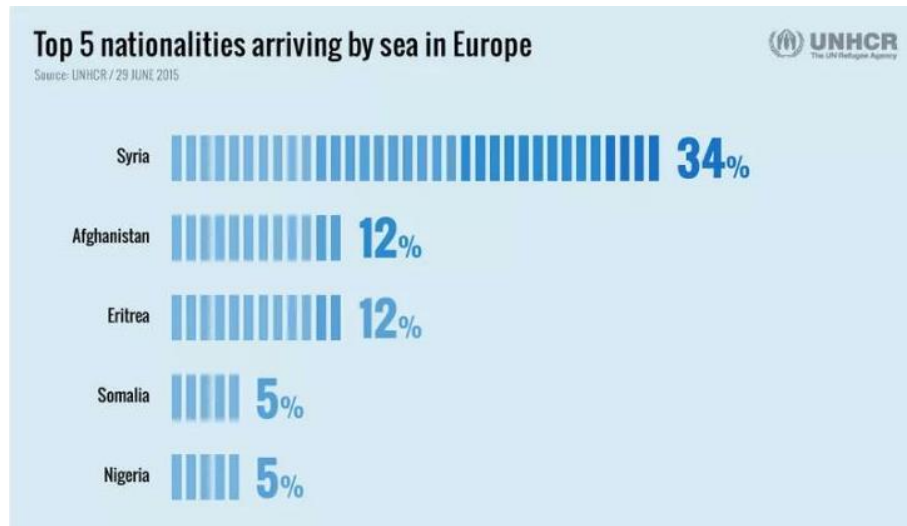


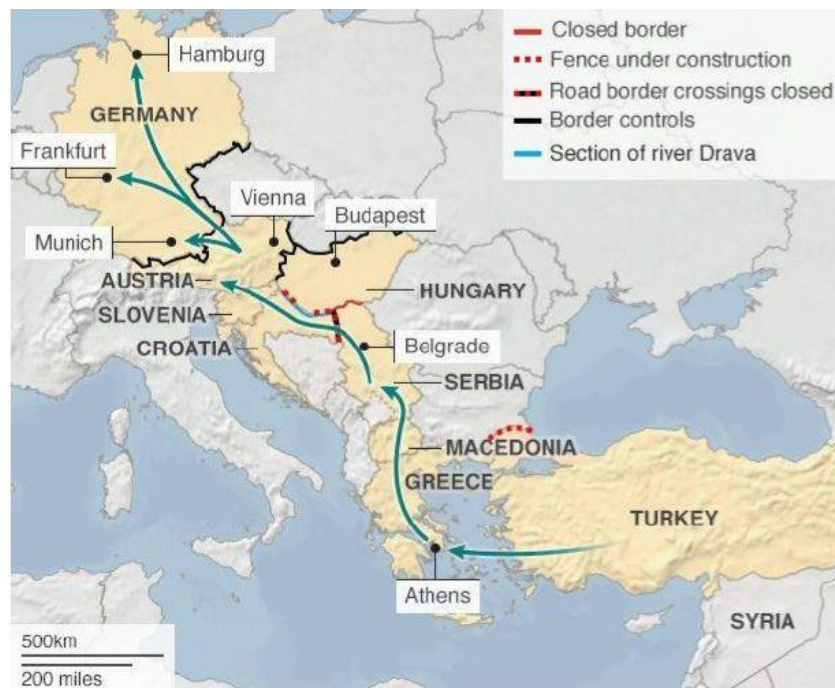
## LAMPIRAN

### Lampiran 1: Lima Besar Kewarganegaraan Pengungsi yang Tiba di Eropa



(Sumber: UNHCR, 2015)

### Lampiran 2: Rute Migrasi ke Jerman



(Sumber: BBC, 2015)

Lampiran 3: Data Pengungsi yang Tiba di Laut Mediterania

2/17/2017

UNHCR Refugees/Migrants Emergency Response - Mediterranean - 17 February 2017

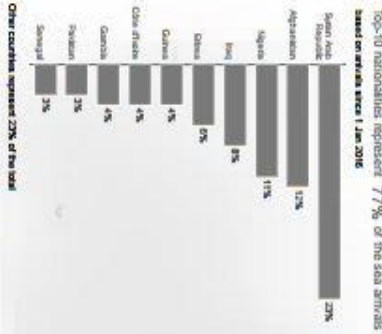


Refugees/Migrants Emergency Response - Mediterranean  
17 February 2017

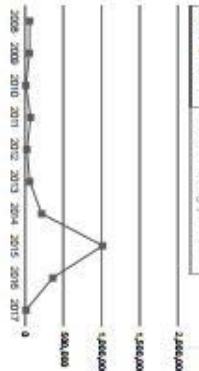
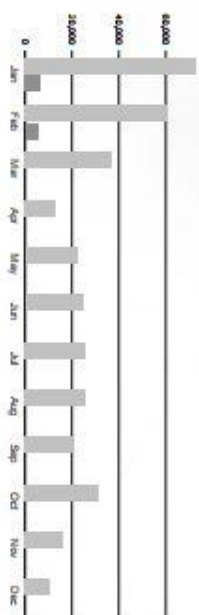
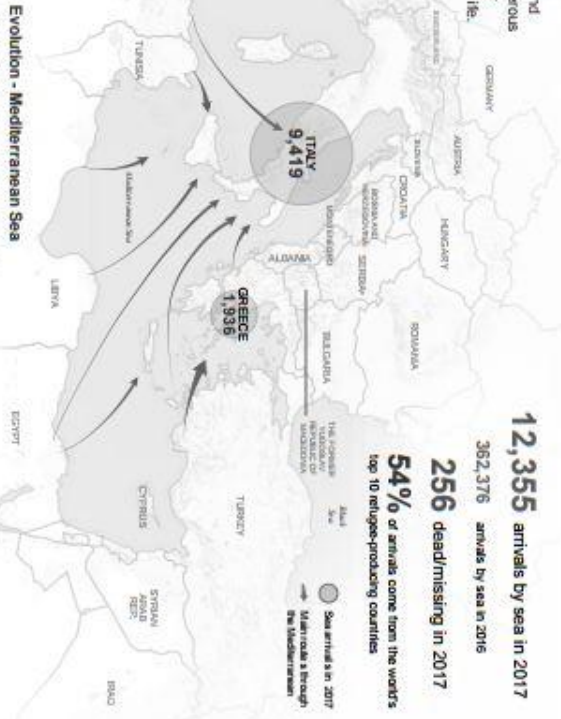
<http://data.unhcr.org/mediterranean>

Increasing numbers of refugees and migrants take their chances aboard unseaworthy boats and dinghies in a desperate bid to reach Europe. The vast majority of those attempting this dangerous crossing are in need of international protection, fleeing war, violence and persecution in their country of origin. Every year these movements continue to exact a devastating toll on human life.

Top-10 nationalities of Mediterranean sea arrivals



Other countries represent 23% of the total



(Sumber: UNHCR, 2017)

**Lampiran 4: Asylum Procedural Act Chapter 1-2**

**Asylum Act**

Asylum Act in the version promulgated on 2 September 2008 (Federal Law Gazette I, p. 1796), last amended by Article 2 of the Act of 11 March 2016 (Federal Law Gazette I, p. 394) This statute shall serve to transpose into national law the following directives:

1. Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in Member States (OJ EU J L 31, p. 18)
2. Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ EU L 304, p. 12)
3. Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (OJ EU L 326, p. 13)

**Chapter 1**

**Scope of application**

**Section 1**

(1) This Act shall apply to foreigners applying for:

1. protection against political persecution under Article 15a (1) of the Basic Law, or
  2. international protection under Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ EU L 337 of 20 December 2011, p. 9). International protection within the meaning of Directive 2011/95/EU comprises the protection against persecution under the Convention of 28 July 1951 on the legal status of refugees (Federal Law Gazette II, pp. 559, 560) and subsidiary protection within the meaning of the Directive, international protection granted under Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ EU L 304, p. 12) is equivalent to international protection as defined in Directive 2011/95/EU. Section 104 (9) of the Residence Act shall remain unaffected.
- (2) This Act shall not apply to displaced foreigners as defined in the Act on the Legal Status of Displaced Foreigners in the Federal Territory in the applicable revised version published in the Federal Law Gazette Part III, no. 243-1.

**Section 2**

**Legal status of persons granted asylum status**

- (1) In the Federal Territory, persons granted asylum status shall enjoy the legal status pursuant to the Convention relating to the status of refugees.
- (2) Provisions granting a more favourable legal status to persons granted asylum status shall remain unaffected.
- (3) Foreigners who were granted asylum status in the territory defined in Article 3 of the Unification Treaty before the accession of this territory to the Federal Republic of Germany became effective shall be regarded as persons granted asylum status.

**Sub-Chapter 2**

**International protection**

**Section 3**

**Recognition of refugee status**

(1) A foreigner is a refugee as defined in the Convention of 28 July 1951 on the legal status of refugees (Federal Law Gazette II, pp. 559, 560) if he,

1. owing to well-founded fear of persecution in his country of origin on account of his race, religion, nationality, political opinion or membership of a particular social group,
  2. resides outside the country (country of origin)
    - a) whose nationality he possesses and the protection of which he cannot, or, owing to such fear does not want to avail himself of, or
    - b) where he used to have his habitual residence as a stateless person and where he cannot, or, owing to said fear, does not want to return.
- (2) A foreigner shall not qualify as a refugee under subsection 1 where there are serious reasons to believe that he
1. has committed a crime against peace, a war crime or a crime against humanity within the meaning of the international instruments drawn up for the purpose of establishing provisions regarding such crimes,
  2. committed a serious non-political crime outside the federal territory before being admitted as a refugee, in particular a brutal act, even if it was supposedly intended to pursue political aims, or
  3. acted in violation of the aims and principles of the United Nations.
- Sentence 1 shall apply also to foreigners who have incited others to commit the crimes or acts listed there or otherwise been involved in such crimes or acts.
- (3) Nor shall a foreigner be a refugee under subsection 1 if he enjoys the protection or assistance of an organization or institution of the United Nations, with the exception of the United Nations High Commissioner for Refugees under Article 1, Section D of the Convention relating to the status of refugees. Subsections (1) and (2) shall apply if such protection or assistance is no longer provided, without having finally clarified the situation of those affected in accordance with the relevant resolutions of the General Assembly of the United Nations.
- (4) A foreigner who is a refugee under subsection 1 shall be granted refugee status unless he meets the requirements of Section 60 (8), first sentence, of the Residence Act or the Federal Office has decided not to apply Section 60 (1) of the Residence Act pursuant to Section 60 (8), third sentence, of the Residence Act.

(Sumber: Federal Ministry of Justice and Consumer Protection, 2016)

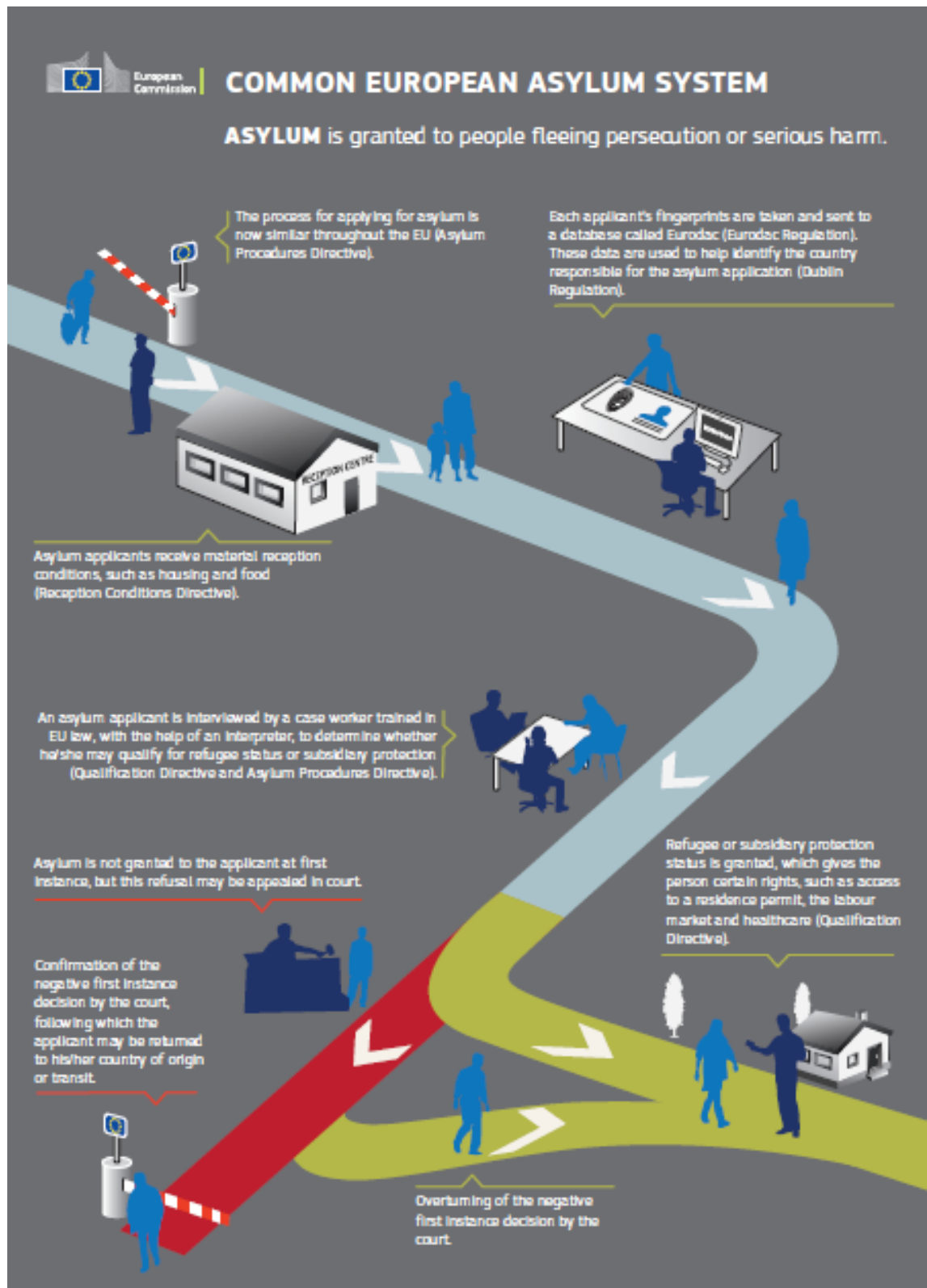
**Article 16a**

**[Right of asylum]**

- (1) Persons persecuted on political grounds shall have the right of asylum.
- (2) Paragraph (1) of this Article may not be invoked by a person who enters the federal territory from a member state of the European Communities or from another third state in which application of the Convention Relating to the Status of Refugees and of the Convention for the Protection of Human Rights and Fundamental Freedoms is assured. The states outside the European Communities to which the criteria of the first sentence of this paragraph apply shall be specified by a law requiring the consent of the Bundesrat. In the cases specified in the first sentence of this paragraph, measures to terminate an applicant's stay may be implemented without regard to any legal challenge that may have been instituted against them.
- (3) By a law requiring the consent of the Bundesrat, states may be specified in which, on the basis of their laws, enforcement practices and general political conditions, it can be safely concluded that neither political persecution nor inhuman or degrading punishment or treatment exists. It shall be presumed that a foreigner from such a state is not persecuted, unless he presents evidence justifying the conclusion that, contrary to this presumption, he is persecuted on political grounds.
- (4) In the cases specified by paragraph (3) of this Article and in other cases that are plainly unfounded or considered to be plainly unfounded, the implementation of measures to terminate an applicant's stay may be suspended by a court only if serious doubts exist as to their legality; the scope of review may be limited, and tardy objections may be disregarded. Details shall be determined by a law.
- (5) Paragraphs (1) to (4) of this Article shall not preclude the conclusion of international agreements of member states of the European Communities with each other or with those third states which, with due regard for the obligations arising from the Convention Relating to the Status of Refugees and the Convention for the Protection of Human Rights and Fundamental Freedoms, whose enforcement must be assured in the contracting states, adopt rules conferring jurisdiction to decide on applications for asylum, including the reciprocal recognition of asylum decisions.

(Sumber: (Print Version) Deutsche Bundestag, 2012)

Lampiran 6: Common European Asylum System



(Sumber: European Commission, 2014)

## Lampiran 7: Dublin Regulation



### The Dublin Regulation

**Asylum in Europe**  
Now, it's up to you.



#### Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national

The purpose of this Regulation, adopted in 2003, is to determine which State is responsible for examining an asylum application – normally the State where the asylum seeker first entered the EU – and to make sure that each claim gets a fair examination in one Member State.

The “Dublin” system operates on the assumption that, as the asylum laws and practices of the EU States are based on the same common standards, they allow asylum seekers to enjoy similar levels of protection in all EU Member States. In reality, however, asylum legislation and practice still vary widely from country to country, causing asylum-seekers to receive different treatment across Europe.

In its 2008 evaluation, the European Parliament noted that, in the absence of harmonisation, “the Dublin system will continue to be unfair both to asylum seekers and to certain Member States”. The Dublin system increases pressures on the external border regions of the EU and harshly disrupts the lives of those fleeing to Europe for protection. In December 2008, the European Commission proposed amendments to the Dublin Regulation, which were largely welcomed by the European Parliament, ECRE and UNHCR.

During determination procedures under the Regulation, asylum seekers wait in limbo, often separated from their families and in detention, pending transfer to the state deemed responsible for their claim. In some cases, their claims are never heard. Demonstrated failures to respect the rights of persons transferred under the Regulation have been so severe, that both UNHCR and ECRE have appealed governments to stop asylum applicants from being returned to certain countries.

#### What matters

- **Asylum seekers should have the right to a suspensive appeal**  
The determination of the country responsible for a claim should not result in transfers to Member States that do not guarantee a full and fair hearing of asylum claims. Asylum seekers should have a right to remain in the country where they have requested asylum while appealing against their transfer to the Member State through which they entered the EU (the so-called suspensive effect of appeal).
- **People should be detained as a last resort only**  
Members of European Parliament have observed that some Member States automatically detain persons pending or subsequent to transfer under the Dublin Regulation. The European Commission’s proposed safeguards to reduce the risk of arbitrary detention are therefore welcome. However, there are serious concerns that Member States will continue to detain asylum seekers in the Dublin system, based on the view that they are likely to abscond. Detention should only be used as a last resort where non-custodial measures have been demonstrated not to work.
- **The best interest of children should be respected**  
Moving unaccompanied children from one country to another has a negative impact on their wellbeing. Transfer or threat of transfer may lead to their disappearance. The country responsible for examining the asylum requests of children should therefore be the one where the most recent application has been made, in order to avoid unnecessary movement, except when the transfer aims to reunite families. Children should not be separated from family members, including brothers or sisters who are already in the EU. Member States should have the obligation to trace family members residing in the EU.
- **Suspending transfers to EU States under particular pressure should be possible**  
The Commission’s proposal for a mechanism to suspend transfers of asylum seekers to EU countries under strain, if they are failing to guarantee the examination of asylum claims and proper reception standards, is a positive development. However, this must remain an exceptional tool. The State concerned should be required and assisted to remedy the shortcomings in its asylum system.
- **Asylum applicants should always have the right to a personal interview**  
An interview is essential to allow applicants to explain why they need protection and to receive information of the relevant procedures. The Commission’s proposal that Member States systematically conduct personal interviews with all asylum applicants under the Dublin system is welcome as it will enable the asylum seeker to give all the information necessary to decide which Member State should be responsible for his/her asylum claim.



(Sumber: European Council on Refugees and Exiles, 2016)