

# SEPARATED AND MISSING MIGRANTS: MEMBER STATES APPROACHES TO PREVENT FAMILY SEPARATION AND SEARCH MECHANISMS FOR MISSING MIGRANTS

EMN INFORM

2021

## 1. KEY POINTS TO NOTE

- All reporting Member States have measures and/or procedures in place to prevent the separation of third-country nationals from their family members when they first come into contact with authorities within their territory.
- When a family is registered at an (external) EU border or when they first arrive at a reception centre, family members are treated as a unit for the purposes of entry screening and registration. If arriving at different times or locations, family members are usually reunited.
- Even though there are exceptional circumstances in which families can be separated when arriving at immigration detention centres (e.g., when it is in the best interests of the child, or for national security reasons), overall, families are detained together and placed in special detention facilities.
- In all reporting Member States, families are transferred or accommodated together from one facility to another to avoid family separation during transfers.
- In most Member States the responsibility to preserve family unity is shared among different national authorities (e.g., migration authorities, law enforcement authorities and reception services). In other Member States the police is the only entity responsible for preventing the separation of migrants from their families.
- Reporting Member States do not have procedures specifically designed to search for missing third-country nationals. When a third country national is reported missing, the national competent authorities follow the general procedures that apply to any missing person, except for the occasional involvement of migration authorities.
- Migration authorities play a very limited role in the search for missing third-country nationals. They mostly assist by providing information on the missing person.
- The Red Cross National Societies (through the Red Cross and Red Crescent Restoring Family Links Network) and in some Member States also Civil Society Organisations are allowed to participate in the search for the missing person in most Member States.
- Most Member States do not have specific mechanisms in place to enable people without a status to safely report a missing person.

## 2. SCOPE AND AIMS OF THE STUDY

This EMN Inform provides a comparative overview of the policy measures and practical approaches taken by Member States to **prevent and manage the risks of third-country nationals going missing and their separation from family members**. Information was collected by the EMN National Contact Points.<sup>1</sup>

The aim of this EMN Inform is to report on how Member States and Norway **prevent third-country nationals in the EU from being separated from their family members** in three different scenarios:<sup>2</sup> 1) when they first come into contact with authorities; 2) during transfers from one facility to another; and 3) during their stay in a Member State. The Inform also reports on how Member States treat the issue of third-country nationals

going missing, including **existing procedures to report and search for a third-country national reported missing**.

The inform considers the situation of third-country nationals who are separated from their families or go missing involuntarily. Its scope is limited to third-country nationals within the territory of Member States, thus not covering circumstances along migratory routes within the territorial sea of Member States or outside the EU or Norwegian borders. The specific issue of unaccompanied minors going missing is not addressed, as it was analysed in another recent EMN publication.<sup>3</sup>

This report also takes into account consultation with and contributions from the International Committee of the Red Cross (ICRC).

1 Unless otherwise stated, the information was collected by the EMN National Contact Points (NCPs) via two EMN Ad-Hoc Queries (AHQ): 1. AHQ 2020.70 on Measures and procedures in place to prevent separation of migrants from their families within the EU, requested by the European Commission on 24 November 2020 and responded by 22 Member States: AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IE, IT, LV, LT, LU, NL, PL, PT, SK, SI, SE; and 2. AHQ 2020.71 on Mechanisms to search for a migrant reported missing, requested by the EU Commission on 24 November 2020 and responded by 22 Member States: AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IE, IT, LV, LT, LU, NL, PL, PT, SK, SI, SE. Complementary information was also used from an earlier EMN AHQ 2019.78 on Red Cross Restoring Family Links programme in detention centres and border crossing points, requested by EMN NCP Lithuania on 9 August 2019, responded by 20 Member States: AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, SK, SE and the United Kingdom.

2 A 'family member' is understood according to the definition given in the EMN Glossary: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/family-member\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/family-member_en), last accessed 3 May 2021.

3 See EMN Inform on Missing Unaccompanied Minors in the EU, Norway and the UK, 2020, available at: [https://ec.europa.eu/home-affairs/content/emn-inform-missing-unaccompanied-minors-eu-norway-and-uk\\_en](https://ec.europa.eu/home-affairs/content/emn-inform-missing-unaccompanied-minors-eu-norway-and-uk_en), last accessed 3 May 2021.



### 3. MISSING AND SEPARATED MIGRANTS IN THE EU CONTEXT AND LEGAL FRAMEWORK

While third-country nationals may decide to voluntarily separate from their families, for instance to escape a return decision, they also may involuntarily be separated from their families or go missing. Between 2015 and 2018, the Red Cross National Societies together with the ICRC collected tracing requests from families in Europe and countries of origin to search for almost 60 000 third-country nationals who were travelling irregularly towards or through Europe. This shows that over the past years, a significant number of third-country nationals have gone missing or have been separated from their families, also after arrival in Member States.

**When travelling alone, third-country nationals are often isolated upon entry and *en route* to their final destination in the EU.** They may be more vulnerable to exploitation, trafficking and smuggling.<sup>4</sup> In some cases, third-country nationals may lack information on ways to communicate with their relatives or,<sup>5</sup> if in an irregular situation, may decide not to do so out of fear of return or reprisals against their family members.<sup>6</sup> All these circumstances may lead to a loss of contact with their families and difficulties to re-establish connections, as well as increase the risk of third-country nationals going missing.

Moreover, **family members may be unable to travel to or within the EU**, have a precarious status in the EU Member State in question or be arrested or detained under Article 5(1)(f) ECHR for immigration purposes. These circumstances may prevent their capacity to benefit from the right to family life and family unity, report a relative as missing, or provide information pertinent to a search or investigation.<sup>7</sup>

Finally, **when entering an EU Member State as a family, the immigration procedures applied by national authorities may also (unintentionally) lead to the separation of families** and interfere in their right to family life, for example due to geographical restrictions, placement in separate accommodation facilities, transfers from a facility to another, a rigid application of policies intended to protect vulnerable migrants, etc.<sup>8</sup>

**The integrity of the family is protected under International Human Rights Law, International Humanitarian Law (in situations of armed conflict), European Human Rights Law and EU law.** More specifically, among other legally binding instruments, the European Convention on Human Rights (Article

8) and the EU Charter of Fundamental Rights (Article 7) oblige Member States to take positive steps to preserve family unity; to justify any interference with family life; and to take positive steps to protect family life from arbitrary interference. Children also have rights to family life under international human rights law, including “the right to know and be cared for by their parents” (Article 7(1) United Nations Convention on the Rights of the Child (UNCRC)), the right to maintain direct contact with parents on a regular basis (Article 9(3) UNCRC), the right to family reunification (Article 10 UNCRC), and the protection from separation unless in the best interests of the child (Article 9(1) UNCRC).

In EU law, the Family Reunification Directive offers protection of the right to family unity for legal residents in the EU,<sup>9</sup> including recognised refugees,<sup>10</sup> while the Reception Conditions Directive (preamble paras 9 and 22, Article 2(1), Article 23 (1))<sup>11</sup> mentions family unity and the best interests of the child as principles that should inform Member States’ treatment of persons seeking international protection. In the same vein, the Qualification Directive obliges Member States to ensure that the family unity of beneficiaries of international protection can be maintained and that this principle is taken into account when assessing the best interests of the child (Article 23 and Recital 18).<sup>12</sup> The Return Directive also mandates that family unity is maintained during the period of voluntary departure (Article 14(a)).<sup>13</sup> In the context of migration and border control, the European Court of Human Rights (ECtHR) recognises the sovereign right of States to control third-country nationals’ entry into and residence in their territory but has also held that this does not exempt States from their human rights obligations, including the right to respect family life and the best interests of any children involved.<sup>14</sup>

**In the case of missing persons, certain procedural obligations follow from the right to life** (Article 2 ECHR, Article 2 EU Charter of Fundamental Rights), including the State’s obligation to carry out an effective official investigation of a person’s disappearance in suspicious or violent circumstances.<sup>15</sup> Additionally, the families’ right to know the fate of a missing relative has been interpreted as a necessary corollary of the right to life and the right to family life in judgments of the Human Rights Committee as well as the ECtHR under Article 3 ECHR rather than Article 2 ECHR.<sup>16</sup>

- 4 IOM, Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour, 2019, <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour>, last accessed 3 May 2021.
- 5 ICRC, Missing Migrants and their Families, The ICRC’s recommendations to policy makers, 2020, <https://www.icrc.org/en/publication/missing-migrants-and-their-families-icrc-recommendations-policy-makers>, last accessed 3 May 2021.
- 6 ICRC, The protection of migrants under international humanitarian law, [https://international-review.icrc.org/sites/default/files/irrc\\_99\\_10.pdf](https://international-review.icrc.org/sites/default/files/irrc_99_10.pdf), last accessed 3 May 2021.
- 7 ICRC, Missing Migrants and their Families, The ICRC’s recommendations to policy makers, 2020, <https://www.icrc.org/en/publication/missing-migrants-and-their-families-icrc-recommendations-policy-makers>, last accessed 3 May 2021.
- 8 UNHCR, The right to family life and family unity of refugees and others in need of international protection and the family definition applied, 2018 <https://www.unhcr.org/5a8c40ba1.pdf>, last accessed 3 May 2021.
- 9 See for example: Oxfam, Dear Family, How European migration policies are keeping families apart, 2017. Available at: [https://d1tn3vj7xz9fdh.cloudfront.net/s3fs-public/file\\_attachments/bp-greece-family-unity-190617-en.pdf](https://d1tn3vj7xz9fdh.cloudfront.net/s3fs-public/file_attachments/bp-greece-family-unity-190617-en.pdf), last accessed 3 May 2021.
- 10 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0086:fr:HTML>, last accessed 3 May 2021.
- 11 See EMN Synthesis Report of the 2016 EMN Study on Family Reunification in the EU and Norway, 2017, [https://ec.europa.eu/home-affairs/sites/default/files/00\\_family\\_reunification\\_synthesis\\_report\\_final\\_en\\_print\\_ready\\_0.pdf](https://ec.europa.eu/home-affairs/sites/default/files/00_family_reunification_synthesis_report_final_en_print_ready_0.pdf), last accessed 3 May 2021.
- 12 Directive 2013/53/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>, last accessed 3 May 2021.
- 13 Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>, last accessed 3 May 2021.
- 14 Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32008L0115>, last accessed 3 May 2021.
- 15 Judgment of the European Court of Human Rights (ECtHR) of 28 May 1985, Abdulaziz, Cabales and Balkandali v. the United Kingdom (Application nos. 9214/80; 9473/81 and 9474/81); and judgement of the ECtHR of 2 August 2001, Boulif v. Switzerland (Application no. 57273/00), paragraph 39. For the Council of Europe’s assessment of human rights-compliant treatment of irregular migrants and asylum seekers at the EU’s external borders, <https://rm.coe.int/lives-saved-rights-protected-bridging-the-protection-gap-for-refugees-168094eb87>, last accessed 3 May 2021.
- 16 For overviews of the right to family life for non-resident third-country nationals in the EU, see e.g.: <https://rm.coe.int/family-reunification-for-refugee-and-migrant-children-standards-and-pr/16809e8320>, last accessed 3 May 2021, 20-25, p.20-25.
- 17 ECtHR Guidance on Article 2 of the ECHR, Right to Life, December 2020, [https://www.echr.coe.int/Documents/Guide\\_Art\\_2\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_2_ENG.pdf), last accessed 3 May 2021; Judgement of the ECtHR of 6 May 2003, Tahsin Acar v. Turkey (Application no. 31511/07); Judgement of the ECtHR of 27 July 2006, Bazorkina v. Russia (Application no. 69481/01), Judgement of the ECtHR of 18 September 2009, Varnava and Others v. Turkey (Application nos. - 16064/90, 16065/90, 16066/90 et al.); Judgement of the ECtHR of 7 January 2010, Rantsev v Cyprus and Russia (Application no. 25965/04), Judgement of the ECtHR of 15 February 2011, Palić v Bosnia and Herzegovina (Application no. 4704/04).
- 18 For a commentary, see the “Last Rights Extended Legal Statement and Commentary 1: The Dead, the Missing and the Bereaved at the World’s Borders”, January 2019. The Human Rights Committee has held that the family has “the right to know” about the fate and whereabouts of a loved one who has gone missing under precarious circumstances and that failure to conduct an investigation causes anguish and uncertainty in violation of Article 7 ICCPR (see the Decision of the Human Rights Committee of 16 July 2003, Sarma v Sri Lanka, Communication No. 950/2000, para 9.5). The ECtHR has also acknowledged that failure to investigate may raise issues under Article 3 ECHR, and has stressed the importance of an effective investigation in establishing the truth for the families of victims, other victims, and the general public (see judgement of the ECtHR of 16 December 2014, Meryem Çelik and Others v. Turkey, Application no. 3598/03, and judgment of the ECtHR of 13 December 2012, El-Masri v. the former Yugoslav Republic of Macedonia, Application no. 39630/09).



## 4. NATIONAL POLICIES AND PRACTICES TO PREVENT THE SEPARATION OF MIGRANTS FROM THEIR FAMILY MEMBERS WITHIN THE EU

### 4.1. UPON FIRST CONTACT WITH AUTHORITIES

All responding Member States have policies and/or practices in place to prevent the separation of third-country nationals from their family members when they first come into contact with authorities.<sup>17</sup> The Inform considers the situations when third-country nationals are first registered at the border, at police stations, at reception centres or at a detention facility.

#### Box 1: Collaboration between municipalities and the Italian Red Cross to ensure that family unity is guaranteed upon arrival in Italy

Memoranda of Understanding were signed by Italian local authorities (usually Prefectures) with the Italian Red Cross on specific target groups (i.e. migrants arriving by sea, migrants in prisons, etc.) to ensure that the right to family unity (including the prevention of family separation) is protected.

Additionally, during the Covid-19 pandemic, in agreement with the Italian Ministry of Interior, the Italian Red Cross operated on quarantine ship, to identify and refer back to relevant authorities cases of separated families for prompt follow-up so that family unity was ensured following disembarkation.

Source: ICRC/Italian Red Cross

#### 4.1.1. ARRIVAL AT AN EU (EXTERNAL) BORDER

When arriving at an (external) border, several Member States ask third-country nationals to **declare their family situation**.<sup>18</sup> In most cases, the family unity is preserved by treating its members as a unit for the purposes of entry screening and registration.<sup>19</sup>

In **the Netherlands**, law enforcement authorities conduct a screening to establish the family ties. If the ties are confirmed, family members will be kept together and referred to the migration authorities who will take over their reception or, if detention is ordered, they are detained together in a Secure Family Facility. In **Italy**, the family detected at the border will be sent to the nearest hotspot for a medical screening and identification. Depending on their conditions and on their intention

to apply or not for international protection, the family would then be referred to the appropriate authority.

#### 4.1.2. ARRIVAL AND STAY AT POLICE STATIONS FOR IDENTIFICATION

When a family is detected staying irregularly on the territory or arrives at a police station, family unity is preserved based on **self-declaration**, in almost all Member States.

However, in five Member States, **family ties have to be established** before the family can be considered as a unit, when they have been detected by law enforcement authorities.<sup>20</sup> In some cases, the police verify the documents and collect self-declarations autonomously,<sup>21</sup> while others may involve the migration authorities.<sup>22</sup> In **Spain**, they can perform DNA tests when there is a risk of trafficking. In **Portugal**, the police involve the migration authority to support the identification of the family ties, and may refer to judicial authorities in case of presumed victims of trafficking or other forms of violence and abuse. In **the Netherlands**, the police will refer the family to the registration centre or may provide temporary accommodation if the family arrives late at night.

#### 4.1.3. ARRIVAL AT RECEPTION FACILITIES

Most Member States have measures and procedures to ensure family unity when third-country nationals **first arrive at a reception centre**.<sup>23</sup> Different measures are applied according to whether the family arrives together or whether third-country nationals arrive at different times and in different reception centres.

**When a family arrives together**, several Member States explained that the families are placed together in accommodation which is appropriate to their needs and are allowed to remain together throughout the proceedings and stay.<sup>24</sup> In **Belgium, Poland, the Netherlands, Lithuania and Latvia**, the family can choose to stay with family members already present in the territory during the proceedings. In **Italy**, the law 130/2020 recently reaffirmed that reception facilities are obliged to respect family unity.

**Family members who arrive at different times or in different reception centres are in most cases reunited**, to the extent possible.<sup>25</sup> For example, in **France**, the French Office of Immigration and Integration (OFII) ensures that asylum seeking family members are accommodated in the same Reception Centre for Asylum Seekers (CADA) and if there is knowledge of other family members, the OFII seeks to ensure that the other members may be in the same region.

Concerning the **reunification of individuals arriving alone, who report that their family is in the EU**, Member States are obliged to follow procedures set under the Dublin III Regulation.<sup>26</sup>

17 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HU, HR, IE, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK.

18 AT, BE, CY, CZ, FR, ES, HR, IT, LT, LV, NL, PT, SE, SI, SK.

19 BE, CY, CZ, DE, EE, FR, HR, IT, NL, LT, LV, SE, SK.

20 CZ, ES, FR, PT, SK.

21 CZ, LT, SI, SK.

22 CZ, FR, PT, SK.

23 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HU, HR, IE, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK.

24 BE, CY, CZ, DE, EE, FR, HR, IE, IT, LT, LU, NL, PL, PT, SI, SK.

25 AT, BE, CZ, DE, EE, FR, HR, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK.

26 Regulation (EU) No 604/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013R0604-20130629>, last accessed 3 May 2021.

Eight Member States provide pathways for family reunification as soon as the third-country nationals arrive at reception centres, if they are applying for asylum.<sup>27</sup>

Three Member States have specific measures and procedures in place to **prevent separation in informal reception settings**, such as camps and other informal settlements not managed by national authorities.<sup>28</sup> In these instances, Member States always prioritise family unity by presenting third-country nationals with the opportunity to declare the presence of family members. In addition, they only allow for family separation in exceptional circumstances, notably if separation was assessed to be in the best interests of the child, as detailed in section 4.3. In **Luxembourg**, any person in informal reception settings can request the assistance of the Luxembourgish Red Cross through the Restoring Family Links system. In **Lithuania**, families are accommodated together.

#### 4.1.4. ARRIVAL AT IMMIGRATION DETENTION CENTRES

Eleven Member States reported that **families are detained together**,<sup>29</sup> and placed in special facilities. For instance, in the **Netherlands**, families with minors are only placed in detention under certain strict conditions and placed in a family unit in the Secure Family Facility, but alternatives to detention are preferred. Equally, alternatives to detention – such as open facility locations – are preferred when families with minor children did not leave the Netherlands within the voluntary departure period. In **Lithuania**, families are detained together in the detention section of the Foreigners Registration Centre, where there are separate detention sections for single men, families and single women. Conversely, in **Belgium, Cyprus, Italy and Spain**, families with minor children are not detained; in **Spain** they are referred to reception facilities managed by NGOs and kept as a unit.

In a few Member States,<sup>30</sup> for example in **Estonia, Hungary, Lithuania and Luxembourg**, a **family can be detained only as a last resort**, pending an assessment of the best interests of the child and for a limited duration.

Several Member States also adopted **measures to allow detained third-country nationals to maintain contact with relatives abroad**.<sup>31</sup> This includes access to phones and the internet in closed immigration detention centres for the purposes of contacting family members, as well as the possibility to reach out to the Red Cross to send messages to family members in other countries.<sup>32</sup> In the **Netherlands**, third-country nationals who are detained can send and receive mail and have access to phones at their own cost. In the detention centre in Rotterdam, access to phones is provided 24 hours a day as phones are provided in the cell. In **Slovenia**, all third-country nationals in detention centres are allowed free phone calls to their family members upon admission to the centre and can have additional free phone calls upon return. In **Croatia and France**, phone cards are made available to migrant detainees, through the OFII in **France** and the Red Cross in **Croatia**.

27 CY, CZ, HR, PT, LT, LV, SI, SK.

28 LT (only asylum seekers), LU, PT.

29 CZ, EE, FR, HU, HR, LT, LU, LV, NL, PT, SE, SI, SK. In CZ, children are not detained- they are accommodated in a detention facility with their parents but have a possibility of free movement.

30 CZ, HU, LT, LU, NL, SE.

31 BE, CY, CZ, EE, FR, HR, LT, LU, LV, MT, NL, PL, SE, SI, SK.

32 BE, CZ, FR, HR, LT, LU, NL, SI (EMN AHQ 2020.70 Measures and procedures in place to prevent separation of migrants from their families within the EU, 2020) and HR and MT (EMN AHQ 2019.78 on Red Cross Restoring Family Links programme in detention centres and border crossing points, 2019)

33 BE, CY, EE, IE, LT, LV, SE, SK.

34 Ireland does not participate in the Return Directive and does not operate immigrant detention centres.

35 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LV, LT, LU, NL, PL, PT, SE, SI, SK.

36 AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IT, LT, LU, NL, PL, PT, SE, SI, SK.

37 CZ, FR, HR, LV, NL, PL, SK.

38 AT, BE, CY, CZ, DE, EE, FR, HR, HU, IE, LV, LT, LU, NL, PL, PT, SE, SI, SK.

39 AT, BE, HR, EE, FR, IT, LT, LU, NL, SE, SI, SK. In HR and LU, third-country nationals can also request for the procedures to be implemented. In France, the procedures are only implemented ex officio if the third country national(s) applies for international protection. In Italy, measures about joint accommodation are applied ex officio, but adults' interviews – during the international protection procedure – are conducted separately.

40 CZ, DE, IE, LT, LV, NL, SE, SK.

41 CZ, EE, LT, LU, SK.

There are **exceptional circumstances in which family separation can occur**.<sup>33</sup> In **Belgium, Lithuania and Estonia**, as a last resort and only in exceptional circumstances, a family member can be detained separately, because they pose a serious threat to national security. In **Latvia**, a family can be separated during detention upon the request of one of the family members. **Ireland** does not detain minors for the purposes of removal; if a parent or guardian is detained, the minor(s) are taken into temporary care by social services and the family is reunited at the airport for removal.<sup>34</sup> If only one parent would be detained, the child remains in the care of the other parent. In **Cyprus** and **Sweden**, a family member can be detained while the rest of the family remains in regular accommodation.

## 4.2. DURING TRANSFERS FROM ONE FACILITY TO ANOTHER

All responding Member States had measures in place to prevent family separation during transfers from one facility to another.<sup>35</sup>

In almost all responding Member States, this was done by **transferring families together from a facility to another**.<sup>36</sup> Specific national measures were put in place, for instance in **Bulgaria**, where the Bulgarian Red Cross, in line with its mandate and capacity, intervenes to ensure that family unity is guaranteed during transfers from a facility to another in the country, in cooperation with the national authorities.

In **France**, the proposal for accommodation has to be adapted to the family composition of the asylum seekers. In the case of transfers between accommodation facilities, this obligation remains.

In **Finland**, if one parent of the family is taken into detention, then, if necessary, the rest of the family can be moved close to the detention units, allowing the families to contact each other in everyday life.

## 4.3. DURING THEIR STAY IN MEMBER STATES

In almost all responding Member States, preserving family unity during international protection or return procedures is done by **assessing their cases jointly as a family (rather than as individuals only)**.<sup>37</sup> Families are also accommodated **together** in appropriate facilities.<sup>38</sup> These procedures and measures are applied *ex officio* in several Member States.<sup>39</sup> In the **Netherlands**, family unity is maintained throughout the international protection procedure, even as the family may have to change facilities according to the different steps and length of the procedure.

However, **family separation can occur in some instances**,<sup>40</sup> for example if one of the family members presents a **danger to public security**.<sup>41</sup> Other exceptions regarding the placement in detention are discussed in Section 4.1.4 above.

The Qualification Directive provides for Member States to **prioritise family reunification for unaccompanied minors in accordance with the best interests of the child**. For instance, in **Germany**, migration authorities are responsible for reuniting the unaccompanied minors with their families present in the territory, unless it goes against their best interests. In **France** and **Italy**, the removal of a parent is not possible, if the child would become unaccompanied or if there are serious reasons connected to the physical and mental development of the child respectively. In **Italy**, a removal order is withdrawn if the third-country national is a family member of an Italian citizen up to the fourth degree, to prevent family separation. In **Slovenia**, when an unaccompanied minor arrives with persons who are not close family members, the authorities establish the family ties according to the best interests of the child and treat them as a family once this relationship is established.

#### 4.4. FAMILY TRACING MECHANISMS TO LOCATE MISSING FAMILY MEMBERS FOR THE PURPOSES OF FAMILY REUNIFICATION WITHIN THE EU

When migrant families arrived separately or were separated during transfers from a facility to another, a **few Member States collaborated with their respective Red Cross National Societies to carry out activities to restore family ties**, such as tracing to find missing family members, and following up requests to reunite families inside Member States.<sup>42</sup> **Austria** implements the Integrated Administration of Aliens System, in which third-country nationals can enter their information, to allow for the detection of family members in case of separation. In **Estonia**, it is also possible to send out search queries to other Member States or third countries if the authorities know where a family member is located.

**Five Member States do not have any family tracing mechanism in place**,<sup>43</sup> mostly because of the low chance of

## 5. SEARCHING FOR MISSING MIGRANTS

Third-country nationals can go missing intentionally when, for example, they are absconding or seeking to escape a return decision, but they can also go missing involuntarily, for example because they become separated during travel, or fall victim to trafficking.

In that context, family members may be hesitant to report the disappearance, as they may be uncertain about what happened, or risk being found in an irregular situation themselves. Equally, competent authorities may in some cases, rightly or wrongly, assume that their disappearance was intentional and therefore not initiate an investigation. This section reviews the measures and procedures established by Member States to search for missing migrants.

### 5.1. OVERVIEW OF NATIONAL PROCEDURES FOR SEARCHING FOR A MISSING MIGRANT

**None of the responding Member States have procedures specifically designed to search for missing migrants.** This means that when a migrant is reported missing, the national competent authorities follow the same general procedures that apply to any person being reported as missing.<sup>46</sup> Overall, these procedures include entering data on the missing person

such separations actually occurring, or the small size of the country. In **Luxembourg**, for instance, family tracing can be easily done through the registers that each reception centre holds.

### 4.5. AUTHORITIES RESPONSIBLE FOR PREVENTING SEPARATION OF MIGRANTS FROM THEIR FAMILIES

Several Member States **share responsibilities for guaranteeing family unity between migration authorities, law enforcement authorities and/or reception services**, depending on the family situation and the procedural step.<sup>44</sup> In **France**, the OFII and the prefectures assume together the responsibility for accommodation when the family applies for international protection, while the Border Police manages metropolitan detention centres where dedicated family areas make it possible to maintain cohesion among members of the same family, provided that the children are minors. In **Spain**, the police is responsible for referring families to the General Directorate of Inclusion and Humanitarian AID (GDIHAID), who is mandated to ensure that appropriate reception facilities are available to families, and to finance DNA tests if required to prove family ties. In the **Slovak Republic**, this responsibility is shared between the Border and Foreign Police and the Migration Office.

Conversely, in three other Member States, **the police is the sole responsible entity**.<sup>45</sup> In **Luxembourg**, the sole responsible authority for family unity, and therefore also for preventing the separation of migrant families, is the **Director of the National Reception Office** (ONA), when in the reception facilities. In contrast with the approaches above, the **Red Cross in Bulgaria** supports the authorities and contributes to the facilitation of family reunifications and maintains contacts with authorities and NGOs. If needed, the Red Cross carries out activities such as collecting information on family members and conducting family tracing.

in the relevant national databases, as well as in the Schengen Information System (SIS) and where necessary also in Interpol databases (Yellow notices). As part of the procedure to search for missing persons, the national competent authorities will make an assessment of the circumstances around the disappearance (e.g., health status of the missing person, suspicion of threats to their life, etc.) and collect relevant information to carry out an investigation.

#### Box 2: ICRC Missing Persons Project

In 2018, the ICRC created the [Missing Persons Project](#) (MPP) to assemble a global community of practice with a view to improving the response to missing persons cases. With regard to missing migrants, the project collaborated with an international group of practitioners to develop guidance documents that build on existing practices and experiences. Currently in a draft stage, these documents cover the setting up of a multi-stakeholder cooperation mechanism along migratory routes, the harmonisation of missing migrant data, and the specific needs and challenges faced by families of missing migrants.

Source: ICRC

42 BG, EE, HR, LT, LU.

43 CY, FR, LU, LV, SE.

44 BE, FR, HU, HR, IT, LT, NL, PL, PT, SI, SK.

45 CY, CZ, EE.

46 AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IE, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK.

In some Member States,<sup>47</sup> the only **difference between the general procedure for searching a missing person and the procedure to search for a missing migrant is the potential involvement of migration authorities in some steps** of the process (see also Section 5.2). For example, in the **Netherlands**, where the general rules for searching for missing persons also apply to a missing migrant, the disappearance of the latter is in addition reported to the Aliens, Identification and Human Trafficking Unit of the National Police (AVIM), which prepares a report with information on the missing migrant that is added to the missing persons' file. Seven Member States<sup>48</sup> also **cooperate with the respective Red Cross National Societies** which provide assistance through the Red Cross and Red Crescent Restoring Family Links Network (see also Section 4.4 and 5.2).<sup>49</sup> In **France** this is the case only when family members remained in the country of origin or transit countries.

**France** and **Germany** mentioned that in addition to the general procedure to search for missing persons, in the case of missing migrants they also seek to obtain information on family members in their countries of origin if necessary. In **Latvia**, when authorities become aware of a migrant missing, the State Border Guard sends information on the individual to neighbouring countries via their National Coordination Centre and National Contact Points.

## 5.2. KEY ACTORS INVOLVED IN THE SEARCH FOR A MISSING MIGRANT

### 5.2.1. AUTHORITIES RESPONSIBLE FOR SEARCHING FOR A MISSING MIGRANT

In all reporting Member States,<sup>50</sup> the police is the main authority responsible for the search for missing migrants just as it is for the search for any missing person in general. In **Luxembourg** and **Belgium** the Public Prosecutor Office also has this competence and in **Italy**, the city hall (Prefecture) and also the judiciary —whenever it is linked to the commission of a crime — are also competent for the search for missing persons. In **Austria**, and **Estonia** the intelligence services can also be responsible for the search for missing persons under some circumstances. Additionally, in **Estonia**, border guards are also competent for the search for missing persons.

### Box 3: Italy's Special Commissioner for Missing Persons

In 2007, Italy established at central level the Government's Special Commissioner for Missing Persons, in order to coordinate the multiple competences in the field of missing persons, including missing migrants.

The Special Commissioner has the role of ensuring stable and operational coordination between the competent administrations, and of monitoring their activities, including for cases of missing migrants. The Commissioner also promotes the cross-comparison of national information on missing persons and unidentified corpses and maintains relations with the relatives of missing persons and with the most representative associations at national level.

The police office, upon receipt of a notification of the disappearance, informs the Prefecture and, if the missing person is a minor, the Public Prosecutor at the Juvenile Court. The Prefects have adopted "Provincial Plans for the search for missing persons" that define operational procedures and all actors involved (police forces, local authorities, fire brigades, civil protection, emergency healthcare, voluntary associations, etc.).

### 5.2.2. THE ROLE OF MIGRATION AUTHORITIES IN THE SEARCH FOR A MISSING MIGRANT

Overall, migration authorities play a limited role in the search for missing migrants. In nine Member States,<sup>51</sup> migration authorities are not involved at all in the search for missing migrants. On the other hand, thirteen Member States reported that migration authorities are,<sup>52</sup> to some extent, involved in the search mostly with the provision of information on the missing person. For example, in **France**, even though there is no specific mechanism for the transmission of information on missing migrants by migration authorities, the OFII may be requested, in its capacity as manager of the national reception scheme, to provide information in the framework of the search, either at the request of the relevant authority accompanying the searching family members, or following an investigation initiated by the courts.

Similarly, in **Austria**, **Belgium** and **Cyprus** migration authorities may be requested to provide information to assist the police in the search. In **Croatia**, **Estonia** and **Poland**, the **Border Police** primarily assists in the search by checking information contained in national, EU and international databases (e.g., national police databases, SIS, and Interpol Yellow notices). In the **Czech Republic**, the Department for Asylum and Migration is informed when a search for a missing migrant is initiated so they can follow the status of the search.

47 AT, BE, CY, CZ, FR, HR, IT, NL, PL, PT.

48 DE, FR, HR, IT, LT, NL, SI.

49 For more information: <https://familylinks.icrc.org/en/Pages/home.aspx>, last accessed 3 May 2021.

50 AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IE, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK.

51 BG, DE, HU, IT, LU, LV, SE, SK.

52 AT, BE, CY, CZ, EE, ES, FR, HR, IE, LT, NL, PL, PT, SI. Note that in SI, SK and ES the police is also the migration authority. In IE the migration authority that can be involved is the Garda National Immigration Bureau (a unit of the national police).

#### Box 4: Searching for missing migrants in the Netherlands

In the Netherlands, the Aliens Identification and Human Trafficking Unit of the National Police (AVIM) is the migration authority involved in the search and identification of missing migrants. AVIM gives advice in cases of missing migrants by means of a report with information on the disappeared person and by assisting with the identification of migrants. To prepare the report, the AVIM liaises with other migration authorities like the Immigration and Naturalisation Service (IND), the Central Agency for the Reception of Asylum Seekers (COA), the Repatriation and Departure Service (DT&V) and the Dutch Council for Refugees. Moreover, in case of an asylum seeker disappearing from a reception centre, the COA reports the missing person to the police and will try and locate the migrant.

### 5.2.3. PARTICIPATION OF NGOS IN THE SEARCH FOR MISSING MIGRANTS

When it comes to migrants going missing, **most Member States allow for the participation of external actors in the search.**<sup>53</sup> In nine of them,<sup>54</sup> the main external actors involved in the search for missing migrants are the **Red Cross National Societies** which contribute to the search with their Red Cross and Red Crescent Restoring Family Links Network. Nevertheless, there are some differences among Member States regarding the type of scenarios where the Red Cross National Society can intervene. For example, in **France** the Red Cross can offer specific support in family reunification procedures for migrants who initially opened a tracing request with them and that resulted in finding the sought persons in countries of origin or transit. Moreover, the French Red Cross is only present in border waiting areas at Paris-CDG airport and do not operate in immigration detention facilities.<sup>55</sup> In **Lithuania**, the Red Cross offers psychosocial support, facilitates contact with family members and provides legal assistance to migrants detained—regardless of their status—in the Foreigners Registration Centre,<sup>56</sup> border crossing posts and frontier stations.

In some Member States, **the cooperation between the Red Cross Tracing Services and the competent national authorities has been institutionalised through** cooperation agreements or operational protocols.<sup>57</sup> For example, in **Germany**, the Ministry of Interior commissioned the German Red Cross with the task of searching for missing migrants.

#### Box 5: The Red Cross and Red Crescent Movement's Restoring Family Links Network.

The Restoring Family Links Network (RFL), made up of the ICRC and 191 National Societies, helps prevent people from disappearing or getting separated, and works to restore and maintain contact between family members when and wherever possible. It also tries to help people find out what happened to relatives reported missing. To better serve migrants and their families, the RFL Network has adapted its services to their specific needs and to the challenges of restoring family links across numerous borders. Its wide range of services and tools include: helping people get in touch with relatives by phone, handwritten message and our website; collecting and centralising tracing requests; registering and following-up on individuals to prevent their disappearance; reuniting families; and helping the authorities determine what happened to migrants who are unaccounted for.

Source: ICRC

Apart from the Red Cross, several Member States also reported the **participation of different NGOs** in the search for a missing migrant.<sup>58</sup> Some examples of NGOs cooperation in the search for missing migrants are “Alert Notes” in **Cyprus**, “Itaka Foundation” in **Poland** and the NGO “Victim Support” in the **Netherlands** and Caritas and Sant’ Egidio in **Italy**. The role of these actors differs in each Member State going from cooperation in the search,<sup>59</sup> to the provision of emotional and psychological support<sup>60</sup> or legal advice to family members.<sup>61</sup>

### 5.3. SAFE REPORTING MECHANISMS AND PROCEDURES TO ALLOW IRREGULARLY STAYING MIGRANTS TO REPORT A DISAPPEARANCE

Even though anyone can report a disappearance, most Member States do not have specific mechanisms in place to enable anonymous reporting,<sup>62</sup> which would allow irregularly staying migrants to safely report a missing person without having to expose their own status and thus risking apprehension or removal.

**The Netherlands** has implemented a **safe reporting policy** to enable a person staying irregularly in the country to report a missing person (or any other relevant information) without risk of apprehension. In Ireland,<sup>63</sup> **Slovenia** and **Sweden**, any missing persons can be reported anonymously by anyone (including migrants), thereby shielding the identity and status of persons providing information. In **Croatia, Germany** and **Lithuania**, reporting mechanisms can also be operated by the Red Cross National Societies—rather than law enforcement—thus reducing the risk of apprehension for coming forward with information.

53 AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, IE (dependent on the specific situation), IT, LT, NL, PL, PT, SE, SI, SK.

54 BG, DE, EE, FR, HR, IT, LT, NL, SI.

55 The French Red Cross has recently decided to suspend its activities in these border waiting areas: [https://www.lemonde.fr/societe/article/2021/04/28/covid-19-craignant-que-la-zone-d-attente-de-l-aeroport-de-roissy-ne-se-transforme-en-cluster-les-associations-se-retirent\\_6078417\\_3224.html](https://www.lemonde.fr/societe/article/2021/04/28/covid-19-craignant-que-la-zone-d-attente-de-l-aeroport-de-roissy-ne-se-transforme-en-cluster-les-associations-se-retirent_6078417_3224.html), last accessed 3 May 2021.

56 Where irregularly staying migrants are detained and where asylum seekers are accommodated.

57 DE, IT, NL. In the Netherlands, a covenant between COA and the Dutch Red Cross is being finalised.

58 CY, CZ, EE, IT, NL, PL, PT, SE, SK.

59 IT, SK.

60 IT, NL, PL.

61 PL.

62 AT, BE, BG, CY, CZ, EE, ES, FR, HU, IT, LU, LV, PL, PT, SE, SI, SK.

63 In Ireland, any member of the public can report any incidents to the Garda Síochána (national police) in strict confidence.



## Keeping in touch with the EMN

EMN website [www.ec.europa.eu/emn](http://www.ec.europa.eu/emn)

EMN LinkedIn page [www.linkedin.com/company/european-migration-network/](http://www.linkedin.com/company/european-migration-network/)

EMN Twitter [www.twitter.com/EMNMigration](http://www.twitter.com/EMNMigration)

## EMN national contact points

Austria [www.emn.at](http://www.emn.at)

Belgium [www.emnbelgium.be](http://www.emnbelgium.be)

Bulgaria [www.emn-bg.com](http://www.emn-bg.com)

Croatia [www.emn.hr](http://www.emn.hr)

Cyprus [www.moi.gov.cy](http://www.moi.gov.cy)

Czech Republic [www.emncz.eu](http://www.emncz.eu)

Denmark [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/authorities/denmark\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/denmark_en)

Estonia [www.emn.ee](http://www.emn.ee)

Finland [www.emn.fi](http://www.emn.fi)

France [www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM2](http://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM2)

Germany [www.emn-germany.de](http://www.emn-germany.de)

Greece [www.emn.immigration.gov.gr/el/](http://www.emn.immigration.gov.gr/el/)

Hungary [www.emnhungary.hu](http://www.emnhungary.hu)

Ireland [www.emn.ie](http://www.emn.ie)

Italy [www.emnitalyncp.it](http://www.emnitalyncp.it)

Latvia [www.emn.lv](http://www.emn.lv)

Lithuania [www.emn.lt](http://www.emn.lt)

Luxembourg [www.emnluxembourg.lu](http://www.emnluxembourg.lu)

Malta <https://homeaffairs.gov.mt/en/mhas-information/emn/pages/european-migration-network.aspx>

Netherlands [www.emnnetherlands.nl](http://www.emnnetherlands.nl)

Poland [www.emn.gov.pl](http://www.emn.gov.pl)

Portugal [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/authorities/portugal\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/portugal_en)

Romania [www.mai.gov.ro](http://www.mai.gov.ro)

Slovak Republic [www.emn.sk](http://www.emn.sk)

Slovenia [www.emm.si](http://www.emm.si)

Spain <http://extranjeros.empleo.gob.es/en/redeuropeamigracion>

Sweden [www.emnsweden.se](http://www.emnsweden.se)

Norway [www.emnnorway.no](http://www.emnnorway.no)

Georgia [www.migration.commission.ge/](http://www.migration.commission.ge/)

Moldova [www.bma.gov.md/en](http://www.bma.gov.md/en)