreases) in regular immigration and subsequent decreases (or increases) in irregular immigration or asylum applications. This point matters for policy. While it can be recognised that the provision of regular pathways *could* make a positive contribution to addressing irregular migration, that does not mean that *all* irregular migration will be replaced with the provision of a few regular channels.

The report also highlighted that the relationship between regular and irregular immigration is complex and happens in a context where other factors play a role, both in relation to the decision to migrate and to the decision of the migration channels to use. These factors include the broader political, socio-economic and demographic trends in countries of origin and destination, as well as migration policies and broader state policies such as labour market regulations. In this regard, for legal channels to have an impact on irregular migration, a series of accompanying measures should be considered, for instance tackling opportunities for employment in the shadow economy, border enforcement measures, and resettlement opportunities for those in need of international protection. Policy expectations should thus be tailored based on contextual factors such as the history of bilateral relationship between destination and sending countries, or the size of the immigrant community. In this perspective, regular channels need to be viewed as part of a broader toolbox of approaches seeking to contrast irregular migration.

The primary focus of this exploratory research has been on the direct relationship between regular and irregular migration. There are however also *indirect* relationships that could be envisaged.

- Providing legal channels for migration could leverage cooperation of third countries in curbing irregular migration and step up border management and it could consolidate political bilateral relationships.
- Opening regular migration channels may have a signalling effect for migrants who could be considering undertaking irregular migration journeys and could change the structure of opportunities and costs. If the probability of regular migration becomes higher and regular migration more realistic, migrants may decide to invest in increasing their chances to get through regular migration channels, e.g. by acquiring new skills and learning new languages.
- Moreover, opening legal channels has benefits that exceed migration policies and the objective of curbing irregular migration. From a development perspective, it can be included within frameworks aimed at developing human capitals in countries of

origin and provide some relief in sectoral niches of the destination countries' economies.

This exploratory analysis has taken a step towards better understanding the relationships between different forms of regular and irregular migration, but also highlighted the need for better data and further research.

More precisely, this report has identified several gaps:

- We need more large-scale, over-time, individual-level data enabling us to tease out different motivations for making an irregular journey.
 - Having large-scale, over-time data increases the chances of being able to capture not only categorical substitution dynamics, but also geographical- and time-related substitutions, which we believe may occur together with categorical substitutions.
- We need to know how much people who made an irregular journey knew about policy opportunities available to them and whether this influenced their decision.
- We need surveys inquiring whether people moving are those who would otherwise have made an irregular journey, and the other way around. In addition, this should include also people who eventually decided not to migrate.
- We need more counterfactual analysis to be able to make stronger claims regarding causal links.

The following include some potential research strategies:

- Surveys on the reasons why people undertake irregular journeys: this involves primary data collection with migrants about the reasons for their journeys (be they regular or irregular), their understanding of policy opportunities, the desired destinations, if they have already taken arrangements for the journey. Repeated rounds of interviews in a selected group of countries of origin could illuminate the interplay between incentives coming from the policy structures, contextual factors such as economic conditions, and intentions to move. This would provide a more fine-grained analysis of the conditions under which categorical substitutions may occur. Primary data collection in this vein could also involve tracing migrants' movements over time to understand how and where their decisions change, comparing multiple locations of arrival in Europe
- Detailed case studies of specific migration policies (circular labour migration, migration partnerships, bilateral agreements, guest worker schemes) examining decisions to migrate of people on the programme and not. In those cases, to uncover causal links between the opening of regular channels and irregular immigration, what is called a 'natural experiment' would be needed whereby we can isolate the effect of a policy change on a 'treated group' in comparison (those who benefited from the programme) with a 'control group' (those who were excluded). Put differently, to assess the causal effect of opening legal channels we would need consider two potential outcomes, one associated with the presence of the policy, and one with its absence, for the same set of individuals. Because we cannot observe the counterfactual outcome in reality, we would need a natural experiment to approximate that situation and estimate the likely effect of the policy.
- Finally, the scope could be extended by further research. Besides the relationship between regular and irregular migration, it would be important to analyse also substitution effects within existing regular channels (e.g. between labour and student migration, or between labour migration and family reunification).

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7 ANNEX

7.1 Data collection and sources

All datasets are extracted from Eurostat⁴⁸ through the R Eurostat package (<https://ropengov.github.io/eurostat>).

While the correlations at the regional level are not filtered, the correlations are run for dyads where the sum of all permits issued over the 10 years period and the sum of all asylum applications were bigger than 5, and were the standard deviations of both variables were different from 0. In other words, there must have been some permits issued and some asylum applications lodged to perform this operation.

The datasets⁴⁹ we looked at are:

- First permits⁵⁰ by reason, length of validity and citizenship (migr_resfirst);
- First permits by reason, age, sex and citizenship (migr_resfas);
- First permits issued for family reasons by reason, length of validity and citizenship (migr_resfam);
- First permits issued for education reasons by reason, length of validity and citizenship (migr_resedu);
- First permits issued for remunerated activities by reason, length of validity and citizenship (migr_resocc);
- Asylum and first time asylum applicants⁵¹ by citizenship, age and sex. Annual aggregated data (rounded) (migr_asyappctza);
- First instance decisions⁵² on applications by citizenship, age and sex Annual aggregated data (rounded) (migr_asydcfsta);

⁴⁸ Available at (<https://ec.europa.eu/eurostat/data/database>).

⁴⁹ For an overview of overall trends in residence permits, see (Migali and Natale 2017).

⁵⁰ All metadata information on statistics on residence permits are available on the Eurostat webpage (Eurostat 2019d). The explanatory text for first *residence permit* is the following: 'First permit: Residence permit issued to a person for the first time. A residence permit is considered as a first permit also if the time gap between expiry of the old permit and the start of validity of the new permit issued for the same reason is at least 6 months, irrespective of the year of issuance of the permit. The convention of first permit relates to permits issued at all levels of administrative / judicial instances and by all national authorities. Thus, if at the first instance permission to reside was not granted but an appeal decision was positive at the second instance, the permission (resulting from appeal decision) shall be considered to be a first permit (if of course the time gap conditions are met). Permits granted during the reference period on the occasion of person changing immigration status or reason to stay: Permission to reside is considered as a change of immigration status or reason to stay if the period between the expiry of the old permit and the start of validity of the following permit is less than 6 months and the immigration status or reason to stay has been changed. Only changes between major categories can be recorded as a change of status permit. These major categories are: reasons related to family formation and reunification; reasons related to education and study; reasons related to remunerated activities; other reasons. Statistics related to the change of immigration status/reason to stay include permissions granted at all levels of administrative/judicial instances and by all national authorities'.

⁵¹ All metadata information on statistics on asylum applications are available on the Eurostat webpage (Eurostat 2019a). The explanatory text for '*First time asylum applicant*' is the following: 'First time asylum applicant' means a person having submitted an application for international protection for the first time. Applications submitted by persons who are subsequently found to be a subject of a Dublin procedure are included in the statistics on first time asylum applicants if such persons are also a subject of first asylum application. The term 'first time' implies no time limits and therefore a person can be recorded as first time applicant only if he or she had never applied for international protection in the reporting country in the past, irrespective of the fact that he or she is found to have applied in another Member State of the European Union. All Member States are requested to supply these data but their provision is voluntary'.

⁵² All metadata information on statistics on asylum decisions are available on the Eurostat webpage (Eurostat 2019b). The explanatory text for '*First instance decision*' is the following: 'First instance decision: decisions (positive and negative) considering applications for international protection as well as the grants of authorisations to stay for humanitarian reasons, including decisions under priority and accelerated procedures taken by administrative or judicial bodies in Member States. First instance decisions include decisions granted to persons who are a subject of the Dublin Regulation (Council Regulation 604/2013/EC)'.

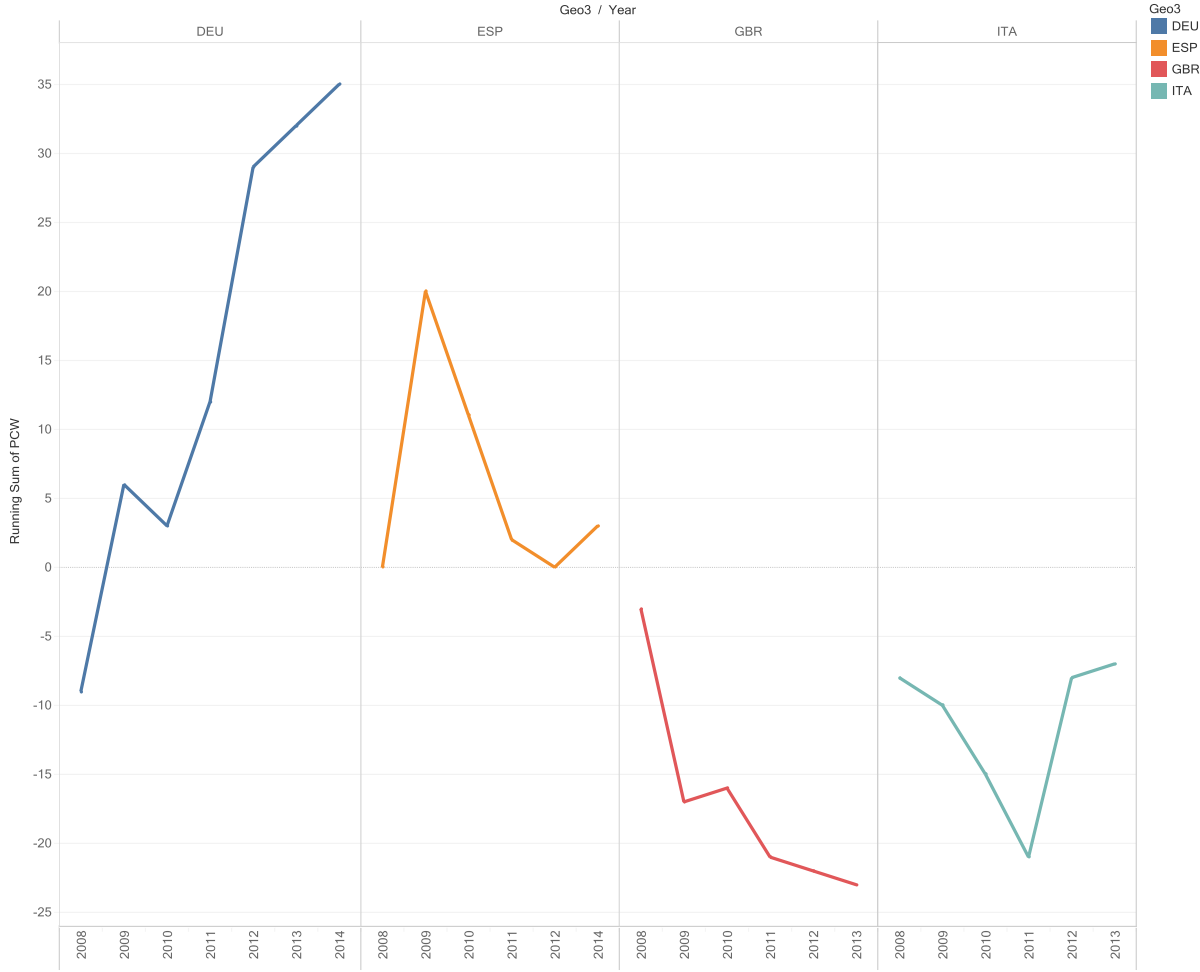
- Final decisions on applications by citizenship, age and sex Annual data (rounded) (migr_asydcfina);
- Third country nationals refused entry at the external borders - annual data (rounded) (migr_eirfs)⁵³;
- Third country nationals found to be illegally present - annual data (rounded) (migr_eipre);
- Third country nationals ordered to leave - annual data (rounded) (migr_eiord).

Data on policy changes (Figure 14) are taken from the DEMIG database (de Haas, Natter, and Vezzoli 2015).

The explanatory text for '*Final decision*' is the following: 'Final decision: decision taken by administrative or judicial bodies in appeal or in review and which are no longer subject to remedy. The true 'final instance' may be, according to the national legislation and administrative procedures, a decision of the highest national court. However, it is not intended that asylum statistics should cover rare or exceptional cases determined by the highest courts. Thus, the statistics related to the final decisions should refer to what is effectively a final decision in the vast majority of all cases: i.e. that all normal routes of appeal have been exhausted'.

⁵³ All metadata information on statistics on enforcement of immigration legislation are available on the Eurostat webpage (Eurostat 2019c). In particular, the explanatory text for *OTL* is the following: 'Third country nationals ordered to leave: 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 (see Art. 7.1 (a) of the Regulation). These statistics do not include persons who are transferred from one Member State to another under the mechanism established by the Dublin Regulation (Council Regulation (EC) No 343/2003 and (EC) No 1560/2003, for these cases see related Dublin Statistics). Each person is counted only once within the reference period, irrespective of the number of notices issued to the same person'. In particular, the explanatory text for *apprehended* is the following: '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 laws relating to immigration (see Art. 2.1 (r) and 5.1(b) of the Council Regulation (EC) no 862/2007). This category relates to persons who have been found to have entered illegally (for example by avoiding immigration controls or by employing 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 persons 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 persons who are present in the country on an unauthorised basis. Each person is counted only once within the reference period'.

Figure 14. Cumulative policy changes in selected EU countries, weighted by the magnitude of policy change



Source: DEMIG

Asylum applications must not be regarded as a form of irregular migration

Asylum applications must not be equated with either irregular stays or irregular entries. Asylum seekers’ lawful stay on the territory is specified by the *acquis communautaire*, *inter alia* the Asylum Reception, Qualification, and Procedure Directives, as well as the relevant jurisprudence (for an overview, see Peers 2016, chapter 5). Turning to asylum seekers’ entry, this may be irregular, for instance when they cross the EU external border in an irregular manner. However, irregular border crossing is only one of the channels used by asylum applicants. On the other hand, data on irregular border crossing capture at best mixed flows, including irregular immigrants as well as possible future asylum-seekers. This is the case for instance of the often-quoted Frontex’s statistics for ‘detections of illegal border-crossing between’, besides the fact that detections are counted, and not distinct individuals.

Having clarified that asylum applications are not and should not be considered a valid proxy for irregular entry, there are however several reasons to look at asylum applications. As mentioned in the Introduction, in both policy and political discourses asylum is often associated with irregular migration and with the lack of legal migration alternatives. Working towards opening legal pathways for migration has been one of the tools used by the EU in tackling the migration and refugee crisis. For instance, the 2015 European Agenda

on Migration read: 'a clear and well implemented framework for legal pathways to entrance in the EU (both through an efficient asylum and visa system) will reduce push factors towards irregular stay and entry, contributing to enhance security of European borders as well as safety of migratory flows' (European Commission 2015, 6). In addition, the very idea of categorical substitution listed possible 'reorientation' from labour migration to asylum, thus making this kind the proposed analysis interesting from an empirical perspective (de Haas 2011, 27).

Measuring irregular immigration remains problematic and contested

By definition, irregular immigration escapes states' control. Nonetheless, Eurostat has started to release statistics on enforcement of immigration legislation since 2008, which includes variables commonly associated with irregular immigration. We surveyed a number of EU official studies and reports, inter alia DG HOME Annual Activity Report, EMN studies and Annual Reports, proposals and revisions of Directives (e.g. the Return and Employers' Sanction Directives), as well as their implementation reports, to better understand what were the most appropriate variables to shed some light on this phenomenon.

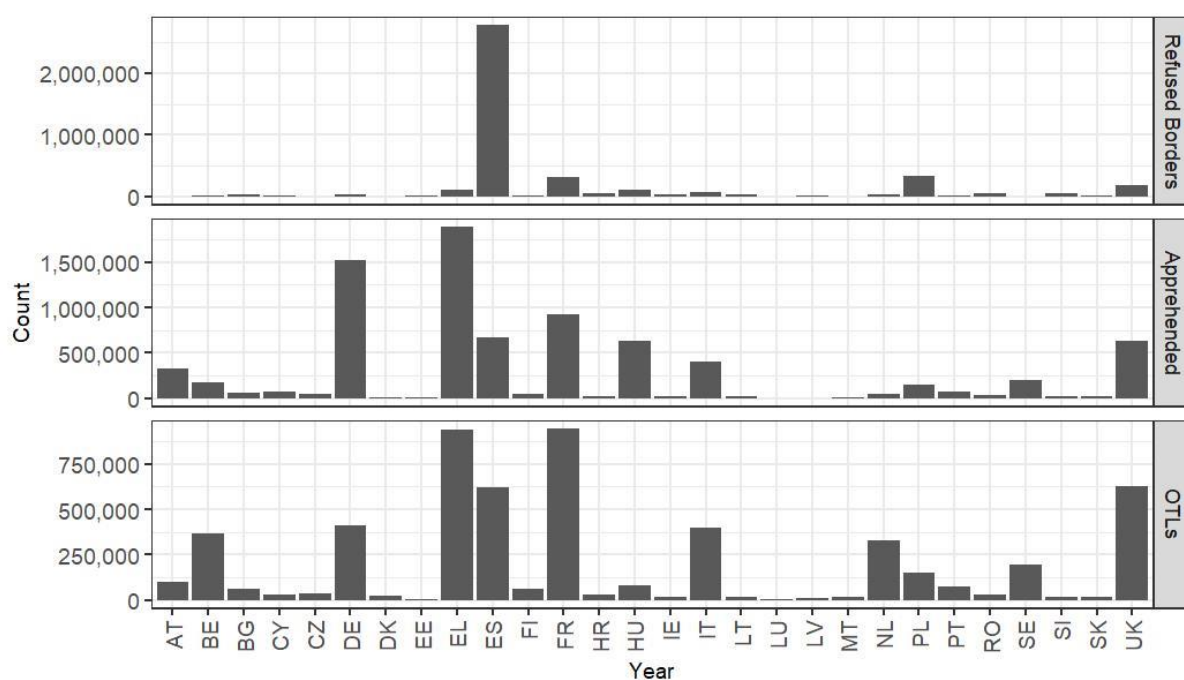
The EMN has highlighted some issues regarding how to interpret Eurostat statistics on refusal at borders and apprehensions:

- 'Whilst all persons refused entry at the border can be considered irregular entrants to the extent that they do not fulfil the conditions of entry, they may not all have specifically set out to enter irregularly – for example, where the entrant has 'insufficient means of subsistence' or inadequate documentation, this may also signal that the entrant was unaware of this condition of entry and did not aim to enter irregularly' (European Migration Network (EMN) 2012, 37).
- 'While the number of apprehensions may be indicative of effective detection and law enforcement methods, they can also be indicative of high(er) numbers of irregular migrants in the (Member) State' (European Migration Network (EMN) 2012, 46).

Besides these interpretative caveats, these statistics presents some other challenges that emerge by looking at the data. A quick review of numbers on *refusals at external borders* immediately show how problematic the use of this data can be, due to the predominance of only a few Member States (Figure 15). There is a marked geographical skew, entirely due to the Moroccans refused at Spanish borders (nearly 2.5 million between 2008 and 2017).

Turning to *apprehensions*, the Commission has repeatedly warned about the shortcomings of apprehension statistics. For instance, commenting on the possible reduction for the sizeable reduction ins apprehensions between 2008 and 2012, the Commission listed 'a number of factors such as improved controls at the external borders, the economic crisis in Europe and an improved economic situation in some significant source countries have contributed to this change' (for instance, see European Commission 2014, 3). Here we also notice that the total number of apprehensions in Greece and Germany vastly outnumber all other EU countries. Here, the underlying reason in both cases is the same, namely the 2015 inflow of Syrians in those countries. Further, statistics on apprehensions do not reveal when those who are apprehended may have entered Europe and in what way. In other words, these may be individuals whose residence permits or visas have expired, or whose asylum applications were turned down, or who may have entered and stayed irregularly for an unknown amount of time in Europe.

Figure 15. Descriptive statistics on enforcement of immigration legislation



Source: Eurostat

OTLs only tell us when the situation of irregularity was detected, not when it materialised. Further, OTLs may underestimate the total inflow of irregular immigration as OTLs are connected both to the inflows of irregular immigration, as well as law enforcement practices in the Member States regarding the stock of irregular migrants. Analogously to the case of apprehensions, the numbers of OTLs recorded by these statistics is dependent on law enforcement. Indeed, there is always the risk that Eurostat statistics on the enforcement of immigration legislation may tell more about the administrative capacity and practices of a country rather than the actual phenomenon they claim to measure.

Furthermore, it is not clear whether these statistics should be interpreted as stocks rather than flows, which may be problematic for any analyses aimed at investigating possible relationships between different channels of entry. Eurostat does not use the stock/flow distinction in its explanatory metadata on statistics on enforcement of immigration legislation (Eurostat 2019c).

Finally, what is actually measured by these statistics may be different between Member States. Figure 16 illustrates this point.

- For some countries of destination (IT, MT, BG, UK, PT, LT, PL, SK, ES), the country-level correlations between numbers of apprehended for all countries of origin and years (4th pane) has a perfect match with the numbers of orders to leave (OTLs) for the same nationalities and years⁵⁴. However, for other countries we notice that correlations between apprehensions and OTLs is rather low⁵⁵ (AT, LV, DE, SE, and FI). If apprehensions were measuring irregular immigration in the same way as OTLs, we should not witness such a variation in correlation coefficients across Member States.
- For some of the countries with low correlations between apprehended and OTLs (AT, DE, and FI), the correlations between apprehensions and asylum applications

⁵⁴ Pearson's correlation above .97.

⁵⁵ Pearson's correlation below .37.

(1st pane) is very high. These results may be simply due to different administrative practices regulating national accounting systems in asylum and irregular immigration.

- Looking at the bottom pane, exploring correlations between OTLs and asylum applications rejected in first instance, we observe that for many of the countries with low correlations between these two variables (*inter alia*, IT, BG, PT, LT, SK, ES, RO), we also notice that they had very high correlations between apprehended and OTLs. This may suggest that the main entry channels into what is administratively registered as irregular migration may be different across countries. For some countries, this may be predominantly the result of those who have been rejected in the asylum process. For others, irregular migration may be the result of a blend of other factors.

Figure 16. Correlations between different migration categories



Source: Eurostat

Other statistics may be considered when trying to capture irregular immigration. For instance, it is very common to find references to Frontex's irregular border crossing as a proxy for irregular immigration. However, that statistic is very problematic under several respects. We mentioned the possibility of double counting already. To that, it should be added that, people who crossed irregularly a border may subsequently regularise their position by, for instance, applying for asylum. Indeed, Frontex illustrated this issue in its 2015 Annual Risk Analysis, where it compared the top five nationalities for irregular border crossing and returns. The report read 'In terms of nationalities, there is a striking difference between the nationality detected crossing the border illegally or staying illegally in the EU, and the nationality effectively returned [...]. Indeed, most people detected crossing the border illegally apply for asylum and thus are not returned' (Frontex 2015, 32–33). In other words, numbers of irregular border crossings may be poor proxies for irregular immigration as an undetermined number of these detections may actually obtain asylum or other forms of protection. Finally, these statistics are provided by countries of origin and routes, which makes the relative attribution across Member States difficult.

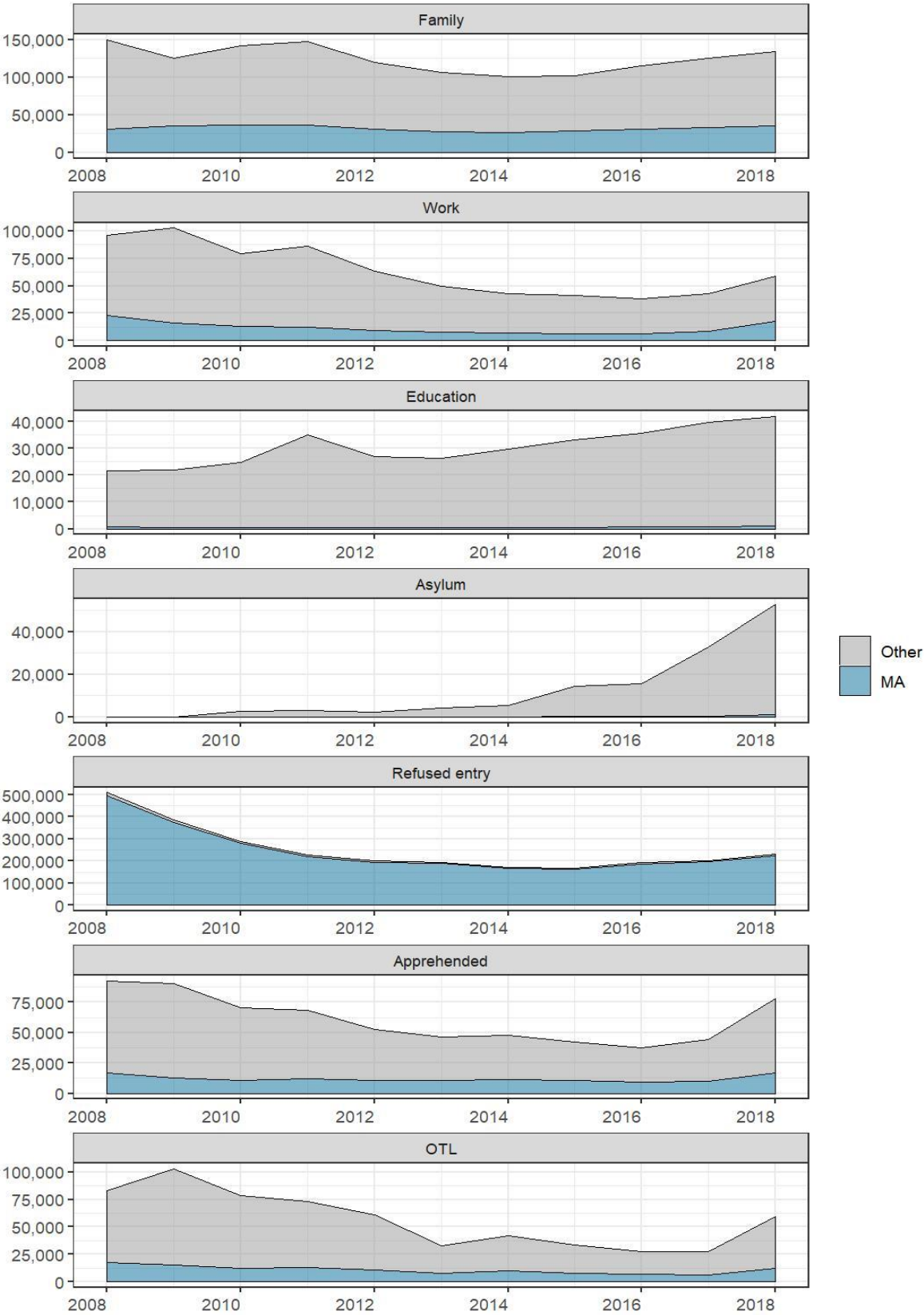
7.2 Descriptives

Table 1. Descriptive statistics of the main variables

	<i>n</i>	<i>mean</i>	<i>sd</i>	<i>median</i>	<i>mad</i>	<i>min</i>	<i>max</i>	<i>range</i>
First permits issued for education reasons	52850	105.06	1211.02	1	1.48	0	91215	91215
First permits issued for family reasons	52849	153.91	1013.97	2	2.97	0	38661	38661
First permits issued for remunerated activities	53900	143.97	3921.01	0	0	0	545266	545266
Total first permits	52849	536.12	5802.6	6	8.9	0	585439	585439
Total first permits for education, family, and remunerated activities	53900	397.89	4716.29	4	5.93	0	563749	563749
First time asylum applicants	47112	121.59	1893.66	0	0	0	266250	266250
First instance positive decisions on applications	53200	41.99	1500.26	0	0	0	288985	288985
First instance negative decisions on applications	52873	54.45	562.2	0	0	0	58565	58565
First instance total decisions on applications	53200	96.17	1710.47	0	0	0	290965	290965
First instance recognition rate	14558	0.24	0.32	0.07	0.1	0	1	1
Final instance negative decisions	52931	25.8	307.71	0	0	0	30480	30480
Third country nationals refused entry at the external borders	52290	83.47	3850.18	0	0	0	496435	496435
Third country nationals found to be illegally present	51809	155.29	2914.47	0	0	0	499495	499495
Third country nationals ordered to leave	50396	110.98	837.17	0	0	0	72455	72455

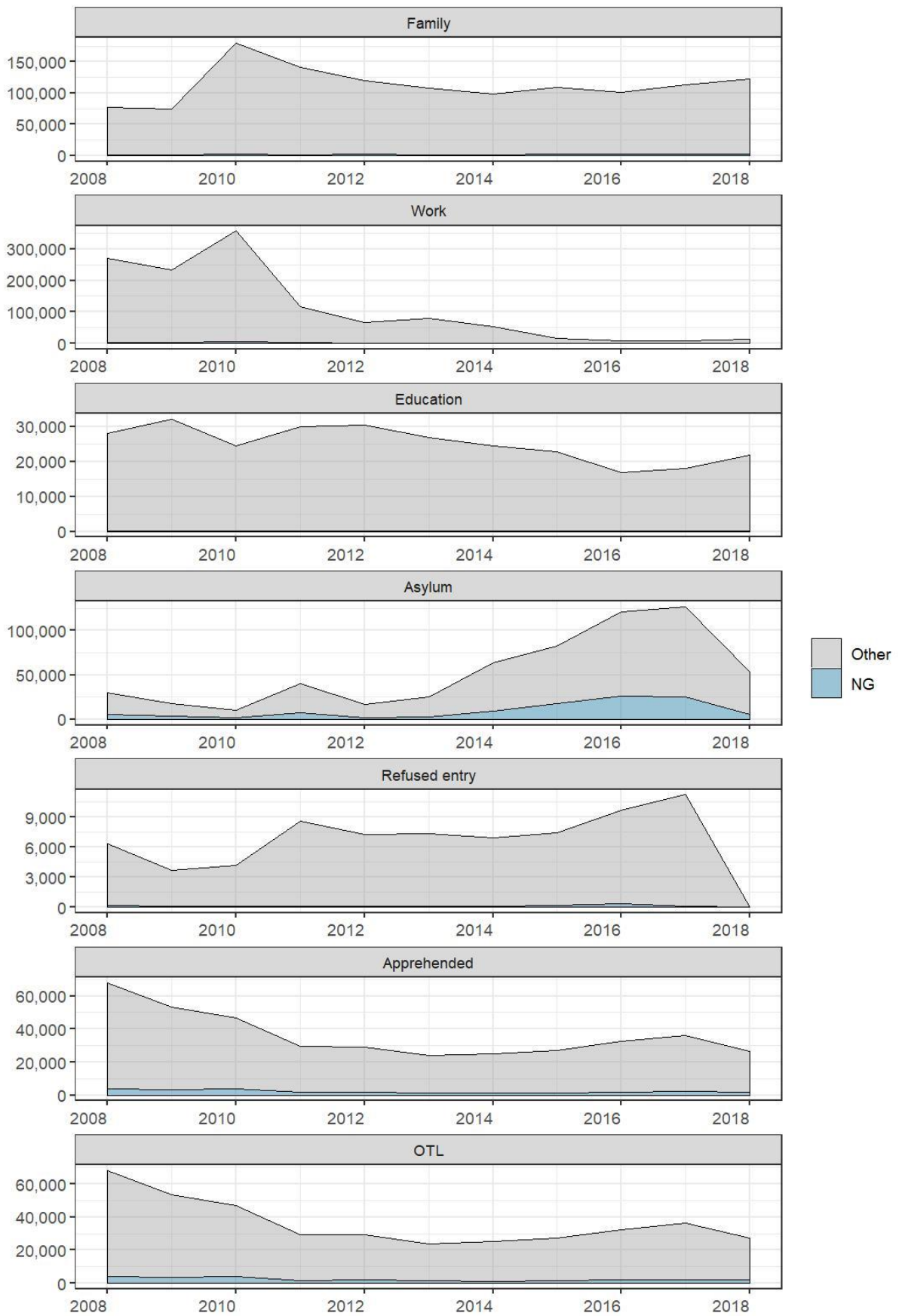
7.3 Additional graphs

Figure 17. Immigration from outside the EU to Spain



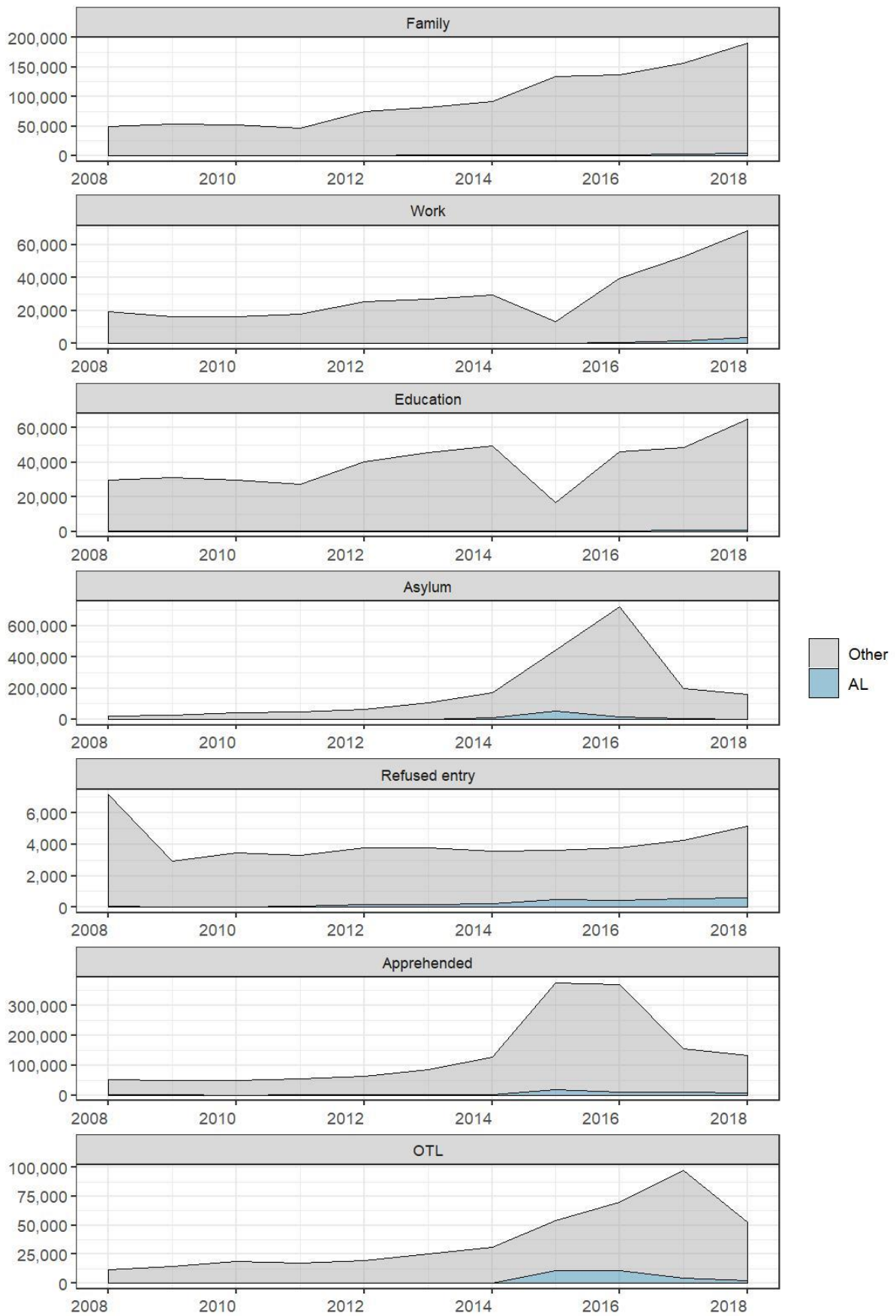
Source: Eurostat

Figure 18. Immigration from outside the EU to Italy



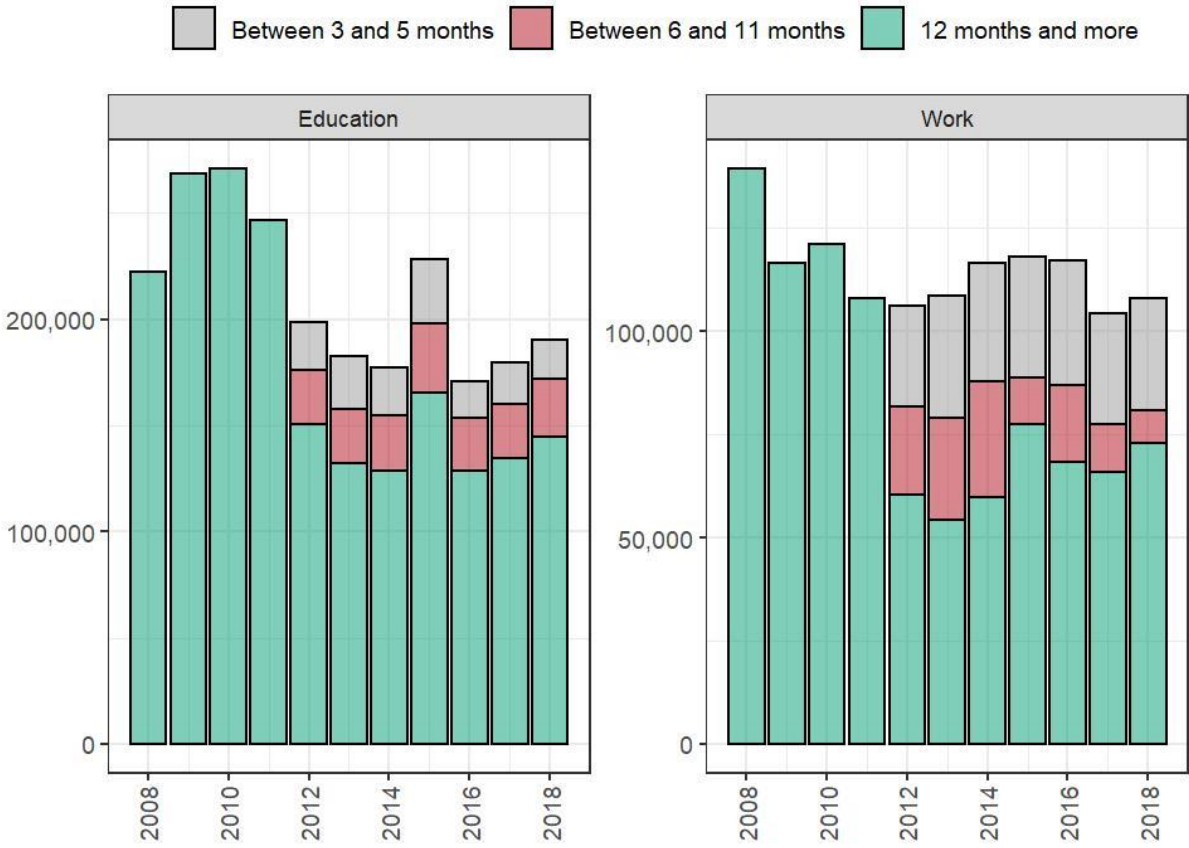
Source: Eurostat

Figure 19. Immigration from outside the EU to Germany



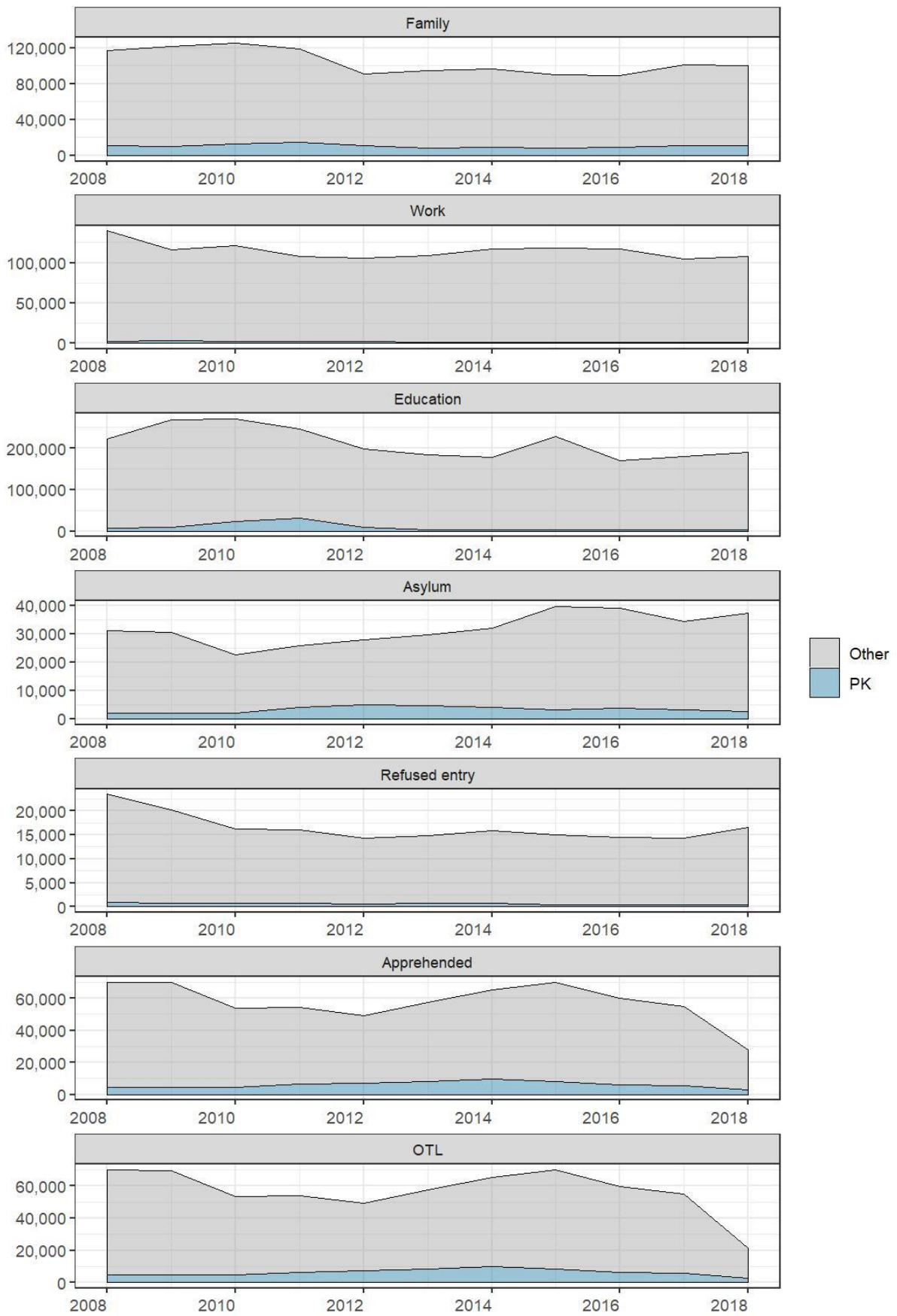
Source: Eurostat

Figure 20. Residence permits for students (left) and labour (right) migrants in the UK, by duration



Source: Eurostat

Figure 21. Immigration from outside the EU to the UK



Source: Eurostat

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