



POLICY BRIEF

Russian nationals looking for refuge in the European Union

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EXECUTIVE SUMMARY

Since 1990, many Russians have sought international protection in the EU. However, while the overall recognition rate of their asylum applications has been declining, the number of vulnerable people whose rights and interests require special protection in Russia has been on the rise. The EU Member States (EU MS)¹ have meanwhile been revising their approaches to international protection, among others also considering the chances of the individual asylum seeker's successful integration.

This policy brief analyses the past and present flows of Russian nationals seeking asylum in the EU, identifies the main challenges and puts forward concrete recommendations for policy makers in Russia and the EU.

¹ Hereinafter: the EU Member States, Switzerland, Norway, and Liechtenstein.



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STAGES OF FORCED MIGRATION FROM RUSSIA

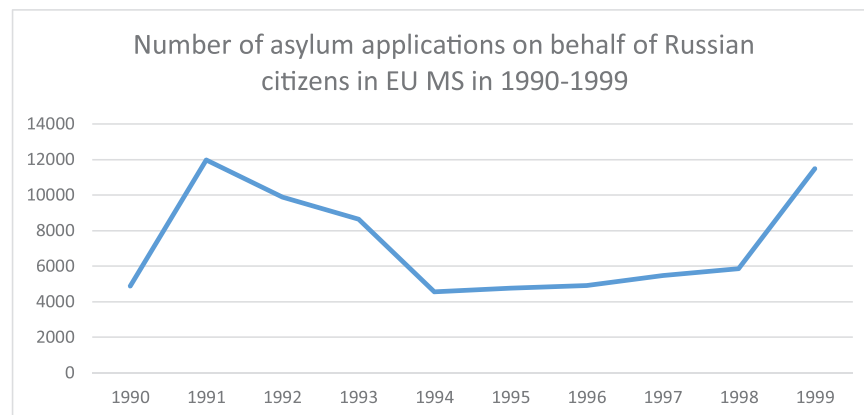
Forced migration from Russia to the EU can be divided into three periods: 1990-1999; 2000-2013; and 2014-present.

The turbulent situation following the collapse of the USSR caused a **first wave** of asylum seekers, forced to flee Russia due to territorial, ethnic and social conflicts. Their preferred destinations were Germany (28,470 applications), Great Britain (12,675), the Netherlands (6,603), Sweden (4,807), France (2,668) and Austria (2,103)².



Source: UNHCR (2001)

In the same period, between December 1994 and August 1996, raged the First Chechen War. Despite the hostilities in Chechnya, only a small number of Russian citizens of Chechen origin left Russia to seek asylum elsewhere³. Most of those fleeing found shelter in the neighboring Republics of the Russian Federation – Ingushetia, Dagestan, North Ossetia, etc. – thereby becoming internally displaced persons. To seek asylum abroad remained the exception during these years.



Source: UNHCR (2001)

² UNHCR (2001).

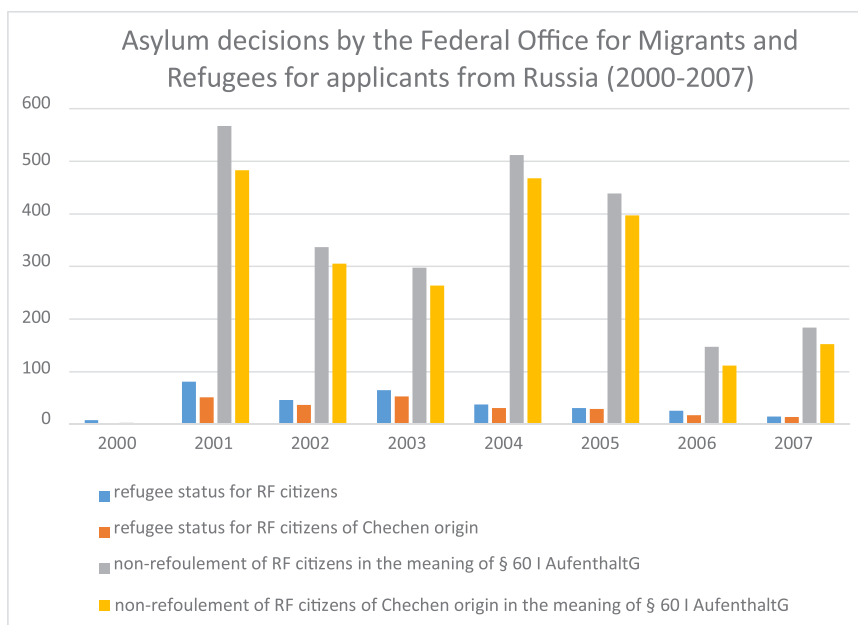
³ UNHCR (2002).



This is also confirmed by the UNHCR statistics: in 1990-1994, before the First Chechen War, some 40,000 asylum applications were submitted by Russian nationals in the EU, with Germany (20,383 applications), the Netherlands (3,459), and Sweden (3,372) registering the most applications. These numbers did not increase in 1995-1999, during the war, amounting to 32,462 asylum seekers, the majority of whom were registered in the UK (11,075 requests), Germany (8,087) and the Netherlands (3,144)⁴. The existence of a special program for Russian citizens of Jewish origin recognized by Germany as contingent refugees until January 2005⁵ explained the high number of asylum seekers opting for Germany during this period⁶.

The **second wave** of forced migration occurred during the Second Chechen War⁷, which lasted for nearly a decade from September 1999 until April 2009. The number of Russian nationals seeking asylum increased, in particular for those of Chechen ethnic origin. Their preferred destinations included Germany, Poland, Austria, France and Norway, with most of them leaving Russia through Belarus⁸. The recognition rate for asylum seekers of Chechen origin improved gradually. In Germany, for instance, their recognition rate grew from 25% in the year 2000 to 63% in 2001 and over 93% in 2005 and 2007⁹. The years 2003-2005 saw the highest recognition rates for Chechens seeking asylum in the EU¹⁰.

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Source: Gulina O. (2010), *Politico-legal and legal difficulties of migration – on the example of immigrants from the CIS countries*. C. 98 [Rechtspolitische und rechtliche Probleme der Zuwanderung – dargestellt anhand der Zuwanderer aus den GUS-Staaten]

⁴ Ibid.

⁵ Federal Office for Migrants and Refugees (BAMF) (2015).

⁶ Contingent refugees (Kontingentflüchtlinge) are certain groups of foreigners who were granted the right to reside in the country for humanitarian reasons, international legal reasons, or in connection with the political interests of Germany under Section 23 of the Law on the Right to Stay in Germany. Until 2005, persons of Jewish origin were considered as contingent refugees in Germany.

⁷ In the official RF documents the Second Chechen War (30 September 1999 – 16 April 2009) is called a counter-terrorist operation to establish order in the North Caucasus region.

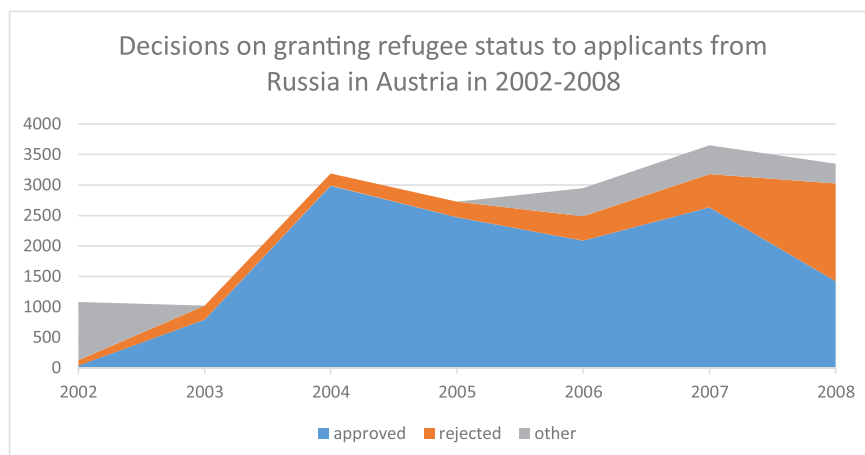
⁸ Human Constanta (2016).

⁹ In 2002 – 80.4%; in 2003 – 81.5%; in 2004 – 81.6%; in 2005 – 93.5%; in 2006 – 65.4%; in 2007 – 93.3%. Gulina O. (2010).

¹⁰ In 2003, the success quota of recognition as a refugee or a person in need of protection for Russian citizens of Chechen origin was 1% in Slovakia, 2.4% in Poland, and 94% in Austria.



Overall, the EU Member States used to grant various forms of international protection (e.g. right to stay for humanitarian reasons, deportation ban) to Russian nationals until 2007. The highest recognition rates were recorded in Austria, especially for asylum seekers of Chechen origin¹¹.



Source: Ministry of Internal Affairs of Austria, *Statistics on foreigners and asylum [BMI Österreich, Asylum und Fremdenstatistik]*

Ethnic Chechens also accounted for 91% of all recognized refugees in Poland during this period and 98% of those enjoying non-refoulement.¹² Poland continued granting various forms of international protection to Russian nationals until 2010, when it rejected 83.2% of their applications. Following the end of the second Chechen war in 2009, the number of asylum applications from Russia decreased substantially across the EU¹³.

The year 2014 marked the beginning of a **third wave** of forced migration, mainly characterized by the more diverse composition of asylum seekers, which now also included LGBT political, social and environmental activists, representatives of the LGBT community and others. Whereas the number of asylum applications remained significant¹⁴, their success rate across the EU decreased substantially: In 2018, only one in eighth applications filed by Russians was approved in Germany, one in seven in France, and almost none in Poland.

Since 1990, the preferred countries of destination for asylum seekers from Russia have been determined by various factors: their geographic proximity (e.g. Poland, Norway); the presence of large Russian-speaking communities (e.g. Germany, Baltic States); the existence of specific programs for asylum seekers from Russia (i.e. France, Germany); or the particular legislation of individual EU Member States (France, Germany, Austria, Sweden etc.). The profile of asylum seekers from Russia however changed significantly over the past 30 years, becoming ever more diverse.

¹¹ Hofmann, M. & Reichel, D. (2008).

¹² Alscher, S. (2008).

¹³ The year 2013 was an exception, when Germany and Poland again recorded an unprecedented surge in asylum seekers from Russia: 14,885 first-time applicants (+11,288 persons compared to 2012) in Germany and 11,935 applicants (+7,000 persons) in Poland. According to media reports, the surge was triggered by rumors of land distribution and attractive loans for Chechen asylum seekers. See: Der Spiegel (2013).

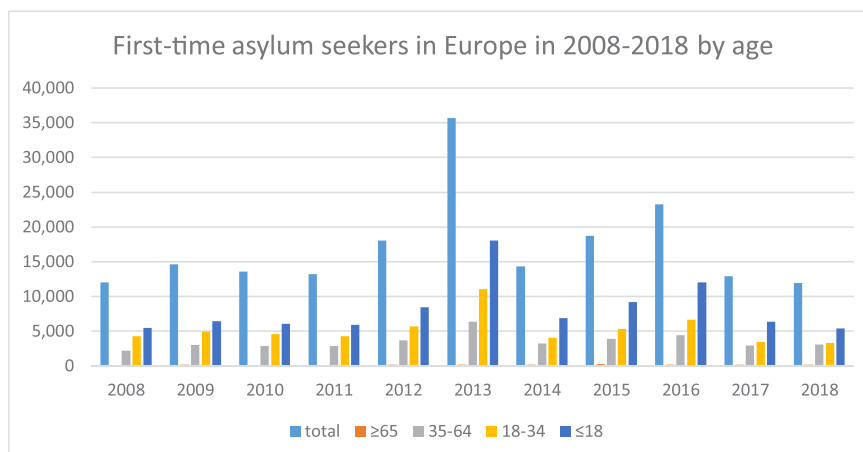
¹⁴ In 2016, the largest number of Russians applied for asylum for the first time in Germany (10,985 people), Poland (7,435 people), France (1,775 people), and Austria (1,235 applicants).

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TRENDS OF THE PAST DECADE

Since 2008, the composition of Russian nationals seeking asylum inside the EU has been **balanced in terms of gender**¹⁵. In 2008-2018, the predominant group among the first-time asylum applicants from Russia were **minors**¹⁶.



Source: Eurostat, 2008-2018

The data shows that the willingness to migrate decreases with age. This phenomenon is partly caused by the fact that the younger generation of Russians is more aware of the possibilities and ways of seeking asylum. Secondly, the older generation of Russians is less prone to protest and consequently less prone to persecution by the state and the desire to leave the country. Finally, a certain chain migration effect can be assumed, since most Russian applicants continue to be Chechens, who traditionally maintain close family ties.

In 2016-2018, the number of first-time asylum applications from Russians in the EU halved from 23,045 persons (23,270 persons) in 2016 to 12,705 persons (12,880 persons¹⁷) in 2017 and 11,745 persons (11,940 persons) in 2018. Nevertheless, individual countries recorded a slight increase over the same period¹⁸.

The witnessed decrease in the number of asylum applications may be associated with the more stringent asylum procedures and lower success rate of Russian applications across the EU MS. For example, until 2007 Norway considered positively approximately 75% of asylum applications submitted by Russians, whereas in 2017 – over 85% were rejected¹⁹. In 2018, the largest number of asylum applications submitted by Russians was approved by Germany (548 persons), Austria (526 persons), and France (205 persons). Meanwhile, the largest share of positive decisions has been observed the Netherlands (54.1%), the UK (52.4%), Lithuania (48.6%), Austria (46.6%), and Latvia (40%)²⁰.

¹⁵ Applicants in European countries in 2008 included 48.5% of Russian women and 51.5% men; in 2010 – 48.7% and 51.3%; in 2014 – 49.3% and 50.7%; in 2016 – 49.4% and 50.6%; in 2017 – 48.8% and 51.2%; in 2018 – 47.8% and 52.2%, respectively.

¹⁶ Minor asylum seekers from Russia in Europe: 5,455 persons out of 12,015 applicants in 2008; 6,060 persons out of 13,610 applicants in 2010; 6,880 persons out of 14,355 applicants in 2014; 11,980 out of 23,270 applicants in 2016; 6,330 persons out of 12,880 applicants in 2017; 5,395 persons out of 11,940 applicants in 2018.

¹⁷ Hereinafter, the data includes Switzerland, Norway, and Liechtenstein

¹⁸ Eurostat (2008 - 2019).

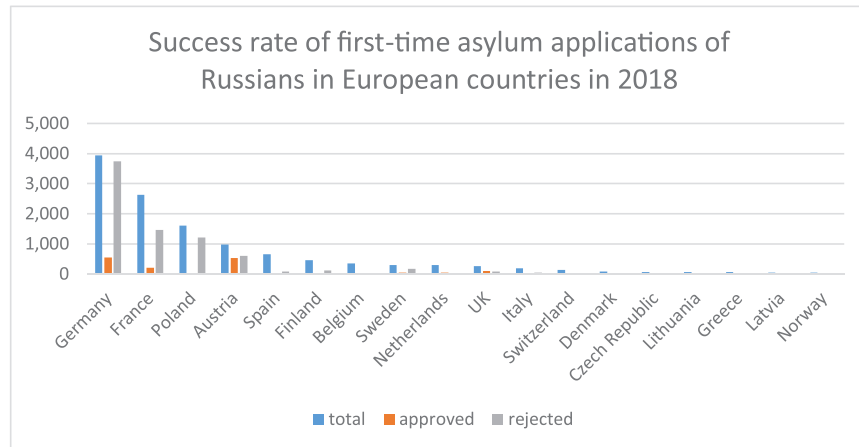
¹⁹ Norwegian Helsinki Committee (2019).

²⁰ Ibid.

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While the number of Russian asylum seekers and positive decisions has been decreasing, the vulnerable groups inside Russia, whose rights and interests require special protection, have been growing.



Source: Eglitis L. (2018): *Asylum applications and refugees from Russia [Asylanträge und Flüchtlinge aus Russland]*.

Another reason for the decline in asylum applications might be associated with the “latent” character of migration from Russia, with many asylum seekers formally migrating for educational and employment purposes, for family reunification or ethnic emigration²¹. Finally, other countries, such as Canada or the United States have featured higher recognition rates for asylum applicants from Russia.²²

At global level, a total of 18,894 Russian citizens applied for asylum or another form of protection in 2018, with nearly two thirds of applications registered in the EU. While the number of Russian asylum seekers and positive decisions has been decreasing, the vulnerable groups inside Russia, whose rights and interests require special protection, have been growing.

PARTICULARLY VULNERABLE GROUPS OF RUSSIAN CITIZENS

Nowadays the following groups of Russian nationals could be recognized as particularly vulnerable requiring humanitarian protection measures: Russian citizens of Chechen origin; attendees of the Church of Jehovah’s Witnesses (in 2017 the Supreme Court of the Russian Federation added the Church of Jehovah’s Witnesses into the list of extremist organizations in Russia²³); representatives of the LGBT community who are at risk under the Russian law on homosexual propaganda²⁴; individuals with positive HIV status because of their stigmatization in Russian society; and political, social and environmental activists and journalists who may be at risk according to the new amendments of Russia’s “foreign agent law”²⁵.

²¹ The term ‘ethnic migration’ refers to special programs facilitating the immigration of foreigners who have proved their ethnic affiliation to European countries, such as resettlement of ethnic Germans and their descendants – Spätsausiedler – to Germany, ethnic Poles with the help of “Karta Polaka” to Poland, etc.

²² The recognition rate in Canada in 2018 was 84,3 % out of 151 applications, in the US – 49,2 % out of 1533 applications. See more in Eglitis, L. (2008).

²³ Decision of the Supreme Court № 17-238

²⁴ Federal Law 135-FZ

²⁵ Federal Law № 426-FZ dated December 2, 2019



Russian citizens of Chechen origin

Russian citizens of Chechen origin have different motives and reasons for moving to the EU. Some are forced to leave Chechnya and Russia altogether, due to persecution and human rights violations. Others, under the guise of the refugee status, serve as “morality guardians”, hunting compatriots who belong to the LGBT community, Chechen women and girls living in the EU, as well as those in opposition to the regime of President Kadyrov.

The recognition rate for asylum applications of Russian citizens of Chechen origin in the EU has been close to zero in recent years. The competent courts have mostly argued that in case of persecution the concerned applicants could have sought for an “**internal protection alternative**”²⁶ in other parts of the Russian Federation. According to the reports of Russian²⁷ non-governmental and international²⁸ organizations, however, this alternative does not apply to the Russian realities. For example, in August 2018, Amnesty International reported the disappearance of Azamat Baiduyev, a Russian citizen of Chechen origin, after being denied asylum in Poland and being deported to Russia²⁹. Such incidents are by no means rare³⁰.

Among those who have been granted asylum and other form of international protection in the EU, there is a widespread concern of possible deportation to Russia and of the ‘collective responsibility method’ established in the Republic of Chechnya³¹. These fears are reinforced by the following facts: a) The EU MS started to use broadly the cessation clauses contained in Articles 1C (5) and (6) of the Geneva Convention that permit termination of refugee status and/or other form of international protection³²; b) The EU MS are actively negotiating and launching cooperation programs with Russia’s responsible agencies in order to return Russian citizens of Chechen origin to Russia. One such initiative is ERIN, a pilot program for voluntary repatriation of Russian citizens of Chechen origin from the UK, Germany, France, and Sweden to Chechnya, administered from May 1 through October 31, 2018³³. Nevertheless, the return of Russian citizens of Chechen origin to their historical homeland in Chechnya has also brought positive results. IOM Austria published data on six reintegration programs in 2010-2016, when 669 Russian citizens of Chechen origin and 645 members of their families returned safely, and 369 persons received medical assistance and support for successful repatriation from Austria to Chechnya³⁴.

The very issue of granting Russian citizens of Chechen origin asylum and protection in Europe ever more often goes beyond the refugee law. Nowadays the positive integration forecast seems no less important for the decision-making on asylum. In this regard, the seclusion and lack of readiness for cross-cultural communication and dialogue among the young generation

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²⁶ Germany’s High Administrative Court of Berlin & Brandenburg.; Germany’s Federal Administrative Court.; Augsburg Administrative Court ; Administrative Court of Poland 1;

²⁷ Gannushkina S. (2013).

²⁸ Norwegian Helsinki Committee (2019).

²⁹ Amnesty International (2018).

³⁰ Starodubtseva M. (2017).

³¹ The method of collective responsibility implies responsibility of relatives remaining in Chechnya for the actions committed by their family members outside the republic and country.

³² Schultz, J. (2020).

³³ European Reintegration Network & Federal Office for Migration and Refugees (ERIN & BAMF) (2018).

³⁴ IOM Austria (2017).



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of Chechens are of great concern to the authorities of the EU MS. Various studies confirm these doubts. For example, a study by the Austrian Ministry of Internal Affairs and IOM showed, among other things, that the majority of young Chechens living in Austria agree with the statement that “the liberal lifestyle [in Austria] does not match their [Chechen] inner values and views”³⁵. Moreover, the “readiness to make friends from other countries, to listen to a different point of view” among Chechens under the age of 26 is much lower than the readiness for cross-cultural dialogue and integration among Chechens aged 35-40 years and older.

The immigration services of the EU MS are seriously concerned with radicalization, islamization³⁶, and criminalization of Chechens living in Europe. The 2019 report by the Federal Criminal Police of Germany published the findings of the secret operation “Borste” and the results of the annual monitoring of Russians of Chechen origin in Germany, stating that “... [They] demonstrate high proneness to conflict, readiness for violence and are ever more often connected with felony”³⁷. Such conclusions may affect the decisions of immigration services in the future, although human rights defenders and experts do not agree with the official authorities of the EU MS on this matter.

LGBT community representatives as asylum seekers in Europe

The adoption of the law banning homosexual propaganda in Russia in 2013 became a new starting point for persecution, manifestations of aggression, and violation of the rights of representatives of the LGBT community. The Office of the UN High Commissioner for Human Rights and international human rights organizations continuously express concerns over the level of aggression, homophobia, violation of rights, and the growing number of beatings and killings of representatives of the LGBT community in Russia³⁹.

LGBT asylum seekers from Russia, especially those of Chechen origin, are particularly at risk. This group cannot count on an internal protection alternative in Russia because of the family-clan structure of Chechen society, gross violations of human rights, and persecution of this group by the authorities of Chechnya⁴⁰. The extraordinary violations of the fundamental rights of Chechen LGBT representatives have repeatedly become the subject of discussions between the Governments of Sweden⁴¹, Great Britain⁴² and Germany⁴³, resulting in accelerated asylum procedures for those suffering torture, humiliation and persecution in the Chechen towns of Tsotsi-Yurt and Argun⁴⁴. The Russian authorities have not conducted a thorough investigation of the illegal detentions, torture and killings of the LGBT community members in Chechnya in spring 2017⁴⁵. According to the Moscow Helsinki Group, the Russian LGBT network was forced to evacuate some 150 persons from Chechnya between April 2017 and January 2019, with more than 130 of them eventually leaving Russia as a whole⁴⁶.

³⁵ IOM (2009).

³⁶ European Eye on Radicalization (2018).

³⁷ Lehberger, R. (2019).

³⁸ Federal Law 135-FZ

³⁹ UNHCR (2019).

⁴⁰ Russian LGBT Network & Milashina, E. (2017).

⁴¹ MFA of Sweden (2019).

⁴² UK Delegation to the OSCE (2018).

⁴³ Auswärtiges Amt (2019).

⁴⁴ Current Time TV (2017).

⁴⁵ Gordienko I., Milashina E. (2017).

⁴⁶ MHG (2019).



The granting of asylum to applicants on the grounds of sexual orientation and gender identity has become more difficult over the recent past. A recent survey confirmed that the EU immigration authorities have not been taking the applicants' statements about the danger of persecution in their countries of origin seriously enough⁴⁷. Among 40 asylum seekers in Germany who claimed for asylum based on their sexual orientation and gender identity, 23% reported to have confronted stereotypes on behalf of the interviewers or interpreters during their hearings.⁴⁸ These examples undoubtedly illustrate the need for additional measures and expertise in this area.

Overall, the share of positive asylum decisions based on sexual orientation or gender identity across the EU MS, including applications from Russian citizens, is negligible. To receive asylum or another form of protection in the EU MS, LGBT applicants must convince the competent authorities that they truly are LGBT representatives and prove that they are being persecuted. According to a decision of the European Court Of Justice, "the mere existence of legislation prohibiting homosexual acts or propaganda of such acts is not sufficient for approving an applicant's asylum application in the EU Member States ... approval [of an asylum application] requires a certain severity of such threats"⁴⁹. The adoption of the Russian law prohibiting the "propaganda" of homosexual relations did not affect the European law enforcement and judicial authorities' practices.

Another complication results from the fact that most EU MS have no separate statistical information on asylum seekers affiliated with the LGBT community. It has been a common practice to include applicants suffering from persecution based on their sexual orientation or gender identity into the "social group affiliation" section. Whereas the sexual orientation may provide the basis for granting asylum or other forms of protection, it is usually not reflected in the respective national statistics⁵⁰. Belgium and Norway are exceptions in this regard as they invite asylum-seekers to indicate "sexual orientation" or "gender identity" as reasons for their application. While this data is not made public, experts have indicated the number of all LGBT applicants in Belgium and Norway for the period 2002-2013 amounted to about 4% of all asylum applicants⁵¹. The Czech Republic allows to collect information on sexual orientation solely for the purpose of assessing the individual asylum application. Most EU MS⁵² do not provide for such an option.

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⁴⁷ Quarteera e.V. (2019).

⁴⁸ Kölner Flüchtlingsrat e.V. (2018).

⁴⁹ 4 ECJ Chamber. Court decision of November 7, 2013

⁵⁰ European Commission (EU) (2016).

⁵¹ Gartner L. (2015).

⁵² Bulgaria, Croatia, Cyprus, Finland, Germany, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovakia, Sweden



RECOMMENDATIONS

The refugee status determination and granting of other forms of protection to members of vulnerable groups, such as Russian citizens of Chechen origin and LGBT representatives, require special attention and further discussions, both among the European and Russian legislators and asylum decision makers. To this end, it is advisable **to establish a platform for dialogue** between the competent authorities in the EU member states and Russia, involving also independent Russian NGOs. Such dialogue could facilitate an eventual cooperation and information exchange, thereby possibly contributing to a better understanding of the phenomenon as well as to **illustrating the opportunities and risks of an internal protection alternative in Russia.**

The proper **collection, analysis and dissemination of statistical and qualitative evidence** concerning the right to asylum among vulnerable groups of migrants requires a combined effort on behalf of the competent authorities, academia and EU MS experts. Such effort could contribute to properly monitor the transparency and impartiality of asylum decisions across the EU.

To improve the work of immigration services and courts related to reviewing cases of LGBT applicants and other vulnerable groups, the EU MS judicial and law enforcement practices shall be collected and analyzed. In particular, the review of first instance decisions in Austria, Germany, Sweden, Norway, France and the Netherlands represents a priority. Such analysis shall assess whether all human rights standards are met and contribute to reaching uniformity among the judicial practices across the EU MS. The final result shall consist in the collection of good practices and useful approaches in the granting of various forms of protection for the described vulnerable groups.

Due attention shall also be paid to the **competences of immigration services, law enforcers, court staff and judges across the EU** – primarily in Germany, Austria, Norway, France, Netherlands and Sweden, as they receive the most asylum applications. The provision of training and elaboration of specific manuals for their employees could increase the level of awareness and knowledge about the specificities concerning the described groups of asylum seekers.

Meanwhile, the latest developments and results of EU return programs targeting Russian citizens of Chechen origin require further study. It is necessary to continuously control that the life and safety of participants in national repatriation programs are preserved. One specific step in this direction could consist of an additional and independent assessment of the results of the pilot program for voluntary repatriation of Russian citizens of Chechen origin from the UK, Germany, France and Sweden to Chechnya, administered by ERIN in 2018. Such assessment shall also involve Russian experts and human rights activists.



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