

# Walls and fences at EU borders

## SUMMARY

The number of border walls and fences worldwide has increased dramatically in recent decades. This also holds for the EU/Schengen area, which is currently surrounded or criss-crossed by 19 border or separation fences stretching for more than 2 000 kilometres (km). Between 2014 and 2022, the aggregate length of border fences at the EU's external borders and within the EU/Schengen area grew from 315 km to 2 048 km.

Two main official reasons are put forward for building border fences: to prevent irregular migration and combat terrorism. The construction of fences at EU borders raises important questions as to their compatibility with EU law, in particular the Schengen Borders Code, fundamental rights obligations, and EU funding rules on borders and migration. While border fences are not explicitly forbidden under EU law, their construction and use must be in accordance with fundamental rights (such as the right to seek international protection) and the rights and procedural safeguards provided by EU migration law.

Amid renewed pressure and tensions at the EU's external borders, in 2021, several Member States asked the European Commission to allow them the use of EU funds to construct border fences, which they regarded as an effective border protection measure against irregular migration. According to Regulation (EU) 2021/1148, EU funding can support 'infrastructure, buildings, systems, and services' required to implement border checks and border surveillance. The Commission has so far resisted demands to interpret this provision as allowing for the construction or maintenance of border fences.

The European Parliament has condemned the practice of 'pushbacks' at the EU borders consistently, expressing deep concern 'about reports of severe human rights violations and deplorable detention conditions in transit zones or detention centres in border areas'. Moreover, Parliament stressed that the protection of EU external borders must be carried out in compliance with relevant international and EU law, including the EU Charter of Fundamental Rights.



### IN THIS BRIEFING

- Introduction
- Background
- Overview of border fences in the EU
- Key issues
- Position of the European Parliament



## Introduction

State borders demarcate a country's territory and enable authorities to check and control the flow of people into and out of its territory. While some state borders are no more than imaginary lines, many are clearly marked on the ground, reinforced by physical infrastructure, and equipped with sophisticated technologies (surveillance cameras, sensors, radars, etc.).

In recent decades, countries have increasingly resorted to building border fences and walls to prevent irregular migration, fight terrorism and combat smuggling of goods. In line with this global trend, by 2022, 12 EU/Schengen countries have put up physical barriers at some of their borders to prevent irregular migrants from entering illegally.<sup>1</sup> This phenomenon accelerated in 2015/2016, when [more than a million](#) refugees and migrants entered the EU. New and reinforced border fences were erected after 2021, following Belarus's [hybrid attack](#) against the EU, in which migrants were instrumentalised to sow the seeds of instability at the EU borders.

## Background

Around the world, states are increasingly putting up border fences and walls to prevent unauthorised crossings. In 2022, there were reportedly [74 border walls](#) across the globe, up from [just six](#) in 1989. Their length varies from several hundred metres (m) to thousands of kilometres (km). For example, India has sealed off its border with Bangladesh with a wall stretching for 4 096 km. The various (non-continuous) sections of the [US–Mexico border wall](#) add up to about 1 050 km (covering a third of the border).

The main official reasons for building border fences are to prevent irregular migration and combat terrorism. Other reasons include preventing smuggling of goods and drug trafficking, managing territorial disputes, and stopping foreign fighters.<sup>2</sup> In some cases, border fences are intended as temporary solutions for dealing with specific crises. However, (temporary) border fences tend to persist or give way to permanent fences.

## Overview of border fences in the EU

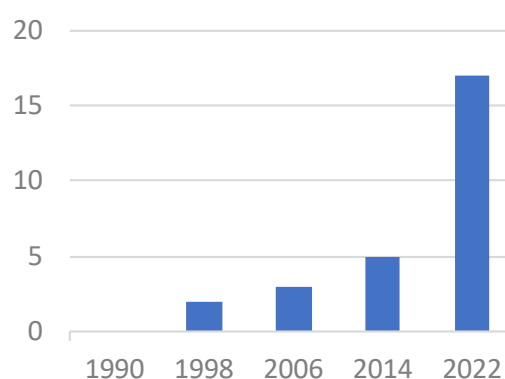
In the past two decades, the number of border fences at the EU/Schengen borders has risen from 0 to 19 (see Figure 1). By 2022, 12 EU/Schengen countries have built fences at one or more sections of their borders.

Spain built the first border fences in the early 1990s, to prevent irregular migration into Ceuta and Melilla, its enclaves in Morocco on the African continent. The EU 'inherited' two additional fences after the eastward enlargement in 2004 (a border fence between Lithuania and Belarus and a separation barrier in Cyprus).

The construction of border fences accelerated after the migratory crisis of 2015/2016. More recently, tensions at the EU's eastern borders prompted several EU/Schengen countries to fortify their borders with Belarus and Russia.

The aggregate length of border fences at the EU's external borders and within the EU/Schengen area increased from 315 km to 2 048 km between 2014 and 2022 (see Figure 2 below). About 13 %, or 1 535 km,<sup>3</sup> of EU external land borders ([12 033 km](#) in total) are currently fenced off.

Figure 1 – Number of border sections of EU/Schengen countries with fences



Source: Compiled by the author, October 2022.

## Border fences at the EU external borders

Between 1993 and 1996, **Spain** [built](#) fences around its Ceuta and Melilla, two enclaves in northern Morocco. The fences were subsequently expanded and reinforced several times and now [stretch](#) for 7.8 km around Ceuta and 13 km around Melilla. Tens of migrants have died in recurrent attempts to climb the fences (e.g. in [2005](#), [2012](#) and [2022](#)). As Ceuta and Melilla are outside the Schengen area, all those travelling from the enclaves to mainland Spain or to other Schengen countries are subject to [border checks](#).

**France** and the United Kingdom (UK) jointly built barriers around the entrance of the Channel Tunnel situated in the French port of Calais. In 2015/2016, the UK [funded](#) the construction of a fence 11.5 km in length; according to [media sources](#), by 2021, the fencing covered 65 km. After 2020, following the withdrawal of the UK from the EU, the Calais fortification became part of the EU external borders.

In 1999/2000, **Lithuania** built a 71.5-km-long fence at its border with Belarus. The fence became part of the EU external border after Lithuania's accession to the EU in 2004. It was reinforced and, in 2021/2022, [expanded](#) to a length of 502 km (most of Lithuania's land border with Belarus). In 2017/2018, Lithuania also built a 45-km-long fence around Kaliningrad, a Russian exclave on its territory.

In 2012, **Greece** [built](#) a 12.5-km fence at its border with Turkey in the Evros river valley. Another 40-km fence was [completed](#) in August 2021 in an area known as Maritsa and Meriç. In August 2022, Greece [announced](#) plans to expand the fence by 220 km. In 2015, **North Macedonia** built several fences stretching for 37 km along its border with Greece.

In 2014, **Bulgaria** [put up](#) a 33-km-long razor wire fence along its border with Turkey. The fence was then extended progressively, reaching 235 km in length by 2017.

Between 2015 and 2017, **Hungary** built 158 km of fencing at its border with Serbia.

In 2015, **Estonia** [announced](#) plans to build a 115-km-fence along its eastern border with Russia. Work started in 2018. By 2021, a permanent steel fence of 25 km length [was built](#), and further 39 km were under construction. In November 2021, a 40-km-long temporary fence was [built](#) at the same border.

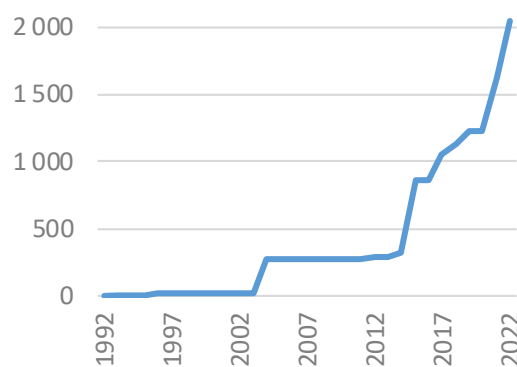
In 2015, **Latvia** started building a fence at its borders with Russia, 93 km of which were completed by 2019. In August 2022, the Latvian government [announced](#) plans to extend the fence to 148.8 km. In 2021, Latvia built a 36.9-km-long temporary fence at its border with Belarus; work is ongoing to replace it with a permanent structure and extend it to 149.7 km by 2024.

In 2016, **Norway** [built](#) a 200-m-long fence at the Storskog border crossing point with Russia.

In 2021, **Poland** [erected](#) a steel wall 186 km in length along its border with Belarus. The wall cut through several protected natural areas, including old-growth [Białowieża Forest](#), which sparked [criticism](#) from civil society.

In October 2022, **Finland** [announced](#) plans to build a fence along (part of) its border with Russia, to prevent unauthorised border crossing from Russia.

Figure 2 – Total length of border fences at EU/Schengen countries' borders (km)



Source: Compiled by the author, October 2022.

## Border fences in the EU and within the Schengen area

Since 1974, a 180-km-line dotted by walls and fences (the 'Green Line') divides the island of **Cyprus**, separating the government-controlled areas in the south from the non-government-controlled areas in the north. After Cyprus's EU accession in 2004, and pending a settlement, EU legislation was [suspended](#) in the island's northern part. The Green Line is not an external border of the EU, and all nationals of the Republic of Cyprus enjoy EU citizenship rights. However, Cyprus has to carry out [checks](#) on all those crossing the Green Line, in a bid to prevent irregular immigration and detect threats to both public policy and internal security.

In 2015, **Austria** [built](#) a 3.7-km-long border barrier near Spielfeld, one of the busiest crossing points at its border with Slovenia. This was the first time a border fence went up between two countries in the Schengen area. In 2016, Austria also [installed](#) a 250-m border barrier across the Brenner pass, a major crossing point on its border with Italy. In 2015, **Hungary** (a Schengen country) put up a 131-km-long fence at its border with Croatia, an EU country outside the Schengen area. Between 2015 and 2020, **Slovenia** built a razor-wire fence 198.7 km in length along its border with Croatia, another EU Member State. In July 2022, Slovenia started [dismantling](#) this fence.

Table 1 – Overview of fences at the borders of EU/Schengen countries

	Construction year(s)	Border section(s)	Length (km)	Type
<b>Bulgaria</b>	2014-2017	Bulgaria–Turkey	235	External border
<b>Estonia</b>	2018-2021	Estonia–Russia	104	External border
<b>Greece</b>	2012; 2021	Greece–Turkey	52.5	External border
	2015*	<i>North Macedonia–Greece*</i>	37	<i>External border</i>
<b>Spain</b>	1993	Spain–Morocco (Ceuta)	7.8	External border
	1996	Spain–Morocco (Melilla)	13	External border
<b>France</b>	2015-2021	France–UK (Calais)	65	External border
<b>Cyprus</b>	1974*	<i>Government-controlled/ non-government-controlled territories*</i>	180	<i>Intra-EU</i>
<b>Latvia</b>	2015-ongoing	Latvia–Russia	93	External border
	2021-ongoing	Latvia–Belarus	36.9	External border
<b>Lithuania</b>	1999-2022	Lithuania–Belarus	502	External border
	2017-2018	Lithuania–Russia (Kaliningrad)	45	External border
<b>Hungary</b>	2015	Hungary–Croatia	131	Intra-EU
	2015-2017	Hungary–Serbia	158	External border
<b>Norway</b>	2016	Norway–Russia (Storskog)	0.2	External border
<b>Austria</b>	2015-2016	Austria–Slovenia (Spielfeld)	3.3	Intra-Schengen
	2016	Austria–Italy (Brenner)	0.25	Intra-Schengen
<b>Poland</b>	2021	Poland–Belarus	186	External border
<b>Slovenia</b>	2015-2020	Slovenia–Croatia	198.7	Intra-EU

Source: Compiled by the author. \*Separation or border fence not built by the EU/Schengen country.

## Key issues

### Border control

[Regulation \(EU\) 2016/399](#) (the Schengen Borders Code, SBC) lays down common rules on border control – checks and surveillance – applicable at both the external borders of the Schengen area and other EU external borders (except Ireland's). Article 8 SBC requires Member States to carry out systematic checks on entry and exit of all individuals, including third-country nationals and those enjoying the right of free movement under EU law. Third-country nationals who do not fulfil all the entry conditions must be denied entry, unless they are authorised by a Member State to enter its territory on humanitarian grounds or grounds of national interest or because of international obligations. Article 14(2) SBC states that 'entry may only be refused by a substantiated decision stating the precise reasons for the refusal'.

According to the SBC, border surveillance 'shall be carried out in such a way as to prevent and discourage persons from circumventing the checks at border crossing points' (Article 13(2)). For this purpose, the border guards are required to use stationary or mobile units to carry out border surveillance between border crossing points, in particular in 'places known or perceived to be sensitive, the aim of such surveillance being to apprehend individuals crossing the border illegally' (Article 13(4)). Member States can introduce 'effective, proportionate and dissuasive' penalties for the unauthorised crossing of external borders at places other than border crossing points or at times other than the fixed opening hours (Article 5(3)). The SBC provides that border surveillance 'may also be carried out by technical means, including electronic means' (Article 13(4)); it does not explicitly allow for or prohibit border fences.

The SBC specifies common rules on the temporary [reintroduction](#) of border control at internal borders (i.e. borders between Schengen countries) if there are serious threats to public policy or internal security (Articles 25-28) and persistent serious deficiencies relating to the management of external borders (Article 29). When reintroducing border control at internal borders, EU Member States must assess the extent to which the measure is likely to remedy the threat to public policy or internal security adequately; assess the measure's proportionality; and consider the likely impact on the free movement of people within the area. The erection of border fences at the internal borders raises serious questions about proportionality and the impact on the free movement of people. In its 2022 [judgment](#) in joined cases C-368/20 and C-369/20, the Court of Justice of the European Union (CJEU) reaffirmed the exceptional and limited character of internal border controls.

A key reason for establishing physical barriers at the borders is that they [appear](#) 'to be an effective border protection measure'. However, the effectiveness of border fences is contested. According to a March 2022 [report](#) by the Migration Policy Institute think-tank, 'walls do not achieve the objectives for which they are said to be erected; they have limited effects in stemming insurgencies and do not block unwanted flows, but rather lead to a re-routing of migrants to other paths'. This tends to increase smugglers' profits and bolster organised crime. According to a 2021 [cost-and-benefit analysis](#), border fences are costly and 'reduce well-being of the population by restricting gains from cooperation, specialization and trade'. They also tend to 'create more permanent migrants, because workers, unable to move freely to and from the host country, bring families with them'. According to the authors, increasing both opportunities and routes of legal immigration is more effective in reducing irregular migration than border fences.

### Access to international protection

Article 4 SBC provides that 'when applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union ... , relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 ('the [Geneva Convention](#)'), obligations related to access to international protection, in particular the principle of *non-refoulement*, and fundamental rights'.

Moreover, 'border guards shall, in the performance of their duties, fully respect human dignity, in particular in cases involving vulnerable persons' (Article 7(1)). Furthermore, recital 7 states that 'border control should be carried out in a professional and respectful manner and be proportionate to the objectives pursued'.

Border fences close access to a country's territory, thus limiting the ability of those in need of international protection to seek safety. This gives rise to a serious risk of breaching a country's obligations relating to access to international protection and other fundamental rights. For example, border barriers may lead to a breach of Article 3 (the right to integrity of the person) and Article 18 (access to asylum) of the [EU Charter of Fundamental Rights](#). According to a 2020 [analysis](#) of the European Union Agency for Fundamental Rights ([FRA](#)), serious fundamental rights concerns arise 'if there are no places along the border that asylum seekers can reasonably reach to request international protection without undue delay – i.e. there are no gates in the fence which are at reasonable distance from each other or if border-crossing points are not accessible, as for example in the Spanish enclaves of Ceuta and Melilla following the COVID-19 pandemic'. Furthermore, 'features that put people's life at risk or create a risk of disproportionate harm – such as coil-shaped blades or wires giving dangerous electric shocks – do not appear to be a proportionate measure to implement the duty to prevent unauthorised entry under the Schengen Borders Code'. According to another view expressed in a 2021 [paper](#) by the Centre for European Policy Studies (CEPS) think-tank, 'border fences and physical barriers are simply disproportionate by design and act as magnifying glasses of rule of law and human rights violations inherent to ... pushbacks'.

The building and use of border walls is still under-regulated.<sup>4</sup> While the CJEU has not yet ruled directly on the legality of border fences, it has taken issue with Member States' practices in the border zones near these fences, such as '[pushbacks](#)'. In December 2020, the CJEU found that Hungary's law allowing third-country nationals staying illegally on its territory to be moved forcibly beyond the border fence (with Serbia) was contrary to EU law ([Case C-808/18, Commission v Hungary](#)). According to the CJEU, third-country nationals transferred beyond the fence did not have an effective possibility of entering the only two transit zones from which they could apply for international protection. In November 2021, the Commission [referred](#) Hungary to the CJEU for failure to comply with the 2020 ruling. In its judgment in the [Case C-72/22 PPU](#), issued in June 2022, the CJEU found that Lithuanian migration and asylum laws, preventing irregular migrants from applying for asylum and allowing mass detention in the event of a mass influx of foreigners, violates EU law, specifically [Directive 2013/32/EU](#) (the Asylum Procedures Directive). The case concerned the detention of a third-country national who, after entering Lithuania irregularly from Belarus in November 2021, had been detained on the grounds of illegal entry and residence in the country.

In its 2001 judgment on the Berlin Wall ([case \*Streletz, Kessler and Krenz v Germany\*](#)), the European Court of Human Rights (ECtHR) did not contest the legitimacy of the wall; it held that 'by installing anti-personnel mines and automatic-fire systems along the border, and by ordering border guards to "annihilate border violators and protect the border at all costs", the GDR [German Democratic Republic] had set up a border-policing regime that clearly disregarded the need to preserve human life ... and the right to life' (paragraph 102). The ECtHR has a rich [jurisprudence](#) of migrants' rights relating to entry onto a country's territory, migrants' treatment at the border, access to asylum, returns, etc. In its judgment on the [cases \*N.D. and N.T. v Spain\*](#) (concerning the immediate return to Morocco of two third-country nationals who attempted to enter Spanish territory illegally by climbing the fences surrounding the Spanish enclave of Melilla) the ECtHR confirmed that a state's jurisdiction within the meaning of Article 1 of the [European Convention of Human Rights](#) starts applying from the moment a person enters its territory, including 'from the point in time at which the applicants climbed down from the fences they had been under the continuous and exclusive control, at least *de facto*, of the ... authorities' (paragraph 90). However, the ECtHR found that the Spanish authorities' expedited expulsions to Morocco at the border fences in Melilla did not amount to a violation of the prohibition of collective expulsions under Article 4 of [Protocol No 4](#) to the

Convention. The ECtHR considered that 'the lack of individual removal decisions can be attributed to the fact that the applicants, if they indeed wished to assert rights under the Convention, did not make use of the official entry procedures existing for that purpose, and was thus a consequence of their own conduct' (paragraph 231). The judgment has been widely criticised, including for providing 'an inequivalent level of human rights calling for lower protection standards in contradiction to those required by United Nations human rights bodies'.<sup>5</sup>

## EU funding of border fences

[Regulation \(EU\) 2021/1148](#) established, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (BMVI). One of the BMVI's objectives consists of 'supporting effective European integrated border management at the external borders ... to facilitate legitimate border crossings, to prevent and detect illegal immigration and cross-border crime and to effectively manage migratory flows' (Article 3(2)(a)). For this purpose, the BMVI will support, among other things, 'infrastructure, buildings, systems and services required at border crossing points and for border surveillance between border crossing points'.

In a letter from October 2021, interior ministers from 12 Member States [called on](#) the Commission to present legislative proposals that would allow the funding of physical barriers as measures for protecting the EU's external borders. According to their letter, 'this legitimate measure should be additionally and adequately funded from the EU budget as a matter of priority'. European Council President Charles Michel [urged](#) a debate on the EU financing of physical border infrastructure. The idea is not new; in 2017, the Hungarian Prime Minister, Viktor Orbán, [asked](#) the EU to reimburse half of the costs (about €400 million) of the fence Hungary erected to prevent irregular migration from Serbia and Croatia.

The Commission has repeatedly [opposed](#) demands to use EU funds for building border fences. While [acknowledging](#) that the SBC does not explicitly exclude the use of fences, the Commission argued that they 'are not the most efficient tool to improve border management'. It also stressed that, under EU law, border control must be exercised in a proportionate manner and with respect for fundamental rights. The Commission [underlined](#) that Member States have funds at their disposal to develop other, more effective means, such as border surveillance systems based on risk analysis, cooperation and information exchange. For example, in its renewed 2021 [action plan](#) against migrant smuggling, the Commission proposed a reinforced toolbox for the EU against instrumentalisation of irregular migration, composed of operational support by EU agencies, dialogues with partner countries, the use of sanctions and, where appropriate, targeted action in the areas of visa, trade, development and financial assistance.

## Position of the European Parliament

In a 2006 [report](#) on its delegation's visit to Ceuta and Melilla, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) asked the Spanish authorities to 'clarify the legal status of the migrants found in the territory between the two [inner] fences'. It encouraged them to report on both the results of the inquiries on the casualties that occurred in 2005 and the alleged violence against migrants.

In a 2018 [resolution](#) on the annual report on the functioning of the Schengen area, the Parliament condemned 'the construction of physical barriers, including fences, between Member States', expressing 'its doubts as to the compatibility of such actions with the Schengen Borders Code'.

In a 2021 [resolution](#) on the breach of the United Nations Convention on the Rights of the Child and the use of minors by the Moroccan authorities in the migratory crisis in Ceuta, the Parliament rejected 'Morocco's use of border control and migration, and unaccompanied minors in particular, as political pressure against a Member State of the EU'.

The European Parliament has consistently [condemned](#) the practice of 'pushbacks' at the EU borders and expressed [deep concern](#) 'about reports of severe human rights violations and deplorable detention conditions in transit zones or detention centres in border areas'. In a 2021 [resolution](#) on the situation in Belarus, the Parliament reiterated the need for the countries most affected to protect the EU's external borders effectively, in compliance with relevant international law and EU law on asylum, including the EU Charter of Fundamental Rights.

## MAIN REFERENCES

- Dumbrava C., [Schengen reform: Key challenges and proposals](#), EPRS, European Parliament, July 2022.
- Radjenovic A., [Pushbacks at the EU's external borders](#), EPRS, European Parliament, March 2021.
- Vallet E., [The World Is Witnessing a Rapid Proliferation of Border Walls](#), March 2022.

## ENDNOTES

- <sup>1</sup> This briefing is based on data from a variety of publicly available sources, including official sources, media reports and secondary literature. Despite careful research, the accuracy of the information cannot be fully guaranteed (as available sources often provide incomplete or contradictory information).
- <sup>2</sup> See A. Ruiz Benedicto, M. Akkerman and P. Brunet, [A walled world: Towards a global apartheid](#), Centre Delàs d'Estudis per la Pau, November 2020.
- <sup>3</sup> Data do not include Cyprus's barriers along the separation line between the government-controlled and non-government-controlled territories, which is not an EU external border.
- <sup>4</sup> See M. Paz, ['The Law of Walls'](#), *European Journal of International Law*, Vol. 28(2), May 2017.
- <sup>5</sup> See S. Carrera, [The Strasbourg court judgement 'N.D. and N.T. v Spain': a 'carte blanche' to push backs at EU external borders?](#), European University Institute working paper, 2020/2021.

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