

# Asylum Report 2023





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# **Asylum Report 2023**

## **Annual Report on the Situation of Asylum in the European Union**

**July 2023**







## Foreword

International and temporary protection remained at the forefront of policy discussions throughout 2022, with a combined figure of 5 million people seeking protection arriving into Europe. The total includes the number of asylum applications which soared to almost 1 million, in addition to over 4 million registrations for temporary protection by people fleeing the war in Ukraine. Naturally, the magnitude of the inflow tested national asylum and reception systems to new highs, and EU+ countries were faced with finding rapid, yet viable, solutions.



Developments in international protection in 2022 highlighted the importance of having in place an effective protection architecture with multi-stakeholder participation. As presented in this report, EU institutions continued their efforts to advance the reform of the Common European Asylum System (CEAS) and further foster practical cooperation among EU+ countries on the basis of solidarity and responsibility. They also played a leading role in the development of an orchestrated European response to the needs of displaced persons from Ukraine.

To cope with existing and emerging needs, EU+ countries responded by adjusting policies and practices, allocating additional resources and enacting changes to legislation. The many positive developments are to be appreciated and celebrated. But in a world of quickly-shifting patterns in migration and asylum, there is no time for complacency and the lessons learned in 2022 should serve as a catalyst for further refinement. The quick activation and extension of temporary protection indicated that effective legislation and contingency planning, coupled with broad political will, can lead to swift responses to humanitarian crises; provide predictability and stability to beneficiaries; and foster convergence in practices across several countries. Importantly, the EU response in protecting displaced persons from Ukraine can pave the way in guiding the EU's asylum system as a whole through similar expressions of solidarity and shared responsibility.

After a full year of functioning with an enhanced mandate, the European Union Agency for Asylum (EUAA) closed 2022 with an unprecedented number of operating plans to provide operational and technical assistance primarily to Member States experiencing disproportionate pressure on their asylum and reception systems. As stipulated in the EUAA Regulation, the new work programme of the Agency will continue to evolve over the coming year. The newly-appointed EUAA Fundamental Rights Officer will ensure that the Agency's operations continue to fully adhere to fundamental rights, Liaison Officers in Member States will further calibrate the cooperation with national authorities and a Monitoring Mechanism will begin in early 2024 to help harmonise practices across the EU. Living up to its status as the centre of expertise on asylum, the Agency will continue to play a key role in the European effort to provide protection to those in need.

Nina Gregori  
Executive Director  
European Union Agency for Asylum







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We are grateful to the European Commission for its continued support and feedback during the drafting process. Experts from the United Nations High Commissioner for Refugees (UNHCR) also provided valuable input.

Through various channels, civil society organisations, academia and research institutions provided the EUAA with research findings and information from the ground. To present the full picture of asylum in 2022 and take account of all perspectives, contributions from these institutions and organisations were included in this report. To this end, the EUAA would like to acknowledge the following contributors:

## Accem

Aditus foundation

AIDROM-Ecumenical Association of Church in Romania

[Arca di Noè Società Cooperativa Sociale](#)  
[Association for Legal Intervention](#)  
 (Stowarzyszenie Interwencji Prawnej)

Association Foyer Notre Dame

[AsyLex](#)

[Asylos](#)

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[DRC Greece](#)

Dutch Advisory Council on Migration

[European Council on Refugees and Exiles \(ECRE\)](#)

European Network of Migrant Women (ENoMW)





European Network of National Human Rights Institutions (ENNHRI)  
European Network on Statelessness  
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Grupa Granica | Border Group  
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[I Have Rights](#)  
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[Platform for International Cooperation on Undocumented Migrants \(PICUM\)](#)  
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[Servicio Jesuita a Migrantes – España \(SJM\)](#)  
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## Acronyms and abbreviations

AIDA	Asylum Information Database
AMIF	Asylum, Migration and Integration Fund
ASGI	Association for Juridical Studies on Immigration (Italy)
AWAS	Agency for the Welfare of Asylum Seekers
BAMF	Federal Office for Migration and Refugees (Germany)
BBU	Federal Agency for Reception and Support Services (Austria)
BMS	Bilateral Mentoring Scheme
BVwG	Federal Administrative Court (Austria)
CALL	Council for Alien Law Litigation (Belgium)
CCAC	Closed Controlled Access Centres (Greece)
CCBE	Council of Bars and Law Societies of Europe
CEAS	Common European Asylum System
CGRS	Office of the Commissioner General for Refugees and Stateless Persons (Belgium)
CJEU	Court of Justice of the EU
CNDA	National Court of Asylum (France)
COA	Central Agency for the Reception of Asylum Seekers ( <i>Centraal Orgaan opvang asielzoekers</i> ) (Netherlands)
COI	country of origin information
CPT	Council of Europe's Committee for the Prevention of Torture
CRA	administrative detention centre (France)
DT&V	Repatriation and Departure Service (Netherlands)
EASO	European Asylum Support Office
ECRE	European Council on Refugees and Exiles
ECHR	European Charter of Human Rights
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EIGE	European Institute for Gender Equality
EMN	European Migration Network
ENS	European Network on Statelessness
EPS	EUAA's Early Warning and Preparedness System
ESTIA	Emergency Support to Integration and Accommodation
EU+	European Union Member States, Iceland, Liechtenstein, Norway and Switzerland
EUAA	European Union Agency for Asylum
eu-LISA	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
FAC	Federal Administrative Court (Switzerland)
FGM/C	Female genital mutilation/cutting
FRA	European Union Agency for Fundamental Rights
Frontex	European Border and Coast Guard Agency
GDP	gross domestic product
GRETA	Council of Europe's Group of Experts on Action against Trafficking in Human Beings
GUDA	single desks at the prefectures (France)
IBC	illegal border-crossing
ICAM	Individual Case Management







ICMPD	International Centre for Migration Policy Development
IDS	Information and Documentation System
IND	Immigration and Naturalisation Service (Netherlands)
IPAC	Administrative Court for International Protection (Cyprus)
IPAT	International Protection Appeals Tribunal (Ireland)
IPO	International Protection Office (Ireland)
IOM	International Organization for Migration
JHA	Justice and Home Affairs
LGBTIQ	Lesbian, gay, bisexual, trans-gender, intersex and queer
MENA	Middle East and North Africa
MIPROF	Interdepartmental Mission on Human Trafficking
MOCADDEM	Operational Coordination Mechanism for the External Dimension of Migration
NDICI	Neighbourhood, Development and International Cooperation Instrument
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
NOAS	Norwegian Organisation of Asylum Seekers
OFII	Office of Immigration and Integration ( <i>Office Français de l'Immigration et de l'Intégration</i> ) (France)
OFPPA	Office for the Protection of Refugees and Stateless Persons ( <i>Office Français de Protection des Réfugiés et Apatrides</i> ) (France)
ONA	National Reception Office (Luxembourg)
OPU	Organization for Aid to Refugees (Czechia)
PBGB	Police and Border Guard Board (Estonia)
PIC	Legal-Informational Centre for NGOs (Slovenia)
PKK	Kurdistan Workers' Party
PMM	Presidency for Migration Management
PTSD	post-traumatic stress disorder
QD	Qualification Directive (recast)
RAO	Regional Asylum Office (Greece)
RIC	Reception and Identification Centre (Greece)
SAR	search and rescue
SEF	Immigration and Border Service (Portugal)
SEM	State Secretariat for Migration (Switzerland)
SMA	Swedish Migration Agency (Sweden)
SOGIESC	Sexual orientation, gender identity or expression, and sex characteristics
UCPM	Union Civil Protection Mechanism
UDI	Directorate for Immigration (Norway)
UNCAT	UN Committee Against Torture
UNCRC	United Nations Committee on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees
UNHRC	UN Human Rights Committee
UNICEF	United Nations Children's Emergency Fund
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
WHO	World Health Organization





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## Introduction

As the go-to source of information on international protection in Europe, the annual EUAA Asylum Report provides a comprehensive overview of key developments in asylum in Member States of the European Union, Iceland, Liechtenstein, Norway and Switzerland (EU+ countries).

All aspects of the Common European Asylum System (CEAS) are covered by summarising changes to legislation, policy and practices at the European and national levels. The report presents selected case law which has shaped the interpretation of European and national laws, as well as key statistical indicators for the 2022 reference year, which highlight emerging trends and the effectiveness of asylum systems.

EU+ countries were faced with an exceptional number of people in need of protection in 2022 as a result of sharply increasing asylum applications lodged in Europe, coupled with the forced displacement of millions of people from Ukraine following the Russian invasion. In light of these developments, the EU and its Member States mobilised an unprecedented amount of resources to address growing protection needs. To manage the situation, some countries called a state of emergency, many reorganised the registration process and all countries needed to adjust reception capacity.



To set the scene, Section 1 presents an overview of forced displacement globally and addresses the international community's response to large refugee movements. The section zooms in on key topics which were discussed at the global level: children seeking protection, displaced women and girls, physical and mental health of asylum applicants, climate-induced displacement and developments concerning stateless populations.

Section 2 zooms in on the context in the European Union, presenting the latest legislative and policy developments in the evolution of CEAS. Starting with the activation of the Temporary Protection Directive, it highlights the EU response in providing protection to displaced persons from Ukraine, while managing the ever-increasing number of asylum applications. Cases addressed by the Court of Justice of the EU are also summarised to clarify the interpretation of law in often complex situations.

The support provided by the EUAA to countries during 2022 is outlined in Section 3. It details the Agency's work programme, work with third countries, and operational and technical assistance which was provided over the course of the year. It also presents an evaluation of these activities, when applicable.

Section 4 analyses developments at the national level at each stage of the asylum procedure, including access to the asylum procedure and to information, legal assistance, interpretation services, procedures at first and second instances, special procedures, the Dublin procedure, reception conditions, detention during the asylum procedure, country of origin information, the content of protection and resettlement. The key indicators which are presented help to identify and monitor trends in receiving countries, as well as with the main nationalities of applicants.

The situation of children and applicants with special needs are described in Section 5. The section combines quantitative, qualitative and legal information to provide an overview of the situation for minors, women, victims of violence and human trafficking, and lesbian, gay, bisexual, trans-gender, intersex and queer (LGBTIQ) asylum applicants. The section focuses in particular on unaccompanied minors, reviewing changes to legal representation, age assessments and reception conditions.

To include diverse perspectives, observations by civil society organisations and other stakeholders are presented throughout the report by topic. In 2022, concerns often centred around access to the asylum procedure, reception conditions and applicants with special needs.

The report serves as a main reference for developments in asylum in EU+ countries. It collates a wide range of sources to provide accurate information to policymakers, national asylum authorities, researchers and practitioners involved in the field of asylum.







## A Year in Review



Protection needs in Europe reached a new high, testing asylum and reception systems



Sharp rise in unaccompanied minors seeking protection in Europe as asylum applications continue to grow

**42,000**

applications by unaccompanied minors lodged in 2022

**18,000**

applications by unaccompanied minors were withdrawn, twice as many as in 2021

**2/3** of all unaccompanied minor applicants were from Syria and Afghanistan

The expanding role of the EUAA to further harmonise and improve the Common European Asylum System



Faster  
deployments



Reserve pool of  
500 experts



Enhanced  
training



Technical  
tools



Fundamental  
Rights Officer



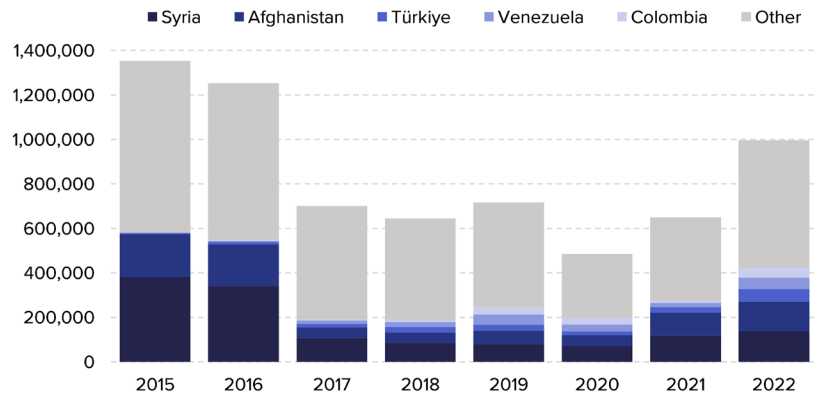
2022



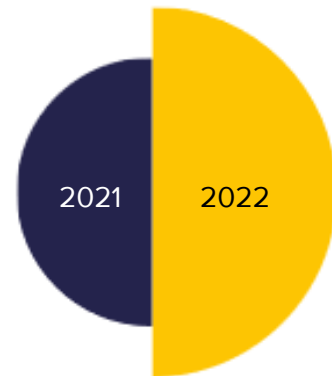
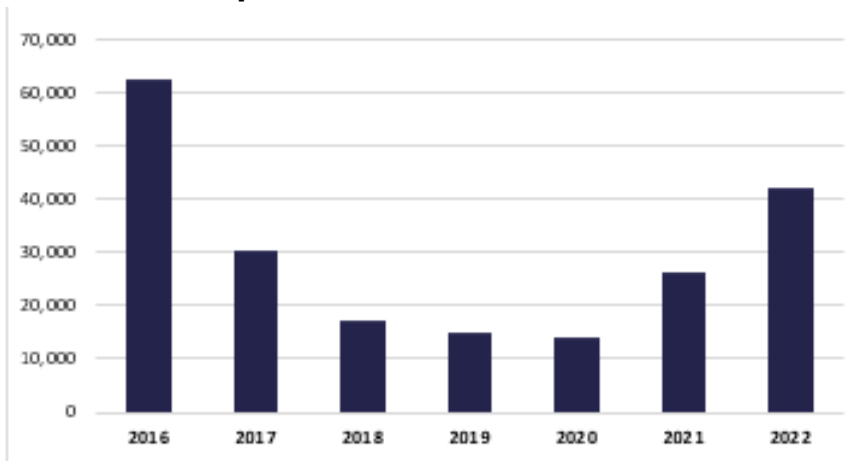
Nearly

**1 million**applications lodged  
across EU+ countries**71%** of applicants  
for international protection  
were male

### Applications for international protection by top countries of origin, 2022



### Growth in asylum applications by unaccompanied minors in EU+ countries



Applications by  
unaccompanied minors  
increased by **3/5** compared  
to the previous year



Greater  
collaboration with  
civil society



EUAA liaison  
officers



Enhanced support  
to third countries



Complaints  
Mechanism



Monitoring  
Mechanism



## Section 1. Global developments in the field of asylum in 2022

Section 1 presents an overview of forced displacement globally and addresses the international community's response to large refugee movements. The section zooms in on key topics which were discussed at the global level: children seeking protection, displaced women and girls, physical and mental health of asylum applicants, climate-induced displacement and developments concerning stateless populations.

To set the broader context within which asylum-related trends in Europe emerged, this section provides an overview of key themes in forced displacement at the global level. A combination of crises, including new and ongoing conflicts, climate shocks, geopolitical unrest, violence and persecution, led millions of people to flee their homes in 2022.<sup>1</sup> The Russian invasion of Ukraine caused the fastest and one of the largest forced displacement crises since World War II.<sup>2</sup> Other pre-existing, profound situations of displacement around the world persisted or grew, pushing the number of people displaced globally to historic highs in 2022, reaching approximately 103 million.<sup>3</sup>

Millions of people across the world experience forced displacement as a result of violent conflict, persecution, abuse of human rights, natural disasters and deteriorating ecosystems. Recurrent cycles of displacement are frequently explained by the intricate interaction of several underlying causes. Displaced persons may seek refuge for themselves and their families within their home country (internally displaced persons) or by crossing international borders (refugees).

### Box 1. Definitions of displaced persons



**Refugee:** An individual who has fled a country due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.<sup>4</sup>

**Internally displaced persons (IDPs):** Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally-recognised state border.<sup>5</sup>

Increased levels of conflict and human rights violations continued in 2022. Local and internationalised conflicts, political instability, intercommunal disputes over land and access to resources – compounded by the effects of climate change – persisted in several parts of the world. Grave effects on civilian populations were seen in Afghanistan, Burkina Faso, the Central African Republic, the Democratic Republic of Congo, Ethiopia, Mozambique, Myanmar, Nicaragua, the Northern Triangle of Central America (Guatemala, El Salvador and Honduras), the Sahel region, Syria and Venezuela.<sup>6, 7, 8, 9, 10 11, 12, 13, 14</sup> In addition, in February 2022, the Russian invasion of Ukraine forced millions to flee the country and seek refuge in European countries.<sup>15</sup>



According to the United Nations High Commissioner for Refugees (UNHCR), just six countries accounted for 76% of all refugees and other people in need of protection in 2022: Syria, Venezuela, Ukraine, Afghanistan, South Sudan and Myanmar (in descending order).<sup>16</sup> The majority of people who are displaced globally continued to be hosted in low-income and middle-income countries, which bear a disproportionate share of the burden considering the resources they have at their disposal.<sup>17</sup>

In 2022, refugees and host communities across the world continued to feel the after-effect of the COVID-19 pandemic as the cost-of-living crisis struck. Many refugees and internally displaced people struggled to meet their daily needs due to inflated prices and limited humanitarian assistance, precipitated by disrupted supply chains.<sup>18</sup> Nevertheless, the number of people attempting perilous crossings in search of safety, exposing themselves to grave risks, increased dramatically in 2022.<sup>19, 20, 21, 22</sup>

Against this background, the international community continued efforts in developing solutions for people in need of protection. Through multi-stakeholder cooperation, effective protection responses were provided to persons fleeing Ukraine within short timeframes. With regard to international protection, under the framework of the Global Compact on Refugees, the international community continued to design and implement initiatives toward: i) easing the pressure on host countries; ii) enhancing refugee self-reliance; iii) expanding access to solutions in third countries; and iv) supporting conditions in countries of origin for safe and dignified returns. Initiatives in the frames of the compact focused on a range of protection-related areas, including:

- child protection in humanitarian contexts;
- increasing capacity of national asylum systems through the Asylum Capacity Support Group;
- ensuring that settlements of forcibly displaced people have access to affordable, modern and clean energy
- offering sustainable resettlement and complementary pathways, including through education;
- inclusive, quality education for refugee and host community children and youth;
- synergistic research on forced displacement and statelessness;
- efforts toward ending statelessness;
- initiatives focused on family reunification in the context of forced displacement;
- providing *pro bono* legal assistance to displaced people;
- alleviating poverty and fostering the financial independence of refugees; and
- enhancing the meaningful participation of displaced people in peace-building efforts.<sup>23</sup>

### Key issues in the field of asylum 2022







Three regional support platforms, focusing on Afghanistan ([SSAR](#)), Central America and Mexico ([MIRPS](#)), and East Africa ([IGAD](#)), provide the fora for situation-specific support from the international community. They aim to ensure comprehensive responses to specific refugee situations.<sup>24</sup>

The Three-Year Strategy on Resettlement and Complementary Pathways 2019-2022, meant to increase durable solutions for refugees in third countries, managed to achieve significant foundation-laying work amidst challenging circumstances. The objectives for growth in UNHCR-referred resettlement for those most at risk were met in 2019, but not in 2020 and 2021. While the COVID-19 pandemic, which significantly inhibited mobility, was the primary reason for the shortfall, insufficient resettlement pledges by resettlement countries also played a role. Innovative solutions in processing modalities allowed for an increase in resettlement numbers in 2021 compared to the year before, while the positive dynamic seemed to persist in 2022.<sup>25</sup> To assist asylum authorities, UNHCR published a paper in March 2022 with an overview of national practices to increase productivity in processing asylum applications. It also proposed systematic changes and the building of resilience to the benefit of both countries of asylum and individuals in need of international protection.<sup>26</sup>

Comparable data play a key role in understanding displacement and informing sound policymaking. Data gaps in a range of areas related to displacement (for example on gender-based violence, refugee health and statelessness) are common challenges that have been highlighted by researchers, professionals and policymakers alike.<sup>27, 28, 29, 30, 31</sup> To improve the reliability, comparability and validity of assessments, the Internal Displacement Monitoring Centre (IDMC) developed a revised, predominantly qualitative, methodology using a combination of expertise and desk research. The methodology includes 18 questions grouped into four categories: safety and security; standards of living; basic services; and civic and social rights. The questions are phrased in a way that, in the absence of quantitative information, qualitative information could be used and grouped into five standardised response options.<sup>32</sup> In addition, in December 2022, UNHCR published the second edition of the Global Compact on Refugees Indicator Framework, which includes technical refinements based on collaboration and extensive consultations with multiple stakeholders.<sup>33</sup>

The second Global Refugee Forum, which will be organised in 2023, will review the progress made on initiatives that were announced in the first forum of 2019. Participating governments and other stakeholders will announce new initiatives, share good practices and take stock of the challenges and opportunities ahead.<sup>34</sup> A common theme among stakeholders has been the meaningful participation of refugees in decision-making procedures that concern them directly and in the development of protection solutions. This has been one of the overarching principles of the Global Compact on Refugees, that is, to develop actions underpinned by a strong partnership and participatory approach, involving refugees and host communities, as well as incorporating age, gender and diversity considerations.<sup>35</sup> The fundamental premise informing this approach is that protection responses are more likely to be effective when there is meaningful engagement from those that such responses are intended to protect and assist.

To improve the theorisation of 'meaningful refugee participation' in decision-making processes that affect their lives, in March 2022, the Global Refugee-Led Network, the European Coalition of Migrants and Refugees, and the New Women Connectors published a reflection paper unpacking the most essential components of meaningful participation by refugee leaders. Placing an emphasis on the elements of agency and empowerment, the paper analyses the 'layered' experiences and reflections of refugee advocates and refugee-



led organisations on meaningful refugee participation and concludes with a set of actionable recommendations for improving practices on refugee governance.<sup>36</sup>

To the same end, in January 2023, the second edition of the European Summit of Refugees and Migrants took place with the participation of advocates, practitioners and activists of refugee and migrant backgrounds from European countries. The objective of the summit was to start building alliances and coordinate activities for refugee-led and migrant-led advocacy, thus strengthening capacity to influence the European agenda and policies on asylum and migration. The event also served as a platform for participants to share experiences, concerns and interests.<sup>37</sup>

As the international community continues to address complex aspects of ever-changing patterns of displacement, the discourse and praxis of international protection evolve to accommodate emerging needs. This section provides a brief overview of key issues that remained at the centre of attention in the area of asylum over the past year.

## 1.1. Focus on children and unaccompanied minors



Deteriorating socio-economic conditions, conflicts and humanitarian funding shortfalls increase the risk of displaced children suffering direct or extreme forms of structural violence, including forced military recruitment. The journey from the country of origin to the country of asylum is typically a traumatic experience, with a heightened risk that children may be subjected to physical and sexual violence, forced labour and exploitation by smuggling networks along the route.<sup>38</sup> It is estimated that, in certain cases, as many as one-third of displaced children have developed trauma and a persistent fear for their safety.<sup>39</sup>

The physical and mental health of children in the context of forced displacement remained a key concern of the international community in 2022. A progress report on the Global Strategy for Women's, Children's and Adolescents' Health, published by the World Health Organization (WHO) and the United Nations Children's Emergency Fund (UNICEF) in 2022, showed a critical regression of childhood well-being and highlighted that children's prospects of having a healthy and productive life declined sharply.<sup>40</sup> Displaced children who often live in overcrowded conditions face the risk of malnutrition and viral diseases, while access to health services may be limited. Their education is often disrupted, which may have an adverse long-term impact on their personal and social development.<sup>41, 42</sup>

Multistakeholder cooperation has focused on providing psychological support, creating or improving school infrastructure, including teacher training, and facilitating family reunification in the context of displacement. In March 2022, the UN Human Rights Council held a panel discussion on the rights of the child and family reunification. The Special Rapporteur on the Human Rights of Migrants observed how separation from families may have detrimental effects on children's mental and physical health and called national authorities in host countries to integrate unaccompanied migrant children into national child protection systems without discrimination.<sup>43</sup> The High Commissioner for Human Rights presented the findings of his report on the risks children may face, especially in the context of migration, and offered a series of recommendations to prevent separation and better support family reunification.<sup>44</sup>



## 1.2. Women and girls in the context of displacement



Women and girls throughout the world may be subjected to intense forms of cultural, structural and direct violence. Gender-based violence may include – but is by no means limited to – sexual abuse and exploitation, rape, female genital mutilation/cutting (FGM/C), human trafficking, harassment and domestic violence, as well as social stigmatisation and marginalisation. Gender-based violence may be the key reason for having to flee the country of origin but may also be experienced during the journey through transit

countries in the pursuit of safety. Accordingly, such experiences need to be included in the development of protection solutions in receiving countries to sufficiently cater to the needs of survivors of gender-based violence.

In 2022, a number of reports highlighted how women and girls are disproportionately affected in displacement situations. Relevant initiatives were launched by various stakeholders to increase understanding of the gender dimension in the context of displacement and enhance capacity to address gender-related considerations in international protection processes.

In the context of South America, Amnesty International reported on the daily discrimination and direct violence that Venezuelan refugee women and girls faced in public and private spaces in the host country – including within their families and workplaces – due to their gender and nationality. The report indicates that Colombia and Peru fell short of ensuring protection to these women, without effective access to the asylum procedure and to justice and health systems for survivors of gender-based violence.<sup>45</sup>

The International Rescue Committee analysed that the extreme drought in east Africa led to increased violence against women and girls, including in refugee camps. Combined with the economic downturn resulting from the COVID-19 pandemic, the drought forced women, who are in charge of providing food and water to their families, to travel further from home in search of provisions, thus being exposed to higher risks. As families migrate in search of resources, children – especially girls – are dropping out of school and in unfamiliar and risky territories.<sup>46</sup>

CARE published a brief on the link between food insecurity and gender-based violence, which is also catalysed by other parameters, such as discriminatory social norms, environmental degradation and a lack of income opportunities. Examples were given of cases in Afghanistan, Bangladesh, Burundi, the Central African Republic, Ethiopia, Rwanda and Somalia.<sup>47</sup> In Somalia, CARE's research indicated a staggering 200% increase in violence against women and girls between 2021 and 2022, particularly intimate partner violence and rape.<sup>48</sup>

It is fundamental that gender considerations are integrated into the asylum procedure, even when a specific asylum claim is not clearly gender-related *per se*. A number of regional and national legal instruments are in place to safeguard the rights of women and girls, and prohibit social, cultural and religious practices that may be harmful to them.

Apart from gendered analysis for a better understanding of the gender dimension in the provision of protection solutions, key recommendations and guidance produced in 2022 stressed the importance of including a gender perspective in asylum procedures. In May 2022, the Committee of Ministers of the Council of Europe adopted a new recommendation on the protection of rights for migrant, refugee and asylum-seeking women and girls. The



recommendations define measures to better respond to their needs and the challenges faced by them.<sup>49</sup>

To foster integration prospects in host societies, the 'WorldPlaces' project developed a toolkit for the meaningful engagement of migrant, asylum-seeking and refugee women at the workplace.<sup>50</sup> The project involves national partners from a number of countries and European-wide organisations, such as the European Network of Migrant Women.

### 1.3. Physical and mental health as a daily concern



The experience of displacement may have serious implications for one's physical and mental well-being, and health considerations factor in throughout the displacement cycle. Even after reaching the country of asylum, refugees are still in a precarious situation, having inhibited access to resources that constitute physical and mental health determinants, such as food, work and income, housing, education and public services.<sup>51</sup>

Despite limitations in the availability of comparable data across the world, WHO, through a comprehensive review of available literature, reached a number of compelling conclusions at the regional and global levels related to the health of refugees and migrants. The WHO study, published in July 2022, indicates that refugees and migrants face poorer health outcomes than host populations, including higher occupational health risks; low awareness of issues related to sexual and reproductive health; frequent occurrences of gender-based violence; lower levels of maternal and child health; lower level of diagnosis of non-communicable diseases (such as cancer, cardiovascular diseases, diabetes and hypertension) and an increased likelihood of substance abuse due to stressful conditions.<sup>52</sup>

In general, refugees and migrants are at an increased risk of communicable diseases due to their living and working conditions. Overall, the health condition of refugees and migrants is influenced by additional health determinants, such as a precarious legal status; discrimination; social, cultural, linguistic, administrative and financial barriers; a lack of information about health entitlements; low health literacy; and a fear of detention and deportation.<sup>53</sup>

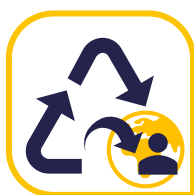
In 2022, UNHCR recorded serious nutrition concerns, including acute malnutrition, stunting and anaemia, among refugee populations in Algeria, Bangladesh, Cameroon, Chad, Congo, Ethiopia, Kenya, Sudan, South Sudan, Niger, Tanzania, Uganda and Zambia.<sup>54, 55</sup> Across eastern and western Africa, as well as across the Americas, forcibly displaced populations were often unable to meet basic needs or secure a sufficient quantity and quality of food. In Syria, more than 1.8 million people residing in camps were severely food insecure, as well as in Lebanon, where 9 in 10 Syrian refugees were unable to afford essential food and services.<sup>56</sup>

Mental health among displaced populations is also a particular concern. Refugees are exposed to stress at every stage of their displacement, such as stress linked to separation from families, a lack of livelihood opportunities, perilous journeys and exposure to conflict, persecution and xenophobia in their new countries.<sup>57</sup> WHO indicated that conflict- and war-affected refugees and migrants may exhibit higher levels of post-traumatic stress disorder (PTSD) and other mental health issues, particularly among young people and adolescents.<sup>58</sup>



Addressing health-related needs of refugees requires culturally-sensitive and effective care that takes into account both the impact of displacement on mental and physical health and the possible barriers affecting the availability, accessibility, acceptability and affordability of health services for displaced populations.<sup>59</sup> While gains have been made over the past years in the inclusion of refugees into national health systems and policies, there is still a need for better health support, especially in mental health and psychosocial support, which needs to be systematically included in the design and implementation of protection solutions.<sup>60</sup>

## 1.4. Climate-induced displacement



Climate crises disproportionately affect communities that may already be vulnerable, many of which are located in 'hotspots' of climatic change and often lack the means to cope with an increasingly hostile environment. Depletion of natural resources which are used for subsistence or income generation may lead to antagonism between different communities and often exacerbate pre-existing tensions across communal identity lines, leading to violent conflict. This creates a complex and dynamic interplay between climate change and other root causes of displacement.

Indeed, over 70% of refugees and displaced people worldwide come from the most climate-vulnerable countries, including Afghanistan, the Democratic Republic of the Congo, Syria and Yemen.<sup>61</sup> Climate-induced displacement often takes place within countries but also causes displaced populations to cross borders in pursuit of a liveable environment. Such cross-border mobility places the issue of providing protection into an international context.

In 2022, millions of people were forced to flee their homes due to drought and the threat of famine in Somalia, drought in Central America's "Dry Corridor",<sup>1</sup> cyclones in Mozambique, hurricanes in Honduras, and floods in Afghanistan, Burkina Faso, Cameroon, Chad, Mali, Niger, Nigeria, Pakistan, South Sudan and Sudan.<sup>62</sup>

Acknowledging climate change as a real and existing challenge, as well as its role in shaping protection needs worldwide, the international community has intensified efforts over the past years to develop effective responses. Through the Strategic Framework for Climate Action, UNHCR works together with affected communities, host governments, UN country teams, international organisations, financial institutions, the private sector and academia to increase resilience among displaced populations in the face of climate change.<sup>63</sup>

In March 2022, the UN Human Rights Council appointed the first Special Rapporteur on the promotion and protection of human rights in the context of climate change. The rapporteur's overall mandate is to contribute towards ongoing efforts to address the adverse impact of climate change on the enjoyment of human rights, including people displaced by climate-related reasons.<sup>64</sup> A challenge in providing protection solutions to these populations is that no legal definition exists for persons displaced due to environmental reasons and, derivatively, what the criteria are for one to qualify.

<sup>1</sup> An area in Central America extending from the Chiapas region in Mexico through Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama.



In November 2022, the 27<sup>th</sup> [UN Climate Change Conference of Parties](#) (COP27) highlighted the need to include refugees and displaced persons from the most climate-vulnerable countries in the debate. Refugees and displaced persons from countries affected by climate-induced displacement addressed the audience for the first time in the history of the conference, warning that current attempts to adapt to the changing environment were outpaced by the speed of climate change.<sup>65</sup> As highlighted by UNHCR, there is a need to scale-up financing for the countries at the frontlines of climate emergencies, but also to ensure that resources reach not only climate-vulnerable countries but displaced people and host communities as well.<sup>66</sup>

## 1.5. Global developments on statelessness



Issues surrounding statelessness remained a key theme in the asylum discourse in 2022. A stateless person is someone “who is not considered as a national by any state under operation of its law”.<sup>67</sup> Whether born stateless or having become stateless later in life, a stateless person does not have the nationality of any country, which impedes their access to basic rights, such as education, health care, housing, employment, social welfare and documentation.<sup>68</sup>

Data by UNHCR reported for 95 countries indicate a total of 4.3 million stateless people around the world.<sup>69</sup> The figure is likely much higher, as approximately one-half of countries in the world, including countries with known stateless populations, do not report statistics on statelessness.<sup>70</sup>

A 10-year [Global Action Plan to End Statelessness](#) was set up in 2014 under the coordination of UNHCR and with the participation of other UN and international agencies, regional organisations, civil society and stateless people.<sup>71</sup> The plan aims to address existing situations of statelessness, prevent the emergence of new cases and enhance the identification and protection of stateless people. In its eighth year of implementation, in 2022 a number of countries across the world introduced initiatives for the prevention and elimination of statelessness, such as:

- acceding to relevant international legal instruments,<sup>72</sup> establishing statelessness determination procedures or laying the groundwork to prepare national legislation to this end;<sup>73, 74</sup>
- facilitating access to protection services;<sup>75, 76</sup>
- organising information provision and campaigns to increase awareness on how stateless people can access protection solutions;<sup>77</sup> and
- facilitating birth registration for new-born children at heightened risk of statelessness, as well as access to naturalisation procedures.<sup>78</sup>

Overall, since the beginning of the campaign and up to November 2022, almost 450,000 stateless people had acquired or had their nationality confirmed and tens of thousands worldwide have a pathway to citizenship.<sup>79</sup> Despite this progress, taking into consideration the total population of stateless people worldwide, stronger efforts are needed to step up action and eliminate legal and policy gaps that perpetuate or increase the risk of statelessness.<sup>80</sup>



Climatic statelessness has been attracting increasing attention over the past years, that is, combining elements of statelessness and climate-induced displacement.<sup>81</sup> It refers to statelessness not due to the degradation of a specific ecosystem, but due to the overall disappearance of habitats, as is the case of certain small island states that are likely to disappear in the coming decades as sea levels rise. The novelty of this occurrence is that it cannot be effectively addressed by existing legislation, since current legislation centres on rights of individuals and duties of states vis-à-vis those individuals. A question, for example, that is not addressed by current legislation relates to the binary between statelessness as the undesirable state and citizenship (of the host country) as the desirable state, not covering the imminent possibility of affected populations wanting to keep their nationality even after their country disappears.<sup>82</sup>

Another open question that sheds light to the legal complexity – apart from the social, cultural and spiritual aspects – is what will happen to people who leave the country before the complete loss of the country's territory occurs.<sup>83</sup> In the absence of relevant provisions, existing legal instruments need to be strengthened to protect populations at risk of permanently losing their homes and becoming stateless.<sup>84</sup>







## Section 2. Major developments in asylum in the European Union in 2022

Section 2 presents an overview of CEAS and the latest legislative and policy developments shaping its evolution at the EU level, set against the backdrop of key developments in 2022 and early 2023.

This section also provides an overview of jurisprudence by the Court of Justice of the EU (CJEU), which in 2022 issued more than 20 judgments in the area of international protection and related topics.

The Russian invasion of Ukraine caused forced displacement of unprecedented levels in recent decades in Europe and added pressure on already-saturated reception systems. Displaced persons from Ukraine and the activation of the Temporary Protection Directive were at the heart of policy debates and discussions on practices in asylum and migration in 2022.

The effective management of external borders and the associated impact on the proper functioning of the Schengen system were also key topics among European policymakers. Efforts were made to strengthen cooperation with countries of origin and transit to address irregular migration.

Under the French and Czech Presidencies of the Council of the EU, advancements were made toward the adoption of instruments included in the Pact on Migration and Asylum. These efforts culminated into political agreement on a joint roadmap for negotiations between the co-legislators, aiming to adopt the legislative proposals before the end of the 2019-2024 legislative period.



## 2.1. Reforming the Common European Asylum System: An ongoing process



CEAS is a legal and policy framework developed to guarantee harmonised and uniform standards for people seeking international protection in the EU. It emphasises a shared responsibility to process applications for international protection in a dignified manner and with fair treatment.<sup>85</sup> Since its inception, the approaches and instruments which regulate CEAS have been periodically reformed to respond to the changing landscape of migration and asylum.

Amendments to the system take into account the varied experiences of European countries and mixed migration flows.<sup>ii</sup>

Building on previous progress, in September 2020 the European Commission presented a new [Pact on Migration and Asylum](#), based on in-depth consultations with a multiplicity of state and non-state stakeholders.<sup>86</sup> Some aspects of the pact are still under negotiations. In parallel, new discussions emerged following developments; for example, the European Commission proposed a regulation in December 2021 which addresses situations of instrumentalisation in the field of migration and asylum, in response to state-sponsored smuggling of migrants by the Belarusian regime in the EU's eastern land borders.<sup>87</sup>

The regulation, which complemented the other proposals toward a comprehensive approach, aims to set a framework for managing such situations – instead of resorting to *ad hoc* measures at the national level – in full respect of fundamental rights and international obligations. The proposal was accompanied by a regulation to amend the Schengen Borders Code,<sup>88</sup> which aims to improve the Schengen system's resilience to serious threats and to adapt it to new challenges. The amended code would:

- i) provide new tools to combat the instrumentalisation of migrant flows;
- ii) establish a new legal framework and coordination mechanism for external border measures in the event of a health crisis, drawing on the lessons learned from the COVID-19 pandemic;
- iii) update the legal framework to reintroduce internal border controls in order to safeguard the principle of free movement while responding to persistent threats; and
- iv) introduce alternative measures to these controls, such as a safeguard mechanism for a common response at the internal borders in situations of threats affecting Member States.<sup>89</sup>

In June 2022, the Council adopted its general approach on the proposal for the revision of the Schengen Border Code.<sup>90, 91</sup> The discussion at the Council was informed by the European Commission's report on the State of Schengen.<sup>92</sup> Following the presentation of the Schengen Strategy in 2021, the report came as part of the European Commission's initiative to reinforce

<sup>ii</sup> "Complex migratory population movement including refugees, asylum seekers, economic migrants and other types of migrants as opposed to migratory population movements that consist entirely of one category of migrants." Definition provided in the EMN Glossary: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/mixed-migration-flow\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/mixed-migration-flow_en)



the functioning of Schengen through yearly reporting, identifying priorities for the year ahead and monitoring progress. The report set a list of priority actions for 2022-2023 at the national and European levels, including:

- implementing the new IT architecture and interoperability for border management;
- making full use of cross-border cooperation tools;
- ensuring systematic checks of all travellers at the external borders;
- ensuring that the European Border and Coast Guard Agency (Frontex) reaches the full potential of its mandate;
- lifting all long-lasting internal border controls; and
- adopting the revised Schengen Borders Code.<sup>93</sup>

Together with the State of Schengen Report, the European Commission presented a policy document to launch a multiannual strategy for integrated border management,<sup>94</sup> that is, coordinated efforts at the national and international levels among authorities and agencies responsible for border management at the EU's external borders. The document addresses border control; search and rescue; risk analysis; inter-agency, EU and international cooperation; the return of illegally-staying third-country nationals; fundamental rights; research and innovation; and education and training. Consultations on the content between the European Commission, the European Parliament and the Council will result in a Commission Communication establishing the Multiannual Strategic Policy for European Integrated Border Management.<sup>95</sup>

A number of stakeholders have issued commentaries on the European Commission's proposals for the regulations on instrumentalisation in the field of migration and the Schengen Borders Code, expressing concern that they would create a parallel system of managing borders, based on derogations from standards of the EU asylum *acquis*, whereas the current framework already provides sufficient flexibility to Member States.<sup>96, 97, 98</sup> Relevant commentaries analysed how the provisions of the regulations could possibly affect the fundamental rights of persons who have been subject to instrumentalisation by third-country governments.<sup>99, 100</sup> As a result, concerns were expressed regarding the necessity and proportionality of the measures included in the proposal.<sup>101, 102, 103</sup> To address these concerns, the European Commission stressed that the proposed measures safeguard fundamental rights by ensuring that all arrivals at the EU's external border in a Member State which is faced with instrumentalisation have genuine and effective access to the asylum procedure.<sup>104</sup>

Commentaries have been issued on the Screening Regulation too, especially in regard to the premise that third-country nationals are not considered to have officially entered the territory of a Member State if they arrive through irregular routes. Critical voices argue that this may exclude migrants from effectively accessing rights and procedures.<sup>105</sup> To ensure respect for fundamental rights, the regulation also foresees a fundamental rights border monitoring mechanism to be set up by individual Member States. In October 2022, at the European Commission's request, the EU Agency for Fundamental Rights (FRA) issued guidance to EU Member States in setting up national independent mechanisms to monitor fundamental rights compliance at the EU's external borders, in line with the proposed screening regulation.<sup>106</sup>

With the active work of the French and the Czech Presidencies of the Council of the EU and under the coordination of the European Commission, considerable progress was made in 2022 toward advancing the reform package. In the first semester of 2022, the French Presidency advocated for a gradual approach to adopt the reform package, with cumulative increments of commitment by Member States in both areas of solidarity and responsibility. As



a result, in June 2022, the Council adopted negotiating mandates on the Screening and Eurodac Regulations.<sup>107</sup>

Agreement was also reached by 21 countries on the implementation of the Voluntary Solidarity Mechanism, paving the way for further progress on the Asylum and Migration Management Regulation. The mechanism, which is voluntary and spans 1 year, provides for expressions of solidarity to Member States experiencing particular pressure in their asylum and reception systems through relocations, financial contributions and other measures of support (*read more in Section 2.4*).<sup>108</sup>

At the level of the European Parliament, in 2022 the rapporteurs presented draft reports on all legislative proposals included in the Pact on Migration and Asylum and on the recast Return Directive.<sup>109</sup> With the pact being one of the top priorities, in September 2022 the European Parliament and the rotating Presidencies of the Council of the EU reached political agreement on a [joint roadmap](#) for negotiations between co-legislators in order to adopt the legislative proposals before the end of the 2019-2024 legislative period, that is, by February 2024.<sup>110</sup>

The roadmap provides the framework for negotiations on the Eurodac, the Screening, the Asylum and Migration Management, Crisis and Force Majeure and the Asylum Procedures Regulations and for finalising the Union Resettlement Framework, the recast Reception Conditions Directive (RCD) and the recast Qualification Directive (QD), for which provisional agreements have been previously reached between the European Parliament and the Council. The roadmap also provides new impetus for reaching an agreement on the proposal for a recast Return Directive.<sup>iii</sup> Following agreement on the roadmap, in December 2022 the European Parliament and the Council reached an agreement on reception conditions for applicants for international protection, thus endorsing the outcome of negotiations reached in 2018.

## 2.2. Responding to the arrival of persons fleeing the war in Ukraine



The Russian invasion of Ukraine in February 2022 spurred waves of outward mobility by people seeking refuge in neighbouring countries. Within a few weeks, millions of people fleeing Ukraine arrived in the EU through Hungary, Poland, Romania and Slovakia. The impact of the war had a profound effect in shaping migration and asylum and naturally occupied a central place in protection-related policymaking at national and EU levels throughout the year.

In response to pressing protection needs, EU+ countries and EU institutions needed to provide quick, yet systematic, solutions. In the immediate aftermath of the invasion, EU+ countries – especially countries at the external border – implemented a number of measures rapidly: they activated emergency situation protocols and preparedness plans; simplified entry procedures; established task forces and coordination mechanisms to provide emergency accommodation and aid; introduced temporary protection schemes; provided tailored information through information points, dedicated phone lines, leaflets and websites;

<sup>iii</sup> For a detailed overview of the state-of-play of the proposals included in the Pact on Migration and Asylum, as of December 2022, see: European Parliament. (December 2022). *EU pact on migration and asylum: State of play*. Briefing. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739247/EPRS\\_BRI\(2022\)739247\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739247/EPRS_BRI(2022)739247_EN.pdf)



provided specialised psychological counselling and support; extended the period of legal stay/visas for special reasons; paused the processing of applications for international protection by Ukrainian nationals, pending the activation of the Temporary Protection Directive; suspended returns to Ukraine; and, when applicable, removed Ukraine from the list of safe countries of origin.<sup>111</sup>

Reflecting the EU's commitment to show full solidarity with Ukraine, on 4 March 2022 the Justice and Home Affairs (JHA) Council unanimously adopted a Council implementing decision to activate the Temporary Protection Directive and established temporary protection for displaced people fleeing the war in Ukraine.<sup>112</sup> Based on Article 3(2) of the Council decision, the European Commission established the Solidarity Platform to accompany the activation of the Temporary Protection Directive. It became the hub of coordinated EU response, chaired by the European Commission and bringing together Member States, Schengen Associated Countries, the European External Action Service (EEAS), the EUAA, Frontex, Europol, the International Organization for Migration (IOM), UNHCR, and involving Ukrainian and Moldovan authorities.<sup>113</sup> The EU Migration Preparedness and Crisis Blueprint Network<sup>114</sup> was identified as the most appropriate means for administrative cooperation among Member States and strengthened the foundation for a coherent EU response.<sup>115</sup>

To coordinate a strong, common European response in addressing the needs of people fleeing the war, the European Commission developed a 10-point action plan with measures to be taken by the European Commission, EU agencies and Member States.<sup>116</sup> In addition, the Union Civil Protection Mechanism (UCPM)<sup>117</sup> was activated, through which Member States can request resources to attend to the needs of the displaced persons fleeing Ukraine and receive co-financing to deliver such assistance. The UCPM was used to channel assistance inside Ukraine too, in what has been its largest operation to date.<sup>118</sup> Financial support was provided throughout the year from various EU sources, such as the Cohesion Policy Fund, the European Social Fund, the European Regional Development Fund and Home Affairs Fund.<sup>119</sup> EU agencies, including the EUAA, Frontex and Europol, played a crucial role in providing operational support and guidance directly to Member States.

Responding to the internal security risks resulting from the Russian invasion of Ukraine, the EU and Moldovan authorities launched the Support Hub for Internal Security and Border Management in Moldova<sup>120</sup> to catalyse cooperation among EU agencies, Member States and Moldova, including in the areas of firearm trafficking, drug trafficking and trafficking in human beings.<sup>121</sup> A key action in May 2022 was the development of a dedicated [Common Anti-Trafficking Plan](#) to address the risks of trafficking in human beings and potential victims among those fleeing Ukraine.<sup>122</sup>

Following the Council decision in March 2022, EU countries proceeded with the application of the Council implementing decision by introducing relevant procedural and reception arrangements, organising information campaigns and granting access to rights for persons fleeing Ukraine. The activation of the Temporary Protection Directive allowed for a clear legal status for persons fleeing the war in Ukraine and systematic access to associated rights, including suitable accommodation or means to obtain housing, access to the education system for persons under 18 years, social welfare and means of subsistence, medical care, employed or self-employed activities, and educational opportunities for adults through vocational training and practical workplace experience.<sup>123</sup> As of February 2023, approximately 4 million people from Ukraine had received temporary protection in the EU.<sup>124</sup> In line with the provisions of the Temporary Protection Directive, temporary protection was extended for a further year, until March 2024, thus providing stability and predictability to millions of people.



The UN launched a Humanitarian Flash Appeal for immediate funding to help people inside Ukraine and those seeking protection abroad.<sup>125</sup> A Regional Refugee Response Plan was also launched to bring together the UN, NGOs and other relevant partners to support host country governments in ensuring safe access to the territory for persons fleeing from Ukraine.<sup>126</sup>

Since the beginning of the war, UNHCR provided assistance by undertaking a variety of actions, including delivering core relief items; scaling up of reception structures; providing legal, psychological and information support at reception places; and launching a multi-purpose cash assistance programme to support those who need it the most.<sup>127, 128, 129, 130</sup>

UNHCR also highlighted the increased protection-related risks that individuals with vulnerabilities faced and called for measures to quickly identify, mitigate and respond to risks of gender-based violence, exploitation, abuse and the trafficking of women and girls.<sup>131</sup> Together with UNICEF, UNHCR urged all neighbouring and impacted countries to ensure the immediate identification and registration of unaccompanied children, access to national child protection systems and temporary foster or other forms of community-based care under the critical protection of a government system.<sup>132</sup>

The orchestrated response to provide protection showed that such effectiveness is possible. Thus, for example, UNHCR recommended that EU Member States build upon the experiences and apply them in the asylum procedure to the benefit of other groups of third-country nationals who are in need of protection.<sup>133</sup>

For a detailed overview of actions taken by EU+ countries in providing temporary protection to people fleeing Ukraine, see the EUAA's [Providing Temporary Protection to Displaced Persons from Ukraine: A Year in Review](#).



## 2.3. Key developments in policies and practices at the EU level



Amidst the war in Ukraine and with the Presidencies of the Council of the European Union (EU) trying to push for a breakthrough in the CEAS reform, migration and asylum remained high on the EU's policy agenda. Drawing inspiration from the European response in addressing the protection needs of persons fleeing Ukraine, the President of the European Commission, Ursula von der Leyen, made reference to asylum and migration in her State of the Union address in September 2022,<sup>134</sup> expressing the will to see such determination and solidarity in the European migration debate. Viewing the EU actions as a blueprint, the President of the Commission called for fair and quick migration and asylum procedures; a system that is crisis-proof and quick to deploy; a permanent and legally-binding mechanism that ensures solidarity; and effective controls of the EU's external borders, in line with the respect for fundamental rights.<sup>135</sup>





Overall, key areas of focus in migration and asylum policy in Europe in 2022 centred on:

- Advancing the adoption of the instruments included in the Pact on Migration and Asylum through a gradual approach on the basis of a balance between solidarity and responsibility;
- Effective management of external borders, which has implications for the effective internal functioning of the Schengen area;
- Strengthening cooperation with countries of origin and transit to address irregular migration, ensure effective returns and readmission; and
- Protecting those who may be in a position of vulnerability, such as children and victims of human trafficking.

Reflecting the importance accorded to migration, the [18-month programme of the presidential trio presented in December 2021](#), prepared by the then-upcoming French, Czech and Swedish Presidencies, included migration, the Schengen area, and police and judicial cooperation as priority areas. An overarching aim of the trio programme was to strengthen the Schengen area as an area of free movement without internal borders. Key components of this included the effective management of external borders; a functional asylum and migration system based on a balance of responsibility and solidarity; avoiding the loss of life and ensuring protection to those who need it; and strengthened cooperation with countries of origin and transit to address irregular migration and human trafficking and ensure the effective return of rejected applicants.<sup>136</sup>

In January 2022, UNHCR offered its recommendations to the French and Czech Presidencies, underlining that the reform of CEAS has scored only some progress and acknowledging the significant agenda-setting power of the two presidencies toward achieving breakthroughs. The recommendations went along two interlinked dimensions toward negotiating a sustainable asylum reform based on the pact and its elements; and providing more support to the countries and regions where most forcibly-displaced people live and addressing root causes of forced displacement and irregular migration.<sup>137</sup>

In line with the orchestrated effort reflected in the trio programme, both Presidencies of the Council of the EU included priorities related to migration and asylum in their programmes. The French presidency (January-June 2022) aimed to further develop the external dimension of migratory policies by strengthening cooperation with the main third countries of origin or transit through action plans that set out clear objectives and concrete activities, which are based on available instruments, such as visa policies and financial schemes.

The Presidency also proposed a gradual approach in advancing negotiations on proposed instruments, ensuring that each step taken has a satisfactory balance of protecting the external borders, responsibility and solidarity.<sup>138</sup> Through this approach, which was adopted by the JHA Council of 3 February 2022, progress was made toward the adoption of the Pact on Migration and Asylum and significant steps were taken for the reform of the Schengen area. Importantly, the Presidency facilitated a quick and protection-oriented EU response to address the needs of millions of people fleeing Ukraine, offering protection, immediate access to rights, as well as humanitarian and financial assistance.<sup>139</sup>

The Czech Presidency in the second semester of 2022 also included migration and asylum among its priority areas, focusing on the management of the crisis linked to the arrival of displaced persons from Ukraine and addressing new potential security risks.<sup>140, 141</sup> The Presidency fostered a common response to the consequences of the Russian aggression,





including the launch of the EU Internal Security and Border Support Hub in Moldova for mutual cooperation. One of the priorities of the Czech Presidency was the prolongation of temporary protection until March 2024, while emphasis was placed on ensuring access to education, health care and the labour market for beneficiaries of temporary protection to catalyse their effective integration into the host country.

In view of developments in Ukraine and their impact on the external dimension of the EU's migration policy, the presidency focused primarily on cooperation with the Eastern Partnership countries and the Western Balkans. It also addressed the functioning of the Schengen Area, which includes Croatia as of January 2023, while the ground was also prepared for the enlargement of the Schengen Area to include Bulgaria and Romania. Building on the gradual approach put forth by the preceding French presidency, the Czech presidency facilitated the resumption of negotiations that had been stalled for several years. In the JHA Council in December 2022, broad support was shown for fostering solidarity and responsibility in the field of asylum based on a system without mandatory quotas.<sup>142</sup>

A two-day ministerial conference was organised by the Czech Presidency in October 2022 in the frames of the Prague Process, an intergovernmental dialogue on migration which was established in 2009 by the first Czech Presidency of the Council of the EU. It brings together representatives of almost 50 countries, the European Commission, the EUAA, Frontex, UNHCR, the IOM, the Migration, Asylum, Refugees Regional Initiative (MARRI), the Joint Coordination Platform (JCP) and the International Centre for Migration Policy Development (ICMPD). The ministers and high-level officials from participating countries discussed current migration challenges, including the impact of the war in Ukraine and the dramatic increase of irregular migration along the Western Balkan route, which was the main route for irregular migration to the EU in 2022. Confirming the will to strengthen cooperation and partnerships, the ministers adopted a Joint Declaration and an Action Plan for 2023-2027.

In the Joint Declaration, parties expressed their grave concern over the impact of the Russian aggression on the humanitarian situation in Ukraine and global security, health and socioeconomic developments which had severe implications on migrants and mobility, resulting in large-scale displacement. They emphasised the key role of regional processes on migration in achieving shared objectives and acknowledged the necessity of a whole-of-route approach. The parties also reaffirmed the importance of working together along six thematic areas:

1. Preventing and fighting irregular migration and migrant smuggling;
2. Strengthening capacities in the areas of asylum and international protection and expanding protection capacities in the region;
3. Promoting readmission, voluntary return and sustainable reintegration;
4. Addressing legal migration and mobility with a special emphasis on labour migration;
5. Promoting the integration of legally-residing migrants into their host societies; and
6. Making migration and mobility positive forces for development.<sup>143</sup>

In the Action Plan, the parties identified 53 concrete actions to be taken throughout 2023-2027 within each thematic area to achieve common goals in migration and asylum.<sup>144</sup>

In an effort to increase protection for the most vulnerable, in February 2022 the European Commission earmarked EUR 7 million to support the fight against trafficking in human beings. The funding was announced through two calls for proposals and support projects aimed at breaking the business model of traffickers and improving the protection, support and



empowerment of survivors. It is meant to materialise priorities set in the EU Strategy on Combatting Trafficking in Human Beings (2021-2025).<sup>145</sup>

The protection of children was another area of focus in European policymaking in 2022. In February 2022, the Council of Europe hosted a plenary session on the rights of children in migration, with topics covering age assessments and guardianship for unaccompanied minors.<sup>146</sup> The Steering Committee for the Rights of the Child (CDENF) approved a draft recommendation relating to human rights principles and guidelines on age assessments for children and adopted a Draft Explanatory Memorandum of Recommendation (CM/Rec(2019)11) on effective guardianship for unaccompanied and separated children in the context of migration.<sup>147</sup>

Similarly, on 17 February 2022, the European Commission discussed guardianship for unaccompanied minors in EU Member States, based on a report by FRA. Despite legislative changes introduced over the past years in many Member States, the report indicates that national guardianship systems continued to face challenges, such as long procedures to appoint a guardian, limited local resources and conflicts of interest between reception and guardianship services, which in some cases operate under the same authority.<sup>148</sup>

In April 2022, FRA published an updated version of the Handbook on European Law relating to the Rights of the Child, which is a practical guide and introduction to European law for lawyers, judges, prosecutors, social workers and non-governmental organisations (NGOs).<sup>149</sup>

Focusing on the protection of children's rights, on 9 June 2022, the Council adopted conclusions on the EU Strategy on the Rights of Child. As a result of the war in Ukraine, the Council gave specific attention to the need to protect children from recruitment by armed forces, illegal adoption, trafficking in human beings, sexual exploitation and family separation.<sup>150</sup>

## 2.4. EU's external borders and migration routes: Support to frontline Member States



In 2022, the EU's external borders continued experiencing increased pressure, with arrivals sharply rising for a second year in a row. According to preliminary data collected by Frontex, 330,000 irregular border crossings were detected at the EU's external border, representing an increase of 64% compared 2021 (with approximately 200,000 detections).<sup>151</sup> These numbers do not include persons displaced from Ukraine, who are recorded separately.

The **Western Balkan route** was the most frequently used with 145,600 detections, accounting for 45% of all irregular entries in 2022. The high flow on this route may be a result of movements by migrants already present in the region, as well as people arriving to Serbia by air due to visa-free arrangements.<sup>152</sup>

The number of detections also increased on the **Central Mediterranean route** (over 100,000), rising by more than one-half compared to the year before. On the **Eastern Mediterranean route**, the number of irregular entries almost doubled compared to 2021, yet remained lower than one-half of the number in 2019, before the COVID-19 pandemic.



The **Western Mediterranean route** (14,582) and the **Western African route** (15,462) experienced decreases in the number of detections of irregular border crossings compared to the previous year.<sup>153</sup> On the **Eastern land borders**, following the peak of the instrumentalisation crisis in 2021, the situation appeared stable in 2022 with a significantly lower number of irregular border crossings. This route appears to have shifted, with many third-country nationals arriving in Belarus after travelling legally to Russia.<sup>154</sup>

To address the situation at the external borders, the European Commission continued to provide support to frontline Member States by offering financial assistance and operational responses in coordination with EU agencies, international organisations and other relevant stakeholders. Assistance was provided in managing arrivals; setting up adequate reception structures; implementing relocations; ensuring efficient asylum and return procedures; improving border management; protecting unaccompanied minors and other groups with vulnerabilities; and implementing integration policies for legally-residing, third-country nationals.<sup>155</sup> The Task Force on Migration Management, established originally to support Greek authorities in improving reception conditions on the Greek islands, also provided assistance to Cyprus, Italy, Malta, Spain and Member States bordering Belarus and Ukraine.

## Greece



With assistance from the European Commission and EU agencies, more efficient asylum procedures have been implemented in Greece, which led to the reduction of the backlog of applications in 2022.<sup>156</sup> Progress was made on the construction of new reception facilities on the Greek islands, with centres established on Kos, Leros and Samos. Support from the European Commission has catalysed the improvement of reception conditions on the Greek islands and the mainland, including shelter, hygiene, access to health and education for children. Through the voluntary relocation scheme, introduced in 2020, more than 5,000 unaccompanied minors, vulnerable applicants and beneficiaries of protection were relocated by October 2022 to 16 European countries which participate in the scheme.<sup>157</sup>

## Cyprus



With Cyprus currently receiving the highest number of applicants for protection per capita, the European Commission and EU agencies have stepped in to provide direct support. In February 2022, the European Commissioner for Home Affairs, Ylva Johansson, and the Cypriot Minister of the Interior, Nicos Nouris, signed a memorandum of understanding and a detailed action plan to enhance migration management in Cyprus.<sup>158</sup> The specific objectives of the action plan include: enhancing first reception capacities, improving the level of material reception conditions for asylum applicants, supporting timely and effective asylum and return procedures, and establishing and implementing an integration strategy.<sup>159</sup> The implementation of the action plan is supported by the EUAA, Frontex and Europol.

Funding for Cyprus under the 2021-2027 Home Affairs Funds is also channelled toward the construction of a new open reception centre and pre-departure detention centre, with safe zones for vulnerable people, recreational and common areas, and medical and quarantine areas.<sup>160</sup> The European Commission, Frontex and the Cypriot authorities have set up a tripartite working group on the return of rejected applicants, resulting in a steady increase in returns.<sup>161</sup>



## Italy



The European Commission, together with Italian authorities, coordinates the work of EU agencies on the ground in Italy, including through the EU Regional Task Force in Catania. The European Commission is also working with Italian authorities in addressing flows from Libya and along the Central Mediterranean route.<sup>162</sup>

## Spain



Support to Spain focuses on reforming the national reception system to increase capacity in addressing migratory pressure. EU funding has also supported the reform of the Spanish Asylum Office, which included recruiting additional case officers.<sup>163</sup>

As part of the overall support to Member States experiencing pressure, in August 2022, the European Commission awarded EUR 171 million for projects to support the reception, asylum and return systems in Cyprus, Spain, Greece, Italy and Poland, through a competitive call under the Asylum, Migration and Integration Fund (AMIF). The support to Cyprus would fund the construction of an accommodation and pre-departure centre in the Menoyia area in Larnaka. Support for Spain would reinforce the capacity of the reception system in Ceuta and on the Canary Islands. In Italy, the focus would be on strengthening the capacity of the reception system from arrival to all phases of reception, and to protect and care for the most vulnerable refugee children and women. For Greece, funding will be channelled to international organisations working on improving the quality of assistance for asylum seekers in the reception system, for vulnerable individuals in particular and school-aged refugee children to access education. Funding for Poland was channelled to the IOM for projects meant to foster a rights-based and protection-sensitive approach to the provision of direct assistance and improving return procedures.<sup>164</sup>

### 2.4.1. Action plans for the Central Mediterranean and Western Balkan routes



At the end of 2022, the European Commission presented two action plans with a series of operational measures to address immediate and ongoing challenges along the Central Mediterranean and the Western Balkan routes.

The Action Plan for the Central Mediterranean includes 20 measures designed to reduce irregular and unsafe migration, provide solutions to emerging challenges in the area of search and rescue, and foster solidarity balanced against responsibility among Member States. Work in the frames of the action plan would centre around three pillars:

- Working with partner countries and international organisations to enhance capacities in Egypt, Libya and Tunisia, ensure better border and migration management, reinforce the fight against smuggling, enhance diplomatic cooperation on returns and increase legal pathways to the EU.
- A more coordinated approach on search and rescue activities through the re-launch of the European Contact Group on Search and Rescue.
- Reinforcing the implementation of the Voluntary Solidarity Mechanism agreed in the Council in June 2022 to provide swift support to Member States receiving arrivals by sea, enhancing flexibility, streamlining processes and financing alternative measures of solidarity.<sup>165</sup>



The Action Plan for the Western Balkans also comprises 20 operational measures structured along five pillars. The aim is to strengthen cooperation on migration and border management between the EU and Western Balkan countries, which have a unique status as countries in the EU accession process.<sup>166</sup> The pillars of work include:

- Strengthening border management along the route, including through the deployment of Frontex personnel, joint operations in the region and new status agreements.
- Ensuring a swift asylum procedure and supporting reception capacity, including through the development of contingency planning. Within the EU, it would be of importance to implement the roadmap for Dublin transfers and Eurodac registrations to address secondary movements.
- Fighting migrant smuggling through the establishment of a Europol operational task force and, pending advances in the proposal to sanction transport operators involved in migrant smuggling, through the creation of an operational toolbox with measures for transport operators.
- Enhancing cooperation on readmission and returns, strengthening operational capacities and convening joint readmission committees.
- Achieving alignment in visa policies, which is essential for the proper functioning of the visa-free regime of the Western Balkans with the EU.<sup>167</sup>

The effective management of external borders is also meant to allow for effective access to the territory and the asylum procedure for those in need of protection. Still, throughout 2022, EU institutions and agencies, UNHCR, and international and civil society organisations often scrutinised policies and practices in European countries in this area, expressed concern and called both national governments and the European Commission to ensure respect for fundamental rights and adherence to the principle of *non-refoulement*.<sup>168, 169, 170, 171, 172</sup>

#### 2.4.2. Search and rescue activities



In 2022, the EU and its Member States continued to render assistance through search and rescue (SAR) operations to people and vessels in distress in the Mediterranean Sea. These included migrants and refugees trying to reach Europe, embarking on life-threatening journeys organised by smugglers who used increasingly dangerous tactics to cross the Mediterranean Sea.<sup>173, 174, 175</sup>

Currently four EU operations are patrolling the Mediterranean Sea to rescue migrants at risk, while securing the EU's borders and targeting migrant smugglers: Operation Indalo, Operation Themis, Operation Poseidon and Operation Sophia. NGOs also contribute to this effort by operating private vessels for the purpose of SAR activities. In the period 2015-January 2023, 632,455 lives were saved on the Mediterranean and Western African routes. During the same period, 25,595 fatalities were registered.<sup>176</sup> Rescue operations and disembarkation to a place of safety are complex and different stakeholders may have different obligations under international law.<sup>177</sup>

SAR activities are not covered by a common EU legal framework. In accordance with the relevant provisions of Regulation (EU) 2019/1896 and Regulation (EU) No 656/2014, all vessels and other assets deployed in the operational activities of Frontex are at the disposal of the



competent Maritime Rescue Coordination Centres which coordinate SAR interventions and render assistance to any vessel in distress at sea. In the absence of an EU-wide, commonly-accepted and predictable mechanism for SAR events, the limitations of current arrangements and practices continued to be the target of criticism. For those voices, a lack of coordination in SAR activities, solitary action by individual countries and the criminalisation of NGOs involved in SAR activities in the Mediterranean Sea have often led to migrants being forced to stay for several days on boats.<sup>178, 179, 180</sup> EU Member States and EU agencies (Frontex) have also been accused of pushbacks of migrants to the high seas and towards Libya and Türkiye.<sup>181</sup> For such critical voices, there seems to have been a shift toward prioritising enforcement against migrants at sea and cooperation with third countries to intercept and return smugglers and migrants.<sup>182, 183</sup>

FRA regularly collects data on the operations of NGO vessels involved in SAR activities in the Mediterranean Sea, including information on legal proceedings against them and difficulties in disembarking migrants in safe ports.<sup>184</sup> In December 2022, UNHCR issued a note with legal considerations on the roles and responsibilities of states in relation to rescues at sea, *non-refoulement* and access to the asylum procedure. The note summarises key legal principles and state obligations under different bodies of international law in situations affecting people in distress at sea who seek or may be in need of protection.<sup>185</sup>

### 2.4.3. Voluntary solidarity mechanism



During the JHA Council in June 2022, ministers in charge of migration matters in 18 Member States and three associated countries committed to implement a Voluntary Solidarity Mechanism. In a well-defined and predictable way, needs-based assistance would be provided to Member States most affected by migratory flows in the Mediterranean area, including the Western Atlantic route, through relocation and financial contributions.

The voluntary nature of the mechanism allows supporting states to determine the nature and amount of their contributions, as well as the Member State to which their solidarity is provided. However, a number of common criteria should be applied to ensure the predictability of the mechanism:

- Priority should be given to search and rescue operations in the Mediterranean and Western Atlantic routes, in addition to other situations in Cyprus and the Greek islands, for example;
- Relocations should primarily apply to persons in need of international protection, giving priority to the most vulnerable;
- A total annual number of relocations should be set;
- Each contributing Member State should present a pledge on the target number of relocations, which is based on the population size and gross domestic product (GDP); and
- A Member State can withhold commitments temporarily in the case of disproportionate pressure on its reception system due to secondary flows, taking into account the state of cooperation under the Dublin system.<sup>186</sup>

Member States can also express solidarity through financial contributions or the implementation of a project in a third country that may have a direct impact on the flows at the external border.





To coordinate the implementation of the mechanism, the European Commission established a Solidarity Platform on the Voluntary Solidarity Mechanism and coordinates the relocation processes in close collaboration with participating countries and with the operational support of EU Agencies. The EUAA plays a key role in the relocation process by providing additional operational support to competent authorities of European countries. The first relocation transfers under the Voluntary Solidarity Mechanism started in August 2022.<sup>187</sup>

The agreement on the Voluntary Solidarity Mechanism was a welcome breakthrough, since the application of the principle of solidarity in practice – one of the core principles of the Pact on Migration and Asylum – has often faced disagreement among Member States.

## 2.5. External dimension of the EU's asylum policy



Apart from effective legislation, policies and practices, a well-functioning migration and asylum system also requires systematic cooperation with external partners, especially countries of origin and transit. Over the past decades, the EU has been a leading actor in promoting protection-oriented solutions across the world.

The [Neighbourhood, Development and International Cooperation Instrument \(NDICI\)](#) is the main, albeit not the only, EU financing tool for external cooperation.<sup>188</sup> Through NDICI, the EU merged ten instruments under the previous budgetary cycle (2014-2020) into one comprehensive instrument. With migration being one of the five priority areas of the instrument, work in this area addresses the root causes of irregular migration and forced displacement, migration management, durable solutions for refugees and legal pathways. The basis of the EU's overall financial assistance to third countries for the coming years are the country and regional multiannual indicative programmes ([MIPs](#)).<sup>iv</sup>

Looking into funding from the EU's internal affairs to support the external dimension of migration, in November 2022, UNHCR and the European Council on Refugees and Exiles (ECRE) published a study with an overview of how AMIF and Internal Security Fund-Borders and Visa (ISF-BV) were used outside of the EU in the budget period 2014-2020. The study also presents an analysis of the provisions for spending outside of the EU in the 2021-2027 Multi-Annual Financial Framework and provides recommendations to Member States, the European Commission and the European Parliament on improving the effectiveness, transparency and accountability of the use of internal affairs funding to support the external dimension of migration.<sup>189</sup>

In January 2022, the Council of the EU released an [Implementing Decision \(EU\) 220/40](#) on the Operational Coordination Mechanism for the External Dimension of Migration (MOCADDEM), which operates under the direction of the Council Presidency. Building on previous arrangements provided by the Council [Implementing Decision \(EU\) 2018/1993](#),<sup>190</sup> it created new mechanisms to increase cooperation and build relations with third countries in the field of migration. To maintain the coherence of the policies and actions carried out by the EU, the Committee of the Permanent Representatives of the Governments of the Member States to the EU (Coreper) ensures the strategic direction of the work of MOCADDEM. This coordinating mechanism, together with the functions of the External Migration Working Party and the

<sup>iv</sup> For a more comprehensive overview of the financing of the external dimension of the EU's policies in asylum and migration, see the [Asylum Report 2022](#).





coordination group on Migration under the NDICI, further calibrates a common approach in the external dimension of the EU migration policy.

To further calibrate a synergistic approach, in its 2022-2023 Risk Mitigation Strategy and 2022 Appeal, UNHCR expressed its will to support the joint vision of Europe and Africa on migration and mobility to address root causes in countries of origin and asylum; to enable states to regulate asylum and protection in accordance with international law; to save lives; to address grave and systematic violations of human rights of people on the move; and to enable sustainable solutions.<sup>191</sup>

### Addressing root causes of irregular migration



Preventing irregular migration requires orchestrated action to address the root causes. EU engagement in this area gradually progressed from a short-term humanitarian approach to a longer-term developmental approach, including efforts to support good governance, prevent conflicts, promote respect for fundamental rights, foster economic and social development, and take proactive action towards climate change.<sup>192</sup>

Through the Global Gateway, the EU has provided major investments into infrastructure to foster secure links in the digital, energy and transport sectors and strengthen health, education and research systems across the world.<sup>193</sup> Initiatives delivered as part of the Global Gateway have targeted specific regions, such as the [Southern Neighbourhood](#), Africa and Latin America.<sup>194</sup>

### Combating smuggling networks



To tackle migrant smuggling and safeguard the fundamental rights of migrants, the EU has been working systematically with international partners over the past years. The renewed Action Plan against Migrant Smuggling 2021-2025<sup>195</sup> provides the overall framework to address smuggling as part of a comprehensive migration management system and focuses on more targeted cooperation with countries of origin and transit.

In July 2022, the European Commission, in cooperation with the EEAS, launched the first anti-smuggling operational partnerships with Morocco and Niger, aiming to strengthen their legal, policy, operational and strategic frameworks in addressing migrant smuggling. These operational partnerships include support for border management, enhanced police cooperation (including joint investigations), awareness-raising on the dangers of irregular migration, and enhanced cooperation with EU agencies.<sup>196</sup> Joint efforts under these partnerships are set to achieve common objectives to save lives, disrupt the business model used by criminal networks, prevent migrants from becoming victims of violence and exploitation, and protect their fundamental rights.<sup>197</sup>

In December 2022, the EU and African partners launched two Team Europe Initiatives (TEI) focused on the Atlantic/Western Mediterranean and the Central Mediterranean routes. The projects are based on joint effort in addressing the upsurge of irregular flows and abuses by smuggling networks.<sup>198</sup>



## Facilitating returns, readmission and reintegration



Along with providing protection to those in need, effective returns and the readmission of those who are not in need of protection are essential components of a comprehensive, well-functioning migration and asylum management system. In May 2022, the Return Coordinator took office at the European Commission to promote a more coherent and effective approach to returns. Through a high-level network, the coordinator fosters operational cooperation in the management of returns, readmission and reintegration.<sup>199</sup>

Specifically in the area of readmission, increased EU cooperation with partner countries has been fruitful in enhancing returns and has helped Member States most directly affected by irregular migration flows, such as Cyprus, Greece and Malta.<sup>200</sup> In this context, readmission is an area where progress can be made on the basis of mutual interests, for example by linking cooperation on readmission with the EU visa policy.<sup>201</sup>

In September 2022, the European Migration Network (EMN) published an inform evaluating existing, legally-binding bilateral readmission agreements in EU Member States and Norway, focusing on agreements concluded in the period 2014-2020. The inform found that the number of bilateral agreements with third countries is proportional to the relevance of those countries for the overall EU migration management, taking into consideration factors such as the number of their nationals found irregularly in EU countries, their geographic proximity to the EU's external borders and their presence along key migratory routes to the EU. As to the effectiveness of bilateral agreements, the inform showed that they indeed contributed to higher numbers of returns and smoother operations, while enhancing overall cooperation with third countries.<sup>202</sup>

Throughout 2022, the EU and Member States continued to promote and support the voluntary return and reintegration of migrants on the basis of the [EU Strategy on Voluntary Return and Reintegration](#), which was launched in 2021 to increase the number of voluntary returns and improve the quality of the support to returnees. In July 2022, the EMN published an inform on the incentives and motives that Member States have developed to encourage voluntary departures through Assisted Voluntary Return and Reintegration (AVRR) programmes, following the issuance or in anticipation of a return decision. It explores factors that contribute to an individual's decision-making process and how all the elements are interconnected. The inform finds that in-kind support, such as counselling, medical or psychological assistance, logistical support to organise the return journey, legal assistance, and the provision of basic needs prior to a return (such as accommodation, health care and food), may have a greater impact than in-cash assistance. Factors which influence the decision include the situation in the country of return, a lack of economic opportunities, lack of social circles, fear of rejection upon arrival, or stigma associated with returning.<sup>203</sup>

## Working with partner countries toward migration and border management



EU efforts to respond to a complex migratory reality include joint initiatives with partner countries for effective border management. Status agreements between Frontex and third countries aim to support border management, fight migrant smuggling and reduce irregular migration. A status agreement with North Macedonia was proposed by the European Commission in September 2022,<sup>204</sup> and negotiations have ensued for a status agreement with Bosnia and Herzegovina.<sup>205</sup> Frontex already has status agreements with Albania, Montenegro and Serbia,



which enable the deployment of Frontex teams and equipment on the territory of these countries.<sup>206</sup> In light of the Russian invasion of Ukraine, a status agreement was signed with Moldova. Mauritania and Senegal were the first African countries for which mandates to negotiate status agreements were issued. To complement these efforts, working arrangements have been completed or are currently negotiated with Niger, Libya and Ukraine, while [civilian missions](#) have been undertaken in Iraq, Kosovo, Libya, Mali, Niger and Palestine, which offer strategic advice and work with local authorities to promote peace, stability, security and development.<sup>207</sup>

Looking through a critical stance at the possible impact of the EU's migration policy vis-à-vis Senegal on intra-African migration, in May 2022, ECRE published a working paper which focuses on the conditions, readmission arrangements and the impact of Frontex presence. The paper concluded that Frontex presence could possibly have serious implications on the freedom of movement, while the unequal access to visas for Europe between different groups of people in West African countries may lead to frustrations and the crystallisation of pre-existing tensions.<sup>208</sup>

Migration, terrorism and organised crime were among the key issues discussed in the EU-Western Balkans summit in December 2022. The EU adopted a new EUR 40 million programme for countries in the region to enhance asylum and reception systems, strengthen border protection, fight smuggling networks and organised crime groups, and step-up returns from the Western Balkans to the countries of origin.<sup>209</sup>

An important effort in this area over the past years has been the EU cooperation with Türkiye, for which the EU has mobilised EUR 9.5 billion for refugees and host communities since 2015. This includes the EUR 6 billion Facility for Refugees in Turkey, which is a key component of the 2016 EU-Turkey Statement. In December 2022, the EU adopted new programmes to continue supporting refugees in Türkiye in addressing basic needs, assisting the most vulnerable and providing socio-economic support. A dedicated package was also adopted to improve border control at Türkiye's eastern border. The assistance package of over EUR 1.2 billion comprises four programmes:

- EUR 400 million to continue cash assistance to support refugees in meeting their daily basic needs under the Emergency Social Safety Net (ESSN);
- EUR 234 million for projects implementing Türkiye's Employment Strategy and Sustainable Socioeconomic Programme for refugees;
- EUR 381 million to continue the Complementary-ESSN programme focused on providing cash support for the most vulnerable refugees (elderly, handicapped, etc.); and
- EUR 220 million to support more border control measures at Türkiye's eastern border.<sup>210</sup>

### EU support for protection worldwide



Supporting protection solutions across the world has been an important component of the external dimension of the EU's asylum and migration policy. Both EU institutions and Member States are leading actors in the provision of humanitarian support to refugees, asylum seekers, internally displaced people and host communities around the world.



In 2022, the EU continued to support forcibly-displaced people in Syria, Lebanon, Jordan, Türkiye and Iraq. The Sixth Brussels Conference on Supporting the Future of Syria and the Region, held in May 2022, exceeded pledges made by donors in 2021, thus confirming continued support to major host countries.<sup>211</sup> Assistance was also provided to Venezuelans hosted in Colombia, Ecuador and Peru, internally displaced people in Iraq, Ethiopia and Sudan, displaced people in and from Myanmar, and Afghans hosted in Iran and Pakistan.<sup>212</sup>

The EU maintained the chairmanship of the Core Group for the [Support Platform of the Solutions Strategy for Afghan Refugees](#), through which support was provided to the over 5.9 million Afghans estimated to be internally displaced in Afghanistan, as well as to those displaced in Iran and Pakistan.<sup>213</sup> A Team Europe Initiative was created for Afghanistan, focusing on strengthening policy dialogue on facilitating labour migration and visa procedures; social inclusion and the sustainable integration of Afghans into host communities; the provision of basic services; the creation of jobs and skills development; and enhancing overall migration management, including fighting against the smuggling of migrants and trafficking in human beings.<sup>214</sup>

The EU is also an active contributor to a number of regional platforms, such as the Comprehensive Regional Protection and Solutions Framework ([MIRPS](#)) for Central America and the Intergovernmental Authority on Development ([IGAD](#)) in Africa. Participating in these platforms, the EU provides political and financial support through humanitarian assistance and development cooperation.<sup>215</sup>

In February 2022, the sixth EU-African Union Summit took place in Brussels, with leaders from European and African countries agreeing to continue cooperation on all aspects of migration and mobility. The EU and the African Union agreed to continue to find durable solutions for asylum seekers, refugees and vulnerable migrants in need of international protection and to revitalise the work of the joint African Union-EU-UN Tripartite Task Force.<sup>216</sup>

### Developing legal pathways to protection in Europe



Providing safe and legal pathways to persons in need of protection is a priority for the EU, enabling the most vulnerable refugees to reach Europe without becoming victims to smuggling networks or undertaking dangerous journeys. It is also a demonstration of European solidarity to non-EU countries which host large numbers of persons fleeing war or persecution.

Since 2015, *ad hoc* resettlement and humanitarian admissions schemes have assisted more than 100,000 persons to find protection in the EU.<sup>217</sup> The pledging exercise of 2021-2022 generated almost 65,000 pledges, and by June 2022, EU Member States had supported more than 36,000 resettlements and humanitarian admissions combined.<sup>218</sup> In November 2022, Commissioner Johansson hosted a high-level forum on legal pathways to protection and resettlement cooperation. The aim of the forum was to promote closer cooperation with partner countries to expand safe and legal avenues to protection. Participants in the forum included representatives from EU Member States, the United States, the United Kingdom (UK), Canada, UNHCR, the IOM, civil society organisations, refugees and businesses involved in complimentary pathways for labour, with discussions focusing on building more resilient programmes and offering, in addition to resettlement, innovative pathways linked to work.<sup>219</sup> In total, 17 Member States pledged more than 29,000 places for resettlement and humanitarian admissions combined, including more than 13,000 places for Afghans at risk.<sup>220</sup>



Civil society organisations expressed concern that more could have been done for Afghans wishing to come to Europe, such as facilitating family reunification, establishing community sponsorship schemes and opening education and labour pathways, particularly for women whose education has been disrupted.<sup>221</sup>

Following the Russian invasion of Ukraine, a high level of community engagement was noted with private individuals hosting persons fleeing the war. In July 2022, the European Commission elaborated the safe homes guidance on the organisation of private housing initiatives to support Member States, regional and local authorities, as well as civil society organisations that organised private housing. The document consolidates the experience, considerations, guidance and good practices of EU Member States, the EUAA, regions, cities, civil society organisations, foundations, entrepreneurs and individuals involved in these efforts.<sup>222</sup>

In June 2022, UNHCR offered its recommendations to the EU on resettlement needs, complementary pathways and key priorities for 2023. UNHCR called the EU to maintain ambitious targets for the resettlement of persons in need; prioritise resettlement from five areas most in need (Syria, the Central Mediterranean, Venezuela, Afghanistan and areas hosting Rohingya refugees); solidify resilience of resettlement in Europe by strengthening processing and reception capacities, preserving the protection nature of resettlement, and maintaining close collaboration with key actors in resettlement; enhance possibilities for family reunification; and expand complementary pathways to protection, including through community sponsorship programmes.<sup>223</sup>

## 2.6. Jurisprudence of the Court of Justice of the EU



As the guardian of EU law, the CJEU ensures that “in the interpretation and application of the Treaties, the law is observed” (TEU, Article 19(1)). As part of its mission, the CJEU ensures the correct interpretation and application of primary and secondary EU laws; reviews the legality of acts of EU institutions; and decides whether Member States have fulfilled their obligations under primary and secondary laws. The CJEU also provides interpretations of EU law when requested by national judges. The court, thus, constitutes the judicial authority of the EU and, in cooperation with the courts and tribunals of Member States, ensures the uniform application and interpretation of EU law.<sup>224</sup>

In 2022, the CJEU issued more than **20 judgments** interpreting various provisions of CEAS. The judgments covered topics related to:

- effective access to the asylum procedure;
- the Dublin procedure;
- the concept of a subsequent application;
- the admissibility of applications for international protection;
- the right of access to an administrative file and the meaning of communication of the decision ‘in writing’;
- the withdrawal of material reception conditions;

- the scope of detention and judicial review of the lawfulness of detention;
- family reunification involving minors; and
- the withdrawal of international protection on grounds of national security.

### Effective access to the asylum procedure



In *M.A. v State Border Protection Service at the Ministry of the Interior of the Republic of Lithuania* (C-72/22 PPU), the CJEU ruled under an urgent preliminary ruling procedure that the recast Asylum Procedures Directive (APD) precludes legislation that prevents access to the asylum procedure for illegally-staying, third-country nationals or stateless persons in the event of a declared state of war, a state of emergency or an emergency situation due to a mass influx of third-country nationals. Focusing on the mass influx in particular, the CJEU noted that the assumption of breaches of public policy or internal security does not justify such legislation. The court observed that EU law precludes legislation under which an asylum applicant is detained on the ground that he/she is staying illegally, because in principle, an applicant for international protection cannot constitute a threat to national security or public order solely for staying illegally.

### Dublin procedure



In 2022, the CJEU continued to examine the effects of the COVID-19 pandemic on asylum procedures. In *Federal Republic of Germany v MA, PB, LE* (C-245/21 and C-248/21), the CJEU clarified that the suspension of a Dublin transfer due to the COVID-19 pandemic does not interrupt the 6-month time limit for the transfer. The time limit can only be suspended when an applicant must be authorised to remain in the Member State until a final decision on an appeal is pronounced. The CJEU further noted that, under the Dublin III Regulation, the impossibility of implementing a Dublin transfer decision should not be regarded as justifying the interruption or suspension of the time limit for a transfer.

The CJEU clarified the conditions in which Dublin transfers of victims of human trafficking may be enforced. In *O.T.E. v State Secretary for Justice and Security (NL)* (C-66/21), the court noted that the concept of a removal order under Article 6(2) of Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities covers Dublin transfers between Member States. The CJEU confirmed that a Dublin transfer of a victim of human trafficking cannot be implemented during the reflection period, the purpose of which is to allow the person to recover and escape the influence of the perpetrators so that the person can take an informed decision on whether to cooperate with the competent authorities. However, the court noted that a Dublin transfer decision may be adopted and preparatory measures may be undertaken during this reflection period.

Following a referral by the Dutch Court of The Hague, in *I, S v State Secretary for Justice and Security (NL)*, (C-19/21), the CJEU ruled that the Dublin III Regulation, read in conjunction with the EU Charter, provides the unaccompanied minor the right to appeal against a decision to take charge by a Member State in which relatives reside. The court highlighted that the



judicial protection of an unaccompanied minor applicant cannot vary according to whether this applicant is the subject of a transfer decision by the requesting Member State or a decision by which the requested Member State rejects the request to take charge of the applicant. With regard to the relative of the minor, the CJEU held that the regulation does not confer rights which could be claimed in court against a decision not to take charge, and the relative cannot derive a right of appeal against such a decision solely based on Article 47 of the EU Charter.

### Interpretation of the concept of a subsequent application



In *SI, TL, ND, VH, YT, HN v Bundesrepublik Deutschland* (C-497/21), the CJEU clarified that, within the meaning of Article 2(q) of the recast QD, an application for international protection cannot be regarded as a subsequent application by another Member State after a first application is rejected by Denmark, a country which applies certain provisions of the Dublin III Regulation but does not implement the recast QD and the recast APD. The court referred to its previous judgment in *LR v Bundesrepublik Deutschland* (C-8/20) which concluded that, after a rejection by Denmark, an application made by the same individual in another Member State cannot be considered as a subsequent application and thus be rejected as inadmissible.

### Family reunification involving minors



In 2022, the CJEU examined three cases concerning the conditions in which minors, whether beneficiaries of international protection or children of sponsors, may benefit from family reunification.

In *X v Belgium* (C-230/21), the CJEU interpreted Articles 2(f) and 10(3a) of the Family Reunification Directive and ruled that unaccompanied minors do not have to be unmarried in order to be sponsors for their parents in a family reunification procedure. In agreement with the opinion of the Advocate General, the court noted that the vulnerability of minors is not mitigated because of marriage and may, on the contrary, point to an exposure to a child marriage or a forced marriage.

In *SW, BL, BC v Stadt Darmstadt, Stadt Chemnitz* (Joined Cases C-273/20 and C-355/20), the CJEU ruled that the minority of the sponsoring unaccompanied child is not a condition for family reunification with parents. In addition, Article 13(2) of the Family Reunification Directive precludes national legislation under which the right of residence of the parents is terminated as soon as the child reaches the age of majority.

In *Bundesrepublik Deutschland v XC, joined by Landkreis Cloppenburg* (C-279/20), the CJEU analysed the date to which national authorities must refer when determining whether the child of a sponsoring beneficiary of refugee status is a minor for the purpose of family reunification. When a child has attained majority before the sponsoring parent was granted refugee status and before the application for family reunification was submitted, the court observed that the date used to determine if the child is a minor is the date on which the sponsoring parent submitted an asylum application, provided that an application for family reunification was submitted within 3 months of the recognition of the parent's refugee status. In addition, the legal parent/child relationship is not sufficient on its own to constitute a real family relationship for family reunification. Nonetheless, it is not necessary for the parent and the child to cohabit in a single household, to live under the same roof or to support each other financially. The court noted that occasional visits and regular contact of any kind may be sufficient to establish the existence of a real family relationship.





## Admissibility of asylum applications lodged by minors whose family members are beneficiaries of international protection in another Member State



In *RO v Bundesrepublik Deutschland* ([C-720/20](#)), the CJEU interpreted Article 20(3) of the Dublin III Regulation, which provides for the indissociable situation of a minor who qualifies as a family member of an applicant for international protection. In agreement with the opinion of the Advocate General, the court noted that there is a distinction in EU law between the situation of a minor whose family members are already beneficiaries of international protection in a Member State (Dublin III Regulation, Article 9) and a minor whose family members are applicants for international protection (Dublin III Regulation, Articles 10 and 20(3)).

The court held that Article 20(3) was not applicable in the situation that a minor and the parents lodge applications for international protection in the Member State in which the minor was born, when the parents were already provided international protection in another Member State. In the absence of an agreement expressed in writing by the minor, a request for international protection by a minor cannot be rejected as inadmissible on the basis of Article 33(2) of the recast APD, even if the parents received protection in another Member State but the minor applicant is not a beneficiary of protection in another Member State. However, the parents' application may be dismissed as inadmissible on the ground that they are already beneficiaries of international protection in another Member State.

## Maintaining family unity after secondary movements by beneficiaries of international protection



In a Grand Chamber formation, the CJEU ruled in *XXXX v Commissaire général aux réfugiés et aux apatrides* ([C-483/20](#)) in a case concerning a parent and his minor child who had different migration paths, with the minor being a beneficiary of subsidiary protection in Belgium and the father a beneficiary of international protection in Austria. The CJEU held that, when an applicant is already a beneficiary of international protection in another Member State, the recast APD, read in conjunction with the EU Charter, Articles 7 and 24(2), does not oblige Member States to verify whether the person fulfils the conditions to claim international protection under the recast QD and may reject the request for international protection as inadmissible.

However, Member States must refrain from declaring an application as inadmissible when there are systemic or generalised deficiencies in the other Member State and the living conditions would amount to a risk of suffering inhuman or degrading treatment contrary to Article 4 of the EU Charter. In addition, the CJEU highlighted that Member States have an obligation under the recast QD to maintain family unity by establishing benefits in favour of family members of beneficiaries of international protection. The court noted that these benefits are provided in Articles 24-35 of the recast QD, including a right of residence, which requires three conditions to be met: i) the person must be a family member within the meaning of Article 2(j) of the recast QD; ii) the family member does not individually qualify for international protection; and iii) granting the benefit is compatible with the personal legal status of the family member.



## Determining protection provided by the UNRWA



In *NB, AB v Secretary of State for the Home Department (UK)* (C-349/20), the CJEU ruled on the assessment of the cessation or end of protection provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The court noted that the individual assessment should not consider only the relevant circumstances prevailing at the time when the person left UNRWA's territory, but also those prevailing when the competent authorities examine an application for refugee status or when the competent judicial authorities decide on an appeal against a refusal of such a status. It would also be sufficient to establish that UNRWA's protection or assistance effectively ceased.

In addition, where the person proves that she left the area of UNRWA for reasons beyond her control, the Member State must prove that the person can return to that area and benefit from UNRWA's protection or assistance. Assistance provided to that person by civil society organisations is also to be taken into consideration, provided that UNRWA has a formal and stable cooperation with the organisations.

## Access to an administrative file and communication 'in writing' of the decision on international protection



In *BU v Bundesrepublik Deutschland* (C-564/21), the CJEU ruled on an applicant's right to access a copy of the administrative file and the meaning of communication 'in writing' of the administrative decision. The court held that Articles 23(1), 46(1) and 46(3) of the recast APD, read in conjunction with Article 47 of the EU Charter, do not contain specific rules on the format and structure in which the file is communicated to an applicant's representative. Therefore, they do not preclude the decision-making authority to provide access to the electronic file in the format of a series of separate files in PDF format, without consecutive page numbering and for which the structure can be viewed using a free software.

In addition, in accordance with Article 11(1) of the recast APD, the CJEU held that a communication of the decision 'in writing' does not have to be signed by a case officer. It simply means that communication should not be implied or made orally.

## Withdrawal of material reception conditions



As a follow-up to its ruling in *Haqbin* (C-238/18) from 2019, the CJEU ruled in 2022 in *Ministero dell'Interno v TO* (C-422/21) on the withdrawal of material reception conditions from an applicant for international protection for verbally and physically assaulting police officers outside an accommodation centre. The CJEU confirmed that Article 20(4) and (5) of the recast RCD prevents material reception conditions relating to housing, food and clothing to be withdrawn if this would deprive the applicant of the most basic needs.

## Scope of detention and judicial review of the lawfulness of detention



In a case referred by the Austrian Supreme Administrative Court, *IA v Federal Office for Immigration and Asylum* (C-231/21), the CJEU clarified that committing non-voluntarily an asylum applicant who is a danger to a psychiatric hospital, authorised by a judicial decision, does not constitute imprisonment under



Article 29(2) of the Dublin III Regulation. The court further recalled that there are two specific exceptions for which the 6-month time limit may be extended to implement a Dublin transfer, included in the second sentence of Article 29(2) of the Dublin III Regulation, namely imprisonment and absconding.

In *K v Landkreis Gifhorn* (C-519/20), the CJEU clarified the conditions in which Member States may temporarily detain third-country nationals in a prison for the purpose of a removal, the conditions required for a detention establishment to be considered a 'specialised detention centre' within the meaning of the recast Return Directive, Article 16(1), and the extent of a judicial review by a national court. The CJEU observed that the detention of a third-country national for the purpose of a removal is intended to ensure the effectiveness of the return procedure and does not pursue any punitive purpose, which must be reflected in the person's conditions of detention. The court noted that national courts must consider the layout of the premises dedicated to the detention of third-country nationals, the rules specifying their conditions of detention, and the qualifications and powers of the staff responsible for supervising their detention. The court further clarified the situations which justify a derogation under Article 18(1) of the recast Return Directive, the prohibition of detention due to the vulnerability of a person and the obligation of national courts to effectively verify the compliance of detention with the conditions imposed by Article 18 of the recast Return Directive.

In *I.L. v Police and Border Guard Board (Politsei- ja Piirivalveamet)* (C-241/2), the CJEU held that Article 15(1) of the recast Return Directive prohibits Member States from detaining an illegally-staying, third-country national solely on the basis of the general criterion of a risk that the effective execution of the removal will be jeopardised. The court further noted that such a measure is contrary to the requirements of clarity, predictability and protection against arbitrariness.

In *B, C and X v State Secretary for Justice and Security* (Joined Cases C-704/20 and C-39/21), the CJEU recalled that the detention of a third-country national constitutes an interference with the right to liberty enshrined in Article 6 of the EU Charter and the person must be immediately released when the conditions of the lawfulness of detention are no longer met, irrespective of whether detention is used in the context of return proceedings due to an illegal stay, in the processing of an application for international protection or in the context of a Dublin transfer. The CJEU ruled that the competent judicial authorities have the obligation to review *ex officio* the lawfulness of detention decisions by taking into consideration all elements of the case, even if the failure to comply with the lawfulness of detention has not been raised by the person concerned before a competent judicial authority.

### Withdrawal of international protection on grounds of national security



In the case of *GM* (C-159/21), referred by the Budapest High Court, the CJEU ruled on the use of non-reasoned opinions of national security bodies in procedures to withdraw international protection due to a danger to national security. The CJEU held that Member States must provide access to confidential national security information to the courts that rule on the lawfulness of the decision and establish procedures guaranteeing the rights of defence of the person. The CJEU noted that Article 23(1) of the recast APD does not allow competent authorities to exclude the person and their representative from knowing the decisive elements which are contained in the file. The CJEU specified that the possibility of obtaining authorisation to



access the information, coupled with the prohibition to use the information in the administrative procedure, does not sufficiently guarantee the right to defence.

The court ruled that a determining authority cannot rely on a non-reasoned opinion given by national security bodies when the factual basis and assessment by these bodies was not disclosed to the determining authority. It noted that the determining authority that assesses a withdrawal cannot endorse a decision adopted by another authority, because it must include its own assessment of the facts, circumstances and reasons in its decision, and the scope and relevance of the information provided by national security bodies must be assessed by the determining authority. Although the right to defence may be limited, the CJEU recalled that Article 23(1) of the recast APD does not allow competent authorities to exclude a person and their representative from gaining effective knowledge of the substance of the decisive elements contained in the file.

### **Return of rejected applicants for international protection who suffer from a serious illness**



In *X v State Secretary for Justice and Security [NL]* (C-69/21), the CJEU ruled that a third-country national suffering from a serious illness may not be removed if, in the absence of appropriate medical treatment in the receiving country, the person would be subjected to a real risk of rapid, significant and permanent increase in pain. The CJEU stated that it must be established that the only effective analgesic treatment cannot be lawfully administered in the receiving country and that the person would be exposed to a real risk of inhuman or degrading treatment in the absence of the treatment, for example extreme pain that could cause irreversible psychological consequences or lead to suicide.

### **Voluntary departures and forced removal**



In *UN v Subdelegación del Gobierno en Pontevedra* (C-409/20), the CJEU interpreted Articles 6, 7 and 8 of the recast Return Directive, ruling on the possibility for an illegally-staying, third-country national to regularise his/her stay. The CJEU held that national legislation may initially sanction an illegally-staying, third-country national with a fine and an obligation to leave the territory within a prescribed period, unless the person's stay is regularised, and subsequently, if the stay is not regularised, by a compulsory removal, in accordance with the recast Return Directive.



## Section 3. EUAA support in 2022

Section 3 details the Agency's work programme, work with third countries, and operational and technical assistance which was provided over the course of the year. It also presents an evaluation of these activities, when applicable.

While the scope of the Agency's activities is multifaceted, highlights in this section are provided for six key areas:

- 3.1. Production of asylum knowledge and technical expertise
- 3.2. Training
- 3.3. Operational and technical assistance
- 3.4. Third country support
- 3.5. Cooperation with civil society organisations
- 3.6. Protection of fundamental rights

*"This Regulation establishes a European Union Agency for Asylum (the 'Agency'). The Agency...shall be a centre of expertise by virtue of its independence, the scientific and technical quality of the assistance it provides and the information it collects and disseminates, the transparency of its operating procedures and methods, its diligence in performing the tasks assigned to it, and the information technology support needed to fulfil its mandate."*



The EUAA's extended mandate, as foreseen in [Regulation \(EU\) 2021/2303 on the Establishment of a European Union Agency for Asylum](#), entered into force on 19 January 2022.<sup>225, 226</sup> In line with its enhanced role, throughout the year the EUAA:

- offered greater operational and technical support to foster efficiency in asylum systems;
- worked toward improving and accelerating the provision of assistance at the request of Member States;
- further developed operational standards, indicators and practical guidelines to inform uniform, high-quality decision-making in asylum cases;
- supported the practical implementation of CEAS by training asylum and reception professionals;
- contributed to increased situational awareness among EU policymakers to inform decisions and preparedness;
- contributed to capacity-building in non-EU countries; and
- supported EU+ countries with resettlement schemes.

The Russian invasion of Ukraine generated large-scale protection needs, and the Agency responded quickly to offer assistance to countries receiving large numbers of displaced persons from Ukraine. The Agency proved its role as a centre of expertise in asylum by expanding its operational and technical support to address evolving needs. As an integral actor in the collective EU response in addressing the needs of millions of displaced persons, the EUAA effectively contributed to the implementation of protection solutions across Europe.

To assist Member States in applying CEAS, ensure fair and efficient asylum procedures, provide high-quality reception standards and harmonise their practices, the EUAA provides support structured around three pillars:

- **Technical support** includes information collection and analysis; the development of guidance and practical tools; the exchange of expertise and good practices; and advice on legal obligations. As of 2023, the EUAA will also be mandated to monitor the application of EU asylum and reception obligations by Member States;
- **Training and professional development** of national asylum and reception officials to ensure a common, high-quality application of CEAS standards; and
- **Operational support** to Member States, especially those experiencing disproportionate pressure on their asylum and reception systems.



*For more detailed information on the EUAA's activities, work programme and budget, please refer to the EUAA Consolidated Annual Activity Report (CAAR) 2022. For EUAA's governance documents, please refer to the [EUAA website](#).*



## 3.1. Asylum knowledge



To provide evidence-based information to a range of audiences, including policymakers, the EUAA collects, processes, synthesises and analyses information on specific themes, latest developments, emerging topics and forecasting in the field of asylum.

### Country of origin information and country guidance



Based on the well-established [Country of Origin \(COI\) Report Methodology](#), the Agency produced 15 [COI reports](#) in 2022 in close collaboration with Member States. COI was produced consistently and timely, in particular to monitor the situation in Afghanistan and Ukraine. A guide was also developed on interviewing sources in the context of COI research.

The Agency continued to support national COI networks, facilitated information-exchange, built capacity and further generated knowledge in the area of COI, while more than 1,000 responses were provided to individual requests for Medical COI (MedCOI).

Country guidance involves a joint assessment by Member States of the situation in the main countries of origin. To enhance convergence in EU+ decision-making practices, new country guidance was produced on [Somalia](#) and [Iraq](#), two updates were published on [Afghanistan](#) and additional update processes were completed for [Afghanistan](#) and [Syria](#).

### Information and analysis of asylum developments



The EUAA continued to manage and update several databases which capture national developments in asylum and reception systems in EU+ countries, in addition to court cases related to asylum. Information was included daily into the [Information and Documentation System \(IDS\) on CEAS](#), which serves as a central source of information for policymakers in EU+ countries. Its

jurisprudential counterpart, the publicly-available [EUAA Case Law Database](#), covers case law related to the implementation of CEAS issued by national courts, the CJEU and the European Court of Human Rights (ECtHR). In 2022, there were more than 3,000 registered cases. The database is used to address internal and external requests for jurisprudential information, and four quarterly publications on case law were published to highlight how courts have shaped policies and practices related to all aspects of asylum.

The Agency continued to produce situational overviews and analyses on key areas of CEAS, in particular to address emerging information needs arising, for example, from the arrival of large waves of displaced persons from Ukraine.

In 2022, the EUAA launched the public platform, [Who is Who in International Protection in the EU+](#), which presents key stakeholders and their roles in a range of areas in asylum and reception systems across EU+ countries. The platform contains interactive visualisations to view the mappings and PDF reports by theme.





## Data analysis and research



Through the [Early Warning and Preparedness System \(EPS\)](#), the EUAA continued in 2022 to foster an effective exchange of a standardised set of indicators which quantify the asylum and reception situation in EU+ countries. Following the activation of the Temporary Protection Directive, the Agency swiftly developed and implemented a regular exchange of statistics on registrations of temporary protection across EU+ countries.

Work continued on early warning and forecasting to better understand the root causes of migration and support the planning of suitable policy and operational responses. A key product was the [joint report](#) with the Organisation for Economic Co-operation and Development (OECD) and the IOM on profiles, experiences and aspirations of displaced persons from and within Ukraine.

The Agency's strategic analysis products cover a number of asylum-related aspects, including [latest trends](#), to provide national authorities and relevant EU institutions a situational overview of asylum across Europe.

## Support in enhancing quality standards



To maximise the multiplying effect of expertise-sharing, the EUAA continued to facilitate practical cooperation and the sharing best practices among Member States on asylum processes and quality management. It supported the practical implementation of CEAS through the development of common [practical guides and tools](#), guidelines and operational standards.

The Agency organised dedicated meetings for national authorities to discuss the implementation of the Temporary Protection Directive and its implications for the asylum procedure. In addition, [material](#) was developed quickly to provide information to displaced persons from Ukraine. A [Quality Matrix Synthesis Report](#) offers an overview of practices of national asylum administrations related to the personal interview, evidence assessments and qualifications for international protection. To assist with the daily work of case officers, new practical tools were developed for examining claims based on [religion, political opinion](#) and the detection and examination of exclusion cases.

The Agency continued to promote the convergence of practices across the EU. For example, the EUAA created a tool on family unity, which ensures consistency in the provision of information to applicants in the Dublin procedure on the possibility of reuniting with family members. The tool includes an online planner that supports Member States in effectively implementing Dublin transfers by providing information on procedures, opening hours and closure dates for border crossing points.

Practical guidance was developed on a range of topics concerning vulnerable persons, including age assessments, special needs and vulnerability assessments, screening of special needs and vulnerabilities, country information on support frameworks for people fleeing Ukraine, critical incident management, support to guardians on temporary protection, mental health of applicants, and issues related to sexual orientation, gender identity or expression and sex characteristics (SOGIESC).



In the area of reception, in 2022 the EUAA developed tools on emergency placement in private accommodation; rights and obligations in the context of temporary protection; self-identification of vulnerabilities for beneficiaries of temporary protection in reception; design and management of modular reception centres; and information provision material for applicants in reception. The creation of new standards and indicators on reception and related to vulnerable applicants was initiated, foreseen to be completed in 2023.

As part of the effort to promote common standards and further convergence in the implementation of the asylum *acquis*, the EUAA, through a dedicated network, cooperates with members of courts and tribunals in EU+ countries. In 2022, the Agency produced judicial analyses, as well as guidance for judicial training, which took stock of the latest developments in the implementation of CEAS and the most recent jurisprudence from European and national courts and tribunals. Through a series of workshops and regional conferences, the Agency helped members of courts and tribunals advance their knowledge in all procedural and substantial aspects of international protection.

## 3.2. Training and professional development



The EUAA supports the practical implementation of CEAS by training asylum and reception officials to have the necessary knowledge, skills and autonomy to implement efficient and fair procedures, in line with EU standards. The European Asylum Curriculum, used by the Agency in its training, includes a [wide range of modules](#) which cover the entire spectrum of international protection.

To further address existing and emerging training needs, in 2022, seven training modules were developed or restructured, including: i) communication for asylum and reception practitioners; ii) introduction to vulnerability; iii) introduction to ethical and professional standards; iv) working with an interpreter; v) introduction to coaching; vi) applicants with diverse SOGIESC; and vii) orientation course for learners. In addition, a training package was developed on the Temporary Protection Directive, and training sessions were provided to thousands of officials to help national authorities, as well as neighbouring countries, to rapidly build up capacity and manage the humanitarian consequences of Russia's invasion of Ukraine.

Based on the premise that professional development is a continuous endeavour and in line with a life-long learning pedagogical approach, the Agency's training centre developed training material for trainers. As part of the continuing professional development series, in 2022 six modules were developed focusing on: i) Afghanistan inclusion; ii) Afghanistan exclusion; iii) Temporary Protection Directive in the context of the war in Ukraine; iv) rumours management; v) information and communication needs assessment; and vi) communication in emergencies.

In total, more than 3,000 participations of asylum and reception officials in training sessions were recorded in 2022, while approximately 600 participations were recorded for the train-the-trainer sessions on European Asylum Curriculum modules. In the context of operational assistance provided to Member States (see [Section 3.3](#)), the Agency delivered a number of training sessions to Asylum Support Teams and national asylum and reception officials, with more than 4,600 participants. Similarly, in the context of its cooperation with third countries, the EUAA organised a number of training sessions for third-country authorities at national and regional levels to assist in capacity-building.



### 3.3. Operational and technical assistance



A key area of work for the EUAA is to provide operational and technical assistance to Member States in the implementation of its obligations under CEAS, at the request of a Member State -or on its own initiative with the agreement of the Member State- where its asylum or reception system is subject to disproportionate pressure. Following a request by a Member State, the EUAA in consultation with authorities of the Member State and other relevant stakeholders undertakes a needs assessment, which informs the joint definition of assistance measures to be implemented. These measures and the means to implement them are detailed in an operational plan, which is binding on the Agency, the Member State requesting the assistance and all participating Member States. Assistance typically comprises the provision of equipment and support personnel and the implementation of activities to enhance asylum and reception capacity.

Over the past years, the number of countries seeking the Agency's operational support has increased significantly. The Russian invasion of Ukraine and the mass inflow of persons seeking protection in Europe created new needs for the Agency's support, especially in the implementation of the Temporary Protection Directive. In such a volatile and unpredictable landscape, the ability to quickly mobilise resources and expertise was of utmost importance. To this end, in 2022, the Agency created a unit to coordinate first response and preparedness plans for the provision of predictable, effective, efficient and streamlined support. The Agency also produced an [EUAA Asylum and Reception Operational Response Catalogue](#), which presents the different types of operational support provided by the EUAA. The catalogue serves, together with needs assessments, as a foundation for the design of operational plans.

Additionally, actions were taken to improve the coordination and deployment of experts supporting operational plans, as well as toward the implementation of the asylum reserve pool, as foreseen in the EUAA Regulation. This enables the Agency to have a reserve of experts ready for deployment in emergency situations.

In 2022, the EUAA provided operational support to a record number of 14 EU Member States (see *Table 3.1*), with new operating plans signed with Austria, Belgium, Bulgaria, Czechia, the Netherlands and Slovenia. Following the implementation of these plans in 2022, amendments for the continuation and expansion of activities in 2023 were signed with Belgium, Bulgaria and the Netherlands. An extension of the existing operational plan was signed with Czechia, while a new operational plan for Romania was agreed for 2023. In addition, following requests by the European Commission, support has been provided in Moldova with information provision in the context of the Voluntary Transfer Programme, which aims to facilitate the transfer of persons displaced from Ukraine from Moldova to pledging Member States.

Upon signing an operational plan, Asylum Support Teams – comprised of EUAA personnel, Member State experts and other experts not employed by the Agency – are deployed on the ground to provide direct support. Throughout 2022, the Agency assisted Member States in a range of areas, depending on the specific measures included in each plan. This may include the provision of hardware/equipment to national asylum and reception authorities; increasing the capacity and quality of processing applications for international protection; increasing the capacity and quality of services in national reception systems; supporting the functioning of the Dublin procedure; supporting the processing of applications at second instance; improving information management; supporting vulnerability assessments and enhancing protection for unaccompanied minors; providing information to applicants in the context of asylum and

reception; and assisting with voluntary relocations. On this last point, following the solidarity declaration in June 2022, the EUAA started supporting the Voluntary Solidarity Mechanism by facilitating relocation activities.

Across most countries receiving operational support, a key pillar of assistance has focused on capacity-building through EUAA training modules on topics covering the existing needs in each country.

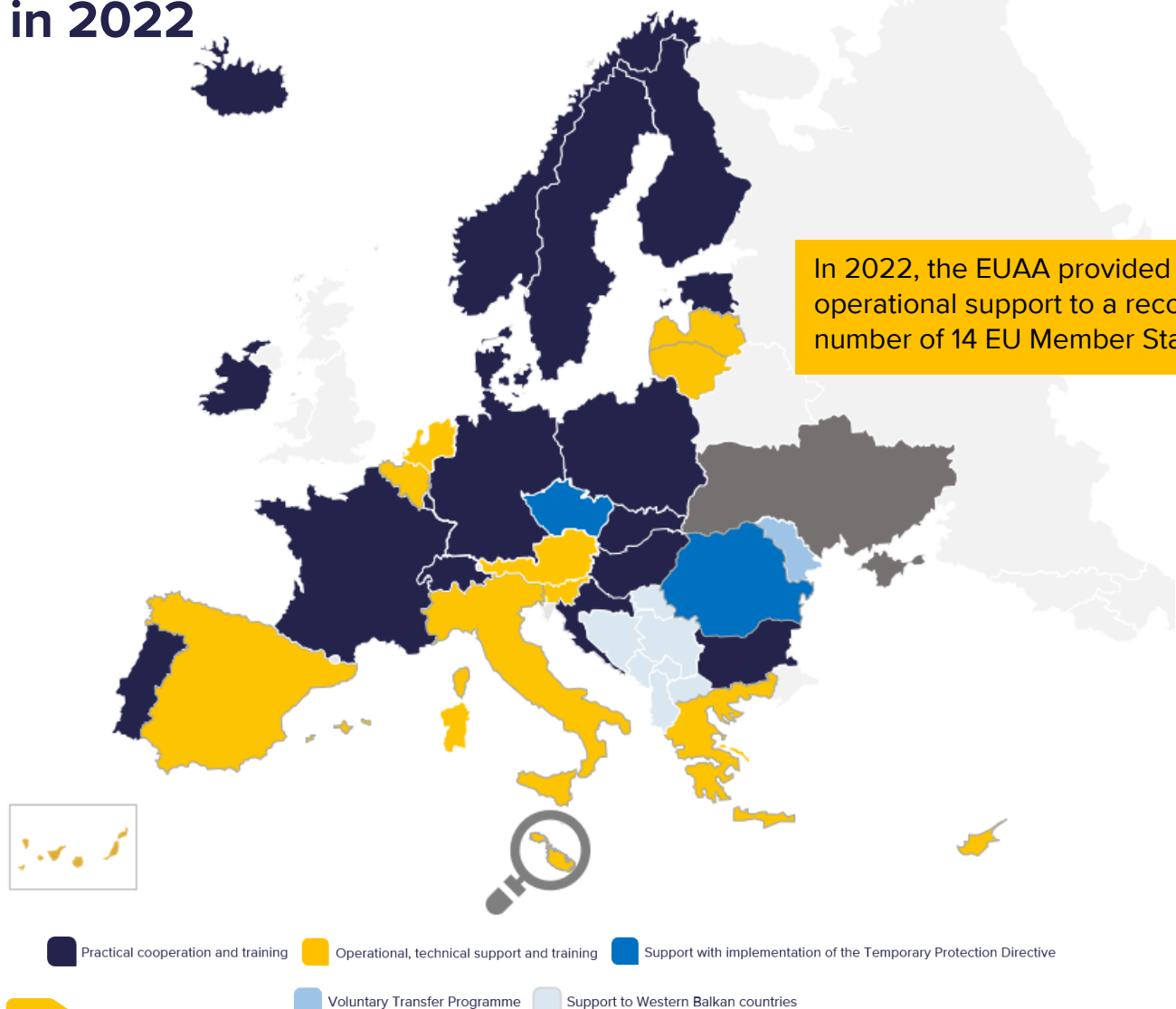
The EUAA continued to manage the Resettlement and Humanitarian Admissions Network by organising steering group and thematic meetings and meetings of the Expert Platform on Safe Pathways to Afghans. The Resettlement Support Facility in Istanbul continued to support resettlement operations by EU countries and served as a platform to exchange knowledge and expertise. The Agency also delivered training and released operational tools on resettlement.

**Table 3.1. List of operating plans between the EUAA and Members States, 2022**

	<b>Austria</b>	Operational Plan 2022-2023 agreed by the EUAA and Austria
	<b>Belgium</b>	Operating Plan 2022, agreed by EUAA and Belgium
	<b>Bulgaria</b>	Operational Plan 2022 agreed by the EUAA and Bulgaria
	<b>Cyprus</b>	Operational Plan 2022-2024 agreed by the EUAA and Cyprus
	<b>Czechia</b>	Operational Plan 2022 agreed by the EUAA and Czechia
	<b>Greece</b>	Operating Plan 2022-2024 agreed by the EUAA and Greece
	<b>Italy</b>	Operating Plan 2022-2024 agreed by EASO and Italy
	<b>Latvia</b>	Operating Plan 2022, agreed by EASO and Latvia
	<b>Lithuania</b>	Operating Plan 2022 agreed by EASO and Lithuania
	<b>Malta</b>	Operational Plan 2022-2024 agreed by the EUAA and Malta
	<b>The Netherlands</b>	Operational Plan 2022-2023 agreed by the EUAA and the Netherlands
	<b>Romania</b>	Operational Plan 2023 agreed by the EUAA and Romania
	<b>Slovenia</b>	Operational Plan 2022 agreed by the EUAA and the Republic of Slovenia
	<b>Spain</b>	Operational Plan 2022-2023 agreed by the EUAA and Spain



## Highlights of EUAA's operational support in 2022



With the assistance of the EUAA in:





### 3.3.1. Assessment of EUAA operational support in 2022



The Agency undertakes regular evaluations of its operations to enhance the overall relevance, effectiveness, efficiency, coherence and added-value of assistance. This reflective approach contributes to institutional learning, evidence-based change management, accountability and transparency.

In 2022, the Agency conducted four internal evaluations<sup>v</sup> covering operational support in Lithuania, [Latvia](#) and [Romania](#). Ongoing operational plans agreed with Austria, Belgium, Bulgaria, Cyprus, Czechia, Greece, Italy, Lithuania, Malta, Slovenia, Spain and the Netherlands that extend beyond the end of 2022 were not due for evaluation.

#### Lithuania



Under the operational plan with Lithuania, which ran from July 2021 to June 2022, the Agency provided support in the areas of asylum and reception following a sharp increase in arrivals in 2021. The evaluation concluded that the Agency provided a rapid and flexible response and contributed to an EU-wide solidarity approach. In the area of asylum, the Agency delivered train-the-trainer sessions, COI support and interpretation. It also provided limited support to first instance asylum processing.

The Agency supported the reception system with information provision, vulnerability assessments, training and interpretation. Taking into account the geopolitical context, the operational support was considered relevant and of added-value, in particular in the field of reception. The evaluation made recommendations to optimise the planning of new operational plans and interpretation support.

#### Latvia




The Agency supported Latvia with two operational plans following an increase in asylum seekers from Belarus in mid-2021. Under the first operational plan (running from September 2021 to March 2022), the Agency focused on the provision of interpretation during the asylum procedure and in reception. The support was considered relevant, coherent and effective in view of its limited scope and was considered 'fair' with regard to efficiency and added-value.

Support under the second operational plan, which covered the remaining of 2022, took place during stabilised migration pressure. The measures foresaw additional support for training and contingency planning. The support was considered effective, with 80 participations of more than 50 Latvian officials in training sessions on information provision, reception and vulnerable applicants. The smooth cooperation with the authorities underlined the relevance and the coherence of the action. Despite a number of efficiency gains, the mobilisation of support was also limited in terms of cost-efficiency because of the short timeline and the volume of the operation. In view of the reduced added-value of the Agency's support, the evaluation supported the closure of the operational plan and recommended the continuation of support under the Agency's permanent support framework.

<sup>v</sup> The evaluations covered the [2021-2022](#) and 2022 operational plans for Latvia, the [2021-2022](#) operational plan for Lithuania, and the 2022 operational plan for Romania.



## Romania

 Following the Russian invasion of Ukraine, more than 2.5 million people crossed the border into Romania in 2022. The operational plan with Romania ran from March to December 2022. It was the Agency's first operational plan to focus on support in the implementation of the Temporary Protection Directive.<sup>vi</sup>

Following rapid mobilisation, the Agency facilitated over 62,000 registrations, information sessions for over 65,000 individuals and 42 training activities by the end of 2022. The Agency provided comprehensive and flexible training and information provision involving national authorities, international organisations and NGOs. In view of the geopolitical context, the support was deemed relevant and of high added-value. Recommendations involved the need for better working conditions and the optimisation of mechanisms for the deployment of experts.

## 3.4. Cooperation with third countries



As the European centre of expertise on asylum, the EUAA plays an important role in strengthening CEAS by working with third countries. The overarching rationale of this work is that a stable and functioning CEAS is contingent not only on improving legislation and procedures within Europe, but also on enhancing capacity in asylum and reception systems of third countries.

In view of the Agency's new mandate and geopolitical developments in the field of asylum, in March 2023, the Management Board of the EUAA adopted a revised [external cooperation strategy](#). The strategy sets the overall direction for the Agency's future work in the external dimension of CEAS, recalibrating the vision, principles and strategic objectives of its external actions and outlining a renewed approach to third-country support, as well as to resettlement and humanitarian admissions. In developing and implementing activities with third countries, the EUAA cooperates with a range of stakeholders, including EU+ countries, the European Commission, the EEAS and JHA agencies.

The EUAA's support to third countries takes place through bilateral roadmaps for cooperation and EU-funded regional programmes, such as the Instrument for Pre-Accession Assistance. Roadmaps for bilateral cooperation in 2022 were implemented with [Albania](#), [Bosnia and Herzegovina](#), [Egypt](#), [Kosovo](#), [Montenegro](#), [North Macedonia](#), [Serbia](#) and [Türkiye](#).

In 2022, the Agency further developed practical cooperation among EU+ countries on external dimension activities, including by organising meetings of the Third Country Cooperation Network and working group meetings on cooperation with the Western Balkans, Türkiye and the Middle East and North Africa (MENA) region. The EUAA continued to develop specific knowledge management tools, such as the third-country support platform, which is a virtual space that facilitates cooperation and information-exchange among members of the Third Country Cooperation Network.

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<sup>vi</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, p. 1).





With the adoption of the 2022-2023 roadmap for cooperation, the EUAA entered into its fourth consecutive partnership with the Presidency for Migration Management (PMM), the Turkish competent authority on asylum and reception. Throughout 2022, in the framework of the roadmap, a number of participating EU+ countries worked closely with the EUAA to build the PMM's institutional capacity, and by extension, to promote positive outcomes for refugees in Türkiye. The focus was on persons with special needs and on interventions to ensure that the PMM is better placed to manage fluctuating migration movements.

Partnerships with MENA countries were further calibrated to increase knowledge and enhance capacities in the areas of asylum and reception. The Agency also continued the implementation of the EUAA-Egypt Roadmap.

At the regional level, the EUAA successfully delivered activities involving all North African countries and Niger, thereby laying the basis for the creation of a practitioners' network, including relevant stakeholders, such as UNHCR and the IOM. Activities focused on issues involving vulnerable groups and offered the opportunity to participating countries to share knowledge on the functioning of their respective asylum systems and to identify needs and interests for the joint design of future regional activities.

The Agency worked closer with authorities in the Western Balkans to improve knowledge and capacities to manage fluctuating migration movements and to develop their asylum and reception systems in a protection-sensitive manner, including for persons with special needs. Regional training on interviewing techniques and interviewing vulnerable persons were coupled with on-the-job coaching on core asylum procedures in Albania, Kosovo,<sup>vii</sup> North Macedonia and Montenegro.

The EUAA provided train-the-trainer modules, supported the revision of asylum legislation in Albania and Bosnia and Herzegovina, and assisted with reinforcing the COI unit in Serbia. The Agency responded to the needs generated by Russia's invasion of Ukraine through structured information exchanges on temporary protection and supported contingency plans in Montenegro.

### 3.4.1. Assessment of EUAA support to third countries in 2022



At the end of 2022, the Agency concluded the implementation of the 24-month-long roadmaps for cooperation with Albania, Bosnia and Herzegovina, Serbia and North Macedonia. Albania and Serbia agreed to extend their roadmaps to December 2023, while Bosnia and Herzegovina and North Macedonia agreed to develop new ones.

To assess the relevance, effectiveness, efficiency, coherence and added-value of its support to third countries, the EUAA managed five external evaluations of its cooperation with Western Balkan partner countries.<sup>viii</sup> The evaluations found that roadmaps, as a framework for cooperation with third countries, were highly relevant to meet the needs of national authorities. They also served to outline long-term strategic priorities for cooperation. While

<sup>vii</sup> This designation is without prejudice to positions on status and is in line with the United Nation's Security Council Resolution 1244 on the situation relating to Kosovo and the International Court of Justice's advisory opinion on Kosovo's declaration of independence.

<sup>viii</sup> These covered the roadmaps for cooperation with Albania, Bosnia and Herzegovina, Serbia and North Macedonia, as well as a cross-cutting evaluation of the roadmap approach as an instrument for cooperation with these partner countries.



resource capacity constraints and COVID-19-related travel restrictions posed challenges during the implementation, the roadmaps effectively brought about a number of common deliverables. These included an increased capacity of national counterparts to manage asylum processes and further alignment of national legislation with CEAS.


The four roadmaps were found to be coherent and complementary towards parallel activities, such as the EUAA's activities at the regional level and ongoing efforts by international organisations. The Agency's unique position as a centre of expertise on CEAS was considered the key added-value.



### Highlights of EUAA support to third countries in 2022

The Western Balkan roadmaps contributed to bringing partner countries closer to CEAS standards, through legislative support and the sharing of good practices from EU Member States.

## 3.5. Consultative forum and civil society organisations



Civil society organisations bring unique expertise and knowledge to asylum and reception-related discussions. The Agency's Consultative Forum, initially established in 2011 as part of EASO, is the main channel for dialogue and cooperation with civil society organisations working in asylum at the local, European and international levels.

The cooperation takes place through meetings, electronic consultations on key EUAA documents, and participation in EUAA activities, including training, workshops, activities related to vulnerable groups and more.

2022 was a transitional year, as a main priority was to establish and operationalise the revised Consultative Forum, as foreseen in the EUAA Regulation. Being a part of the Agency's administrative and management structure, the reinforced Consultative Forum exercises its tasks independently and advises the Executive Director and the Management Board on asylum-related matters, in accordance with the Agency's specific needs in priority areas.

For its composition, the regulation provides that FRA, Frontex, UNHCR, relevant civil society organisations and competent bodies active in the field of asylum policy are invited to become members of the Consultative Forum. Apart from the usual modalities of engagement, such as meetings and consultations, the regulation foresees the creation of thematic or geographically-focused consultation groups within the forum.

As part of its work, the Consultative Forum should be consulted on the development of the European Asylum Curriculum; the preparation, adoption and implementation of the Agency's Fundamental Rights Strategy and Code of Conduct; and the setting up of a complaints mechanism in the event of violations of fundamental rights by the Agency's Asylum Support Teams. Thus, there is an increasing focus of the forum's work on fundamental rights related to asylum and, to this end, it works closely with the Agency's Fundamental Rights Officer (see Section 3.6).

## EUAA Consultative Forum Activities in 2022



To effect these changes, in June 2022, the [Consultative Forum](#) was reconstituted and a call for expressions of interest in becoming a member was launched, with more than 100 organisations becoming members in the first few months after the call. Since November 2022, the forum has been chaired by one of the member organisations, directly elected by other forum members. Additionally, two thematic consultation groups were established: one on country of origin information and one dedicated to vulnerable groups in the context of asylum.

## 3.6. Protection of fundamental rights



The EUAA Regulation introduced provisions to ensure that the Agency fully adheres to fundamental rights when delivering its tasks, including the appointment of a Fundamental Rights Officer who reports to the Agency's Management Board and is responsible for the development of the Agency's Fundamental Rights Strategy in close collaboration with the Consultative Forum. The regulation also provides for the establishment of a complaints mechanism to respond to claims of breaches of fundamental rights in the context of the Agency's operations.

In 2022, the EUAA carried out preparatory activities for the appointment of a Fundamental Rights Officer, and in February 2023, the Agency's Management Board selected a candidate for the position. Steps were also taken to establish the complaints mechanism, whereby any person who is directly affected by the actions of an expert in an Asylum Support Team, and

who considers that their fundamental rights have been violated due to those actions, or any party representing such a person, may submit a complaint in writing to the EUAA. The complaints mechanism is to be implemented by the Fundamental Rights Officer, who is independent.

In June 2022, the EUAA also updated its [Code of Conduct](#), which all experts who are deployed as part of Asylum Support Teams (including experts from the Agency's own staff, experts from Member States, experts seconded by Member States to the Agency or other experts not employed by the Agency) are bound to respect. The Code of Conduct will be further updated in consultation with the Fundamental Rights Officer.

The Agency has been developing an escalation process, according to which the Executive Director, after informing the host Member State, can suspend or terminate, in whole or in part, the deployment of Asylum Support Teams. This would take place when, after consulting the Fundamental Rights Officer, it is considered that there are violations of fundamental rights or international protection obligations by the host Member State that are of a serious nature or are likely to persist.

### 3.7. EUAA Presidency of the JHA Agencies Network 2023



In carrying out its mandate, the EUAA works in regular cooperation with the other eight Agencies operating in the area of justice and home affairs and managing security, justice, fundamental rights and gender equality. The JHA Network was established in 2010 to increase inter-agency cooperation and explore synergies in areas of common interest.

The Presidency rotates among the participating Agencies on a yearly basis. As of 2022, the network operates on the basis of a Trio Presidency coordination concept, whereby three consecutive presiding Agencies work together to identify the overarching topics of discussion for 3 consecutive years. The first Trio comprises the Presidencies of CEPOL (2022), the EUAA (2023) and eu-LISA (2024). During the 2023 EUAA Presidency, priorities for the network include:

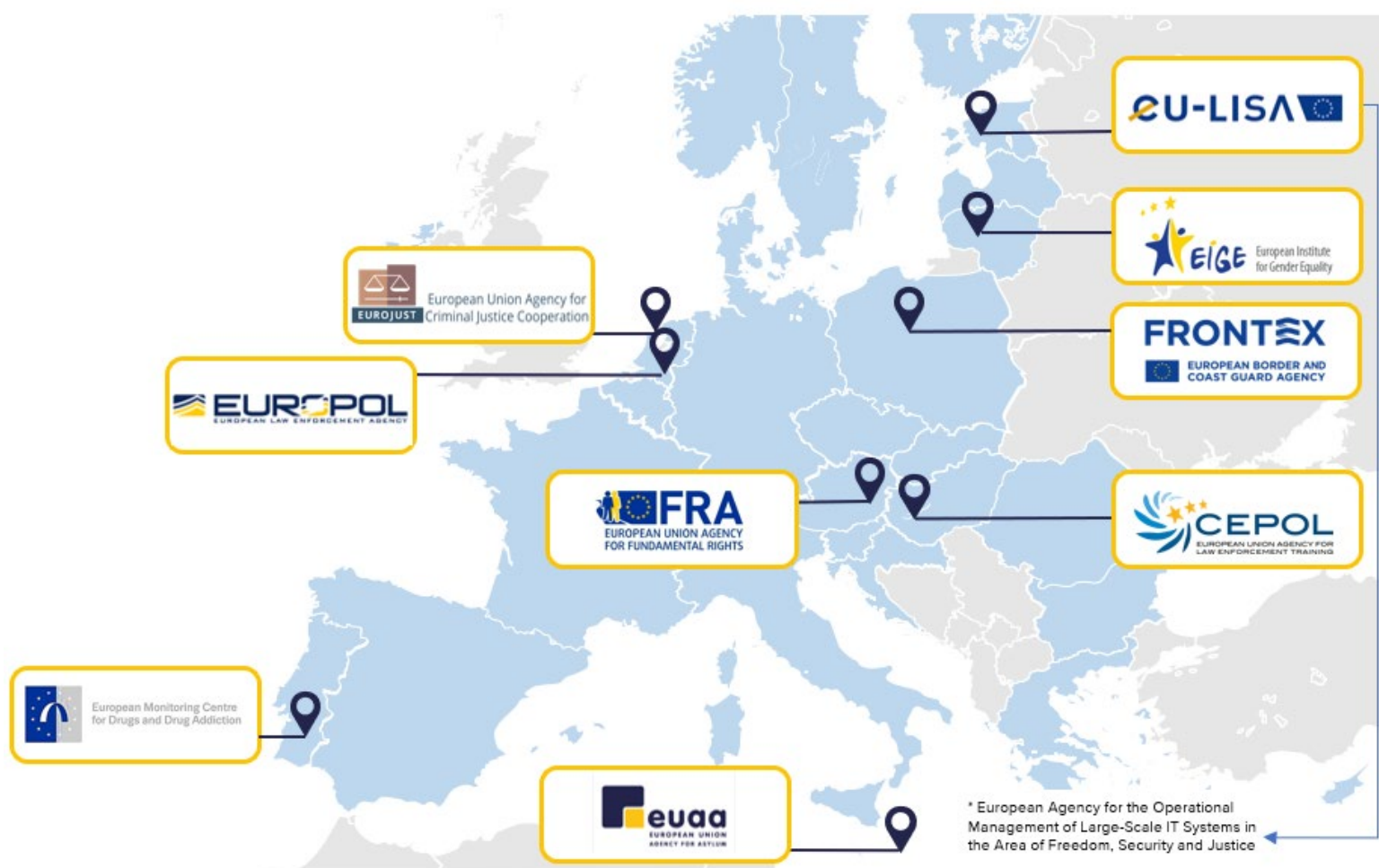
- Digitalisation, covering issues related to the use of artificial intelligence, biometrics and interoperability;
- Implementation of the EU Green Deal in JHA Agencies;
- Information provision in mixed migration situations, acknowledging that swift and adequate provision of accurate and tailor-made information is important for migrants and persons in need of international protection so that they do not fall victim to exploitation or abuse;
- Cybersecurity, also in the context of the Russian aggression against Ukraine which has led to increased risks of cyberattacks on Member States and other strategic targets; and
- Internal and external communication on the network's activities and functioning in order to provide better understanding, within EU institutions and to European citizens, and increase trust.

While the above constitute the expressed priority areas for 2023, the EUAA is constantly monitoring developments in the area of justice and home affairs and has a flexible approach in its Presidency to be able to respond to current events.



## Justice and Home Affairs (JHA) Network of Agencies Priorities of the EUAA Presidency 2023

- Digitalisation
- Implementation of the EU Green Deal
- Information provision in mixed migration situations
- Cybersecurity
- Internal and external communication on the network's activities and functioning





## Section 4

# Functioning of the Common European Asylum System

This section provides an overview of developments in legislation, policy, practice and case law in EU+ countries throughout 2022. Concerns about aspects of national asylum and reception systems are included from authorities, civil society organisations, UNHCR and other international organisations.

The sub-sections are organised by theme, following the steps of the asylum procedure.



**4.1 Access to the asylum procedure** presents developments surrounding access to territory and the first steps of the asylum procedure, including making, registering and lodging an application.



**4.2 The Dublin procedure** takes an in-depth look into the system which sets out the criteria and mechanisms to determine the Member State responsible for examining an application for international protection.



**4.3 Special procedures** to assess protection needs presents new practices around border procedures, the safe country of origin concept, accelerated procedures, admissibility procedures and subsequent applications.



**4.4 Processing asylum applications at first instance** addresses new approaches, measures, working methods and policies, such as prioritisation policies. It presents legislative amendments, technological developments and improvements to the quality of the procedure.





**4.5 Processing asylum applications at second or higher instances** presents initiatives to make the procedures at second instance more efficient and details changes on the right to an effective remedy and the processing of cases lodged by specific nationalities.



**4.6 Pending cases** discusses the number of applications still under examination, which is a key indicator reflecting the workload experienced by national authorities and the pressure on national asylum systems, including reception systems.



**4.7 Reception of applicants for international protection** shows how Member States reacted to trends in international protection in terms of reception capacities and policies.



**4.8 Detention provides an overview** of changes in detention capacity, conditions, duration and alternatives to detention.



**4.9 Access to information** details new initiatives in information provision throughout the different stages of the asylum process, including information on the procedure and information on everyday life and rights.



**4.10 Legal assistance and representation** outlines changes in the provision of free legal counselling and advice to applicants.



**4.11 Interpretation services** presents amendments and concerns around the provision of interpretation, including institutional changes and policy updates. Interpretation in the health system is highlighted.



**4.12 Country of origin information** briefly describes developments in country of origin (COI) research and production.



**4.13 Statelessness in the context of asylum** explores the relationship between statelessness and asylum, highlighting associated challenges.



**4.14 Content of protection** presents initiatives taken for the integration of recognised beneficiaries of international protection based on the recast Qualification Directive.



**4.15 Resettlement and humanitarian admission programmes** presents resettlement efforts taken by EU+ countries and developments in the framework of humanitarian admission programmes.



## Section 4.1. Access to procedures

Effective access to the asylum procedure means that people seeking international protection can reach the authorities and are afforded a fair and efficient process. Obstructing access to territory and access to the procedure may, in certain circumstances, result in a person being returned to a country where their life or freedom may be threatened, breaching the international principle of non-refoulement.



The recast APD guides Member States on common procedures to undertake when an asylum application is submitted in the territory of a Member State, including at the borders, in transit zones or in territorial waters.

The directive outlines access to the procedure as a three-step process:

- Making an application: A person expresses a wish to any national authority to apply for international protection.
- Registering an application: The competent authority officially records the application for international protection.
- Lodging an application: The application is formally lodged when all administrative formalities have been completed.

The time limit for the examination of a claim for international protection starts elapsing when the application is lodged and all formalities have been completed. The provisions of the recast APD apply to all applications for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of Member States.



In 2022, EU+ countries received a significantly higher number of applications for international protection than in previous years, in addition to all-time highs for nationals outside of the 10 main applicant groups. National authorities adjusted their laws, policies and practices to the increasing number of applicants, for example by modifying the places of registration.

The activation of the Temporary Protection Directive also triggered changes in the process and impacted the capacity to register applications for international protection in different ways. EU+ countries allocated resources to swiftly provide effective access to protection for displaced persons from Ukraine, which at times resulted in delays to access the procedure for asylum applicants. For people from Ukraine who did not qualify for temporary protection, EU+ countries took different approaches to ensure they had access to different forms of protection, as necessary.<sup>227</sup>

In view of the mass arrivals and in an effort to provide access while managing their borders, several countries introduced rules which are applicable in a state of emergency and could be triggered by mass arrivals. UNHCR, the Council of Europe's Commissioner for Human Rights and civil society organisations warned how these changes could potentially inhibit effective access to the territory and impede the right to apply for international protection. Throughout the year, FRA documented the impact of some legislation in practice and summarised the concerning results in its annual report.<sup>228</sup>

Following a synthesis of relevant international and national sources, FRA warned that, at times violent, obstructions to effective access to protection were increasing at the borders of the EU.<sup>229</sup> During 2022, four EU operations patrolled the Mediterranean Sea to rescue migrants at risk, while securing the EU's borders and targeting migrant smugglers. At the same time, critical voices argued that there was a shift towards prioritising border control, enforcement and cooperation with third countries to intercept and return smugglers and migrants (see Section 2.4).

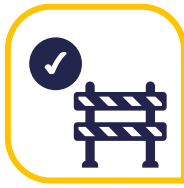
At the end of 2022, the European Commission presented two action plans with a series of operational measures to address immediate and ongoing challenges along the Central Mediterranean and the Western Balkan routes (see Section 2.4). UNHCR welcomed the adoption of the action plans<sup>230</sup> and published a note on legal considerations related to government roles and responsibilities for rescues at sea, *non-refoulement* and access to the asylum procedure.<sup>231</sup>

The ECtHR issued several interim measures and judgments which found violations related to collective expulsions, search and rescues, and the principle of *non-refoulement*. National courts were also often called upon to decide on the legality of legislative amendments and national practices. The Protecting Rights at the Borders initiative from the Danish Refugee Council underlined that strategic litigation was often the last resort to uphold rights and ensure accountability at the EU's borders.<sup>232</sup>

The trend to opt for online appointment systems continued, with the aim of facilitating and accelerating access to the asylum procedure. Nonetheless, civil society organisations observed that delays persisted when appointments could only be obtained after several weeks. These arrangements were also particularly difficult for illiterate applicants and applicants without digital skills.



### 4.1.1. Access to territory



With the mass arrival of displaced persons following the Russian invasion of Ukraine, in addition to the overall increase of asylum seekers through new routes into Europe, EU+ countries continued their efforts to provide access to protection, while effectively managing their borders. Nevertheless, on a number of occasions it was reported that safe access to territory was not always effectively provided.

As FRA underlined in its annual report, “serious fundamental rights violations against migrants and refugees at the EU’s external land and sea borders persisted” and fatalities at borders continued to increase.<sup>233</sup> The agency provided an overview of the deaths and disappearances in different border regions based on IOM reports.<sup>234</sup>

The European Parliamentary Research Service published an update of its briefing on search and rescues in the **Mediterranean Sea**, noting that the region had witnessed the largest number of casualties and missing persons compared to other migratory routes.<sup>235</sup> The Council of Europe’s Commissioner for Human Rights noted that “pushbacks and the serious violations of human rights that they entail now risk becoming a permanent and systemic feature of the way that refugees, asylum seekers and migrants are treated across Europe” and put forward recommendations to stop all forms of this practice and prevent recurrence.<sup>236</sup> The Left Group in the European Parliament published the second edition of the Black Book of Pushbacks with testimonies of people on the move having experienced violence at the EU’s borders.<sup>237</sup>

For the situation on the **Eastern Mediterranean route**, the ECtHR in *Safi and Others v Greece* concluded that the Greek authorities had not done all that could be reasonably expected to protect the life of people on a sinking fishing boat, which resulted in the death of 11 people. In a third-party intervention submitted in the ECtHR case of *S.A.A. and Others v Greece*, UNHCR restated that national authorities must protect the right to life and the principle of *non-refoulement* in search and rescue operations.<sup>238</sup> The organisation also published a statement on the issue in February 2022.<sup>239</sup> Refugee Support Aegean provided an overview of interim measures granted by the ECtHR against Greece between 1 January and 24 June 2022, including alleged cases of pushbacks.<sup>240</sup> The organisation also assessed that the EU-Turkey Statement resulted in preventing people in need of international protection to enter the territory of the EU and kept those arriving to the Greek islands in a legal limbo (see *Section 4.3*).<sup>241</sup>

On the **Central Mediterranean route**, search and rescue operations carried out by civil society organisations were at the centre of the debate. Following an incident involving the rescue ship Sea Watch in Italy in 2020, the CJEU ruled on the state’s powers to investigate rescue ships and noted that rescue ships may be detained only when there is a clear risk to safety, health or the environment.<sup>242</sup>

In January 2023, new legislation entered into force in Italy establishing a code of conduct for NGOs carrying out rescues at sea.<sup>243</sup> The Association for Juridical Studies on Immigration (ASGI) noted that the legislation does not introduce changes in terms of the requirements for these vessels, but certain formulations of the text in the law could potentially lead to misinterpretation, which could result in the prohibition of disembarkation.<sup>244</sup>



Civil society organisations in Malta reported on cases when the Maltese authorities had ignored distress signals from drifting vessels.<sup>245</sup> UNHCR and the IOM continued to appeal for the urgent disembarkation of all stranded refugees and migrants in the region.<sup>246</sup> The Maltese government made a statement to rebut the allegations.<sup>ix</sup>

Long-persisting concerns on accessing international protection at the Spanish-Moroccan border in Ceuta and Melilla continued in 2022.<sup>247</sup> UNHCR,<sup>248</sup> the UN Human Rights Office (OHCHR)<sup>249</sup> the Council of Europe's Commissioner for Human Rights,<sup>250</sup> the Spanish Ombudsperson<sup>251</sup> and several civil society organisations<sup>252</sup> expressed their deep disturbance about an incident in June 2022, when 23 migrants died and 76 others were injured when trying to cross the fence in Melilla.<sup>253</sup> They urged the Spanish authorities to investigate and consider measures to avoid such tragedies in the future. Based on findings from a mission to Spain, the Council of Europe's Commissioner for Human Rights concluded that there was no genuine and effective access to asylum at the border between Nador, Morocco and Melilla, Spain.<sup>254</sup>

UNHCR called for urgent support to prevent deaths and protect asylum seekers trying to reach the EU through the Central and Western Mediterranean routes.<sup>255</sup> The organisation also published its updated risk mitigation strategy for saving lives and offered sustainable solutions to manage situations with perilous journeys in this region.<sup>256</sup>

At the **eastern borders** of the EU, the war in Ukraine led to legal changes to facilitate access to persons in need of temporary protection,<sup>257</sup> while at the same time developments in Belarus led to legal changes that raised concerns about effective access to the territory and to the asylum procedure (see *Section 4.1.2.1 and Box 2*).

Along the **Western Balkan route**, the Council of Europe's Commissioner for Human Rights expressed concern in 2022 that the Bulgarian national border monitoring mechanism documented an increasing number of pushbacks in 2021.<sup>258</sup> The Bulgarian government underlined that border guards were under constant surveillance and the Frontex Fundamental Rights Office did not identify violations.<sup>259</sup> However, the Frontex Fundamental Rights Officer noted in its annual report for 2021 that officers' access to operations remained limited in general and listed issues detected at the Turkish-Bulgarian border based on serious incident reports submitted by Frontex staff and complaints by individuals, as well as reports and information by international organisations, NGOs and public national human rights bodies.<sup>260</sup>

In Croatia, the first report of the Independent Mechanism for Monitoring the Conduct of Police Officers covering June 2021 to June 2022 was published. The report concludes that "based on observations, irregularities regarding the right to seek asylum and access to the asylum procedure were not established in border police stations" but noted that police officers in isolated cases conducted illicit deterrence in mine-suspected areas. The report made a number of recommendations to improve the identification of applicants for international protection at the border and enhance training for border guards.<sup>261</sup> The Ministry of the Interior listed a series of actions for improvements, including distributing the FRA manual translated in Croatian, including the manual in the training for border police, training for police officers on the protection of fundamental rights when performing duties related to the protection of the

<sup>ix</sup> The Maltese government stated: "Malta strongly rebuts any allegations on ignored distress calls. Malta abides with international obligations and responds to distress calls in its Search and Rescue Region. All notifications received are investigated, assessed, prioritised and actions are taken accordingly. Malta seeks to continue to respect all its international obligations regarding the rescue of persons in distress at sea inside its area of responsibility."



state border, and developing a plan and programme for additional training on fundamental rights for the intervention police. The standard operating procedures for border control at border crossings and for state border protection were updated, including guidelines for the identification of applicants for international protection and guidelines and rules of conduct for border police officers dealing with persons who express their intention to seek international protection at border crossings.

Nonetheless, the situation at the Croatian border was at the focus of many appeals in several EU+ countries in the context of the Dublin procedure, and courts in various countries ordered the suspension of transfers due to concerns over a possible risk of *refoulement* (see Section 4.2). The Croatian Ministry of the Interior underlined that it had not received official information on general suspensions of transfers from certain Member States to Croatia. The ministry also underlined that Croatian authorities provide individual guarantees related to acceptance, access to the asylum procedure and prohibition of a return upon request by a Member State.

Civil society organisations also published reports documenting cases of alleged pushbacks from neighbouring countries to Serbia.<sup>262</sup> The ECtHR [found](#) that the Hungarian authorities failed to protect the life of a person who tried to cross the Tisza river from Serbia to Hungary, and they did not fulfil their duty to properly investigate the incident.

As arrivals have steadily increased along the Western Balkan route, AsyLex noted that the focus of concern has shifted from the Italian-Swiss border to the Swiss borders with Austria and Germany.<sup>263</sup>

The Austrian Supreme Administrative Court reviewed the judgments of the Regional Administrative Court of Styria for a [Moroccan](#) and a [Somali](#) applicant. In both cases, the court concluded that the regional court's assessment was not unreasonable when it came to the conclusion that the applicants made a request for international protection in an audible manner and the border guards denied the request and returned them to Slovenia. However, the court did not comment on the content of the conclusion itself. Thus, the judgments of the Regional Administrative Court finding pushbacks to Slovenia to be unlawful became final.<sup>264</sup>

## Box 2. *Non-refoulement*



The principle of non-refoulement secures the right of an applicant to remain in the host country when applying for international protection, including during a Dublin procedure and while awaiting a decision by the determining authority, in accordance with the procedures at the administrative level.

It ensures that Member States must allow applicants to remain in the territory to exercise the remedy of a right to appeal and, when such a right has been exercised, pending the outcome of the appeal. It must be observed by courts and tribunals when ruling whether an applicant may remain in the territory of the Member State.

It also protects against a return or an extradition decision which may result in direct or indirect refoulement, in violation of international and EU obligations of that Member State. In accordance with the Geneva Convention, the respect for the non-refoulement principle must be assessed in the application of safe country concepts.

The respect of the non-refoulement principle during the international protection procedure is one of the most common elements that undergo judicial review. Civil society organisations and academia offered their views on the cases throughout 2022.



## Indicative list of recent case law beyond CJEU rulings



**European Court of Human Rights [ECtHR], *S.H. v Malta*:** The ECtHR found violations of Articles 3 and 13 of the European Convention due to the lack of an adequate assessment of the asylum application lodged by a Bangladeshi national in Malta, the lack of legal assistance and the lack of an effective remedy. The Maltese authorities made a referral to the Grand Chamber and stated that they strongly disagreed with the conclusions of the court. The referral request was rejected, and the judgement became final in May 2023.<sup>265</sup>

**European Court of Human Rights [ECtHR], *T.Z. and Others v Poland*:** The ECtHR found a violation of Article 3 of the European Convention and Protocol No 4, Article 4 to the Convention for the collective expulsion of six Russian nationals who were turned away at the Polish border with Belarus without having their applications for asylum examined by the Polish authorities.

**European Court of Human Rights [ECtHR], *O.M. and D.S. v Ukraine*:** The ECtHR found a violation of Article 3 of the European Convention due to the expulsion of applicant from Ukraine to Kyrgyzstan without assessing the risk of ill treatment and *refoulement*.

**European Court of Human Rights [ECtHR], *A.B. and Others v Poland*:** The ECtHR found violations of the European Convention and Protocol No 4 due to the refusal of Polish border guards to receive asylum applications, summary removals to Belarus and non-compliance with interim measures.

**European Court of Human Rights [ECtHR], *A.I. and Others v Poland*:** The ECtHR ruled on the refusal of border guards to receive asylum applications and summary removal to a third country, exposing the applicants to a risk of chain *refoulement* to their countries of origin and inhuman and degrading treatment and torture.

**Poland, Voivodeship Administrative Court [Wojewodzki Sąd Administracyjny], *A.D. v Border Guard*:** The Administrative Court of Białystok found a violation of the right to access the asylum procedure and the right to an effective remedy in the case of Iraqi applicants transferred to the border area with Belarus.

**Germany, Regional Administrative Court [Verwaltungsgerichte], *Applicants v BAMF*:** The Administrative Court annulled a Dublin transfer to Croatia due to systemic deficiencies of the asylum system and risk of indirect *refoulement*.

**Germany, Higher Administrative Court [Oberverwaltungsgerichte], *Applicant*:** The Higher Administrative Court of Lower Saxony underlined that the existence of chain *refoulement* must be substantiated specifically for Dublin returnees to rebut the presumption of the principle of mutual trust.

**Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicants v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)*:** The Council of State found “obvious and fundamental differences” in asylum policies between Denmark and the Netherlands related to Syrian applicants. The Council of State held that the applicants met the burden of proof by providing evidence that the policy of the determining authority in Denmark was to return Syrian applicants, and this was endorsed by the Danish Refugees Appeals Board. The Council of State noted that the State Secretary did not conduct a further investigation to eliminate any doubts about a possible real risk of *refoulement*.



Read more in the **EUAA Case Law Database**.





After travelling through the EU, perilous journeys continued on the channel between the continent and the UK, with many persons in need of protection staying in make-shift camps while waiting for an attempt to cross.<sup>266</sup> UNHCR expressed its concerns towards new policy in the UK in managing applications from people arriving irregularly by the channel, noting that the proposal to first detain and then either return applicants or transfer them to a third country would amount to a denial of accessing the UK asylum system for this group of applicants.<sup>267</sup>

## 4.1.2. Access to the asylum procedure

### 4.1.2.1. Access to the asylum procedure in a state of emergency



Following trends from recent years, several Member States along the EU's borders introduced special rules to manage mass arrivals and to declare a state of emergency in specific situations. While the goal of such measures was to assist the authorities in monitoring and managing inflows and detecting cases of smuggling, UNHCR, the Council of Europe and civil society organisations commented on the impact in practice. They warned of the risks for the right to asylum and the principle of *non-refoulement*. Through strategic litigation, civil society organisations challenged these amendments.

The Act on Granting International Protection to Aliens in Estonia was amended, allowing border guards to return persons entering in an unauthorised manner without an individual decision and restricting the places where an application for international protection can be submitted in the case of an emergency due to mass migration.<sup>268</sup> Border guards can refuse applications made at certain locations. The Council of Europe's Commissioner for Human Rights expressed her concerns about the legislation, suggesting that the authorities should ensure that access to the asylum procedure is facilitated even in these cases, for example, by ensuring the transfer of applicants from the border to the designated areas.<sup>269</sup> The government replied that the legislation was prepared in compliance with the latest ECtHR case law, and the possibility of immediate returns was closely linked with a person's behaviour and the possibility to enter the country through legal entry points.<sup>270</sup> UNHCR regretted that the legislation significantly restricts the possibility to seek asylum for persons who have entered irregularly.<sup>271</sup>

An amendment was passed in Finland to allow the authorities to centralise the reception of applicants at the border during an exceptionally high number of arrivals.<sup>272</sup> The Council of Europe's Commissioner for Human Rights expressed similar concerns as they had for Estonia,<sup>273</sup> and the Finnish government assured the body that the new law would be applied in accordance with international and EU laws.<sup>274</sup> The Finnish Refugee Advice Centre assessed that the legislation was not sufficiently precise to define the situation in which the restrictions could apply.<sup>275</sup>

Lithuania passed amendments to the Law on the Legal Status of Aliens in 2021, which entered into force in January 2022. According to this law, during a state of emergency or an extreme situation due to a mass influx, foreigners may lodge an application for international protection from abroad within consular posts designated by the Minister of Foreign Affairs.<sup>276</sup> Throughout the year, additional amendments were passed to clarify when an application is considered to be lodged under this procedure, when the Border Guard should still accept applications for international protection from persons who have crossed the border in an irregular manner, and circumstances when the application is not accepted.<sup>277</sup>





Under an urgent preliminary ruling procedure, the CJEU [ruled](#) on legislation introduced in the summer of 2021 in Lithuania. The court stated that any third-country national or stateless person has the right to make an application for international protection on the territory of the state, even if the person stays illegally on the territory. In addition, the court highlighted that the national legislation is in breach of EU law when it allows to detain an applicant on the sole ground that the person was staying illegally (see [Section 4.6](#)). Despite the ruling, the Lithuanian Red Cross Society observed that border guards continued to return applicants at the border, and persons wishing to apply for international protection at the consulate in Minsk, Belarus could only do so if they already had a valid travel document and a valid document confirming their legal stay in Belarus. The organisation underlined that according to the border guard's daily press releases, 11,211 persons were not allowed to enter the country's territory between 1 January and 31 December 2022.<sup>278</sup>

The state of emergency was extended in Latvia as well, meaning that applicants could not submit an application for international protection in the administrative territories near the border, except for official border crossing points or immigration detention facilities. In the case of a Chechen family who tried to enter Latvia in 2017, the ECtHR [ruled](#) in 2022 that they did not provide sufficient evidence that they had tried to apply for asylum with the Latvian authorities. The same family had repeatedly tried to apply for international protection in [Lithuania](#) and [Poland](#), and in those cases, the court found violations of the European Charter of Human Rights (ECHR).

The special conditions to submit an asylum application, which were introduced by the Hungarian government in May 2020, were extended until 31 December 2023.<sup>279</sup> According to these rules, applicants must submit a declaration of intent to apply for international protection at a Hungarian embassy in a non-EU country (currently only in Belgrade or Kyiv), which is then considered by the asylum authority. Infringement procedures launched by the European Commission in 2020 were still ongoing and a referral to the CJEU was made in July 2021.<sup>280</sup>

The Council of Europe expressed its concern that 3 years after the *Ilias and Ahmed* judgment, the authorities still did not reassess the legal presumption of Serbia being a safe third country,<sup>281</sup> which has led to the rejection of declarations of intent to apply for international protection on the territory of Hungary. UNHCR assessed that these rules “effectively deny asylum seekers the right to access a fair and efficient asylum procedure”.<sup>282</sup> The Hungarian Helsinki Committee published an information note which analyses national case law related to the legislation, noting changes in the practice of the National Directorate-General for Aliens Policing (NDGAP) as well. The organisation observed that the authority had reverted to the practice of refusing to even accept an application for international protection.<sup>283</sup> In a recent case, the Budapest Regional Court [noted](#) that the rules should only apply on epidemiological grounds and a visa to submit an asylum application could only be rejected if the persons wishing to apply for asylum were COVID-19 positive.

Poland passed amendments to its legislation allowing for the immediate rejection of an application for international protection from persons crossing the border in an irregular manner.<sup>284</sup> Through strategic litigation, the Association for Legal Intervention filed several court cases, while national courts found that the legislation had no legal basis and was incompatible with the Polish constitution.<sup>285</sup> Three cases were communicated by the ECtHR.<sup>286</sup> In one of the cases, *R.A. and Others v Poland*,<sup>287</sup> UNHCR [intervened](#) as a third party, recalling that national authorities have a clear legal obligation to ensure asylum seekers' access to territory and to the asylum procedure.<sup>288</sup> The Association for Legal Intervention also reported on increasing violence toward migrants by border guards at the Polish-Belarusian border.<sup>289</sup>



#### 4.1.2.2. Impact of increasing number of applications for international protection



The majority of EU+ countries were faced with an increasing number of applications for international protection. In addition, they also had to find solutions to register persons in need of temporary protection. These events led to several adjustments in registration and lodging procedures, aiming to facilitate and accelerate the process. Nonetheless, delays persisted in many countries, often delaying access to material reception conditions (see *Section 4.7*).

Due to the extraordinary and disproportionately high number of asylum applications at the border between Austria and Hungary, the police in Austria changed the registration system. Unaccompanied minors, families and other vulnerable persons continued to be handled in the regular scheme. Other applicants were registered and finger-printed at the border. In case of a Eurodac hit, these applicants were transferred to the first reception centres. For others, the Regional Police Directorates in the provinces were responsible for conducting the first interviews. Applicants were provided with temporary accommodation during this period.<sup>290</sup>

An important improvement evolved in access to the procedure in Bulgaria for 'self-reporting asylum seekers' who entered Bulgaria undetected by the police. As of 2022, these third-country nationals can appear on their own directly at a reception centre of the State Agency for Refugees and apply for protection, while in the past they would be directed to the police where they would be subject to detention.<sup>291</sup>

In October 2022, France established a new branch office of the Office for the Protection of Refugees and Stateless Persons (OFPRA) in Mayotte to lodge applications for international protection.<sup>292</sup>

In November 2022, the French Council of State [dismissed](#) a request for urgent interim measures concerning 234 persons disembarked from the ship Ocean Viking in Toulon. The council judged that the disembarkation process happened according to the law, civil society organisations had access to a designated temporary waiting zone after a few hours, OFPRA swiftly conducted interviews and 66 asylum applicants were allowed to enter the French territory, and the judiciary annulled detention for the majority of people. Forum Réfugiés-Cosi provided their overview of the events and noted some elements in the process which, in their view, would require more clarity in the future, especially in the relocation of applicants to other Member States.<sup>293</sup>

In the Netherlands, authorities introduced measures to continue processing cases despite significant challenges in reception capacity. This resulted in the timely registration of applications, even though applicants had to remain in emergency or crisis reception facilities.<sup>294</sup> Afghans arriving in the Netherlands through evacuation processes were quickly registered and given access to the asylum procedure.<sup>295</sup> Family members joining relatives who were recognised as beneficiaries of international protection and did not require accommodation were registered (by appointment) in Zevenaar since December 2021, thus alleviating pressure on registration capacity in Ter Apel.<sup>296</sup>

In order to streamline the procedure, Slovenia adopted amendments to the rules on the procedure for foreigners who wish to apply for international protection and on the procedure for accepting applications for international protection, which came into force in October 2022. The amended rules include the obligation to inform a foreigner about the possibility of applying for international protection when there is an indication of such a need, and the



written statement on the reasons for applying for international protection is no longer required in the preliminary procedure.<sup>297</sup>

On 19 January 2022, the Brussels first instance tribunal **ordered** the Belgian state to end the impossibility for applicants to register their application for international protection and stated that Fedasil should have foreseen appropriate structures to accommodate an increasing number of applicants (see *Section 4.7*). Minors, families with children and particularly vulnerable applicants were given priority and allowed to enter in order to apply for asylum and receive a reception place. Many of the single men were refused access to the asylum procedure and requested to return on an unspecified date.<sup>298</sup> At the end of 2022, civil society organisations estimated that there were 3,000 persons who had not been offered reception.<sup>299</sup>

The ECtHR indicated interim measures in five cases throughout 2022, concerning approximately 600 persons, and ordered Belgium to provide material reception conditions to these applicants. As the particular issue of delays in accessing registration was not raised, the court did not address these delays.<sup>300</sup> By 31 January 2023, the court had taken 1,132 interim measures concerning 1,133 asylum seekers.<sup>301</sup> In order to alleviate the pressure on the arrival centre, the registration process was reorganised and applicants were required to report again directly to the Immigration Office in the Pacheco building instead of the arrival centre.<sup>302</sup> Efforts to recruit staff continued in general, including registration staff. While ensuring adequate reception for applicants remained a salient issue throughout 2022 and the beginning of 2023, by the end of 2022, the Immigration Office managed to register all applicants on the day of requesting international protection.

The Movement of Asylum Seekers in Ireland (MASI) expressed alarm at the delays in accessing the asylum procedure after people declared that they are seeking international protection.<sup>303</sup> This situation persisted for a number of months, and the Irish Refugee Council called for clarity and action on the registration of applications for international protection.<sup>304</sup> In an effort to speed up procedures, Irish authorities, with assistance from UNHCR, took steps to shorten the initial questionnaire and simplified the language to make the process more accessible in 2021. The initial questionnaire could also be submitted electronically, and further action was being taken to translate the document into additional languages. At the end of 2022, a new procedure was introduced to accelerate the application process. Applicants in reception complete a preliminary interview, an application for international protection and a new questionnaire with the help of interpreters and cultural mediators.<sup>305</sup>

Several Italian civil society organisations reported on persisting barriers in accessing the asylum procedure in various territories of the country.<sup>306</sup> In some cases, it was observed that applicants had to wait several weeks before they could register their application.<sup>307</sup> The Tribunal of Rome **ordered** the Questura to register the application of an applicant who was refused access to the premises and was told for several days to return the following day as the daily capacity for registrations had been reached.

#### 4.1.2.3. Online appointment systems for the registration of applications for international protection



Circular 5049/2022 introduced a new registration procedure for first-time applicants in Greece. The Skype service was discontinued, and instead applicants could make an appointment through an online platform either in Thessaloniki or Attica. Applicants undergo a reception and identification



procedure in a Reception and Identification Centre (RIC) or a Closed Controlled Access Centre (CCAC), and they are required to stay in the facility throughout this process, for a maximum of 25 days.<sup>308</sup> Civil society organisations observed that this period was often longer in practice as a 5-day quarantine period applied (see *Section 4.7*) and noted that this practice was *de facto* detention (see *Section 4.8*).<sup>309</sup> Civil society organisations also observed several barriers in accessing the asylum procedure for subsequent applicants or for applicants coming from a safe third country (see *Sections 2 and 4.3*).<sup>310, 311</sup>

The Spanish Jesuit Refugee Service,<sup>312</sup> Convive-Fundación Cepaim<sup>313</sup> and CEAR<sup>314</sup> in Spain observed issues in accessing the asylum procedure since the establishment of an online appointment system for the registration of applications. Appointments were often available only after several weeks, and many applicants had difficulties in navigating the website, which was available only in Spanish.<sup>315</sup> SOS Racism reported on a technical failure which resulted in appointment requests getting lost.<sup>316</sup> UNHCR reiterated its concern about accessing the asylum procedure.<sup>317</sup> The Spanish Ombudsperson underlined the impact these delays had on associated rights for applicants, such as access to housing, medical care, psychosocial support and other social benefits.<sup>318</sup>

### 4.1.3. Data on applications for international protection

#### Nearly a million applications lodged across EU+ countries



About 996,000 applications for international protection were lodged in EU+ countries in 2022, up by about one-half from 2021 and two-fifths higher than the pre-COVID level of 2019. More applications were lodged in nearly all EU+ countries, except in Malta, Lithuania and Liechtenstein (where they decreased), as well as Latvia (where they remained stable).

While the EU+ total remained well below the high of 2015, the number of applications exceeded 2015 values in several countries. In fact, as illustrated in Figure 1, France, Spain, Austria and, at lower levels, Cyprus, Bulgaria, Ireland, Croatia, Romania, Slovenia, Iceland, Estonia, Portugal and Latvia (in descending order) received the most applications on record.<sup>x, xi</sup> In many others, notably the Netherlands, Belgium, Switzerland and, at lower levels, Poland, Finland, Norway, Denmark and Slovakia (in descending order), the most applications since at least 2016 were recorded. The rise in applications came in addition to about 3.9 million beneficiaries of temporary protection, as reported by Eurostat.<sup>xii</sup>

As in previous years, 7 in 10 applicants (71%) were male in 2022, with their share remaining stable compared to 2021. Applicants aged 18-34 years, predominantly men, accounted for

<sup>x</sup> Since at least 2008 (except for Croatia, for which data are available since 2013). According to Eurostat data, Bulgaria had the same number of applications in 2022 and 2015. However, national statistics indicate that the number in 2022 was marginally higher. Source: State Agency for Refugees at the Council of Ministers | Държавната агенция за бежанците при Министерския съвет. (2023). *Информация за броя лица, подали молба за международна закрила и броя на взетите решения в периода 1993 – 2022 г* [Information on the number of persons applying for international protection and the number of decisions taken between 1993 and 2022]. [https://aref.government.bg/sites/default/files/uploads/docs/2023-01/Applications-Decisions-1993-2022-bulg\\_12.xlsx](https://aref.government.bg/sites/default/files/uploads/docs/2023-01/Applications-Decisions-1993-2022-bulg_12.xlsx)

<sup>xi</sup> Annual data were missing for Iceland. The annual total was estimated using the sum of monthly data (Eurostat: [migr\\_asyappctzm](#) as of 13 April 2023).

<sup>xii</sup> Based on beneficiaries of temporary protection at the end of December 2022 (Eurostat: [migr\\_asytpsm](#) as of 13 April 2023).

more than one-half of all applicants in 2022, while one-quarter were younger than 18. Only one-fifth of all applicants were older than 35. The distribution of applicants by age group was similar to previous years, with men accounting for the majority in each age group except among applicants aged over 65.

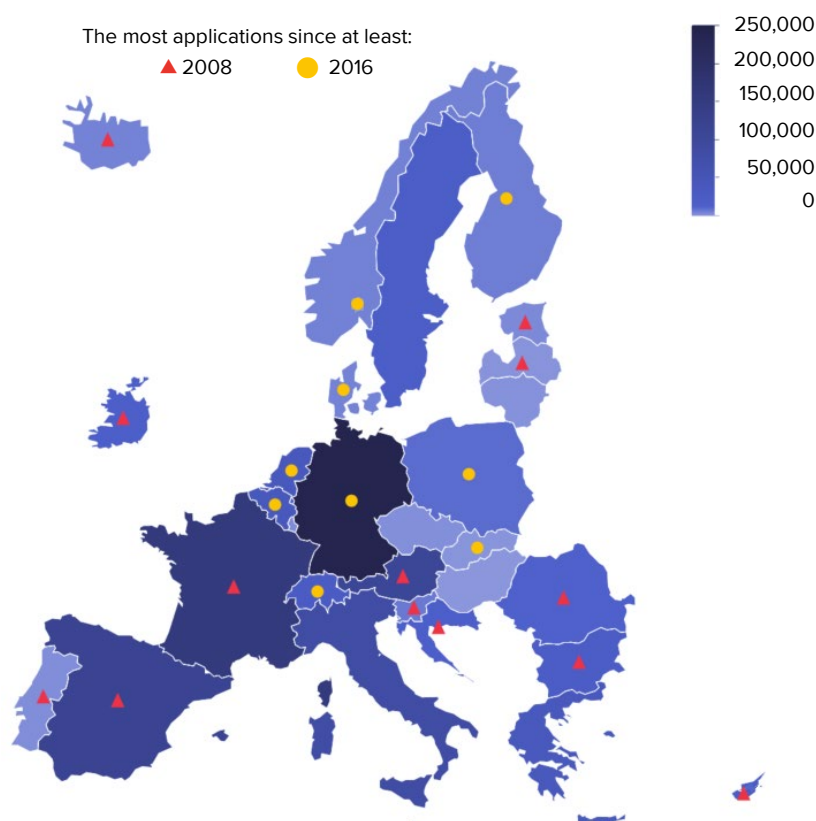
Across EU+ countries, 7 out of every 10 applications were lodged in the Top 5 receiving countries – namely Germany, France, Spain, Austria and Italy (in descending order). Germany (244,000) continued to be the main receiving country, with applications increasing by more than one-quarter from 2021, to the highest level since 2016. It was followed at a distance by France (156,000), where applications rose by 30% from 2021 and reached the most since at least 2008. Applications lodged in Spain (118,000) increased by about four-fifths, following a decline in the 2 previous years.

Applications in Austria (109,000) rose the most in absolute terms, nearly tripling from 2021. This was partially driven by stronger secondary movements, increased flows along the Balkan route and visa-free policies of some Western Balkan countries. Linked to this, applications in Bulgaria (20,000) returned to the peak of 2015 and were the highest on record in Romania (12,000).



### All-time highest number of applications in 13 EU+ countries

**Figure 1. Applications for international protection by EU+ country, 2022**



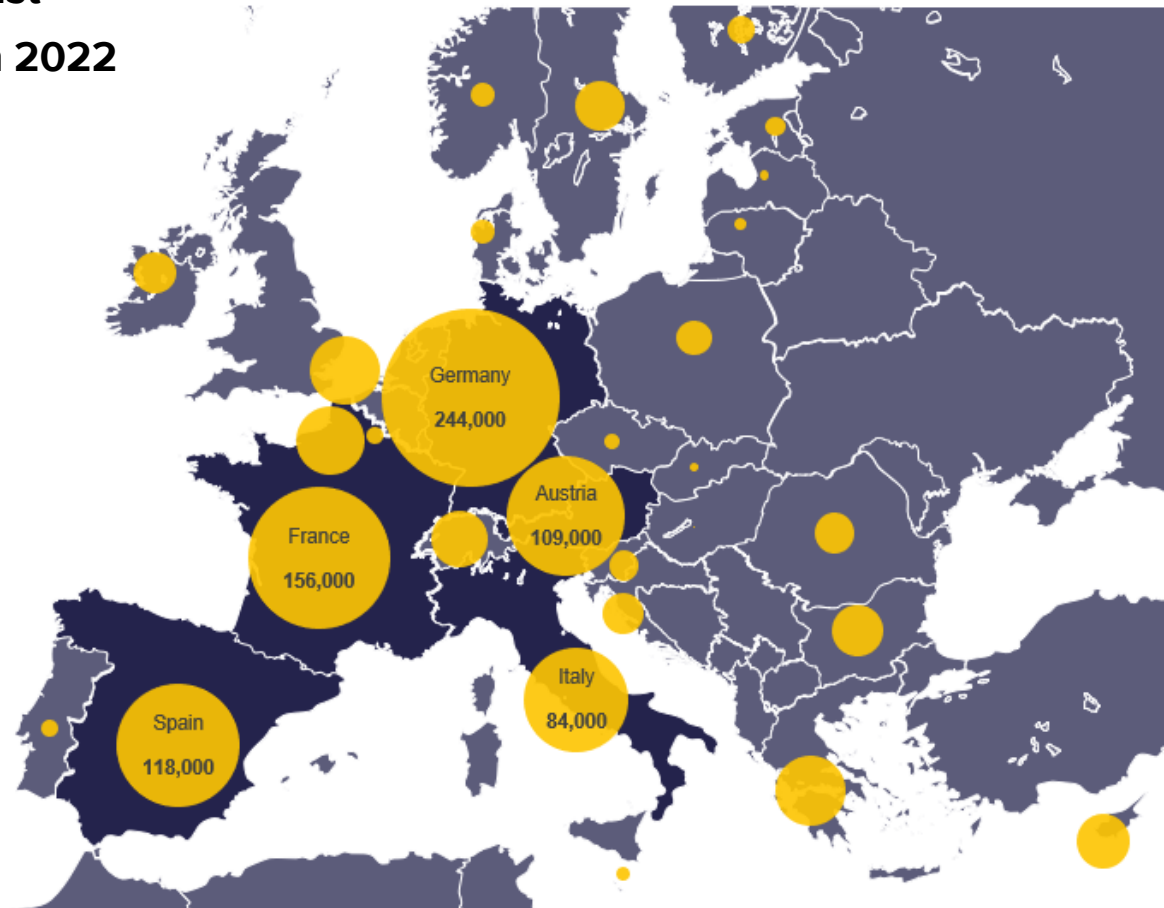
**Note:** Annual data were missing for Iceland. The annual total was calculated as the sum of monthly applications.  
Source: Eurostat [[migr\\_asyappctza](#), [migr\\_asyappctzm](#) for Iceland] as of 13 April 2023.



# Protection needs in Europe reached a new high

70% of asylum applications  
were received in just  
**5 EU+ countries in 2022**

Country	Number of applicants
Germany	244,000
France	156,000
Spain	118,000
Austria	109,000
Italy	84,000
Greece	37,375
Netherlands	37,020
Belgium	36,740
Switzerland	24,440
Cyprus	22,190
Bulgaria	20,390
Sweden	18,605
Ireland	13,660
Croatia	12,870
Romania	12,355
Poland	9,810
Slovenia	6,785
Finland	5,780
Norway	4,840
Denmark	4,565
Estonia	2,945
Luxembourg	2,445
Portugal	2,115
Czechia	1,685
Malta	1,320
Lithuania	1,025
Latvia	620
Slovakia	545
Hungary	45

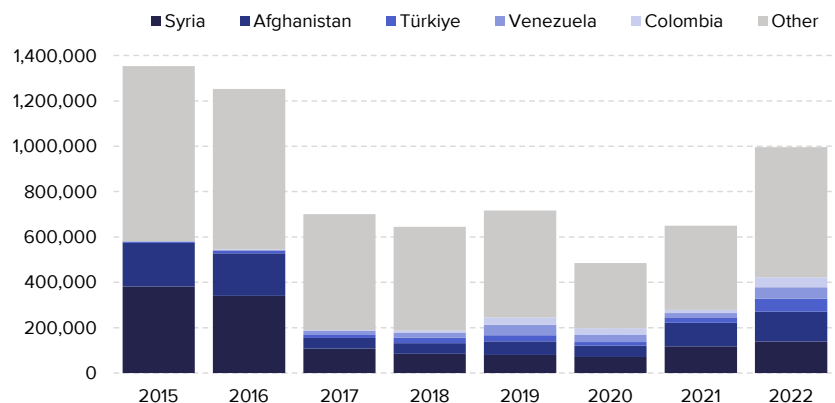


Nearly **1 million**  
applications lodged  
across EU+ countries



**71%** of applicants  
for international protection  
were male

Main countries of origin of applicants were **Syria** and **Afghanistan**, followed by **Türkiye**, **Venezuela**, and **Colombia**





Nationals of Syria, Afghanistan, Türkiye, Venezuela and Colombia lodged the most applications in 2022. While the record levels of 2015 and 2016 were primarily driven by applications for international protection by persons coming from Syria, Afghanistan and Iraq, the current increase stems from a much wider range of nationalities (see *Figure 2*).

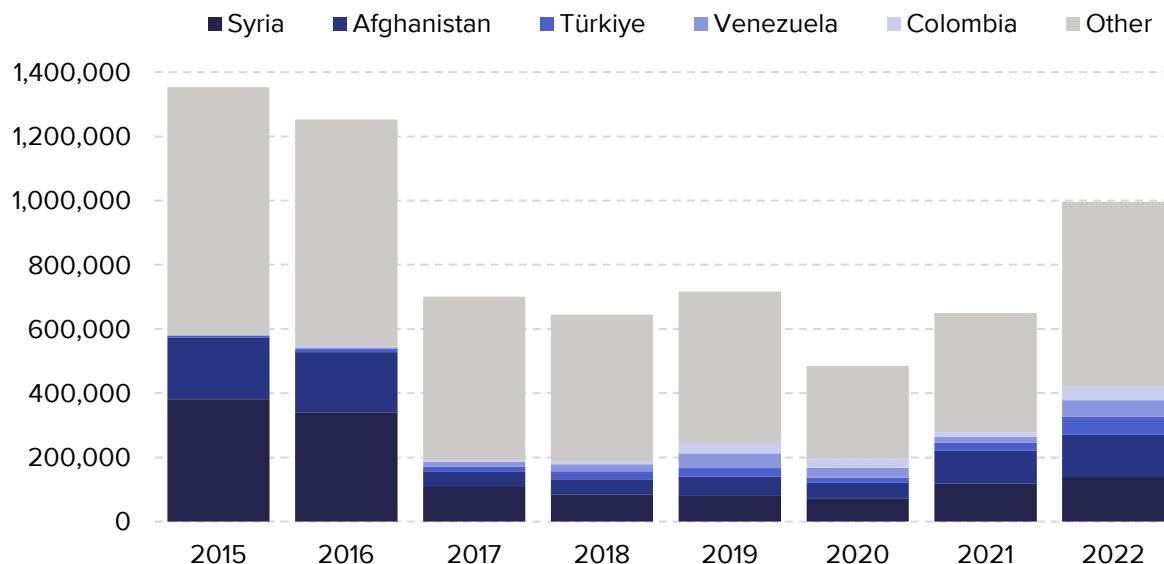
In 2015 and 2016, applicants from Syria accounted for more than one-quarter of all applications, whereas in 2022 they represented one-seventh. In fact, in 2022, the number of applications by nationals of Syria and Afghanistan were the highest since 2016, while for several other groups – including nationals of Türkiye, Venezuela and Colombia – they were the highest on record. The number of applicants from Türkiye more than doubled from 2021, while applicants from Venezuela and Colombia increased by about three times each.

At lower levels, the number of applicants from India increased by more than six times to the highest level since at least 2008, with three-quarters of them applying in Austria. At the same time, citizens of Bangladesh, Georgia, Ukraine, Morocco, Tunisia, Egypt, the Democratic Republic of the Congo, Peru, Moldova, Burundi, Palestine, Belarus, Yemen and Cuba (in descending order) also applied in unprecedented numbers.<sup>xiii</sup>



## Syrians and Afghans lodged the most applications since 2016

**Figure 2. Applications for international protection by top countries of origin, 2022**



**Note:** Data were missing for Iceland. The annual total was calculated as the sum of monthly applications which is included as part of the 'other' citizenships.

Source: Eurostat [[migr\\_asyappctza](#), [migr\\_asyappctzm](#) for Iceland] as of 13 April 2023.

<sup>xiii</sup> Only citizenships with at least 3,000 applications were considered.



In 2022, the largest corridors of applicants and receiving countries consisted of nationals of Syria and Afghanistan applying for international protection in Germany, as well as applicants from Venezuela and Colombia lodging applications in Spain. For the latter two citizenships, Spain received the overwhelming majority of applications, while Germany and Austria received the highest number of applications from citizens of both Syria and Afghanistan.

Following Russia's invasion of Ukraine in February 2022, asylum applications by citizens of Ukraine temporarily peaked in March 2022, then stabilised at lower levels as most of those fleeing the country began to register for temporary protection.

#### 4.1.3.1. Applications for asylum and detected illegal border-crossings

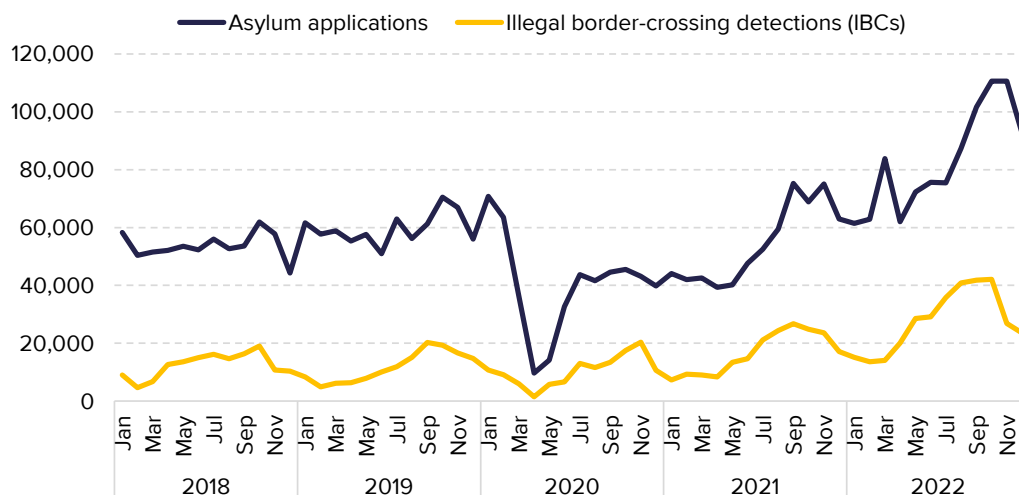
In 2022, around 331,000 illegal border-crossings (IBCs) were detected at the EU's external borders, according to Frontex.<sup>xiv</sup> This is the highest number since 2016 and an increase of two-thirds from the previous year. There were about three times as many asylum applications lodged in EU+ countries than detections of IBCs on entry. The ratio was similar to 2021, although at much higher levels.

As illustrated in Figure 3, the two indicators have followed broadly similar fluctuations: after the pandemic-induced lows of 2020, both have been on the rise for 2 consecutive years. Nonetheless, applications have been rising at a slightly faster pace than detections, leading to a growing gap. In the last months of 2022, the gap widened significantly, due to a marked increase in applications.

**Far more asylum applications were lodged than detected illegal border-crossings**



**Figure 3. Monthly asylum applications and detections of IBCs in EU+ countries, 2018-2022**



Source: Eurostat [[migr\\_asyappctza](#)] as of 13 April 2023 and Frontex [[Detections of illegal border-crossings](#)] as of 3 April 2023.

<sup>xiv</sup> Separately, almost 13 million Ukrainian refugees were counted on entry at the EU's external land borders from Ukraine and Moldova between 24 February 2022 until the end of 2022, which are not included in these figures. In the same period, 10 million Ukrainian nationals were reported on exit at the same border sections.

The overall picture hides some important differences. In some countries located along specific routes, detections outnumbered applications. This was the case along the two main routes for 2022, namely the Western Balkan route and the Central Mediterranean route. There can be multiple explanations for such differences. For example, Hungarian legislation has continued to limit access to the asylum procedure.<sup>xv</sup> Furthermore, certain countries along these routes, such as Croatia, Greece and Italy, were important transit countries for secondary movements. It is thus possible that many of those detected at these borders have subsequently engaged in onward journeys. Finally, detections at the border may comprise repeated attempts, and therefore, the same person may be counted more than once.

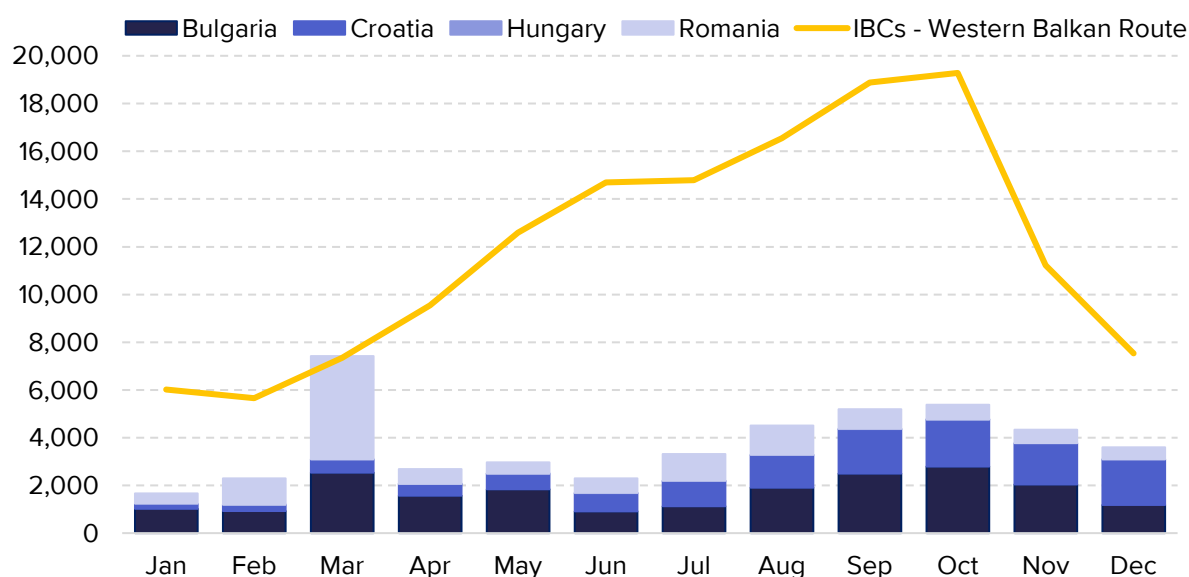
### Situation along the Western Balkan route

In 2022, there were 144,000 IBC detections reported on the Western Balkan route, 134% more than in 2021. Overall, in the countries located along the Western Balkan route, more than three times as many IBCs were detected than asylum applications lodged in 2022. As illustrated in Figure 4, detected IBCs followed an upward trend between March (7,300) and October (19,300).



### Detections of illegal border-crossings outpaced asylum applications in countries along the Western Balkan route

**Figure 4. Monthly asylum applications and detections of IBCs along the Western Balkan route, 2022**



Source: Eurostat [[migr\\_asyappctza](#)] as of 13 April 2023 and Frontex [[Detections of illegal border-crossings](#)] as of 3 April 2023.

<sup>xv</sup> Article 268 of the decree promulgated by the Hungarian government (Act LVIII of 2020) stipulates that individuals must express their intent to seek asylum at a Hungarian embassy located in neighbouring, non-EU states and prescribes the immediate removal from the territory of any person who crosses the border unlawfully, including individuals who express an intent to seek asylum.

Applications for international protection spiked in Romania in March 2022, as many Ukrainian nationals applied for asylum prior to the activation of the Temporary Protection Directive. Otherwise, applications lagged behind IBCs and began to increase more notably around July 2022, peaking at 5,400 in October 2022.

More than one-half of IBCs detected along this route involved citizens of Syria (80,000), while citizens of Afghanistan (23,000) accounted for another one-sixth. These two citizenships were the main nationalities driving the increase in 2022. In terms of applications for international protection, the top two nationalities were also Syrians and Afghans, who accounted for just over two-fifths of applications lodged in the countries along this route.

At lower levels, detections of persons from Türkiye (8,800), India (7,000), Tunisia (6,800), Morocco (3,100) and Burundi (2,300) reached unprecedented levels, while Pakistanis (6,400) and Iraqis (1,900) were detected the most since 2015 and 2016, respectively.<sup>xvi</sup> The sudden rises for Turks, Indians, Tunisians and Burundians along this route were linked to the visa policy in Serbia, which allows these citizenships visa-free entry, in contrast with the visa regime of EU+ countries. Citizens of Iraq (3,300), Türkiye (2,100), Burundi (2,000), Morocco (1,900), India (1,600) and Pakistan (1,100) were also among the main nationalities applying for international protection in the countries along the Western Balkan route.

Under pressure from the EU, Western Balkan countries withdrew visa exemptions for a range of nationalities towards the end of 2022. As a result, IBCs detected along the Western Balkan route declined (see *Figure 4*) and asylum applications, which typically respond with a lag, also reversed their upward trend.<sup>xvii</sup>

### Situation along the Mediterranean routes



The number of detections in the **Central Mediterranean route** rose by more than one-half to about 106,000 in 2022, making it the second-most important route after the Western Balkan one. For the third consecutive year, detections of IBCs along the Central Mediterranean route outnumbered asylum applications in Italy and Malta, the two countries along this route. While asylum applications lodged in Malta were lower than in the previous year, applications in Italy increased by over one-half in 2022. Illegal arrivals surged in May 2022 and increased further in July and August 2022 (see *left side of Figure 5*), and then asylum applications began to rise in August 2022, albeit at a slower pace. The overall gap was largely due to many more Afghans, Egyptians, Ivorians, Tunisians and Syrians detected at the border than lodging asylum applications.

In 2022, about 44,000 IBCs were detected on the **Eastern Mediterranean route**. Figures more than doubled compared with 2021, yet remained below the level of 2019 by one-half. Nationals of Syria (8,600), Afghanistan (5,100), Nigeria (3,900) and the Democratic Republic of Congo (3,800) were the top groups, all detected in far higher numbers than in 2021. As in previous years and as illustrated on the right side of *Figure 5*, more asylum applications were lodged in countries along this route than IBCs detected. Compared to 2021, the gap narrowed as IBCs more than doubled, while applications increased by about one-half. The increase in applications was driven by more applications in all three countries, however due to its

<sup>xvi</sup> Only citizenships with more than 1,000 detections of IBCs along the Western Balkan route in 2022 were considered. Unprecedented levels imply that the number recorded in 2022 was the highest in publicly-available data from Frontex, i.e. since 2009.

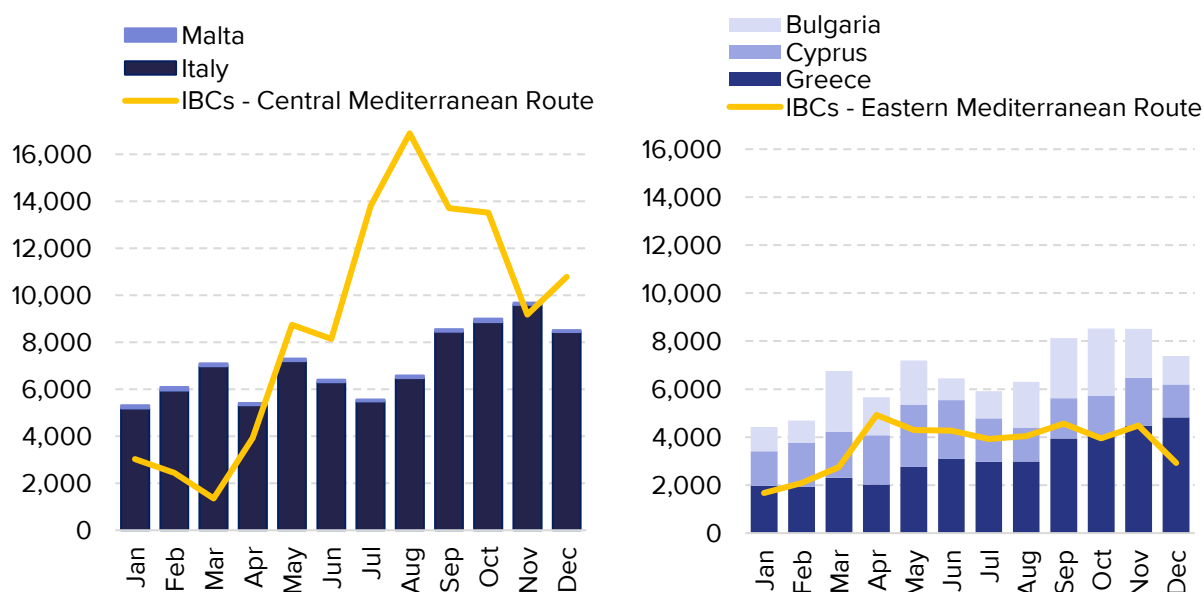
<sup>xvii</sup> Schengenvisa, [Serbia Reintroduces Visas for Tunisia & Burundi Nationals Due to EU Pressure](#), 24 October 2022.

geographic location, asylum applications in Bulgaria are likely to have been influenced by developments along the Western Balkan route too.



## Rise in illegal border-crossings along the Central Mediterranean route triggered increase in asylum applications

**Figure 5. Monthly asylum applications and detections of IBCs along the Central Mediterranean route (left) and the Eastern Mediterranean route (right), 2022**



Source: Eurostat [[migr\\_asyappctza](#)] as of 17 March 2023 and Frontex [[Detections of illegal border-crossings](#)] as of 3 April 2023.

Contrasting with the other two Mediterranean routes, there was a decrease in migratory pressure on the **Western Mediterranean route**. There were 15,000 IBC detections in 2022 along this route, representing around one-fifth fewer detections than in the previous year.

### Western African route



Similarly, on the **Western African route**, there were 15,000 arrivals in 2022, which was 31% less than in 2021. As in previous years, most detections along the Western Mediterranean and Western African routes related to persons from Africa, although along the Western Mediterranean route they were detected in fewer numbers in 2022.

The lower number of arrivals from Africa was also reflected in fewer asylum applications in Spain lodged by nationals of African countries. This decrease in applications, however, was outweighed by increases in applications from other nationalities, mainly Venezuelans and Colombians. In fact, total asylum applications in Spain increased significantly in 2022 and were the highest on record.

#### 4.1.3.2. Data on socioeconomic indicators to analyse trends in asylum in Europe



The impact of the inflows of asylum seekers to EU+ countries depends not only on the magnitude of asylum applications but also on various factors, such as the country's GDP, population size or territory size. To gauge the pressure on national asylum and reception systems, Figure 6 ranks EU+ countries according to the number of applications they received relative to these three indicators.

Countries shaded in blue received fewer applications than the EU+ baseline, while those shaded in red received more.

For 2022, the strain on individual EU+ countries must be taken in a wider context given the high number of persons registered for temporary protection. Countries such as Poland and Czechia rank low in terms of the indicators presented in Figure 6, yet had the second- and third-highest number of beneficiaries of temporary protection in EU+ countries by the end of 2022, respectively, implying that their reception systems may be under a different form of strain.<sup>xviii</sup>

In Figure 6, countries are listed in decreasing order based on applications relative to population size (middle circle), with Cyprus topping the list with about 2,500 applications per 100,000 inhabitants in 2022. Austria and Iceland followed closely behind, with 1,200 applications lodged per 100,000 inhabitants each, while Luxembourg received 379 applications per 100,000 inhabitants.<sup>xix</sup> Other countries still received relatively high numbers of applications, ranging from Greece, Croatia, Slovenia, Belgium, Bulgaria, Germany, Switzerland, Ireland, Malta and Spain (in descending order).

On average, about 216 applications per 100,000 inhabitants were lodged across EU+ countries in 2022, with 15 of the 31 EU+ countries receiving fewer applications per 100,000 inhabitants. The countries which received the least asylum applications per capita were Hungary, Slovakia and Czechia (less than 1, 10 and 16 applications per 100,000 citizens, respectively).

Relative to the territorial size of countries, most applications continued to be lodged in Malta (4 per square km). At quite some distance, other countries with relatively high ratios of applications per territorial area included Cyprus, Austria and Belgium (inner circle in Figure 6). Looking at the EU+ as a whole, 0.2 applications were lodged per square km.

GDP is a measure of a nation's economic output and it provides insight into the size and strength of its economy. As in previous years, Cyprus (82) received the most applications relative to GDP. It was followed by Austria and Bulgaria, with about 24 applications each, a consequence of the surge in applications in both countries from the previous year. Hungary, Slovakia and Czechia were at the other end of the spectrum (in ascending order, outer circle in Figure 6).

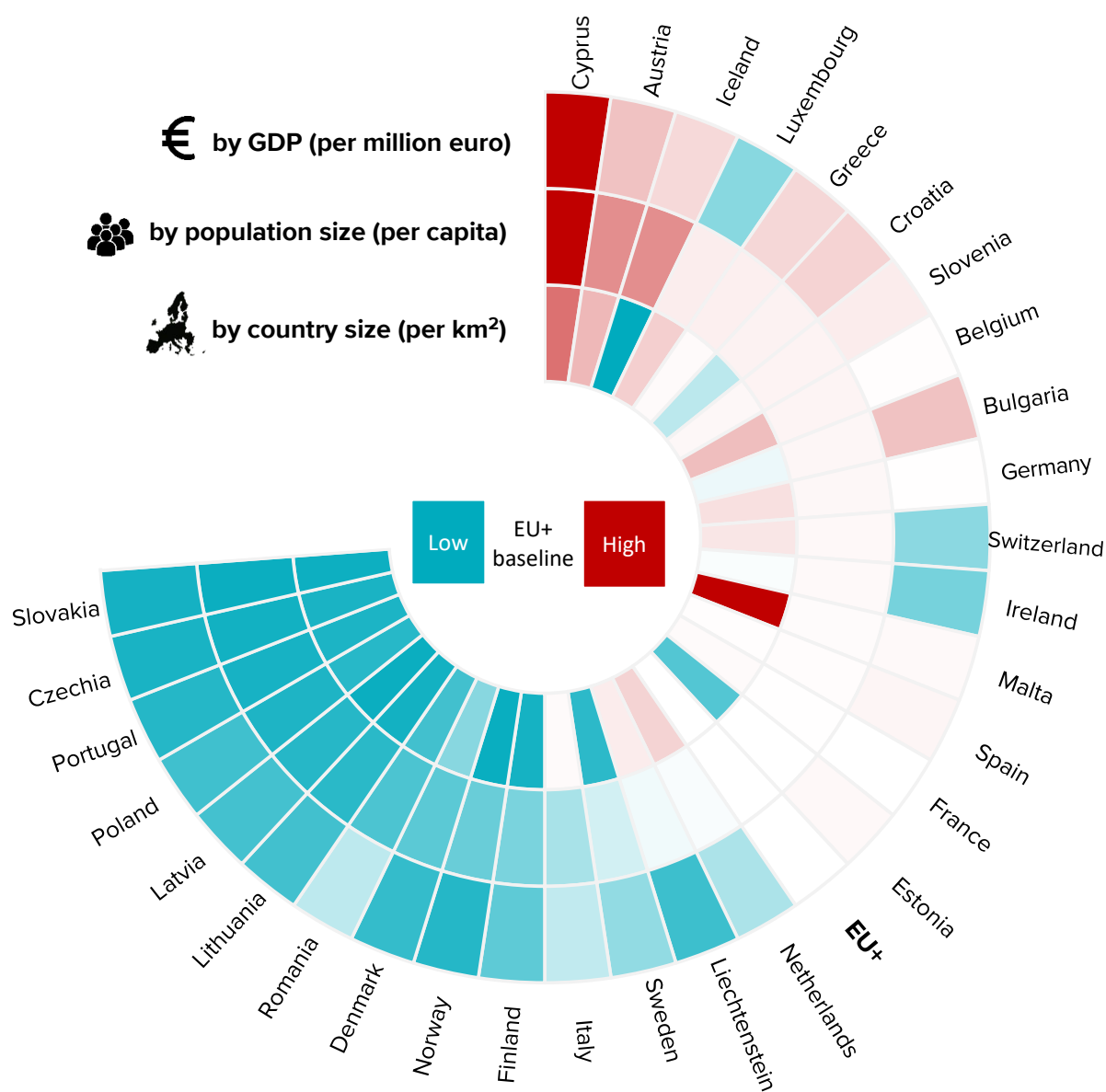
<sup>xviii</sup> Based on the number of beneficiaries of temporary protection at the end of December 2022 (Eurostat: [migr\\_asytpsm](#)).

<sup>xix</sup> Annual data were missing for Iceland. The annual total was estimated using the sum of monthly data (Eurostat: [migr\\_asyappctzm](#) as of 13 April 2023).



## In relative terms, most applications were received in Cyprus

**Figure 6. Applications for international protection relative to GDP, population and country size, 2022**



**Notes:** Countries are sorted by the number of applications received relative to population size (clockwise from highest to lowest). The shades indicate the relative number of applications received compared to the EU+ baseline (midpoint) for each of the three indicators. Data on GDP for Liechtenstein refer to 2020.

Source: Eurostat for asylum applications [[migr\\_asyappctza](#) and [migr\\_asyappctzm](#) for Iceland] as of 13 April 2023, population [[demo\\_pjan](#)] as of 4 April 2023 and GDP [[nama\\_10\\_gdp](#)] as of 19 April 2023, and the World Bank [[AG.SRF.TOTL.K2](#)] as of 1 March 2023.

## Section 4.2. The Dublin procedure

The Dublin III Regulation is the cornerstone of CEAS which aims to define a clear and workable method to determine which Member State is responsible for the examination of an application for international protection. Its objective is to guarantee that each person has effective access to the asylum procedure and that each application will be examined by one Member State only.



To achieve these objectives, the Dublin III Regulation establishes a set of hierarchical criteria under Chapter III to determine the Member State which is responsible for the examination of an asylum application. These include:

- Criteria to protect family unity and unaccompanied minors (Articles 8-11 and 16);
- Criteria on the responsibility of the Member State which played the greatest part in the applicant's entry into or residence in the country (Articles 12-15); and
- If the first two do not apply, the responsible Member State is the one where an application for international protection was first lodged.

Member States may also assume responsibility based on the discretionary clauses of the regulation.

The Dublin III Regulation is applied by all EU Member States and four associated countries (Iceland, Lichtenstein, Norway and Switzerland). Throughout this section, the term Member States covers the associated countries as well.





Developments towards a new solidarity mechanism to complement the Dublin system continued at the EU level in 2022. The Solidarity Declaration was signed by 18 Member States and 3 associated countries under the French Presidency of the Council of the EU in June 2022, establishing a one-year Voluntary Solidarity Mechanism coordinated by the European Commission. The agreement would ensure adequate support to Member States of first entry along the Mediterranean and Atlantic routes and take into account the pressure on all Member States due to increased arrivals as a result of Russia's invasion of Ukraine.<sup>319</sup>

This temporary mechanism is also seen as an opportunity to pave the way for discussions for a more permanent solution under the proposed Asylum and Migration Management Regulation.<sup>320</sup> Member States underlined their commitment to tackle the secondary movement of persons seeking protection by increasing the implementation of Dublin transfers.<sup>321</sup> In addition, the Council adopted the negotiating mandate on the proposed Eurodac and Screening Regulations, which helps to better follow the paths of applicants for international protection and persons in irregular situations (see *Section 2*).

Under the current EU legal framework, Member States, the European Commission and the EUAA developed a roadmap in 2022 to improve the implementation of transfers under the Dublin III Regulation, and Member States started to apply the practical solutions defined in the roadmap to overcome the main obstacles in executing transfers in 2023.<sup>322</sup>

At the national level, Member States continued with their efforts to carry out Dublin transfers more efficiently. One of the main issues for Dublin units in 2022 was the lack of staff and high turnover rates, making it more challenging to address the increasing workload. While COVID-19 restrictions were gradually lifted in 2022 (with Member States no longer requiring a negative PCR test or proof of vaccination prior to a Dublin transfer), the impact of the pandemic lingered on. Organising transfers continued to be challenging with fewer flights and frequent last-minute cancellations of flights.

The war in Ukraine impacted national Dublin units in various manners. For example, Dublin case officers were re-assigned to support the arrival of persons in need of temporary protection. The lack of resources in terms of staff or reception places led to situations where certain countries did not temporarily accept incoming Dublin transfers. The interlinkage between the Dublin III Regulation and the activation of the Temporary Protection Directive needed to be clarified, and it was established that persons with temporary protection should not be considered as applicants for international protection in this context and their data should not be registered in Eurodac.

Courts continued to assess the possibility of implementing Dublin transfers in individual cases and were faced with questions on the scope and limits of mutual trust between EU+ countries, the impact of differences in asylum policies, concerns around accessing the asylum procedure for applicants transferred under the Dublin III Regulation to the responsible Member State and their reception conditions, as well as the use of detention in the context of the asylum procedure.

The CJEU delivered several preliminary rulings on the interpretation of the Dublin III Regulation, requiring Member States to adapt their legislation and policies accordingly. This was seen, for example, in case [C-19/21](#) in which the court clarified that unaccompanied minors have the right to appeal a rejected take charge request.



## 4.2.1. Institutional and staff changes to manage the Dublin procedure



The workload for Dublin units typically increased throughout 2022, as the number of applications for international protection significantly grew in general (see *Section 4.1.3*). Several national authorities, for example in Austria, Belgium, Cyprus, Germany, Greece, Norway, Romania and Switzerland, noted that a shortage of staff was one of the main challenges in 2022 to manage the increasing workload related to Dublin cases. The recruitment of new staff continued (for example in Belgium, Germany, Norway and Sweden), while staff turnover was highlighted as a significant challenge in Czechia, Finland, France and Malta.

Staff from Dublin units were often temporarily re-assigned to help with the registration of persons requesting temporary protection in spring 2022, for example in Bulgaria, Luxembourg, Poland, Romania, Slovakia and Switzerland. In Member States next to Ukraine, Dublin transfers were temporarily halted due to the general situation in asylum and reception, and Dublin staff were re-assigned to other tasks for longer periods. In Bulgaria, the re-assignment of staff created a temporary backlog in ongoing Dublin cases. In Switzerland, there were general delays in the asylum procedure (including the Dublin procedure) caused by both the increase in applications in general and the workload related to temporary protection. The daily tasks of Dublin units seemed to have been less impacted by the activation of the Temporary Protection Directive in the last quarter of 2022.

In Ireland, a specific division within the Dublin unit was established in March 2022 in order to examine applications pursuant to Article 17.

## 4.2.2. Policy changes for a more efficient implementation of the Dublin procedure



Members States continued to face several challenges in the implementation of Dublin transfers in 2022. In addition to the EU-level initiative of a roadmap,<sup>323</sup> some countries undertook actions at the national level to improve the implementation of Dublin transfers. In March 2023, seven countries – Austria, Belgium, Denmark, France, Germany, the Netherlands and Switzerland – called for strengthened cooperation on the Dublin procedure and reaffirmed their commitment to reform the Dublin system through the Asylum and Migration Management Regulation and the Asylum Procedure Regulation.<sup>324</sup> Policy changes on the Dublin procedure were triggered by the increase in applications for international protection and the arrival of Ukrainians in need of protection.

Belgium, for example, applied comprehensive measures to shorten the time of the Dublin procedure and increase transfer rates. The accelerated procedure for specific, predefined potential Dublin cases was revised. A new reception facility opened in August 2022 to accommodate a group of applicants in the Dublin procedure, in parallel to the regular reception system. Case officers from Dublin units are on site at the reception centre to carry out Dublin interviews and follow-up on cases after a transfer decision has been issued. The centre is operated by the Immigration Office, in collaboration with Fedasil, with a capacity of 220 places, but not all places could be used in 2022 due to staff shortages.



In the Netherlands, the Minister for Migration announced that the Track 1 procedure, which was established for applicants in the Dublin procedure, would be standardised and made more efficient as part of general mitigation measures to alleviate pressure on the asylum system. In addition, the government planned changes so that applicants in the Dublin procedure would be offered more moderate material reception conditions, in line with shorter processing times which are foreseen, thus limiting the time and purpose of a stay in reception.<sup>325</sup>

The Dutch asylum chain partners conducted a successful one-time joint action. While usually one detention order per day is handed down, the cooperation between the different stakeholders made it possible to implement detention orders for nine applicants at the same time. The applicants had registered again in the application centre, after having been in the Dublin procedure in the Netherlands and absconding before the implementation of the transfer.<sup>326</sup> While authorities have focused on improving the implementation of transfers, the Regional Court of The Hague underlined that a transfer cannot be initiated and scheduled while the case is pending an appeal or a review.

Some countries issued or revised various types of guidance and instructions related to the Dublin procedure. In Bulgaria, in June 2022 the government adopted amendments to the ordinance regulating coordination between the asylum and police (border and immigration) administrations when implementing the Dublin III Regulation.<sup>327</sup> The amendments updated and clarified the division of responsibilities among these authorities.

In Italy, the Ministry of the Interior published a new circular in January 2022 which clarified the connection between an application for a special protection permit (a national form of protection established in 2020)<sup>328</sup> and the Dublin procedure. Based on the opinion of the Dublin unit, the commission underlined that the application for special protection should be considered inadmissible if the person has also applied for international protection and has been waiting for the Dublin unit's decision on the Member State which is responsible or the court's decision in an appeal against a transfer decision.<sup>329</sup> On 20 October 2022, the Civil Court of Venice ruled that the practice, based on a note distributed by the Dublin unit, to prevent applicants for international protection in the Dublin procedure from applying for the special protection permit (a national form of protection, see *Section 4.14*) contradicts the law.

The Norwegian Immigration Regulations were amended to define which categories of applicants can be given 'collective protection' (which is similar to temporary protection in the EU legal framework). The Ministry of Justice and Public Security followed up with guidelines to clarify that the Dublin III Regulation did not apply to people under collective protection.

Slovakia adopted a provision in its national legislation on the suspension of a transfer decision when a third-country national under the Dublin procedure absconds.<sup>330</sup>

In France, the Council of State analysed the right to material reception conditions for applicants who refused to appear for their Dublin transfer to the Member State responsible. It ruled that this act can be considered as a serious breach of house rules, entailing the withdrawal of the reception place and the applicant's expulsion from the facility (see *Section 4.7 Reception of applicants for international protection*).

In contrast, the Belgian Council for Alien Law Litigation (CALL) ruled that a similar failure to appear for an interview for a voluntary transfer does not necessarily imply that the applicant tried to evade the authorities. The case concerned an applicant who could not be contacted



by police on two consecutive days at his place of residence. CALL cited its case law that accepting a voluntary transfer would mean that the applicant no longer wants to appeal the transfer decision, so his behaviour does not necessarily mean that he deliberately tried to evade the authorities. As a result, the council concluded that this cannot be considered as absconding and cancelled the extension of the transfer time limit.<sup>331</sup>

The CJEU **ruled** that a Dublin transfer cannot be implemented during the reflection period provided to victims of human trafficking by Directive 2004/81/EC. However, a transfer decision may be adopted and preparatory measures can be undertaken during this period, provided that these do not render the reflection period ineffective (see *Section 2.6*).

Courts examined the legality of measures used by national authorities to use detention to ensure the implementation of a Dublin transfer when there is a risk of absconding (see *Section 4.8*). For example, the Slovenian Supreme Court **found** that there was a genuine and immediate risk of absconding by an applicant who was supposed to be transferred back to Romania but expressed several times that his intended final destination was Austria.

In another case, the same court **confirmed** that the authorities may first order the detention of an applicant and then start the administrative procedure to request a response from the Member State responsible for the applicant's readmission. The Swiss Federal Court **concluded** that the requirements and timelines laid down in the Dublin III Regulation, Article 28, as interpreted by the CJEU, take precedence over national legislation when it is not compatible with the regulation. Thus, the applicant could be detained for only 6 weeks, and the extension of the detention for 3 months was illegal.

For the purposes of extending the transfer time limit under the Dublin III Regulation, Article 29(2), the CJEU **confirmed** that the non-voluntary committal of an applicant to a hospital psychiatric department is not considered to be imprisonment (see *Sections 2.6 and 4.8*).

Regarding the responsibility of a state for a family member, the Supreme Administrative Court in Austria **clarified** in December 2022 that a Member State is responsible for examining an application for international protection when applying Article 9 of the Dublin III Regulation if the request for reunification is expressed in writing. The article refers to family members of an applicant – regardless of whether the family already existed in the country of origin – who is a beneficiary of international protection and has the right to reside in a Member State. This regulation not only allows the persons (the applicant and the beneficiary of international protection) to have a say but gives them the power to decide whether they want to be reunited, ruling out the possibility that people are brought together against their will. Within the framework of the right to information, the applicant must be informed of the requirement of this declaration (Dublin III Regulation, Article 4(1b-c)), and in the event of such a request by the applicant, it must be verified that the beneficiary of international protection agrees to a reunification. (VwGH Decision, 15.12.2022, Ra 2022/18/0182).

## 4.2.3. Practical implementation of Dublin transfers

### Impacts of the COVID-19 pandemic

While the direct impact of the COVID-19 pandemic became less significant, there were still less flights available in general, making it more difficult to organise transfers. At times, the delays resulted in the courts stepping in to assess practices and their alignment with



legislation. In 2022, the CJEU [settled](#) that the suspension of a Dublin transfer decision due to the COVID-19 pandemic does not interrupt the 6-month time limit to transfer an applicant to the responsible Member State (see *Section 2.6*).

COVID-19 testing requirements for Dublin transfers remained in some countries at the beginning of 2022, but were typically lifted afterwards. As in 2020 and 2021, EU+ countries faced situations when applicants waiting to be transferred refused to undergo the required COVID-19 testing. In line with Swiss and Danish legislative changes in 2021, the Dutch government proposed a bill creating the legal basis for enforced COVID-19 testing at the beginning of 2022.<sup>332</sup> The Repatriation and Departure Service (DT&V) noted that lifting COVID-19 restrictions over the late spring and summer of 2022 made the implementation of transfers easier, but unrestricted access also meant that applicants could abscond more easily to avoid a transfer.<sup>333</sup>

### Overall length of the Dublin procedure

The overall length of Dublin procedures in 2022 remained of concern, for example in Italy where ASGI reported that a procedure may take up to 1 year,<sup>334</sup> or in the Netherlands, where the Dutch Refugee Council observed that the processing time under the Dublin procedure doubled since 2019.<sup>335</sup>

In Bulgaria, the AIDA report noted that when another Member State accepts responsibility, the outgoing transfer was usually implemented within 5 months on average in practice, and in 2022, the State Agency for Refugees reported to have reduced the period to 1 month. If an incoming transfer was being organised, however, the duration of the actual implementation varied, reaching in the past up to 15 months. In 2022, some reorganisations which were undertaken by the State Agency for Refugees decreased the implementation of incoming transfers to 4 months on average.<sup>336</sup>

### Delays in processing and their impact

The arrival of persons in need of temporary protection from Ukraine had a major impact on the Dublin system. Next to staff re-allocations affecting the capacity of Dublin units (see *Section 4.2.1*), several EU+ countries temporarily suspended receiving incoming transfers, either all of them or of certain profiles (for example families). In some cases, this led to the expiration of transfer time limits and, thus, to a shift in the Member State responsible for the asylum application.

The Dublin unit in Bulgaria faced significant IT challenges in spring 2022. In addition to other Bulgarian public institutions, the State Agency for Refugees experienced a major cyberattack and the agency's information systems – including DubliNet – were suspended for several days. While the systems' security was not affected and no data were leaked, communication was not possible through DubliNet, resulting in a provisional backlog. The work processes were soon recovered, and the backlog was swiftly cleared.

The Swiss Federal Administrative Court (FAC) looked into the consequences of a canton not executing a transfer decision by the State Secretariat for Migration (SEM) in two appeal cases. It [confirmed](#) that SEM can [remove](#) the lump sum subsidy given to a canton for an applicant in the Dublin procedure when the canton does not implement the transfer without giving any objective reasons. The court underlined that the cantons do not have the power to re-discuss a decision or a judgment in force outside of the procedural framework.



On 2 September 2022, the Civil Court of Rome [accepted](#) the urgent appeal submitted by an asylum seeker whose appeal against a Dublin transfer to Austria had been accepted in 2021 and who, after 1.5 years, was still waiting for Italy's declaration of having competence to examine his asylum request. The appeal brought before the Court of Cassation did not have a suspensive effect and the law does not expressly provide for the possibility of requesting such a suspension. The Civil Court rejected the arguments presented by the Dublin unit, according to which the submission of an appeal before the Court of Cassation in the Dublin procedure would entail the automatic suspension of the procedure itself.

### **Time limits**

The CJEU delivered preliminary rulings in cases of applicants applying for international protection in more than two Member States. It ruled on the calculation of the transfer time limit and in which Member State the applicant has access to an effective remedy (see *Section 2.6*). The ruling concerned the application of the 'chain rule', which is an informal, practical solution agreed by most (but not all) Member States to facilitate the determination of responsibility in such cases. In Germany, the Regional Administrative Court of Düsseldorf clarified the time limit for sending a take back request and [confirmed](#) that it is not possible to send the request more than 3 months after the lodging of the application for international protection, even though this is done within the 2-month deadline for a Eurodac hit.

The Irish High Court [examined](#) the Member State responsible for an applicant who arrived to Ireland through Belgium, Sweden and the UK. Noting the time limits for take back requests and for implementing a transfer, the court underlined that at the latest by the end of 2016, Sweden was responsible for the asylum application and not Belgium, as stated by the applicant.

### **Effect of an inadmissibility decision when the transfer time limit has expired**

The Supreme Administrative Court in Austria ruled in 2021 (published and commented on in 2022<sup>337</sup>) on the expiration of the transfer time limit. It addressed the transfer of responsibility for an asylum application to Austria and its impact on the inadmissibility decision that was taken earlier in the case, when the authorities concluded that another Member State should be responsible for the application. The court confirmed that the applicant did not have to submit a new application. The inadmissibility decision automatically ceases its effect as soon as the transfer period expires.

### **CJEU rulings related to children in the Dublin system**

The CJEU delivered two preliminary rulings related to children in the Dublin procedure. [C-720/20](#) concerned a child born in Germany, whose parents received international protection in another Member State before the birth of the child. The ruling specified that Article 20(3) of the Dublin III Regulation cannot be applied to the child since the parents were granted international protection by another Member State. This situation is governed by Article 9 of the Dublin III Regulation, which requires the submission of a take charge request and the explicit written consent of both parties involved. Since written consent had not been submitted, Article 9 could not be applied, therefore, the responsible Member State must be determined according to Article 3(2) of the Dublin III Regulation (first country where the person lodged the request for international protection) (see *Sections 2.6 and 4.3.3*).





In [C-19/21](#), the court concluded that an unaccompanied minor should be granted the right to appeal if the requested Member State refused to take charge of examining the application when the request was sent on the grounds of Article 8(2) (reuniting an unaccompanied minor with a relative residing in another Member State) (see *Section 2.6*). However, the relative of the child did not have this right to appeal.

As a result, many Member States noted that their policies or practices needed to be adjusted following the ruling. For example, amendments are needed in several countries to ensure that the refusal of a take charge request is considered an administrative decision. The practical modalities of lodging an appeal when the person is not present in the country where the appeal is lodged needed to be formalised as well. To this end, several countries foresee changes so that information on the right to appeal is included in the refusal decision. The role of a legal guardian or representative in lodging an appeal against a refusal to take charge also needed to be clarified.

### Age determination

The Dutch Council of State [reviewed](#) the determination of an applicant's age for the Dublin procedure in the case of a person who was registered as minor in the Netherlands. As doubts remained about the applicant's age after the age inspections (*leeftijdsschouw*, undertaken by three officers from the Dutch Immigration and Naturalisation Service (IND), the Royal Military Police (KMar) and the Aliens Police, Identification and Human Trafficking Department (AVIM) who spoke separately with the applicant), the council confirmed that the Dublin unit may rely on the principle of mutual trust and assume that the registration of the age took place with due care in other Member States. Thus, the applicant can be considered as an adult when the person has been registered in several Member States with different ages. In addition, the authorities should consult the source documents in the original registration to conclude the age when possible.

### Assessment of sufficient protection for victims of domestic violence

When assessing the availability of sufficient protection in the country responsible for the asylum application for a victim of domestic violence, the Swiss Federal Administrative Court [found](#) that it is not relevant whether that country has ratified the Istanbul Convention. The court examined whether in practice the authorities can and are willing to offer sufficient protection against the threats of the former husband.

### Procedural safeguards

The issue of effective remedy in the Dublin procedure has been the subject of several CJEU rulings in recent years, and national courts continued to approach the EU court for more guidance. For example, the Tribunal of Bologna sent two requests to the CJEU for a preliminary ruling, inquiring about the right to information and a Member State's duty to hold a personal interview in light of the right to an effective remedy.

In [C-217/22](#), the court inquired if the applicant can invoke before the courts of the requesting state the infringement of the duty to provide information and arrange a personal interview in the Dublin procedure by the requested state.

In [C-80/22](#), the court sought clarity on the consequences of failing to provide the required information leaflet (according to Article 4(2) of the Dublin III Regulation) or conducting a personal interview (according to Article 4(2) of the Dublin III Regulation). It questioned if this





failure would render the transfer decision irremediably unlawful or should the applicant prove that the outcome of the transfer decision would have had been different if the requesting Member State provided the information and held the interview. In relation to the interpretation of Article 27(1) does the provision of information and the personal interview form part of the effective remedy, and if so, can a court re-examine the substance of the transfer decision, even when the requested Member State has accepted its responsibility for the asylum application?

The French Council of State **ruled** that an appeal against a refusal to requalify was admissible only if the person is able to establish that the transfer period had expired or that another new circumstance had developed.

## 4.2.4. Decisions on outgoing Dublin requests



Decisions on outgoing Dublin requests include decisions in response to take back requests (under Articles 18(1b-d) and 20(5) of the Dublin III Regulation) and take charge requests (under Articles 8-16 and 17(2)), but they exclude decisions taken under the sovereignty clause (Article 17(1)). Thus, the data on outgoing Dublin requests cover all persons included in a decision received by the reporting country in response to a request to have a partner country take responsibility for the asylum application. This does not mean that the transfer was necessarily carried out, but it does mean that the partner Member State replied to the request, whether it was accepted or rejected, within the time limit or there was an implicit acceptance due to the expiration of the time limit

In 2022, 163,000 decisions were issued in response to outgoing Dublin requests,<sup>xx</sup> according to provisional data which are regularly exchanged between the EUAA and 29 EU+ countries.<sup>xxi</sup> This represented an increase by more than two-fifths compared to 2021, resulting in the highest annual total since at least 2016. Since the second half of the year, the number of decisions steadily rose to an unprecedented level in December 2022. The increase in decisions coincided with a rise in asylum applications in EU+ countries during the same period.

Overall, the annual ratio of decisions received on Dublin requests to asylum applications lodged was 16%, on par with 2021. Although some decisions on Dublin requests concerned family reunion cases, the stable ratio of decisions to applications suggests that in 2022 an increased number of asylum seekers moved from the first country of arrival to another to lodge a new application (referred to as secondary movements), impacting asylum caseloads overall.

At the country level, Germany and France continued to receive the most decisions in response to their requests (see *the left side of Figure 7*), jointly accounting for over three-fifths of the EU+ total. Germany received almost two-thirds more responses than in 2021, whereas

<sup>xx</sup> This includes both decisions on requests and re-examination requests.

<sup>xxi</sup> EPS data were not available for Iceland and Liechtenstein.

responses received by France rose by around one-seventh. Most other countries received more responses to Dublin requests in 2022, with the most notable relative increases in Spain, Norway, Cyprus, Austria, Portugal and Czechia (in descending order).<sup>xxii</sup> In contrast, some countries received fewer responses in absolute terms, notably Greece, Ireland, Slovakia, Croatia, Romania and Malta (in descending order).

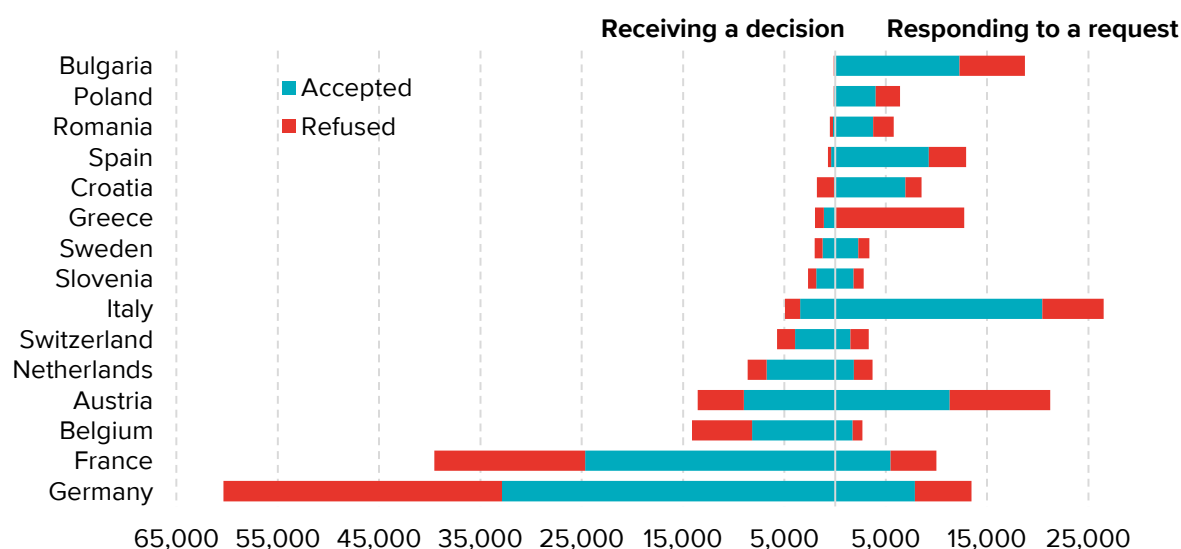
As in previous years, Italy issued the most decisions overall on Dublin requests. However, for the first time on record, Austria and Bulgaria emerged as second and third countries issuing the most decisions, overtaking Germany and Greece (see the right side of Figure 7). While Italy issued one-third more decisions than in 2021, decisions issued by Austria and Bulgaria almost tripled compared to the previous year, in fact, rising to the most in at least 6 years.

At lower levels, important relative increases also took place in Lithuania, Cyprus, Portugal, Croatia and Poland (in descending order).<sup>xxiii</sup> Lithuania issued five times as many decisions as in 2021, decisions by Cyprus more than tripled, and decisions by Croatia, Poland and Portugal more than doubled from 2021. In contrast, fewer decisions were issued by Romania, Greece and Germany (ordered from largest to smallest absolute decrease).



### Germany and France received the most decisions on Dublin requests, while Italy responded to the most requests

**Figure 7. Decisions on outgoing Dublin requests by selected countries receiving a decision (left) and responding to a request (right), 2022**



**Note:** The selection of countries includes the Top 10 countries receiving requests and the Top 10 countries responding to requests. The figure does not include decisions issued and received in 2022 with a reported 'unknown' legal basis, which accounted for less than 1% of all decisions received and issued. For each Member State, received decisions are self-reported, while reported replies are based on data from receiving countries.  
Source: EUAA EPS data.

<sup>xxii</sup> Only countries which received at least 200 decisions in 2022 were considered.

<sup>xxiii</sup> Only countries which received at least 500 decisions in 2022 were considered.

#### 4.2.4.1. Citizenship of applicants in the Dublin procedure



Afghan citizens received the most decisions on Dublin requests in 2022, accounting for one-quarter of all decisions.<sup>xxiv</sup> This was one and a half times as many as in 2021 (see *Figure 8*). Decisions for nationals of Syria followed and surged to an even greater extent, increasing by four-fifths from the previous year and reaching an unprecedented level.

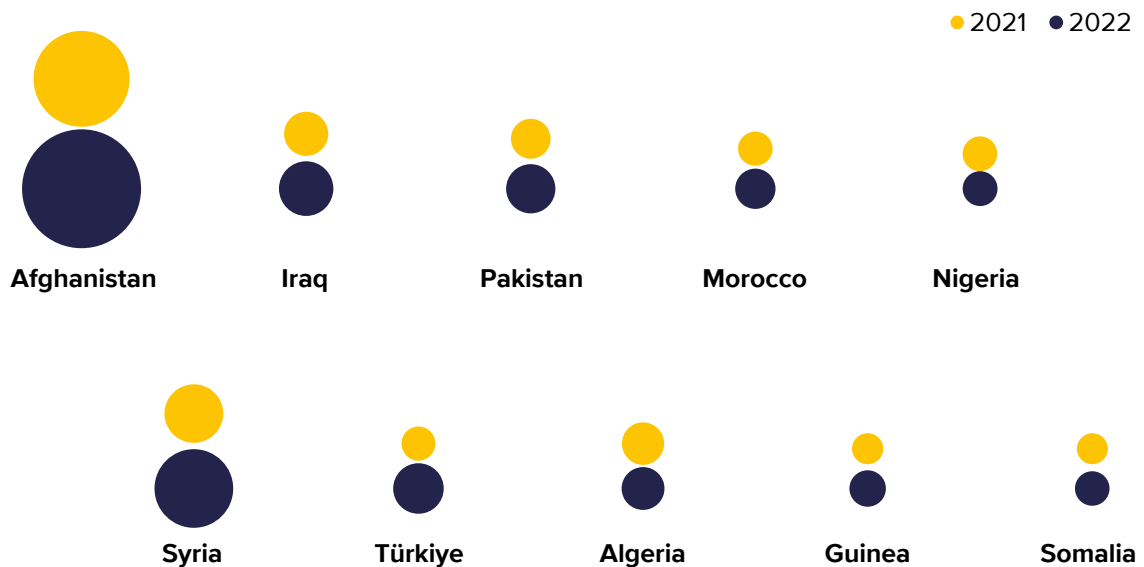
A rise in decisions on Dublin cases was noted for other nationalities as well. Decisions for Iraqi and Pakistani nationals increased by one-half from the previous year, and for Turks, the number more than doubled. For all three nationalities, this was the most in several years.

At lower levels, marked increases in decisions were recorded for nationals of Burundi, India, the Democratic Republic of the Congo, Armenia and Russia (in descending order).<sup>xxv</sup> In contrast, decisions for Nigerians remained stable at low levels, while those for nationals of Côte d'Ivoire declined by one-tenth from 2021.

**One-quarter of decisions on Dublin requests concerned Afghan citizens**



**Figure 8. Top 10 nationalities receiving decisions on Dublin requests, 2022 compared to 2021**



Source: EUAA EPS data.

<sup>xxiv</sup> Citizenship was not reported in 6% of decisions. In the third quarter of 2022, France started reporting both the legal basis and the citizenship of applicants who received decisions. This explains the lower level of unreported citizenships at the EU+ level compared to 2021 (13%) and may account for some of the increases observed for several nationalities.

<sup>xxv</sup> Only citizenships which received at least 1,000 decisions in 2022 were considered.



#### 4.2.4.2. Acceptance rate for Dublin requests



The acceptance rate for decisions in response to a Dublin request measures the share of decisions accepting responsibility (explicitly or implicitly) for an application out of all decisions issued. The overall acceptance rate in 2022 was 60% (6 percentage points higher than in 2021), increasing for the first time in 5 years at the EU+ level.

At the country level, the acceptance rate remained stable or increased from the previous year in most countries. The most notable increases were in Hungary (+29 percentage points), Bulgaria (+24 percentage points) and Malta (+16 percentage points). In contrast, a significant decrease was recorded in Spain (-9 percentage points).<sup>xxvi</sup> Acceptance rates varied from over 80% in Croatia and Lithuania to 1% in Greece.

#### 4.2.4.3. Decisions on take back and take charge requests



The Dublin III Regulation distinguishes between two categories of requests: take back and take charge. A Member State may send a take back request (Articles 18(1b-d) and 20(5)) asking another Member State to take responsibility for an applicant who applied for international protection within the reporting country but had already applied in the first Member State or because the other Member State previously accepted responsibility through a take charge request.

Conversely, a Member State may send a take charge request (Articles 8-16 and 17(2)) asking another Member State to take responsibility for an applicant who has not applied for international protection in the requesting Member State but criteria under the Dublin III Regulation indicate that the other Member State should be responsible. The criteria include family reunion (in particular for unaccompanied minors), documentation (visas, residence permits), entry or stay reasons (using information from Eurodac) and humanitarian reasons.

About 71% of all decisions (with a reported legal basis) issued in EU+ countries in 2022 were for take back requests.<sup>xxvii</sup> This is a decline from the previous year, when decisions on take back requests accounted for more than three-quarters of the total. However, marked differences were noted at the country level. In particular, the share of decisions received on take charge requests was relatively high for Greece (95%) and Cyprus (90%).

<sup>xxvi</sup> Only countries which responded to at least 500 requests in 2022 were considered.

<sup>xxvii</sup> EUAA data do not contain information on the specific article of the Dublin III Regulation which was used as a basis for sending a request, but they do distinguish between responses to take charge and take back requests. Since the second quarter of 2022, data for France are disaggregated according to the type of request, thus the share of decisions with an unknown legal basis decreased from 30% in 2021 to 12% in 2022.



The acceptance rate for take back requests in 2022 was 57% (8 percentage points higher than in 2021) and for take charge requests, it was 66% (up by 7 percentage points). The increase in the acceptance rate for take back requests was driven by more positive decisions issued by Bulgaria, Austria and Croatia (in descending order) and fewer negative decisions by Greece and Romania. Meanwhile, the increase in the acceptance rate for take charge requests was due to many more positive decisions by Italy and Spain.

## 4.2.5. Use of the discretionary clause



Discretionary clauses are defined in Article 17 of the Dublin III Regulation. Article 17(1) is also referred to as the sovereignty clause, which allows a Member State to examine an application for international protection lodged by a third-country national or a stateless person, even if such an examination is not its responsibility under the criteria laid down in the regulation.

In the context of the discretionary clause, a partner country is the country to which a take back or take-charge request could have been sent before invoking the clause.

Article 17(1) was invoked about 4,800 times in 2022, increasing for the first time in 4 years but still well below pre-pandemic levels. It was applied most frequently by Belgium, followed at a distance by France, Germany and the Netherlands. The discretionary clause was used mostly for Afghan citizens in Belgium and Germany; Syrians in the Netherlands and Belgium; and Turks in the Netherlands.

For the first time, Bulgaria was identified as the main partner country to which requests could have been sent, mostly in relation to Afghan applicants. This was followed closely by Greece, for which the discretionary clause was evoked mostly in relation to Turkish applicants. Other commonly identified partner countries included Italy and, at lower levels, Spain, Germany and France (in descending order).<sup>xxviii</sup>

## 4.2.6. Assessing transfers to specific countries

### Serious and systematic infringements of EU law

Following two similar cases, the Regional Court of Den Bosch [referred](#) a case to the CJEU for a preliminary ruling on the divisibility of mutual trust between Member States in the Dublin procedure. The previous two referrals were submitted in [October 2021](#) and [March 2022](#),<sup>338</sup> but they were later withdrawn as the appeals of the decisions were revoked.

<sup>xxviii</sup> The share of 'unknown' partner countries decreased from 22% in 2021 to 1% in 2022. Therefore, the actual number of times a particular country was deemed responsible by another Member State in 2021 may have been underestimated.



National courts inquired if serious and systematic infringements of EU law by the potentially responsible Member State would preclude a Dublin transfer to that state or would the infringements imply that the requesting Member State cannot rely on the principle of mutual trust, necessitating it to examine and demonstrate that the applicant would not be in a situation contrary to the Charter of Fundamental Rights of the EU, Article 4. The courts also inquired about the types of evidence that can be used and the standard of proof.

### Differences in protection policies

The Icelandic Immigration Appeals Board [examined](#) the possibility of transferring an applicant to Sweden, where an application for international protection was rejected, the applicant was issued a return order to Palestine, lost the right to material reception conditions and was homeless for 5 months. The board noted that the procedure for assessing the principle of *non-refoulement* in return procedures in Sweden provided sufficient guarantees to ensure that the applicant's life would not be at risk. The rejected applicant also retained the right to essential health care until departure, and the board concluded that this is adequate in the particular case. In addition, the applicant did not have a condition that would require treatment that is only available in Iceland and not in Sweden. Finally, the board acknowledged that applicants with a negative decision lose their right to accommodation in Sweden, but as an exception, vulnerable persons could still be accommodated. Thus, the board confirmed the transfer decision.

Similarly, the Dutch Council of State [confirmed](#) that a more restrictive policy in Sweden related to applicants from Syria in itself does not indicate that there would be a shortcoming in the asylum procedure or that the applicant would run a real risk of indirect *refoulement* if he were transferred back. Based on the principle of mutual trust, the court highlighted that the authorities can assume that a Member State's asylum system is effective and in compliance with fundamental rights enshrined in the Charter of Fundamental Rights of the EU, the ECHR and the Geneva Convention. The burden of proof is on the applicant to demonstrate that he would not be offered international protection in the Member State responsible on the basis of its protection policy, while in principle he would receive this in the Netherlands. This means that the applicant should substantiate that there is an obvious and fundamental difference in protection policies and that both the administrative authority and the courts in the Member State responsible would not protect him against *refoulement*. If this burden of proof is met, then the Dutch authorities are responsible to further investigate and remove all doubts of a possible risk, if the transfer is implemented.

The Regional Court of The Hague [declared](#) a Pakistani applicant's appeal as inadmissible, noting that the fact that the legal representative's secretariat confused the case with another appeal was not an excusable justification for lodging the appeal with a delay. The court still analysed whether the specific circumstances of the case would render it admissible. It concluded that the fact that the Netherlands, unlike Germany, considers Ahmadis from Pakistan a risk group cannot be considered as evidence of a fundamental difference in protection between the two countries. The court added that it could not ascertain in advance whether the Netherlands would grant the applicant international protection. Also, the applicant did not substantiate that the German authorities would not protect against *refoulement*.

When assessing transfers to Denmark ([202106573/1/V3](#) and [202105784/1/V3](#)), the Dutch Council of State found "obvious and fundamental differences" in asylum policies between Denmark and the Netherlands related to Syrian applicants. The Council of State held that the applicants met the burden of proof by providing evidence that the policy of the determining



authority in Denmark was to return Syrian applicants, and this was endorsed by the Danish Refugees Appeals Board. The Council of State noted that the State Secretary did not conduct a further investigation to eliminate any doubts about a possible real risk of *refoulement*.

### **Access to the asylum procedure and *non-refoulement***

The situation at the Croatian border (see *Section 4.1*) was at the focus of several appeals in many EU+ countries in the context of the Dublin procedure. For example, the Belgian CALL ordered the suspension of transfers to Croatia in several cases due to inadequate material reception conditions and a possible risk of *refoulement*.<sup>339</sup> The Croatian Ministry of the Interior signalled that the Dublin Procedure Department did not receive an official revocation of transfers from Belgium to Croatia. The ministry added that as of December 2022, an individual guarantee is submitted to Belgium for applicants who accepted through the Dublin procedure, with each response accepting responsibility to examine the request for international protection. Dublin returns to Croatia did continue throughout 2022.

The Federal Administrative Court (FAC) in Switzerland **annulled** SEM's transfer decision of two applicants to Croatia, noting that the authority had not sufficiently clarified the facts of the case which are relevant for the determination of the state responsible for the asylum applications. In addition, the applicants substantiated in a credible manner their detention and acts of torture by police officers at the border, while SEM had based its decision on old reports to conclude that there were no systemic flaws in Croatia's asylum system. At the beginning of 2023, FAC **noted** that it is highly probable that unlawful removals constitute a regular practice in Croatia, but for Dublin transfers, it was not a primary concern whether it was extremely difficult for an applicant to reach the Croatian territory. The court underlined that there was no indication that Dublin returnees to Croatia were being unlawfully removed despite expressing their wish to apply for international protection. The Croatian Ministry of the Interior added that Dublin returnees are issued a certificate of registration after they express their intention to apply for international protection, and they are instructed to report to the reception facility in Zagreb (families with children are transported to the facility in an official vehicle without a police label).

The Dutch Council of State cancelled several transfers to Croatia (for example, of an applicant from **Egypt** and an applicant from **Algeria**), noting that various sources and reports indicated that the risk of pushbacks existed for third-country nationals transferred to Croatia from other Member States. The court also noted that there was clear evidence of pushbacks at the border and the Dutch authorities could no longer assume that Croatia complies with its international obligations toward third-country nationals. Thus, Dutch authorities could no longer transfer applicants to Croatia based on the Dublin III Regulation without further investigation on whether the country complies with the requirements of the ECHR, Article 3. The Croatian Ministry of the Interior shared that a non-paper was sent to the Dutch authorities about the situation of nationals of Egypt and Algeria and it expressed the possibility of providing individual guarantees for transferred applicants for international protection, if requested. The authorities underlined in the non-paper their conviction that the Dublin III Regulation is implemented fully and consistently, and that applicants' rights are protected in accordance with EU and national legislation and international obligations.

Similarly, in Germany, the Regional Administrative Courts of **Freiburg**, **Hanover** and **Stuttgart** annulled transfers to Croatia. All courts mentioned the recent incidents of pushbacks as an indication of a risk of treatment contrary to the ECHR, Article 3 and the Charter of Fundamental Rights of the EU, Article 4, and noted systemic deficiencies in the asylum and





reception systems. The Stuttgart court highlighted that applications from persons who were transferred back under the Dublin III Regulation were treated as subsequent ones, and there was a risk that the applicants were denied a substantive examination of the merits of their asylum claim and, thus, were not offered adequate protection against *refoulement*. Nevertheless, other courts – like the Regional Administrative Courts of [Ansbach](#), Leipzig<sup>340</sup> and Hannover<sup>341</sup> – decided that there are no systemic flaws in the Croatian asylum system.

For Dublin transfers to Hungary, a new legal position was published in Sweden. The Swedish Migration Agency (SMA) continued to send requests and take transfer decisions when Hungary was identified as the Member State responsible, but it also continued to suspend the implementation of transfers to Hungary as long as the situation persists. The legal position was issued to assess the impact of the ‘embassy procedure’ (see [Section 4.1](#)) and underlined that there was no legal clarity on whether applicants transferred back to Hungary may lodge an application on the territory of Hungary. In addition, the legal position found that a claim by a transferred applicant would be treated as a subsequent application and noted that this was contrary to Dublin III Regulation, Article 18. The document added that there were also doubts about the possibility to access an effective remedy. The position underlined that suspending the implementation of transfers to Hungary does not mean that the transfer time limit is suspended according to Dublin III Regulation, Article 29(1).<sup>342</sup>

The Regional Administrative Court of Arnsberg in Germany [ordered](#) the suspension of the transfer of an Uzbek applicant to Hungary. He entered the country through Ukraine in March 2022 and continued his journey to Germany without asking for international protection. The court highlighted serious reasons to assume systemic flaws in the Hungarian asylum procedure and violations of the *non-refoulement* principle. The court underlined that, despite a request from the German authorities, the Hungarian authorities did not provide written guarantees that the applicant’s case would be managed in line with the recast APD.

The AIDA report for the Netherlands observed that transfers to Hungary from the Netherlands were not undertaken in 2022 by applying the sovereignty clause in cases where it was established that Hungary is the Member State responsible (a practice which was started in 2015).

When assessing transfers to Lithuania, courts in Germany and Estonia took a different approach. The Regional Administrative Court of Hanover [found](#) that the German authorities should not have determined Lithuania as the state responsible for the asylum application merely on the basis of the Dublin III Regulation, Article 13 (irregular entry), but they should have continued the examination whether another Member State could have been designated as responsible, referring to potential systemic flaws in asylum and reception conditions. The court noted that, due to increased border crossings in the summer of 2021 and concerns around the possibility to access the asylum procedure and adequate material reception conditions, the asylum and reception systems in Lithuania showed signs of systemic weaknesses, which could result in inhuman or degrading treatment. At the same time, other courts in Germany (see for example [here](#) and [here](#)<sup>343</sup>) have concluded that there are no systemic flaws in the Lithuanian asylum system.

In contrast, the Estonian Circuit Court [assessed](#) that the shortcomings in accommodation in Lithuania due to mass arrivals could not lead to a conclusion that the transfer could not be implemented. It found that since the applicant could contest the negative decision before a court, it suggested that there were no deficiencies in the system. The court also considered



that the situation of the applicant, who arrived from Belarus in 2020, was not comparable to those who arrived on a mass scale in the summer of 2021.

For transfers to Spain, the Icelandic Immigration Appeals Board analysed the possibility of the applicant to access the asylum procedure, receive material reception conditions, including appropriate health care, and be protected against *refoulement*. The board **upheld** the transfer decision by the Directorate of Immigration.

### **Access to and quality of reception conditions in the country responsible for the application**

The court cases cited above involving transfers to Croatia, Lithuania and Spain also looked into the applicant's possibility of accessing reception conditions and the quality of these conditions. Concerns around inadequate reception conditions for individual applicants has led to cancelling transfers to Croatia and Lithuania. The Croatian Ministry of the Interior added that the authorities made efforts to improve the reception system and accommodation through projects co-financed with AMIF. For example, improvements were made to the reception centre in Kutina and the reception centre in Zagreb was in the process of being reconstructed. Projects implemented in previous years, such as the cooperation with Médecins du Monde Belgique on health care services and psychosocial support from the Croatian Red Cross, have continued in 2022 as well (see Section 4.7).

In January 2022, the Belgian Immigration Office confirmed to the Flemish Refugee Action that it no longer took Dublin transfer decisions for Bulgaria.<sup>344</sup>

For transfers to Italy, selected jurisprudence pointed more and more towards a trend of courts concluding that there was no evidence of systemic flaws in the asylum and reception systems following legislative changes in 2020. However, the approach may change in the beginning of 2023, after Italy notified other Member States in December 2022 that it would not accept incoming transfers due to a lack of reception places.

In January 2023, the Court of The Hague **concluded** that the Italian government's circular must be regarded as a temporary obstacle to implementing transfers and should not be considered as an indication of structural and fundamental shortcomings. The court underlined that the presumption of mutual trust remains.

The German Federal Administrative Court **confirmed** on 27 January 2022 the decision of the Higher Administrative Court of North Rhine Westphalia in July 2021, halting the transfer of a single man to Italy. The transfer was ruled to be unlawful due to the lack of accommodation in Italy, based on an alleged lack of sufficient consideration of the facts on the ground.

The Swiss Federal Administrative Court **established** a different approach to take charge and take back requests to Italy. In 2022, the obligation previously introduced by the court in December 2019 to obtain individual guarantees from Italian authorities for applicants with serious health problems (with regard to adequate accommodation and immediate access to medical care) was lifted for take charge procedures. For take back procedures, guarantees were still required. The court reasoned this with the risk of being excluded from accommodation in take back cases.

The Swiss Refugee Council continued its work on monitoring reception conditions in Italy for Dublin returnees. In February 2022, the organisation published a report which assesses the situation specifically for applicants with mental health problems. The organisation continued to advocate against Dublin transfers to Italy.<sup>345</sup>



The Regional Court of the Hague **underlined** that Dutch authorities may rely on the principle of mutual trust, although it considered that there were still certain shortcomings in the Italian asylum and reception systems. It found that the applicant in the specific case, who had diabetes, had access to medical treatment upon a return and would not be faced with a situation that would be in violation of the ECHR, Article 3.

However, the Portuguese Central Administrative Court **concluded** in another case that the applicant's medical conditions needed to be assessed as a vulnerability factor and upheld the lower court's decision to oblige the authorities to reconsider the applicant's transfer to Italy.

The Icelandic Immigration Appeals Board **concluded** that better living conditions in Iceland than in Italy did not justify cancelling a Dublin transfer decision. In the case, the court noted that the applicant was living in an overcrowded reception centre and faced discrimination against applicants and beneficiaries of international protection, but the applicant had a valid residence permit on grounds not related to international protection, was in good health, found work and studied in Italy, and did not appear to have any special ties with Iceland.

The regional court in Brno, Czechia, **ruled** in February 2022 on an applicant's transfer to France. It reiterated that Czechia was obliged to consider properly, individually and thoroughly if there existed a risk of breaching the ECHR, Article 3.

In another case, the Portuguese Supreme Court **found** that the fact that the applicant was not granted accommodation in kind could not be considered as a systemic failure of the French reception system. The court considered that the EUR 400 cash benefit and access to free health care should be sufficient for the applicant to cover his needs.

In October 2022, the Swiss FAC examined the Dublin transfer to Bulgaria of an Afghan applicant, who suffered from health problems and drug addiction. SEM used text modules to substantiate the decision and the request sent to Bulgaria did not contain information on the applicant's medical state. Thus, the court considered that not all legally-relevant medical facts were examined. In addition, the court was not convinced that the Bulgarian authorities took sufficient account of the principle of *non-refoulement*. Lastly, the court added that SEM had also failed to take into account the impact of the war in Ukraine on the Bulgarian asylum and reception system.<sup>346</sup>

The Court of the Hague **annulled** a Dublin transfer to Belgium after the ECtHR issued interim measures against the country (see *Section 4.7*). The burden of proof on reception conditions thus shifted from the applicant to the national authorities to demonstrate that the applicant would be provided with adequate material reception conditions following a transfer to Belgium.

### Use of detention

Approaches to Dublin transfers to Malta seemed to have converged, and several transfers were halted due to the country's detention policy (see *Section 4.8*). For example, the Tribunal of Rome **annulled** the transfer decision of an applicant who had been detained in Malta for 16 months, fell ill due to the conditions and had to be hospitalised for 2 months.

Likewise, the Dutch Council of State **upheld** a case concerning two applicants, including a child who suffered trauma in Malta and experienced PTSD. The court stated that the child would be at risk of a significant and irreversible impact on her health if transferred back to Malta. The council added that, even though the medical advice concluded that the child was



physically fit to travel, the Dutch authorities should have been more active to fulfil their duty to clarify any serious doubts about the impact of the transfer on the child's health. According to its own manual, SEM does not transfer vulnerable asylum seekers to Malta if they are facing detention.<sup>347</sup>

The Constitutional Court in Austria **disagreed** with a decision by the Federal Administrative Court (BVwG) when the court found a planned transfer of a Syrian national to Malta to be admissible. The Syrian national claimed that he would be detained upon a return to Malta and that the conditions in detention in Malta would violate his rights guaranteed by the ECHR, Articles 2 and 3. The BVwG did not assess the situation in detention in Malta .

The practice of detaining children and conditions in detention in Poland led to a case being referred back by a Regional Administrative Court to BAMF. The court **found** several reports from various, reliable sources on concerns about the detention of children and concluded that BAMF must undertake further investigation to assess whether the applicants would be at risk of a situation contrary to the Charter of Fundamental Rights of the EU, Article 4.

### **Impact of the war in Ukraine on neighbouring EU+ countries**

Courts had different approach towards Dublin transfers to EU+ countries which were the most impacted by the arrival of Ukrainians, such as Poland and Romania. In Germany, the Regional Administrative Court in Aachen **noted** in March 2022 that Poland sent a circular on 25 February 2022 temporarily suspending all incoming transfers as of 28 February 2022 until further notice. Hence, the court annulled a transfer.

In June 2022, the Czech Supreme Administrative Court did not make reference to this circular, but it **sent back** a case to the regional court, noting that the lower court did not provide sufficiently relevant and up-to-date reports to determine whether the number of people arriving from Ukraine led to systemic flaws in the Polish asylum and reception systems.

For transfers to Romania, in July 2022, the Regional Administrative Court of Arnsberg in Germany **noted** that the Romanian authorities announced on 28 February 2022 that Dublin transfers would be accepted only in urgent cases and, thus, the court annulled a Dublin transfer.

In October 2022, the Civil Court of Rome annulled an applicant's transfer to Romania according to Article 3(2) of the Dublin III Regulation and Article 4 of the EU Charter of Fundamental Rights, considering systemic deficiencies existing in the country. The court observed that the country was already unprepared to accommodate asylum seekers before the Ukrainian crisis and that with the arrival of thousands of people from Ukraine the situation had reached a critical level. In January 2023, the Civil Court of Rome **confirmed** its previous orientation, annulling a transfer to Romania.

However, the Dutch Council of State **concluded** that the fact that Romania intended to suspend incoming transfers would not mean that Romania refused the requests. The council found that it was an indication of a temporary measure and noted that the letter from the Romanian authorities allowed urgent transfers, such as the transfer of applicants in detention or transfers with a close deadline.

## 4.2.7. Implementing Dublin transfers



After dropping to very low levels on account of the COVID-19 pandemic in 2020 and 2021, the number of Dublin transfers which were implemented in 2022 remained low. Overall, about 15,000 transfers were undertaken in 2022,<sup>xxix</sup> which was about one-seventh more than in 2021, yet about two-fifths lower than the number in 2019. Transfers were partially hampered by the increased pressure on staff and reception systems following the activation of the Temporary Protection Directive in the wake of the Russian invasion of Ukraine.

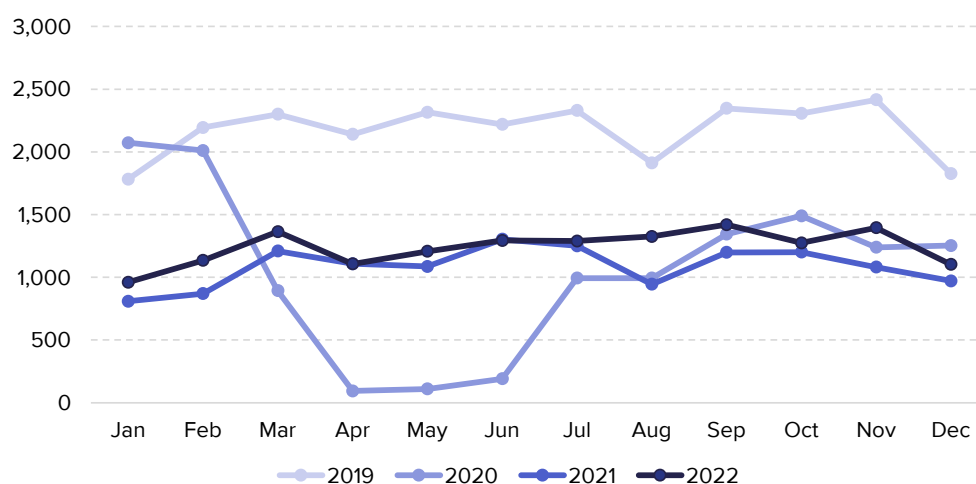
In 2022, implemented transfers fluctuated moderately throughout the year (see Figure 9). The low number of transfers in 2022, combined with a slight increase in accepted requests, resulted in a lower ratio of implemented transfers to accepted requests: just under one to seven,<sup>xxx</sup> down from one to five in 2021 and one to four in 2020.<sup>xxxi</sup>

Germany and France implemented one-half of all transfers in 2022. Transfers implemented by Germany increased by about three-fifths compared to 2021 (see Figure 10, left side). The surge was mainly due to many more Afghan, Syrian, Turkish and Iraqi applicants (in descending order) who were transferred. Transfers implemented by France increased by one-tenth from 2021 and continued to involve mainly Afghans and Guineans.



### A low number of Dublin transfers were implemented in 2022

**Figure 9. Number of outgoing Dublin transfers implemented in EU+ countries by month, January 2019–December 2022**



**Note:** Data were missing for Denmark. For the purpose of comparison, data on transfers from and to the United Kingdom in the periods when it was part of the EU were not included.

Source: EUAA EPS data

<sup>xxix</sup> Data were missing for Denmark.

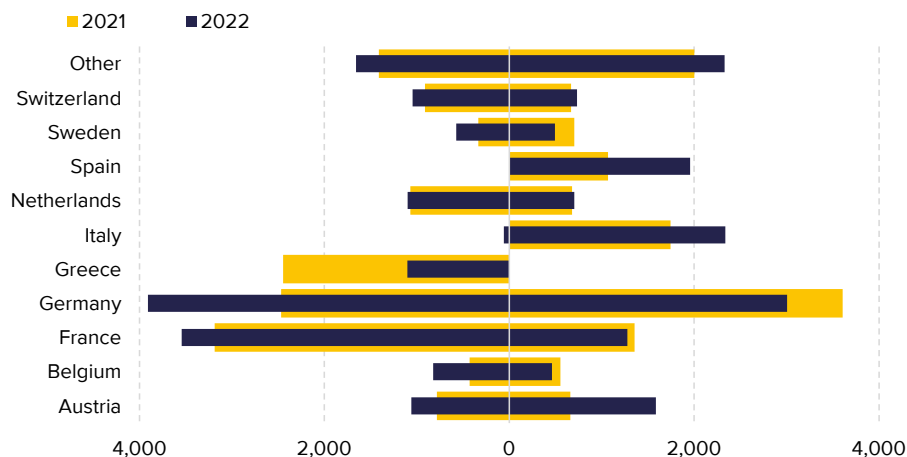
<sup>xxx</sup> This calculation was made excluding data for Denmark for 2022.

<sup>xxxi</sup> The ratio of transfers following accepted requests should be used with caution to assess a Member State's capability to successfully implement transfers, due to the lack of cohort data and a substantial time lapse between an accepted transfer request and a physical transfer. This time lapse distorts the calculation of the rates if the number of acceptances is not stable over time.



## Germany and France implemented one-half of all Dublin transfers

**Figure 10. Number of outgoing Dublin transfers implemented by sending (left) and receiving country (right) for selected countries, 2022 compared to 2021**



**Note:** Data were missing for Denmark as a sending/reporting country. For each Member State, implemented transfers are self-reported while received transfers are based on data from all other receiving countries.  
**Source:** EUAA EPS data.

Among the countries implementing the most transfers, Greece undertook less than one-half as many transfers as in 2021 (on account of an important drop in Afghan transfers), while those carried out by the Netherlands remained stable.

At lower levels, more transfers were implemented by Austria (where Afghans remained the top transferees but numbers grew considerably for Algerians, Indians and Moldovans), Belgium (due to more Algerians, Afghans and Moroccans), Portugal (due to more Gambians) and Sweden (on account of an unprecedented number of transfers of Russian and Uzbek nationals).

The largest absolute increases in receiving countries occurred in Austria, Spain and Italy (in descending order) (see *Figure 10, right side*). Transfers to Austria increased to the most in at least 6 years, mainly due to more Afghans, Syrians and Turks. Such increases were offset by declines in Germany, Romania, Sweden and Belgium (in descending order), mainly driven by fewer transfers of Afghans.<sup>xxxii</sup>

As in the previous year, in 2022, most transferees were Afghans, accounting for just under one-fifth (17%) of the total. They were followed at some distance by Algerians (8%), Syrians (7%), Guineans, Moroccans and Iraqis (5% each). The transfer of Afghan nationals declined by one-tenth from 2021 but remained above the pre-pandemic level of 2019. Germany transferred more than twice as many Afghan citizens as in 2021, while transfers of Afghans from Greece declined by almost two-thirds to the lowest level in at least 6 years.

<sup>xxxii</sup> Only countries where the surplus of transfers in 2021 compared to 2022 exceeded 140 are considered.

Around 1,200 Algerians were transferred in 2022, which was about one-sixth more than in the previous year and the most in at least 7 years. Transfers of Syrians increased slightly compared to 2021, while transfers of Iraqis and Moroccans both rose by more than one-quarter. In contrast, after dropping in 2020 and 2021, transfers of Nigerians declined further in 2022.

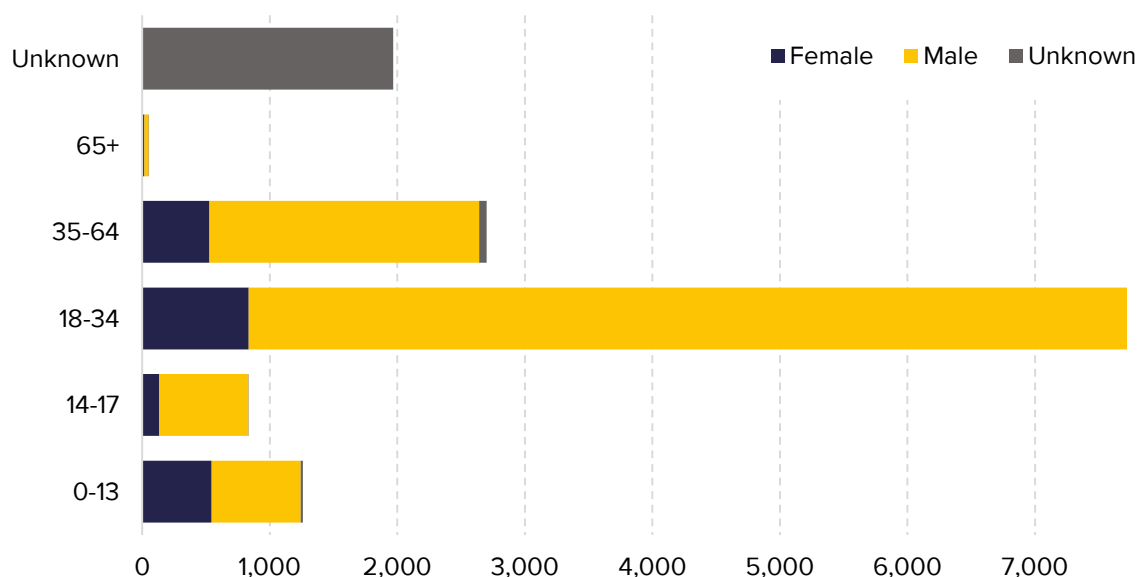
Most asylum applicants who were transferred through a Dublin procedure in 2022 were adult males (see *Figure 11*), but children under 18 years represented at least 14% of all transferees.<sup>xxxiii</sup> In 2022, transfers of minors declined by around one-fifth compared to 2021, but there were variations between the age groups. While the transfer of minors in the younger age group (under 14 years of age) remained stable, significantly fewer minors aged between 14 and 17 were transferred. The decline was due to a steep fall in the number of minors transferred from Greece, likely linked to fewer transfers executed under the relocation scheme. Nevertheless, Greece remained the top country for the implementation of transfers involving minors, carrying out two-fifths of all such transfers, but it was followed closely by Germany, which accounted for around 30% of the total.

Transfers of female minors remained stable compared to 2021, with minor girls representing one-third of all transferred minors. In the lower age group (under 14 years), minor girls represented roughly two-fifths of the total.



### The number of minors being transferred declined for the top two nationalities of transferees

**Figure 11. Transferees in the Dublin procedure by age group and sex, 2022**



**Note:** Data were missing for Denmark for 2022.

Source: EUAA EPS data.

<sup>xxxiii</sup> This proportion includes transferees for whom EU+ countries had not reported the age, which accounted for 13% of the cases.



As in previous years, most minors who were transferred in 2022 were Afghans, followed at a distance by nationals of Syria, Pakistan, Iraq, Türkiye, Russia, Somalia and Bangladesh (in descending order). Transfers of Afghan and Syrian minors declined by around one-half and over two-fifths, respectively from the previous year, whereas those involving Pakistani minors remained stable. Conversely, transfers of Iraqi minors increased by more than one-third. Overall, the main receiving countries for children were Germany, Italy, Switzerland, France and Spain (in descending order).

## Section 4.3. Special procedures to assess protection needs



Countries may opt to use special procedures to assess an asylum application in an accelerated manner out of the regular procedure. This can be done, for example, when there are special protection needs or when an application is likely to be unfounded. Also, when an applicant presents a subsequent application without new evidence, the application may be dismissed as inadmissible without an examination on the merits, on the basis of the *res judicata* principle. In these special procedures, the duration of the procedure is shortened without undercutting procedural safeguards or a complete examination.

In the EU context, in addition to regular examination procedures, the recast APD sets the framework to examine applications for international protection at first instance under special conditions involving accelerated procedures when:

- an application is presumably unfounded;
- applications are made at border or transit zones; or
- when the admissibility of the application is in question.

In addition to special procedures, countries may also introduce policies to process specific categories of cases with priority and ahead of other pending cases (see *Section 4.4*).

In 2022, jurisprudential developments took the lead in the area of special procedures. Several EU+ countries revised their national lists of safe countries of origin, and some legislative developments changed border procedures and accelerated procedures. Concerns persisted around the use of border procedures and around the risks of acceleration based on the safe country concept and subsequent applications.

### 4.3.1. Border procedures



Many applications for international protection are made at the border of a country or in a transit zone before an applicant gains entry into the territory. In well-defined circumstances under the recast APD, a Member State can handle the application directly in such a location, either to assess its admissibility or to fully determine the case on the merits of the application.

In 2022, Finland and Greece initiated changes to their legislative framework on border procedures. The Finnish government submitted a legislative proposal to the parliament suggesting the introduction of a border procedure. The procedure could be triggered by a government decision if an exceptionally large number of migrants arrive in a short period of time or if hybrid activities aiming to exploit migration were directed against Finland. The procedure would allow authorities to process potentially unfounded asylum applications at the border. The procedure could not be applied to vulnerable applicants if they cannot be guaranteed the special support they need.<sup>348</sup> The legislative proposal forms part of a more comprehensive legislative package of proposed amendments, which aim to ensure that the country is prepared in case of hybrid activities.<sup>349</sup> However, the parliament did not manage to consider the proposal by the end of the electoral term (29 March 2023) and it was allowed to lapse. The next government will decide if the changes will be proposed again.

The Finnish Refugee Advice Centre commented on the plans and highlighted, for example, that remote interviewing should only be applied in this procedure if the applicant consents. The organisation underlined that an applicant's access to legal aid should clearly be guaranteed. The centre also emphasised that detention should remain a last resort, and alternatives to detention should be prioritised.<sup>350</sup>

The application of the Joint Ministerial Decision that provided for the application of the exceptional border procedure in Greece was not renewed after 31 December 2021. Since the beginning of 2022, the general provisions of Law No 4939/2022, Article 90(1)-(2) apply. The government noted that the change was necessary, as the number of applications decreased and a mass influx no longer existed. Following the change, according to the law, border procedures apply only to applicants for international protection who arrive on the islands of Lesbos, Chios, Samos, Kos and Leros and live in a RIC or a CCAC. The border procedure can be applied for the period of the reception and identification procedure, for a maximum of 25 days.

The Greek Refugee Council observed that legal aid practitioners in Lesbos reported that, since June 2022, the Regional Asylum Office (RAO) automatically applied non-border procedures for applicants for whom the first instance decision had not been notified within 28 days from registration, without however issuing any decision for a referral to the normal procedure (as it is not foreseen in the law, according to RAO). In these cases, the deadline for the appeal is automatically extended as follows: for admissibility, the 10 days convert automatically to 20 days and for eligibility they are extended from 10 to 30 days. This practice



is based on Article 95(2) of Law No 4939/2022, however the Joint Ministerial Decision regulating this procedure was not issued for 2022. In Kos during 2022, all asylum applications were examined under the border procedure, regardless of whether a first instance decision had been issued and served to asylum seekers within 28 days of the registration of the application.<sup>351</sup>

A report by Equal Rights Beyond Borders, HIAS Greece and Refugee Support Aegean observed delays in the registration of asylum applications and often there was too little time between the summons for the interview and the interview itself. The organisations highlighted delays in vulnerability assessments and expressed concern that interviews were conducted before this assessment, and thus, special procedural guarantees could not be applied.<sup>352</sup>

In France, the border procedure was applied during the disembarkation of 234 people from the ship Ocean Viking in November 2022. While unaccompanied minors (44 minors) were taken directly into care by the child protection system, the remaining persons (190 people) were placed in a waiting zone and their asylum applications – if there was any – were examined under the border procedure. In total, 66 persons had their asylum application considered as not manifestly unfounded. However, a total of 186 people were eventually admitted by the judicial or administrative authorities to the territory to register their asylum application and were referred to accommodation.

### 4.3.2. Safe country concepts



In the context of asylum, the term 'safe country' refers to countries which do not generally generate protection needs for their people or countries in which asylum seekers are protected and are not in danger. EU law provides four safe country concepts which can be applied:

- **Safe country of origin:** Under specific circumstances, certain countries can be designated as generally safe for their nationals or former residents. As a result, asylum applications from such countries are likely to be unfounded, and Member States may accelerate or prioritise their examination. The concept is described in the recast APD, Article 36.
- **Safe third country:** A safe country with which the applicant has a genuine connection and where he/she should have applied for international protection. Unlike the safe country of origin concept, this concept is not related to the substance of the application and the application may be declared inadmissible.
- **First country of asylum:** Asylum seekers and refugees may be returned to a country where they have, or could have, sought international protection and where their safety would not be jeopardised, whether in that country or through a return from the first country to the country of origin. The concept of first country of asylum is defined in the recast APD, Article 35.
- **European safe third country:** Certain European third countries observe particularly high human rights and refugee protection standards.



These concepts are regulated in the recast APD, which states that Member States should conduct regular reviews of the situation in safe countries based on a range of sources of information. When a significant change related to the human rights situation occurs in a country which has been designated as safe, Member States must evaluate the situation as soon as possible and, where necessary, assess the designation of that country as safe.

The national courts of EU+ countries remain the primary guardians of CEAS within the national framework. When necessary, they review the practical implementation of safe country concepts in line with their relevant competences. In addition, CJEU interprets the relevant rules in the context of preliminary rulings or assesses their implementation in cases of infringement procedures. The ECtHR indirectly reviews safe country concepts when examining human rights violations.

### Additional resources on safe country concepts

The application of the safe country concept in EU+ countries is presented in the EUAA report, [Applying the Concept of Safe Countries in the Asylum Procedure](#).

The [Who is Who in International Protection](#) interactive platform supplements this report by presenting the EU+ countries which apply the concept, the competent authorities responsible and national lists of safe countries.



#### 4.3.2.1. Recent changes in national lists of safe countries

During periodic reviews, new countries may be determined as safe and others may be withdrawn from the national list.

##### Safe country of origin

In 2022, several EU+ countries revised their lists of safe countries. The main changes occurred in Cyprus,<sup>353</sup> Estonia,<sup>354</sup> Greece,<sup>355</sup> Iceland,<sup>356</sup> Norway<sup>357</sup> and Slovenia.<sup>358</sup> Belgium was the only country where no changes were introduced,<sup>359</sup> although in March 2023, the Council of Ministers approved the removal of Georgia from the list.<sup>360</sup>

In the Netherlands, the State Secretary announced in 2021 that 12 countries will be removed because there was no substantial interest or relevance to keep them on the list.<sup>361</sup> In addition, it maintained the United States,<sup>362</sup> Armenia (with the exception of LGBTIQ applicants and persons who have been placed in criminal detention),<sup>363</sup> and Trinidad and Tobago (with the exception of LGBTIQ applicants)<sup>364</sup> as safe countries of origin.

On 5 April 2022, the Council of State [ruled](#) that specific groups within a country can be excluded from the designation of a safe country of origin. Until this ruling was delivered, the Netherlands could opt to pay special attention to specific groups that did not completely meet the threshold to be excluded from the safe country of origin designation. Therefore, the accelerated procedure in Track 2 still applied. With the new ruling, all groups to which special attention was given in Track 2 were subsequently excluded from the safe country of origin designation.

In Ireland, the International Protection Act was amended to allow for the prioritisation of applications from safe countries of origin and for the acceleration of the appeal procedure in front of the International Protection Appeals Tribunal (IPAT).<sup>365</sup> Under the revised procedure,



applicants from safe countries of origin receive a date for their substantive interview within 4 to 6 weeks of making the initial application.<sup>366</sup>

In October 2022, a fast-track procedure was re-introduced in Switzerland for certain countries of origin: countries on the list of safe countries of origin, visa-exempt countries, and – because of the high number of insufficiently-justified claims – Algeria, Morocco and Tunisia. This procedure merges the normally separate procedures of the Dublin interview and interviews in the national asylum procedure according to AsylA, Articles 26 and 29. According to the SEM, this would allow the asylum procedure to be completed more quickly.<sup>367</sup>

For specific groups of applicants, [aditus](#) strongly criticised the presence of a number of countries on the safe country list in Malta because they discriminate and criminalise LGBTIQ individuals. The organisation pointed out that this practice undermines the proper safeguards at second instance for these individuals who are fleeing persecution on the basis of their sexual orientation and gender identity, especially in cases where the first instance decision rejects the application as manifestly unfounded.<sup>368</sup> The International Protection Agency stated that all procedural guarantees apply within the accelerated procedure.

Following the Russian invasion in February 2022, Ukraine was removed or *de facto* suspended in all EU+ countries that had previously designated Ukraine as a safe country of origin (Austria,<sup>369</sup> Cyprus,<sup>370</sup> [Czechia](#), Estonia, Greece,<sup>371</sup> Iceland,<sup>372</sup> Italy<sup>373</sup>, Luxembourg and the Netherlands<sup>374</sup>).

The change in the security situation in Ukraine led the Supreme Administrative Court in Czechia to [accept](#) appeals lodged before February 2022 by Ukrainian nationals based on the safe country of origin concept and held that these cases should be re-considered due to the ongoing armed conflict.

In *S.H. v Malta* (Application No 37241/21), the ECtHR found that there had been violations of Article 13 in conjunction with Article 3 of the Convention when Malta ordered the return of an applicant to Bangladesh, which the International Protection Act deems as a safe country of origin. Under Rule 39 of the Rules of the Court, the ECtHR indicated to the Maltese government not to expel the applicant.

Similarly, the Tribunal of Catania [overturned](#) a negative decision and stated that Tunisia cannot be considered a safe country of origin due to the deteriorating the security situation.

The Court of the Hague overturned decisions given to some applicants from safe countries of origin. In one case it found that the determining authority had not asked sufficient questions during the interview with an applicant from [Georgia](#), and in another, there was insufficient investigation of the individual circumstances of the applicant from [Armenia](#).

The Dutch Council of State [underlined](#) that even when a country is considered as a safe country for origin for unaccompanied children, the authority should examine if adequate reception is available in the return country.

In contrast, national courts upheld the designation of some countries as safe countries of origin. There was no information available to challenge the designation for [Cameroon](#), [Egypt](#), [Georgia](#) and [Morocco](#).

The Irish High Court sent several [cases](#) back to IPAT to [re-examine](#) whether Georgia can be considered as safe for victims of domestic violence (see *Section 5.2*).



### Safe third country

Only a few changes were reported for national lists of safe third countries in 2022. Following the Russian invasion, Estonia removed Ukraine from the list on 25 May 2022.

Greece introduced the list in June 2021, specifying Türkiye as a safe third country for certain nationalities.<sup>375</sup> The list was further supplemented in December 2021 with the addition of applicants entering from Albania and North Macedonia.<sup>376</sup>

The retention of Türkiye as a safe third country on 12 December 2022<sup>377</sup> drew a strong reaction from civil society organisations.<sup>378</sup> 15 NGOs addressed a letter to the Director of the Asylum Service, noting that the latest European Commission report on Türkiye (SWD(2022) 333)<sup>379</sup> counters Greece's designation of Türkiye as a safe third country for refugees.<sup>380</sup> The lack of readmission leading to prolonged detention on the islands was also criticised by NGOs.<sup>381</sup>

Members of the European Parliament (E-001347/2022) raised with the European Commission the issue of the applicability of the recast APD, Article 38(4) as Türkiye had suspended all transfers from Greece.<sup>382</sup> The European Commission underlined that if the applicant is not permitted to enter the safe third country, in particular if the underlying situation preventing entry persists since 2018 or 2020, the Member State should ensure that access to the asylum procedure is given, in accordance with the recast APD.<sup>383</sup> The Refugee Support Aegean and the Greek Refugee Council submitted an annulment of this piece of legislation to the Greek Council of State, which referred questions to the CJEU for a preliminary ruling.<sup>384</sup>

However, despite the suspension of returns to Türkiye since March 2020, applications lodged by applicants falling under the scope of Joint Ministerial Decision 42799/2021 (FEK B' 2425/07.06.2021) in 2022 were still examined in the context of the safe third country concept and the fast-track border procedure. The Appeals Committee does not apply Article 38(4) of the Procedural Directive to applications rejected as inadmissible on the basis of the safe third country concept with regard to Türkiye, despite the fact that readmissions to Türkiye have been suspended since March 2020. It is only in a limited number of cases that the Appeals Committee proceeded to an in-merit examination of an application. UNHCR continued its advocacy for the examination on the merits, based on its public statement issued in August 2021.<sup>385</sup>

Challenges were also brought up by the Norwegian Organisation of Asylum Seekers (NOAS) about the application of the concept of the safe third country. NOAS proposed a series of legislative and procedural changes to ensure that asylum seekers who are returned to a safe third country following the Immigration Act, Section 32(1d) are not exposed to the risk of *refoulement*, including chain *refoulement*.<sup>386</sup>





### 4.3.3. Admissibility procedures



Admissibility procedures are conducted when a Member State does not have to examine whether an applicant qualifies for international protection because of specific circumstances, for example:

- Another Member State is responsible for the application under the Dublin III Regulation;
- Another Member State has already granted protection;
- Another country is considered to be the first country of asylum or a safe third country for the applicant;
- The application is a subsequent one with no new elements; or
- A dependent lodges an application after consenting to be a part of another application.

In these special cases, a Member State conducts an admissibility procedure to verify if the application may still be admitted for examination.

In 2022, jurisprudential developments shaped the framework established for admissibility procedures. Following the CJEU's [judgment](#) in November 2021, the Asylum Law was amended in Hungary.<sup>387</sup> The inadmissibility ground was repealed from the Asylum Law, which allowed the asylum authority to reject a case when the applicant had arrived through a country where the person was not exposed to persecution or at risk of serious harm. This provision gave rise to an infringement procedure by the European Commission.<sup>388</sup> Nonetheless, the Hungarian Helsinki Committee underlined that the corresponding provisions still remained in the Fundamental Law of Hungary, allowing authorities to continue using this inadmissibility ground in practice.<sup>389</sup>

The CJEU [ruled](#) that a new application in a Member State from an applicant who had previously been rejected by Denmark cannot be considered as a subsequent application, and thus dismissed it as inadmissible, since Denmark does not implement the recast QD and the recast APD (see [Section 2.6](#)). The court also ruled on the admissibility of an asylum application lodged by a minor whose family members were already beneficiaries of international protection in another Member State (see [Sections 2.6 and 4.2](#)).

The German Regional Administrative Court of Minden [referred](#) questions to the CJEU for a preliminary ruling, inquiring whether an application could be considered as a subsequent one and dismissed as inadmissible when the applicants in the meantime had returned to their country of origin. Another Regional Administrative Court [asked](#) the CJEU whether national legislation was in line with EU law if it considers a subsequent application to be admissible only if the factual or legal position changed in favour of the applicant, and whether a ruling from the CJEU must be treated as a new element, even if that ruling found that national legislation was in line with EU law.

These questions referred to the practice of BAMF between 2019 and April 2022 of deprioritising applications from applicants who had already been granted international protection in Greece, until BAMF started processing them again in April 2022. BAMF stated



that it planned to assess each case again on its merits, instead of accepting the decision to grant international protection from another Member State, and to only deem applications inadmissible “in justified individual cases” where no threat of violation of the ECHR, Article 3 or EU Charter of Fundamental Rights, Article 4 exists. Over the course of 2022, this led to cases where asylum applications were rejected, although protection had been granted by Greek authorities.

The Federal Administrative Court of Leipzig in Germany [referred](#) questions for a preliminary ruling on secondary movements. The court inquired whether a Member State was prevented from examining an asylum application in an open-ended manner if another Member State had already granted international protection, but a return to the first Member State would entail a risk of violating the Charter of Fundamental Rights of the EU, Article 4.

Indeed, the trend of recognised beneficiaries of international protection moving onto other Member States and applying for international protection persisted in 2022. The Swiss Refugee Council published a legal analysis and presented some recent case law related specifically to returning applicants who had been granted international protection in Greece.<sup>390</sup>

In addition, an EUAA publication on [Jurisprudence on Secondary Movements by Beneficiaries of International Protection](#) highlights the changing approach of courts when assessing these cases and some of the practical and procedural issues faced by judges.<sup>391</sup> Following the publication of the report, the number of relevant cases [registered](#) in the [EUAA Case Law Database](#) continued to grow, for example with Belgium, Finland, France, Germany, Iceland and the Netherlands assessing individual situations against the [Ibrahim](#) threshold and examining whether national authorities fulfilled the duty to sufficiently investigate the circumstances.

#### 4.3.4. Accelerated procedures



According to the recast APD, when an application for international protection is likely to be unfounded or where there are specific grounds, such as the applicant is from a safe country of origin or presented false information, Member States may accelerate the examination of the application. This can be done by introducing shorter, but reasonable, time limits for certain procedural steps without compromising the right to a fair process or the applicant’s access to basic rights and guarantees. In the circumstances when a procedure can be accelerated – which are the same circumstances to examine an application at the border or in transit zones (see *Section 4.3.1*), the directive allows Member States to consider an application as manifestly unfounded.

While several Member States undertook steps to speed up the regular asylum procedure (see *Section 4.4*), relatively few developments were reported specifically related to accelerated procedures.

Changes to national lists of safe countries of origin (see *Section 4.3.2*) had an impact on accelerated procedures. For example, Russia was removed from the ÅGH country list in Denmark, which meant that applications from that country could not be processed in the



expedited version of the manifestly unfounded procedure. However, the Danish Immigration Service underlined that applications from Russian citizens could still be processed in the manifestly unfounded procedure on other grounds, with the agreement of the Danish Refugee Council.<sup>392</sup>

The appeal timeline for an accelerated procedure was shortened in Cyprus with an amendment to the "Law on the rules of procedure for the Administrative Court for International Protection".<sup>393</sup>

The Lithuanian Red Cross underlined that, since summer 2021, applicants from certain nationalities arriving from Belarus were automatically referred to an accelerated procedure. While the law requires the authorities to assess the cases within 10 days in this procedure, the organisation observed that applicants often had to wait 6 months or more for a decision.<sup>394</sup>

In Malta, the First Hall Civil Court **ruled** that there was a breach of parts of the Maltese Constitution and the applicant's rights when a rejected application is automatically reviewed by the International Protection Appeals Tribunal without hearing the applicant and without a clear possibility of a further appeal. The case was further appealed to the Constitutional Court, which delivered its **judgment** in January 2023. The court concluded that there was no violation of the constitution, as it found that the rights in asylum were not part of civil rights and obligations. In 2022, concerning the case of a different applicant, the ECtHR **held** that the accelerated asylum procedure did not offer effective guarantees to protect the applicant from an arbitrary removal.

### 4.3.5. Subsequent applications



A former applicant may lodge a new asylum application when their situation has changed or new circumstances have arisen. Lodging a new application has however sometimes been used by applicants to prevent or delay a return decision. When an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige a Member State to carry out a new, full examination.

In these cases, a Member State has the possibility to dismiss an application as inadmissible in accordance with the *res judicata* principle (that the matter has been decided on its merits and cannot be litigated again between the same parties). When an application is not examined in accordance with the Dublin III Regulation, a Member State is not required to examine whether the applicant qualifies for international protection as the application is already considered to be inadmissible after a preliminary examination pursuant to the recast APD.

Similar to admissibility procedures, in 2022 jurisprudence influenced the procedural framework of subsequent applications. As mentioned earlier, the CJEU **ruled** that a Member State may not consider an application as a subsequent one after a first application was rejected in Denmark (see *Sections 2.6 and 4.3.3*).



The Turku Regional Administrative Court in Finland **ruled** on the scope of people who can submit an appeal against a subsequent application and concluded in this case that the spouse of the applicant does not have a right to appeal.

The Dutch Council of State **assessed** the concept of new evidence in subsequent applications. It confirmed that the analysis of a report should be considered as separate evidence, thus if the authorities considered only the report itself, the analysis should be considered as new. The council also noted that the authorities cannot reject evidence arguing that it could have been introduced sooner, as outlined in the recast APD, Article 40(4). This provision applies only if a Member State transposed it in national law, and this was not the case for the Netherlands.

The Czech Supreme Administrative Court **considered** the subsequent application of a Ukrainian national and concluded that the case should be reconsidered as a result of Russia's invasion of Ukraine. The court also noted that it cannot be presumed that the applicant is entitled to temporary protection, as he arrived long before the beginning of the war.

A report by Equal Rights Beyond Borders, HIAS Greece and Refugee Support Aegean highlighted that the Greek authorities did not accept as a new element and did not declare subsequent applications admissible when readmission to Türkiye was not plausible. Health concerns or risk of torture or violence in the country of origin had also been seen to be dismissed as non-substantial new elements. The report underlined that a judicial review was still pending at the Greek Council of State, assessing a measure from September 2021 which required asylum applicants to pay a EUR 100 fee for a second and further subsequent applications.<sup>395</sup>

Assessing procedural requirements, the Court of The Hague **annulled** the IND's decision in a subsequent application when it did not distinguish between the two phases of examining the admissibility of a subsequent application, as outlined in the CJEU's **LH** ruling. However, the court confirmed that the IND was not obliged to hear the applicant during the admissibility assessment, and it confirmed that the legal consequences of the decision could be maintained, even if the decision itself was annulled.

In a case concerning an applicant's conversion to Christianity, the Dutch Council of State **overturned** the inadmissibility decision in a subsequent application. The council emphasised, that the IND should better recognise in its policy the importance that a growth in faith is procedure-transcending. The authority should assess all information in combination with the previous asylum procedure and examine whether a different outcome would result in the credibility assessment.

The Austrian Supreme Administrative Court **referred** questions to the CJEU related to the status which may be granted in a subsequent application when an applicant converts to a faith after the first application was rejected. The Federal Office for Immigration and Asylum (BFA) as the first instance court and the BVwG as the appeal court had considered the subsequent application credible, but due to the fact that the risk of persecution emerged based on circumstances that the applicant created by his own decision and relying on the Asylum Act, Article 3(2) (transposing into national law the recast QD, Article 5(3)), it granted subsidiary protection instead of refugee status. The court wanted to verify the compliance of this interpretation with EU law. In relation to this preliminary reference, UNHCR published a written statement in which it reiterated that individuals who are objectively at risk of persecution are



entitled to protection. This is irrespective of their motivations or intentions and of whether these constitute a continuation of previously-held convictions or orientations.<sup>396</sup>

German courts also referred questions to the CJEU related to the admissibility of subsequent applications (see *Section 4.3.3*).

#### 4.3.5.1. Data on subsequent applications



A subsequent application is a legal term based on the recast APD, Articles 2(q) and 40. It refers to situations where a person submits a new application for international protection after a final decision has been made on a previous application.<sup>xxxiv</sup>

The proportion of subsequent applications lodged in the same EU+ country to total asylum applications decreased to 1 in 12 in 2022, from 1 in 7 in the previous year.<sup>xxxv</sup> The notable decline was due to a decrease in the number of subsequent applications overall (76,000 submitted in 2022 compared to 91,000 in 2021), coupled with a two-thirds increase in first-time applications.

Subsequent applications declined in 12 out of 27 reporting countries. As illustrated on the left side of Figure 12, subsequent applications in Germany declined the most in absolute terms (26,000 in 2022 compared to 42,000 in 2021).<sup>xxxvi</sup> Despite this decline, Germany was still the main receiving country, accounting for over one-third of the total.

With an increase from the previous year, France followed with 19,000 subsequent applications, representing one-quarter of total subsequent applications. With the exceptions of Greece (11%), Italy (9%) and Belgium (6%), all other EU+ countries received 3% or less each of the total subsequent applications in 2022.

Close to three-quarters of all subsequent applicants in 2022 were male, most of whom were aged 18 to 34. Applicants older than 35 years submitted over one-quarter of all subsequent applications, while minors made up 22%.

For certain countries, around one in five applications was a subsequent application. This was the case in Czechia, Finland, Greece and Poland. For other countries, the share dropped to around one in ten applications – this included Belgium, France, Germany, Italy, Latvia and Lithuania. In all remaining EU+ countries, subsequent applications were relatively rare.

As shown on the right side of Figure 12, nationals of Afghanistan, Nigeria, Pakistan, Iraq and Syria lodged the most subsequent applications in 2022. The latter submitted far fewer repeated applications than in the previous year, with 3,400 in 2022 compared to 17,000 in 2021. The peak in 2021 resulted from Syrians in Germany lodging an exceptionally high number of subsequent applications following a [ruling](#) by the CJEU.

<sup>xxxiv</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Repeated\\_applicant](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Repeated_applicant)

<sup>xxxv</sup> At the time of writing, data on subsequent applications were missing for Cyprus, Denmark, Iceland and Sweden.

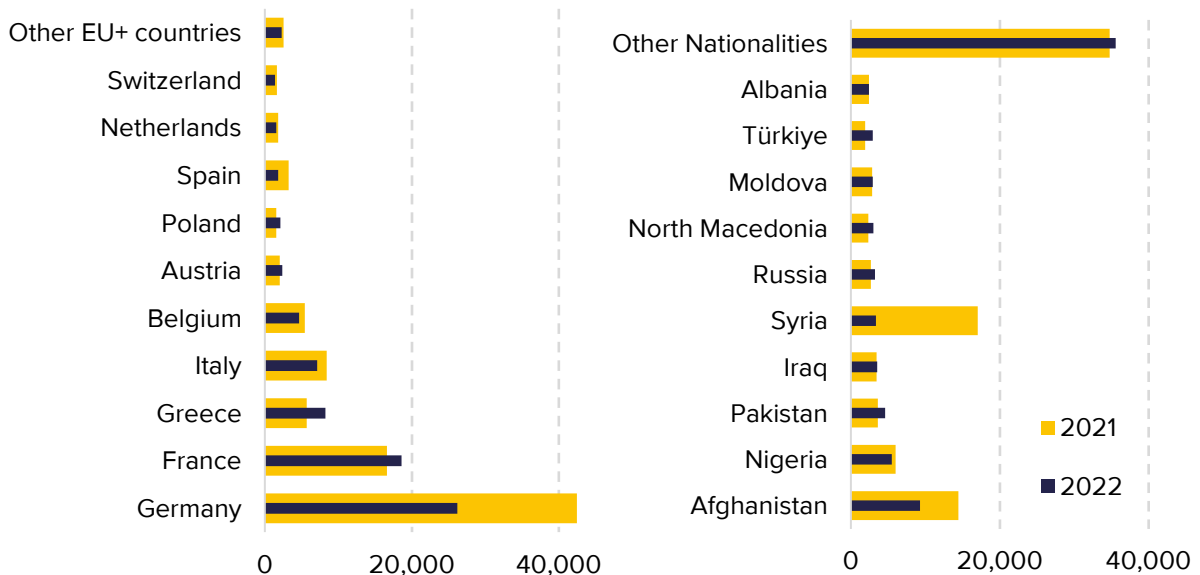
<sup>xxxvi</sup> Subsequent applications in Germany increased to unprecedented levels in 2021 following a CJEU [ruling](#) relating to Syrian nationals and the Taliban takeover in Afghanistan.





## Subsequent applications by nationals of Syria and Afghanistan declined from peak levels in 2021, particularly in Germany.

**Figure 12. Receiving countries (left) and countries of origin (right) with the most subsequent applications, 2022 compared to 2021**



**Note:** Data on subsequent applications were missing for Cyprus, Denmark, Iceland (the law on foreigners does not clearly define subsequent applications) and Sweden.

Source: Eurostat [[migr\\_asyappctza](#)] as of 13 April 2023.

Although still significantly higher than in earlier years, citizens of Afghanistan also submitted fewer subsequent applications in 2022 (9,300 compared to 14,000 in 2021 when the Taliban takeover in Afghanistan began). Afghans continued to lodge subsequent applications mainly in Germany.

Subsequent applications by nationals of Nigeria (5,500) also declined from their peak in 2021, but they were the second-largest applicant group in this category. As in previous years, the majority of the subsequent applications by Nigerians were concentrated in Italy.

In contrast, subsequent applications by nationals of Türkiye and Pakistan (in descending order) increased the most in absolute terms in 2022. Both increased significantly in France, while repeated applications lodged by citizens of Pakistan increased the most in Greece, where they more than doubled from the previous year. Subsequent applications by several other countries in the vicinity of the EU also increased significantly in 2022, including nationals of Russia (3,200), North Macedonia (3,000), Moldova (2,900), Georgia (2,400), Ukraine and Serbia (1,800 each).

## Section 4.4.

### Processing asylum applications at first instance

CEAS is based on the principle of common standards to grant and withdraw international protection, while ensuring fair and efficient procedures. The aim is that similar asylum cases are treated in a similar manner in all Member States, leading to uniform decision-making and convergence across the EU, while ensuring that an individual assessment is provided in each case.



The procedures foreseen in the recast APD aim to ensure that decisions on applications for international protection are taken on the basis of facts and by persons with appropriate knowledge and training, after an adequate and complete examination has been undertaken without undue delay and subject to remedies. Within this framework, Member States have established their asylum systems and procedures in various ways.



In 2022, the number of applicants for international protection increased considerably, alongside millions of displaced persons from Ukraine in need of temporary protection, leading to increased pressure on first instance processing capacity. To carry out the examination of applications and, at the same time, complete registrations for temporary protection, national authorities were faced with the need to split already-limited resources and staff.

EU+ countries responded to this challenge by adopting measures to increase the efficiency of the overall asylum system and to speed up the asylum procedure. Recruitment of new staff and the reorganisation of determining authorities were initiated, and additional territorial offices were created to increase presence and facilitate applicants' access to the asylum procedure and competent authorities. Studies were commissioned to analyse the organisation of migration structures to identify best practices. Some EU+ countries introduced prioritisation policies and guidelines for certain profiles, extended time limits to issue a decision at first instance, and shortened or omitted certain steps in the procedure when the outcome would be favourable to the applicant.

Overall reforms of international protection systems at the national level were initiated in several EU+ countries, for example by launching new digitalisation projects to improve the efficiency of the procedure. Some proposed legislative changes aimed to further accelerate the asylum procedure, but civil society organisations reacted critically noting that, while governments express the intention to keep the quality of the procedure, in practice the changes may lead to a limitation of procedural safeguards for applicants. In other countries, policies that aimed to exclude more people from international protection drew heavy criticism from civil society organisations.

The CJEU ruled on an applicant's right to access a copy of the administrative file and the meaning of communication 'in writing' of the administrative decision, thus interpreting Articles 23(1), 46(1) and 46(3) of the recast APD (see *Section 2.6*), while the ECtHR examined the effectiveness of asylum applications in specific EU+ countries. In addition, national courts contributed with interpretations provided in areas that needed clarification through judicial reviews, such as the way in which personal interviews were carried out, the use of specific software during the personal interview and the use of mobile phone data to determine the identity and nationality of applicants.

#### 4.4.1. Reorganisation and future restructuring



To enhance the effectiveness of asylum systems, in 2022, EU+ countries reorganised their determining authorities, increased their presence and, where necessary, updated their internal organisational rules.

In June 2022, the government of Iceland approved the Prime Minister's proposal to appoint a temporary Council of Ministers for Immigrants and Refugees. The purpose of the council is to work systematically on increasing the speed and efficiency of processing asylum cases, as well as build trust and transparency in decisions of immigration authorities.<sup>397</sup>

Poland reorganised the Department for Refugee Proceedings at the Office for Foreigners to have more specialised teams that could work with specific categories of applicants, such as detained applicants or applicants from specific countries of origin.



In Sweden, the Migration Agency's services were offered in eleven new locations since January 2022 (see *Section 4.9.1.1*).<sup>398</sup>

In Bulgaria, the State Agency for Refugees, under the Council of Ministers, updated and published rules governing access to and activities for national and international NGOs in the territorial units of the agency.<sup>399</sup>

Several EU+ countries were considering changing the structure of competent authorities involved in the international protection procedure. For example, in Belgium, the State Secretary for Asylum and Migration announced that it considered plans to merge the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) and Fedasil. This was based on an audit of the Belgian asylum process in 2021, which concluded that it would be better to merge the three services. Discussions were ongoing on the feasibility of this plan, including how to safeguard the independence assessing applications for international protection within this new system.

With the purpose of developing the best model of administration structures, the Ministry of the Interior in Finland commissioned a study to analyse the organisation of migration structures in Denmark, Germany and Sweden.<sup>400</sup>

In Greece, an amendment was presented to the parliament to establish a Fundamental Rights Officer at the Ministry for Migration and Asylum. The officer would have competence in evaluating complaints of fundamental rights violations during the international protection procedure and referring possible complaints to other competent authorities.<sup>401</sup>

In Portugal, a new asylum and migration agency was announced by the Minister of Home Affairs to expand capabilities to welcome, host and integrate refugees. The responsibilities of the Immigration and Border Service (SEF) will be reorganised, including three law enforcement agencies, with the Criminal Police (Polícia Judiciária), the Public Security Police and the National Republican Guard cooperating to ensure border security, integrated management, and countering illegal practices and human trafficking.<sup>402</sup>

## 4.4.2. Legislation and policy changes



New migration packages with comprehensive laws and policies on international protection, as well as amendments to existing legislation, were drafted in several EU+ countries or were in the process of negotiation.

Belgium is drafting a new Migration Code to clarify and enhance legislation on immigration and, for example, to improve the efficiency of the asylum procedure. The Belgian Council of Ministers approved its structure, which includes the general principles of the code, such as a reasonable time for managing cases, a more coherent appeals system, a more dynamic reception system, a clearer legal framework for the return of rejected applicants and the protection of persons in vulnerable situations.<sup>403</sup>

Czechia amended its national law in August 2022 to expand the exclusionary clause of Sections 15 and 15a of the Act on Asylum to cases where the foreigner is subject to international sanctions, namely a ban on entry or residence. In addition, subsidiary protection cannot be granted to a foreigner who committed criminal offenses outside the territory, if the person left the country of origin or the state of last permanent residence solely with the aim of



avoiding criminal prosecution, provided that in Czechia the criminal offenses are punishable with a prison sentence.

In July 2022, the German government approved the first migration package presented by the Federal Minister of the Interior. The draft law was subsequently adopted by the German parliament on 2 December 2022. The package includes a bill to accelerate the asylum procedure to reduce the burden on BAMF by providing the possibility to have the personal interview through video-conferencing and without the presence of the legal representative (Asylum Act, amended Sections 12a and 25) (see *Section 4.10*) and speed up court procedures (Asylum Act, amended Sections 77-78) (see *Section 4.5*). The law also has the objective to strengthen legal certainty to harmonise and achieve faster decisions in the asylum procedure. It also provides for the additional possibility to reject an asylum application due to an implicit withdrawal, while re-shaping the time limits for processing an asylum application (Asylum Act, amended Section 24).<sup>404</sup>

A new code of laws entered into force in Greece (Law No 4939/2022), systematically classifying all laws on international protection, reception and temporary protection.

Malta amended the International Protection Act in December 2022. The amendments cover several aspects and steps in the asylum procedure, including provisions on subsidiary protection and manifestly unfounded applications. Article 22(3) of the International Protection Act was amended to include the criteria for exclusion from subsidiary protection, while Article 22(2) was amended to provide that exclusion from subsidiary protection must be in accordance with Article 17(3) of the International Protection Act, namely when an applicant has committed one or more crimes prior to entering Malta. Article 23 was amended to state that applications may only be considered as manifestly unfounded if the International Protection Agency established that the applicant does not qualify for international protection.<sup>405</sup>

The International Protection Act was also amended for the subsequent application procedure (see *Section 4.3*), the application procedure for children in need of care (see *Section 5.6*) and the procedure for temporary humanitarian protection (a national form of protection) (see *Section 4.14*). Aditus presented comments on the proposed legislative amendments in June 2022. It welcomed a number of provisions, notably the clarification of the nature of the appeal procedure, in line with EU law and jurisprudence.<sup>406</sup>

Slovakia amended its Act on Asylum in June 2022 to regulate the hierarchy of national and international protection statuses, prioritising the consideration and granting of subsidiary protection based on serious injustice over the granting of asylum for the purpose of family reunification, and over the granting of asylum on humanitarian grounds. Thus, the first step will be to assess the need for international protection, and if the conditions for granting international protection are not met, then the possibility of granting a national status will be considered.

In Iceland, a Steering Committee on Immigration kicked off its activities on 23 January 2023 to formulate a detailed policy on immigration and refugee issues.<sup>407</sup> Prior to the creation of the committee, on 16 June 2022, the parliament adopted a resolution for the implementation of an action plan for immigration for 2022-2025 focused on five pillars (society, family, education, the labour market and refugees). A clear and coherent long-term strategy for immigrants, refugees and multiculturalism is one of the main strategic objectives of the plan, with special emphasis on social rights, health care, education and employment.<sup>408</sup>



In Sweden, the Asylum Commission (*Asylkommissionen*), a collaborative project between civil society organisations, researchers and professionals, was carried out between 2019 and 2022 to review the impact of changes made to asylum law in 2015. The commission found many detrimental effects, including long waits in the procedure and unpredictable asylum processes, and stressed the importance of research-based knowledge on the experiences of asylum applicants to form policy design.<sup>409</sup>

Civil society organisations in Sweden protested against the Tidö Agreement, a draft government policy to transform the Swedish migration policy by increasing evidentiary requirements for asylum applicants and limiting the right to interpretation and legal assistance.<sup>410</sup>

### 4.4.3. Case load management and prioritisation policies



In 2022, the elimination of backlogs remained a priority,<sup>411</sup> while the number of applications for international protection increased in several EU+ countries. The arrival of displaced persons from Ukraine brought further challenges to national asylum systems.

In Ireland, the Economic and Social Research Institute identified COVID-19, conflicts and the war in Ukraine as key drivers for the surge in asylum applications.<sup>412</sup> The latter was an additional pressure on the asylum system, which meant that first instance resources were diverted from processing asylum applications to registering displaced persons from Ukraine for temporary protection (see *EUAA Situational Analysis on Providing Temporary Protection to Displaced Persons from Ukraine. A Year in Review, March 2023*).

Some EU+ countries took additional measures to address the high influx of cases, such as introducing prioritisation policies for certain profiles, extending time limits to issue a decision at first instance, shortening or omitting certain steps in the procedure when the outcome would be favourable to the applicant and recruiting additional staff. Furthermore, UNHCR published a paper compiling good practices to guide asylum authorities in effectively processing applications through robust structures, close cooperation between relevant actors, and the involvement of legal aid providers and civil society organisations to address systemic issues.<sup>413</sup>

In Austria, the number of decisions taken in the fast-track procedure increased significantly in 2022. The practice of fast-track processing focused on applicants from safe countries of origin and applicants who had already been sentenced by a criminal court.<sup>414</sup>

Belgium prioritised certain categories of applicants who were in the reception system. Targeted action was taken for countries with high recognition rates, which made it possible to take a decision granting an international protection status for certain profiles without the organisation of a personal interview and only based on the information in the file (including the interview at registration) (for example for applicants from Eritrea, Somalia and Syria).

The Immigration Service in Denmark extended processing time limits and reallocated personnel to prioritise applications submitted under the Special Act on Residence Permits for Displaced Persons from Ukraine.<sup>415</sup>



Similarly, due to the large number of cases received over the last year and the arrival of a large number of asylum seekers from Afghanistan and people fleeing from Ukraine, in September 2022 the IND in the Netherlands decided to extend the time limit for a decision by 9 months for all cases where the 6-month time limit had not yet expired on 27 September 2022. In addition, for all asylum applications lodged after 27 September 2022, the time limit was pre-emptively extended by 9 months, meaning that the IND could take a maximum of 15 months to decide on an asylum application lodged after 27 September and before 1 January 2023. At the start of January 2023, it was uncertain whether this general extension of the decision-making period would be prolonged for asylum applications lodged after 1 January 2023.

On 23 November 2022, the Regional Court of Den Bosch [ruled](#) in favour of the general extension of the time limit. In contrast, on 6 January 2023, the Regional Court of Amsterdam [issued](#) a judgment declaring the time limit extension to be unlawful. The court maintained that, even though there was an increase in the number of asylum applications, it was not of such magnitude that the threshold included in the Aliens Act, Article 42(4b) was reached.<sup>416</sup>

In Ireland, the International Protection Office (IPO) introduced a new case load management system to improve the efficiency of the asylum procedure by channelling specific cases to different procedures. For example, cases related to minors were prioritised (*see Section 5.6*). In addition, Ireland omitted asylum interviews for certain profiles of applicants to speed up processes (this was the case for applicants from Afghanistan, Eritrea and Somalia).<sup>417</sup> In November 2022, IPO introduced a revised asylum application procedure. In accordance with the European Communities (International Protection Procedures) Regulations 2022, an applicant making an application at IPO would be required to complete the International Protection Questionnaire onsite at IPO, in addition to completing their preliminary interview. The questionnaire was reduced significantly to 24 questions in order to enable applicants to complete the questionnaire at the time of making their application.<sup>418</sup>

UNHCR reported that the Spanish Asylum and Refugee Office (OAR) created a unit focusing on cases of vulnerable applicants, and it improved its practices on the assessment of cases related to gender-based persecution. The two organisations worked together to improve prioritisation procedures and the quality of assessments of international protection cases.

In June 2022, the IND in the Netherlands published its first Performance Update, concluding that deciding quickly on applications was becoming more difficult due to the migration flows and complex laws and regulations. Cases involving religious conversion or LGBTIQ applicants, in particular, led to longer processing times and more time spent on training staff.<sup>419</sup> Another report published in the Netherlands by the investigation agency Anderson Elffers Felix concluded that a project-based approach to eliminate backlogs or process applications by a specific group proved valuable in order to provide legal certainty to a large number of asylum applicants.<sup>420</sup>

Overall, the capacity of the IND to examine asylum cases was considered insufficient in 2022 and measures were taken to mitigate the lack of capacity and limit waiting times. Measures included the ongoing recruitment of case officers in various locations, shorter interviews for applicants likely to be provided international protection and further acceleration of applications if applicants already requested protection in another EU Member State or came from a safe country of origin.<sup>421</sup>



Furthermore, from 26 September 2022, the Netherlands increased the time limit for deciding on applications for international protection from 6 months to 15 months for first asylum applications submitted until 1 January 2023, subsequent applications and family reunification cases for which the statutory decision period did not expire on 27 September 2022.<sup>422</sup> On 8 February 2023, the Advisory Division of the Dutch Council of State issued advice on the bill extending decision periods in asylum and family reunification cases (see *Section 4.14.2.4*).<sup>423</sup>

#### 4.4.4. New general guidelines to assess applications



In Bulgaria, the State Agency for Refugees reviewed internal guidelines and rules and prepared an analysis of national jurisprudence for internal use. The aim was to improve procedures and reduce the number of cases that courts send back to the agency following an appeal.

In Germany, the Federal Ministry of the Interior issued new guidelines, according to which, as of 1 October 2022, for applicants who fear persecution on the basis of their sexual orientation or gender identity, the decision on the risk of return is to be based on the assumption that the applicant will openly express their sexual orientation or gender identity upon a return to the country of origin.<sup>424</sup>

In February 2022, it was reported that the Irish Department of Justice was omitting interviews for certain profiles (such as applicants from Afghanistan, Eritrea and Somalia) in order to speed up the asylum procedure.<sup>425</sup> In July 2022, the UN Human Rights Committee published Concluding Observations on Ireland's Human Rights Record and urged Ireland to significantly reduce processing times for applications for international protection. In Norway, the Ministry of Justice and Public Security issued a new instruction No 15/22, "Assessment of the conditions for asylum in the Immigration Act, Section 28(1) when the applicant already has a residence permit in Norway", for example as family immigrants or after family reunification with a beneficiary of international protection. The ministry noted that if the applicant has a permanent residence permit in Norway or a temporary residence permit based on which a permanent residence permit may be issued, in principle there will not be a well-founded fear of persecution or a real risk of ill treatment under Section 28(1) of the Immigration Act, but the UDI must make an individual assessment of whether the negative decision will in fact lead to the person having to return to their country of origin, taking into consideration for example whether revocation proceedings have already been instituted, whether the applicant has separated/divorced from their spouse or whether the applicant is a registered resident at a different address.<sup>426</sup>

Through judicial reviews, courts provided guidance to determination authorities on various complex issues that may arise during the first instance procedure. National courts examined decisions to exclude applicants for whom there were serious reasons to believe that they had committed war crimes (see [here](#) and [here](#)), serious non-political crimes outside the country of refuge,<sup>427</sup> including [human trafficking](#), or where there were serious reasons for considering that they had been guilty of [acts](#) contrary to the purposes and principles of the UN.

In Belgium, CALL [overturned](#) a decision on the exclusion of an applicant on the basis that the Kurdistan Workers' Party (PKK) cannot be considered a terrorist organisation and the applicant should not be excluded under Article 1F(c) of the Geneva Convention. Considering different sources of information on the nature, structure, activities and methods of the PKK, CALL noted





that the acts committed by the organisation cannot be qualified as terrorist acts contrary to the purposes and principles of the UN. CALL added, however, that another exclusion clause may be applicable in the particular case. Therefore, the case was referred back to the CGRS for further assessment if the applicant was individually liable for any war crimes committed by the PKK, within the meaning of Article 1F(a) of the Geneva Convention.<sup>428</sup>

In Germany, the Federal Administrative Court **pronounced** a judgment in February 2023 on BAMF's use of mobile data carriers to determine the identity and nationality of an asylum applicant. The court held that the evaluation of digital data carriers to determine the identity and nationality of an asylum applicant was not lawful without considering other information and documents. It was only permitted if the purpose of the measure, based on the time it was ordered, cannot be achieved by less severe means. It noted that, according to the findings of the administrative court, more lenient means were available to BAMF, such as a marriage certificate or register comparisons and inquiries about linguistic abnormalities. In this particular case, the request to hand over the access data for the evaluation of the mobile phone was assessed to be unlawful.

In Ireland, in the case of a Georgian applicant who falsely claimed international protection based on sexual orientation, IPAT **rejected** his credibility in a new claim as well, based on political opinion. The High Court found that the tribunal failed in not assessing the new claim at all. The admittedly false claim should have been an element in the general credibility assessment.

The Italian Supreme Court of Cassation **highlighted** the manner in which the determining authority must assess cases involving victims of torture who request international protection (see *Section 5*). In addition, the Tribunal of Rome **allowed** an appeal lodged against a subsequent application decision and ruled that the procedure should be classified as ordinary due to the violation of the time limit for a decision in an accelerated procedure.

With regard to the use of medical reports in the examination of an asylum application, the Council of State in the Netherlands **ruled** in December 2022 that the 'component requirement' was no longer tenable. The 'component requirement' means that, if in a forensic medico-legal report the examiner (for instance, the Dutch Institute for Human Rights and Medical Assessment (iMMO)) has come to the conclusion that the physical and psychological situation of the asylum seeker may have affected (heavily) their ability to tell their asylum story in a complete, consistent and coherent manner during the interviews with the IND, the examiner should be able to pinpoint directly which components of the asylum story were affected. The component rule was laid down by the Council of State in its landmark ruling of 27 June 2018. However, those with relevant expertise (e.g. iMMO) pointed out that from a medical and scientific point of view the component requirement could not be met satisfactorily for the IND and the legal courts. Accordingly, in its judgment the Council of State abandoned the view it adopted in 2018.<sup>429</sup>





## 4.4.5. National policies on cases lodged by specific profiles and nationalities

### Ukrainian applicants

Following the Russian invasion of Ukraine in February 2022, many EU+ countries changed their policies with regard to applicants from Ukraine. In Bulgaria, the Administrative Court of Sofia City and the Administrative Court of Varna found in several cases that the termination of proceedings for international protection were unlawful for Ukrainian applicants who also applied for temporary protection.<sup>430</sup> Belgium, the Netherlands and Sweden suspended decisions and returns of applicants from Ukraine.<sup>431</sup>

In Denmark, following a decision by the Refugee Appeals Boards' coordination committee on 24 February 2022, all asylum cases lodged by Ukrainian citizens were put on hold and the applicants were notified. It was further noted that foreign nationals displaced from Ukraine who did not have the criteria to obtain a temporary residence permit under the Special Act could apply for a residence permit or international protection under the rules and procedures of the Danish Aliens Act.<sup>432</sup>

Read more in the EUAA's [Providing Temporary Protection to Displaced Persons from Ukraine: A Year in Review](#)



### Afghan nationals

Since August 2021 when the Taliban took power in Afghanistan, some EU+ countries suspended the decision-making process for applicants from Afghanistan and gradually resumed the decision process in 2022.

In Belgium, the CGRS resumed the assessment of asylum claims lodged by Afghan applicants in March 2022,<sup>433</sup> noting in several cases that, considering the situation in Afghanistan, there was no reason to grant subsidiary protection. On 31 March 2022, CALL [annulled](#) the decision of CGRS, noting that the situation did not seem to establish the need to grant subsidiary protection within the meaning of the recast QD, Article 15(c), but underlined that the situation remained unstable and changes in the dynamics of the conflict were very recent. It assessed that the situation in Afghanistan did not allow to make a correct and forward-looking assessment. On 12 and 13 October 2022, in a chamber of three judges, CALL issued five rulings, two granting refugee status, two denying refugee status and one annulling the CGRS' decision.<sup>434, 435</sup> In subsequent judgments, CALL ruled that sufficient and correct information was available to make an assessment, and since then, CALL mostly handed down judgments following the assessment of the CGRS.

In the Netherlands, the IND, which had applied a moratorium on decisions and departures for Afghan applicants since August 2021, resumed the decision process on 30 June 2022 on a case-by-case basis. It assessed the security and human rights situation, while considering specific groups who may fear persecution or a risk of inhuman treatment.<sup>436</sup>



In Sweden, a new legal position on the examination of protection needs for citizens from Afghanistan, in particular the situation of women and girls, was published on 6 December 2022. According to the legal position, the fundamental rights of women in Afghanistan are violated, therefore women and girls from Afghanistan seeking international protection should be recognised as refugees on the grounds of membership in a particular social group. The new legal position allowed for the re-examination of previous cases.<sup>437</sup>

In December 2022, the EUAA completed the Country Guidance report on Afghanistan,<sup>438</sup> and the recommendations were followed soon after by Germany who announced in early 2023 that it would change its policy on Afghan women, adapting its decision-making practice towards this profile of applicants.

Similarly, in Denmark, the Refugee Appeals Board eased evidentiary requirements for this profile of applicants in December 2022<sup>439</sup> and subsequently decided to change the Danish practice and as a main rule provide refugee protection to Afghan women and girls solely because of their gender. This was applied to all pending cases and cases which received a negative decision were reopened for this profile of applicants.<sup>440</sup> In February 2023, the Refugee Appeals Board **granted** international protection to an Afghan woman and her daughter following the change of practice in Denmark.

In addition, the Immigration Service in Finland announced in February 2023 that gender alone would constitute a sufficient reason to grant protection to Afghan women and girls.<sup>441</sup> In December 2022, the Immigration Service updated its guidelines on processing applications from Afghans of Hazara background, considering that their situation had deteriorated in Afghanistan. This aspect was highlighted in the overall assessment of protection needs and individual circumstances which increased the risk of persecution, including gender, participation in religious activities and living in an area where the Islamic State–Khorasan Province (ISKP) had operational capacity and carried out attacks. The Finnish Immigration Service also announced in March 2023 that it had gathered sufficient, updated country information from Afghanistan on the security situation of different provinces and had been able to start making decisions for all Afghan applicants, for some of whom decision-making had been suspended since July 2021.<sup>442</sup>

More recently, UNHCR updated its Guidance Note on the International Protection Needs of People Fleeing Afghanistan, in which it analysed the situation of women and girls and highlighted other profiles with increased protection needs, such as Afghans associated with the former government or with the international community, former members of the Afghan national security forces and Afghans associated with the former international military forces, journalists and other media professionals, human rights defenders and their defence lawyers, members of minority religious or ethnic groups, and members of the LGBTIQ community.<sup>443</sup>

Further clarification on applications from Afghan nationals were provided in Latvia by the District Administrative Court of Riga, which **ruled** that the analysis for Afghan applicants should focus on a larger social group of persons with links with the former Afghan government and their family members, instead of the group of persons whose family members have been abducted by the Taliban. In the particular case, the court confirmed the provision of subsidiary protection.



## Applicants from Ethiopia

After suspending the processing of cases by Ethiopian nationals on 16 December 2021,<sup>444</sup> the Coordination Committee of the Refugee Appeals Board in Denmark lifted the suspension on 24 February 2022. The Appeals Board later stated that the general situation in Addis Ababa was not of such a nature that any person of Tigrayan ethnicity would be at risk of being arrested, mistreated or abused. Thus a concrete assessment would determine if an applicant's circumstances met the conditions for issuing a residence permit according to Section 7.<sup>445</sup>

## New risk groups in Egypt

In the Netherlands, new risk groups of applicants from Egypt were defined in February 2022 based on a report from the Ministry of Foreign Affairs. The risk groups include journalists, human rights defenders, political opponents and activists who have voiced significant criticism against the authorities or government policy, and LGBTIQ persons.<sup>446</sup>

## Risk groups in Iran

Following the crackdown of demonstrations in Iran through violent means, NOAS requested the Norwegian Immigration Service to reassess cases of applicants from Iran, particularly women who fled gender-related persecution, political opponents, activists for minority rights, converts and those who were politically active in Norway against the Iranian regime.<sup>447</sup>

## Applicants from Iraq

The SMA in Sweden updated its legal position on Iraq on 1 July 2022, following closely the EUAA Country Guidance on Iraq, published in June 2022.<sup>448</sup> The legal position refers to specific sections of the EUAA guidance, namely the actors of persecution, actors who inflict serious harm and guidance for special profiles. The SMA noted that there was a high level of indiscriminate violence in Diyala, Dohuk and Ninewa, lower levels in Anbar, Baghdad, Erbil, Kirkuk and Salah al-Din, and very low levels in Sulaymaniya, Babil, Basra, Kerbala, Missan, Muthanna, Najaf, Qadissiya, Thi-Qar and Wass.<sup>449</sup>

## Applicants from specific regions of Mali

In Belgium, CALL changed the policy toward applicants from Mali due to major upheavals and a significantly-deteriorated security situation. CALL **concluded** that the indiscriminate violence in northern and central Mali caused any civilian applicant from the area to face a serious and individual threat to their lives. It added that other specific circumstances were not necessary. The council also underlined that, given the situation in Mali, there was no internal flight alternative for applicants from northern or central Mali.

On 28 October 2022, CALL pronounced four judgments on the security situation prevailing in southern Mali. CALL noted that the security situation prevailing in the south of Mali was not uniform and that a distinction must be made depending on the region of origin of the applicant. For the district of **Bamako** and the region of **Kayes**, CALL ruled that they were not in the grip of indiscriminate violence as defined by the CJEU, despite a volatile security situation which must be closely monitored and which should encourage asylum authorities to show great caution in examining requests for international protection from Malian nationals from these regions. For the regions of **Sikasso** and **Koulikoro**, CALL concluded that there was a situation of indiscriminate violence but not of an intensity that any civilian ran a real risk of harm by mere presence in those regions. For these applicants, CALL noted that it was



necessary to consider an applicant's individual circumstances. This analysis of the security situation is also applied at first instance by the CGRS.

In Italy, the Tribunal of Catanzaro [granted](#) subsidiary protection to a national of Mali due to the indiscriminate violence and general situation of insecurity in the country of origin and particularly in the region of Segou.

In the Netherlands, the State Secretary for Justice and Security informed the parliament in January 2023 about the results of the investigation into the general security situation in parts of Mali. The State Secretary noted that there was indiscriminate violence in the provinces of Gao, Menaka and Mopti, in many cases specifically aimed at civilians.<sup>450</sup>

### **Applicants from Myanmar**

In 2023, the Refugee Appeals Board referred two cases back to the Danish Immigration Service for a new assessment based on updated country of origin information for Myanmar, following the military coup in February 2021. The Danish Refugee Council (DRC) reported that in one of these cases the first instance authority provided international protection.<sup>451</sup>

### **Applicants from Somalia**

On 23 June 2022, the SMA in Sweden published a new legal position on the examination of protection needs of Somali nationals. The legal position emphasised that the EUAA's guidance<sup>452</sup> in its entirety should be the basis for the assessment of conditions in Somalia. The document noted that an individual assessment must be made of whether the applicant belongs to a vulnerable group or has a risk profile based on current country information. In addition, indiscriminate violence was not assessed to occur at such an exceptionally-high level in any part of Somalia.<sup>453</sup>

In July 2022, the National Court of Asylum (CNDA) in France updated its assessment of indiscriminate violence resulting from a situation of armed conflict which prevailed in 12 regions of Somalia. The CNDA referred particularly to the EUAA Country Guidance: Somalia from June 2022, the reports of the UN Secretary General of 8 February and 13 May 2022, and the EUAA COI Report – Somalia: Targeted profiles from September 2021. The court [concluded](#) that indiscriminate violence was taking place in the regions of Bay, Benadir and Lower Shabelle, however the intensity of this violence was not such that there were serious and proven reasons to believe that every civilian would face a real risk of serious harm simply because of their presence in these regions.

### **Applicants from Sudan**

Following a [judgment](#) of the Dutch Council of State pronounced on 15 December 2021, the Netherlands put in place a moratorium on decisions and returns of political opponents from Sudan between 24 February and 24 August 2022. This allowed the State Secretary for Justice and Security to investigate the developments that took place in Sudan after the military coup of 25 October 2021.<sup>454</sup>

### **Applicants from Syria**

On 6 July 2022, the Dutch Council of State found in two judgments “obvious and fundamental differences” in asylum policies between Denmark and the Netherlands related to Syrian applicants. The Council of State held that the applicants met the burden of proof by providing



evidence that the policy of the determining authority in Denmark was to return Syrian applicants, and this was endorsed by the Danish Refugees Appeals Board. The Council of State noted that the State Secretary did not conduct a further investigation to eliminate any doubts about a possible real risk of *refoulement*.<sup>455</sup>

In Germany, following a 2021 decision by the CJEU according to which there was a ‘strong presumption’ that a refusal to perform military service in the context of the Syrian civil war relates to one of the reasons to be granted refugee status, the Federal Administrative Court **ruled** in January 2023 that the risk of persecution must still be established in each individual case, based on a connection between the ground for persecution and the type of persecution feared.<sup>456</sup>

The legal position published by the Swedish SMA on 11 November 2022 noted the security situation in Syria, in particular in the provinces (Hassakah, Hama, Homs, Aleppo, Deir ez-Zourt, Idlib and Raqqa) and highlighted that the city of Damascus could be a reasonable internal protection alternative for those with sufficiently favourable social and economic conditions. The SMA concluded that substantial and permanent changes on the conditions in Syria had not occurred.<sup>457</sup>

### Refusal to perform military service

In the context of several conflicts and wars, many EU+ countries placed moratoriums on decisions and the courts provided clarification on the assessment of these applications for international protection.

In the Netherlands, on 29 June 2022, the IND introduced a temporary 6-month suspension of decisions and departures for Russian conscripts (men aged 18 to 27) who had deserted or refused to perform service. The decision did not apply to professional Russian soldiers who deserted and other categories of Russian applicants, such as critics of the invasion of Ukraine.<sup>458</sup> The decision and departure moratorium was extended in December 2022 until 29 June 2023.<sup>459</sup>

The SMA in Sweden published on 11 November 2022 a new legal position on the assessment of applications for international protection lodged by Syrian nationals. The SMA considered that Syrians summoned for military service or who deserted ran a general risk of persecution.<sup>460</sup>

The Supreme Administrative Court in Czechia **ruled** that a refusal to perform military service, followed by criminal prosecution and punishment, may be considered an act of persecution.

In France, the CNDA **confirmed** OFPRA’s decision to refuse international protection to an asylum applicant of Kurdish origin who refused to fulfil his military obligations in Türkiye. In this judgment, the CNDA defined conscientious objection to military service as “a real personal conviction, having a proven degree of force or importance, consistency and seriousness for the person concerned to oppose any fight, motivated by a serious and insurmountable conflict between the obligation of service in the army and its own conscience or its own sincere and profound convictions, in particular of a political, religious, moral or other nature”.

Courts in Germany examined claims from applicants refusing to perform military service in Syria. The Higher Administrative Court of Bautzen **found** no indications of possible political persecution for a Syrian applicant who alleged a risk of conscription to military service. The court noted individual circumstances which led it to conclude that the applicant would not be



obliged to perform military activities, including war crimes, within the meaning and requirements set up in the CJEU judgment of *EZ v Bundesrepublik Deutschland (Federal Republic of Germany)*.

In January 2023, the Federal Administrative Court in Germany **ruled** in several cases concerning military draft evasion and the benefit of refugee protection for beneficiaries of subsidiary protection from Syria. The Federal Administrative Court overturned the appealed judgments and referred the proceedings back to the Higher Administrative Court, holding that it is for the competent national authorities and courts to assess the plausibility for the strong presumption that the refusal to perform military service was related to a reason for persecution in light of all the circumstances.

For Eritrea, Lower Saxony's Higher Administrative Court **highlighted** the necessity to distinguish the military and civilian components of national service when assessing the cases of married and pregnant women and mothers.

The UN Committee against Torture (UNCAT) **found** that the deportation by Switzerland of an Eritrean woman facing military service would violate Article 3 of the UN Convention against Torture.

### **Applicants with religious-based claims, including apostates or atheists**

In February 2022, the IND in the Netherlands published revised work instructions on the assessment of applications from apostates and atheists.<sup>461</sup> The need for the revision arose after two judgments of the Council of State pronounced on 19 January 2022 ([202102293/1/V2](#) and [202005668/1/V2](#)) ruled that the way in which the IND carried out the investigation and assessment of applications from apostates or atheists from Iran, but also in general, was not sufficiently clear and the IND should develop a working method to assess credibility. It should also sufficiently distinguish between asylum applications from apostates and those from atheists, which it could later use for an assessment of applications from foreign nationals who claim to have converted to Christianity.<sup>462</sup>

The Dutch Gave Foundation noted that the IND's new instructions on the assessment of applications from apostates still lacked clarity and consistency. The concepts, such as 'forms of apostacy' and 'types of apostacy', are vague and not well defined.<sup>463</sup>

In addition, in September 2022, the Dutch Council of State **overturned** an inadmissibility decision in a subsequent application concerning converting to Christianity and found that the IND had insufficiently assessed the growth of faith since the first asylum application. The Council of State considered that statements about a growth in faith can generally be sufficient for a new substantive credibility assessment of the conversion. Thus, the Council of State ruled that the State Secretary must then assess the statements from the earlier application and those made in the subsequent asylum application jointly.

### **Applicants who claim persecution based on political opinion**

In Ireland, the High Court provided guidance to IPO and IPAT on how to examine claims of persecution based on political opinion. The court **held** that the principles drawn by the UK Supreme Court in the judgment *HJ (Iran) v SSHD*, which concerned the concealment of sexual orientation upon a return to the country of origin, were applicable in situations where an applicant for international protection would be expected to conceal their political beliefs to avoid persecution.





Seeking guidance from the CJEU on CEAS provisions, the Dutch Council of State [referred](#) questions for a preliminary ruling on the recast QD, Article 10, for persecution based on political opinion. The council asked whether a political opinion was sufficient to be invoked as a motive for persecution and what weight should be given to the strength or the importance of that political opinion or thought in the assessment of an application for international protection. Moreover, the Council of State asked about the criterion to be applied and whether the political opinion must be deeply-rooted and the applicant would be expected to refrain from expressing it if returned to the country of origin in order not to trigger negative attention from an actor of persecution.

#### 4.4.6. Personal interviews



In 2022, EU+ countries adopted legislative changes involving personal interviews during the asylum procedure. They also examined the reliability of specific software and used new IT tools to assist case officers during the personal interview. In addition, courts reviewed claims that personal interviews were conducted unlawfully, while civil society organisations raised specific concerns about the manner in which personal interviews were carried out in several EU+ countries.

In Cyprus, a legislative proposal was approved by the Council of Ministers amending the Refugees Act of 2000. If adopted by the parliament, the Asylum Service will be obliged to obtain a health care professional's advice for an applicant's ability to be interviewed.<sup>464</sup> The NGO I Have Rights noted that interview conditions in Samos, Greece did not allow applicants to fully express their grounds for asylum.<sup>465</sup> In Belgium, the legal basis for remote interviews was established (see *Section 4.4.12*).

After the conclusion of the pilot project "Written Interviews" (*schriftelijk horen*) in October 2022, the IND in the Netherlands started another pilot offering written interviews to Syrian, Turkish and Yemeni nationals ("Paper and Ink procedure"). The invitation to partake in a written interview is sent 1 week before the start of the written interview, which was deemed insufficient by lawyers. The IND is planning to extend this period to 4 weeks.<sup>466</sup> In addition, the IND introduced the practice of interviewing certain applicants at their accommodation place, instead of the applicant making an appointment and visiting the IND.<sup>467</sup>

The Court of The Hague [annulled](#) a negative decision due to the failure of the determining authority to send the registration interview to the legal representative, thus depriving the applicant of procedural safeguards.

In Lithuania, the Supreme Administrative Court [ordered](#) the Migration Department to re-examine an applicant's request for international protection after concluding that the personal interview had not been conducted in a lawful manner. The court noted that the applicant was ill when he was interviewed, had not consented to the absence of his lawyer and was interrupted by Migration Department staff because another applicant was waiting to have an interview.

In Czechia, the Organisation for Aid to Refugees observed instances when only parts of the evidence were used, while others were disregarded. In one case, which reached the Regional Court in Brno, the court concluded that the Ministry of the Interior was trying to find





inaccuracies in the applicant's statement in order to claim he was untrustworthy, in addition to using only parts of country of origin information to prove its conclusions.<sup>468</sup>

Fundación Cepaim noted that personal interviews in Spain were not carried out by the determining authority but by police officers without adequate training, in an inadequate environment and without the necessary legal counsel and information. The NGO further noted that some applicants were not provided with copies of their statements at the end of the interview. The organisation added that the online portal through which applicants may submit additional observations does not function properly and it was not guaranteed that additional documents were received.<sup>469</sup> In order to improve the quality of interviews, UNHCR provided the police with a training plan on interviewing techniques. Together with the EUAA, a new training programme was developed in 2022 for new OAR case officers.

#### 4.4.7. Decisions issued on first instance asylum applications



An asylum application is considered to be closed at first instance once a decision has been issued by a national authority. According to Regulation (EU) 2020/851 amending Regulation (EC) 862/2007,<sup>470</sup> there are five decision outcomes that should be reported by EU+ countries:

- Refugee status (as per the 1951 Geneva Convention);
- Subsidiary protection status;
- Authorisation to stay based on humanitarian reasons under national law (humanitarian protection);<sup>xxxvii</sup>
- Temporary protection status (under EU legislation) – this is not analysed in this section;<sup>xxxviii</sup> and
- A negative decision resulting in the rejection of the application.

Decisions granting humanitarian protection are considered to be negative decisions for international protection.

In 2022, asylum authorities in EU+ countries issued approximately 646,000 first instance decisions, which was one-fifth more than in 2021 and the most since 2017. At the same time, many more applications were lodged in 2022 (up by one-half), particularly in the second half of the year.

Overall, more applications were lodged than first instance decisions issued (see *Figure 13*), as seen in previous years. During the first half of 2022, the number of decisions taken lagged behind the number of applications received by around one-third. Following a surge in applications in the second half of the year, the gap widened further, with two-thirds more

<sup>xxxvii</sup> Granting humanitarian protection is not harmonised at the EU level and is only reported to Eurostat by 23 out of 31 EU+ countries (Austria, Cyprus, Croatia, Czechia, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Italy, Liechtenstein, Lithuania, Malta, the Netherlands, Norway, Poland, Romania, Slovakia, Spain, Sweden and Switzerland). In addition, various forms of humanitarian protection can be granted separate from the asylum procedure, and thus, the positive decisions may not be reported to Eurostat under this indicator.

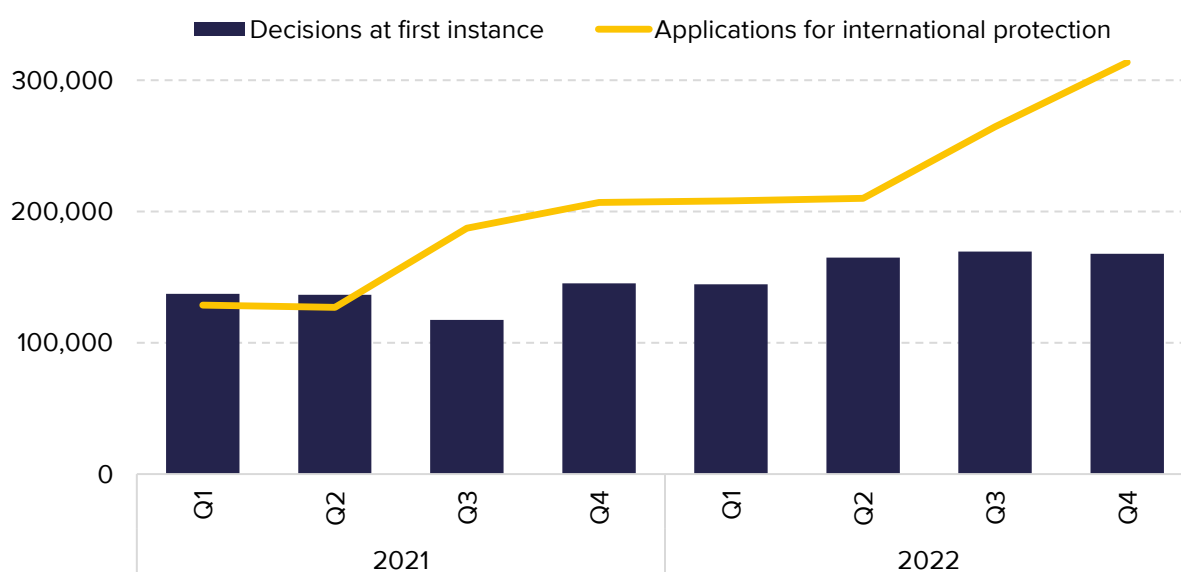
<sup>xxxviii</sup> Based on the [Temporary Protection Directive, Regulation 2001/55/EC](#).

asylum applications than decisions at first instance. By the end of 2022, applications outnumbered first instance decisions by 345,000, leading to more cases pending at first instance across most EU+ countries than a year earlier (see *Section 4.6*).

As in previous years, around one-half of decisions on first instance asylum applications were issued to 18-to-34-year-old applicants. Over one-quarter of all decisions were issued to minors. In total, women and girls received one-third of all decisions.

## Applications outnumber first instance decisions for a second year in a row

**Figure 13. Applications for international protection and first instance decisions in EU+ countries, Q1 2021–Q4 2022**



Source: Eurostat [[migr\\_asydcfstq](#)] and [[migr\\_asyappctzm](#)] as of 13 April 2023.

Three EU+ countries issued nearly two-thirds of all first instance decisions in 2022: Germany (31%), France (20%) and Spain (13%). These were followed by Italy (8%), Austria (6%) and Greece (6%) (see *Figure 14*).

Ireland, Estonia, Iceland, Latvia and Slovenia issued the most first instance decisions on record. Austria and Germany issued the most first instance decisions since 2017, the Netherlands and Slovakia the most since 2016, Bulgaria since 2015 and Poland since 2009.

The increase in Germany was predominantly due to decisions issued to Afghan nationals. But the number of decisions also rose for other main nationalities, as seen for applicants from Syria, Iraq and Türkiye (in descending order). In addition, nationals of Colombia, Georgia, Moldova and Yemen received the most decisions on record in Germany.

For the second consecutive year, Austria issued roughly twice as many decisions than in the previous year, especially to applicants from India, Morocco, Pakistan, Syria, Tunisia, and, to a lesser extent, Afghanistan and Somalia.

**646,000**

decisions issued on first instance asylum applications in 2022

**39%**

of first instance decisions issued granted an EU-harmonised protection status (refugee or subsidiary protection)

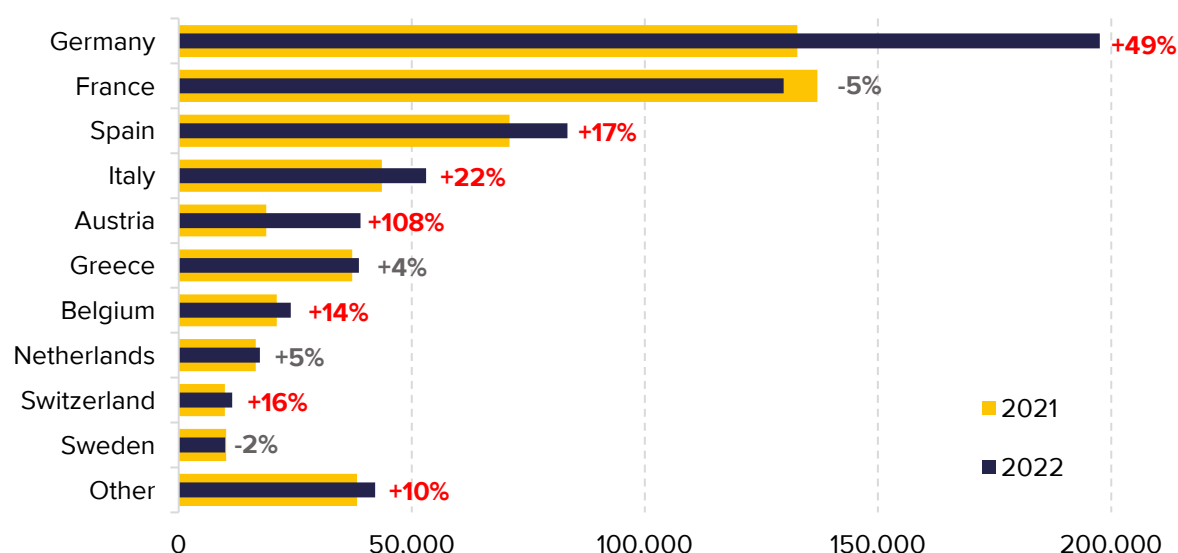
**93%**

of Syrian applicants were granted protection in the EU

## Germany issued the most first instance decisions since 2017.



**Figure 14. First instance decisions by Top 10 EU+ countries in issuing decisions, 2022 compared to 2021**



Source: Eurostat [[migr\\_asydcfsta](#)] as of 13 April 2023.

First instance decision-making in Spain also rose from 2021, along with the rising number of applications. Nonetheless, decisions remained lower than during the peak in 2020. Spain continued to issue the majority of decisions to Venezuelans, Colombians and several other Latin American nationalities.

Estonia, which usually issues fewer than 200 decisions annually, reached 2,200 decisions in 2022, almost entirely because of applications lodged by Ukrainian nationals.

In contrast, first instance decision-making by France decreased slightly compared to 2021, despite rising applications. France issued fewer decisions to multiple nationalities, including applicants from Bangladesh, Guinea, Côte d'Ivoire and Nigeria. Nonetheless, decisions for some main citizenships – namely Albanians, Georgians and Turks – increased.

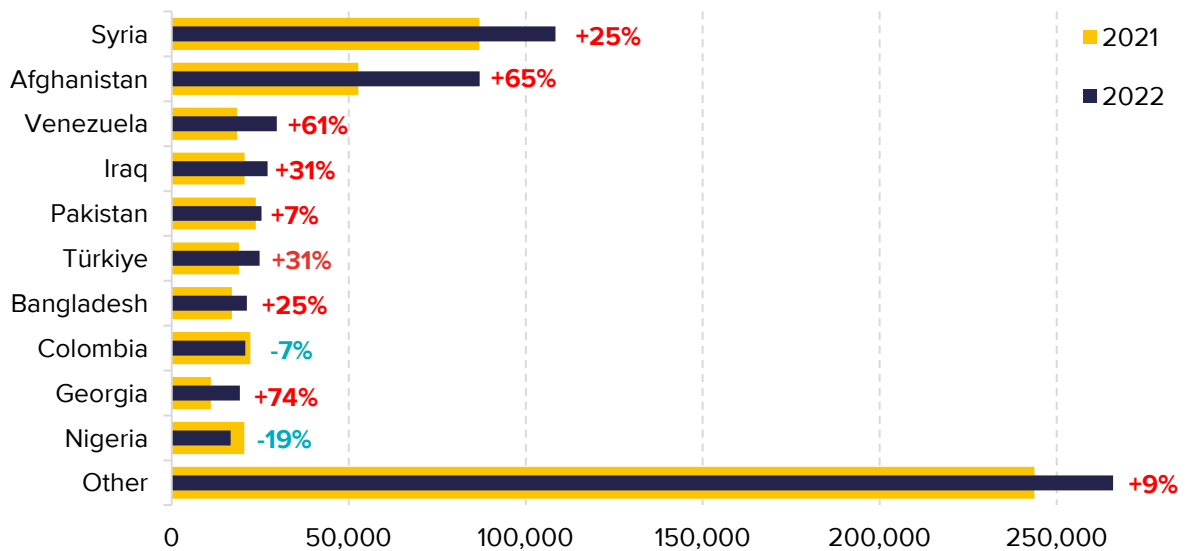
Despite increases in decisions on first instance applications between 2021 and 2022, the vast majority of EU+ countries had new applications outweighing the number of decisions issued, adding pressure to national asylum systems. Exceptionally, Greece issued more first instance decisions than it received applications in 2022.

Most first instance decisions in EU+ countries were issued to nationals of Syria and Afghanistan (see Figure 15), accounting for 3 out of 10 decisions issued in 2022. Both citizenships received decisions predominantly in Germany. In fact, Germany issued almost two-thirds of all decisions in the EU+ to Syrians and more than two-fifths of decisions to Afghan applicants.



## More first instance decisions issued in 2022 to nearly all main countries of origin

**Figure 15. First instance decisions in EU+ countries by Top 10 countries of origin receiving decisions, 2022 compared to 2021**



Source: Eurostat [[migr\\_asydcfsta](#)] as of 13 April 2023.

In addition, Germany issued more than one-half of all decisions for citizens of Iran, Iraq, Moldova, North Macedonia, Serbia and others. Meanwhile, Spain issued 9 out of 10 decisions to applicants from Venezuela.

Nationals of Türkiye (25,000), Bangladesh (21,000) and Georgia (19,000) received the most decisions on record, mainly in Germany and France for Georgians and Turks and in France and Italy for Bangladeshis. Decisions issued to citizens of Afghanistan, Egypt, Georgia, India, Mali, Morocco, North Macedonia, Tunisia and Venezuela increased at least by one-half from the previous year.<sup>xxxix</sup>

While increases in decisions were widely reported, a few citizenships had fewer decisions in 2022 than in 2021, namely applicants from Colombia, Côte d'Ivoire, Eritrea, Guinea, Iran, Moldova, Nigeria and Russia.<sup>xl</sup> In fact, decision-making on applications submitted by nationals of Iran and Russia decreased for the fifth consecutive year.

<sup>xxxix</sup> Only nationalities with at least 5,000 decisions issued in 2022 were considered.

<sup>xl</sup> Only nationalities with at least 5,000 decisions issued in 2022 were considered.



## 4.4.8. Withdrawn applications



An asylum application can be withdrawn for various reasons before a final decision has been issued, regardless of whether an application is pending at first or at higher instances. For reporting purposes, withdrawn applications can be measured based on two indicators:

- ‘explicit’ withdrawals refer to cases where the applicant no longer needs international protection and notifies the authorities to withdraw the application; and
- ‘implicit’ withdrawals concern cases where the authorities fail to locate the applicant and therefore it is considered that the applicant has abandoned the procedure. Data on implicit withdrawals may cover cases prior to the reference year since an applicant may have absconded long before the withdrawal was noted and reported.

In 2022, about 140,000 applications were withdrawn in EU+ countries, which was twice as many as in 2021 and the most since 2016. At the same time, the number of asylum applications lodged in EU+ countries increased steadily (one-half more than in 2021) but at a slower rate than the rise in withdrawals. The ratio of withdrawn applications to applications lodged thus rose from about 1 in 10 in the previous 4 years to 1 in 7 in 2022. Over two-fifths of the withdrawals occurred in the last 4 months of 2022, with peak occurrences in October and November 2022.

Around four in every five withdrawals were by male applicants and almost three-fifths by applicants between 18 and 34 years of age. In 2022, the most withdrawals since at least 2008 were recorded for younger applicants (14-17 years old), which was twice as many as in 2021. Furthermore, the number of withdrawn applications by older applicants (65 years or older) tripled from 2021, reaching 960 applications, which was the most since 2016.

At least four-fifths of all withdrawn applications in 2022 were implicit.<sup>xli</sup> In most EU+ countries with available data,<sup>xlii</sup> the majority of withdrawals were implicit. The most notable exceptions included Cyprus, Denmark, Finland, France, Ireland and Norway, where explicitly withdrawn applications ranged between 66% and 94% of all withdrawn applications.<sup>xliii</sup> It is possible that an asylum applicant implicitly withdraws their application from one EU+ country in order to apply again in another one, thus indicating secondary movements towards other EU+ countries. In this regard, there was a pattern of many implicit withdrawals, and thus secondary movements, from the countries along the Balkan route and countries at the EU’s external borders.

Almost all EU+ countries recorded more withdrawals in 2022 compared to 2021. Exceptions included Greece, Latvia and Malta, where withdrawals decreased, and France, where they remained stable. The sharpest rise took place in Austria and Bulgaria, where five times as many withdrawals were recorded compared to the previous year (see *Figure 16*). For the first time on record, in 2022, Austria became the top EU+ country for withdrawn applications,

<sup>xli</sup> In 7% of cases, the type of withdrawal was not reported. Most of these cases concerned Romania.

<sup>xlii</sup> Romania did not report data on the type of withdrawal.

<sup>xliii</sup> Analysis was restricted to EU+ countries with at least 300 reported withdrawals in 2022.



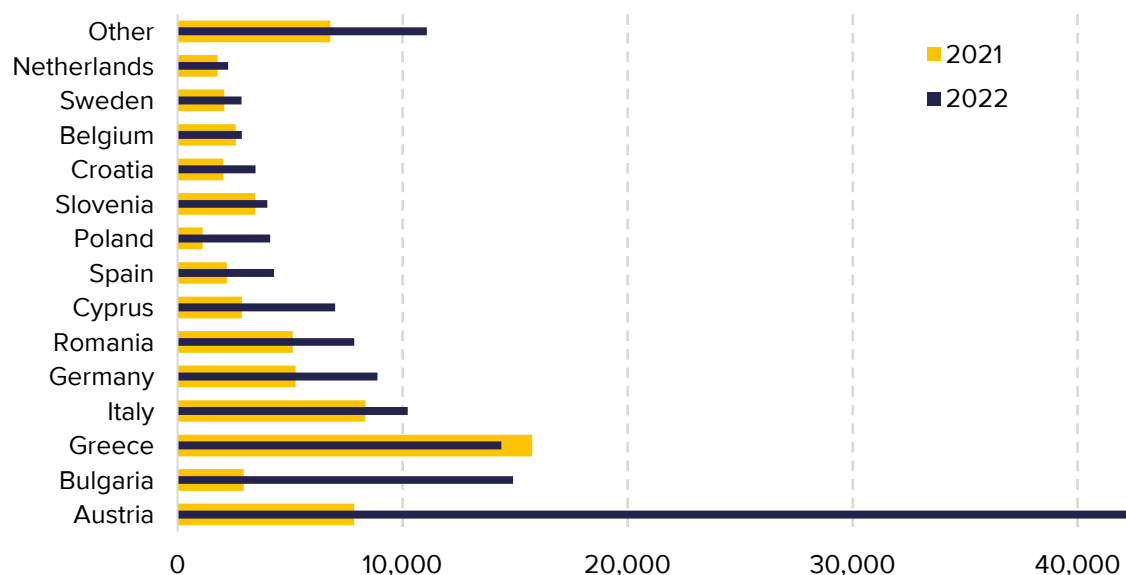
accounting for almost one-third of the total. Bulgaria followed at a distance, accounting for one-tenth of the total.

At lower levels, important relative increases took place in Denmark (five times as many as in 2021), Poland (almost four times as many) and Cyprus (over twice as many). In addition, several countries recorded the most withdrawals since 2008, including Austria, Bulgaria, Czechia, Lithuania, the Netherlands, Portugal, Romania, Slovakia and Slovenia, whereas Cyprus recorded the most since 2010 and Croatia since 2013.<sup>xliv</sup> While recording a decline of one-tenth from 2021, Greece continued to receive the third-most withdrawals.



### The number of withdrawn applications in 2022 increased in most countries, notably in Austria and Bulgaria

**Figure 16. EU+ countries with the most withdrawals, 2022 compared to 2021**



Source: Eurostat [[migr\\_asywitha](#)] as of 13 April 2023.

In terms of nationality, one-quarter of all withdrawals were by Afghan nationals. Afghans withdrew over 35,000 applications in 2022 compared to 18,000 in 2021, largely in Austria and Bulgaria (see *Figure 17*). Furthermore, in 2022, Afghans accounted for almost one-half of all withdrawn applications by minors and represented two-thirds of all withdrawals in the 14-17 age group.

In 2022, Indians emerged as the second nationality to withdraw the most applications in EU+ countries. The surge in withdrawals by applicants from India was staggering, with over nine times as many withdrawn applications as in the previous year. The vast majority were withdrawn by this citizenship in Austria, followed at a distance in Cyprus and Slovenia.

<sup>xliv</sup> Analysis was restricted to EU+ countries with at least 300 reported withdrawals in 2022.



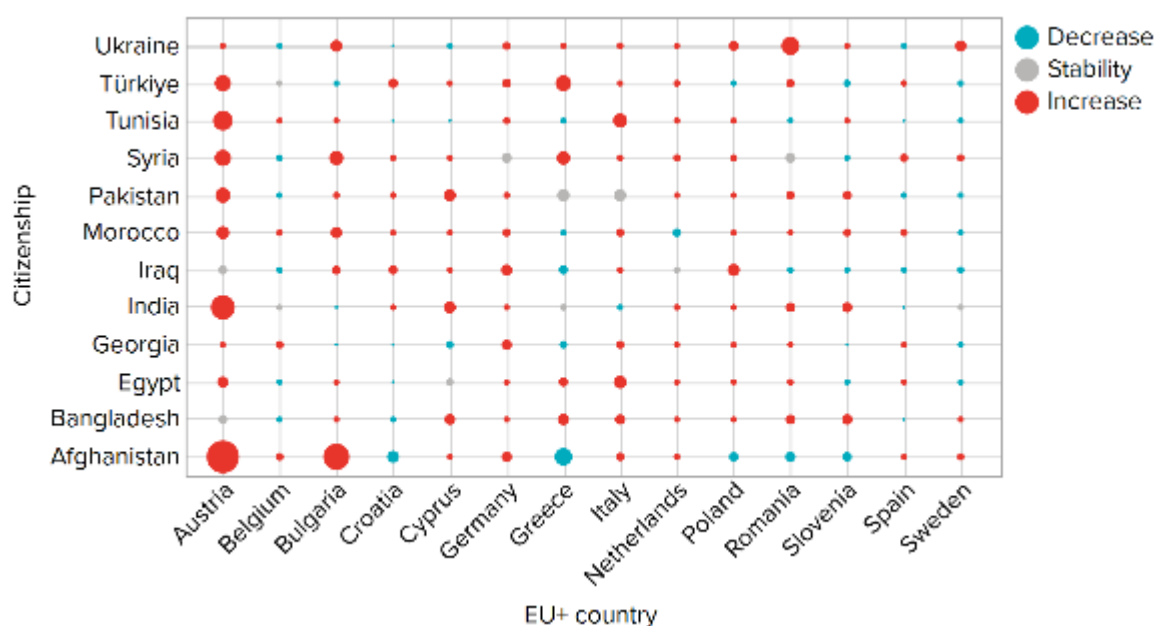
All withdrawals in Austria<sup>xlv</sup> and Slovenia were implicit, suggesting strong secondary movement flows across the Balkan route towards other destination countries. The flow of Indian applicants through the Balkan route was enabled by Serbia's visa-free policy.<sup>471</sup>

Syrians, Ukrainians, Turks, Pakistanis and Tunisians (in descending order) also withdrew a high number of applications. All recorded large-scale increases compared to 2021, with the most notable rises for Ukrainians (15 times as many withdrawals as in 2021) and Tunisians (over 3 times as many). The high level of withdrawn applications by Ukrainians is likely related to the activation of the Temporary Protection Directive, after which many Ukrainians withdrew their asylum application and instead registered for temporary protection.



### Austria was the main country for withdrawn applications across most citizenships

**Figure 17. Citizenships with the most withdrawn applications by EU+ countries recording the most withdrawals, 2022 (bubbles) compared to 2021 (legend)**



Source: Eurostat [[migr\\_asywitha](#)] as of 13 April 2023.

Austria was the top country for withdrawals by Syrians, Turks, Pakistanis and Tunisians, whereas Romania accounted for over two-fifths of the withdrawals by Ukrainians. Other notable instances of withdrawals by Syrians were in Bulgaria and Greece, while a large number of Ukrainian applications were also withdrawn in Bulgaria, as well as in Denmark and Sweden.

On a smaller scale, withdrawals rose significantly for Egyptians (mainly in Italy and Austria), Russians (mainly in Poland), Colombians (largely in Spain) and Moroccans (mainly in Austria and Bulgaria), in descending order.<sup>xlvi</sup>

<sup>xlv</sup> According to Article 25(2) of the Austrian [Asylum Act of 2005](#), in Austria it is not possible to withdraw an asylum application explicitly.

<sup>xlvi</sup> Analysis was restricted to citizenships with at least 1,000 reported withdrawals in 2022.

Applicants of most nationalities largely withdrew their applications implicitly. The main exceptions – with more explicit withdrawals – included nationals of Western Balkan countries, such as Albania, North Macedonia and Serbia, as well as Vietnamese.<sup>xlvii</sup>

#### 4.4.9. Quality assessment of first instance decisions



Providing adequate reasoning in first instance decisions is a guarantee of legal certainty and a safeguard for the rights of asylum applicants throughout the first instance procedure. In 2022, determining authorities followed up on lessons learned from past quality assessment initiatives and started new quality review processes.

A Nansen report was published in Belgium, which assessed CGRS decisions on the need for protection of people fleeing Afghanistan and the risks in the event of a return. The first part of the note focused on the investigation of Afghan cases and argued that the CGRS did not fully respect the right to be heard. In part II of the note, Nansen discusses the risk profiles identified by UNHCR and the EUAA and argues that a broad benefit of the doubt should be granted to these risk groups.<sup>472</sup>

In Bulgaria, the State Agency for Refugees adapted the EUAA quality assessment tool of November 2022 to review first instance decisions and personal interviews. In Malta, the International Protection Agency – together with the EUAA – sampled cases for quality assurance.

The ECtHR examined the effectiveness of asylum applications in Malta in the case of [S.H. v Malta](#), which was decided in December 2022. The ECtHR found a violation of Articles 3 and 13 of the European Convention due to the lack of access to legal counsel, delays in the procedure and a failure to examine the merits of the case. The court noted that the International Protection Tribunal confirmed the first instance decision within 24 hours, which made it impossible for the applicant to prepare a defence and submissions while in detention. The court thus considered that the judicial review in the applicant's case was superficial and devoid of any useful effect, as the tribunal tended to automatically confirm the agency's decision within 3 days. Furthermore, the communication of the decision took place several months after the pronouncement, although a removal order had been issued a few days after the decision.

For a second application lodged by the applicant, the court noted again the inadequate assessment of the application due to the 'incongruent conclusions' reached by the International Protection Agency, which were confirmed by the tribunal without any reasoning. The court observed that a third application was treated in a similar way and confirmed again by the tribunal. The ECtHR thus confirmed that the applicant was deprived of a rigorous individual assessment of his asylum claim, without a risk assessment of his personal situation being conducted as a journalist to be returned to Bangladesh although he had possibly suffered at least one aggression related to his work. The Maltese government made a referral to the Grand Chamber and stated that it strongly disagreed with the conclusions of the court. The referral request was rejected, and the judgement became final in May 2023.<sup>473</sup>

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<sup>xlvii</sup> Analysis was restricted to citizenships with at least 300 reported withdrawals in 2022.



In the Netherlands, a report published in May 2022 by the Inspectorate of Justice and Security highlighted the time pressure on IND employees working on asylum cases, which may lead to limited information being collected to support a first instance decision of quality.<sup>474</sup>

In Poland, the Association for Legal Intervention raised several concerns affecting the quality of first instance decisions and advocated for a more rigorous scrutiny, for example, on the use of the evidence presented or expert reports.<sup>475</sup>

In Slovakia, the Ministry of the Interior established a new control mechanism for the asylum procedure, with two staff having the task of carrying out quality assurance at 6-month intervals or on an *ad hoc* basis.

## 4.4.10. Length of the asylum procedure before the determining authorities



In several EU+ countries, asylum procedures exceeded the 6-month time limit, as prescribed in the recast APD.

In Luxembourg, the Minister for Immigration and Asylum provided information on the average length of the asylum procedure, which increased from 7 months in 2018 to 10 months in 2022. The minister also stated that factors which influenced the length of the procedure included the number and profile of arriving applicants, the COVID-19 pandemic, uncertain situations in specific countries of origin, and the war in Ukraine. The minister noted that the main reason for exceeding the 6-month time limit was the need to ensure an appropriate and thorough examination, in particular through more in-depth research or verification of the authenticity of documents.

In addition, secondary movements and Dublin transfers had a considerable impact on delaying processing times. In many cases Luxembourg became responsible for the examination of an application when the country responsible refused to take charge or take back the applicant, or when a Dublin transfer was not carried out. In order to reduce the length of the procedure, since 2018 the authorities have used email communication instead of post for communicating with external stakeholders such as lawyers, published internal guidelines and provided training to case officers.<sup>476</sup>

In examining a complaint by an applicant, the Lithuanian Ombudsperson decided that the requests in the Migration Department were processed in violation of the deadlines stipulated in legal acts and that the persons who submitted these requests was not properly informed about the relevant decisions made.<sup>477</sup> In order to implement the recommendations of the Ombudsperson, the Migration Department started to inform all applicants whose applications have not been processed by the deadlines stipulated in legal acts about the relevant decisions made, including the reasons for the delay.

Several civil society organisations from Spain signalled deficiencies in the quality of the asylum procedure which led to a limitation of the applicant's rights. Comisión Española de Ayuda al Refugiado, Fundación Cepaim and Progestion highlighted that the length of the procedure at first instance was excessive and the authorities do not pronounce a decision within the 6-month deadline, partially due to insufficient staff. The Spanish Ombudsperson



also highlighted the need to take measures to improve the efficiency of the asylum procedure.<sup>478</sup>

Fundación Cepaim further noted that the legal time limit was respected most often for nationals of Colombia, Mali and Venezuela, for whom the decisions were not detailed.<sup>479</sup> Similarly, the Red Cross Society in Lithuania and the Association for Legal Intervention in Poland criticised that the length of the asylum procedure sometimes reached 15 months.<sup>480</sup> The Office for Foreigners added that in these cases the delay had not led to a breach of Polish or EU law, as it could be justified with the applicant's lack of cooperation with the competent authority.

#### 4.4.11. Penalty payments for exceeding the time limit in first instance decision-making



In the Netherlands, on 6 July 2022, the Council of State **declared** as non-binding a temporary law which suspended incremental penalty payments for delays in pronouncing an asylum decision between 11 July 2020 to 11 July 2021. The Council of State found that the legislative amendment made it extremely difficult for applicants to have access to an effective guarantee of a timely decision, and as such, the law did not offer an effective legal remedy.

The council thus considered that administrative courts were still competent to hear appeals against the failure to make a timely decision on an asylum application between 11 July 2020 to 11 July 2021. In February 2023, the IND noted that it had paid EUR 3.4 million in penalty payments in 2022, which was lower than in 2021.<sup>481</sup>

Furthermore, on 30 November 2022, the Dutch Council of State **ruled** that a judicial penalty was an effective means of ensuring through a court decision that the State Secretary fulfils its obligation to decide timely on an asylum application. It declared the temporary suspension of the penalty payments as non-binding and contrary to the principle of effective legal protection insofar as the legislative amendment excluded the possibility of imposing a judicial penalty in asylum cases. It was further noted that without a judicial penalty, a foreign national has no effective means of persuading the State Secretary to take a timely decision. However, the Council of State also distinguished judicial penalties from administrative penalties and held that the exclusion of the latter from the asylum procedure is not contrary to EU law and the principle of effective legal protection. The council explained that administrative penalties were owed automatically by the government, without a need for the applicant to request them before the court, so the council considered that this is not a means for a person to persuade the government to take a timely decision.

#### 4.4.12. Digitalisation



EU+ countries continued to improve the efficiency of the asylum procedure at first instance through the digitalisation of particular steps. Calls for further digitalisation and improvement of first instance processes were also made in some EU+ countries.

In Belgium, a legal amendment was published on 9 September 2022 which explicitly allowed the CGRS to organise interviews through videoconference for applicants for



international protection. Based on this, video interviews resumed in closed centres with the use of Microsoft Teams, which did not allow a third party to be included remotely, so lawyers needed to go in person to the closed centre. The project for video interviews with applicants in open centres was put on hold.<sup>482</sup>

Concerned about the secure use of specific software, the Belgian CALL ruled that more information was needed on the reliability of Microsoft Teams and its compliance with data protection. This judgment was based on a case in which the personal interview took place by videoconference during the first instance procedure

The digitalisation strategy for the Belgian asylum system was translated into a comprehensive Enterprise Architecture, which includes the Belgian Immigration Office, the CGRS and CALL. The aim is to deliver a new environment by the end of 2024.

In Croatia, the independent mechanism for the supervision of police officers in the field of irregular migration and international protection adopted the first annual report covering June 2021-June 2022. For asylum, the recommendations of the report include the improvement of the system of tracking cases by consolidating information in one place.<sup>483</sup>

Estonia launched an updated version of the register of granting international protection (RAKS2) in February 2022, including new features that allow the inclusion of data on court procedures and an automated process for receiving country of origin information.

In May 2022, France extended to its entire territory the electronic communication of the various documents related to the processing of asylum applications between OFPRA and asylum applicants, which was already applied in Brittany and Nouvelle-Aquitaine. It thus provided asylum applicants with a digital space to access letters from OFPRA, particularly the invitation to the personal interview and the notification of the asylum decision. This electronic communication system does not apply to applicants under the Dublin procedure, unaccompanied minors and applicants claiming to be vulnerable.

BAMF in Germany developed a new digital tool, “Assistance System for Hearings” (ASA), which can provide support during interviews and contribute to the quality assurance of the interview. The tool provides information on the most important countries of origin in a digital format for case officers, allowing them to have easier access to country-specific information. The tool also includes a date and currency converter, records open tasks and deadlines, checks the interview data for completeness, supports a comparison of the facts presented with the guidelines on the country of origin, and enables the writing of the interview report through speech recognition.<sup>484</sup>

The Netherlands launched a portal for asylum lawyers in June 2022, developed in close cooperation with lawyers. The systems allow them to rapidly check the status of a case, easily upload documents and safely exchange data.<sup>485</sup>

In Sweden, Asylum Seeker (LMA)-cards were digitalised to include a QR code for the validity period, and a case-handling system was further developed for increased usability.<sup>486</sup>

In January 2022, ECRE published a comparative report which provides an overview of the use of digital tools and remote working modalities in 23 European countries. It presents the risks and benefits of the use of digital tools in asylum processes and highlights several fundamental guarantees and procedural safeguards which must continue to apply to ensure that they do not infringe on existing EU asylum *acquis*.<sup>487</sup>



## 4.4.13. Staff training and well-being



Several EU+ countries carried out extensive training for case officers and other employees involved in the first instance procedure, while others analysed their internal culture or planned measures to retain experienced case officers and reduce staff turnover.

In Belgium, training for new staff was adapted to achieve efficiency gains. Generic training was abandoned and new staff were specifically trained from the start to manage applications from Afghans. A specific training package with online tools was developed for this purpose.

In Bulgaria, training objectives for 2022 were postponed due to the influx of displaced persons from Ukraine. A training session on applicants with special needs was provided for case officers through Norwegian funds.

In Estonia, the Social Insurance Board launched an e-course on psychological first aid for helpers in crisis, modelled on the WHO Guidelines for Psychological First Aid and available on the website of the board.<sup>488</sup>

In Ireland, IPO staff attended training sessions on statelessness, sexual and gender-based violence (SGBV), human trafficking and the Dublin procedure. The training was provided by IPO's training unit in cooperation with UNHCR.

In Luxembourg, staff followed training provided by the EUAA on interviewing vulnerable applicants, interviewing children, temporary protection and inclusion.

Related to well-being at the workplace, the IND in the Netherlands investigated its internal culture and concluded that employees needed a more long-term perspective, increased involvement, clarity and open communication within the organisation. The results suggested that the work of the IND can be hampered by short-term vision, bureaucracy, rigid hierarchy and compartmentalisation. Employees appreciated performance orientation, social responsibility and a balance between private and professional life.<sup>489</sup>

Measures to reduce the high turnover of employees in determining authorities were considered in Lithuania by the Migration Department, which had experienced a record 29% turnover in 2022. To tackle the issue, the Migration Department increased its budget in order to increase wages and retain experienced employees.<sup>490</sup>

## Section 4.5. Processing asylum applications at second or higher instances

Under the rule of law, anyone alleging a violation of their rights is entitled to fair procedures in line with international human rights law and an effective remedy, which includes the right to appeal before the national authorities.



The EU-level legislative framework to appeal a decision in an asylum procedure is outlined in the recast APD, Chapter V. Article 46 obliges Member States to ensure that applicants have the right to an effective remedy before a court or tribunal to contest a decision issued on a first instance application. The right to an effective remedy includes a full and *ex nunc* (i.e. which is valid for the future) examination of both facts and points of law, including an examination of the need for international protection as defined by the recast QD, in an appeals procedure before a court or tribunal of first instance to guarantee adequate substantive and procedural safeguards.

EU law does not prescribe a specific organisation or structure of courts and tribunals adjudicating asylum cases. Each EU+ country follows its own national system, so appeals in asylum cases may be lodged before general courts which adjudicate other matters in addition to asylum or specialised asylum courts which adjudicate only appeals in asylum cases. In addition, some EU+ countries have a system of non-judicial complaints that must be exhausted before lodging an appeal with the courts



In 2022, developments focused on the right to access the appeal procedure and the competent bodies which should examine an appeal. The scope of appeals in international protection cases was the subject of further improvements to align domestic practices and legislative provisions with the relevant provisions of the recast APD.

The effectiveness of remedies was assessed through judicial review. The length of appeal procedures continued to be an aspect of particular concern, leading to legislative changes being proposed, adopted or already implemented to speed up the procedure. Lastly, procedural aspects were clarified mostly through judicial reviews by national courts.

In May 2022, ECRE and the Hungarian Helsinki Committee published a Legal Note which aims to provide guidance, based on standards under EU and international laws, on the examination of national security-related asylum cases with a view to guarantee the right to an effective remedy, tying in examples from state practices.<sup>491</sup>

### 4.5.1. Access to the appeals procedure



The right to access the appeals procedure in asylum cases was changed or interpreted in various EU+ countries to determine who can lodge an appeal and the requirements with which an applicant must comply to access the appeals procedure. Courts also reviewed which competent body should be responsible for an asylum appeal.

In Finland, the Turku Administrative Court [ruled](#) in March 2022 that a spouse does not have the right to appeal against the rejection of a subsequent application and the expulsion order of the applicant. The issue was raised in the context of whether a family member living in Finland had a right to appeal considering the right to family life. Taking ECtHR case law into consideration, the Administrative Court held that the expulsion and refusal of entry in connection with the subsequent application did not have a direct effect on the spouse's right, obligation or interest to appeal.

In Iceland, in April 2022, the Ministry of Justice submitted a bill to the parliament to amend the Act on Foreigners and the Act on the Employment Rights of Foreigners, which was voted and entered into force in March 2023.<sup>492</sup> The amendment provides that certain decisions of the Directorate of Immigration are automatically subject to an appeal to the Immigration Appeals Board.<sup>493</sup>

In Ireland, the Supreme Court [held](#) that a person who is no longer considered to be an applicant for international protection may request an extension of the time limit to appeal a negative decision issued under Section 39 of the International Protection Act of 2015, even if such a right is not provided in the 2015 Act. In the particular case, the Supreme Court held that IPAT infringed the right to a fair procedure, as it cannot interpret and apply provisions of the International Protection Act which would make it impossible to make an application to extend the time limit to submit an appeal.

In Italy, the Supreme Court of Cassation examined several cases concerning the right to access the appeals procedure in asylum cases. In October 2022, the Supreme Court of Cassation [confirmed](#) the inadmissibility of an appeal which was lodged through a representative for whom the power of attorney did not have a certified date of issuance subsequent to the communication of the contested measure. In another case decided in



July 2022, the Supreme Court of Cassation **provided** several principles on access to the appeals procedure and an appeal in cassation.

In Lithuania, the right to submit an appeal directly to the Vilnius regional administrative courts and subsequently to the Supreme Administrative Court was restored on 1 January 2022. The preliminary step of contesting a decision of the Migration Department before the Migration Department Commission was eliminated.

In Malta, amendments were introduced in December 2022 to the International Protection Act for the possibility to appeal a case when the International Protection Agency ended refugee and subsidiary protection. This was previously missing from legislation, as Articles 10(6) and 22(6) of the International Protection Act provided only for an appeal against a decision of the agency to revoke or refuse to renew refugee and subsidiary protection.<sup>494</sup>

The Swiss Refugee Council noted that one important obstacle to accessing the second instance procedure was the advance payment of a fee, approximately EUR 750, for the cost of appeal proceedings. Non-payment could lead to the appeal being declared inadmissible.<sup>495</sup> This obstacle to the right to an effective remedy was examined in December 2022 by the UNCAT, which **held** that for an applicant in a precarious financial situation, the fee deprived them of the possibility of turning to the judiciary to have the complaint examined before the Federal Administrative Court.

#### 4.5.1.1. Right to a hearing



The importance of the right to a hearing in an appeal procedure in international protection cases was highlighted by national courts in several judgments pronounced in 2022.

In Cyprus, the Administrative Court for International Protection (IPAC) amended its rules of procedure in September 2022. The amendments call for the mandatory presence of an applicant before the court, whether in person or represented by a lawyer, under sanction of having the appeal rejected, except in situations of force majeure. In addition, the applicant or the lawyer have a maximum of 10 minutes to present supporting arguments before the court, a duration which can be extended by the court when necessary.<sup>496</sup> According to civil society reporting, the amended regulations still leave a number of remaining issues unresolved, including the procedure to be followed when an applicant wishes to add evidence in support of their claim.<sup>497</sup>

In Germany, the High Administrative Court of Baden-Württemberg **allowed** an appeal in July 2022 for an infringement of the right to be heard in a case where the lower court did not reschedule a hearing when the applicants were infected with COVID-19 and in compulsory quarantine. The court highlighted that the right to a fair hearing guarantees that an applicant can have a say before a court decision affects their rights and can influence the proceedings. In addition, the court noted that the judicial decision may only be based on facts and evidence on which the parties involved had the opportunity to comment. Although there was no entitlement to an oral hearing in the particular case, the legal impossibility to attend the hearing was proven by documentary evidence. With the Act on the Acceleration of Asylum Court Proceedings and the Asylum Procedure, which entered into force on 1 January 2023, a personal hearing can be omitted if the applicant is represented by an attorney and it does not concern a 'simple' rejection application or a withdrawal/revocation, for example when a case



is rejected as manifestly unfounded or inadmissible. However, a hearing must take place if the applicant requests it.<sup>498</sup>

In Ireland, the High Court [ruled](#) in May 2022 that IPAT must address whether its task could be fairly achieved without an oral hearing, especially when an asylum applicant's credibility is a key aspect. The High Court noted that, while IPAT has discretion to refuse a request for an oral hearing, "this discretion falls to be exercised in accordance with the requirements of constitutional justice" and IPAT "should demonstrate that it has had regard to the applicant's right to a fair decision-making process through its consideration of identified credibility issues and its conclusion on whether they are capable of being justly resolved without an oral hearing and, if so, why".

Furthermore, in February 2022 IPAT issued a new Guideline on Taking Evidence during Oral Hearings before the Tribunal involving Appellants and Other Witnesses, which was informed by the International Protection Act 2015 and the recast QD. It also considered the EUAA Judicial Analyses on Evidence and Credibility Assessment in the Context of the Common European Asylum System (CEAS) (IARMJ/EASO, 2018) and on Vulnerability in the Context of Applications for International Protection (IARMJ/EASO, 2021), with due consideration to relevant case law and academic commentary.<sup>499</sup>

## 4.5.2. Data on decisions issued on asylum applications at second or higher instances



In 2022, EU+ countries issued about 221,000 decisions on appealed asylum applications, comparable to 2021. The number of decisions issued at second or higher instances was the second-lowest since 2015 (see *Figure 18*). To some extent, the number of decisions issued in appeal or review is determined by the volume of negative decisions issued by first instance authorities. After falling in 2018 and remaining stable for 3 consecutive years, the number of negative decisions at first instance increased by 11% in 2022, reaching the highest level since 2017.

As in previous years, Germany (75,000) and France (66,000) continued to issue the most decisions at second or higher instances, accounting for 34% and 30% of the total, respectively (see *Figure 19*). This is only natural given that these two countries also issued the most decisions on first instance applications. A large volume of decisions in appeal or review were also taken in Italy, Greece, Sweden and Austria (in descending order).

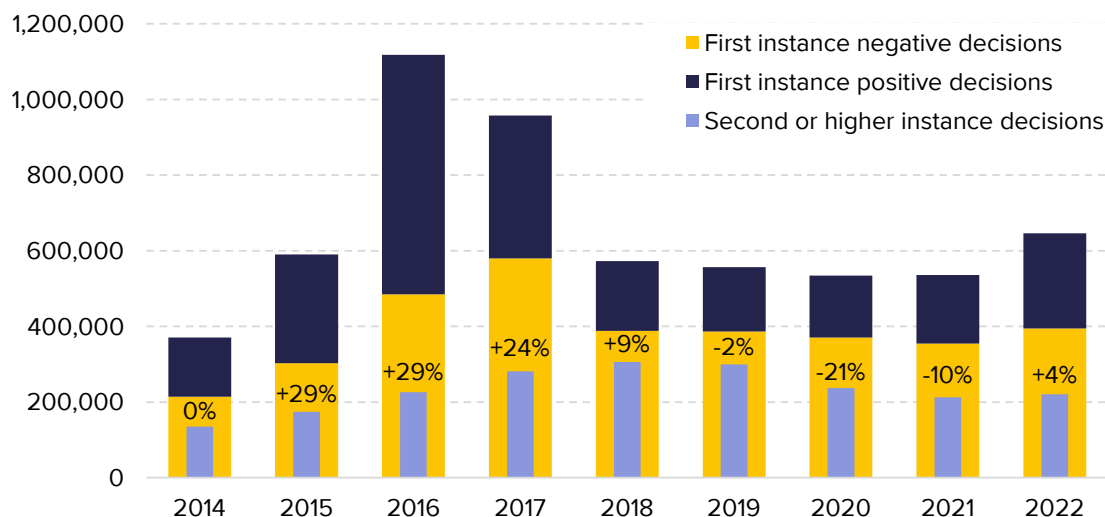
While issuing the most decisions overall, Germany continued to issue fewer decisions at second or higher instances for the fifth consecutive year, down to the lowest level since 2014. This is a trend across several EU+ countries, with similar patterns appearing in Finland, Sweden and Switzerland. It is worth noting that Denmark, Norway, Sweden and Switzerland issued the least decisions at second or higher instances since at least 2008<sup>xlviii</sup> (see *Figure 19*).

<sup>xlviii</sup> This refers to the start of the harmonised data collection by Eurostat.



**The second-lowest number of decisions in 7 years were issued at second or higher instances.**

**Figure 18. Number of decisions at first and second or higher instances, 2014–2022**

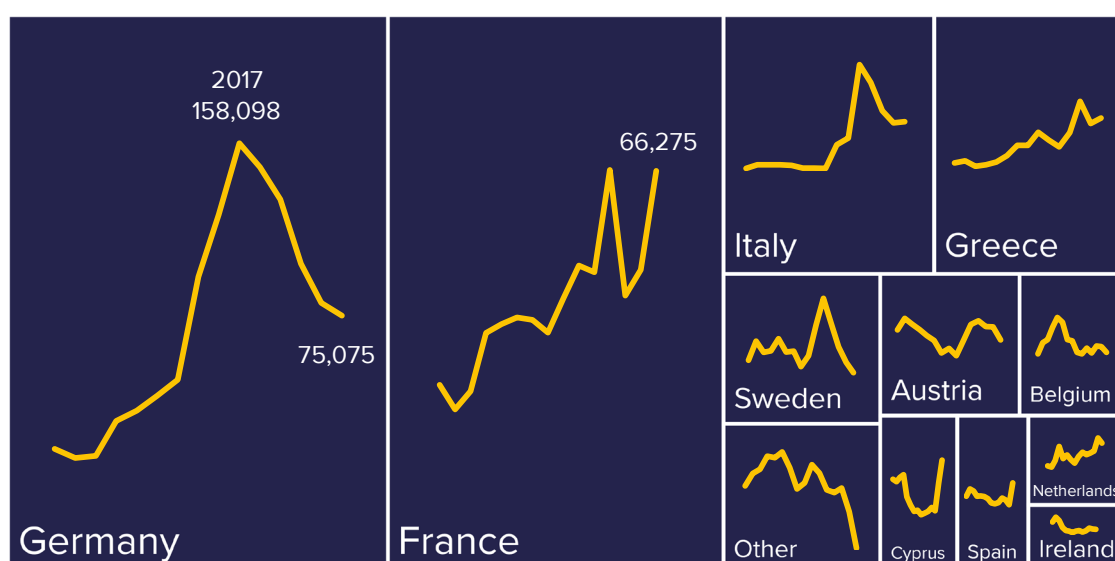


Source: Eurostat [[migr\\_asydcfina](#)] as of 13 April 2023.



**Germany and France issued the majority of decisions at second or higher instances**

**Figure 19. Top countries issuing decisions at second or higher instances in 2022 and trendlines for 2008–2022**



Source: Eurostat [[migr\\_asydcfstq](#)] as of 13 April 2023.

In relative terms, the most notable decrease in decisions issued at second or higher instances compared to 2021 took place in Lithuania (885), where the number of decisions peaked in the previous year (3,200). Lithuania was the only country where there were more decisions taken at second or higher instances than at first instance, which suggests that a substantial number of first instance decisions in Lithuania were appealed in 2022 or earlier.

In contrast, there were notable increases in Cyprus (4,300, the most since at least 2008), Ireland (2,300, the most since 2010) and Spain (3,900, the most since at least 2008) (see *Figure 19*). These record highs were likely associated with high levels of decision-making at first instance as well: while Ireland issued the most decisions at first instance since at least 2008, Cyprus and Spain took the second-most decisions in at last 14 years.

France issued more decisions at second or higher instances compared to the previous 2 years, almost back to the peak of 2019. Greece took more decisions on appeals than in 2021, but the level nonetheless remained lower than in 2020 (see *Figure 19*).

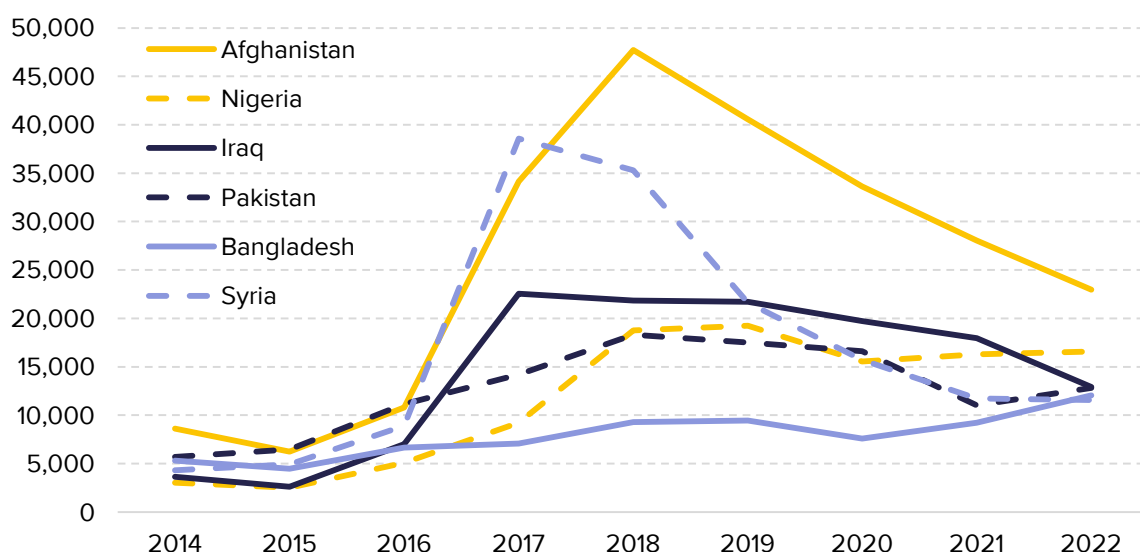
As in previous years, around 7 in every 10 decisions at the appeal stage were issued to male applicants, mainly adults. Less than one-fifth (17%) of all decisions at second or higher instances were issued to minors, with only a slight prevalence of boys over girls. The share of minors was the lowest since 2009.

In 2022, most decisions on appeals continued to be issued to Afghan applicants (23,000 or 10% of the total), followed by Nigerians, Iraqis, Pakistanis, Bangladeshis, Syrians and Turks. For several consecutive years in a row, the number of decisions issued to Afghans and Iraqis continued to drop. Meanwhile, the number of decisions on appeal remained stable for Nigerians and Syrians compared to the previous year (see *Figure 20*).



### Decisions on appeal rose for Bangladeshis, Georgians, Pakistanis and Turks

**Figure 20. Number of decisions on appeal by top nationalities, 2014-2022**



Source: Eurostat [[migr\\_asydcfsta](#)] as of 13 April 2023.



In contrast, authorities in EU+ countries issued more decisions on appeal than in 2021 to citizens of Pakistan, Bangladesh, Türkiye and Georgia (in descending order). Some nationalities received the most decisions since at least 2008, namely Bangladeshis, Turks and, on a smaller scale, Colombians, Chadians and Comorians.<sup>xlix</sup>

### 4.5.3. Scope of an appeal in international protection cases



The scope of an appeal in international protection cases was the subject of legislative changes and judicial review in EU+ countries, including the requirement to provide an *ex nunc* examination of both facts and points of law (as provided in Article 46 of the recast APD) and the suspensive effect of appeals.

Following diverging interpretations by lower courts, the Constitutional Court in Czechia decided in March 2022 that individuals may appeal against a decision which grants them subsidiary protection and request refugee protection without the risk of losing the already-gained subsidiary protection status and being placed again in the position of being an applicant for international protection while a new assessment takes place.<sup>500</sup>

In Germany, as of 1 January 2023, with the entry into force of the Act on the Acceleration of Asylum Court Proceedings and the Asylum Procedure, the Federal Administrative Court can also decide on the general asylum situation as it pertains to the situation in the country of origin or destination. This only applies if the Higher Administrative Court grants a leave for revision and if the Higher Administrative Court's appreciation of the situation in the respective country differs from that of other High Administrative Courts or the Federal Administrative Court. The reform was introduced in an effort to unify jurisprudence on the situation in countries of origin or destination.<sup>501</sup>

Malta amended the International Protection Act in December 2022, widening the scope of the appeal in international protection cases. In line with Article 46(3) of the recast APD, the competence of IPAT now covers an *ex nunc* examination of appeals, so that IPAT may consider evidence and elements of fact and law, which are available at the moment of the pronouncement of its decision, including evidence of which IPAT was not aware during the first instance procedure. However, such a right of appeal was not available in an IPAT decision to withdraw international protection on the basis that the beneficiary of international protection had unequivocally renounced protection or had become a Maltese national. Aditus presented comments on the proposed legislative amendments in June 2022 and welcomed several provisions, notably the clarification on the nature of the appeal procedure, in line with EU law and jurisprudence.<sup>502</sup>

In addition, the Maltese First Hall Civil Court (constitutional jurisdiction) [held](#) in March 2022 that the automatic review procedure in the case of manifestly-unfounded applications was not compatible with the right to a fair hearing. The case was further appealed at the Constitutional Court, which delivered its [judgment](#) in January 2023. The court concluded that there was no violation of the constitution as it found that rights in asylum were not part of civil rights and obligations (see [Section 4.3.3](#)).

<sup>xlix</sup> Only citizenships with over 1,000 decisions at second or higher instances in 2022 were considered.



In Norway, the Supreme Court **provided** guidelines on assessing religious persecution claims and future-oriented analyses of the risk of religious persecution upon a return to the country of origin, dismissing the claim of the Immigration Appeals Board (UNE) that courts should limit the judicial review. The Supreme Court highlighted that courts can fully review the decision of the UNE, including the future-oriented risk assessment of persecution due to religion.

In Poland, the Supreme Administrative Court held in **June 2022** and **July 2022** that the recast APD must be applied directly by administrative courts reviewing first instance decisions, as under Article 46 of the recast APD and Article 47 of the EU Charter courts must examine cases in such a way as to ensure that they are dealt with *ex nunc*, both with regard to the facts and legal issues. The Supreme Administrative Court considered that in the Polish system the administrative courts wrongly reviewed contested decisions on the basis of the facts established in the course of administrative proceedings. In the two particular cases, the war in Ukraine had not been taken into account in the assessment of asylum requests, as the war had started while the cases were pending on appeal.

In addition, in a judgment pronounced in September 2022, the Administrative Court of Warsaw ordered the Office for Foreigners to consider all evidence in the case of an Iraqi applicant. This included evidence presented before the first appeal level of the Refugee Board, which had been ignored even though the Administrative Court of Warsaw had already indicated to the Refugee Board in another final decision that an *ex nunc* examination must take place in the case.<sup>503</sup>

In Spain, the Supreme Court **ruled** on the suspensive effect of an appeal, noting that the rejected applicant had the right to remain in Spain pending a final decision. This also applied to reception rights while appeal procedures are pending (see *Section 4.7*).

In France, the CNDA **clarified** in May 2022 that submissions presented on behalf of a child born or arrived after the introduction of a parent's asylum application were inadmissible in the context of the appeal brought by the parent. In this case, the asylum applicant submitted before the CNDA that her daughter, a minor born after the pronouncement of the OFPRA decision, also had her own fear of persecution due to the danger of being submitted to FGM/C in Guinea. The conclusions presented on behalf of the child were considered inadmissible in support of the appeal brought by the mother against OFPRA's decision. The CNDA concluded that separate submissions related to child-specific fears of persecution could only be validly examined in the context of a child-specific asylum application.

#### 4.5.4. Effectiveness of specific remedies



In *S.H.*, the ECtHR found that the judicial review of the applicant's case undertaken by the International Protection Tribunal in Malta was superficial and devoid of any useful effect. The tribunal tended to automatically confirm the International Protection Agency's decision within a maximum of 3 days. Furthermore, the communication of the decision took place several months after the pronouncement, although a removal order was issued a few days after the decision.

For the second application lodged by the applicant, the court noted that the decision of the International Protection Agency was confirmed by the tribunal without any reasoning. The court observed that a third application was treated in a similar way. The ECtHR observed that





it was not necessary to examine the procedure before the Refugee Appeals Board since the government had already accepted that the board had no power to alter an assessment made by the International Protection Agency. The ECtHR also observed that, in Malta, constitutional redress proceedings do not have an automatic suspensive effect and therefore they are not an appropriate remedy under Article 13 of the European Convention.

Similar doubts about the effectiveness of remedies in the appeal procedure were raised by the Helsinki Foundation for Human Rights in Poland for appeals examined by the Refugee Board. The Helsinki Foundation noted that the review was merely symbolic and largely uncritically confirms the findings of the Head of the Office for Foreigners.<sup>504</sup>

To improve the efficiency of international protection procedures and provide legal certainty to complainants at the appeal stage, a new Migration Code was being drafted in Belgium, including amendments to provide a more coherent appeals system.

In Germany, the Federal Administrative Court [clarified](#) the procedure for a service of a judgment when an applicant has more than one legal representative. The court ruled that if there are several authorised persons, service to one of them is sufficient and the first service is decisive for the start of procedural time limits which are applicable for any further appeal.

In Sweden, the Migration Court of Appeal in Stockholm [ruled](#) in May 2022 on the role of the courts in assessing credibility when a person with hearing impairments has communication difficulties. The Migration Court of Appeal noted that courts have a greater investigative responsibility in asylum cases than in other matters. The Migration Court of Appeal highlighted that the lower court should have considered whether the incoherent and contradictory information provided by the applicant before the first instance determining authority may have been due to communication difficulties, considering that the person had difficulties understanding the questions that were asked or that he was imitating the interpreters.

#### 4.5.5. Suspensive effect of an appeal



The Supreme Administrative Court in Poland [confirmed](#) in February 2022 that an appeal against an inadmissibility decision does not entail the right to have the contested decision suspended while pending the outcome of judicial proceedings. The court noted that Article 46(5) and (6) of the recast APD states that Member States must ensure that applicants for international protection have the right to remain on the territory until the end of the proceedings before a court of first instance. In this case, Article 46(5) of the recast APD did not apply since it does not refer to a decision on admissibility (based on Article 46(6)). It was also observed that the applicant had a lawyer appointed *ex officio*, and therefore his rights to represent his interests before the court would be taken into account and protected by the attorney representing him, his personal presence not being necessary.

Therefore, it was considered that the obligation to ensure that the party has the right to a court, including the right to participate personally in the proceedings, does not support the stay of execution of the contested decision. The Supreme Administrative Court concluded that the absence of the applicant from Poland during the proceedings would not result in the risk of significant harm or effects which would be difficult to reverse.



In Cyprus, if the Asylum Service considers a subsequent application to be inadmissible, an appeal can be submitted before IPAC. Such an appeal, however, does not have an automatic suspensive effect and a separate application must be submitted to IPAC, requesting the right to remain pending the examination of the appeal. The procedure to submit this application was not provided for in the procedural rules, until their amendment in 2022. The amended regulations provide that the application for the right to remain must be submitted at the same time as the appeal, and in any case within the deadline for the submission of the appeal, which is 15 days.<sup>505</sup>

In Hungary, since June 2022, Government Decree 570/2020. (XII. 9.) is no longer in force, where Section 5 removed the possibility to ask for interim measures to prevent an expulsion in the case of a violation of epidemic rules or when expulsion was ordered based on a risk to national security or public order. The provision had serious consequences for people who had been expelled prior to submitting an asylum application or if an asylum application was rejected in an accelerated procedure or admissibility procedure and the appeal did not have a suspensive effect. In those cases, even if a suspensive effect was requested, it did not suspend the expulsion that was ordered prior to the asylum procedure.<sup>506</sup>

### 4.5.6. Reorganisation of appeal panels



Changes to appeal panels were introduced in several EU+ countries, often with the objective of speeding up the appeals procedure. Further clarifications on these aspects were also provided by courts through judicial reviews.

In Finland, the Supreme Administrative Court [clarified](#) that in cases related to international protection involving an assessment of converting to Christianity, a panel of three judges is required to rule in appeals before administrative courts. In another case, the Finnish Supreme Administrative Court [annulled](#) a lower court decision that did not respect the voting rules set up for the members of the panel, namely the fact that if there are several questions which affect the outcome of the decision, each of those questions must, in accordance with the Administrative Procedure Act, be put to a vote and the members of the court must rule on each question to be resolved.

In Italy, the implementation of the EU NEXT Generation Project, D.L. 80 of June 2021 – as amended by conversion Law No 113 of August 2021 – provided for the reinforcement of the Courts Office personnel, with the introduction of the Judicial Office (*Ufficio del Processo*), a support office for judges and court administrations to which law clerks will be deployed for 3 years starting from February 2022. Clerks were also deployed to support judges assigned to the specialised sections on migration, with the objective of reducing the backlog at second instance.<sup>507</sup>

In October 2022, the Administrative Court of Thessaloniki in Greece (Decision ΑΔ534/2022) [sent](#) a preliminary reference to the Council of State (προδικαστικό ερώτημα). It addressed the compatibility of provisions enabling members of Appeals Committees to process appeals in single-judge panels (used in fast-track procedures for instance) with Article 89 (2) and (3) of the Greek Constitution on the constitutional prohibition of parallel employment of magistrates (συλλογικά όργανα).<sup>508</sup>

## 4.5.7. Length of the procedure



In Germany, the government approved in July 2022 the first migration package presented by the Federal Minister of the Interior, including a bill to accelerate the appeals procedure. The draft law was subsequently adopted by the German parliament on 2 December 2022.<sup>509</sup>

In Cyprus, IPAC amended its rules of procedure on 16 September 2022, including the time limit for IPAC to issue a decision on an appeal which should be 7 days from the registration of the appeal with the court. In addition, any appeal against the decision of IPAC must be lodged within 10 days from the notification of the decision. When a detention order is challenged, the decision must be issued within 2 days.<sup>510</sup>

In 2022, IPAC also initiated accelerated procedures for negative first instance decisions issued based on an inadmissible subsequent application or safe country of origin. Upon the submission of an appeal in such cases, the Asylum Service must, within 10 days, file a memorandum at the IPAC Registry with the administrative file of the claim. The case is then scheduled directly for a hearing, during which the presence of the Legal Service is not required, unless this is otherwise ordered by IPAC. No written submissions by either the applicant or the Legal Service are foreseen in the accelerated procedure.<sup>511</sup>

In Greece, the Asylum Code, which entered into force in the second half of 2022, provides that decisions must be issued as soon as possible and in any case:

- a) Within 30 days of the hearing of the case in a regular procedure case;
- b) Within 20 days of the hearing in an accelerated procedure case;
- c) Within 10 days of the hearing when the appellant is under administrative detention; and
- d) Within 20 days of the hearing when the application is rejected as inadmissible in accordance with Article 89.

An exception was introduced for cases heard in priority, as the decision must be issued within 15 days of the hearing.<sup>512</sup>

The length of asylum appeals was an area of concern for national authorities and criticised by some civil society organisations and national evaluations of appeal procedures. For example, Progestion and Convive-Fundación Cepaim highlighted that the duration of the appeals procedure was excessively lengthy in Spain.<sup>513</sup>

In Sweden, the National Audit Office published a report on the processing times of asylum cases in migration courts and found that they were long and had increased since 2016. Notable regional differences were also found, with a lack of resources being the main reason for delays. The report noted that about one-half of the processing time did not include any active processing of cases.<sup>514</sup> In a letter of 26 July 2022, the Ministry of Justice welcomed the report and highlighted that a series of measures were taken to shorten the processing time, including constitutional amendments to transfer cases between courts.<sup>515</sup>

## 4.5.8. Appeals by specific profiles of applicants

### Ukrainian applicants

Appeals lodged by Ukrainian nationals whose applications were rejected in first instance procedures were suspended by the Danish Refugee Appeals Board on 24 February 2022 at the start of the war in Ukraine.<sup>516</sup>

### Afghan applicants

On 31 March 2022, CALL in Belgium **noted** that the situation in Afghanistan did not seem to establish the need to grant subsidiary protection within the meaning of the recast QD, Article 15(c). However, it underlined that the situation remained unstable and changes in the dynamics of the conflict were recent. It assessed that the situation in Afghanistan did not allow to make a correct and forward-looking assessment.

On 12 and 13 October 2022, in a chamber of three judges, CALL issued five rulings: two granting refugee status, two denying it and one annulling the CGRS's decision. CALL noted that the level of indiscriminate violence in the country had generally fallen significantly since the Taliban takeover, concluding that there was no automatic need for subsidiary protection from indiscriminate violence. It further ruled that the return of Afghans from Europe (considered 'westernised') did not automatically give rise to a well-founded fear of persecution. CALL also found that the socio-economic situation in the country did not automatically fall within the scope of subsidiary protection. CALL noted, however, that the current precarious socio-economic situation may still give rise to a violation of Article 3 of the ECHR, which needs to be further examined when issuing any order to leave the territory.

In February 2022, the Danish Refugee Appeals Board **resumed** the assessment of cases lodged by Afghan nationals. In January 2023, the Danish Coordination Committee of the Refugee Appeals Board decided to change its practice toward Afghan women and girls, thus as a main rule granting asylum solely because of their gender, based on Section 7(1) of the Aliens Act.<sup>517</sup> In December 2022, the Coordination Committee declared that a lower threshold of persecution should be applied in cases involving Afghan women and girls and their risk of persecution because of the arbitrary exercise of power by the Taliban.<sup>518</sup>

### Applicants from Ethiopia

After suspending the processing of cases by Ethiopian nationals on 16 December 2021,<sup>519</sup> the Coordination Committee of the Danish Refugee Appeals Board lifted the suspension on 24 February 2022. The Appeals Board later stated that the general situation in Addis Ababa was not of such a nature that any person of Tigrayan ethnicity would be at risk of being arrested, mistreated or abused. Thus a concrete assessment of an applicant's circumstances would determine if the conditions for issuing a residence permit according to Section 7 are met.<sup>520</sup>

### Applicants from Mali

In Belgium, CALL ruled in May 2022 on appeals lodged by applicants from northern and central Mali on 18 May 2022 and in October 2022 on appeals by applicants from southern Mali.<sup>521</sup>



## Applicants from Myanmar

In 2023, the Refugee Appeals Board referred two cases back to the Danish Immigration Service for a new assessment based on new country of origin information for Myanmar following the military coup in February 2021. The Danish Refugee Council reported that in one of these cases the first instance authority provided international protection.<sup>522</sup>

## 4.5.9. Digitalisation of procedures



Digitalisation initiatives for the appeal of an international protection case continued throughout 2022 on the anonymisation of court decisions, electronic submission of documents and file management.

In Austria, a project by the Federal Ministry of Justice, together with the Federal Computing Centre, received an eAward in October 2022. The project, “Use of artificial intelligence in the anonymisation of court decisions”, aims to facilitate access to a higher number of court decisions, including asylum decisions pronounced on appeal. It uses artificial intelligence to anonymise the decisions, a process usually done manually and requiring extensive human resources.<sup>523</sup>

In Belgium, CALL launched a digital tool on 1 March 2022, entitled J-BOX, to exchange procedural documents electronically instead of using registered mail. The use of the tool became mandatory in appeals for accelerated and urgent measures. The possibility to exchange documents electronically had been provided by law in 2021.<sup>524</sup> In addition, in February 2022, CALL reminded appellants that it was not necessary to add copies of publicly-available online sources as evidence, mentioning that a link to the source was sufficient.<sup>525</sup>

In France, in 2022, the CNDA organised for the first-time teleconferenced hearings with the Administrative Court of Lyon. This practice continued with the Administrative Court of Nancy and with overseas territories.<sup>526</sup>

In Germany, the Federal Administrative Court announced that from 1 January 2026, in accordance with Section 55b(1a)(1) of the Administrative Procedure Code (VwGO), all court files must be kept electronically. The Federal Administrative Court in Leipzig aims to meet this legal requirement earlier, by 1 January 2024. From 1 September 2022, the Federal Administrative Court managed all files electronically for incoming and continued proceedings of the 1<sup>st</sup> and 5<sup>th</sup> Revision Senate, providing also for the possibility that the senate could suspend the electronic file management in individual procedures if it caused an unreasonable additional effort or for other compelling reasons.<sup>527</sup>

The Swedish Migration Court of Appeal introduced an e-service to facilitate the submission of documents to the court by state administrative authorities. The e-service is an alternative to submissions by email, secure e-mail and paper mail, making it possible to submit larger files and in more formats to the courts.<sup>528</sup>

Some countries, such as Lithuania, have continued to hold court hearings remotely, despite the lifting of COVID-19 restrictions.<sup>529</sup>



## Section 4.6.

### Pending cases

Once an application for international protection has been lodged with a national authority, the processing phase begins. The final outcome of this process is a decision at first instance, which can be appealed and followed by another decision.



The examination of a case can also be closed for other reasons, including an explicit withdrawal initiated by the applicant, an implicit withdrawal, for example in the case of absconding, and an acceptance of responsibility by a partner country in the context of a Dublin procedure.

While an application is under examination, it is part of the stock of pending cases. Pending cases are a key indicator reflecting the workload experienced by national authorities and the pressure on national asylum systems, including reception systems.

At the end of 2022, nearly 899,000 asylum applications were awaiting a decision in EU+ countries, increasing by almost one-fifth compared to a year earlier. This represented the most cases awaiting a decision since April 2020, when the processing of applications was suspended or strictly limited during the onset of the COVID-19 pandemic.

While the number of pending cases remained relatively stable until July 2022, it started rising continuously afterwards, in line with the growing number of asylum applications (see *Section 4.4*). Meanwhile, decisions at first instance started to considerably lag behind applications in the last two quarters of 2022 than in the first two. Hence, the stock of pending cases was far higher than in the pre-crisis level in late 2014 (see *Figure 21*), adding pressure on national reception systems.

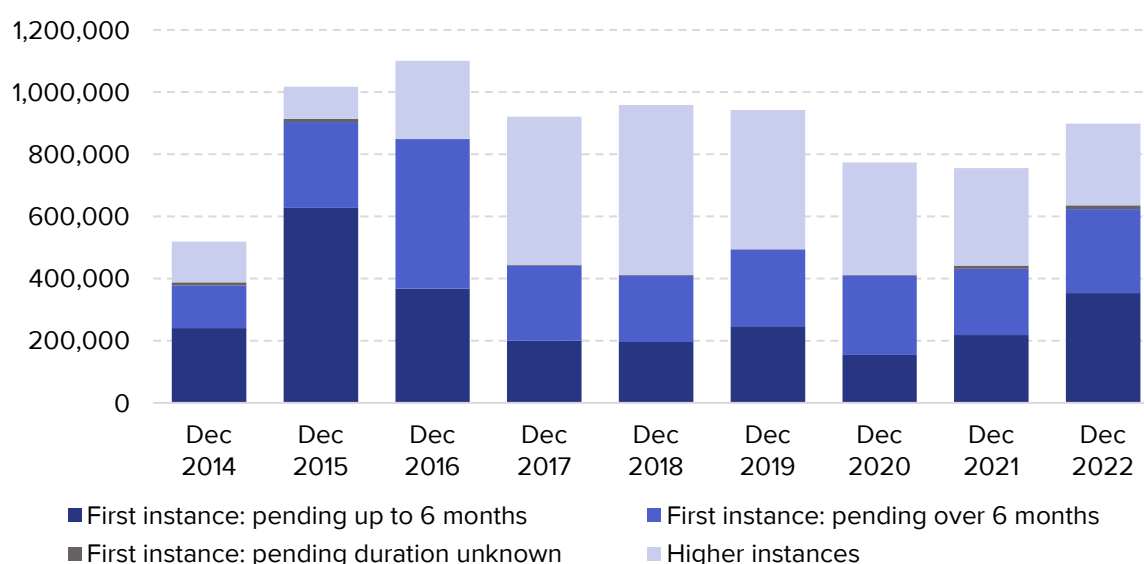
When combining Eurostat data with the EUAA's Early Warning and Preparedness System (EPS) data,<sup>1</sup> the number of cases pending at first instance and at second or higher instances can be disaggregated. EUAA EPS data allow to further analyse pending cases by a duration of 6 months or longer at first instance.

The results indicate that the overall stock of pending cases increased at first instance, whereas it continued to decrease at higher instances. The annual total of pending cases was influenced by different trends: while cases pending at first instance rose throughout the year and more strongly in the second half of 2022, cases at higher instances decreased at the beginning of the year and then remained relatively stable.



### Considerably more cases were pending at first instance than at higher instances

**Figure 21. Pending cases in EU+ countries at the end of each year, 2014-2022**



Source: Eurostat [[migr\\_asypenctzm](#)] as of 13 April 2023 and EUAA EPS.

<sup>1</sup> EUAA data cover first instance cases. They are provisional and not validated, but they provide information on overall trends at the EU+ level. EUAA EPS data do not include information on Iceland and Liechtenstein.



At the end of 2022, some 636,000 cases were pending at first instance, accounting for 71% of the total. This was a notably higher share than a year earlier. Among the cases awaiting a decision at first instance, the majority were pending for up to 6 months, a direct result of the rising number of applications lodged in the second half of 2022. Based on the evolution of the caseload distribution in previous years, the recent increase in cases awaiting a decision at first instance is likely to result in a forthcoming shift of pressure from first instance determining authorities to second or higher instances.

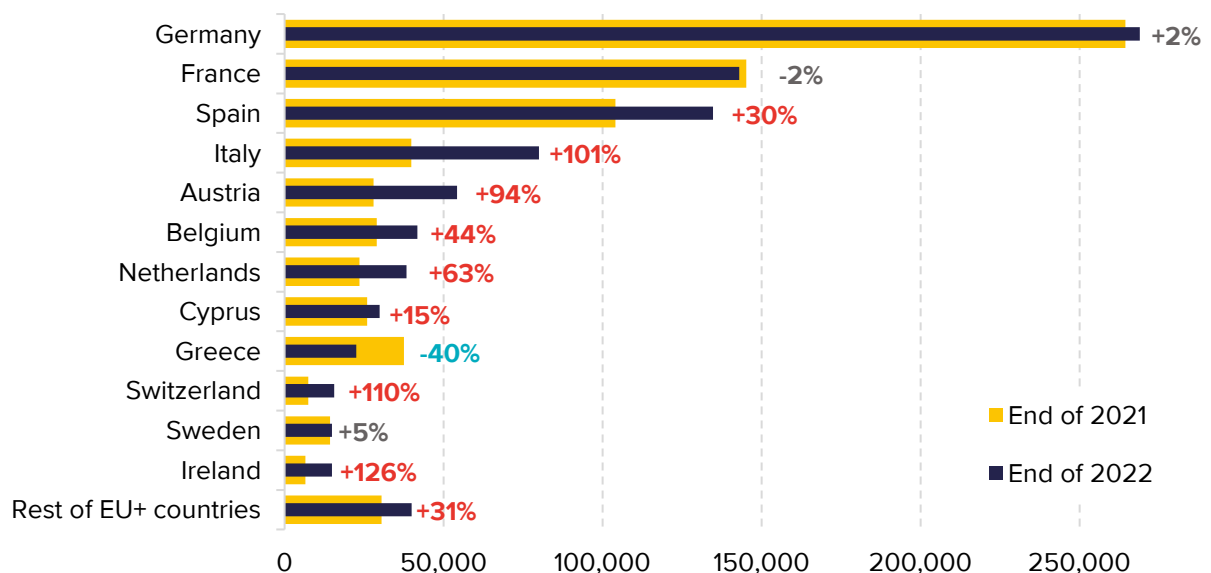
Close to one-third (30%) of all pending cases continued to be awaiting a decision in Germany, with a total of 269,000 open files (see Figure 22). While the overall stock in Germany increased only marginally, its share of the EU+ total declined (down from 35% at the end of 2021). Other EU+ countries with a large number of pending cases included France (143,000), Spain (135,000), Italy (80,000) and Austria (54,000).

Compared to the end of 2021, the caseload approximately doubled in Austria and Italy and, on a smaller scale, more than doubled in Croatia, Estonia, Ireland, Norway, Portugal and Switzerland. In absolute terms, the largest increases were in Italy, Spain, Austria, the Netherlands and Belgium (in descending order). In all of these countries, the number of cases under determination accumulated in the second half of 2022. At the end of 2022, Belgium (42,000), Ireland (15,000), the Netherlands (38,000) and Iceland (1,200) had the most pending cases on record, since at least 2008 when harmonised data collection began.<sup>ii</sup>



**While most cases awaiting a decision were still in Germany and France, notable increases took place in Italy, Spain and Austria**

**Figure 22. Pending cases in EU+ countries at the end of 2022 compared to the end of 2021**



Source: Eurostat [[migr\\_asypenctzm](#)] as of 13 April 2023.

<sup>ii</sup> At the end of 2022, Croatia (1,300) also had the most pending cases on record since 2013.

Greece was the only country with a considerable decrease in pending cases, both in absolute (-15,000) and in relative (-40%) terms, and the decrease took place particularly in the first half of 2022. On a much smaller scale, there were declines also in Malta and Poland, among others.

Syrian applicants (116,000) had the most pending cases in EU+ countries at the end of 2022, overtaking Afghans (98,000) due to an increase by one-fifth compared to the end of 2021 (see Figure 23). While the caseload for Syrians decreased gradually in the first half of the year, in August the trend was reversed and by the end of the year it reached the most since October 2017. Although pending cases for Afghan applicants also started to increase towards the end of 2022, the stock in late December was marginally lower than a year earlier.

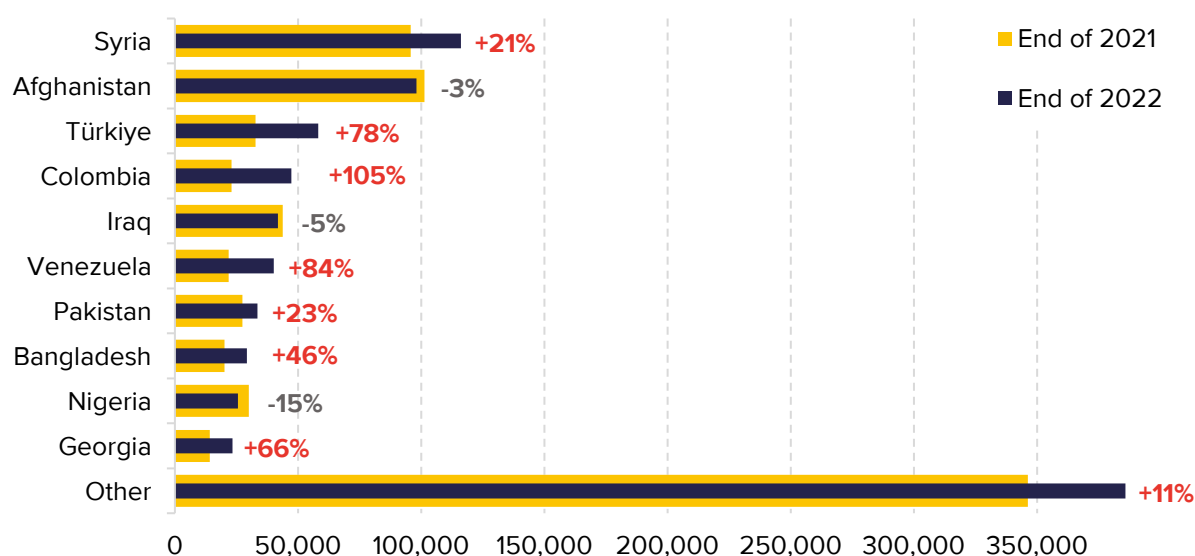
Following a surge in asylum applications to unprecedented levels (see Section 4.4), nationals of Türkiye had 58,000 open cases at the end of 2022, the most on record since at least 2008. Pending cases reached record values also for citizens of Colombia (47,000), Bangladesh (29,000), Georgia (23,000), Morocco (16,000), the Democratic Republic of the Congo (15,000), Egypt (13,000) and Algeria (8,200). In October 2022, caseloads rose to an all-time high also for Indians (12,000) and Tunisians (8,500) but then started to decrease.

Most applications for many of the top nationalities were pending in Germany, where a decrease in the caseload for Afghan and Nigerian applicants was offset by an increase in cases for Turkish and Georgian applicants. Colombians and Venezuelans held the most pending cases in Spain, while it was Bangladeshis and Pakistanis in Italy.



### Rising number of pending cases for applicants from Syria, Türkiye and Colombia

**Figure 23. Pending cases in EU+ countries at the end of 2022 compared to the end of 2021 by Top 10 countries of origin of applicants for international protection**



Source: Eurostat [[migr\\_asypenctzm](#)] as of 13 April 2023.

While pending cases for Syrian applicants remained stable in Germany, there were considerable increases in Austria, Bulgaria, Cyprus and the Netherlands. Although the caseload for applicants from Afghanistan decreased in Germany, it rose in Austria, Belgium, Cyprus, France and Switzerland. In addition to Germany, but on a smaller scale in absolute terms, the stock of pending cases for Turks grew also in Austria, France and Switzerland.

The stocks of cases for applicants from Bangladesh and Pakistan in Italy (13,300 and 14,300, respectively) reached all-time highs, as did those of Colombians and Peruvians in Spain (40,300 and 10,200, respectively). A record high was also reported for cases pending for Georgians in Germany (8,600).

Seven in 10 pending cases at the end of 2022 pertained to male applicants. For almost all nationalities, more males were awaiting a decision than females. The only exception was for applicants from Côte d'Ivoire, with 53% of cases pending for women and girls. There was a gender balance for pending cases for many Latin Americans (Colombians, Peruvians, Salvadorans and Venezuelans) and for Ukrainians.<sup>iii</sup>

While 57% of all pending cases belonged to adult males, children accounted for over one-fifth (22%) of all applicants awaiting a decision. Boys were still the majority (58%) in the group of children. Syrians, Afghans, Iraqis and Turks jointly accounted for about two-fifths of all minors. In total, 72% of all minors who had yet to learn the outcome of their application for international protection were below 14 years of age.

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<sup>iii</sup> Only nationalities with at least 5,000 pending cases at the end of 2022 were considered.



## Section 4.7. Reception of applicants for international protection

The recast RCD sets the standards for the conditions which must be met for the reception of an asylum applicant and aims to ensure that applicants' rights and obligations are harmonised across all Member States.

The reception of applicants for international protection encompasses rules on material reception conditions (such as housing, food and clothing which are provided in kind, through financial allowances or in vouchers – or a combination of these three – and a daily expense allowance), freedom of movement, access to health care, education for children, access to the labour market, language instruction for children and socio-cultural orientation. The directive applies to all applicants throughout the whole asylum procedure from the moment an application is made and for all types of procedures until they are allowed to remain on the territory.



The recast RCD describes the conditions and processes under which applicants need to be informed about reception benefits and duties (see *Section 4.9*). The directive also outlines the circumstances when Member States may reduce or exceptionally withdraw material reception conditions.

Member States must have appropriate guidance, monitoring and controls to ensure that the EU standards are upheld. They also need to provide suitable staff training and allocate sufficient resources. Member States are required as well to take into account the specific situation of vulnerable applicants (see *Section 5*). Furthermore, the directive lists the criteria, guarantees and conditions for the detention of applicants (see *Section 4.8*). The standards in the directive, however, can be imposed differently in national laws, and thus, variations exist in reception conditions across countries.



2022 was an extremely challenging year for reception authorities in EU+ countries, which experienced a rise in the number of applicants for international protection and received millions of persons in need of temporary protection – and thus, of shelter and accommodation. The main issue remained the lack of sufficient places, even though Member States continued to significantly invest in increasing reception capacity. Some countries surpassed all previous capacity records, but this still was not enough to offer adequate accommodation for all applicants. The challenges were multifaceted and included, for example, inadequate funding and issues with collaborating with municipalities. Only Nordic countries and a few transit countries (from where applicants often move towards another EU+ country) did not report issues with capacity.

Member States explored different ways to address the issue. Some reached out to new stakeholders to strengthen the reception system, for example, through the closer involvement of civil society organisations, municipal actors, disaster management or private actors. Among 13 operating plans in 2022, the EUAA assisted to enhance the reception system for 10 countries, increase the integrity of the asylum procedure (see *Section 4.2*) or its efficiency (see *Sections 4.3 and 4.4*). Some measures which were implemented by national authorities, for example limitations on family reunification, are currently being scrutinised by the courts.

Reception conditions deteriorated in overcrowded centres and led to sub-standard conditions in many EU+ countries, as widely documented by civil society organisations. Courts stepped in to reiterate the obligations of Member States. The European Commission sent letters of formal notice to several countries for failing to properly transpose the recast RCD.

As the focus remained on immediate needs, such as finding enough reception places and ensuring adequate living conditions, less initiatives seemed to have been implemented to facilitate applicants' entry into employment, orientation in the new society or accessing education and health care. National authorities tried, but sometimes struggled, to ensure at least the basic services.

In these circumstances, the European Parliament's rapporteur of the revised RCD noted that the agreement reached in December 2022 between the European Parliament and the Council on the legislative proposal was a breakthrough that can ensure high and consistent reception standards.<sup>530</sup>

### 4.7.1. Entitlement to material reception conditions



The lack of reception places gave rise to several judgments which obliged national authorities to immediately ensure access to material reception conditions for applicants (see *Section 4.7.2.1*). Other court cases looked into the scope of persons who are covered by national legislation in reception and provided guidance on when an applicant's material reception conditions can and cannot be withdrawn.

Among legislative changes, new regulations entered into force in Norway, which determined benefits for residents in asylum reception centres.<sup>531</sup> In Poland, the Helsinki Foundation for Human Rights underlined that cash benefits for applicants staying outside of reception facilities remained very low and not sufficient to cover daily costs.<sup>532</sup>



Amendments to the Slovak Asylum Act codified the already-existing practice that applicants could stay outside of the reception facility for 3 months, with the possibility to extend this period without losing their right to material reception conditions.<sup>533</sup>

In December 2022, the Secretary of State for Migration in Spain adopted an instruction detailing the requirements to access and stay in the reception system. Among other issues, the instruction foresees that the phase of the initial assessment and referral, despite being a part of the reception system, does not count while calculating the 18-month (or 24-month) period of stay, and only the other two phases are taken into consideration for the calculation of the duration.<sup>534</sup>

In 2022, a new Ministerial Decision was issued in Cyprus which determines the criteria and level of material reception conditions. It also introduced a new application form.<sup>liii</sup>

In the context of the reception crisis, Fedasil in Belgium issued a new instruction in November 2022 on the forced and voluntary withdrawal of reception conditions for working applicants. The aim of the instruction was to free up spaces in the reception network, and thus it ordered the forced withdrawal of reception conditions for applicants with a stable work contract (of a minimum of 6 months) and an income higher than the minimum living wage. Applicants who meet these conditions receive a motivated decision indicating that they must leave the reception centre within 1 month.<sup>535</sup>

The Swedish Supreme Administrative Court **concluded** that persons were not covered by the Law on Reception of Asylum Seekers and Others if they already had a residence permit (for example, for studies) and then applied for international protection.

The Slovenian High Court **confirmed** the lower courts' decisions that an applicant was not guaranteed accommodation and access to health care while awaiting his transfer to Croatia under the Dublin III Regulation (see *Section 4.2*). In the meantime, legislation in Slovenia related to the entitlement to material reception conditions changed,<sup>536</sup> and the situation of applicants in the Dublin procedure was clarified.

The French Council of State **concluded** that an applicant's refusal to appear for summons to organise a Dublin transfer could be considered a serious breach of house rules, entailing the withdrawal of the reception place and the applicant's expulsion from the facility (see *Section 4.2*). The Labour Court in Brussels **found** that Fedasil's decision to revoke material reception conditions for 14 days from an 18-year Afghan applicant was contrary to the recast RCD and the CJEU's **Haqbin** judgment. In this judgment, which the CJEU **reaffirmed** in another case, the court underlined that the withdrawal of material reception conditions cannot deprive the applicant from the possibility of meeting the most basic needs. Sanctions should always be proportional and respect human dignity.

Related to the amount of cash benefits to which applicants are entitled, the Federal Constitutional Court in Germany **concluded** that the reduction of benefits for single people and single parents living in collective reception facilities was unconstitutional. The court found that the assumption that the residents would form a financial community (phrased as

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<sup>liii</sup> According to the new Ministerial Decision, the person must be an applicant for international protection, for whom material reception conditions cannot be covered in Reception and/or Accommodation Centres, who lives in the areas controlled by the Republic of Cyprus and both the applicant and their family members are not employed. In the event that the applicant or any member of their family is employed, the family may continue to receive assistance as long as the monthly income is less than the total amount of assistance to which the family is entitled.



“community of destiny”) cannot be considered as evidence that the impacted residents could correspondingly reduce their needs.

In Poland since 24 February 2022, it is possible to grant a financial allowance for asylum seekers living outside of reception centres without their prior registration in one of the first reception centres. The Human Rights Commissioner appealed (in 2022 and February 2023) to the Ministry of the Interior and Administration to increase the amount of the financial allowance for asylum seekers living outside of the reception centres.<sup>537</sup> In Romania, the amounts of financial allowances were doubled as of 27 February 2022.<sup>538</sup>

The Organization for Aid to Refugees (OPU) in Czechia highlighted that when a decision on an applicant’s Dublin transfer became final, the person loses the applicant status under the Asylum Act and, consequently, the right to reception, including the right to access health care under public health insurance. The organisation described the case of an applicant family with a child with disabilities, who were merely issued an exit visa to travel to Italy but were not able to organise their travel on their own due to the child’s needs.<sup>539</sup>

In Cyprus, organisations indicated difficulties in accessing material reception conditions outside of collective accommodation centres as the recently-revised application to apply for them required the submission of eight types of documentation for the applicant and each family member, the processing times were long and, although the application for material assistance could be submitted without a rental contract, in such cases applicants would not receive rent allowances and the amounts for bills and daily expenses would be reduced. For applicants in the Pournara centre, in August 2022 the Social Welfare Services – with the assistance of UNHCR and the Cyprus Refugee Council – piloted a new procedure where asylum seekers submit an application for material reception conditions before exiting the centre.<sup>540</sup>

In 2022, PRO ASYL and the Refugee Council Berlin published a comprehensive study on reception conditions in Germany, noting that the average duration of stay varied not only for different nationalities but also due to regional differences.

## 4.7.2. Organisation and functioning of reception systems

### 4.7.2.1. Adjusting reception capacity and impact on reception conditions



The sharply-increasing number of applicants for international protection, as well as the need to accommodate persons with temporary protection, pushed many reception systems beyond their limits. While caring for persons with temporary protection has often been the responsibility of organisations other than reception authorities, and their accommodation has often been organised outside of traditional reception systems for asylum seekers, the situation had an impact on the number of available sites or on the ability of municipalities to offer new sites. In countries where persons with temporary protection were supported through the reception system, facilities quickly became full. Among the 13 EUAA operational plans implemented in 2022, 10 included measures on enhancing reception capacity.<sup>541</sup>





A number of countries needed to significantly increase the number of accommodation places, such as Austria, Belgium, France (20,000 places for people displaced from Ukraine), Germany, Ireland, Italy (where the hotspot of Messina was reopened), Luxembourg, the Netherlands, Romania, Slovenia and Switzerland. New facilities were opened in other countries, such as Estonia, Finland, Latvia,<sup>542</sup> Norway and Slovakia, while an existing centre of Kofinou in Cyprus was being extended. The occupancy rate of existing structures largely increased, for example, in Bulgaria and Croatia. The Croatian Ministry of the Interior added that it was actively working on finding new locations with an adequate structure that would meet the needs for the reception and accommodation of applicants for international protection according to EU standards, due to a high number of arrivals. The refurbishment of the facility in Kutina was completed and the centre's capacity was increased to 140 places, increasing the total capacity to 740 places. Further expansion of the reception capacity was planned through opening new facilities and expanding the capacity of existing ones.

Only Greece reduced the number of reception places, and the end of 2022 marked the completion of the accommodation programme for vulnerable asylum seekers, "Emergency Support to Integration and Accommodation (ESTIA)". Municipalities which hosted the programme recognised the positive impacts of the scheme on local communities.<sup>543</sup>

In Austria, the Minister of the Interior announced in October 2022 that the reception system had reached its capacity. Applicants who are admitted to the asylum procedure generally move to facilities managed by federal provinces, but those facilities also needed to accommodate persons with temporary protection. In addition, due to the funding structure, many federal provinces closed reception places in recent years. Asylkoordination österreich highlighted that at the end of 2022 there were 17,000 fewer places than 5 years ago for applicants for international protection,<sup>544</sup> and since many applicants travelled on, there was a high fluctuation rate which was a big challenge for the Federal Agency for Reception and Support Services (BBU) that operates the federal centres.<sup>545</sup>

UNHCR also noted that, despite a surge in applications, the number of reception places available for applicants for international protection in federal provinces was just slightly above the level at the end of 2021.<sup>546</sup> Thus, many applicants remained in federal facilities managed by the BBU.<sup>547</sup> The national authorities underlined that, although there were less places in organised reception facilities in 2022, the reception system overall took care of more people in total compared to 2017. People (especially beneficiaries of temporary protection) were mostly in private accommodation but still cared for through the reception system. Tents were used for a few weeks in autumn 2022 to fill the gap in accommodation places, but this practice quickly stopped due to the winter.<sup>548</sup> UNHCR underlined the inadequacy of these tents to accommodate applicants during winter conditions.<sup>549</sup>

Pressure has been building up in the Belgian reception system for several years. On 19 January 2022, the Brussels first instance tribunal [condemned](#) Fedasil for not having foreseen appropriate structures to accommodate an increasing number of applicants and ordered the treasury to pay a daily fine until the situation was resolved. However, civil society organisations estimated that at the end of 2022, there were 3,000 persons seeking protection who had not been offered reception.<sup>550</sup> NGOs indicated that since March 2022 the access to the reception network is systematically denied to single men applying for international protection, and in general, applicants without access to the reception network are not given an individually-motivated decision. They are merely informed about the shortage of places and instructed to register themselves on a waiting list.<sup>551</sup>



The ECtHR indicated interim measures in five cases throughout 2022, concerning approximately 600 persons, all of whom received a final domestic decision from the Brussels Labour Court.<sup>552</sup> Overall, Fedasil was condemned more than 6,000 times by the Brussels Labour Tribunal for failing to provide material reception conditions.<sup>553</sup> The federal government and Fedasil undertook several steps to address the situation. At the end of 2022, the reception system reached 33,505 places, with 4,000 places created in 2022.<sup>554</sup> The focus was especially on creating new places for unaccompanied children (see *Section 5*).<sup>555</sup> The agency also recruited 800 employees in 2022,<sup>556</sup> and 58 persons were recruited through an inter-institutional process from other public service organisations.<sup>557</sup> The winter plan was signed, for example reserving a certain amount of places in the accommodation structure for the homeless, specifically for applicants for international protection. At the same time, this initiative, coordinated by the civil society organisation Samusocial, also faced a critical lack of staff to manage the places.<sup>558</sup>

Fedasil launched a public procurement for the private sector to offer an additional 3,500 places, while contracts for four centres already managed by private operators were extended until 15 March 2023.<sup>559</sup> Other stakeholders of the asylum procedure also made adjustments to alleviate pressure. The registration process was re-organised and applicants needed to report again at the Immigration Office's Pacheco building instead of the arrival centre in Brussels (see *Section 4.1*).<sup>560</sup>

The CGRS prioritised certain categories of applicants in the reception system and focused on applications from countries with high recognition rates, where decisions could be made based on the file (see *Section 4.4*). However, these efforts could still not match the challenge of accommodating all applicants, whose numbers were rapidly increasing.<sup>561</sup> In March 2023, the Belgium government announced measures aiming to free up spaces in reception facilities by focusing on outflow and on returning rejected applicants. In total, additional places were planned to be created, for example through the use of EUAA containers, but the authorities had not been able to secure an adequate site.<sup>562</sup>

The situation in the Dutch reception system became critical in 2022, even though the number of reception places continued to grow significantly (for example, cruise ships had been hired to accommodate applicants).<sup>563</sup> The deteriorating conditions were the most noticeable in the central reception facility in Ter Apel. The death of a baby in a sport hall that served as an emergency facility for Ter Apel in August 2022 received a lot of attention and led to the announcement of a comprehensive set of measures to address the situation.<sup>564</sup> On 26 August 2022, the Secretary of State announced several measures to address the reception crisis, referred to as the 'asylum deal'. The most important measures were prolonging the decision-making period (WBV 2022/22), suspending family reunification, temporarily cancelling the resettlement of refugees under the EU-Türkiye deal, and launching the 'Dispersal Law' (*Spreidingswet*). In response to the reception crisis, on 8 November 2022 a legislative proposal was put forward aiming to distribute the number of reception places in the country. The Dispersal Law – currently pending – will ensure that municipalities will be responsible for providing sufficient reception places for asylum seekers (Article 6(1)).<sup>565</sup>

A common investigation was conducted by the Health and Youth Care inspectorate and the Justice and Security Inspectorate.<sup>566</sup> The set of measures were temporary in nature, planned to be in place until 31 December 2023, specifically to alleviate the pressure on the reception system. These included: limitations on family reunification, suspending resettlement under the EU-Türkiye deal, and setting up a general Housing Construction Programme to speed up the outflow of recognised beneficiaries of international protection.<sup>567</sup> The Advisory Council on



Migration assessed that these measure did not solve the structural issues of the reception system, had a negative impact on the rights of applicants and beneficiaries of international protection, and many of them were not aligned with national and EU legislation.<sup>568</sup>

Several measures were proposed to speed up the outflow of recognised beneficiaries of international protection, accounting for approximately one-third of the residents in reception. For example, the Hotel and Accommodation Regulation was extended until the end of 2022 to provide financial support to municipalities and support beneficiaries of international protection in moving out of reception.<sup>569</sup> In addition, the Dutch government observed that efforts to set up new reception places were often undermined by the negative image projected through a small group of residents who engaged in criminal behaviour. Thus, measures against disruptive behaviour continued and were planned to be enhanced (see *Section 4.7.3.1*). Municipalities were also hesitant to open new places due to the funding system, and discussions were ongoing to reform this.<sup>570</sup>

On 8 November 2022, the Minister for Migration launched the consultation process on the law proposal obliging provinces and municipalities to provide reception places for applicants for international protection, with several sets of financial incentives for municipalities to create more reception places, including for unaccompanied minors (see *Section 5.6.5*).<sup>571</sup> The Advisory Council on Migration welcomed the proposal and underlined that it essentially followed the council's earlier recommendations. Additional suggestions were made to adapt the planning cycle of the proposal and establish more stable funding for the stakeholders involved.<sup>572</sup>

As underlined by the Advisory Council on Migration,<sup>573</sup> the Council for Public Administration<sup>574</sup> and the Court of Auditors,<sup>575</sup> the situation was partially the result of the constant opening and closing of centres and the lack of a more stable reception system with adequate funding. According to the forecast of the Ministry of Justice and Security in November 2022, 75,000 reception places were necessary for the end of 2023.<sup>576</sup> The Court of the Hague **condemned** the Dutch State and the Central Agency for the Reception of Asylum Seekers (COA) for the crisis situation and ordered them to meet reception standards in terms of adequate rooms, access to sanitary facilities, drinking water, sufficient and adequate food, financial allowance, play areas and education for children, health care, medical screening, and accommodation for unaccompanied minors and other applicants with special needs.

The measures were **confirmed** by the Court of Appeal of The Hague in December 2022, setting aside the limitation that they applied to applicants 'currently' residing in crisis emergency shelters. In addition, on appeal, the court ruled that the state should ensure that applicants for international protection and persons with temporary protection receive the same quality of reception conditions.

The German Federal Ministry of the Interior announced additional financial resources to support municipalities in accommodating the increasing number of applicants and beneficiaries of temporary protection. The federal government provided federal buildings to municipalities to be used as reception facilities, accounting for 64,000 places and enabling the creation of 4,000 additional places.<sup>577</sup>

The Irish Refugee Council published a report on the impact of the accommodation crisis on reception capacity, noting that in September 2022 newly-arrived applicants were turned away due to a lack of accommodation and were offered a place only a few weeks later.<sup>578</sup> In January 2023, the provision of an emergency shelter for adult applicants for international



protection was paused in the Transit Hub at Citywest in Dublin, as it reached full capacity. The authorities requested applicants who cannot be provided with accommodation to provide their contact details, so that they can be reached when accommodation becomes available.<sup>579</sup>

At the same time, several protests were reported against the opening of new centres.<sup>580</sup> A new policy took effect in November 2022 for beneficiaries of temporary protection in order to manage the crisis. According to this policy, they were offered one suitable accommodation and no further offers were made.<sup>581</sup> Due to the pressure on the reception system, the Head of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process expressed concerns over the possibility to meet the governments' timeline to end direct provision and transition to a not-for-profit system by 2024.<sup>582</sup> However, the rolling out of the new policy continued in 2022 and the Irish Minister for Children, Equality, Disability, Integration and Youth announced that 67 projects received EUR 1.6 million from the International Protection Integration Fund 2022 to support the integration of applicants.<sup>583</sup>

Luxembourg continued to increase its capacity, both for applicants of international protection and beneficiaries of temporary protection throughout the year 2022. For applicants for international protection, the National Reception Office (ONA) increased the number of temporary accommodation facilities from 54 in the beginning of 2022 to 56 at the end of 2022, and its total capacity from 4,249 beds to 5,126 beds. The additions included a new modular structure in Frisange, a new temporary accommodation structure in the Gasperich quarter of Luxembourg City<sup>584</sup> and the re-opening of the renovated structure in Weilerbach.<sup>585</sup> To cope with the mass influx of people fleeing the war in Ukraine, the ONA opened emergency facilities, often temporary. At the end of 2022, the number of these facilities reached 11, accommodating 1,205 people. The ONA recruited an additional 75 staff members to operate the new sites and manage the arrival of persons in need of temporary protection. Overall, the bed capacity increased from 4,155 beds at the end of 2021 to 7,010 beds in December 2022.

Italy continued to increase the number of reception facilities throughout the year. Nonetheless, in December 2022 it [requested](#) the temporary suspension of Dublin transfers to the country due to the unavailability of places. Civil society organisations reported that several applicants were forced to live on the streets, for example in Ancona<sup>586</sup> and in Trento,<sup>587</sup> due to a lack of reception places.

Cases reached the courts as well, and for example, the Regional Administrative Tribunal of Veneto [reiterated](#) that material reception conditions should be provided immediately when the application for international protection is made. In that case, the applicant expressed his wish to apply for international protection in February 2022 but was still without material reception conditions in May 2022. A group of Italian NGOs also observed delays between expressing the wish to apply for international protection and the enrolment in the reception system, forcing applicants to sleep outdoors sometimes for weeks.<sup>588</sup>

The Regional Administrative Tribunal of Brescia [confirmed](#) that applicants must be provided with material reception conditions, despite the high number of arrivals. In that case, the authorities rejected the applicant's request for reception based on a lack of places due to an increase in the number of Afghan applicants arriving through humanitarian corridors and the rise in the number of COVID-19-positive applicants.



SEM in Switzerland also reported on challenges to find sufficient accommodation for the increasing number of asylum applicants and persons in need of temporary protection. It highlighted the close cooperation among the Confederation, cantons, cities and municipalities to address this issue.<sup>589</sup> Civil protection and additional members of the civilian service were called on to set up and help to operate emergency accommodation facilities.<sup>590</sup> Asylex and the Swiss Refugee Council noted that temporary accommodation structures included underground shelters as well, which often triggered negative experiences and trauma for applicants.<sup>591</sup>

In October 2022, SEM started to assign some applicants to cantons at an earlier stage to alleviate overcrowding in federal reception centres. This measure was in place until mid-December 2022 for applicants whose asylum procedure had not yet been concluded, and remained in force for former applicants who had received a return decision.<sup>592</sup> In addition, the military offered temporary support in the establishment and operation of federal reception centres, pending the arrival of newly-recruited, qualified SEM staff.<sup>593</sup> In December 2022, SEM communicated again that more military buildings were to be temporarily used as reception centres and that the army would provide further support in logistics and transportation, but not assistance nor security. Given the acute lack of personnel, civil servants also provided support in assistance tasks. At its meeting of 1 February 2023, the Federal Council adopted the corresponding report for the parliament's attention. The parliament approved this deployment of the army in the 2023 spring session.<sup>594</sup> SEM noted that, by the end of March 2023, as planned, the subsidiary support of the military with army staff could be terminated.

New reception facilities were opened in Finland throughout 2022 to accommodate persons fleeing the war in Ukraine.<sup>595</sup> A tender was launched in September 2022 for 16 reception centres, intended mainly for the accommodation of persons with temporary protection.<sup>596</sup> Reception capacity was quickly scaled up in Norway as well to accommodate arrivals from Ukraine. Ukrainians were swiftly referred to municipalities, thus reception for applicants for international protection was not impacted.

In Portugal it was announced that AMIF funding was granted to the Jesuit Refugee Service for the creation of a reception centre in Vendas Novas. According to the information available, it is expected to start its operations in 2023.<sup>597</sup>

The number of reception places was significantly decreased in Greece as occupancy rates declined.<sup>598</sup> In its press release, the Ministry of Migration and Asylum announced that the number of applications significantly increased, but the number of residents in reception indeed declined, as many of the applicants were either relocated, returned or expelled.<sup>599</sup> For example, after a substantial decrease in the number of places available under the ESTIA II programme in 2021<sup>600</sup> and at the beginning of 2022,<sup>601</sup> the Ministry of Migration and Asylum ended the ESTIA II scheme by 31 December 2022 and moved all remaining beneficiaries of the scheme into mainland structures.<sup>602</sup> The Minister of Migration and Asylum announced that the closing of the scheme is a sign that “migration is under control”.<sup>603</sup>

Refugee Support Aegean observed that residents were often told only a few days in advance about the transfer and did not know about the location of their new accommodation. The transfer disrupted many applicants' education, employment or health treatment. The organisation also noted that the closing of the scheme meant that small-scale accommodation was no longer available, for example, for vulnerable applicants. It cited UNHCR Greece's spokesperson, who acknowledged the need to adapt reception capacity to the changes of



migration flows but underlined that at least some small-scale structures should be maintained for extremely vulnerable applicants.<sup>604</sup> Other Greek NGOs expressed similar concerns.<sup>605</sup>

In Poland, the special rules on the duration of material reception conditions connected with the COVID-19 pandemic were repealed in April 2022. Thus, the prolongation of the provision of the material reception conditions beyond the regular timeframe lasted only until 15 May 2022. In 2022, the Association for Legal Intervention joined cases before administrative courts on the protection of these rights. The proceedings are pending.<sup>606</sup>

#### 4.7.2.2. Adapting reception systems



The exceptional situation in reception prompted several national administrations to continue with the adaptation of their reception model and the implementation of the reception pathway. Proposals were made for adjusting multiannual strategies and objectives, as well as to make funding available in a more flexible manner. As more people were in need of reception, than foreseen at the beginning of 2022, funding for reception was significantly increased through additional budgets in several countries. The arrival of persons in need of temporary protection also prompted the need to revise and update existing asylum and reception contingency plans, for example in Slovenia and Slovakia.<sup>607</sup>

The concept for a new reception and accommodation model (the idea of creating a new model) was approved in Lithuania, and the Ministry of the Interior started the preparations for the necessary legislation. Under the model, the SBGS and the Migration Department under the Ministry of the Interior retain functions related to the identification of applicants, the international protection procedure, detention and return. Tasks related to the accommodation of applicants, health checks, interpretation services and psychological support would be transferred to a new entity under the Ministry of Social Security and Labour.<sup>608</sup>

In March 2022, the Spanish government adopted Royal Decree 220/2022 of 29 March 2022, approving the regulation governing the reception system. The new regulation entered into force on 31 March 2022, establishing an assessment and referral step and a two-phase reception system which adapts benefits and paths to the profile of an applicant – largely similar to the previous system. The legislation clarified that the second phase is only accessible to recognised beneficiaries of international protection. The financing of the reception system was revised to provide more stability for all participating stakeholders. Funding for three organisations (CEAR, Accem and Red Cross) was initially approved to implement international protection programmes, and 24 organisations were authorised to provide reception for applicants for international protection in the beginning of 2023.<sup>609</sup> The regulation also gathered all standards and guidelines that were previously scattered in different legislative pieces.<sup>610</sup> In further improving the reception of applicants for international protection, CEAR highlighted the positive experience with the management of reception for persons in need of temporary protection and advocated for this model to be extended to all persons seeking protection in Spain.<sup>611</sup> UNHCR also underlined that the one-stop shop approach, through the creation of CREADEs, was a positive development which should be maintained.<sup>612</sup>

For adjusting the reception path, Iceland opened an arrival centre in Reykjavík, where all services are offered in the same facility, including registration by the police, reception interviews, first health inspection and needs analysis for permanent housing. The centre





welcomes both applicants for international protection and persons in need of temporary protection.<sup>613</sup>

A new emergency first-reception centre was established in Luxembourg for applicants for temporary protection, with a capacity of 600 beds. Since September 2022, due to the mass influx of applicants for international protection and persons fleeing the war in Ukraine, the site welcomes both applicants for international protection and people in need of temporary protection.

In Greece, a new legal code was adopted compiling in one legislative document all rules related to reception.<sup>614</sup>

The Belgian Fedasil presented its new management plan for the period 2021-2026, defining the organisation's strategic and operational objectives. The agency aims to develop a sufficiently flexible reception system, based on buffer places, instead of opening and closing centres. The plan also foresees investing in improving the quality of reception, as well as residents' and employees' security. Fedasil intends to focus on adapting its internal organisation, for example by improving collaboration across different services, and between the headquarters and reception centres. More emphasis should be put on preparing residents for the life after reception, whether in Belgium or elsewhere.<sup>615</sup> Still, the implementation of this plan met major difficulties due to the crisis that unfolded with the significant lack of reception places.

In the Netherlands, COA updated its Multiannual Strategy 2020-2025 and noted that, due to the current developments, it was unrealistic to assume that all goals would be achieved by 2025. Thus, the strategy was extended with an additional year. The goals were also re-prioritised, and in 2023, the organisation will focus on establishing a stable reception system with small-scale facilities as one of the elements in achieving this, the outflow of recognised beneficiaries of international protection, improving COA's agility and implementation capacity, and public affairs and stakeholder management.<sup>616</sup>

The Austrian Court of Audit published the results of the special audit of federal reception facilities in January 2022, covering the period 2013 to 2020. The audit recommended changes in the financing and re-negotiation of rental contracts for the opening and closing of facilities. The report also urged the federal government to plan more strategically for an eventual significant increase in the number of applicants in need of reception.<sup>617</sup>

The arrival of persons in need of temporary protection increased reception costs in many EU+ countries. For example, the SMA in Sweden noted that its administrative costs needed to be increased to cover new recruitments (see *Section 4.4*) and it estimated that SEK 7 billion was needed to cover increased costs for municipalities and regions during 2023 (see *Section 4.14*).<sup>618</sup> The Slovak government approved an increase in the allowance for the accommodation of beneficiaries of temporary protection under the Act on Asylum, which was provided until February 2023.<sup>619</sup>

#### 4.7.2.3. Working together with other stakeholders



Several Member States reached out to additional and new stakeholders to ensure accommodation for persons in need of temporary protection.<sup>620</sup> For example, a new reception model was introduced in Finland for beneficiaries of temporary protection, where people who have fled Ukraine could receive





accommodation from a municipality without a reception centre being established there. The Finnish Immigration Service compensates municipalities for the costs.<sup>621</sup> These new ways of cooperation may provide an example of collaborative models for the reception of beneficiaries of international protection.

To address the critical shortages in reception places, Fedasil continued its quest to strengthen cooperation with private operators and launched a new public procurement in October 2022 (see *Section 4.7.2.1*).<sup>622</sup> Belgian municipalities made their structures available for persons in need of temporary protection, but this limited the number of available structures to increase reception capacity for beneficiaries of international protection. In Jabbeke, the mayor prohibited the use of a site due to health concerns, but this decision was **overturned** by the Council of State, noting that the State Secretary for Asylum and Migration and Fedasil had addressed these concerns in an appropriate manner. The Tribunal of First Instance in Brussels decided in favour of local authorities that took legal action to close the reception centre in Molenbeek due to urban planning. Fedasil appealed the decision.<sup>623</sup>

The Austrian federal parliament approved an amendment to the agreement between the federal state and the provinces, and as a result, financing for people in reception was increased as of March 2022.<sup>624</sup> The pressure on the reception system led to more tensions between the federal and provincial levels, debating issues of responsibility to provide reception for applicants for international protection, ensuring an adequate number of places and financing the costs of the additional places.

In the Netherlands, security regions stepped in to open and manage crisis reception facilities.<sup>625</sup> This alleviated some of the immediate reception needs but did not lead to a structural solution for the shortage in reception capacity. Municipalities were often reluctant to open new facilities due to funding and modalities, requirements on the number of applicants to be hosted and a lack of clarity over long-term contracts. In addition, cooperation with municipalities was sometimes challenging due to the disruptive behaviour of a few applicants in some localities and the negative image this created in national press (see *Section 4.7.3.1*).

The Portuguese High Commission for Migration signed a new set of protocols for cooperation in the reception and integration of beneficiaries of international protection with various organisations, including the Child Support Association, ADOLESCERE Association, São José Workshops, Braga Delegation of the Portuguese Red Cross and the São José Youth Centre. The protocols focused especially on support to Afghans with special needs or vulnerabilities.<sup>626</sup>

Italian NGOs developed a publicly-available database which maps reception facilities in the country, showing their capacity, occupancy, typology and average costs.<sup>627</sup>

#### 4.7.2.4. Reception conditions



The lack of reception places led to overcrowding and sub-standard reception conditions in many countries, including in Belgium, Italy and the Netherlands (see *Section 4.7.2.1*). Courts expressed concern in the framework of the Dublin procedure about reception conditions in Croatia and Lithuania. The Croatian Ministry of the Interior signalled that the Dublin Procedure Department had not received official information on such cases. The Italian and Romanian administrations had to temporarily suspend Dublin transfers due to a lack of reception capacity, in addition to other factors (see *Section 4.2*).



The European Commission sent letters of formal notice to Belgium, Greece, Portugal and Spain for failing to transpose in a conform manner all provisions of the recast RCD.<sup>628</sup> Fedasil underlined that in Belgium this was because the organisation was unable to provide accommodation to many applicants (mainly single men), and not due to the reception conditions not meeting the standards. Several court cases concerned the situation of minors being accommodated in adult reception centres or even detained, without safeguards for their special needs (see *Section 5*).

In 2022, several renovations and infrastructural works were undertaken at reception facilities in Hal Far in Malta, for instance, new sanitary facilities and green landscaping.<sup>629</sup> The Council of Europe's Commissioner for Human Rights published a report at the beginning of 2022 following her visit to Malta in October 2021, which noted that both the Hal Far Tent Village and the Hangar Open Centre appeared to be overcrowded and lacked air conditioning and heating. The Commissioner observed a lack of sanitary facilities but noted the works underway to install additional showers and toilets.<sup>630</sup> The Maltese government confirmed these in its reply and listed additional projects to ensure a more pleasant environment which would also be suitable for children.<sup>631</sup>

Concerning the situation in Greece, the European Commission wrote in September 2022 that "(r)ecreation conditions on the islands and on the mainland in Greece (shelter, hygiene, access to health and education for all children etc.) have been substantially improved and are in line with the European standards".<sup>632</sup> Civil society organisations continued to express concerns about the new CCACs, describing them as being prison-like.<sup>633</sup> The European Ombudsperson opened an own-initiative inquiry to assess how the European Commission ensured respect for fundamental rights in EU-funded facilities, such as the CCACs.<sup>634</sup> Refugee Support Aegean and HIAS submitted their observations to the Ombudsperson, drawing mainly on their casework and research as legal assistance providers.<sup>635</sup> In January 2023, the European Commission sent a letter of formal notice to the Greek authorities about concerns related to the transposition of the recast RCD.<sup>636</sup>

One of the main challenges Cyprus continued to encounter was the over-crowdedness of the First Reception Centre and particularly the lack of places in the safe zone (see *Section 5*).

Spain allocated additional funds to improve reception conditions. EUR 50 million were allocated for the improvement of reception conditions on the Canary Islands, focusing on the care of unaccompanied minors, education, health and supporting countries of origin.<sup>637</sup> In addition, EUR 10 million were allocated to reinforce the asylum and reception systems in Ceuta, financed 90% from EU funds.<sup>638</sup> The arrival of displaced persons also prompted the activation of an extraordinary budget of EUR 1.2 billion to strengthen the Spanish reception system overall.<sup>639</sup> Nonetheless, the European Commission considered that Spain failed to transpose the recast RCD in a correct manner and sent a letter of formal notice.<sup>640</sup>

The National Asylum Network, which groups several civil society organisations working on reception in Italy, published a report assessing the situation of reception in the country. It advocated for phasing out Temporary Reception Centres (CAS), while strengthening the System for Reception and Integration (SAI).<sup>641</sup>

The Romanian Ombudsperson carried out visits to the reception facilities in Raduti,<sup>642</sup> Galati,<sup>643</sup> Marumures – Somcuta Mare<sup>644</sup> and Giurgiu<sup>645</sup> and made detailed recommendations for each centre to improve reception conditions. These were followed up with detailed replies



from the General Inspectorate for Immigration on the actions implemented to address the recommendations.<sup>646</sup>

Concerns around reception facilities in Lithuania continued. The Ombudsperson published a report on the Kybartai centre, based on visits carried out in December 2021 and January 2022. She highlighted that the restrictions applied to applicants were equivalent to detention, access to information and legal aid were insufficient, and the facility lacked privacy and hygiene in general.<sup>647</sup> The SBGS noted that it needed more time to improve the living conditions in the facility.<sup>648</sup> The findings of the Ombudsperson triggered visits from members of the Lithuanian parliament to several reception centres to inspect the conditions and ensure that the concerns were addressed.<sup>649</sup> The findings were also used by the Supreme Administrative Court to [substantiate](#) that placing an applicant in the Kybartai centre cannot be considered as an alternative to detention, as the restrictions there amounted to *de facto* detention. In its monitoring report for 2022, the Lithuanian Red Cross recorded inconsistencies in reception conditions with EUAA standards in several facilities.<sup>650</sup>

Asylex noted in its submission to the UN Human Rights Council that it continued to observe excessive violence towards applicants by security guards in federal reception centres in Switzerland and a lack of investigation of these cases by the Swiss authorities.<sup>651</sup>

The maximum compensation rate was increased in 2022 in Austria for the first time since 2016. It was increased from EUR 215 to EUR 260 for food and from EUR 150 to EUR 165 for rent (for a single person/month) for people in private accommodation. Asylum seekers, for example in Vienna, can receive EUR 425 (food allowance and rent money) in cash.<sup>652</sup> In addition, the financial compensation for providers of organised reception facilities was raised to EUR 25 per person/day.

## 4.7.3. Applicants' daily life

### 4.7.3.1. House rules and measures for disruptive applicants



Managing applicants with disruptive behaviour remained a priority in the Netherlands. Efforts to set up new reception facilities were often undermined by the negative image given by a small group of applicants,<sup>653</sup> in addition to other challenges related to cooperation with municipalities, such as funding modalities. The government has made funds available for financing local, small-scale measures implemented by municipalities since 2020, and in 2022, EUR 1.25 million were made available.<sup>654</sup> A National Coordinator for Managing Disruption was established to coordinate among different stakeholders and ensure consistency across various measures.<sup>655</sup>

Mobile Support Teams started visiting facilities where disruptions had a significant impact on residents' daily lives and offered tailor-made support in managing the situations.<sup>656</sup> Several AMIF-funded projects focused on establishing methods to counter disruptive behaviour, especially by unaccompanied minors (see *Section 5*).<sup>657</sup> The special enforcement and supervision centre (HTL) in Hoogeveen for applicants with disruptive behaviour continued its operations. However, the Justice and Security Inspectorate investigated the living conditions and safety of residents in the centre.<sup>658</sup> COA noted the difficult circumstances in which employees needed to manage potentially dangerous situations with these applicants and committed to work together with the inspectorate to implement the recommendations.<sup>659</sup>



The CJEU **confirmed** that sanctions under the recast RCD can also be applied when an applicant is seriously violent outside of the reception facility. However, a sanction related to the withdrawal of material reception conditions can only be imposed if it does not have the effect of depriving the applicant of the possibility of meeting the most basic needs (see *Section 2.6*).

#### 4.7.3.2. Freedom of movement



Courts continued to examine the line between limitations on the freedom of movement and detention (see *Section 4.8*) and the grounds for limiting an applicant's freedom of movement.

The Maltese Court of Magistrate **concluded** that an applicant was not detained but his freedom of movement was restricted when receiving medical care for a contagious disease. The case was brought before the ECtHR and was still pending.

The Supreme Administrative Court in Lithuania **confirmed** that the sole fact that the applicant entered the country in an irregular manner cannot be considered as an indication that he did not cooperate with the authorities and cannot serve as a basis to extend the restriction on his freedom of movement beyond 6 months. In another case, it **concluded** that limiting the freedom of movement to the territory of the reception facility cannot be considered as an alternative to detention.

Civil society organisations from Greece observed that applicants are only permitted to leave the CCACs in Samos and Kos after 25 days, in addition to the at least 5-day quarantine period.<sup>660</sup>

#### 4.7.3.3. Use of pre-paid cards for material reception conditions in cash



Cash benefits have increasingly been paid to rechargeable cards in recent years and this continued in 2022. Some delays and issues persisted due to the high number of applications and changes in the provider of the card.

The pilot project “Cash for Food” continued in Luxembourg: the amount of food aid is paid directly to the applicant's bank account. The project entered its second phase in 2022 by adding the residents of 12 reception facilities to the users. A second evaluation was launched with this new group of users, which concluded that applicants appreciated the increased flexibility and independence, allowing them to buy food of their choice in the supermarket of their choice. The project is foreseen to be expanded with the residents of five more reception facilities in 2023 and also applies to applicants living in private households.

Due to the large number and rapid arrival of persons in need of temporary protection and the opening of several new reception centres at the same time, the provision of cash benefits was slightly delayed in a few instances in Finland. Reception centres helped with supermarket vouchers or food packages when the payment of cash allowance was not immediate.<sup>661</sup> Earlier in 2022, the Finnish Immigration Service explored ways of ensuring that all funds were transferred to an applicant's new prepaid card. The contract with the previous card provider was discontinued in 2019, and after a transition period, remaining funds should have been transferred to the new cards. However, for approximately EUR 60,000 altogether, mainly outstanding wages, this had not happened.<sup>662</sup>



In Romania, a new Government Decision established the legal basis for paying benefits in cash to a card for asylum applicants.<sup>663</sup> As a result of the arrival of persons in need of temporary protection, the amount paid in cash was also increased.<sup>664</sup>

The Spanish Ministry of Culture and Sports launched a Youth Cultural Bonus voucher as a virtual prepaid card for mobile phones for asylum applicants. It is also valid for cultural activities and products.<sup>665</sup>

The Tribunal of Rome [ordered](#) the Italian Post to immediately activate the pre-paid card of an applicant who received her COVID-19 financial support on the card, but the bank refused to activate the card as it did not recognise her residence permit based on her application for international protection as an identity document. The tribunal underlined that the purpose of this payment was to guarantee the needs of those most affected by the pandemic.

#### 4.7.3.4. Employment



Relatively few initiatives were reported in 2022 that aimed to facilitate applicants' access to the labour market. The majority of initiatives catered to people fleeing the war in Ukraine, as showcased in the EUAA's [Who is Who: Temporary Protection for Displaced Persons from Ukraine](#) and the [EMN Inform on Access to services for beneficiaries of temporary protection](#).

The waiting period for applicants to access the labour market was shortened from 9 to 6 months in Slovakia.<sup>666</sup>

Fedasil concluded a cooperation agreement with the construction sector to orient asylum applicants towards employment in construction, which is a sector lacking approximately 20,000 workers in Belgium. Several pilot projects were launched, including job days, information sessions, company visits and the evaluation of potential candidates' motivation, language skills and work experience. The agreement includes an ethics charter, ensuring that applicants have the same working conditions as other employees. Fedasil planned to conclude similar framework agreements with other employment sectors.<sup>667</sup>

The Jesuit Refugee Service Malta and the Migrant Offshore Aid Station (MOAS) observed that current policies established a framework where it is difficult for applicants to find regular legal employment. As a result, many applicants ended up working without a work contract in unsafe conditions.<sup>668</sup>

Amendments to the Law on the Legal Status of Foreigners entered into force in Lithuania. It grants applicants who enter Lithuania from Belarus during a state of emergency the right to work after being registered in the Migration Information System (MIGRIS) for at least 12 months.<sup>669</sup> The Lithuanian Red Cross released a thematic monitoring report on access to the labour market for applicants who were living in foreigners' centres. The report observed that the majority of residents were informed about the right to work but lacked information on further steps to work in practice.<sup>670</sup>

An amendment to the Asylum Act enacted in 2022 in Portugal determines that asylum seekers are entitled to the right to work from the moment of the application for international protection. Furthermore, asylum seekers are entitled to receive support measures and attend programmes in the area of employment and vocational training under specific conditions determined by the competent ministries. There are no limitations attached to the right of asylum seekers to employment, such as labour market tests or prioritisation of nationals and

legally-residing third-country nationals. The issuance and renewal of provisional residence permits by SEF, which clearly state the right to employment, are free of charge. The only restriction on employment enshrined in the law consists of limiting access to certain categories of the public sector for all third-country nationals.<sup>671</sup>

#### 4.7.3.5. Education and orientation



EU+ countries established a range of initiatives to facilitate school enrolment and support the educational attainment of children fleeing the war in Ukraine.<sup>672</sup> This included, for example, additional funding for schools, language classes for children and facilitating access to education following the Ukrainian curriculum in parallel through online courses.

For applicant children in the asylum procedure, issues in accessing reception delayed their access to education, for example, in the Netherlands. The Court of The Hague [ordered](#) the Dutch State and COA to ensure that children have access to education no later than 3 months from the asylum application. At the beginning of 2022, the government provided municipalities with more stable funding for applicant children's education, and a new Education Budget Scheme for Asylum Seekers was introduced, allowing municipalities with emergency facilities to claim reimbursement for schooling costs.<sup>673</sup>

In Luxembourg, as the number of applicant children and children with temporary protection significantly increased, a new school was opened for induction classes.<sup>674</sup>

The draft of the Second Law for the Introduction of a Right of Opportunity to Stay in Germany proposed to make language and integration courses available for all applicants, regardless of their prospects of staying in the country.<sup>675</sup>

Among diverse initiatives helping migrants to better orientate in the society, the Hal Far Outreach NGO launched the Malta Migrants Befriending Programme, which pairs applicants and beneficiaries of international protection with locals for leisure activities.<sup>676</sup> The programme is funded by the Maltese Voluntary Organisations Projects Scheme.

Following a pilot project, SEM continued to offer Muslim chaplaincy service in federal reception centres. The report evaluating the pilot found that Muslim chaplains were seen as valuable partners in intercultural mediation and their presence contributed to preventing conflictual situations.<sup>677</sup>

Finally, COA continued collaborating with the National Council on Swimming Security. They launched a new video for residents about the dangers of water and ways to enjoy it safely.<sup>678</sup>

#### 4.7.3.6. Health



Following an increased focus on facilitating applicants' access to health care and special support for their mental wellbeing which was prompted by the COVID-19 pandemic, only a few developments were reported in 2022. As the number of residents increased, Member States aimed, but sometimes struggled, to ensure that at least the minimum services were offered.

Overcrowding sometimes led to outbreaks of communicable diseases, such as scabies.<sup>679</sup>

Overall, both national authorities and civil society organisations in many EU+ countries observed that the state of health of applicants had been deteriorating and they arrived in



reception in worrying physical and mental conditions. The UNHCR Executive Committee highlighted the need to include mental health and psychosocial support when planning policies to address applicants' needs and encouraged states to include applicants and beneficiaries of international protection in designing and delivering services.<sup>680</sup>

The majority of initiatives focused on facilitating the inclusion of beneficiaries of temporary protection into national health care systems, in addition to providing swift mental health support.<sup>681</sup>

The Spanish Ministry of Inclusion, Social Security and Migration announced that applicants for international protection who have not yet been given a final decision on their case would not be withdrawn from the national social security system. In practice, this will mean that applicants will be able to continue living, working and accessing health care in Spain, while their asylum appeals are pending. The Spanish Ombudsperson welcomed this development after many complaints were submitted.<sup>682</sup>

The decision follows a [ruling](#) from the Spanish Supreme Court. Convive-Fundación Cepaim underlined that the legislation allows for re-entering the reception system but not for continued stay, which in practice may mean that applicants must queue again and may potentially be re-homed to another location. This could cause disruption for example in the continuity of medical treatment for applicants with special needs or in the continuity of education for children.<sup>683</sup>

In Croatia, projects implemented in previous years, such as the cooperation with Médecins du Monde Belgique on health care services and psychosocial support from the Croatian Red Cross, have continued in 2022 as well, with AMIF funding.

The Helsinki Foundation for Human Rights underlined that applicants had difficulties in accessing health care in Poland, as contracted clinics were often in remote parts of the city, which were difficult to reach from reception facilities. Interpreters were also rarely provided for medical consultations.<sup>684</sup>

The Court of the Hague also [observed](#) the lack of swift access to health care in its judgment assessing reception conditions in Ter Apel and ordered the Dutch State and COA to ensure that applicants have immediate access, at least to emergency treatment and the essential treatment of diseases and serious mental disorders.



## Section 4.8.

### Aspects of detention involving asylum applicants and former applicants

Detention is defined in the recast RCD, Article 2(h) as the confinement of an applicant for international protection by a Member State within a particular place where the applicant is deprived of the freedom of movement.



An exhaustive list of legal grounds under which applicants can be detained during the asylum procedure, detailed procedural safeguards (for example on the length of detention and judicial review) and conditions of detention are defined in:

- Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection;
- Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection;
- Dublin III Regulation; and
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally-staying third-country nationals following a negative final decision on international protection (although applicants are not within the scope of this directive, persons wishing to apply while in the return procedure and former applicants may fall into its scope).

In practice, detention may occur at different stages of the asylum procedure:

- At the start of the asylum procedure when an individual lodges an application for international protection, for example in order to determine or verify the applicant's identity or nationality;
- Pending the examination of a claim for international protection based on grounds set out in the EU asylum *acquis*, for instance to decide on the applicant's right to enter the territory, determine the elements of the asylum application which could not be obtained without detention, in particular if there is a risk of the applicant absconding, or organise a transfer to another Member State under the Dublin procedure; or
- Upon completion of the asylum procedure when a request for international protection was rejected and the person is detained pending a return to the country of origin.
- The ECHR and international human rights conventions supplement the CEAS framework by setting additional constraints and safeguards during detention, mainly to protect against inhuman or degrading treatment and the freedom of movement.

In 2022, shortcomings in practices and conditions in detention, particularly for applicants with vulnerabilities, were scrutinised by international, European and national monitoring and judicial organisations, such as UNCAT, Council of Europe's Committee for the Prevention of Torture (CPT), national Ombudspersons, the ECtHR and national courts, in addition to UNHCR and civil society organisations.

## 4.8.1. Institutional and legislative changes

### 4.8.1.1. Legislative reforms



Various legislative initiatives concerning detention were reported in 2022.

A royal decree was published in Belgium in September 2022, which explicitly allows the CGRS to organise interviews with applicants through videoconferencing. Accordingly, video interviews resumed in closed centres with the use of Microsoft Teams. Once an end-to-end encryption is possible for third-party participation, lawyers will be able to participate remotely rather than going to the closed centre in person, as is currently the practice. The CGRS nonetheless emphasised the preference for the physical presence of the lawyer.<sup>685</sup> Legal proceedings were pending before the Council of State on the implementation of the royal decree. Concerned about the use of a specific software, the Belgian CALL [ruled](#) that more information was needed on the reliability of Microsoft Teams and its compliance with data protection.

Following the Supreme Court decision [No 3-22-56](#) of 10 May 2022, Estonia introduced in August 2022 an amendment to the Act on Granting International Protection to Aliens on the transfer and detention of a third-country national to a responsible EU Member State. According to the amendment, if the Police and Border Guard Board (PBGB) decides to initiate proceedings for the transfer of a third-country national under Regulation (EU) No 604/2013 of the European Parliament and of the Council, then the Act on Granting International Protection to Aliens is applied for the detention of the person.<sup>686</sup>



In addition, amendments to Article 15 of the Obligation to Leave and Prohibition on Entry Act (OLPEA) came into force, which stipulate the possibility of detaining a third-country national for identification procedures and establishing whether a person is obliged to leave the country.<sup>687</sup> In August 2022, another amendment to the act was made so that upon the detention of a third-country national in an emergency situation, the following information is recorded in the detention report: name or names of the person; legal and factual basis and justification for the detention; the date, time and place; and the name of the administrative body and official who made the report. The difference with detention under normal circumstances is that less personal data are collected initially and a group, rather than individual, protocol is made.<sup>688</sup>

With Presidential Decree No 77/17.11.2022, CCACs in Greece were established on Samos, Kos, Leros, Lesbos and Chios as regional services of the Reception and Identification Service.<sup>689</sup> These replaced the previous Reception and Identification Centres (RICs) which were abolished.

In Italy, the Department of Civil Liberties and Immigration published a circular directed to the prefects and other relevant stakeholders to ensure the implementation of the new regulation of the CPR which was published in May 2022.<sup>690</sup> The circular ensures full and effective respect of the rights of detainees, including access to information and the assessment of health conditions and medical care. It also regulates the services to be provided within the centre, communication, access to centres, visits and monitoring and controls.

In May 2022, Internal Regulation No 23.1-8.2/12 of the State Border Guard on the “Procedure according to which measures are to be performed in the field of asylum under the competence of the State Border Guard” entered into force in Latvia. It defines the actions to take if minor children arrive with an adult asylum seeker who is detained, particularly for accommodation in the State Border Guard premises for asylum seekers.

In Lithuania, amendments to the Law on the Legal Status of Foreigners, which is in force since 1 January 2022, regulates the detention of asylum applicants in the event of martial law, a state of emergency or declaration of an emergency due to a mass influx of foreigners.<sup>691</sup> According to Article 140 of the law, an asylum applicant may be detained not only in the cases referred to in Article 113(4) but also when he enters the territory by illegally crossing the state border. The CJEU ruled that EU law precludes legislation under which an asylum applicant is detained on the ground that they are staying illegally, because in principle, an applicant for international protection cannot constitute a threat to national security or public order solely for staying illegally (see *Section 2.6*). In reaction to the verdict, the Ministry of the Interior committed to analyse and evaluate what should be changed in the national law to ensure that there is a balance between the right of individuals to asylum and national and EU-wide security.<sup>692</sup>

In January 2022, Luxembourg introduced Bill 7954 to the parliament, which – among other things – amends the amended Law of 29 August 2008 and proposes extending the possibility of administrative detention to any illegally-staying foreigner who needs to be forcibly removed, including EU citizens and their family members who have been issued a removal order, for reasons set out in Articles 27, 30(1) and 30(2) of the Immigration Law.<sup>693</sup> In addition, Bill 8014 amending the amended Law of 18 December 2015 on international protection and temporary protection (Asylum Law) provided the modification of Article 22(2d) by introducing the non-negligible risk of absconding as a reason for detention and by specifying in which case this risk is presumed.<sup>694</sup>



In an effort to align practices with jurisprudence, the Netherlands altered some sections of the Aliens Act Implementation Guidelines to specify that a foreigner can be detained for a short period to investigate the person's identity and the lawful status in the country. Accordingly, detention may be implemented for a maximum of 6 hours (nightly hours not included) and can be prolonged by a maximum of 48 hours, when additional research is needed on the lawful status. Before this change, the Implementation Guidelines allowed detention to be prolonged for the sole reason that a large group of presumably illegal third-country national had been arrested, and the Council of State declared the policy guidelines to not be in line with the wording in the Aliens Act.<sup>695</sup>

In November 2022, the CJEU [ruled](#) that a national court must review *ex officio* the lawfulness of a detention decision in a return procedure or the international protection procedure (see [Section 2.6](#)). Prior to this decision, a third-country national in the Netherlands had to put forward on their own initiative the grounds on which the detention decision was not in compliance with applicable legal regulations and the judge could not examine the conditions for detention on its own initiative.

The SMA in Sweden published a legal comment in February 2022 on detainees who are or will be subject to another form of deprivation of liberty (RK/001/2022). As a general rule, a decision on detention should not be made if the foreigner is simultaneously deprived of liberty on other grounds. Under certain conditions, for example when it concerns a deprivation of liberty that can end at short notice, a 'conditional custody decision' is made if there are grounds for detention at the time of the decision. This includes decisions based on both the Aliens Act and the Dublin Regulation.<sup>696</sup>

Asylex raised concern over a new national law passed by parliament in Switzerland, where short-term detention is allowed without a judicial review.<sup>697</sup> According to the new Article 73(1 lit. c AIG), people may be detained at the border for up to 3 days without a judicial review and without a written order.<sup>698</sup> The law targets people who have not applied for asylum, but as Asylex noted, it may mean that people in need of protection would still end up in detention. The Swiss Refugee Council commented on the draft law in 2020 and emphasised the importance of ensuring unimpeded access to the asylum procedure, even under the new legislation.<sup>699</sup>

Germany is working on changing legislation to exclude children and juveniles from detention during a deportation procedure. The law is expected to become effective in 2023.

#### 4.8.1.2. Detention capacity



Detention capacity in EU+ countries continued to be adjusted based on operational needs in 2022.

In February 2022, the federal government in Belgium reached an agreement on constructing three new detention centres and an additional departure centre for irregularly-staying migrants pending their forced deportation (focusing on migrants who disrupted public order or committed criminal offences). The new centres will be located in Jabbeke (112 places), Zandvliet (144 places), and Jumet (200 places). The new departure centre will be located in Steenokkerzeel (50 places).

France expanded the number of places in administrative detention facilities, from which a removal can be undertaken within 48 hours.<sup>700</sup> A new administrative detention centre (CRA)



was established in Mérignac (near the Bordeaux Airport), with a capacity of 140 places, to increase detention capacity in the Nouvelle-Aquitaine region from the current 70 to 210 places. This initiative is part of the national plan for 3,000 additional CRA places by 2027 and the Ministry of the Interior's draft bill on orientation and programming was approved in January 2023.<sup>701</sup>

Immigration detention facilities became operational at Dublin Airport as of 1 March 2022. This allows up to four persons who were refused 'leave to land' to be detained within the boundary of the airport for up to 24 hours, pending a return on an outbound flight. These facilities are used solely for immigration detainees in Ireland.<sup>702</sup>

In Italy, initiatives focused on detention centres for repatriation, and the Ministry of the Interior was authorised to expand the network of detention centres for repatriation.<sup>703</sup> The estimates of the Ministry of the Interior for the construction, acquisition, completion, adaptation and restructuring of buildings and infrastructures intended for detention and reception was increased by EUR 5.5 million for 2023, by EUR 14.4 million for 2024 and by EUR 16.2 million for 2025.

Due to the mass influx of migrants in the Polish-Belarusian border, a central-level strategy was developed in Poland to make additional places in detention centres available in an emergency situation. The strategy has been regularly updated.

In Spain, the Council of Ministers approved a declaration of general interest which included the opening of the Temporary Attention Centre for Foreigners (*Centro de Atención Temporal para Extranjeros - CATE*) in Arrecife.<sup>704</sup> This will address challenges which were encountered in Lanzarote as arrivals remained in police custody on ships, which were overcrowded with minimum health conditions and in which men, women and children coexisted for over the 72 hours which are allowed by law.

Similarly, the SMA in Sweden opened a new detention centre with 114 places in Mölndal.<sup>705</sup> Work will continue to further expand detention capacity throughout Sweden. Towards the end of 2024, the Migration Agency plans to open a new detention centre in northern Sweden with 20 places and to further expand the capacity in Flen with 50 places by remodelling an existing property, in order to reach a total capacity of 637 places by the end of 2024.<sup>706</sup>

In contrast, the State Border Guard Service in Lithuania planned to close Medininkai Camp and reinforce Pabradė and Kybartai centres in an effort to provide better reception conditions.<sup>707</sup>

## 4.8.2. Recourse to detention



Recourse to detention was one of the primary concerns raised by NGOs. In a number of countries, concerns were expressed over the practice of detaining applicants at the border<sup>708</sup> or in general *de facto* detention while newly-arriving third-country nationals were waiting to lodge an application.<sup>709</sup>

Doctors Without Borders highlighted in May 2022 the prolonged detention of more than 2,500 asylum seekers and migrants in inhuman conditions in Lithuania, 9 months after they crossed the border from Belarus.<sup>710</sup> The organisation called on the government to end the prolonged detention as soon as possible and to ensure an equal asylum system that respects the dignity of people seeking security.<sup>711</sup>



Amnesty International also pointed to the arbitrary detention of thousands of people in militarised centres in Lithuania and stated that they were held in inhuman conditions, tortured and ill-treated.<sup>712</sup> In reply, the Minister of the Interior noted that they cooperated openly in providing information for the report yet it reflects the views and testimonies of only one side.<sup>713</sup>

In Greece, four NGOs issued a joint statement on the prolongation of *de facto* detention in CCACs following a court decision that the exit ban for an applicant, who had been detained for 1.5 months, be immediately revoked.<sup>714</sup> Several concerns were also raised about detaining applicants from a safe third country, despite the lack of prospects for readmissions to Türkiye.<sup>715</sup>

In Malta, aditus continued to share concern over the prolonged and illegal detention of migrants,<sup>716</sup> while court actions were initiated for the immediate release of detainees.<sup>717, 718</sup> In view of the national elections, the organisation put forward a number of proposals in 2022 with regard to rescues at sea and disembarkation, administrative detention, reception, family reunification, the regularisation of undocumented migrants, the statelessness determination procedure and the decriminalisation of illegal entry for refugees and asylum seekers.<sup>719</sup>

In Italy, NGOs called to discontinue the illegal use of quarantine vessels for migrants since emergency measures were suspended on 30 April 2022 for all individuals arriving legally and a legal basis no longer existed for the *de facto* detention.<sup>720</sup> The use of quarantine vessels was provisionally extended by the authorities until the end of May 2022, with two boats being used for migrants arriving by sea or crossing the borders illegally.

The Organisation for Aid to Refugees voiced concern about immigration detention being used as a routine tool of migration control in Czechia.

Similar issues were noted by independent monitoring bodies. The CPT published a report following its visit to Switzerland in 2021.<sup>721, 722</sup> It found that foreigners were placed in a detention centre for several days before being relocated to administrative places for foreigners. The CPT recommended to the Swiss authorities to speed up the procedure to ensure an earlier transfer to administrative detention centres and enhance relevant conditions.

The placement of detained third-country nationals in isolation was also noticed by CPT in the case of Sweden. The organisation recommended a review of the legal framework and the practice of placing detained foreign nationals in isolation, in addition to terminating the practice of placing persons detained under aliens' legislation in prisons.<sup>723</sup>

The Council of Europe's Commissioner for Human Rights published report on its visit to Malta, calling on the authorities to prevent the detention of vulnerable asylum seekers and migrants and any arbitrary detention, to invest in alternatives to detention, immediately end the detention of migrant children, protect migrants from ill treatment and abuse, and provide independent monitoring bodies and NGOs unhindered access to detention places.<sup>724</sup>

National independent bodies contribute significantly to the monitoring of detention conditions in the field of international protection. For example, during a visit to the detention centre in August 2022, the Bulgarian Ombudsperson noted the detention of unaccompanied minors who were under investigation arrest in Ruse for a long duration in very poor conditions.<sup>725</sup> In Italy, the National Guarantor for the Rights of Persons Detained or Deprived of Liberty expressed concern over what was considered *de facto* detention in transit zones, noting the persisting practice at air or port borders where the effective rejection of the foreign citizen at a border crossing does not take place immediately and people are blocked for days in the



transit area. The National Guarantor was concerned over the lack of a judicial review of detention and the conditions of detention.<sup>726</sup>

In Estonia, the Chancellor of Justice (Ombudsperson) issued a position on the detention of a foreigner who had been refused entry, noting that the current conditions of Tallinn Airport may not be suitable for detention for more than 24 hours or overnight.<sup>727</sup> The Ombudsperson asked the PBGB to consider whether the current practice could be made more flexible and to align the agency's activities with the standards and principles of international organisations dealing with the detention of foreigners.

In Lithuania, the Seimas Controller concluded in a report that the conditions in the Medininkai FRC residential container camp amounted to *de facto* detention and inhuman and degrading treatment due to the nature and degree of restrictions applied to all foreigners for a long duration without the right to freely leave the territory.<sup>728</sup> The National Guarantor for the Rights of Persons Detained or Deprived of Liberty noted in its annual report to the parliament that Italy continued to adopt practices of closing borders, criminalisation and detention of migrants.<sup>729, 730</sup>

The lawfulness or excessive use of detention is often under a judicial review. In a number of cases, the ECtHR questioned the unlawfulness of detention, for example in *Dshijri v Hungary*, *R.M. and Others v Poland* in the course of a Dublin procedure, *Nikoghosyan and Others v Poland* for the administrative detention of asylum seekers at the Polish border, *M.B.K and Others v Hungary* for the confinement of Afghan applicants in the Röszke transit zone, and *Komissarov v Czech Republic* due to serious delays in processing an asylum application and delays in the extradition procedure leading to unlawful detention.

At the national level, courts ordered the review of detention decisions in [Germany](#), [Lithuania](#), [Malta](#), [Poland](#), Slovenia ([here](#) and [here](#)), [Switzerland](#), the immediate release of detainees in [Malta](#) and granted compensation to detainees in [Poland](#).

The courts also play an important role in interpreting relevant rules. For instance, the Court of Cassation in Belgium [ruled](#) in one case that appeals and appeals in cassation concerning the legality of detention could not be considered devoid of purpose in the case of a release or withdrawal of the detention order, in conformity with previous ECHR case law. In Estonia, the Supreme Court [clarified](#) how the time limits for detention outlined in the Dublin III Regulation should be interpreted in conjunction with national law. The Migration Court of Appeal in Sweden [ruled](#) that, if an applicant returns to the country after a removal and a new detention order is issued, it cannot be considered as a review of a previous detention order.

On the prolongation of detention, the Lithuanian Supreme Administrative Court [concluded](#) that an applicant's right to free movement cannot be restricted after a period of 6 months solely based on the fact that they entered the territory illegally and do not have a confirmed legal status. At the same time, applicants for international protection should be [held in detention](#) for the shortest time possible.

These rulings reaffirm the role of the courts as the supreme guarantor of the rights of asylum seekers at the national and European levels.





### 4.8.3. Detention conditions



Access to rights and conditions in detention facilities were at the centre of criticism by NGOs and independent monitoring mechanisms. In many countries, deficiencies in accessing rights were brought to the forefront. Overall, civil society organisations highlighted the importance of free legal representation for all persons who are detained,<sup>731</sup> especially in light of frequent errors in detention orders and the high number of detention cases found to be unlawful by courts.<sup>732</sup> In addition, difficulties were reported for detained asylum seekers to receive visits from family members or NGOs, which impeded the effective provision of information on the asylum process.<sup>733, 734</sup>

Concerns were raised about access to information or legal aid for detained asylum seekers in Croatia (for materials distributed in reception centres under the “Legal advice in the process of granting international protection”, see Section 4.10.4),<sup>735</sup> Greece,<sup>736</sup> Italy (Milan),<sup>737</sup> Lithuania<sup>738</sup> and Poland.<sup>739</sup> The Ministry of the Interior in Croatia described the applicable legislation, noting that according to the law, when an applicant’s freedom of movement is restricted, the applicant is informed about the right to legal aid and presented with a list of lawyers to choose the representative. The law also requires a court to evaluate the legality of the restriction.

Other concerns were voiced about the psychological health of detained applicants in Lithuania<sup>740</sup> and Italy (Milan),<sup>741</sup> access to documentation in Malta,<sup>742</sup> and overcrowded conditions and practices in general in Czechia,<sup>743</sup> Denmark,<sup>744</sup> Greece,<sup>745</sup> Lithuania,<sup>746</sup> Poland,<sup>747</sup> Sweden<sup>748</sup> and Switzerland.<sup>749</sup>

In an effort to improve conditions, the Detention Services in Malta launched a large-scale refurbishing and restructuring process of all detention facilities in Malta in 2020. This involves the creation of new detention facilities (for example, a new detention compound in the Safi Detention Centre was built in 2020, the construction of a new female compound started in 2023), the improvement of detention conditions (refurbishment of several sections, recruitment of a welfare officer in 2020, the creation of a specialised medical section in 2021 operating from the Detention Service and increased accountability (setting up a new control room and refurbished areas equipped with CCTV cameras).

In Italy, an inspection report of the Milan Centre for Stay and Repatriation (CPR) was released by Senators together with the No CPR Network.<sup>750</sup> It confirmed that the conditions inside the centre worsened since the first visit in 2021. The report underlined serious violations of resorting to detention and the inhuman and degrading sanitary conditions. Similar issues were noted in other CPR centres, for example in Turin, for which civil society organisations reported on protecting the rights of prisoners, with an emphasis on health, the right to defence and the freedom of correspondence.<sup>751</sup>

For conditions at the borders, ASGI noted shortcomings in the Lampedusa hotspot, including detention, isolation, restrictions on access to information and the right to defence, overcrowding, degrading sanitary conditions and insufficient health care.<sup>752</sup> These findings were also reflected in the annual report of the Ombudsperson for the Rights of Detained Persons to the Parliament for the situation on the quarantine vessels, the Centre for Stay and Repatriation (CPR) and hotspots, which violate the human rights of detained persons.<sup>753</sup>



In Poland, the profiles of applicants residing in certain detention centres have changed over time, with the Commissioner for Human Rights expressing the opinion that conditions in detention centres were not always adapted to the changed profiles. Nevertheless, after a visit conducted in July 2022, the UN Special Rapporteur on the Human Rights of Migrants observed that efforts had been made by Polish Border Guards in improving the conditions of stay for asylum seekers in closed facilities.<sup>754</sup>

Within their reviews, the courts set minimum standards for detention conditions and indicated measures to the authorities. In this regard, the ECtHR [ordered](#) interim measures under Rule 39 of the Rules of the Court to the government of Malta, requesting the authorities "to ensure that the applicants' conditions are compatible with Article 3 of the Convention and with their status as unaccompanied minors". In another case concerning Hungary, the ECtHR [held](#) that the use of handcuffs and a leash on an asylum applicant amounted to inhuman and degrading treatment.

The obligation of Croatian authorities to protect the life of a Moroccan applicant held at a police station was brought before the ECtHR. The events evaluated by the court happened in 2015. The court [found](#) a violation of Article 2 of the European Convention under both substantive and procedural aspects, due to the failure to protect the applicant when a fire had broken out, leading to his severe injury and death of other persons, and due to the lack of an effective investigation of the incident. The Croatian Ministry of the Interior underlined that the case was not yet final and there was a possibility of filing a legal remedy against the judgment.

## 4.8.4. Alternatives to detaining applicants



According to CEAS, detention should be used only if other less coercive alternative measures cannot be applied effectively. Thus, Member States must ensure that the rules concerning alternatives to detention are defined in national law. Nonetheless, practices remain limited.

In March 2022, the UN Committee on the Rights of the Child (UNCRC) concluded in two cases that Belgium had violated the European Convention due to its failure to consider possible alternatives to detaining children in deportation cases.<sup>755</sup> In 2022, Individual Case Management (ICAM) regional offices of the Immigration Office's 'Alternatives to Detention' Department opened in six cities to support irregularly-staying migrants towards a long-term solution, either a legal stay in Belgium or a return. However, due to the mass influx of Ukrainians after the Russian invasion, most of the ICAM coaches were deployed in the registration centre in Heysel to process requests for temporary protection.<sup>756</sup>

Latvia introduced the right to receive social rehabilitation at the expense of the state budget for third-country nationals and stateless persons who do not have a legal ground to stay in the country and who are detained (until the day of the removal or exit), to whom an alternative measure of detention has been applied, and foreigners for whom the operation of the return decision has been suspended or for whom the time period has been determined for voluntary departure.

In Lithuania, the Supreme Administrative Court adopted the CJEU's interpretation on the detention of asylum applicants on the sole ground that they are staying illegally in the event of a mass influx of third-country nationals. The court [asserted](#) that, in light of Lithuanian law interpreted according to the relevant directives as well as its own and CJEU case law, there



was no lack of a legal basis for the application of an alternative measure to detention (see also [here](#)). Therefore, it dismissed the appeal of the Centre for the Registration of Foreigners of the State Border Guard Service under the Ministry of the Interior.

Following another [court ruling](#) initiated by the Human Rights Monitoring Institute together with the professional association of lawyers ReLex as one of the strategic cases, the Supreme Administrative Court in Lithuania stated that according to the Law on the Legal Status of Aliens, alternative measures to detention cannot last longer than 18 months. With this decision, the court changed the practice of the courts of first instance, which allowed alternative detention measures to be applied for a longer period than the maximum detention period by law of 18 months. The court stated that such a maximum term, which is established for detention, applies to all alternative measures, regardless of whether they amount to *de facto* detention.

The Federal Council in Switzerland announced that it will not create a legal basis for the introduction of electronic bracelets as an alternative to administrative detention in the Foreign Nationals and Integration Act (FNIA).<sup>757</sup> However, it proposed to include a legal basis allowing third-country nationals to be subject to an obligation of presence.

In Malta, NGOs continued to call for alternatives to immigration detention.<sup>758</sup>

## Section 4.9.

### Access to information

Persons seeking international protection need information on their situation in order to be able to fully communicate their protection needs and personal circumstances and, in turn, have them comprehensively and fairly assessed.

To ensure effective access to the asylum procedure, the recast APD and the recast RCD oblige Member States to ensure that applicants have access to free legal and procedural information, for example on where and how applications for international protection may be lodged or what their rights and obligations are in reception. Obligations also include the provision of information to potential applicants who are in detention facilities and at border crossing points.



Effective access to information is a primary constituent of procedural fairness. Applicants have the right to be informed so that:

- they understand the different stages of the process;
- they know their rights and obligations in each of these stages, and the possible consequences of not complying or cooperating;
- the timeframe for each stage of the procedure is clearly communicated; and
- they are aware of the means available to them to exercise their rights and fulfil their duties.

For applicants with pending cases, it is crucial to receive information, because a lack of clarity can be a contributing factor to absconding and secondary movements.

In 2022, EU+ countries continued to enhance the provision of information to asylum applicants through digital innovations and improvements, such as new platforms and websites. In addition to national authorities, civil society organisations continued to play an equally integral role in facilitating access to information. Both national authorities and civil society organisations increasingly made efforts to ensure applicants and beneficiaries of international protection had access to information in a language that they understand. As such, content was translated into several languages, with a special focus on having information available in Ukrainian and Russian.

Specific groups of applicants may require tailored information for their situation and circumstances. This continued to be the case for evacuees from Afghanistan and displaced persons from Ukraine, which created a new information landscape. New information was also developed for Russian nationals seeking protection.

## 4.9.1. Information on the asylum procedure

### 4.9.1.1. New initiatives by national authorities

#### Online resources



In 2022, national authorities continuously updated their websites to ensure that asylum applicants had access to detailed and up-to-date information. They re-designed already-existing information systems, while others relocated websites, developed new websites and produced leaflets to make it easier and faster for applicants to obtain information.

In Finland, the Finnish Immigration Service created a new [homepage](#) where applicants have quick access to key information on the asylum procedure and trending topics.<sup>759</sup> In the Netherlands, the style and layout of the IND [website](#) underwent a complete transformation to improve the user experience.<sup>760</sup> Similarly, in Iceland, the Directorate of Immigration moved its [website](#) to the public service portal in order to improve accessibility, and the content of the site was reviewed and partially rewritten to enhance services for website visitors. A new online chat feature was also developed to address inquiries about the directorate's services.<sup>761</sup>

In France, OFPRA launched a new [website](#) to improve access to information and provide translations of the applicant area for asylum seekers in languages frequently spoken by applicants and beneficiaries of international protection. A new section is dedicated to asylum professionals who work with applicants for international protection. The website is currently available in English and French.<sup>762</sup>

In Latvia, the Office of Citizenship and Migration Affairs developed new leaflets that explain requesting asylum and receiving protection,<sup>763</sup> what happens after applying for asylum, including the outcome of the personal interview,<sup>764</sup> and details on accommodation, detention and family reunification.<sup>765</sup>

Additionally, steps were taken to ensure applicants were informed of the status of their application. This is important for applicants with pending cases, since a lack of clarity may result in absconding and secondary movements, not to mention having an emotional and mental impact on the applicant. For applicants waiting on a decision on international



protection, the Office for Foreigners in Poland set up an SMS notification system.<sup>766</sup> At five stages in the procedure, information was provided on the following topics: registration of the application and case number, the summons to the hearing along with the date and time of the scheduled hearing, completion of the collection of evidence and the opportunity to comment on the case and review of the case files before issuing a decision, issuing a decision in the case, and transferring the case files to the Council for Refugees, in the event of an appeal.<sup>767</sup>

### In-person and offline services



Projects in 2022 also focused on services and information provision through offline environments and live platforms, which foster human interaction and immediate replies to queries. For example, the Swedish Migration Agency expanded its services in 11 new locations, where employees informed applicants about procedures and regulations, and supported them in navigating the agency's website.<sup>768</sup>

To enhance the quality of information supplied and make migration services more convenient, the Panevėžys branch of the Migration Department in Lithuania provided services to clients in new facilities.<sup>769</sup> The Office for Foreigners in Poland further organised information sessions on Saturdays, including details on the procedure, how to view case files, deliver letters and summons, and submit statements.<sup>770</sup>

Several countries set up hotlines to provide information on the asylum procedure in a practical manner. The Office for Foreigners in Poland established a new hotline number for applicants,<sup>771</sup> the Office of Citizenship and Migration Affairs in Latvia piloted a hotline,<sup>772</sup> and the Spanish National Human Rights Institution (NHRI) established an on-call service, which is accessible around the clock, to provide information and support on asylum matters.<sup>773</sup>

National authorities have an obligation to provide information to potential applicants in detention facilities, at border crossing points and in reception facilities. During monitoring visits by the European Network of NHRIs, the Polish NHRI was observed disseminating multilingual pamphlets on international protection procedures at border guard stations, guarded centres and during field interventions.<sup>774</sup>

The Dutch Research and Documentation Centre published a [report](#) on information provision by COA at reception centres. Although initial information provided to applicants upon their arrival at the facility received positive feedback, applicants found that the current automated method does not foster interaction and they preferred group meetings to share information. The report also revealed that it was difficult to understand the information by applicants who do not speak English or have a low level of education.<sup>775</sup> It recommended to tailor information for certain groups, such as those who are illiterate. It also suggested to use digital tools, such as social media channels and WhatsApp groups, to disseminate information, while staff members should build rapport and trust with applicants.<sup>776</sup>

### Assisted voluntary returns



Some national authorities launched new or continued with initiatives to inform third-country nationals about the possibility of support for assisted voluntary returns to the home country. In Austria and Cyprus, the campaigns were targeted at Indian nationals through the homepages of the authorities.<sup>777</sup>



Continuing from 2021, the Norwegian UDI provided grants to organisations to inform individuals without a legal residence about assisted returns. The funding was available to non-profit, voluntary organisations, individuals and businesses, and targeted people who were not residing in reception centres.<sup>778</sup>

In Malta, the Voluntary Return Unit offered a free counselling session to third-country nationals who may benefit from voluntary return assistance.<sup>779</sup> In Poland, a newly-established hotline provided information on assisted voluntary returns.<sup>780</sup>

#### 4.9.1.2. New initiatives by civil society organisations



Civil society organisations continued to assist asylum applicants by undertaking initiatives to inform them about the asylum procedure. For example, Info Migrants created a list of the most important terms, abbreviations and acronyms that asylum seekers and refugees should know when applying for international protection in [France](#), [Greece](#) and [Italy](#).<sup>781</sup> The Refugee.Info team in [Greece](#)<sup>782</sup> and [Italy](#)<sup>783</sup> launched new websites that offer crucial information on the asylum process.

The Swedish Network of Refugees Support (FARR) updated its handbook, Good Advice, and translated the document into Arabic, Farsi and Russian. The publication details how to apply for asylum in Sweden and what to expect after a decision, focusing on what applicants can do to contribute to a fair process. Special sections cover how asylum is assessed for women, children, LGBTIQ applicants, religious converts and people who have been subjected to torture.<sup>784</sup>

#### 4.9.1.3. Concerns raised on providing access to information



Despite progress, there were concerns raised about the quality and accessibility of information on the asylum procedure, as has been the case in previous years. NHRIs identified a trend of insufficient or poor-quality information being provided to migrants by state authorities on their rights to request international protection and to seek a remedy when rights have been breached.<sup>785</sup>

In Cyprus, an overall concern was raised about the lack of information provided, both in terms of the number of NGO providers, their availability and the information material available.<sup>786</sup> In Greece, it was underlined that access to information was problematic, bearing in mind the need to provide information on an expanded set of obligations and penalties that can be imposed on applicants in line with national law.<sup>787</sup>

In monitoring access to the asylum procedure, the Lithuanian Red Cross identified several instances when applicants had not been given sufficient information about the applicable asylum procedure, including information on their legal situation, the status of their application and the possibility of being able to actively participate in the asylum procedure.<sup>788</sup>

Often the mode of providing information was not considered to be conducive to applicants to fully understand the framework and their own particular circumstances. In the Italian hotspot of Lampedusa, based on their visit, the ASGI raised an issue with information being provided through a general paper brochure with no specific instructions and through monitors





displayed in the area where photo identifications are completed. The ASGI considered both of these tools to be inadequate given the circumstances in which they were used.<sup>789</sup>

Moreover, several NHRIs drew attention to the inability of some national authorities to overcome linguistic and cultural barriers that prevent asylum seekers from understanding their rights and the complaint mechanisms that are available. The concerns raised included insufficient or non-existent translation of crucial information on migrants' rights, the availability of interpreters and a lack of a commitment to ensure that the information is presented in a way that the person can understand.<sup>790</sup>

In keeping with the above, the Justice of Peace of Syracuse **highlighted** the failure of Italian authorities to translate the decree of rejection (entry ban/*refoulement*) into a language known by the applicant, as neither the applicant's language nor potential illiteracy had been determined. The Italian authorities also did not provide any proof of having fulfilled the obligation of informing the individual of their right to apply for asylum.

The High Court in Ireland **found** in another case that an applicant had not been provided with adequate information on the family reunification procedure in a language that they understood, which violated Article 22 of the recast QD.

## 4.9.2. Information for specific nationalities

### Afghans

More than a year after the Taliban takeover of Afghanistan, many EU+ countries retained information for Afghans on their websites, while the frequency of updates to these pages slowed down. In most cases, the content was relocated from the homepage to subpages of the authorities' website. Information for Afghan applicants remained accessible on national authorities' websites in [Denmark](#),<sup>791</sup> [Finland](#),<sup>792</sup> [Germany](#),<sup>793</sup> the [Netherlands](#),<sup>794</sup> [Norway](#),<sup>795</sup> [Poland](#),<sup>796</sup> [Sweden](#)<sup>797</sup> and [Switzerland](#).<sup>798</sup>

### Ukrainians

By the end of 2022, all EU+ countries had developed websites or webpages to provide information to displaced persons from Ukraine (see the EUAA's *Who is Who: [Temporary Protection](#) to view the information tools developed by each country*). These pages were regularly updated to provide the most up-to-date and accurate information in a rapidly-changing environment.

Since the activation of the Temporary Protection Directive on 4 March 2022, great efforts were made by EU+ countries and civil society organisations to inform this target population about their rights and the procedural steps to take to receive temporary protection. (*Read more about access to information on temporary protection in the EUAA's comprehensive report, [Providing Temporary Protection to Displaced Persons from Ukraine: A Year in Review](#).*) As the report notes, all 30 EU+ countries created dedicated tools and websites to provide information on access to relevant procedures and rights for displaced persons from Ukraine. In addition, several EU+ countries provided channels for personalised information through the creation of dedicated telephone lines and e-mail addresses. EU institutions and agencies, NGOs and international organisations, such as UNHCR and the IOM, also developed information material in various countries. Efforts also focused on producing more information



material in Ukrainian and Russian. The European Commission launched information webpages and tools to centralise information resources, and several EU agencies made additional resources available in relation to their mandate.

## Russians

Following President Putin's announcement of a partial military mobilisation on 21 September 2022, Finland started to see an increase in the number of asylum applications lodged by Russian nationals.<sup>799</sup> Additionally, many Russian nationals started contacting the Norwegian UDI with questions about claiming asylum in Norway.<sup>800</sup> In response, the Finnish Immigration Service<sup>801</sup> and the Norwegian UDI<sup>802</sup> updated their websites with specific information for Russian nationals about claiming asylum. The webpages contained Frequently Asked Questions and were accessible in Russian.

## 4.9.3. Information on everyday life, rights and obligations

### 4.9.3.1. Information provided by national authorities



Both applicants and beneficiaries of international protection were provided with information about daily life in the host country in several EU+ countries. This included information about their rights, obligations and services that are available to them.

In Luxembourg, the Ministry of Family, Integration and the Greater Region launched an online platform, [InfoLux](#), that provides information for newly-arrived migrants on various aspects of life in Luxembourg to encourage integration.<sup>803</sup>

In France, OFPRA created new tools in 2022 to support protected persons. It developed a welcome [booklet](#) for recognised refugees with information on their legal, economic and social rights, as well as useful addresses where to attain those rights.<sup>804</sup>

In Czechia, the Refugee Facilities Administration of the Ministry of the Interior launched a monthly [newsletter](#) for each of the Centres for Support of Integration of Foreigners (CPIC) to share information on developments in integration and migration, including verified sources of information and news from each region.<sup>805</sup>

The Finnish Institute for Health and Wellbeing created a multilingual [video series](#) entitled "Mental Health for Immigrants", which consisted of 23 videos on mental health aimed at people who come to Finland as refugees.<sup>806</sup>

In Portugal, the Directorate-General for Health published five information [leaflets](#) to help migrants better understand their health-related rights and how to access health care in Portugal. The leaflets, which are available in ten languages, centre on various topics including family planning, vaccinations, access to health care, mental health, pregnancy and useful contacts.<sup>807</sup>

As part of a campaign to create and disseminate information tailored to the needs of migrants and applicants of international protection, the Public Security Police and the High Commissioner for Migration in Portugal disseminated [leaflets](#) in eight languages containing advice on home security, street safety and violence.<sup>808</sup>

#### 4.9.3.2. Information provided in reception centres



National authorities launched initiatives to inform applicants in reception centres about everyday life and social services available. In Poland, the Office for Foreigners provided orientation courses in centres for foreigners. The courses were conducted in Polish, English and Russian and covered topics such as social assistance, medical care, access to the labour market, regulations, compulsory education, learning Polish and Polish culture and

history.<sup>809</sup>

The State Agency for Refugees in Bulgaria, in partnership with UNICEF, created a video that introduces social services to unaccompanied minor applicants in reception centres. The content was translated into Arabic, Bulgarian, Dari, English and Pashto.<sup>810</sup> The videos aim to promote specialised childcare facilities (ЛНСТ) which are licensed family-type children's centres, where children should be accommodated after recognition but can be accommodated during the asylum procedure. However, the majority of the children hesitate to leave the familiar conditions of the reception centres. Therefore, the videos showcase other children who have already been accommodated in the specialised facilities and share their positive experience, thus assisting to mitigate the existing prejudice among the children in reception centres and their anxiety of the unknown.

In the Netherlands, COA, in collaboration with the National Swimming Safety Board, launched a new film "[Nederland Waterland](#)" to inform adult residents in reception centres about the dangers of being in and near open water.<sup>811</sup>

#### 4.9.3.3. Information provided by organisations and public authorities



Various organisations and public authorities continued to play an important role in providing information on employment, education, health care, housing and other aspects of everyday life. For example, Jobsplus and UNHCR Malta collaborated to create an informational [video series](#) for refugees and asylum seekers looking for employment in Malta. The videos have an English voiceover with subtitles in Arabic, Bengali, French, Somali and Tigrinya.<sup>812</sup>

Hal Far Outreach and RIME Malta, in close cooperation with asylum seekers living in Malta, produced an informational [leaflet](#) on a variety of topics, including basic information about Malta, health services, education, housing opportunities, banking, transportation, employment, government offices and local NGOs.<sup>813</sup>

Are You Syrious and BIRD published a [handbook](#) explaining access to health care for beneficiaries of international protection in Croatia.<sup>814</sup> The Refugee.Info team in Greece and Italy supplied up-to-date information on daily living, including housing, health care, employment, education, social benefits and numerous other topics.<sup>815</sup>

With regard to urban asylum seekers and refugees living in the Sofia region of Bulgaria, UNHCR funded an Information Centre, run by the Red Cross, along with an Information Bureau

for Third-Country Nationals, co-funded by the Sofia municipality, both located in Sofia. In 2022, altogether 992 asylum seekers and beneficiaries of international protection (438 individuals at the Information Centre and 554 at the Information Bureau) were provided 1,494 consultations and different types of information (654 consultations at the Information Centre and 842 consultations at the Information Bureau).

UNHCR Greece launched a new Facebook [information page](#) with advice and information on everyday living in Greece, including services which are accessible to refugees and asylum seekers, children's programmes and employment opportunities. Information is posted in Arabic, English and Farsi, with plans to add other languages in the future.<sup>816</sup> The organisation also provided support in the development of information material in multiple languages to be displayed in the quarantine areas of the CCACs and RICs on the islands and Evros, donated audio-visual equipment, and continued to be engaged in the information provision of new arrivals in CCACs and RICs.

RefugeeHelp launched a [website](#) with information on a range of topics for beneficiaries of international protection in the Netherlands. The website was initially designed to provide information to Ukrainian refugees, but it has since been updated for all refugees and asylum seekers. The website is currently available in English, Dutch, Russian and Ukrainian but will soon be available in Arabic, Dari, Farsi, French, Somali, Tigrinya and Turkish.<sup>817</sup>

The Foundation for Access to Rights, in partnership with the International Rescue Committee, announced it will be part of an international network for accessible information for refugees in Bulgaria. The aim will be to provide accurate information to asylum seekers and other migrants on their rights and benefits, including legal aid, social assistance, health and psychological support, education and long-term accommodation options.<sup>818</sup> In addition, the Bulgarian Helsinki Committee continued to provide information through audio material and through the asylum.bg platform, funded by UNHCR.

Moreover, several NGOs developed tools and resources for people working with refugees and refugee-led organisations. To showcase a few examples, Save the Children in Denmark launched a new [website](#) providing information and material to volunteers and professionals who welcome refugee children. Experts from the organisation offered their knowledge and experiences through one-day training sessions, educational resources and guidance.<sup>819</sup>

The Cyprus Refugee Council, alongside aditus foundation in Malta, developed a [training kit](#) to support refugee-led organisations in their efforts to enhance the human rights of refugees. The toolkit aims to strengthen refugee inclusion by empowering refugees who want to play an active role in their communities and at the EU level.<sup>820</sup>



## Section 4.10. Legal assistance and representation



Legal assistance is fundamental to inform applicants of their rights and obligations during the asylum process. A legal representative can ensure that the applicant fully comprehends the process and fully complies with the relevant obligations.

The provision of legal aid in the early stages of the asylum procedure increases the efficiency of the entire process by allowing case officers to assess a complete and accurate file, reducing the burden on decision-makers, reducing the rate of appeals and safeguarding the right to *non-refoulement*. EU legislation requires Member States to make free legal assistance and representation available upon request and under certain conditions during appeal procedures.<sup>821</sup>



In 2022, some EU+ countries continued efforts to improve access to and the quality of legal assistance in all stages of the asylum procedure. They launched new initiatives and projects, for example contracting specialised lawyers working in asylum matters and offering additional support to applicants with special needs. Professional development and new tools were made available for legal practitioners, with the overall aim of improving the quality of services. Significant efforts were also noted in the provision of legal aid services throughout the asylum procedure through digitalisation and interconnectivity between determining authority portals and court platforms.

However, as reported in previous years,<sup>822</sup> the implementation of the recast APD remained an issue of concern at the border, in detention facilities and in the appeals procedure due to insufficient information and access to legal assistance and representation. In some cases, the short time limits in the border procedure, in special procedures or the Dublin procedure resulted in limited, poor quality or non-existent legal assistance.

Civil society and international organisations scrutinised legislative proposals and amendments made in 2022 which could hamper access to legal aid at the border. For example, UNHCR reiterated the need to ensure procedural safeguards, including access to free legal assistance during a border procedure and while in detention.<sup>823</sup>

#### Box 4. Assistance to displaced persons from Ukraine

Once the Temporary Protection Directive was activated to provide protection to displaced persons from Ukraine, the Council of Europe opened migration e-desks to assist lawyers and legal professionals who were managing substantial caseloads.

The virtual [Asylum/Migration HELP e-Desks](#) are managed by tutors and legal experts to support lawyers in countries neighbouring Ukraine, namely : [Romania](#), [Slovakia](#), [Hungary](#), [Poland](#) (with EU support) and [Moldova](#). In addition to these portals, National HELP eDesks were set up in Belgium, [Bulgaria](#), [Cyprus](#), Czechia, [France](#), [Germany](#), [Greece](#) and Spain, while several others are in preparation (for example in Latvia, Lithuania and Slovenia).

Similarly, the Legal Aid Coordination Centre in Poland mobilised efforts to provide continuous legal assistance and information to displaced Ukrainians, either in person or electronically (through its website and helpline). The centre is supported and funded by the Norwegian Refugee Council since June 2022 and works with 14 Ukrainian lawyers.



### 4.10.1. Legal information and access to legal aid as prerequisites for an effective asylum procedure



In 2022, EU+ countries and international and civil society organisations mobilised resources to provide immediate support to displaced persons from Ukraine, including legal information and assistance through new initiatives, the active involvement of national bar associations and extended means of communication.<sup>824</sup>

International organisations focused on providing recommendations and guidance on asylum applicants' effective access to information and legal counselling, emphasising the importance of legal and procedural information. While civil society organisations pointed to areas of concern in the provision of legal aid, for example during special procedures, courts ruled on the formal requirements of free legal aid and safeguards for applicants with special needs.

The Council of Bars and Law Societies of Europe (CCBE) published "Recommendations on a framework on legal aid in the field of migration and international protection", which was based on a survey that assessed the situation in different Member States.<sup>825</sup> It found that the increase in migrants in Europe, including asylum applicants and refugees, resulted in a higher number of applications for legal aid. While the CCBE stated that all EU Member States provide legal aid at least for some types of procedures and appeals, it found that practices varied greatly across countries. The recommendations included adapting legal frameworks for easy access and clear eligibility criteria; establishing a specialised legal aid system for asylum applicants; and ensuring legal aid in specific procedures.<sup>826</sup> UNHCR has underlined that these practices enhance the quality and efficiency of the registration procedure.<sup>827</sup> The CCBE also highlighted that legal information should be provided in a child-friendly manner and by electronic means for proper dissemination.

In Germany, with the entry into force of the Act on the Acceleration of Asylum Court Proceedings and the Asylum Procedure on 1 January 2023, state-run counselling will be replaced by a new system, combining the provision of information by BAMF and independent counselling, financed by the federal government but carried out by welfare associations or other civil society organisations. Throughout 2022, counselling for asylum seekers was done by BAMF, which will continue until the new system is established. Civil society organisations noted that the provisions on counselling have been reformed and it now encompasses advice on legal remedies against asylum decisions, but falls short of covering legal representation at first or second instances.<sup>828</sup>

Following the reform of the Swiss asylum system in 2019, UNHCR observed that the registration and processing of applications is approached holistically, including by providing applicants with information and legal assistance in federal reception centres.<sup>829</sup> The coordination among all actors involved in the procedure and the active involvement of legal aid providers increased trust in and the efficiency of the first instance procedure.<sup>830</sup> In 2022, SEM decided that free legal advice should also apply to persons who file an asylum application from detention, thus changing its long-term practice.<sup>831</sup>

However, in times of migratory pressure, the system may not be as efficient and additional efforts would be needed. This was noted in the second half of 2022 when the number of new asylum applications increased sharply. The Swiss Refugee Council reported challenges in communication between legal representatives and applicants as a result of delays in the





asylum procedure.<sup>832</sup> Due to insufficient capacity in federal reception centres, where applicants usually receive free legal aid, they were channelled earlier and temporarily to accommodation in the cantons where certain services are generally not available.<sup>833</sup> During this time, SEM reported to have kept a constant dialogue with legal aid providers, allowing for smooth communication between stakeholders and asylum applicants.

Faced with a high number of applicants in need of legal aid, organisations engaged through online and remote means. In its publication, UNHCR highlighted that the Danish Refugee Council provided timely access to information and legal counselling through a dedicated platform and application.<sup>834</sup> Also the Swedish Refugee Centre noted that the continuation of remote counselling after the lifting of COVID-19-related restrictions allowed the organisation to reach a wider group of asylum seekers.<sup>835</sup>

Several judgments were issued in the course of 2022, looking into various aspects of effective access to legal aid and the scope of this right. In an appeal on points of law, the Spanish Supreme Tribunal **clarified** that when legal aid is not mandatory in the procedure and the applicant was duly informed of his rights at an early stage, failure to mark a box in the information form is equivalent to waiving this right.

The Swedish Migration Court of Appeal **ruled** that, while the SMA may refuse to grant an applicant the right to public assistance, it cannot appeal against an administrative court decision which allows state-funded legal assistance on the basis of the Aliens Act.

In February 2022, the Regional Court of Zwolle in the Netherlands **agreed** with an asylum seeker that, since their explicit request for legal assistance at the start of the application procedure was not addressed, the Secretary of State had violated the principle of due care. In its recommendations to the Swedish and Spanish Presidencies of the Council of the EU, UNHCR recommended to facilitate access to information and legal support in the family reunification procedure.<sup>836</sup>

In the case *Darboe and Camara v Italy*, the ECtHR **ruled** on procedural safeguards for unaccompanied minors who were placed in adult reception centres. The court found violations of Articles 3, 8 and 13 by the national authorities when failing to provide information on the asylum procedure, appoint a legal guardian and ensure access to a lawyer. As a result, the applicant was erroneously considered to be an adult and his right to procedural safeguards in the age assessment procedure was not ensured in Italy.

In a report published on access to the asylum procedure and the application of the safe third country concept, NOAS in Norway explained that legal aid in the inadmissibility procedure remains purely theoretical.<sup>837</sup> It stated that asylum seekers were not informed of these rights, asylum cases were not considered to be a priority for legal aid under Article 11 of the Legal Aid Act, and the decision-making process on applications for legal aid could take 6-8 weeks. Against this background, an applicant subject to the inadmissibility procedure would be deported by the time they were eligible for free legal aid. National authorities were reportedly reluctant to proposals to abolish these impediments because in their view free legal aid would undermine the effectiveness of the inadmissibility procedure.

With the increased number of asylum applications from third-country nationals who already hold a residence permit on other grounds in Norway, the Ministry of Justice and Public Security issued guidelines for the UDI on the weight to be given to this situation in the overall



assessment of the claim. It also clarified that free legal aid in such cases is not freely granted but conditioned by a needs test.<sup>838</sup>

In Slovenia, the Public Advocate for the Principle of Equality assessed a provision in Article 9(10) of the International Protection Act on refugee counsellors to be discriminatory. The law allows a refugee counsellor to be dismissed if they do not disclose confidential information about the applicant, which could affect the decision on the asylum claim, to the determining authority. The advocate underlined that the provision creates a disadvantage for asylum applicants who cannot afford the services of a private lawyer and apply for free legal aid. Moreover, the advocate stressed that such provision infringes the right to an effective remedy as enshrined in Article 47 of the EU Charter and the Slovenian Constitution.<sup>839</sup> The Ministry of the Interior explained that the recommendation was taken into consideration and will be reflected in the next amendment of the International Protection Act.

## 4.10.2. The right of the representative to access files and the premises



According to Article 23 of the recast APD, legal representatives, lawyers and legal counsellors who assist or represent an applicant must have access to the information in the file based on which a decision was or will be taken. Some Member States are implementing digital solutions to allow for quick access and to make the process more efficient. The CJEU provided clarification on access to electronic files and the disclosure of confidential/classified information.

Legal representatives and legal advisers also have the right to access closed facilities, detention and transit zones to consult and communicate with an applicant. However, in practice, they continued to face difficulties in 2022 in accessing premises due to additional requirements which were imposed by national authorities.

The Swedish SMA developed an e-portal with a secure website to allow legal representatives to submit relevant evidence and documents. They can also schedule appointments and online meetings with case officers, in addition to viewing the status of the application.<sup>840</sup>

In December 2022, the CJEU ruled in [BU](#), C-564/21, on electronic access to the case file and the final administrative decision. The court stated that Articles 23(1), 46(1) and 46(3) of the recast APD must be interpreted as allowing the administrative authority to provide access to the electronic file in a format of a series of PDF files, displayed separately and without page numbering, which is accessible with free software.

In September 2022, the CJEU ruled in [GM](#), C-159/21, on the requirements to access classified information by an applicant and the legal representative and on the decision to withdraw international protection based on a non-reasoned opinion of a national security body about the applicant being a danger to national security (see *Section 2.6.*). The CJEU stated that it is contrary to EU law for national legislation not to allow an applicant or the legal representative to access the substance of classified information, after obtaining a specific authorisation for access, and to prohibit them to use this information in the defence before administrative or judicial bodies deciding on international protection.



By referring to the CJEU and ECtHR jurisprudence, ECRE and the Hungarian Helsinki Committee mentioned that access to classified documents by legal representatives after undergoing a security clearance must be complemented by effective communication between the applicant and the legal representative.<sup>841</sup> The right to a fair trial encompasses the right to an effective remedy which can be exercised only when the person, alone or with the support of a legal representative, can argue a case and present factual evidence.

The Dutch Court of the Hague **annulled** a negative decision for neglecting to inform the applicant's representative that a registration interview had been conducted and to allow the lawyer to access the script of the interview to properly prepare the applicant for the second interview.

Greek NGOs outlined that their lawyers encountered difficulties in accessing premises managed by the Ministry of Migration and Asylum because they were asked for proof of authorisation from the applicants and the registration of NGO staff at the ministry. Consequently, the Greek Bar Association issued legal opinions shared with the Ministry of Migration and Asylum to clarify a lawyer's role and responsibilities, and their registration with the Greek Bar Association as a sufficient prerequisite even if they work for a civil society organisation.<sup>842</sup>

According to DRC Greece, lawyers and legal representatives had difficulties in accessing reception and detention facilities in 2022 because of the new access control system (YPERION), which is applicable to all persons entering and working in reception facilities in Greece. The NGO mentioned that the rules and procedures on access to lawyers were not made public, and consequently, they were not applied in a uniform manner across the territory.<sup>843</sup> Similarly, NGOs noted that in practice in a significant number of cases taken over by lawyers on the mainland, the latter had no communication with the rejected applicants before drafting the appeals and had to rely solely on the material already included in the file. The appellants had no way of communicating to their appointed lawyer any new elements related to their case or new significant documents. Moreover, some asylum applicants reported communication issues with their state-registered lawyers and the short duration of the preparation meeting. This happened despite the decision of the Central Asylum Service on the provision of legal assistance through video-conferencing to the Regional Asylum Services of Leros, Samos, Chios and Lesbos.

Similar difficulties were mentioned by the Lithuanian Red Cross about the difficult working conditions in detention premises, a shortage of interpretation for rare languages and insufficient information on access to legal aid for detained asylum applicants.<sup>844</sup>

### 4.10.3. Legal aid in the appeal procedure



Challenges were reported in the provision of legal aid in the appeals procedure. One of the concerns raised in 2022 was the overall low number of people receiving legal aid among all applicants for international protection, for example in Poland,<sup>845</sup> Greece and Cyprus. The AIDA report for Greece noted that this strongly suggested difficulties faced by applicants in accessing and securing state-funded, free legal aid in appeals procedure, as provided by law.

Asylex in Switzerland specified in its submission to the UN Human Rights Council that rejected asylum applicants faced difficulties in finding a replacement lawyer within the short timelines



for an appeal, when the mandate of the initially-appointed legal representative ended and the case was considered to lack prospects of success before the courts.<sup>846</sup> The organisation also extensively described shortcomings in the provision of legal assistance and representation in the appeals procedure related to differences between regions, with French-speaking regions having a higher rate of appeals against negative decisions. It also noted that lawyers were paid by lump sum per case irrespective of the workload and it was at the lawyer's discretion to write an appeal for an applicant.

According to Asylex, only 53% of appeals were submitted by state-funded lawyers and 10% were submitted by a different lawyer after the end of the mandate of a state-paid lawyer. In total, 37% of appeals were without legal representation.

Asylex also reported on a change in practice for rejected Afghan applicants who can now submit a reconsideration/subsequent request for a provisional admission based on the changed situation in the country.<sup>847</sup> Because these situations are not covered under the mandate of the state-funded legal representation, many Afghan applicants relied on other legal representatives for information and counselling in order to submit a reconsideration request.<sup>848</sup>

While the German Federal Administrative Court [ruled](#) on timelines for a second appeal, it clarified that, when several representatives were appointed and they receive notification of the judgment at different times, this did not justify an extension or restoration of the appeal deadline because service to one representative was sufficient.

The Border Violence Monitoring Network reported that information on legal assistance in an appeal procedure was not sufficiently provided to rejected asylum applicants in Greece, thus their access to a judicial review was hampered due to a lack of knowledge and resources. Based on statistics provided by the Ministry of Migration and Asylum for 2022, the same NGO noted that only 3,872 applicants out of 8,302 negative cases applied for free legal assistance through the registry of lawyers within the Asylum Service.<sup>849</sup> According to the Network for Children, some requests for legal aid for an appeal were rejected without justification.<sup>850</sup>

DRC Greece noted that a low rate of judicial reviews was submitted before the Administrative Courts to contest a negative decision issued by the Appeals Committees. This was because free legal aid is not provided in second or higher appeals. This issue was raised in a Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report, along with the difficulty for NGOs to offer legal assistance due to limited resources.<sup>851</sup>

In Lithuania, while reporting on the poor quality of services from state-funded legal representatives in the appeals procedure, the Lithuanian Red Cross gave the example of insufficient information being provided to asylum applicants and a lack of contact between applicants and lawyers prior to an appeal submission.<sup>852</sup> In addition, the NGO mentioned an alleged interference of national authorities in the selection process of the legal aid provider which led to a new procurement procedure for legal aid services.<sup>853</sup>

The Supreme Court of Cassation in Italy [ruled](#) on the inadmissibility of a cassation appeal due to the power of attorney's lack of certification. Based on Decision [No 13/2022](#) of the Constitutional Court which found that the legislative provision was compliant with the Constitution and EU law,<sup>854</sup> the Court of Cassation confirmed the inadmissibility decision because the requirement for certification was compatible with CEAS. It reiterated that



according to the recast APD Member States must provide at least one level of appeal for an *ex nunc* examination in order to ensure the right to an effective remedy.

#### 4.10.4. New projects in the provision of legal aid



Various new initiatives by Member States contributed to building capacity for the provision of legal aid and the development of specialised legal aid services for international protection applicants. At the same time, civil society organisations contested some changes in the organisation of legal aid services and their funding. For example, when the AMIF-funded project on the provision of legal counselling in the asylum procedure ended in Czechia, the Ministry of the Interior launched a public tender for the provision of legal assistance in March 2022, inviting law firms and attorney offices to apply.<sup>855</sup> OPU raised concern about this new approach, especially that the awarded lawyers were not specialised in asylum matters, risking to undermine the quality of services.<sup>856</sup> The NGO mentioned that, although the Ministry of the Interior intends to reopen the call for the provision of legal aid to NGOs, the lack of funding in 2022 resulted in a shortage of experienced staff.

In Slovenia, the Legal-Informational Centre for NGOS (PIC) contested the way the new AMIF call was organised. The call invited individual refugee counsels to apply, and NGOs were not able to participate. The call was not public but was instead sent to a limited number of refugee counsellors who were selected by the Ministry of the Interior; six were selected to provide aid between April-November 2022. Under the scope of the call, vulnerable and detained asylum seekers would be provided with free legal aid and representation to lodge an application, while others could be provided with the services during the personal interview if they asked for representation. PIC also raised concern with the low share of applicants provided with free legal aid and representation under the scheme.<sup>857</sup>

The Legal Aid Board in Ireland established a specialised sub-panel of lawyers who will provide legal aid in the international protection procedure as of 3 January 2023.<sup>858</sup> Legal aid is provided to those who have been granted it by the board in connection with their application for international protection. The sub-panel is designed to be operational initially for 1 year with the possibility of an extension, aiming to facilitate the organisation of services. Applicants will continue to apply for legal aid in one of the three designated law centres (Smithfield in Dublin, Seville House in Galway and Popes Quay in Cork), which are authorised to check eligibility criteria and designate a lawyer from the sub-panel.<sup>859</sup> This is with the aim to alleviate current concerns raised by the Irish Refugee Council, which noted the general lack of capacity, leading to applicants being told to complete the questionnaire by themselves and many applicants waiting over 6 weeks to be assigned a representative by the Legal Aid Board.<sup>860</sup>

In Malta, aditus foundation welcomed the strengthened cooperation with the Migrant's Advice Unit in the Agency for the Welfare of Asylum Seekers (AWAS), which is staffed with welfare officers who provide information on employment, housing, education, health and assisting with integration into the community. Since June 2022, an informal referral system was put in place for any beneficiaries of services residing in reception centres or in the community, where MAU can call or send an email to aditus lawyers to inquire about a more complex issue and refer the person appropriately.<sup>861</sup>

Convive Fondation Cepaim informed that bar associations in Spain were piloting their own International Protection Legal Assistance Offices since 2022, in cooperation with UNHCR.<sup>862</sup>



The aim is to increase the knowledge and skills of legal practitioners providing assistance in the asylum procedure.

In Croatia, the Ministry of the Interior signed a new contract with the Croatian Law Centre on for the implementation of an AMIF-funded project, “Legal advice in the process of granting international protection”.<sup>863</sup> Information material on legal assistance in the international protection procedure was prepared in various languages and distributed to asylum applicants, including relevant versions for unaccompanied minors.<sup>864</sup>

In 2022, the Foundation for Access to Rights in Bulgaria continued to build its capacity to provide effective legal assistance through a new cross-border project on legal assistance for the family reunification procedure and the integration of beneficiaries of international protection.<sup>865</sup> The project continued existing initiatives on legal aid provision at every step of the asylum procedure.<sup>866</sup> In total, 80 applicants benefitted from legal aid through an AMIF-funded project which targeted third-country nationals with special needs.<sup>867</sup> The project ended in October 2022.

In addition, the Bulgarian Helsinki Committee continued its legal aid project funded by UNHCR and offered advice to 2,383 applicants throughout 2022. The efforts were undertaken in the absence of state-provided legal aid for applicants in Bulgaria, apart from legal aid provided to asylum-seeking and refugee children.<sup>868</sup>

IOM Bulgaria implemented a project “Providing legal advice and interpretation for third-country nationals seeking protection” in 2022, targeting mainly vulnerable applicants. In total, about 400 third-country nationals seeking asylum benefitted from legal assistance at all stages of the procedure.

In Germany, a legislative proposal was adopted to include asylum procedure counselling independent from authorities that also allows special legal aid for the LGBTIQ community and applicants with special needs (it is part of the funding programme for independent counselling).

In Slovenia, the pilot project for the provision of free legal assistance to vulnerable asylum applicants ended in October 2022. Since then, with UNHCR funding, the civil society organisation PIC has been providing free legal assistance to asylum applicants.

#### 4.10.5. Quality assurance by investing in the work of lawyers



The professional qualification of lawyers and legal practitioners in the area of migration and asylum is key to providing services of high quality. In 2022, developments were noticed in the area of training, organised either by national authorities or civil society organisations.

In Bulgaria, training for lawyers<sup>869</sup> focused primarily on applicants with special needs and unaccompanied minors,<sup>870</sup> temporary protection and trafficking in human beings.<sup>871</sup> In Romania, similar training activities tackled the application of the international protection procedure or temporary protection, evidence assessment, obstacles in communicating with applicants and particularities of country-of-origin information.<sup>872</sup>





The European Network on Statelessness (ENS) published a toolkit for legal practitioners on strategic litigation on statelessness.<sup>873</sup> The toolkit provides extensive overviews of key legislation and jurisprudence, including within the framework of the asylum procedure.

With regard to the remuneration of lawyers, the CCBE noted that fees should be adapted to the volume and complexity of each case.<sup>874</sup> The Finnish Refugee Advice Centre raised concerns about the availability and adequacy of financial support.<sup>875</sup> For example, the organisation mentioned that the demand for legal services for asylum applicants has increased recently, to a total of 25,000 counselling sessions in 2022. The fees for legal aid will be insufficient in 2023 and the hourly payment of EUR 100 has not change since 2014.

NOAS in Norway welcomed a recent legislative proposal which envisaged to provide a uniform definition of a civil society organisation and a single platform to apply for public funding, thus enabling an equitable distribution of funds.<sup>876</sup> NOAS stated that a clear overview of public funds that are available will help to plan legal aid services for asylum cases. The organisation submitted comments to the justice committee on the state budget proposal for 2023, underlying the need to extend access to legal assistance in the judicial review of asylum decisions and to increase remuneration based on the number of hours worked for each case. A project run by NOAS since 2015 revealed that 63% of cases litigated before courts were successful.<sup>877</sup>

In Austria, legal advice and legal representation for asylum applicants is provided by a governmental non-profit organisation, the BBU, which took over this responsibility in January 2021.<sup>878</sup> Despite positive evaluation reports for 2021,<sup>879</sup> four asylum applicants who received legal aid from the BBU complained<sup>880</sup> before the Constitutional Court about a lack of access to extraordinary appeals because the agency allegedly failed to inform them about the outcome of the proceedings before the Federal Administrative Court or to follow up on their willingness to submit a second appeal. The Constitutional Court [initiated](#) proceedings on the legal basis for legal advice and legal representation within the BBU and if it was in line with the Constitution.

In addition, the Constitutional Court raised concerns about the compatibility of the act governing the functioning of the agency with Article 47 of the Charter of Fundamental Rights of the European Union, the rule of law and effective judicial protection. The BBU mentioned that, while the Constitutional Court was examining the constitutionality of provisions related to the legal basis of the legal aid office, the agency would continue to provide legal aid services as it has a legal obligation to do so.<sup>881</sup> The decision of the Constitutional Court is not expected before June 2023. If the court finds the legal basis unconstitutional, the state has at least 18 months to rectify the situation. The ruling was signalled also by the Ludwig Boltzman Institute as being awaited in order to clarify whether the current organisation and mandate were compliant with the right to a fair trial and effective remedy as enshrined in the Constitution.<sup>882</sup>

In Poland, the Association for Legal Intervention opened a training school in 2023 for legal practitioners to acquire relevant skills and knowledge to litigate before national courts and the ECtHR on cases related to asylum seekers and third-country nationals placed in detention.<sup>883</sup> The NGO believes that strategic litigation is a strong tool to change non-compliant legislation and practices related to detention and procedural safeguards.





## 4.10.6. Legal aid provision at the border and in detention



In 2022, pressure fuelled at the borders during the mass influx of migrants and alleged pushbacks, with reports of asylum seekers being denied access to legal information and legal aid and being processed rapidly in border procedures.<sup>884</sup> International and European human rights organisations called for the increased accountability of national authorities and the establishment of a robust and accessible legal aid system at the borders, while ensuring the quality of legal aid, proper remuneration and access to border, detention and reception facilities.<sup>885</sup>

ECRE<sup>886</sup> and other civil society organisations<sup>887</sup> commented on the Proposal for a Regulation<sup>888</sup> of the European Parliament and of the Council addressing situations of instrumentalization in the field of migration and asylum. They underlined the risk that applicants who were subject to the border procedure were not ensured all procedural safeguards, including access to legal aid. The organisations called for an express mention of the right to “professional and independent legal assistance and representation” as an essential safeguard in the asylum procedure.

Based on its recent survey on legal aid in the asylum procedure, the CCBE found that most EU+ countries did not have permanent offices for legal assistance at the borders. It recommended to establish such information points not only at the border but also in metropolitan areas, especially in situations of a massive influx of migrants. The CCBE noted, however, that private lawyers and civil society organisations had set up some legal information points at the borders.<sup>889</sup>

The European Network of NHRIs published a report on accountability at the border and underlined that “the provision of legal assistance and representation must be a central element of a human rights accountability system at borders”. The network mentioned good communication between the lawyer and asylum applicant, qualified lawyers and access to premises as being pre-conditions to ensure that the legal aid system is well-functioning, accessible and with quality services.<sup>890</sup>

In Greece, civil society organisations reported that detained asylum seekers had limited or no access to legal information and legal assistance (see *Section 4.8*).<sup>891</sup> Likewise, CIRE suggested that the reform of the Aliens Act should include that the principles and safeguards which are enshrined for criminal detention (the Salduz law in Belgium) be applied to immigration detention, including the detention of asylum seekers. The proposal was based on extensive comparative analysis which found significant differences in procedural safeguards for people detained in criminal proceedings compared to those subject to asylum- and migration-related detention.<sup>892</sup>

The NGO ‘I have Rights’ in Greece mentioned that the planned restriction on the use of the Internet in the CCAC in Samos would make it more difficult for applicants to access legal aid.<sup>893</sup>



#### 4.10.6.1. Legislative amendments and proposals



UNHCR<sup>894</sup> and the Council of Europe's Commissioner for Human Rights<sup>895</sup> raised concerns about the proposed legislative amendments to Article 9<sup>10</sup> of the Estonian State Border Act.<sup>896</sup> The amendments restrict access to procedures in emergency situations, such as a mass influx of migrants, and in the event of a threat to public order or national security (see Section 4.1).

Together with border restrictions, the absence of an automatic suspensive effect during an appeal against an immediate return prevents access to effective remedies and legal aid. UNHCR reiterated that the right to an effective remedy encompasses the right to legal aid as an essential component. While the measures would be temporary and exceptional, the right to seek asylum and adherence to the principle of *non-refoulement* cannot be derogated from.<sup>897</sup>

Amendments to the Finnish Border Guard Act entered into force on 15 July 2022 to reinforce security at the border and allow the centralisation of applicants for international protection at one or more border crossing points. According to the Ministry of the Interior, border access restrictions will be applied during a serious threat to public security, national security or public health due to a mass influx of migrants (see Section 4.1).

The Council of Europe's Commissioner for Human Rights raised concerns about the instrumentalisation of migration, the risk of *refoulement* and the lack of access to the procedure and an individual assessment of each situation.<sup>898</sup> While the commissioner urged to adhere to the ECHR, the Geneva Convention and sufficient safeguards in the legislation, the Finnish Refugee Advice Centre added that adequate access to legal information and counselling is a procedural safeguard as well.<sup>899</sup> The Ministry of the Interior submitted a letter in reply and reiterated that the legislative amendment aims to strengthen border security and Finland will continue to fully respect international human rights instruments.<sup>900</sup>

The Ministry of the Interior initiated preparations for legislative amendments of the Aliens Act to introduce the border procedure in Finland.<sup>901</sup> The objective is to implement a rapid, 4-week decision-making process for manifestly-unfounded applications and applications that are considered to be inadmissible when an application for international protection is submitted at the border, transit zone or immediately after an apprehension in connection with an unauthorised crossing of the external border. In addition, the Finnish Refugee Advice Centre requested an explicit provision to be added on the provision of legal aid as a guarantee in the border procedure.<sup>902</sup> However, the parliament did not manage to consider the proposal by the end of the electoral term (29 March 2023) and it was allowed to lapse. The next government will decide if the changes will be proposed again.

#### 4.10.6.2. Legal aid as a component of the right to an effective remedy



In 2022, national and European courts analysed the right to legal aid at the border and in detention in a broader context of potential human rights violations. Several organisations also commented on practices in EU+ countries.

In submissions on pending cases against Greece<sup>903</sup> and Poland,<sup>904</sup> UNHCR underlined that, while assessing procedural safeguards for asylum seekers at the border and in detention, the ECtHR should consider interconnected safeguards, such as access to and the provision of legal aid. Civil society organisations raised similar issues following the legislative amendments in Poland in 2021<sup>905</sup> and stressed that insufficient procedural safeguards, a lack



of legal aid and a lack of a suspensive effect during an appeal against a return decision at the border may lead to serious human rights violations.<sup>906</sup> The NGOs specified that, while the reduction of the no-entry zone near the Polish-Belarusian border from around 3 km to 200 m from the border, which took place on 1 July 2022, made it easier for lawyers to provide legal advice, it did not mean that there was full access to legal assistance. This was due to the lack of opportunities for the legal representative to present their power of attorney in time, the border guards sometimes questioning the authenticity of the power of attorney and cases of migrants terminating the power of attorney, acting due to alleged influence of the border guards.<sup>907</sup>

The Polish Commissioner for Human Rights published a report on the situation of foreigners in guarded centres and presented recommendations to the national authorities, including the need to address the issue of access to legal assistance for asylum applicants placed in detention.<sup>908</sup>

The Polish District Court in Bielsk Podlaski **ruled** that the detention of returned applicants at the Polish-Belarusian border was unlawful and found amongst other irregularities that they were denied contact and communication with their lawyer.<sup>909</sup>

In the case of *S.H. v Malta*, the EctHR **found** violations of Article 3 jointly with Article 13 of the European Convention due to the lack of an adequate assessment of an asylum application lodged by a Bangladeshi national in Malta, the lack of legal assistance and lack of an effective remedy. The court found that the applicant was deprived of procedural guarantees during his detention and assessment of his application in an accelerated procedure. The Maltese government made a referral to the Grand Chamber and stated that it strongly disagreed with the conclusions of the court.

In recent submissions before the Committee of Ministers of the Council of Europe (CoE) on the execution of judgments against Bulgaria and Croatia, civil society organisations reiterated the standards on legal assistance for detained asylum seekers and returnees. The main recommendations included access to the border and detention facilities in order to ensure access to information, interpretation, legal assistance, including contact with lawyers and civil society organisations, for a clear understanding of the asylum and return procedure.<sup>910</sup> The Croatian Ministry of the Interior reiterated the provisions of the law, which foresee that applicants whose freedom of movement is restricted are informed about the right to legal aid in a language they understand and they are given a list of lawyers from which the applicant can choose. The decision is submitted to the competent court to evaluate the legality. Agreements are in place with the Croatian Red Cross, UNHCR and the IOM, and they regularly visit the reception centres for foreigners.

On a related point, in Ireland concerns were raised about the lack of transparency on information and legal assistance provided to persons who were refused access to the international protection procedure, particularly those at the frontiers of the state who are refused leave to land.<sup>911</sup> In Malta, concerns remained around consistent testimonies by applicants arriving in 2022 who reported to UNHCR that they were pressured towards a voluntary departure and told they would be placed in detention, all before they could access a lawyer or apply for protection.<sup>912</sup>



## Section 4.11. Interpretation services

Interpreters play a key role throughout the asylum procedure to ensure that the exchange of information between an applicant and the asylum authority is accurate and understood by both parties. They are pivotal in enabling applicants to tell their story in their own words. Thus, skilled interpreters can reflect the nuances of a dialect and address the specific needs of applicants with vulnerabilities. Interpretation helps to reduce misunderstandings and cultural biases and promotes mutual understanding and respect.



The support of interpreters is important not only during the personal interview but also in providing information at the first stage of an asylum application and during daily life in reception. While the recast APD sets out the legislative provisions for interpretation, the recast RCD calls for information on reception conditions to be given in a language that the applicant understands or is reasonably supposed to understand. It does not, however, mention interpretation for other purposes.

Some Member States have well-developed interpretation services with qualified and experienced interpreters, while others may have limited resources or capacity to provide these services. This can lead to disparities in the quality of interpretation services, which can have a significant impact on the fairness of the asylum process and the result of the final decision. Furthermore, there may be issues related to the integrity and impartiality of interpreters, which can impact the accuracy of interpretation.



In 2022, legislative changes affecting interpretation in the asylum procedure were introduced by some EU+ countries. Several initiatives to improve interpretation services were put forward, especially in the context of health care services and preventing the trafficking of human beings. Civil society organisations continued to raise concerns about interpretation at the border.

### 4.11.1. Legislative and policy updates



Countries undertook various actions to facilitate the provision of interpretation in the asylum procedure.

In terms of legislative changes, the Interpretation Act entered into force in Norway in January 2022. It follows from the Interpretation Act that when a public body is obligated to use an interpreter, a qualified interpreter must be used. The act also stipulates the requirement of professional conduct, including the duty of confidentiality, of interpreters.<sup>913</sup> Public bodies must nominate one of the 2,000 qualified interpreters who can suggest improvements to the system.<sup>914</sup>

In Iceland, a reform was put forward on administrative procedures, including asylum, in order to provide professional interpretation to individuals who do not speak Icelandic.<sup>915</sup>

The new government in Sweden plans a reform to limit the right to a publicly-funded interpreter, in line with the minimum standards set by EU law.

Most countries use external services to secure interpreters and issue tenders. In 2022, OFPRA in France launched a tender procedure worth up to EUR 42 million for interpretation services, which expired in early September 2022.<sup>916</sup> A similar tender in Greece resulted in a change of provider for interpretation at the national level, while due to contractual issues since September 2022, interpretation services were provided in a limited fashion, which according to ECRE led to delays in the registration of applications and interviews. As of February 2023, the contract for interpretation was awarded to METAdrasi.<sup>917</sup>

Finland also launched a new tender with no major changes on the requirements. In addition, it implemented a new reception model for beneficiaries of temporary protection which involves municipalities in the provision of reception services, including interpretation.

Videoconferencing and other means of remote interpretation are commonly used to ensure easier access and faster processing of cases. As of 2022, interpreters in Ireland are allowed to use videoconferencing during the first instance procedure rather than provide interpretation by telephone. Similarly, a new law on the acceleration of the appeal procedure and the asylum procedure introduced the possibility for Germany to provide interpretation through videoconferencing. The measure is intended to be particularly helpful for rare languages and situations when there is a regional shortage of interpreters. Germany also increased the pool of available interpreters.

The legislation on delegating interpretation to the Ministry of the Interior's employees with C1 or C2 knowledge of a relevant language was criticised by civil society organisations in Bulgaria due to the lack of impartiality.<sup>918</sup> This came against the general background of concerns being raised by civil society organisations about interpretation being provided in English, French and Arabic, and mainly in the reception centres in the capital Sofia.



Interpreters from other key languages, such as Kurdish (Sorani or Pehlewani), Pashto, Urdu, Tamil, Ethiopian and Swahili, were scarce and largely unavailable.<sup>919</sup>

To address the arrival of displaced persons from Ukraine, several EU+ countries<sup>920</sup> needed to increase the number of Ukrainian<sup>liv</sup> and Russian<sup>921</sup> speaking interpreters and produce more information material in those languages.

An area which is often unaddressed, interpretation for people with hearing impairments,<sup>922</sup> was tackled in Austria, Bulgaria, Czechia, Hungary, Italy,<sup>923</sup> Poland and Romania. They established cooperation mechanisms between local communities and international organisations. Both qualified and unqualified sign language interpreters were deployed to provide support to displaced persons with hearing impairments in Ukrainian, Russian and international sign languages during the first phases of reception to convey relevant information related to the host country<sup>924</sup> and to facilitate access to services.<sup>925</sup>

The efforts made by EU+ countries and institutions triggered some criticism by civil society organisations, which reported a two-tier system for people fleeing Ukraine and applicants from other countries. They noted the *ad hoc* support services<sup>926</sup> and initiatives<sup>lv</sup> which were quickly offered to Ukrainians<sup>927</sup>. However, the unprecedented situation, which further emphasised the need for translated information during the international protection procedure, could foster an opportunity for national authorities to harmonise the level of interpretation services provided to all individuals seeking protection, irrespectively of the country of origin or habitual residence.

### Box 3. EUAA support to countries




As part of the operating plans, the EUAA provides a range of support services to Member States, including training case officers and interpreters. The Agency provides general guidance on the effective use of interpretation in the asylum procedure to ensure quality and impartiality.

The EUAA also provides direct operational support when Member States are experiencing disproportionate pressure on their asylum or reception systems, for example when the demand for interpretation exceeds the capacity of existing services. The EUAA has significantly expanded its presence in EU+ countries following the war in Ukraine. New operating plans were signed in 2022 with Bulgaria, Netherlands, Czechia and Romania, and other plans were amended to provide additional support on the implementation of temporary protection. An average of 525 cultural mediators and interpreters were deployed in 12 Member States to facilitate communication between national authorities and applicants for international protection and beneficiaries of temporary protection (see Table 4.1).

<sup>liv</sup> Belgium was in need of Ukrainian speaking interpreters to translate into French, Dutch or English for both registration interviews at the Immigration Office and asylum interviews at the CGRS. Due to an increased demand in Luxembourg, the ONA recruited independent interpreters on a temporary contract. Interpreters have been deployed to labour offices in Czechia and Ireland in order to facilitate communication for applicants.

<sup>lv</sup> In Romania, the IOM deployed 24 Ukrainian-English/Romanian speakers to provide interpretation services and to convey relevant information to Ukrainians and other third-country nationals fleeing the conflict in key locations throughout the country, including border crossing points, transit areas and reception centres.

**Table 4.1. EUAA assistance with interpretation through operating plans**

	Country	Step of procedure	Interpreters deployed	Operating Plan
	<b>Belgium</b>	Reception	22	Operating Plan 2022, agreed by EUAA and Belgium
	<b>Bulgaria</b>	Temporary protection	N/A	Operational Plan 2022 agreed by the EUAA and Bulgaria
	<b>Cyprus</b>	Registration, information provision, procedures at first and second instance, reception, vulnerability assessment, relocation	87	Operational Plan 2022-2024 agreed by the EUAA and Cyprus
	<b>Czechia</b>	Temporary protection, registration, information provision	21	Operational Plan 2022 agreed by the EUAA and Czechia
	<b>Greece</b>	Registration, information provision, procedures at first instance, Dublin procedure, relocation, first and second-line reception	236	Operating Plan 2022-2024 agreed by the EUAA and Greece
	<b>Italy</b>	Access to procedure, referral of vulnerable applicants, second instance, voluntary relocations procedures, information provision for international protection and temporary protection	49	Operating Plan 2022-2024 agreed by EASO and Italy
	<b>Lithuania</b>	Reception (including information provision and vulnerability identification)	42	Operating Plan 2022 agreed by EASO and Lithuania
	<b>Latvia</b>	First instance and reception	4	Operating Plan 2022, agreed by EASO and Latvia
	<b>Malta</b>	Access to procedure, first instance, reception, identification, and referral of vulnerable applicants	44	Operational Plan 2022-2024 agreed by the EUAA and Malta
	<b>The Netherlands</b>	Reception of beneficiaries of temporary protection, reception and information provision	3	Operational Plan 2022-2023 agreed by the EUAA and the Netherlands
	<b>Romania</b>	Temporary protection	6	Operational Plan 2023 agreed by the EUAA and Romania
	<b>Slovenia</b>	Procedures at first instance	4	Operational Plan 2022 agreed by the EUAA and the Republic of Slovenia
	<b>Spain</b>	Temporary protection and voluntary relocation procedure	7	Operational Plan 2022-2023 agreed by the EUAA and Spain



## 4.11.2. New initiatives



In 2022, EU+ countries implemented proactive measures to address the needs of victims of human trafficking, including improving the provision of interpretation. For example, the Ministry of Justice in Iceland published information material on indicators of human trafficking in three languages (Icelandic, English and Polish), with the aim of helping to identify potential victims of human trafficking.<sup>928</sup> In Luxembourg, new safeguards were adopted by courts to provide interpretation to all victims of human trafficking.<sup>929</sup>

Countries developed more guidance and support material to interpreters throughout 2022. On International Women's Day, Belgium announced a series of training sessions for interpreters on intercultural communication, with a focus on women and victims of human trafficking.<sup>930</sup>

BAMF published a revised code of ethics for interpreters in asylum procedures, an updated booklet with general information and recommendations for interpreters, a new webpage on interpretation in asylum procedures, and bilingual terminology lists on asylum and SOGI (sexual orientation and gender identity).<sup>931</sup>

In Finland, a multilingual glossary on housing and social security was developed to provide a new working tool for interpreters.<sup>932</sup>

UNHCR updated its "Handbook for Interpreters in Asylum Proceedings" to reflect changes in procedures and add specific sections on remote interpretation and interpretation for groups.<sup>933</sup> OFPRA in France also updated its charter for interpreters issued in 2018.<sup>934</sup> A new call for proposals from the Norwegian Fund was launched in Bulgaria, which aims to improve specific services directed at asylum applicants, including translation and interpretation.<sup>935</sup> The IOM supported a total of 704 persons accommodated in the centres of the State Agency for Refugees with interpretation to access different services.

There has been a growing trend of former applicants working as interpreters during the asylum procedure. This was seen in 2022 in Ireland<sup>936</sup> and Lithuania, where persons registering for temporary protection were assisted by their fellow citizens in registration and other procedures. This practice proved to be very effective as the Ukrainian interpreters had experience with the migration patterns and the trauma associated with the war.<sup>937</sup>

## 4.11.3. Interpretation at the borders



NGOs have repeatedly reported inadequate efforts by national authorities at the EU's borders to overcome language and cultural barriers due to a lack of interpretation services and poor translations of information. This often prevents migrants from meaningfully understanding their rights.<sup>938</sup>

In addition, reports suggested that some individuals who were returned to the border of Bulgaria were requested to sign untranslated papers and were not provided with interpretation.<sup>939</sup> Similarly, in Poland, individuals allegedly pushed back to Belarus by Border Guards were not provided with information in a language they understood.<sup>940</sup> While assessing the need for an interpreter in a case of detention at the border, the Administrative Court of



Białystok **confirmed** that digital translation tools used by the Border Guard in Poland may suffice if correct information is conveyed. An Amnesty International report mentioned how, in the framework of an informal cross-border expulsion policy, Lithuanian authorities disregarded procedures and failed to provide adequate interpretation to asylum seekers.<sup>941</sup>

The importance of interpretation in the context of the border procedure was reiterated also by UNHCR in its recommendation to the French and Czech EU Presidencies.<sup>942</sup>

A lack of interpreters at the borders for some languages spoken by minorities was highlighted by NGOs in Spain. As a result, some interviews were conducted in a language other than the one spoken by the applicant or in certain cases over the phone.<sup>943</sup> To address some of the gaps, UNHCR funded the setting up of an interpretation service specialised in African languages, to support stakeholders involved in sea arrivals and help with interpretation in reception centres, medical services and detention.

A new call for tender was launched by Frontex to provide reliable, flexible and high-quality interpretation and cultural mediation services in support of its operational activities at the EU's borders. The contract provides for 112 interpreters and cultural mediators to provide in-person and remote interpretation and a pool of 20 interpreters for rapid deployment who are on 24/7 standby and can work remotely.<sup>944</sup>

In the context of Frontex operations, a group of interpreters deployed in Greece, Italy and the Canary Islands launched a petition calling for better working conditions.<sup>945</sup> Addressing the issue, Frontex specified that the company which was contracted to provide interpretation services is responsible to ensure its employees a remuneration in compliance with applicable social and labour laws. In addition, the agency wrote a letter to the contractor expressing concern, reminded them of the contractual obligations and contacted the signatories of the petition to clarify the issue.<sup>946</sup>

#### 4.11.4. Interpretation in the health care system



Interpretation in the context of health care was an area of focus in some EU+ countries. For example, in 2022 France continued to reinforce interpretation services for asylum applicants requiring health care,<sup>947</sup> and the Department for Civil Liberties and Immigration in Italy announced a national project to define the training curriculum of the transcultural mediator in the health sector.<sup>948</sup>

The Health Service Executive in Ireland launched a public procurement to offer standardised translation/interpretation services in all health services in early 2022,<sup>949</sup> while in Switzerland, civil society organisations recommended that information be provided in a language understood by the applicant when accessing health and social services.<sup>950</sup>

Hospitals in Greece faced critical shortages in interpreting services to ensure communication with patients, especially for languages like Bangla, Tigrinya, Somali or other African dialects.<sup>951</sup> UNHCR provided support with interpretation at hospitals.

In support of interpreters, Translators without Borders and Oxfam published a tip sheet to address sociolinguistic barriers on sensitive topics and to support their mental health.<sup>952</sup>



## Section 4.12. Country of origin information

Country of origin information (COI) refers to up-to-date, reliable information on countries of origin, habitual residence, and transit or return countries which is used to assess an application for international protection.<sup>i</sup> COI reports can address various topics in a specific country, for example the socio-economic, legal, political, human rights and humanitarian situation at a given time.



The recast QD, Article 4(3a) specifies that the assessment of an application for international protection must take account of all relevant facts about the applicant's country of origin. Along the same lines, the recast APD, Article 10(3b) stipulates that precise and timely information on the general situation in countries of origin of applicants and, where necessary, in countries through which they have transited is to be obtained from various sources, such as the EUAA, UNHCR, the Council of Europe and other relevant international organisations.



Key developments in the production of COI in 2022 centred around improving methodologies, investing in new technologies and researchers, improving collaboration with other researchers based in Europe (for example in national COI units and civil society organisations working in the country of origin), and producing information rapidly to address new crisis situations.

### 4.12.1. Enhancing capacity and improving methodologies



In 2022, several methodological updates were implemented, without any major institutional changes to national COI units.

With the increasing number of asylum applications in EU+ countries, there were some challenges in the production of COI due to limited staff. Greece, for example, noted that an increase in queries was difficult to address by the current pool of staff. To address capacity issues, Ireland recruited two new COI researchers.

Acknowledging the importance of sound methodology in conducting COI research and producing COI outputs, EU+ countries generally provide all newly-recruited experts with advanced training on COI methodology. They often rely on the EUAA's methodological guidelines.

When the German COI unit recruited new staff, it used the opportunity to review internal processes and streamline product portfolios. In addition, various working groups dealt with specific methodological aspects, such as interviewing external experts, fact-finding missions and OSINT.

Some countries, such as Norway, conduct quality surveys with the aim of gathering feedback on Landinfos services. Norway also looked into the phenomenon of 'confirmation bias', which is the tendency to interpret new evidence as confirmation of one's existing beliefs or theories.

COI teams explored new ways of collecting and analysing data from open data sources to produce actionable intelligence. For example, the COI team in Norway conducted seminars on Open-Source Intelligence (OSINT), internet surveillance, IT tools and general awareness. Likewise, Austria continued to develop its open-source information project. In Belgium, CEDOCA created a working group on statistics to better understand methodologies and data visualisations in reports.

Countries invested in new technological channels. For example, Austria introduced new software, such as Content Management Systems and a reference management system. The SMA in Sweden put efforts to renew and modernise its COI portal, Lifos. In Norway, podcasts and tutorials were made available on [www.landinfo.no](http://www.landinfo.no). They address various countries and topics, such as Iraq (the situation for LGBTIQ people), Yemen (the civil register, ID documents and passports), Ukraine (population) and Lebanon (the economic situation).

Social media was also of key interest. The French COI unit improved work methods on social media channels and developed a secure process for working with social networks. Germany intensified the use of social media (ACLED<sup>953</sup> and geolocation), while Austria included social media as a separate part of COI research.



## 4.12.2. Collaborating on producing accurate information



Cooperation and information-exchange among COI researchers are essential to produce accurate, reliable and up-to-date information on the situation in countries of origins.

Various training sessions, seminars, briefs and study visits were organised in 2022 with COI units and immigration authorities to share best practices. For example, Germany participated in COI briefings for EU Member States under migration pressure, within the framework of the Bilateral Mentoring Scheme (BMS). The new qualification tool, BMS, is supported by the EUAA and was launched on the initiative of national COI units. It aims to improve cooperation between COI experts, foster personal development and strengthen methodology. Experts from the COI units of France, Germany and Greece actively participated in the BMS.

Switzerland focused on improving cooperation with countries outside of the EU and it organised study visits for the Turkish PMM to the Swiss COI unit, in the framework of the EUAA/PMM roadmap.<sup>954</sup>

Finally, strengthening cooperation with local organisations and local activists was an objective for Austria, which, for instance, launched quantitative surveys to strengthen COI methodology, such as assessing the socio-economic situation of urban populations in countries of origin and quantitative surveys of residents of selected cities.

## 4.12.3. The focus of COI reports



COI units continued to focus on the most common countries of origin of asylum applicants in Europe, namely Afghanistan, Syria, Iran and Iraq.<sup>955</sup> In addition, geopolitical instability in 2022 led COI units to research new countries of origin of asylum applicants. For instance, Burundi was a new country of interest for Slovenia and Switzerland.

Examples of reports released in 2022 by COI national teams and by UNHCR:

- the security and human rights situation in [Afghanistan](#)<sup>956</sup>
- the security situation in [Algeria](#)<sup>957</sup>
- the security situation in [Ethiopia](#)<sup>958</sup>
- [Internet and social media](#)<sup>959</sup> and [criminal prosecution of Christian converts](#)<sup>960</sup> in Iran
- [honour crimes](#)<sup>961</sup> in Iraq and the situation in [Mosul](#)<sup>962</sup>
- UNHCR published COI for case officers to assist in applying UNHCR guidance on Iraq
- UNHCR published position papers on returns to [Mali](#),<sup>963</sup> [Ukraine](#),<sup>964</sup> [Ethiopia](#)<sup>965</sup> and [Gaza](#).<sup>966</sup> A position paper on the [conflict of North and South Kivu, Ituri and human rights situation](#)<sup>967</sup> gave up-to-date information about the Democratic Republic of the Congo
- the situation of [LGBTIQ individuals](#)<sup>968</sup> in Iran

- health care services availability and accessibility in Damascus, Rural Damascus, Tartous and Latakia<sup>969</sup> and treatment upon return<sup>970</sup>
- military service<sup>971</sup> and security apparatus<sup>972</sup> in Syria
- human rights and a focus on the situation of women and girls and the *de facto* state's administration of justice<sup>973</sup> in Afghanistan and the security situation following the Taliban's takeover in Afghanistan<sup>974</sup>

COI teams closely followed the evolving security situation in Türkiye and Ethiopia, in particular in the Tigray region. They also collected information on Angola, Jordan, Lebanon, Somalia and Sudan. For instance, Sweden released new COI reports on [Tigrayans and their situation outside of Tigray](#),<sup>975</sup> [Sudan](#),<sup>976</sup> and [South Sudan and the area of Abyei](#).<sup>977</sup>

EU+ countries followed the situation in Latin America, especially in Chile, Colombia, Peru and Venezuela. For example, Sweden published a report on [Chile](#) in April 2022.<sup>978</sup> For the first time in many years, Germany conducted a fact-finding mission to Colombia together with the Swiss COI unit.

India and Pakistan were also highlighted in various national COI publications.

Some COI units relied on desk research, while others, for example France and Norway, organised fact-finding missions. Many countries, however, faced challenges in accessing specific countries due to fewer flights. There was also a lack of experts to interview in Afghanistan, Iran, Russia, Syria and Ukraine. Croatia reported difficulties in verifying specific information with sources in certain countries.

## Box 5. COI on Russia and Ukraine



Following the Russian invasion of Ukraine, COI units received many requests for information on the security situation in Ukraine and Russia. In response, the EUAA, national administrations and civil society organisations published daily information, articles, fact sheets and analytical reports on these two countries.

The EUAA published a report on [Medical Country of Origin Information \(MedCOI\): Russia](#)<sup>979</sup> in September 2022, and two COI reports on [military service](#)<sup>980</sup> and [political opposition](#)<sup>981</sup> in December 2022. These reports helped national case officers in individually assessing applications for international protection lodged by Russian nationals.

The COI unit in Norway published a report on [military service and mobilisation in Russia](#)<sup>982</sup> and the COI team in Sweden published [different types of Ukrainian residence permits](#).<sup>983</sup> The Romanian National Council for Refugees released a report on the [human rights situation in Russia](#).<sup>984</sup> The COI team in France produced a weekly watch on military mobilisation in Russia, and regular, management-level reporting in Germany focused on recent developments in Ukraine.

It became evident that the situation in Russia and Ukraine became a main area of focus at the expense of other geographical regions. Norway noted that unsettled situations in several countries will generate a need for information, such as projections of future outcomes, that may be difficult to meet.

Civil society organisations play a key role in producing COI from the ground. Their annual reports often contribute to a better understanding of the situation in countries of origin. For instance, the [World Report 2023](#) by Human Rights Watch summarised human rights conditions in over 100 countries worldwide in 2022.<sup>985</sup> Amnesty International also publishes a yearly report on the state of the world's human rights. In 2022, COI publications from civil society organisations also focused on the situation of LGBTIQ individuals in their country of origin, for example the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)'s annual report on the human rights situation of LGBTIQ people.

The ACCORD department of the Austrian Red Cross manages a COI system, [ECOI.net](#), with information on political, humanitarian and human rights topics in countries of origin. As in previous years, in 2022 they continued with a query service for asylum lawyers, refugee counsels and officers deciding on claims for asylum.<sup>986</sup> The organisation also publishes reports, which in 2022 focused on Eritrea, Iran, Pakistan and Russia. They also produce Armed Conflict Location and Event Data (ACLED) overviews, which highlighted Afghanistan, Iraq and Somalia. Regular country briefings were also published on Afghanistan and Iran.

Asylos, an NGO working on increasing the accessibility and importance of high-quality COI in the asylum procedure, started quarterly informal meetings in June 2022 with COI experts from civil society organisations. The aim is to exchange information on best practices, challenges and new publications, conduct peer reviews and explore opportunities for collaboration. The group also offers commentaries on COI produced by governmental and intergovernmental COI units, as well as by the EUAA. In line with its overall mission, Asylos implemented a project which addressed gaps in COI on stateless people and produced a COI report on stateless Palestinians. Under the initiative "Emergency COI Repositories", Asylos created repositories for Afghanistan, Iran, Pakistan, Türkiye and Ukraine.<sup>987</sup>

Civil society organisations continued to produce material on the Middle East region, in particular on Afghanistan, Iraq and Syria. Asylos and Clifford Chance published monthly COI on [Afghanistan](#).<sup>988</sup> The Afghanistan Research and Evaluation Unit (AREU) analysed the situation of [vulnerable groups](#) since the transition of power in Afghanistan.<sup>989</sup> The Norwegian Refugee Council issued a report on the [impact of housing, land and property rights on returns to Sinjar in Iraq](#),<sup>990</sup> and the International Crisis Group (ICG) published a paper on [governance and security in the Sinjar district](#).<sup>991</sup>

Many COI reports by civil society organisations concentrated on the African continent in 2022. The Romanian National Council for Refugees (CNRR) depicted the human rights situation in [Cameroon](#).<sup>992</sup> Political participation, rule of law, the stability of democratic institutions and other fundamental rights in [Sierra Leone](#) were discussed in a Bertelsmann Stiftung publication.<sup>993</sup> The International Crisis Group continued its ongoing field research in Sudan and the Tigray region in Ethiopia and published analytical reports and briefings on the political, security and human rights situation, such as [security-related developments in the Tigray conflict](#).<sup>994</sup>

For the Asian region, reports were published by civil society organisations on Bangladesh, India, Pakistan and Sri Lanka. For example, in May 2022 Amnesty International published a report on the [impact of the economic crisis on the Sri Lanka's population and on their social rights](#).<sup>995</sup> In addition, Equal Ground and the Centre for International Human Rights of Northwestern Pritzker School of Law submitted a report on the [Violations by Sri Lanka of the Civil and Political Rights of the Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning/Queer \(LGBTIQ\)](#) at the 135<sup>th</sup> Session of the Human Rights Committee.<sup>996</sup>





A challenge that seems to persist, as highlighted by civil society organisations, relates to the lack of accessibility and user-friendliness of COI databases and the lack of multilingual information, as COI material is mostly available in English. In addition, there seems to be an imbalance between countries of origin for which a high number of COI reports are available and countries for which no or limited information exists.<sup>997</sup> To mitigate this, UNHCR continued sharing monthly COI bulletins in Spain.<sup>998</sup>

There also seems to be a lack of data on intersex applicants and their situation in countries of origin.<sup>999</sup> Concerns were raised by an NGO about whether authorities regularly use accurate and up-to-date COI in the assessment of asylum applications,<sup>1000</sup> and it alerted about the possibility of bias in the use of COI by authorities.<sup>1001</sup> In addition, civil society organisations noted that applicants may be at times poorly informed about the importance of COI in the assessment of their application and about their right to suggest further documents to support their application.<sup>1002</sup>

#### Box 6. COI reports by the EUAA in 2022

- Afghanistan: [developments since the Taliban takeover on 15 August 2021 targeted attacks](#),<sup>1003</sup> [the security situation](#)<sup>1004</sup> and [key socio-economic indicators](#)<sup>1005</sup>
- [Afghan refugees in Pakistan](#)<sup>1006</sup> was updated. It describes their legal status and provides information on their socio-economic situation in Pakistan
- Iraq: [targeting and treatment of persons belonging to specific profiles](#)<sup>1007</sup> and the [security situation](#)<sup>1008</sup>
- Syria: the [security situation](#)<sup>1009</sup> the [targeting of certain profiles and groups in the country](#)<sup>1010</sup> and the [socio-economic context in Damascus city](#)<sup>1011</sup>
- [Colombia](#)<sup>1012</sup>
- [Medical Country of Origin Information \(MedCOI\): Nigeria](#)<sup>1013</sup> on the overall epidemiological situation and challenges in accessing health care
- [Female Genital Mutilation \(FGM/C\) in Ethiopia](#)<sup>1014</sup> maps FGM/C practices and trends at the national and regional levels
- [Female Genital Mutilation \(FGM/C\) in Mali](#)<sup>1015</sup>



## Section 4.13. Statelessness in the context of asylum

Statelessness is a legal anomaly which affects people who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully exercise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.



The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone “who is not considered as a national by any state under the operation of its law”.<sup>1016</sup> Nationality is the legal bond between a person and a state, and international law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law, for example by being non-discriminatory and non-arbitrary, avoiding statelessness and ensuring gender equality.



Nationality is generally acquired at birth by descent (*jus sanguinis*), place of birth (*jus soli*) or later in life based on residence, marriage or adoption. A person may be born stateless if the law in their country is discriminatory and does not grant nationality to certain ethnic groups or allow women to pass on nationality to their children. Children born into migrant communities may also be at risk of statelessness when the country they are born in does not grant nationality based on the principle of *jus soli* and they are unable to obtain the nationality of their parents. One reason for this may be that their parents are refugees who cannot approach the embassy of their country of origin to request nationality for their children out of fear of persecution. People may also lose their nationality later in life. This may be as a result of discriminatory laws or challenges acquiring a new nationality after state secession.

To eliminate statelessness in the EU, it is important that Member States have procedures in place to ensure that stateless persons are recognised and that a specific path exists for them to become citizens of the country in which they reside.

While stateless persons and refugees are two distinct categories in international law, a person can be both a refugee and stateless. In the context of asylum, statelessness may also be relevant to the determination process for an asylum application as in many instances the reasons why a person left their country are linked to reasons why they are stateless. It is therefore important that both claims are assessed and both statuses addressed explicitly. In instances where international protection is not granted on one ground, statelessness may comprise another ground based on which the person may still necessitate international protection.

### 4.13.1. Identifying stateless persons and their rights



Legislation, practices and policies vary across EU+ countries on the criteria needed to be identified as a stateless person. In many cases, these individuals may be registered under the nationality of their country of former habitual residence or as having 'unknown' nationality. Thus, the data available on statelessness may not be entirely representative of the reality across EU+ countries.

Failing to properly identify statelessness during the asylum procedure can have a direct impact on the outcome of the case. For example, statelessness in the country of origin may be wholly or partially linked to a fear of being persecuted. If the applicant is not identified as stateless, the need for protection may not be adequately addressed during the procedure.

In addition, the status which is recorded during the registration of an application (e.g. national, stateless or unknown) has an impact on the nationality rights of the applicant's children and access to processes, such as family reunification and naturalisation. As such, identifying potential cases of statelessness and referring the cases to a statelessness determination process are of paramount importance.



#### 4.13.1.1. Stateless Palestinians



born.<sup>1017</sup>

Recognising Palestinians as stateless persons varies across EU+ countries. According to the European Network on Statelessness (ENS), several EU+ countries do not recognise Palestinians as stateless during the asylum procedure. This has created additional obstacles for Palestinians trying to access international protection, and it may impact the children of Palestinians if they cannot access the nationality of the country in which they were

The main reason for divergence in practices is because EU+ countries interpret Article 1(D) of the 1951 Geneva Convention on the Status of Refugees (1951 Convention) differently. According to the article, the 1951 Convention

*“shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention”.*<sup>1018</sup>

Given the current situation in Palestine, the ENS and several civil society and international organisations have questioned the ability of the United Nations Relief and Works Agency for Palestine Refugees in the Near East’s (UNRWA) to protect Palestinian nationals.<sup>1019</sup> Moreover, in March 2022, UNHCR emphasised the need to adequately assess the protection needs of Palestinians from Gaza and encouraged countries not to forcibly return people to a dire situation without access to support.<sup>1020</sup>

The ENS has also asserted that if UNRWA is not in a position to protect a Palestinian person, then this person should not fall within the scope of Article 1(D) and the case should be examined on the merits. In such cases, it is important to verify whether a person has another nationality, as the ENS considers that all Palestinians who do not hold a second nationality should be considered stateless.

Recent jurisprudence on the matter has centred around core issues with UNRWA’s ability to fulfil its mandate and the circumstances in which an applicant is considered to be registered with UNRWA.<sup>1021</sup> In January 2022, the Dutch Council of State [confirmed](#) that Palestinian applicants should only fall within the scope of Article 1(D) of the 1951 Convention if they were actively supported by UNRWA prior to requesting international protection in the Netherlands. *The State Secretary for Justice and Security v Applicant* concerned a Palestinian applicant who was born in Iraq and later moved to Egypt, where he resided without a legal permit. The Council of State noted that the applicant had never lived in an area supported by UNRWA but the applicant’s father had been registered with UNRWA, meaning that he had a theoretical right to UNRWA support. The Council of State concluded that the applicant could not be reasonably expected to move to an area where he had never been in order to access support and, thus, confirmed that Article 1(D) was not applicable.

Likewise, in March 2022, the Dutch Council of State [concluded](#) that an applicant from the Gaza Strip did not fall within the scope of Article 1(D) as, prior to his arrival in Europe, he had resided in Libya for 3 years.



Following a similar line of interpretation, in April 2022 the Belgian CALL [confirmed](#) that an applicant of Palestinian origin must have been personally registered with UNRWA in order to fall within the scope of Article 1(D). CALL further noted that applicants whose parents were registered with UNRWA but did not receive UNRWA assistance themselves should be examined under Article 1(2) of the 1951 Convention.

In March 2022, the CJEU [ruled](#) on the cessation of UNRWA protection in the case of *N.B. and A.B. v Secretary of State for the Home Department (UK)*. The applicant claimed that she could not access appropriate education and medical assistance for her severely disabled son in the Al Bass camp in Lebanon, where the family was registered with UNRWA. The Secretary of State had rejected their claim for refugee status because they were registered with UNRWA and had received, and were likely to continue to receive, support in Lebanon. While the Secretary of State admitted that the child had been discriminated against on the basis of his disability, this discrimination did not reach the level required to qualify as persecution. When assessing whether UNRWA's protection had ceased, the CJEU concluded that national authorities should consider the applicant's circumstances at the time when they left UNRWA's area of operation and at the time when their request was being examined. The CJEU added that the burden of proof lies with the Member State to illustrate that the applicants would receive UNRWA's protection if they were to return. The CJEU also found that assistance provided by civil society organisations may be considered if the organisation had a formal and stable cooperation agreement with UNRWA.

While these court judgments help to form standard operating procedures in EU+ countries, there is still a lot of unclarity surrounding stateless Palestinians and Article 1(D). To this end, the ENS has issued a number of recommendations, including accession to the relevant international conventions, facilitating access to naturalisation, ensuring access to resettlement, and enacting and implementing fair and accessible procedures during a statelessness determination with procedural safeguards for Palestinians.<sup>1022</sup>

#### 4.13.1.2. Stateless children of asylum seekers and refugee parents



According to the ENS, only one-half of EU+ countries have sufficient legal safeguards to prevent children from growing up without a nationality.<sup>1023</sup> In some countries, children born to stateless refugees inherit their parents' stateless status. At times, parents cannot approach the embassy of their country of origin to confirm their child's nationality out of fear of persecution.<sup>1024</sup> In 2022, there were some positive advancements made by

national courts.

In Spain, the Provincial Court of Guipúzcoa granted citizenship to a child who was born to a Cameroonian woman during her journey from Cameroon to Spain to seek international protection. The court requested the Central Civil Registry to register the birth, after both the Cameroonian and Moroccan embassies failed to register the child's birth or grant her nationality. The judge presiding over the case noted that "if I had taken the decision based solely on the law and standard procedures, the result would have been unjust towards the girl, because we would have failed to recognise one of her fundamental rights".<sup>lvi, 1025</sup> In an interview with Radio Cordoba, the judge hoped the case would set a new precedent for other stateless children arriving in Spain.<sup>1026</sup>

<sup>lvi</sup> Unofficial translation.



In Ireland, the Supreme Court confirmed that a child who was granted Irish nationality on the basis that his father was a recognised refugee at the time of his birth could not have his Irish nationality revoked because his father's status had been subsequently withdrawn.<sup>1027</sup>

While jurisprudence seems to have taken a protection-oriented approach for the right of stateless persons, including in the context of asylum, additional safeguards are still needed in many EU+ countries. The ENS has issued a number of recommendations to EU+ countries to ensure that effective procedures are in place for statelessness determination and that the best interests of children of refugees born in exile are taken into consideration.<sup>1028</sup>

The UNCRC made recommendations to Cyprus and the Netherlands in 2022. In June 2022, the Committee recommended that Cyprus implements new safeguards to reduce statelessness by “[e]stablish[ing] legal safeguards, including legislation and procedures, including removal of fees for birth registration[...]”.<sup>1029</sup> The Committee also urged Cyprus to “[f]acilitate the acquisition of nationality for children who would otherwise be stateless, regardless of their parents’ citizenship, residence, legal or marital status, with particular attention given to children born to refugee, asylum-seeking, migrant or stateless parents, and regardless of the existence of the family link before the departure from the country of origin”.<sup>1030</sup>

In March 2022, the Committee stated their concern about the Dutch Nationality Act, which requires stateless children applying for nationality to have 3 years of legal residency.<sup>1031</sup> While the Dutch parliament has since passed two new bills which still need to be adopted by the senate in 2023, the ENS is concerned that the changes do not go far enough to guarantee that stateless children born in the Netherlands will have access to the rights afforded by international law.<sup>1032</sup>

## 4.13.2. Statelessness in the context of Russia’s invasion of Ukraine



UNHCR has estimated that there were approximately 82,500 stateless persons living in Ukraine in 2018, of which around 6,000 had legal residence. This indicates that a high number of stateless people from Ukraine lack the necessary documents to access temporary protection in the EU. Under the Temporary Protection Directive, EU Member States are not required to extend temporary protection to all categories of stateless persons. In fact, stateless persons are only eligible for temporary protection if:

- They were granted refugee status in Ukraine;
- Their family members are Ukrainian nationals or recognised beneficiaries of international protection in Ukraine; or
- They held a permanent resident permit in Ukraine and are unable to return to their country of former habitual residence.

Some countries have extended temporary protection to stateless persons, but in others, they must apply for international protection.

Moreover, pre-existing administrative policies which require a form of identification to cross the Ukrainian side of the border have created additional obstacles for stateless persons who wish to flee Ukraine and seek protection EU+ countries.

For more information on this topic, please refer to the EUAA's comprehensive report, ["Providing Temporary Protection to Displaced Persons from Ukraine: A Year in Review"](#).



### 4.13.3. Changing legislation



With the number of applications for international protection significantly growing in 2022, it is probable that more stateless asylum seekers have arrived in the EU. Depending on national legislation, it can be challenging for asylum seekers and beneficiaries of international protection to be officially recognised as stateless. Indeed, results of an external evaluation carried out by UNHCR suggested that the targets established under the Global Action Plan to End Statelessness were unlikely to be met before the agreed target date of 2024.<sup>1033</sup>

Nonetheless, several positive changes occurred in 2022 which will help increase recognition and ensure that the rights of stateless persons are protected. These developments often have a direct impact on stateless persons who are or have been through the asylum process, as well as their children.

On 23 March 2022, Austria amended the Citizenship Act to allow children born in Austria to apply for nationality when they reach the age of majority within a period of 3 years under facilitated requirements if they would otherwise be stateless.<sup>1034</sup> The previous legislation allowed them to apply within 2 years. This development is important for many groups of children, including those who were born to applicants or beneficiaries of international protection and were unable to inherit citizenship from their parents. UNHCR advocated that foreign children should be able to acquire citizenship earlier, without having to wait until after their 18<sup>th</sup> birthday.<sup>1035</sup> The organisation also urged for the introduction of a specific statelessness determination procedure.<sup>1036</sup>

In March 2022, Belgium pledged to introduce a new legal status for stateless persons which would give them the right to legally reside in Belgium if they cannot return to their country of habitual residence.<sup>1037</sup> In December 2022, amendments to the Belgian Nationality Code introduced important changes relating to stateless children (Article 10). It was legally established that no recognition as a stateless person would be henceforth required to grant Belgian nationality to a child born in Belgium without a nationality. This was always the intention of the legislator in the Belgian Nationality Code, but in practice the civil registrar would sometimes ask for official recognition of statelessness status. The amended Article 10 also introduced the possibility for the civil registrar to seek advice from the Public Prosecutor in the event of doubt about the lack of nationality of a child.

In Finland, the Ministry of the Interior proposed and submitted amendments to the Nationality Act to the parliament in April 2022. The parliament did not manage to consider the proposal by the end of the electoral term (29 March 2023) and it was allowed to lapse. The next



government will decide if the changes will be proposed again. If approved, the definitions of a stateless person will be updated to be in line with international treaties. Precisely, stateless persons would no longer be divided into voluntarily stateless and involuntarily stateless.<sup>1038</sup> This will make it easier for stateless asylum seekers to be recognised and ensure that all stateless asylum seekers and beneficiaries of international protection are afforded the same rights, regardless of the reason for which they became stateless.

In Portugal, the revised Nationality Regulation came into force in April 2022 which made it easier for children born in Portugal to applicants or beneficiaries of international protection to acquire citizenship. Under the revised regulation, a child born on the territory can be granted nationality if one of the parents is a legal resident or one of the parents has been residing on the territory for more than 1 year (irrespective of their residency status).<sup>lvii, 1039</sup> The new amendments also make it easier for children who were born to foreign parents, prior to the bill coming into effect, to access naturalisation by removing the language and residency requirements in the following cases:

- At least one parent is a legal resident;
- At least one parent has lived in Portugal for 5 years or more prior to the submission of the naturalisation request (irrespective of the parent's residency status); or
- The child has completed at least 1 year of pre-school, primary or secondary education in Portugal.<sup>1040</sup>

On 29 March 2022, Spain adopted a Royal Decree which guarantees stateless persons access to the national reception system for the duration of the Stateless Determination Procedure. This will ensure that children in the Stateless Determination Procedure have access to education and other integration programmes.<sup>1041</sup>

In the Netherlands, where there are approximately 40,000 individuals registered as 'nationality unknown',<sup>1042</sup> two bills on statelessness were passed by the parliament on 31 May 2022. The first bill is a step towards introducing a new stateless determination procedure which will be judicial in nature. This will facilitate the recognition of stateless persons arriving in the Netherlands and reduce the number of applicants being registered as having 'nationality unknown'. The second bill amends the Dutch Nationality Act to allow stateless children to apply for naturalisation after 5 years of habitual residence. Both bills will need to be approved by the Senate in 2023.<sup>1043</sup>

While this is a positive change that will facilitate stateless children of asylum seekers and beneficiaries of international protection to access nationality, the bills fall short of the recommendations made by the UNCRC during the combined fifth and sixth periodic review of the Netherlands. The recommendations which were published in March 2022 called on the Netherlands to "[g]uarantee all stateless children born or present within the territory of the State party the right to acquire nationality irrespective of residency status" and "[i]mplement measures for ensuring that children with an unknown nationality, a status that leaves them unable to be registered as stateless and obtain international protection, do not remain with such a status for a prolonged period of time".<sup>1044</sup>

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<sup>lvii</sup> Children of diplomats are excluded.



#### 4.13.4. Improving the situation of stateless persons



In 2022, the ENS continued to organise the Stateless Journeys Campaign, an initiative which has developed different tools to support people working with stateless persons, such as guidelines to encourage frontline practitioners to “recognise, record, refer and read up”. Guidelines are currently available on several topics, including children’s right to a nationality, asylum registration and screening, detention and return, family reunification and integration.<sup>1045</sup>

In Belgium, the NGO NANSEN produced several reports to inform stateless persons and their legal representatives. The reports are available in French on their website and cover topics such as: the treatment of Palestinians in Gaza and the need to grant them international protection,<sup>1046</sup> the right to Belgian nationality for children of Palestinian origin,<sup>1047</sup> statelessness among members of the Bidoun community in Kuwait and their need for protection,<sup>1048</sup> and how to prevent the children of Ukrainian refugees in Belgium from becoming stateless.<sup>1049</sup>

In Bulgaria, the Foundation for Access to Rights organised an online webinar entitled “Palestinian Refugees Seeking Protection in Bulgaria: Practical issues and recent case law” in September 2022. The organisation also produced a [report](#) on practical problems in the international protection system in Bulgaria and the application of Article 1(D) of the 1951 Convention.<sup>1050</sup>

In the Netherlands, Asylos implemented a project to address information gaps for stateless persons. The organisation also worked on the production of a COI report on the situation of stateless Palestinians in Lebanon and a principles document for conducting COI research on statelessness.<sup>1051</sup>

In France, OFPRA updated the welcome [booklet](#) in November 2022 aimed at newly-recognised stateless persons.<sup>1052</sup> In Malta, the aditus foundation published a [document](#) with a number of proposals in view of the upcoming 2022 national elections. These included recommendations for a new stateless determination procedure.<sup>1053</sup>

In March 2022, the UN Committee on Economic, Social and Cultural Rights issued concluding observations on the third periodic report on Czechia. The committee expressed its concern that, under the Aliens Act, the scope of the statelessness determination procedure is limited and it does not provide sufficient legal security for stateless persons. It was also concerned that such persons face difficulties in obtaining permanent residence, and under the Citizenship Act, children who would otherwise be stateless would only acquire nationality if both parents are stateless and at least one of them has a residence permit (Article 2(2)).<sup>1054</sup> Following up on the committee’s recommendations, relevant legislative amendments were prepared to the Aliens Act, which are expected to come into force in the second half of 2023.

In May 2022, the UN Committee on the Elimination of Racial Discrimination issued its concluding observations on the combined eighteenth to twentieth periodic reports on Luxembourg. The committee noted the absence of specific legislation on statelessness, including on the statelessness determination procedure, and recommended that the authorities adopt specific legislation.<sup>1055</sup> The UNHRC issued its concluding observations on the fourth periodic report on Luxembourg and encouraged the government to adopt legislation regulating the procedure to determine the status of statelessness and that clearly guarantees the right to stay for applicants with a statelessness status and that this right is automatically granted after obtaining the stateless status.<sup>1056</sup>



## Section 4.14. Content of protection

Recognised refugees are granted certain rights and obligations, as outlined by the Geneva Convention.



The recast QD outlines the content of international protection to harmonise what a recognised beneficiary of international protection can expect under national policies. Its provisions shape the integration of beneficiaries of international protection through standards on residence permits, employment, education, social welfare and health care. Relevant articles of the directive also outline the criteria for the cessation and revocation of refugee status.



In 2022, integration policies were primarily geared at the rapid inclusion of persons in need of temporary protection from Ukraine. National forms of protection were often applied to displaced persons from Ukraine prior to the activation of the Temporary Protection Directive. In parallel, some EU+ countries continued with initiatives which offered a right to stay to former applicants who could not be returned and who had reached a certain level of integration.

The trend continued in 2022 to involve a range of stakeholders and improve collaboration for the integration of beneficiaries of international protection. The urgent, large-scale need to provide integration support for persons in need of temporary protection further catalysed this process, and EU+ countries piloted some new, innovative ways of working together in the integration of persons in need of protection.

The increase in asylum applications often impacted and caused delays in delivering residence and travel documents to beneficiaries of international protection, which risked delaying their access to other services and rights. As seen in previous years, courts retained an important role in shaping the interpretation of grounds and procedures for reviewing or withdrawing international protection.

## 4.14.1. Granting international protection: Recognition rates



The recognition rate refers to the number of positive outcomes as a percentage of the total number of decisions on applications for international protection. For reporting in the Asylum Report, positive decisions calculated in the recognition rate include EU-harmonised statuses only (i.e. refugee and subsidiary protection). At times, the recognition rate which includes national forms of protection may be presented for countries where there is a considerable difference with the recognition rate of EU-harmonised statuses.<sup>lviii</sup>

The recognition rate for specific nationalities of applicants can indicate which citizenships are granted protection more or less frequently.

### 4.14.1.1. Recognition rates at first instance



The overall EU+ recognition rate for first instance decisions on asylum applications was 39% in 2022. This means that out of 646,000 decisions issued, 252,000 were positive, granting the applicant either refugee status or subsidiary protection. The recognition rate went up by 5 percentage points compared to last year and was the highest since 2017. The rise was mainly due to more positive decisions being issued to Syrians (see Section 4.14.1.2.).

Most positive decisions at first instance granted refugee status (149,000 or 59% of all positive decisions) and subsidiary protection was granted in the remaining 103,000 cases (41%). As a

<sup>lviii</sup> Persons granted an authorisation to stay for humanitarian reasons are defined by Eurostat: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum\\_decision](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum_decision)



result, the share of positive decisions granting refugee status declined for the second consecutive year.

Asylum applicants who were not eligible for international protection as defined in the recast QD may be granted an authorisation to stay for humanitarian reasons under national law. The EU+ recognition rate of 39% excludes authorisations to stay for humanitarian reasons. If such authorisations were included, the recognition rate for 2022 would hike to 50%. This considerable difference is largely due to humanitarian status granted to Afghans in Germany and Venezuelans in Spain, which combined represented more than 7 in 10 humanitarian permissions to stay in EU+ countries.

In 2022, more women and girls received positive decisions on their protection claims than a year earlier (45% compared to 41% in 2021). Men and boys, in turn, were granted protection in 36% of all decisions issued on their applications. However, the data available do not indicate which applications lodged by males or females were part of family groups.

Overall, 55% of first instance decisions issued protection to minors, which is considerably higher than for applications lodged by the 18-34 age group (33%), 35-64 age group (31%) and applicants aged 65 years or older (30%). Nevertheless, in 2022, recognition rates were higher than in 2021 for asylum applicants of all age groups and especially for those between 35 and 64 years of age.

In many EU+ countries, first instance recognition rates vary over time, usually because of changes in the volume or structure of caseloads. In 2022, overall recognition rates increased notably in some countries (see *Table 3*).

**Table 4.2. Recognition rates in EU+ countries with notable increases in 2022**

	2021 (%)	2022 (%)
<b>Bulgaria</b>	62	91
<b>Estonia</b>	60	96
<b>Latvia</b>	45	58
<b>Lithuania</b>	13	41
<b>Netherlands</b>	65	82
<b>Poland</b>	60	75
<b>Portugal</b>	60	78
<b>Slovakia</b>	23	40
<b>Slovenia</b>	9	59

While the recognition rate also climbed in Hungary, from 58% to 86%, the overall number of decisions was very low (35 in 2022). This is due to the fact that since 2020, applicants are required to submit a declaration of intent at a Hungarian embassy in a non-EU country before they can enter the country and apply for international protection (see *Section 4.1*).

In contrast, recognition rates dropped substantially in Austria (62% to 42%), Switzerland (60% to 47%) and – to a lesser extent – Italy (34% to 28%), Norway (81% to 78%) and Romania (28% to 25%). They continued to decline in Cyprus (19% to 6%), Ireland (56% to 34%) and Malta (22% to 15%). In all other EU+ countries, recognition rates in 2022 were higher than or similar to 2021.

## Recognition rates at first instance for specific nationalities

Among the 20 nationalities which received the most first instance decisions in 2022, Syrians had the highest recognition rate at 93%. They were followed by Ukrainians (86%) and Eritreans (84%) (see Figure 24). Other groups with relatively high recognition rates included nationals of Mali (65%), Somalia (57%) and Afghanistan (51%).

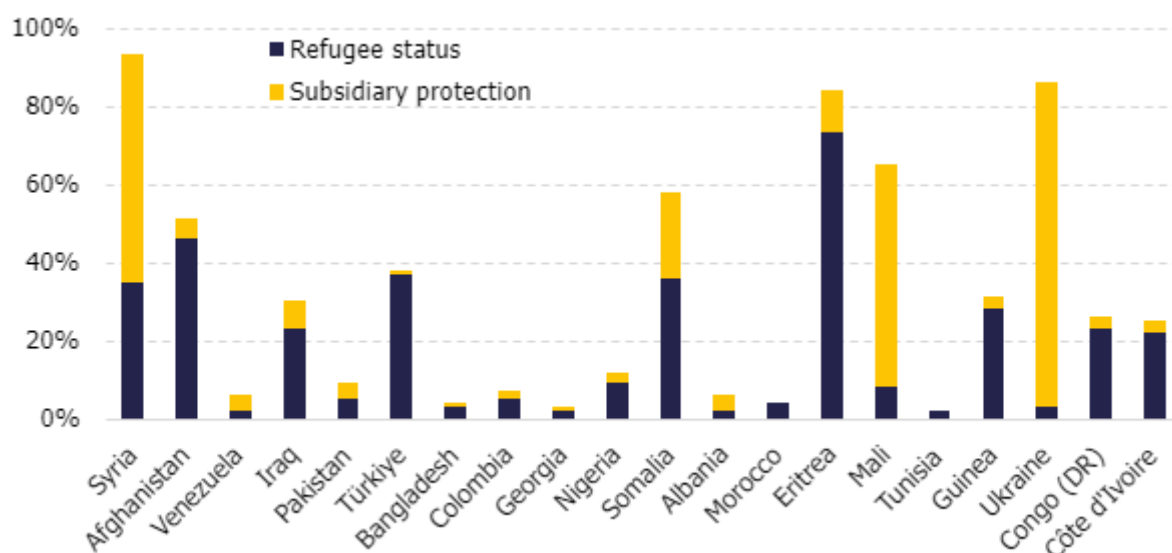
At the other end of the spectrum, some countries in specific regions had especially low recognition rates, such as Tunisians (2%) and Moroccans (5%) in northern Africa, Venezuelans (4%) and Colombians (6%) in Latin America, Albanians (6%) in the Western Balkans, as well as Bangladeshis (4%), Georgians (4%) and Pakistanis (9%).

Outside the Top 20 nationalities, recognition rates continued to be notably high for Belarusians (85%), Yemenis (84%), Palestinians (63%), Chinese (60%) and stateless persons (58%).<sup>lix</sup> However, low recognition rates were more common, particularly for citizens of countries which are exempt from visa requirements to enter the EU. These comprised applicants from the vicinity of the EU, including Bosnia and Herzegovina, Moldova, North Macedonia and Serbia, as well as some Latin American countries, such as Argentina, Chile and Peru.



**Syrians, Ukrainians and Eritreans had the highest recognition rates in 2022**

**Figure 24. First instance recognition rates for the Top 20 nationalities with the most decisions issued in EU+ countries, by nationality and status granted, 2022**



**Note:** These 20 nationalities received the highest number of first instance decisions in EU+ countries in 2022. They are ordered (from the left to the right side) in terms of the number of decisions received.

Source: Eurostat [[migr\\_asydcfst](#)] as of 13 April 2023.

<sup>lix</sup> Only nationalities with more than 1,000 decisions issued in 2022 were considered.

Overall, the recognition rate increased the most for Ukrainians (+74 percentage points from 2021) and Syrians (+22 percentage points and the most since 2016). For Ukrainian asylum applicants, this was caused by the Russian invasion of Ukraine. For Syrians – who have had a relatively high recognition rate since 2012 – the rate had dropped considerably in 2021, due to negative decisions issued on a high number of subsequent applications in Germany, which were submitted after a CJEU ruling on refusing to perform military service in the Syrian army as grounds for a well-founded fear of persecution.<sup>1057</sup> In 2022, however, the recognition rate for Syrians bounced to high levels again. In addition, the CGRS in Belgium, where recognition rates for Syrians also increased significantly compared to 2021, prioritised certain files which had a likely positive outcome, and many of these files belonged to Syrian applicants.

Afghan asylum applicants (especially in Germany) and Venezuelan applicants (especially in Spain) were often granted humanitarian status, which permits applicants to remain in the receiving country but is not counted towards positive decisions in the recognition rate. For Venezuelans, 7 in every 10 decisions issued in EU+ countries granted humanitarian status, whereas for Afghans, it was 3 in every 10 decisions. Afghans in Germany alone accounted for almost two-fifths (27,000) of all cases in which humanitarian status was granted in 2022 in EU+ countries, and Venezuelans in Spain for over one-quarter.

### **Variations in recognition rates at first instance in receiving countries**

As in the past, large variations in national practices were seen in granting protection to specific citizenships of applicants. For example, the recognition rate for Afghans was at least 44% in most countries that issued more than 200 decisions (in total 14 EU+ countries), but it was only 16% in Switzerland, 27% in Germany and 30% in Romania (see *Figure 25*).

Conversely, the recognition rate for nationals of Venezuela was below 39%, except in Iceland (93%) and Italy (73%). Similarly, the rate for Colombians did not exceed 4%, except in Italy (28%) and France (18%). In fact, Italy continued to have recognition rates at the upper end of the range for several citizenships, while countries with recognition rates at the lower end of the range varied depending on the nationality.

Overall, discrepancies in recognition rates were most apparent for applicants from Afghanistan, ranging from 16% in Switzerland to 100% in Portugal. Wide ranges also continued for Turkish applicants (from 15% in France and Spain to 93% in Switzerland), as well as Iraqis (from 3% in Poland to 77% in the Netherlands) and Venezuelans (from 8% in Germany to 93% in Iceland).

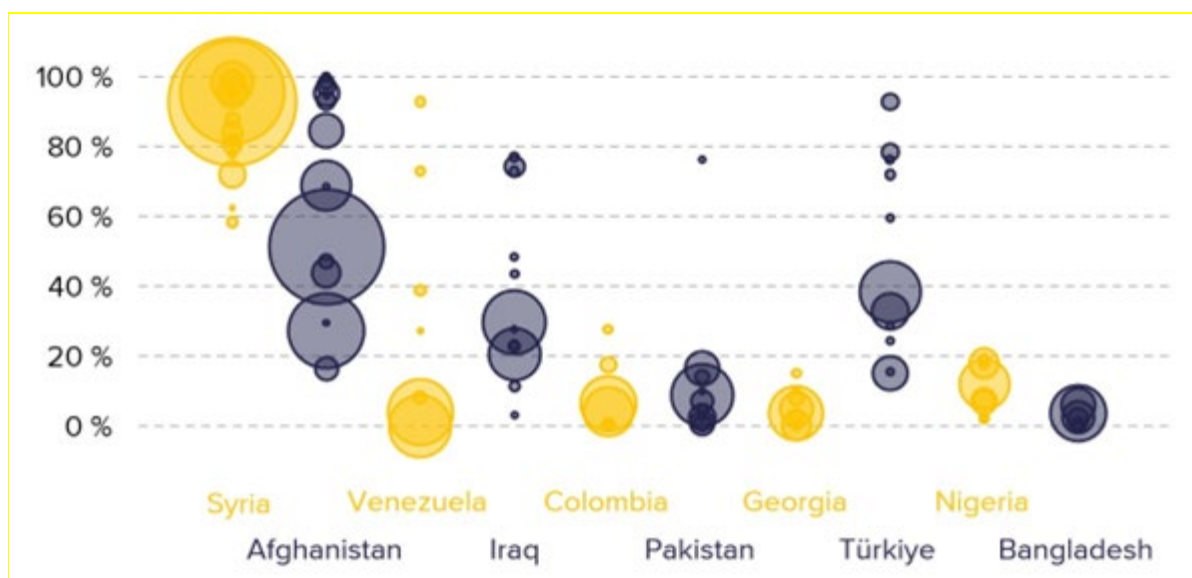
There are several reasons why the same nationality may have different recognition rates across EU+ countries. For example, applicants with the same citizenship can have significantly different profiles and protection needs or come from different regions of the same country. Recognition rates may also differ between first-time and subsequent applications lodged by the same nationality. Similarly, some applicants may have already received an EU protection status in another Member State, but they submitted a new application. EU+ countries may differ slightly in terms of their national policies and guidelines on asylum, in addition to the interpretation of certain legal concepts. In particular, receiving countries can have different lists of safe countries of origin and safe third countries or assess internal protection alternatives and the level of indiscriminate violence differently, which can impact eligibility for subsidiary protection.





## Discrepancies in recognition rates were the most apparent for Afghan, Iraqi and Turkish applicants

Figure 25. Recognition rates for nationalities receiving the most decisions at first instance, by receiving country, 2022



**Note:** Each bubble represents a different EU+ country issuing more than 200 first instance decisions in 2022 for the selected nationality. The bubble size indicates the number of first instance decisions and the placement on the vertical axis denotes the recognition rate. The 10 nationalities presented received the most first instance decisions in 2022 and the order is in terms of overall decisions.

Source: Eurostat [[migr\\_asydcfsta](#)] as of 13 April 2023.

### 4.14.1.2. Recognition rates at second or higher instances



If an appeal is lodged against a decision at first instance, a decision will be taken at second instance, and higher instances become involved after another appeal. The procedures following an appeal can vary: in some receiving countries, the case is reviewed entirely (*de novo* in fact and law), while in other countries, only the legality of the first instance decision is assessed.

The data available do not indicate the outcome of the first instance decision that was appealed, as a positive decision can also be appealed. For example, a positive decision that grants fewer rights than refugee status (subsidiary protection or humanitarian status under national law) might be appealed. For this reason, cumulative recognition rates for all instances are not presented, and the outcomes at second or higher instances need to be considered separately.

In 2022, the recognition rate at second or higher instances was 21%, meaning that there were 45,000 positive decisions within the total of 221,000 decisions at this level. This was in line with the previous year (22%). In fact, in most EU+ countries, recognition rates at second or higher instances remained more or less stable compared to 2021.

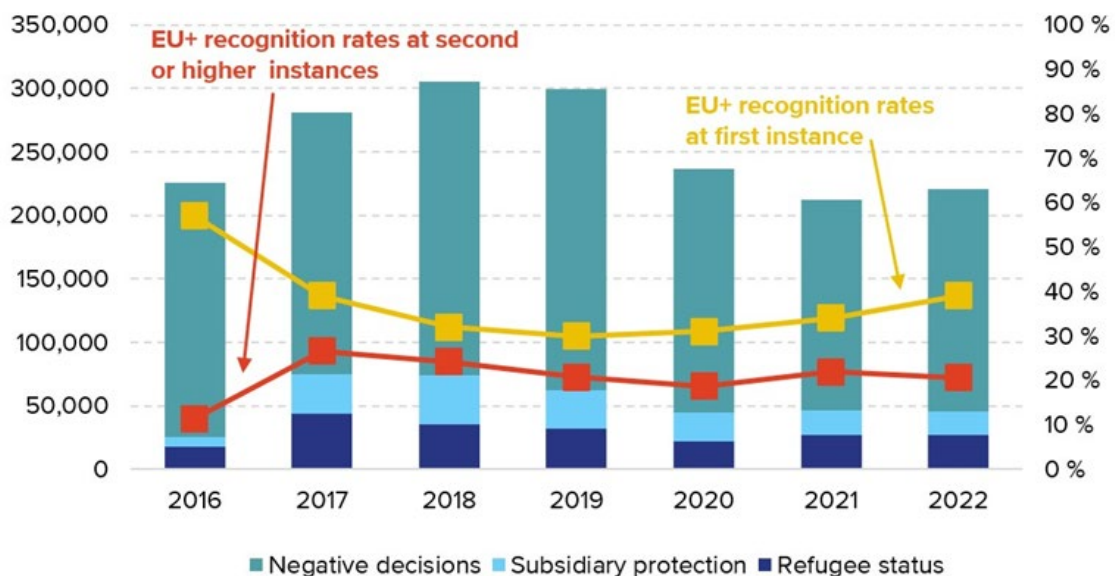
As in previous years, the overall EU+ recognition rate at higher instances was lower than at first instance (39%). But the gap is growing. In 2022, the difference between the EU+ recognition rate at first instance and in appeals was the largest since 2016 (see Figure 26).

The EU+ recognition rate of 21% excludes authorisations to stay for humanitarian reasons. If such authorisations were included, the recognition rate for 2022 at second or higher instances would hike to 34% (still lower than the all-inclusive EU+ recognition rate at first instance).



### The difference between the EU+ recognition rate at first and at second or higher instances was the largest since 2016

**Figure 26. Outcomes of decisions on asylum applications at second or higher instances in EU+ countries (bars), and recognition rates at first instance (yellow line) and recognition rates at second or higher instances (red line), 2016-2022**



Source: Eurostat [[migr\\_asydcfst](#)] as of 13 April 2023.

Far fewer decisions at second or higher instances granted some type of EU-regulated protection than at first instance (see Figure 27). However, two of the Top 20 nationalities which received the most decisions in appeals (nationals of Bangladesh and Iran) received more positive decisions at second or higher instances than at first instance.

Of the positive decisions at higher instances, three in five decisions granted refugee status (27,000 or 60% of all positive decisions), with the remainder granting subsidiary protection (18,000 cases or 40%). These proportions were in line with those at first instance.

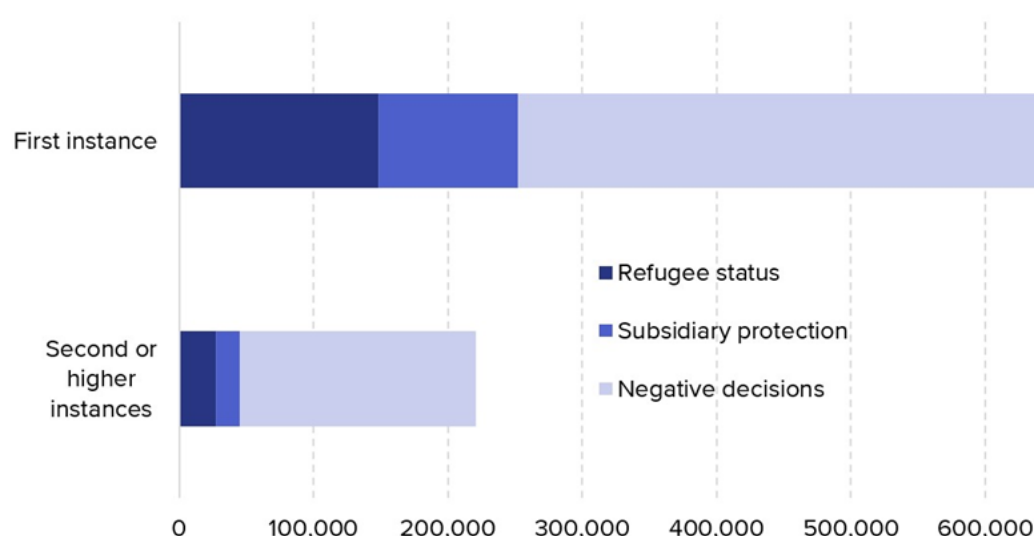
As in the past 5 years, female applicants continued to be somewhat more successful in their appeals. The recognition rate at second or higher instances was 26% for applications by women and girls (stable from 2021), compared to 18% for applications by men and boys (slightly lower than in 2021 when it was 20%). The gap between the female and male recognition rates was similar at first instance (45% and 36%, respectively). However, the data available do not indicate which applications lodged by males or females were part of family groups.

Unlike at first instance, recognition rates at second or higher instances did not differ so much between age groups. Minors were still granted protection at the highest rate (almost one in four decisions at second or higher instances), while for the remaining age groups, roughly one in every five decisions granted either refugee status or subsidiary protection. This pattern was similar in previous years.



### Refugee status and subsidiary protection were less often granted at second or higher instances than at first instance

**Figure 27.** Outcomes of decisions on asylum applications at first instance compared to second or higher instances in EU+ countries, 2022



Source: Eurostat [[migr\\_asydcfst](#)] as of 13 April 2023.

Among the countries which issued at least 1,000 decisions,<sup>ix</sup> the highest EU+ recognition rates were in the Netherlands (57%) and Austria (52%), whereas they did not exceed 22% in others. In fact, in two of the 13 EU+ countries with at least 1,000 decisions issued at second or higher instances – Cyprus and Poland – the EU+ recognition rates were 0% in 2022 as very few decisions in appeal granted refugee status (not more than 10 per country) and none granted subsidiary protection. For both countries, this pattern was similar to that of most recent years. Hungary was the only EU+ country which did not issue any decisions at second or higher instances in 2022.

<sup>ix</sup> In total, 13 EU+ countries issued at least 1,000 decisions at second or higher instances in 2022: Austria, Belgium, Cyprus, France, Germany, Greece, Ireland, Italy, the Netherlands, Poland, Spain, Sweden and Switzerland.

## Recognition rates at higher instances for specific nationalities

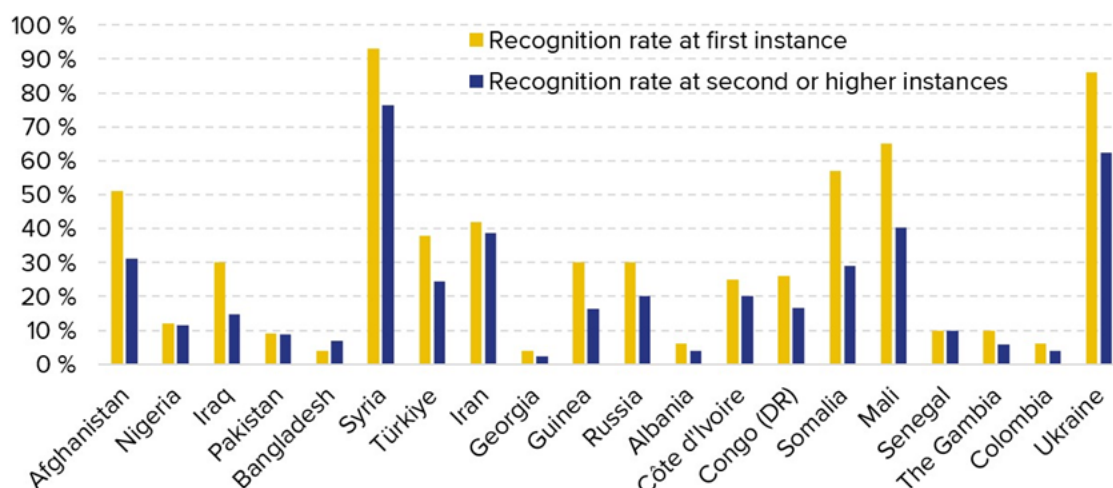
Overall, the Top 20 nationalities receiving the most decisions at second or higher instances overlapped with those receiving most first instance decisions, with just four exceptions: nationals of The Gambia, Iran, Russia and Senegal. However, nearly all of these four countries of origin (except for The Gambia) featured among the Top 30 citizenships with most decisions issued at first instance.

Among the Top 20 nationalities which received the most decisions at second or higher instances, Syrians (76%) had the highest recognition rate in 2022 (see *Figure 28*), followed by Ukrainians (62%). Other groups with recognition rates above the overall EU+ average included nationals of Mali (40%), Iran (39%), Afghanistan (31%), Somalia (29%) and Türkiye (25%).



**Syrians and Ukrainians had the highest recognition rates at second or higher instances**

**Figure 28. Recognition rates for the Top 20 nationalities with the most decisions issued in EU+ countries, 2022**



**Note:** These 20 nationalities received the highest number of decisions at second or higher instances in EU+ countries in 2022. They are ordered (from the left to the right side) in terms of the number of decisions received.

Source: Eurostat [[migr\\_asydcfst](#)] as of 13 April 2023.

For the remainder of the Top 20 nationalities, fewer than one-quarter of decisions issued at second or higher instances granted international protection. Recognition rates were especially low for Georgians (2%), Albanians (4%), Colombians (4%) and Gambians (6%). All these nationalities had low recognition rates also at first instance in 2022.

For one-half of the Top 20 nationalities, recognition rates at second or higher instances were similar to those at first instance, and for few of them – Nigerians, Pakistanis and Senegalese – there was no difference between recognition rates at the two decision-making instances (see *Figure 28*). While only one of the Top 20 nationalities received higher recognition rates in appeals than at first instance (Bangladeshis), for several of them – such as Somalis, Malians, Ukrainians, Afghans, Syrians, Iraqis, Guineans, Turks, Russians and Congolese (DR) –



recognition rates at second or higher instances were significantly lower compared to those at first instance, the gap varying between 28 percentage points (for Somalis) and 9 percentage points (for nationals of the Democratic Republic of the Congo).

Outside the Top 20 nationalities receiving decisions, recognition rates at higher instances were high for Yemenis (71%), Belarusians (49%), Eritreans (39%) and Sudanese (35%).<sup>lxi</sup> At the other end of the spectrum were nationals of India (1%), North Macedonia (1%), Moldova (1%), Serbia (2%), Comoros (2%), Haiti (3%), Armenia (4%), Ghana (5%) and Tunisia (6%). As was the case at first instance, low recognition rates partially coincided with countries exempt from visa requirements to enter the EU (for example applicants from North Macedonia, Moldova and Serbia).

## 4.14.2. Building perspectives: Legal status and family reunification

### 4.14.2.1. National forms of protection and regularisation measures



Several countries provided national forms of protection to persons fleeing Ukraine prior to the activation of the Temporary Protection Directive, and continued to do so for some Ukrainian citizens who did not fall under the scope of the Council Implementing Decision.<sup>1058</sup> In parallel, some EU+ countries continued with initiatives which offered a right to stay to former applicants who could not be returned and had reached a certain level of integration.

The Finnish Ministry of the Interior published a report on potential solutions for people who had resided in the country for a long period without having the legal right to residence, including rejected applicants for international protection who could not be returned to their country of origin.<sup>1059</sup> The same project investigated the possibility of issuing a residence permit and an alien's passport to applicants whose lack of a valid travel document is the sole impediment to granting the residence permit. The aim of these investigations was to identify possibilities to prevent social exclusion and the emergence of a parallel society.

In Germany, the draft of the Second Law for the Introduction of a Right of Opportunity to Stay was presented and debated in the parliament. Among other objectives, the law would end the accumulation of tolerated stay periods (*Kettenduldung*), which would no longer be counted towards residence rights.<sup>1060</sup>

The Irish government launched a scheme with a strand for undocumented migrants and another for applicants for international protection. Asylum seekers who have been in the asylum procedure for at least 2 years can apply for unrestricted access to the labour market and a pathway to Irish citizenship. They can continue with the asylum procedure in parallel with the regularisation process. The scheme was open for 6 months between February and August 2022.<sup>1061</sup>

A report published in December 2021 by the Federation Red Acoge highlighted that Spanish Immigration Law makes citizenship conditional to a set of criteria which are very difficult to

<sup>lxi</sup> Only nationalities with more than 1,000 decisions issued in 2022 were considered.



meet for migrants, thus leaving many of them in a situation of social exclusion. With the aim of promoting a people's legislative initiative to regularise 500,000 persons by collecting 500,000 signatures, a group of organisations (including a political party) joined to form the platform "EsencialES". In December 2022, the campaign reached 700,000 signatures that were submitted to the Office for the Electoral Roll in order to start the parliamentary procedure. A gathering in front of the Congress was also organised by the Platform EsencialES, with the aim of celebrating the great support received for this Popular Legislative Initiative. The parliamentary procedure foresees a maximum of 6 months to analyse the popular initiative and to submit it to the congress for its consideration.<sup>1062</sup>

Some other countries, like Italy and Malta, amended existing procedures for granting national forms of protection, while in the Netherlands, some cases needed to be re-assessed, following clarifications about the criteria for qualifying for a special residence permit.

In Poland, changes were made to issuing humanitarian visas and humanitarian stays for citizens of Belarus. The requirements were eased for those with a visa which was about to expire or those who had fled the regime to Ukraine and then entered Poland through a special procedure.<sup>1063</sup>

The Italian Ministry of the Interior published a new circular in January 2022 which clarified the connection between the special protection status (a national form of protection) and the Dublin procedure (see *Section 4.2*), as well as subsequent applications. For example, it addressed that special protection cannot be assessed merely on the basis of documentation attached to a subsequent application; the applicant always must be heard.<sup>1064</sup>

The Supreme Court of Cassation provided additional guidance for the assessment of special protection and consolidated its judgments from 2021. The court confirmed that certified attendance in an Italian language course or a fixed-term employment contract should be considered signs of serious intention to integrate.<sup>1065</sup> The court followed the same reasoning and sent back cases due to a lack of the appropriate assessment of the applicants' level of integration, for example in the [case](#) of a Gambian applicant.

Medical conditions are another factor that courts assessed for granting special protection. The Tribunal of Bari [granted](#) this form of protection to a Pakistani citizen suffering from serious psychiatric problems.

The Spanish Supreme Court [established](#) that national authorities are obliged to assess a request for residence on humanitarian grounds within the asylum procedure, if this is requested by the applicant. Authorities should have a proactive approach for applicants with vulnerabilities and assess the option to provide humanitarian protection, even when there is no evident request from the applicant.

The International Protection Act was amended in Malta and – amongst other provisions – it modified the Temporary Humanitarian Protection procedure, which is a national form of protection. A new provision allows the International Protection Agency to revoke, end or refuse to renew this status when it is established that the person did not originally meet the criteria for it. The decision to not grant international protection but grant Temporary Humanitarian Protection can be appealed.<sup>1066</sup> While welcoming the legislative changes, MOAS noted grey zones in the implementation of the laws and regulations on Temporary Humanitarian Protection that would need to be clarified.<sup>1067</sup>



In the Netherlands, the final regulation implemented a children's pardon (*kinderpardon*) that allowed a certain group of rejected minor applicants and their family members to request a residence permit before 25 February 2019.<sup>1068</sup> The IND re-assessed approximately 30 files in 2022, following a confirmation from the Minister for Migration that in some cases a permit can be granted, even though an asylum application was not submitted on behalf of the children.<sup>1069</sup> The Dutch Council of State provided [guidance](#) on the assessment of these requests in two [cases](#), noting that the authorities can assess the behaviour of the family member when deciding on the application. However, when this element is held against the child, courts have a wider scope for reviewing the cases on appeal.

In June 2022, the Council of State in the Netherlands [ruled](#) that there are three possible situations for unaccompanied minors who do not qualify for an asylum permit:

- i) There is adequate reception in the country of return and a return decision is issued;
- ii) There is no adequate reception and the unaccompanied minor must be granted a residence permit on national grounds; or
- iii) Further research is needed. In this situation, the unaccompanied minor retains lawful residence on the basis of Article 8, preamble and under f, Aliens Act. The investigation can lead to two conclusions: either there is adequate reception so that a return decision can be issued, or there is no adequate reception and the unaccompanied minor receives a residence permit on national grounds. The unaccompanied minor can appeal the decision stating that further research is needed. The Council of State further rules that the fact that the applicant is no longer a minor does not mean that the Secretary of State can refrain from investigating whether they should have been granted a permit based on national grounds.

The Finnish Supreme Court analysed whether a rejected applicant for international protection, who submitted false information during the asylum procedure and founded a family in the meantime, could still be given a residence permit based on family ties. While in one of the [cases](#) the court confirmed that the reasons for rejecting the residence permit application were more weighty than reasons for the protection of family life and the best interests of the child, in the [other](#), it came to the opposite conclusion. In the first case, the court underlined that attempts to evade law had been long-lasting and continuous until requesting the residence permit, while in the second case, the applicant's evasion of the rules focused only on a certain period, dating before 2016.

PICUM published a report on regularisation mechanisms and programmes, citing examples of regularisation processes involving former applicants for international protection.<sup>1070</sup>

#### 4.14.2.2. Review, cessation and revocation of international protection



International protection status ceases in circumstances when the status is no longer necessary or justified. It may also be revoked when the person should have been excluded from international protection earlier, when the status was obtained through misrepresenting or omitting facts, or when the beneficiary is considered to be a danger to the security of the state or the community.



Legislative changes were initiated in Malta, where amendments to the International Protection Act adjusted the criteria for exclusion from subsidiary protection status and the right to appeal in that case.<sup>1071</sup>

NOAS observed delays in status reviews, often because authorities were looking into potential fraud.<sup>1072</sup> Amendments to the Immigration Act would allow authorities to expulse refugees without first making a decision on the cessation of the status, when the person has been convicted and sentenced for a crime that is punishable by 2 or more years of prison.<sup>1073</sup> UNHCR underlined that committing a serious crime is not a reason for cessation under the Geneva Convention, and cessation reasons should be differentiated from the termination of refugee status. The organisation assessed that “(t)he proposed parameters fall short of the required analysis of the degree of seriousness of a crime that would constitute a danger to the security of the country or a danger to the community”.<sup>1074</sup>

Similar amendments were proposed in Denmark. Any foreigner who is sentenced to an unconditional prison sentence would be deported, regardless of the length of stay in the country. UNHCR regretted that the proposal was not sufficiently detailed to assess Denmark’s compliance with international obligations and urged the Danish government to give special consideration to beneficiaries of international protection.<sup>1075</sup>

In Germany, as of January 2023, the Act on the Acceleration of Asylum Court Proceedings and the Asylum Procedure entered into force. The most important changes of the reform include the complete abandoning of the routine revision of the status under the former Section 73(2a) of the Asylum Act. Prior to the reforms, a revision of the status was initiated automatically by BAMF 3 years after the first final decision on the status.<sup>1076</sup>

In Greece, throughout 2022, the Greek Council of Refugees reported a significant increase in the number of cessation decisions for beneficiaries under the “old procedure”. According to this reporting, beneficiaries whose countries of origin were included in the list of safe countries of origin by Joint Ministerial Decisions were served with decisions of a few paragraphs long without an individualised assessment, citing only the Joint Ministerial Decision as a reasoning. Beneficiaries must wait months until their case is given an asylum case number before their appeal can be examined by the Appeals Authority. They then must wait months after their appeal has been heard to be called for an oral hearing by the Appeals Authority. Throughout this time, they are in possession of the certificate of filing an appeal, which does not give them access to the labour market, health care or the social assistance system.<sup>1077</sup>

In Hungary, as of January 2022, the grounds for exclusion from subsidiary protection were complemented by an additional case. Accordingly, a foreigner is not granted subsidiary protection if there are reasonable grounds to believe that, prior to their admission by Hungary, they committed an offence in their country of origin which is punishable in Hungary by a term of imprisonment of up to 3 years or more and there are reasonable grounds for believing that the applicant left their country of origin only in order to avoid the penalty for the offence. This ground serves as a basis for the withdrawal of subsidiary protection status as well.<sup>1078</sup>

The courts continued to interpret practices associated with reviews and withdrawal grounds and procedures. The CJEU [concluded](#) that asylum authorities cannot be required to automatically take into account the non-reasoned opinion of specialist bodies for national security – like the secret service – when deciding on withdrawing international protection. The court underlined that the authorities must have all available information to conduct an



assessment freely, and information may partially be provided by the secret service, but it cannot be binding on the authority.

The Dutch Council of State [referred](#) several questions to the CJEU for a preliminary ruling to provide guidance on the interpretation and assessment of a particularly serious crime when national authorities intend to withdraw the international protection status. The court asked whether the final conviction for a particularly serious crime was enough to demonstrate a threat to society or must the authorities prove that the threat to society continues to exist even after a conviction.

In another instance, the council [referred](#) for re-examination the case of an Afghan national whose refugee status was withdrawn in 2020. Noting that there was a radical change in the circumstances in Afghanistan in 2021, the withdrawal decision needed to be reconsidered in the light of these changes.

The Tribunal of Brescia in Italy [confirmed](#) that the renewal of subsidiary protection status must not be conditional on holding a passport.

The Council of State in Belgium [sent a case back](#) for reconsideration by CALL, as it found that the court did not substantiate properly the reasons which justify the 10-year time limit for withdrawing international protection based on one ground mentioned in the law, while there was no time limit on withdrawing protection on other grounds.

The Irish Supreme Court [confirmed](#) that the revocation of refugee status cannot have a retrospective effect, unless it is specifically stated in national legislation. Thus, the appellant could keep his Irish citizenship acquired at birth, even though his father's refugee status was later revoked.

The French Council of State [reiterated](#) that, when refugee status is withdrawn, a person can only be returned if the authorities undertake an in-depth, individual assessment of the personal situation and the risk of ill treatment in the country of origin. The council noted that refugee status may be withdrawn, but the person is still considered to be a refugee and a removal is possible only after an individual assessment of the personal situation and of the absence of risk in the country of return.

The ECtHR underlined this in two cases related to the return of persons whose application for international protection had been revoked. In [R. v France](#), the court observed that the French Administrative Court pronounced a decision with the reasons for rejecting the applicant's request against a deportation decision only after the deportation had taken place, and thus it could have not remedied the inadequacy of the earlier risk analysis. In [W. v France](#), the court found that the person would face a real risk of inhuman or degrading treatment, as the prefecture disclosed details about his personal situation to the consulate when requesting readmission.

The courts were also called upon to assess the impact of withdrawal procedures in other EU+ countries when deciding on the cases of applicants who had already obtained international protection status in a Member State but then moved onward to ask for international protection again in another. For example, the Dutch Court of The Hague [granted](#) interim measures for a Syrian family and then [decided](#) against their readmission to Bulgaria, where they would risk losing their international protection status. The Bulgarian authorities may revoke an international protection status when the beneficiary does not extend the identity document or residence permit on time.



#### 4.14.2.3. Residence permits and travel documents



Member States must issue a residence permit to beneficiaries of international protection: refugees should receive a permit for at least 3 years which is renewable and beneficiaries of subsidiary protection should receive a permit for at least 1 year which is renewable. Refugees are entitled to travel documents as foreseen in the Geneva Convention, while beneficiaries of subsidiary protection may receive the national passport of their host country, under specific conditions. Obtaining documentation is often an administrative criterion for accessing other permits and rights for beneficiaries of international condition.

With EU+ countries prioritising the issuance of permits to beneficiaries of temporary protection, delays were reported in the issuance of residence permits for beneficiaries of international protection.<sup>1079</sup>

In Belgium, where the country's reception system was under pressure in 2022, it was reported that some applicants received international protection without having access to the reception system, thus being largely homeless. Without an address, it was difficult to obtain a residence permit (A-card) at the local commune when receiving a positive decision. Without this permit, the status holder can encounter difficulties in obtaining financial aid, opening a bank account and renting a place to live.<sup>1080</sup>

In Finland, the delivery of residence permits, aliens' passports and refugee travel documents was temporarily delayed due to a shortage of staff and a backlog in the processing of aliens' passports and refugee travel documents.<sup>1081</sup>

In France, it was reported that beneficiaries of international protection encountered difficulties in obtaining their residence permits due to the implementation of a digital system which presented several shortcomings and issues with accessing prefectures for the issuance of residence permits.<sup>1082</sup> In June 2022, the Council of State ordered the Ministry of the Interior to establish a solution as an alternative to the solely digitalised procedure.<sup>1083</sup>

Refugee Support Aegean continued to observe important delays in the delivery of residence permits for beneficiaries of international protection in Greece,<sup>1084</sup> especially those re-admitted from other EU+ countries.<sup>1085</sup> This document is a pre-requisite to access many other rights and services, including health care and employment.

In January 2022, a new Immigration Service appointment scheduling system, which would streamline and further improve the registration process, was announced in Ireland. The interim ISD Registration Office Burgh Quay created a free phone number to call, so that applicants residing in Dublin could book a first-time registration appointment. As of January 2023, the revised appointment and scheduling system was fully operational, however, applicants continued to experience significant delays in obtaining appointments.<sup>1086</sup>



The Irish government also suspended the Council of Europe's Agreement on the Abolition of Visas for Refugees for 12 months, in an effort to protect the integrity of the Irish asylum and reception systems. The decision came after an increase in the number of applicants who had already been granted international protection in another EU Member State.<sup>1087</sup>

Aditus foundation in Malta carried out research on obstacles to receive relevant documentation for several target groups, including family members of beneficiaries of international protection. The organisation made several recommendations to speed up the delivery of residence cards.<sup>1088</sup> The International Protection Agency added that protection cards for beneficiaries of international protection were delivered promptly, on the same day as the decision.

The Italian Council of State [clarified](#) that beneficiaries of subsidiary protection and humanitarian (special) protection must be granted travel documents from authorities, without having to prove that they cannot obtain a passport from their country of origin. The council noted that frequently the national authority in the country of origin prevents a beneficiary from acquiring a passport. In addition, a circular simplified the procedure for a refugee to marry in Italy: documentation from the country of origin is no longer needed and a sworn statement is sufficient.<sup>1089</sup>

In Germany, higher administrative courts found it unreasonable to expect that a passport be obtained from the embassy of the country of origin, for example, for beneficiaries of subsidiary protection from [Eritrea](#) and [Syria](#) who refused to do their military service.

The EctHR [condemned](#) Lithuania for not issuing a travel document to a former beneficiary of subsidiary protection with long-term residence. The national authorities found that the person did not justify why he had been unable to obtain a valid passport from his country of origin. However, the court concluded that the authorities rejected the request for a travel document on formalistic grounds, without examining the particular circumstances of the person.

For acquiring long-term residence in Sweden, the government appointed an inquiry commission to assess making language knowledge and knowledge of the Swedish society requirements for permanent residence.<sup>1090</sup>

In Denmark, amendments were adopted to the criteria to acquire permanent residence. The person should not be convicted of 'negative social control' (for example, sending a child abroad for religious re-education) and could be barred from being granted a permanent residence permit for a minimum of 6 years depending on the type and length of the sentence. Similar changes were introduced as criteria for family reunification (see *Section 4.14.2.4*).<sup>1091</sup>

The Romanian High Court of Cassation and Justice [reviewed](#) a decision to refuse long-term residence for a beneficiary of international protection based on a classified note from the Romanian Intelligence Service. The court found that the reasoning of the decision was insufficient, as the decision should include all reasons and elements of evidence that form its basis.



#### 4.14.2.4. Family reunification



Amendments were adopted to family reunification rules in Denmark. As a rule, the sponsor living in Denmark or the sponsor's spouse or cohabitant should not be convicted of 'negative social control' (for example, sending a child abroad to conditions that seriously endanger the child's health or development) for a period of 10 years to be able to proceed with family reunification with a child. Similar changes were introduced as a criterion for acquiring a permanent residence permit (see Section 4.14.2.3).<sup>1092</sup>

The Finnish Aliens Act was amended, and as of 1 February 2023, minors who have received international protection became exempted from the requirement of having sufficient financial resources. Family members can now be granted a residence permit, even when the minor sponsor does not fulfil this requirement,<sup>1093</sup> as recommended by UNHCR and civil society organisations in 2021<sup>1094</sup> and the Finnish Human Rights Centre in June 2022.<sup>1095</sup> However, contrary to the recommendations, the requirement remained unchanged for adult beneficiaries of subsidiary protection.<sup>1096</sup>

Due to an increase in the number of family reunification applications, the Finnish Immigration Service announced a backlog in their processing in October 2022. The backlog concerned only a limited number of applications, and 60% of the requests submitted in 2022 received a decision within 3 months.<sup>1097</sup>

The Finnish Supreme Administrative Court [analysed](#) a family reunification request in light of the CJEU judgment in [B.M.M. and others](#) from 2020. The court underlined that, in principle, a final and binding decision should not be overturned as a matter of legal certainty. However, in the particular case, the incorrect application of the law could not be corrected by a new application. Thus, the court annulled the final decision and ordered the authorities to process the case again, listing the sponsor's son as a minor.

The Icelandic government approved a proposal to allow family reunification for young Afghan refugees who received protection shortly after turning 18 years. In principle, only persons under the age of 18 can apply for family reunification with their parents and siblings under 18 years old.<sup>1098</sup>

In Germany, in 2021 and 2022, several federal states (Berlin, Bremen, Hessen, Schleswig-Holstein and Thuringia) decided to put regional family reunification programmes, which were approved by the federal government, in place for family members of Afghan refugees. For Syrian refugees, some regional programmes for family reunification are still in place. These programmes are reserved for first- and second-degree relatives of persons living in Germany with refugee status or another legal residential status. In contrast to the 'normal' family reunification procedure, the family members living in Germany must act as sponsors by declaring that they will cover the cost of living of their relatives (either from their own resources or with the help of external sponsors).<sup>1099</sup>

Italy launched a new digital platform to facilitate the family reunification procedure. It allows, for example, a request to be submitted online.<sup>1100</sup>

In Austria, civil society organisations expressed concern about the time limit to apply for family reunification, given that applications must be submitted personally to an Austrian embassy and waiting times were often lengthy.<sup>1101</sup>



UNHCR in Spain was concerned by the long processing times for family reunification. The organisation observed that the procedure could take more than 18 months, as it involves a complex procedure with several authorities, and guidelines seemed to be lacking on their cooperation. The organisation also noted that beneficiaries usually received very little information on the status of their request.

The Belgian government announced its intention to create a separate right of residence through family reunification of parents of children who are recognised beneficiaries of international protection, but who themselves do not qualify for international protection.<sup>1102</sup>

The Dutch IND announced several measures in April 2022 to shorten the waiting time for family reunification and close the backlog. Other measures aimed to speed up the process once family members were in the Netherlands, for example, by creating a separate location and strand for the registration of their application (see [Section 4.1](#)).<sup>1103</sup> However, a new [judgment](#) from the Council of State advised the IND to always weigh the different interests before taking a decision in a family reunification case. For example, it was no longer sufficient to conclude a lack of emotional ties without weighing further elements. The additional steps would likely extend processing times rather than reducing them.

Likewise, the Council of State [delivered](#) a judgment on the right to be heard in family reunification cases. Dutch law allows to waive the obligation to hear an applicant in family reunification cases when the person's objection against a planned decision is considered to be manifestly unfounded. In the specific case, the council concluded that the applicants submitted additional evidence and substantiated special individual circumstances that should have led to a hearing.

A study published in June 2022 found that Dutch family reunification legislation was perceived to be more lenient than in other EU+ countries. This led to many unaccompanied children applying for asylum in the country with the objective to be reunited with their families afterwards.<sup>1104</sup>

In August 2022, the new policies to accelerate procedures in the Netherlands were halted due to a lack of places in reception. The temporary measures aimed to restrict family reunification until 31 December 2023. A visa was only issued to a family member when the assigned municipality notified that suitable accommodation had been found for the recognised beneficiary and the family members planning to join. The procedure was foreseen to take a maximum of 15 months: 9 months to check the family reunification application and 6 months to issue the visa. If no accommodation was found within the 15-month period, the family members would be issued a visa immediately. The government has proposed an amendment to relevant legislation to increase the formal decision time limit for family reunification cases from 6 to 9 months, the maximum allowed by the Family Reunification Directive.<sup>1105</sup>

Following the entry into force of the temporary measures, several courts have granted interim protection against decisions to refuse a family reunification visa due to a lack of reception places. The Council of State pronounced a ruling on this matter related to three cases in February 2023.<sup>1106</sup> In all three cases, the council ruled that the measure was against national and EU laws.<sup>1107</sup> Following the rulings, the measure was immediately abolished.



The ECtHR **considered** the suspension of family reunification introduced by the Temporary Law in Sweden, in contrast to its judgment in *M.A. v Denmark*, where it assessed the 3-year waiting period for family reunification. The court concluded that Swedish legislation was not in breach of the ECHR, Article 8, as the suspension had been applicable in this particular case for less than 2 years, the difference in treatment between refugees and beneficiaries of subsidiary protection was objectively justified, and the effect of the differential treatment was not disproportionate. The court also underlined that “the best interests of a child, of whatever age, could not constitute a ‘trump card’ that required the admission of all children who would be better off living in a Contracting State”.

During the course of the year, the CJEU addressed several questions on determining minority for the purposes of family reunification. The court **underlined** that the main objective of the Family Reunification Directive was to favour reuniting families and the directive must be applied toward the best interests of a child (see *Section 2.6*). Hence, it was contrary to EU law that German authorities took into account the date of the decision on the entry and residence visa as determining the minority or majority of the applicant or the sponsor. In another ruling delivered on the same day, the CJEU **concluded** that the date of the sponsor’s application for international protection needs to be taken into account to determine the minority of the sponsor’s child.

The court gave guidance on assessing the existence of a real family relationship in these particular cases. The German civil society organisation, PRO ASYL, welcomed the ruling to strengthen family reunification rights across the EU.<sup>1108</sup> The SMA in Sweden updated its legal guidance following the decision.<sup>1109</sup> Still, the Belgian Council of State referred again questions for a preliminary ruling and **asked** which moment should be decisive when determining the minority of the person to be reunited with the sponsor: the moment when the sponsor submitted the application for international protection or when the protection is granted.

In addition, the CJEU **ruled** on the family reunification of unaccompanied minors and concluded that the child does not have to be unmarried to benefit from the right to family reunification with the parents.

In light of recent CJEU case law, the Administrative Court in Luxembourg **found** in one case that a refugee child could not be considered to be unaccompanied for the purpose of family reunification after her adult brother was appointed as her guardian. However, the authorities should have taken other circumstances into account when deciding on her request to reunite with her parents, such as the child’s young age and her psychological distress since her separation from the parents. The Human Rights Committee recommended to the Luxembourgish government to cease imposing strict deadlines for family reunification under more favourable conditions for beneficiaries of international protection.<sup>1110</sup>

The Finnish Supreme Administrative Court considered the validity of proxy marriages for family reunification procedures. In one case, the court **noted** that the request cannot be refused only because the marriage certificate was not legalised or because it was not entered in the Finnish population registry. The court underlined that the authorities need to assess the reason for the proxy marriage, which was legal in the spouse’s country of origin. In addition, the authorities should assess the duration and stability of family life and the intention to start family life as a married couple





In another case, the court **observed** that the reasons invoked to marry by video link did not seem convincing. However, the facts indicated the couple's intention to establish a family life, and thus, the marriage was considered as valid.

In Cyprus, IPAC issued a positive decision (*YT v RoC* via CRMD, ΔΔΠ 500/2019, decision date 10 November 2022) in a case of a recognised refugee who had applied for family reunification with the spouse and 4 underage children. As the applicant had applied 3 months after the status was granted, the application was subject to material conditions. The application had been rejected by the Civil Registry and Migration Department (CRMD) on the basis of financial criteria. Although the applicant was employed, it was deemed that the income was insufficient to support the family. IPAC annulled the decision on the basis of insufficient research of the material facts by the CRMD and provided clear guidance on the examination of family reunification applications of refugees, emphasising the need for the CRMD to take into consideration the special circumstances of refugees and the best interests of the child.<sup>111</sup>

The Tribunal of Brussels **submitted** an urgent request to the CJEU for a preliminary ruling on the legality of family members of a beneficiary of international protection having to submit their request for family reunification at a Belgian diplomatic or consular office. In parallel, the Flemish Refugee Action made recommendations on facilitating the family reunification procedure for beneficiaries of international protection. It demanded that the government change the legislation and allow family members to apply digitally, without the need to travel to the nearest consular post or embassy.<sup>112</sup>

Assessing the requirement for documentary evidence in family reunification procedures, the Belgian CALL **overruled** the decision of the Immigration Office to reject a request by an Afghan beneficiary of subsidiary protection because he was unable to present a marriage certificate or the results of a DNA test proving family ties. The applicant's wife was requested to provide a criminal record, as a precondition for the DNA test. CALL concluded that it was unfair to make the DNA test preconditional on submitting a criminal record, taking into account the overall situation in Afghanistan. Based on the Family Reunification Directive, Article 11(2), the office should have taken into account other pieces of evidence and circumstances to assess the existence of a family relationship.

In contrast, the Finnish Supreme Administrative Court **confirmed** the rejection of a family reunification request because a valid travel document from the country of origin was not submitted. One of the parents wanted to be reunited with the spouse (sponsor) who had obtained a residence permit on individual humanitarian grounds and with the child who had refugee status in Finland. However, the parent's application for international protection was rejected and the authorities found no reasons for which he could not contact his home country's authorities. The court underlined that residence permits for family reunification can only be issued in exceptional cases when the travel document is lacking and no special circumstances affected the child's best interests to justify an exemption.

In another case, the Finnish Supreme Administrative Court **sent back** a case for re-examination, as it found that the child's best interests were not sufficiently analysed when the authorities rejected one of the parent's request for family reunification based on the suspicion that his request intended to circumvent general migration regulations.

The Dutch Council of State **reiterated** that the authorities should assess information in a holistic way and consider whether the benefit of doubt can be given to the applicant following this examination. In family reunification cases involving nationals of Eritrea, the authorities



must take into account the limited availability of documents and not hold it against the applicant that the birth certificate is missing.

In the case of a request to reunite an Afghan mother with her child and husband who already received protection in Belgium, CALL [annulled](#) the rejection as the administrative documents did not show evidence of the authority's examination of the best interests of the child or the child's serious illness.

In June 2022, the Civil Court of Rome accepted an appeal presented by a Somali beneficiary of international protection against the refusal of a family visa for his wife based on the absence of sufficient documentation certifying the marriage bond. The applicant was not present at the time of the registration of the marriage and his signature had been affixed by a third person. The court highlighted the limits faced by a holder of international protection in producing the required documentation and insisted on the need to highlight further elements for the purpose of verifying the genuineness of the link.<sup>1113</sup>

In Germany, in December 2022, the Federal Administrative Court ruled that a distinction between refugees and beneficiaries of subsidiary protection for the right to family reunification does not violate the Constitution.<sup>1114</sup> Another discussion in 2022 concerned the additional criteria for family reunification when minor children were the sponsors and wish to reunite with their parents. Parents of unaccompanied minors may only be granted a visa if the family already existed in the country of origin. In a particular case of interest, the child was born in Germany, so it was argued that the 'family' did not exist yet at the time the parents were in the country of origin. However, in June 2022, the Higher Administrative Court decided that the criterion of the 'already-existing family' does not necessarily require identical persons but that the family already exists as a family.<sup>1115</sup>

In Sweden, the Migration Court of Appeal [found](#) that, when determining the age of the sponsor for family reunification, the relevant time should be the time of the application for family reunification. If the person is under 18 years when the application for family reunification is lodged, there should be no condition that the application must be lodged within 3 months from the decision of the residence permit.

In addition to this precedent ruling, the Swedish SMA issued a legal position in 2022 on the relevant time to determine the age of an applicant or a sponsor. According to the legal position, for a child who applies to reunite with a parent in Sweden, the relevant time is the time of application for family reunification or, when the application for family reunification is made within 3 months from when the parent was granted a residence permit and protection status, the relevant time is when the parent applied for asylum. For a parent who applies to reunite with a child in Sweden, the relevant time for determining the age of the child is the time of the application for family reunification or, when the child was under 18 years when applying for asylum but has turned 18 years at the time of application for family reunification, that child is still considered as a child if the application for family reunification was lodged within 3 months from the date the child was granted a residence permit.<sup>1116</sup>

In February 2023, ECRE published a comparative report providing an overview of current state legislation and practices in family reunification for beneficiaries of international protection in 23 European countries based on ECRE's Asylum Information Database (AIDA). The report focuses on both good practices and trends at the national level which may compromise the effectiveness of the right to family reunification for beneficiaries of international protection.<sup>1117</sup>



## 4.14.3. Developing policies: Integration plans and their evaluation

### 4.14.3.1. Developing and updating integration strategies



The arrival of persons in need of temporary protection prompted many countries to quickly establish dedicated integration programmes and make additional funding available. This was seen in particular in Member States near Ukraine, such as Czechia,<sup>1118</sup> Poland,<sup>1119</sup> Slovakia<sup>1120</sup> and Romania.<sup>1121</sup>

A dedicated, new strategy for the integration of applicants and beneficiaries of international protection was published for consultation in Greece in January 2022.<sup>1122</sup> Several organisations provided their comments, including recommendations to speed up the delivery of necessary documentation (see *Section 4.14.2.3*) and facilitating children's access to education (see *Section 4.14.4.2*).<sup>1123</sup>

A new ministerial instruction defined the priorities of the integration policy for 2022 in France. The instruction re-confirmed that integration through employment was a priority.<sup>1124</sup> To this end, the *Accompagnement global et individualisé des réfugiés* (AGIR) programme was launched, proposing an individualised and comprehensive maximum 24-month integration pathway to all beneficiaries of international protection. Focusing on access to long-term housing, training and employment, the government deemed that this a significant enhancement of the public efforts in supporting refugees with their professional integration. The programme was rolled out in 26 departments in 2022, while 26 departments are planned to follow in 2023, with the complete implementation throughout France planned for 2024.<sup>1125</sup>

The Icelandic parliament adopted a resolution for the implementation of an action plan for immigration issues for 2022-2025. One of the main objectives of the plan is to implement a long-term integration strategy.<sup>1126</sup> Based on the resolution, a steering group was established to formulate a comprehensive integration strategy, with a focus on labour market integration.<sup>1127</sup>

The European Commission launched a joint project with the IOM to support the Portuguese High Commission for Migration in improving its capacity to address the evolving integration needs of migrants and beneficiaries of international protection. The project focuses especially on ensuring access to housing, education, employment, health services and related legal counselling.<sup>1128</sup>

The Swedish SMA proposed that the government covers 8,200 beneficiaries of international protection in its new instruction for municipalities for 2023, including 5,000 resettled refugees (see *Section 4.15*). This represents the number of persons who are distributed across the country's municipalities for whom municipal authorities must arrange housing.<sup>1129</sup> In addition, since 1 July 2022, municipalities were assigned the task to arrange for the accommodation of 23,500 persons with temporary protection. In total, 16,400 were accommodated in 2022, and 7,100 was foreseen for 2023. Municipalities receive SEK 10,000 per person.<sup>1130</sup>

A new financing system in the asylum sector entered into force in Switzerland in January 2023, intended to coordinate the tasks of care, social assistance and integration support for refugees, provisionally admitted persons and persons in need of protection. The cantons receive a lump sum of approximately EUR 18,000/year for each person in these three categories aged 18 to 25 years if they are in vocational training or gainful employment. This



provides additional incentives for vocational training for youth and young adults. A correction factor for low incomes was introduced for the 25-60-year age group in order to avoid undesirable disincentives to vocational training or part-time employment. SEM underlined that the new financing system is implemented in a cost-neutral manner. It intends to achieve the rapid and sustainable integration of these persons and to reduce their dependency on social assistance.<sup>1131</sup>

The European Commission against Racism and Intolerance (ECRI) noted that national integration programmes for beneficiaries of international protection were discontinued in Bulgaria, and initiatives at the local level did not adequately fill the gap.<sup>1132</sup> Thus, civil society organisations, Multi Kulti Collective and the Bulgarian Council on Refugees and Migrants, together with UNHCR, drafted a Manifesto on Refugee Integration, proposing that the National Programme for Refugees' Integration is restored, a new institutional structure for integration is set up with an increased role for the State Agency for Refugees and a comprehensive integration process is developed.<sup>1133</sup> The document was developed as part of the National Integration Evaluation Mechanism (NIEM) project, co-funded by AMIF, and it builds on the results of the comprehensive monitoring report.<sup>1134</sup>

Researchers analysed Poland's rapid transition from transit to host country for beneficiaries of international protection and summarised the opportunities and limitations in the integration process.<sup>1135</sup>

#### 4.14.3.2. Revising legislation on integration



The revision of integration acts continued in Finland and the Netherlands, with a greater focus on language requirements and the involvement of municipalities. In Slovakia, the scope of persons who can benefit from integration support and the offer of services were both increased. In Belgium, a Flemish decree stipulated that as of January 2022 applicants for international protection would not be able to follow the trajectory until they were officially granted a protection status. With this decree, a third pillar (employment services) was added to the first (social orientation) and second (Dutch language courses), while another, fourth pillar focused on the participation in a network trajectory of 40 hours. This pillar aims to extend a newcomer's social network to increase their chances of integrating into the local society.<sup>1136</sup>

The Finnish government put a legislative proposal to consultation on the comprehensive reform of integration. The new system would increase the responsibility of municipalities in the integration process, and services supporting integration would be organised in the framework of a new municipal integration programme. Municipalities would assess the skills of migrants and agree on a personal integration plan which includes services and goals.<sup>1137</sup> The programme would include an exam in the Finnish or Swedish language.

A corresponding legislative proposal was made to amend three different acts, transferring the responsibility of health care and social services from municipalities to 'wellbeing services counties'. The proposal clarified their roles and responsibilities in the integration process.<sup>1138</sup> When integration customers are clients of employment services and welfare areas, the Integration Act has taken into account the transfer of social and health services from municipalities to welfare areas from the beginning of 2023 and the transfer of employment services from the state to municipalities from the beginning of 2025.



Amendments to the Slovak Asylum Act entered into force in June 2022, regulating the initial integration of beneficiaries of international protection. The law extends the provision of a one-time financial contribution to foreigners who have been granted subsidiary protection and introduces an integration allowance to all beneficiaries of international protection. Social and psychological counselling and a cultural orientation course are provided as part of the initial integration process, and integration centres are able to provide accommodation not only for refugees but also for foreigners who have been granted subsidiary protection.<sup>1139</sup>

The new Civic Integration Law entered into force on 1 January 2022 in the Netherlands, where newcomers under an integration obligation are guided through the process by municipalities.<sup>1140</sup> The Education Agency started to impose the integration obligation from the beginning of the year but had to temporarily halt the process until March 2022, as for some persons the old legislation from 2013 should have applied.<sup>1141</sup> The process resumed in March 2022 without further complications. Evaluating the first year of the law's implementation, the Minister for Social Affairs and Employment noted the lack of qualified Dutch language teachers, which could hinder the integration process.<sup>1142</sup>

#### 4.14.3.3. Fostering cooperation among stakeholders



The trend continued in 2022 to involve various stakeholders and improve collaboration on the integration of beneficiaries of international protection. The urgent, large-scale need to provide integration support for persons in need of temporary protection further catalysed this process. Countries had the potential to pilot some new, innovative ways of working together in the integration of persons in need of protection.<sup>1143</sup> Efforts to implement the rights enlisted in the Temporary Protection Directive seemed to have fostered a new degree of cooperation among stakeholders.<sup>1144</sup>

The Urban Agenda for the EU Partnership on Inclusion of Migrants and Refugees followed up on its new action plan for 2021-2022 and delivered recommendations for all seven action areas related to access to health care, treatment of mental health concerns, the role of art and culture in integration, specific concerns of LGBTIQ migrants, evidence-based policymaking in cities, financial instruments to be used for integration by cities and children in migration.<sup>1145</sup>

A policy brief in the framework of the REGIN project observed that migrant and refugee integration policies at the regional level were the most favourable in the areas of health and education, while the least favourable policies concerned employment, housing and vocational training. The brief also noted gaps in the participation of external stakeholders in regional governance mechanisms for integration. The authors argued that the EU Action Plan on Integration and Inclusion 2021-2027 was a significant opportunity to address policy gaps at the regional level and made recommendations for regions, Member States and the European Commission to use this potential for improvement.<sup>1146</sup> In the MIPEX-R analysis, the authors' key finding was the lack of data on integration outcomes, especially for beneficiaries of international protection.<sup>1147</sup>

Following the partnership signed by the European Commission and the Committee of the Regions, a declaration was signed on the integration of migrants by the Italian Ministry of Labour and Social Affairs, the Conference of Regions and Autonomous Provinces, and the National Association of Italian municipalities. The group pledged to improve coordination, ensure consistent funding and work toward the same objectives. In addition, UNHCR launched a Charter for the Integration of Refugees with six Italian cities.<sup>1148</sup> The municipalities committed



to developing multifunctional integration centres, where beneficiaries of international protection can find all the applicable information and services for their integration process.<sup>1149</sup>

In 2022, 235 partnerships were concluded between the French Ministry of the Interior and the local authorities, amounting to EUR 10.5 million. Based on these partnerships, the local authorities could develop measures to respond to the needs of the beneficiaries of international protection to facilitate their integration, such as childcare, professional or driving licence training, and cultural and sport activities with local communities.

A knowledge platform was developed in Czechia as part of the “Cities and Inclusive Strategies” project, which is led by civil society organisations. The system stores all integration projects in the country between 2004-2020 that received public or private funding.<sup>1150</sup>

The Cypriot Ministry of the Interior launched a call for civil society organisations to participate in the Advisory Committee for the Integration of Migrants. The committee is foreseen to include a maximum of three NGO members for a 2-year term.<sup>1151</sup>

The Cities Network for Integration continued its activities in Greece and launched a new website,<sup>1152</sup> showcasing for example the outcomes of the network’s first research project (see *Section 4.14.4.3*).<sup>1153</sup>

The Ministry of Social Affairs and Labour in Iceland allocated funds to several municipalities for the harmonised integration of beneficiaries of international protection. The projects covered diverse areas depending on the priorities of the municipality and included, for example, a course in parentings skills to help beneficiaries to support their children with trauma, training in online banking and training for primary school staff to strengthen their skills in supporting beneficiary children.<sup>1154</sup>

The Communities Integration Fund has been in place in Ireland since 2017, and in 2022, 124 community projects were chosen to receive EUR 566,500 to support the integration of beneficiaries of international protection and migrants in general. Projects received priority when involving women, children and youth, labour market integration and community volunteering.<sup>1155</sup>

While the number of applicants for international protection was very low in Denmark (see *Section 4.1.3*) and hundreds of municipal staff working on integration were made redundant in recent years, municipalities signalled that it became challenging to ensure integration support for Ukrainians in need of protection.<sup>1156</sup>

Coordinated by one of the Finnish Centres for Economic Development, Transport and Environment (ELY Centres), a new AMIF-funded campaign was launched to promote the participation of beneficiaries of international protection in the development of integration services and improve the knowledge of municipality and employment services staff about integration issues.<sup>1157</sup>

Civil society organisations from Cyprus, Greece, Italy, Malta, the Netherlands and ECRE drafted a training kit – with the involvement of several other stakeholders, including representatives from national administrations – to empower refugee-led community organisations to become active advocacy partners at the national and European levels.<sup>1158</sup>





A report from the Migration Institute of Finland and the Innonlink Group found that municipal integration programmes increased cooperation between municipalities, different sectors and different authorities. However, programmes should be more target-oriented, instead of simply promoting integration, and municipalities do not always have the competence or resources to implement such demanding programmes. More support and more detailed instructions were needed. The results of the report fed into the integration reform process that was launched in 2022 (see Section 4.14.3.2). The Ministry of Economic Affairs and Employment already granted EUR 3 million to municipalities for projects to develop guidance and counselling services for migrants regionally or in cooperation with several municipalities.<sup>1159</sup>

#### 4.14.3.4. Evaluating integration plans and support



To support evidence-based policymaking, various stakeholders, including national authorities, academia, think tanks and civil society organisations, continued to evaluate components of integration programmes throughout 2022. Lessons learnt through efforts to integrate beneficiaries of temporary protection will provide further insights on the impact of different approaches in the future.

Finalising the 6-year transnational project to establish a mechanism for a biennial, comprehensive evaluation of the integration of beneficiaries of international protection, the National Integration Evaluation Mechanism project delivered the second set of national evaluation reports for Bulgaria,<sup>1160</sup> Czechia,<sup>1161</sup> France,<sup>1162</sup> Greece,<sup>1163</sup> Hungary,<sup>1164</sup> Italy,<sup>1165</sup> Latvia,<sup>1166</sup> Lithuania,<sup>1167</sup> the Netherlands,<sup>1168</sup> Poland,<sup>1169</sup> Slovenia,<sup>1170</sup> Spain<sup>1171</sup> and Sweden.<sup>1172</sup> The summary presents the achievements and recommendations of the project.<sup>1173</sup> Thematic outputs in 2022 addressed the participation of beneficiaries of international protection in the public sphere,<sup>1174</sup> the impact of underdeveloped integration policies for beneficiaries of international protection, the challenge to integrate persons in need of temporary protection,<sup>1175</sup> the response of Latvia and Lithuania on the influx of irregular migrants from Belarus,<sup>1176</sup> a refugees' perspectives on integration policies in Czechia,<sup>1177</sup> and data gaps in refugee integration in Europe.<sup>1178</sup>

In Croatia, the Office for Human Rights and Rights of National Minorities published a report on the social inclusion of persons granted international protection, evaluating integration policies using different indicators.<sup>1179</sup>

The German BAMF published an analysis of the internal mobility of persons with a protection status who have entered the country between 2015 and 2019. Married, displaced women between 30 and 49 years were particularly immobile and not likely to move from one place to another. Persons over 49 years (for both sexes) were also considered to be very immobile. Urban areas remained the most attractive for beneficiaries of international protection, even though these areas had a relatively high level of unemployment.<sup>1180</sup>

The French Scientific Committee for the Evaluation of the Plan for Investing in Skills evaluated the inclusion of labour market integration measures in local policies for the integration of beneficiaries of international protection. The assessment involved eight departments on policies which were implemented during 2018-2021. The report found that coordination was progressing among the various measures but some fragmentation remained. Labour market measures seemed to be particularly impacted by the lack of accommodation, thus the committee suggested to involve stakeholders implementing social housing measures.<sup>1181</sup>





The Swedish Institute for Evaluation of Labour Market and Education Policy researched the impact of the length of the asylum procedure on integration and found that beneficiaries who had to wait longer for their final decision had lower earnings.<sup>1182</sup>

The Council of Europe published a report assessing integration policies in Cyprus, looking also into the specific challenges of beneficiaries of international protection.<sup>1183</sup>

Researcher in Greece evaluated refugee integration measures which were adopted after an assessment of court decisions and integration indicators in the field of housing, health care, social services, education and employment. The authors acknowledged the challenge to integrate continuous flows of refugees from different countries and cultures, and argued that more human and financial resources were necessary to be able to establish accessible, good quality services for integration.<sup>1184</sup>

The Rockwool Foundation and University College London analysed Danish integration policies over 40 years and found that reduced social benefits and early job training improved the employment rate of beneficiaries of international protection in the short run. But early job training may not have long-term consequences, as the participants will be less likely to learn the necessary language skills to find higher-paying jobs. In contrast, targeted placement and language courses had a positive long-term effect on the salaries and employment opportunities of beneficiaries. Restricting criteria of permanent residence may hinder the integration of less-resourceful groups, which may be discouraged by the strict criteria.<sup>1185</sup>

The Danish Institute of Human Rights focused on the impact of changes in the rules for a beneficiary to obtain a residence permit and noted several legal uncertainties in the process of withdrawing international protection.<sup>1186</sup> Civil society organisations published a joint position paper arguing to re-introduce more stable permits and to count periods of education as work experience for the purpose of the permit.<sup>1187</sup>

Aditus foundation and the Jesuit Refugee Service Malta investigated the socio-economic integration of beneficiaries of international protection and concluded that they had little chance to emerge from poverty and social exclusion. The report notes that the lack of language and vocational training during the reception phase were missed opportunities that could support prospective beneficiaries towards self-sufficiency. The organisations urged policymakers to revise legislation and allow beneficiaries of international protection to vote in national elections and hold public positions.

In addition, the organisations requested the government to tackle racism in a firm manner.<sup>1188</sup> Indeed, aditus foundation issued a press statement expressing its concerns over violence against and exploitation of migrants, including beneficiaries of international protection.<sup>1189</sup> Following reports of police violence against black people,<sup>1190</sup> the Malta Refugee Council welcomed the swift action and the zero tolerance approach of the Malta Police Force to investigate the serious allegations.<sup>1191</sup>

The Bulgarian Red Cross commissioned a study on public attitudes towards refugees, which showed a positive change in the attitudes of citizens, with 62% having a positive or rather positive opinion. In 2022, 49% indicated they felt empathy towards refugees, a number which was only 3% in 2017.<sup>1192</sup>

Lithuanian NGOs came to similar conclusions and observed that hostility towards refugees decreased in 2022 and the share of residents supporting integration measures also increased. However, the survey in Lithuania also found that the majority of people still



considered the impact of beneficiaries of international protection as a negative one on the host society.<sup>1193</sup>

A publication from the think tank ODI examined public attitudes towards refugees in Poland and noted a dichotomy in perceptions between ‘not real’ and ‘genuine’ refugees, depending on the country of origin. While those arriving from Ukraine were seen as in need of support, the report warns that the positive narrative might change in the long term with concerns about rising living costs.<sup>1194</sup> Researchers presented selected integration practices at the local level in Warsaw, which could inspire policies in other cities which are less experienced with migrant and refugee integration.<sup>1195</sup> Another paper focused on the integration experiences of Ukrainian refugees in Krakow.<sup>1196</sup>

In Croatia, the Office for Human Rights and Rights of National Minorities, as part of the Intersectoral Cooperation in the Empowerment of the Third-Country Nationals (INCLuDE) project, analysed media coverage in 2018 and 2019 of migrants in the country, especially beneficiaries of international protection and resettled refugees. The analysis will help to formulate guidelines and recommendations for media reporting.<sup>1197</sup>

## 4.14.4. Support for integration

### 4.14.4.1. Social orientation and daily administration



The Global Refugee-Led Network, the European Coalition of Migrants and Refugees, and New Women Connectors published a briefing paper with recommendations on operationalising the concept of ‘meaningful refugee participation’ in decision-making processes that impact refugees’ lives.<sup>1198</sup>

In 2022, the majority of initiatives were targeted towards beneficiaries of temporary protection to support them in adjusting quickly to the daily life in their host country.<sup>1199</sup>

Among legislative changes on establishing rules for orientation courses for beneficiaries of international protection, new rules entered into force in Austria on 1 January 2022, and the obligatory orientation course was extended from 8 to 24 hours (from 1 to 3 days) to include modules on gender equality, antisemitism and the importance of voluntary work.<sup>1200</sup>

In Belgium, integration programmes for newcomers became mandatory in Brussels as of April 2022, including for beneficiaries of international protection.<sup>1201</sup> These programmes were already mandatory in Flanders and Wallonia. Plans were delayed to include a list of Flemish cultural, historical and scientific reference points in the integration of programme of Flanders. The independent expert committee was to finalise the list by October 2022, but the deadline was postponed to spring 2023 due to the COVID-19 pandemic.<sup>1202</sup>

In Latvia, the Society Integration Fund took over the information centre for newcomers,<sup>1203</sup> and it launched a one-stop shop to provide information, support and services to beneficiaries of international protection and third-country nationals.<sup>1204</sup>



A new AMIF-funded pilot project in Greece offers intercultural tours of Athens for beneficiaries of international protection to better understand Greek culture and history.<sup>1205</sup>

In France, the Ministry of the Interior signed a partnership agreement with the centre of national monuments that allows the beneficiaries of international protection who signed the *contrat d'intégration républicaine* (CIR, republican integration contract) to visit monuments in the country for free.

In Poland, integration centres for foreigners were opened in two provinces in March 2022 as part of the project implemented by the Ministry of Family and Social Policy and co-financed by the AMIF fund, “Building structures for the integration of foreigners in Poland – Stage II – Piloting Foreigner Integration Centres”. In the Opolskie Voivodeship, the centre is operated by the Voivodeship Labour Office, and in the Wielkopolskie Voivodeship, by the Regional Centre for Social Policy. In Wielkopolska, five centres were established, each in a different city. The aim of the pilot is to shape and improve the way Foreigner Integration Centres should work. Third-country nationals can benefit from services offered at the integration centres, for example Polish language courses, adaptation courses, and legal and psychological support. National authorities have highlighted that the one-stop shop approach offers comprehensive services and helps to expand services with additional modules. The pilot project runs until the end of September 2023.

Many initiatives focused on offering social orientation more rapidly to persons with temporary protection,<sup>1206</sup> building on experiences with social orientation for beneficiaries of international protection. For example, in Sweden, special digital social introduction programmes were launched for beneficiaries of temporary protection.<sup>1207</sup> The programme has been in place for beneficiaries of international protection since 2021, but it is delivered through in-person information sessions.

Beneficiaries of international protection may be faced with several administrative challenges when re-establishing themselves in a new country. For example, in Bulgaria, a beneficiary of subsidiary protection tried to open a bank account, but the bank did not provide a reply on his request. The Supreme Administrative Court [confirmed](#) the lower court’s assessment that the bank had a legal obligation to provide a written reasoned decision when refusing to open a bank account. The law provides an exhaustive list of refusal grounds in this case, and the refusal can only be based on one of these grounds.

#### 4.14.4.2. Children’s education



In 2022, national authorities and civil society organisations focused on facilitating access to education for Ukrainian children, which entailed several legislative changes, the creation of new information material and the provision of special guidance and support to schools and educators.<sup>1208</sup> The European Trade Union Committee for Education (ETUCE) reported on European and national initiatives to support Ukrainian children’s access to education.<sup>1209</sup>

For child beneficiaries of international protection, a new guide for the integration of refugee children was disseminated to schools in Portugal, including practical suggestions for raising awareness.<sup>1210</sup>

The Italian Ministry of the Interior made 100 university scholarships available for beneficiaries of international protection for the 2022-2023 school year.<sup>1211</sup>



DFUNK, the youth branch of the Danish Refugee Council and the Danish Youth Council (DUF), developed a flyer for local civil society organisations on providing support for the integration of children and youth beneficiaries of international protection and encouraging enrolment in formal education. The recommendations were formulated to be transferable to other national contexts as well.<sup>1212</sup> In general, the Danish Ministry for Immigration and Integration found that more and more non-Western immigrants (who arrived to Denmark at an early age) and descendants of beneficiaries of international protection and other immigrants complete higher education, and while there still was a gap with native Danes, it has significantly narrowed over the past years.<sup>1213</sup> According to the national integration barometer, education was the area where the greatest improvement was observed over the past 10 years.<sup>1214</sup>

UNHCR Slovenia published support material for primary and secondary school teachers on teaching child beneficiaries of international protection and teaching children in general about refugees.<sup>1215</sup>

The civil society organisation France Terre d'Asile published a special newsletter focusing on access to higher education for beneficiaries of international protection. The publication shows some support measures which are in place and notes administrative and financial challenges in beneficiaries' access to higher education studies. For example, it notes that refugees can be exempted from university fees by the head of the university, but this may not be widely known.<sup>1216</sup>

Several NGOs working in Ireland launched a new online learning platform for beneficiaries of international protection who have restricted access to education, focusing on language learning and IT skills.<sup>1217</sup>

The University of East London released a series of reports related to the digitalisation of support services for refugee children and youth in the aftermath of the COVID-19 pandemic. The reports make recommendations on supporting unaccompanied children in developing digital skills,<sup>1218</sup> designing hybrid forms of support services in a suitable manner<sup>1219</sup> and supporting civil society staff on providing emotional assistance online.<sup>1220</sup>

#### 4.14.4.3. Employment



While the majority of initiatives in 2022 focused on supporting persons with temporary protection to rapidly find employment, initiatives continued to also facilitate the integration of beneficiaries of international protection through employment. Policies were reviewed to enhance their efficiency. The European Commission launched the EU Talent Pool Pilot initiative to help people fleeing the war in Ukraine in finding employment in the EU. The Croatian Ministry of the Interior underlined that people with temporary protection were given free access to the labour market and they are referred to the EU Talent Pool initiative to support them in finding a job.

The Belgian Fedasil's new management plan (see *Section 4.7*) requires the agency to put more emphasis on preparing residents for life after reception, for example, through employment support and the acquisition of skills.<sup>1221</sup>

In France, the agents of the employment service (*"pôle emploi"*) intervene during workshops dedicated to accessing the labour market during the civic training under the republican integration contract. In addition, an "employment space" was created in the single desks for



beneficiaries of international protection to inform them of support services. A translation device was also rolled out for the agencies of the employment service to facilitate access of beneficiaries of international protection to their services. New specific devices and pilots were developed under the supervision of the Ministry of Labour and the Ministry of Education to facilitate the recognition of qualifications and skills.

A new online platform was launched by UNHCR Greece in partnership with the Catholic Relief Services to connect asylum seekers and beneficiaries of international protection with prospective employers. The platform supports the general work of the Adama Integration Centre, run by the Catholic Relief Services, Caritas Hellas in partnership with UNHCR.<sup>1222</sup>

The Cities Network for Integration published its first study identifying obstacles for the employment of beneficiaries of international protection in Greece and suggested solutions for overcoming them.<sup>1223</sup>

In order to familiarise employers with a beneficiary's right to full access to the labour market, the Cyprus Refugee Council, in collaboration with the UNHCR Representation in Cyprus, launched the online digital platform, 'HelpRefugeesWork', which connects employers and training providers with beneficiaries and acts as an advocacy tool. Between 2018 and 2022, more than 900 beneficiaries of international protection registered in the platform, applied for jobs and received employment-related guidance and support. At the same time, more than 50 well-known businesses covering a wide spectrum of employment sectors have posted positions.<sup>1224</sup>

The Danish government and social partners (representatives of employer organisations and trade unions) agreed to continue with the Initial Integration Training scheme, offering paid internships and training for beneficiaries of international protection, which is complementary to other schemes offering work placements, wage subsidies and mentoring. The scheme was launched in 2016 and was originally planned as a 3-year pilot.<sup>1225</sup>

In Italy, the National Association of Employment Agencies and four trade unions signed an agreement to facilitate the labour market integration of beneficiaries of international and national forms of protection.<sup>1226</sup> The association also launched a partnership with UNHCR with the same objective.<sup>1227</sup> As a result of these collaborations, a new online platform was launched in four languages to present the support measures which are available.<sup>1228</sup> In addition, UNICEF published a practical guide in cooperation with the Ministry of Labour and Social Affairs on supporting young beneficiaries of international protection in their transition to the labour market.<sup>1229</sup>

In Malta, the Human Rights Directorate entered into an agreement with the Directorate for Research, Lifelong Learning and Employability to provide literacy courses in Maltese and English from January to June 2022. The completion of these courses was intended to facilitate students' admission into the 'I Belong' Programme, which aims to provide a holistic approach to integration.<sup>1230</sup> In addition, Jobsplus and the Maltese Public Employment Service administer an AMIF-funded project, Employment Support Services for Migrants. The aim of the project is to focus on increasing the employability of migrant job seekers. Jobsplus has set up a specific unit to offer eligible migrants guidance, upskilling and other professional support services. It offers guidance services, job brokerage and training courses, including language training in Maltese and English.<sup>1231</sup>



In the Netherlands, COA and United Work implemented an employment pilot for recognised beneficiaries of international protection in the Eindhoven region. 90 people underwent an assessment, and when their skills matched employment opportunities, they could start working within 1 month, after an initial training. After the trial period, they receive an employment contract which is valid for at least 6 months.<sup>1232</sup>

The Spanish Ministry of Inclusion, Social Security and Migration and Reporters without Borders signed an agreement for the integration of beneficiaries of international protection working in communications and journalism.<sup>1233</sup> In addition, to expedite the process of recognising academic qualifications of beneficiaries, which according to reports used to range from 9 months to 2 years, a new law was passed in October 2022 establishing a deadline of 6 months for relevant authorities to decide on diploma recognition.<sup>1234</sup>

The law firm DLA Piper launched a legal education training programme in 2021 for applicants and beneficiaries of international protection in Ireland, through the Irish Refugee Council. In 2022, the programme was completed with a partnership with Deloitte, providing three 6-month internship opportunities for the programme's participants.<sup>1235</sup> DLA Piper offered similar training in Spain<sup>1236</sup> as part of their global collaboration framework with UNHCR.<sup>1237</sup>

Transparency International Ireland and the Irish Refugee Council launched a joint project encouraging vulnerable workers – especially beneficiaries of international protection – to speak up about unsafe working conditions. Workers are offered guidance and free legal advice on their rights.<sup>1238</sup>

In Switzerland, SEM published the results of the third edition of the pre-apprenticeship integration pilot programme in 2020-2021. 60% of the participants accessed initial vocational training after the programme, despite the challenges encountered during the COVID-19 pandemic. During the fourth edition in 2021-2022, slightly less people applied and 55% of the participants accessed initial vocational training.<sup>1239</sup> The continuation of the programme was approved by the Swiss parliament in 2021, and it will become a permanent programme in 2024.<sup>1240</sup>

The Swedish Public Employment Service published a report showing an important increase in the number of unemployed people who lack upper secondary-level education, with the majority of them being female beneficiaries of international protection. The report argues to establish more efforts to identify and eliminate obstacles for these women to enter the labour market.<sup>1241</sup>

The Nordic Council of Ministers published a comparative analysis of the labour market integration of beneficiaries of international protection between 2008 and 2019 in Denmark, Norway and Sweden. The study found that policies in all three countries were reasonably efficient. All three Scandinavian countries have substantial earnings and employment gaps between refugee men and women, but these gaps narrow somewhat after several years of residence. The analysis noted that Norway and Sweden have similar labour market integration outcomes for beneficiaries, but employment and earning levels were significantly lower in Denmark, both in the short and long term (see *Section 4.14.3.4*).





#### 4.14.4.4. Health



Following a peak in reviewing access to health care in many countries, which was prompted by the COVID-19 pandemic, in 2022 many initiatives focused on facilitating access to health care for persons fleeing the war in Ukraine,<sup>1242</sup> but fewer initiatives were captured specifically for beneficiaries of international protection.

In May 2022, the organisation CEAR and the Fundación Sanitas signed an agreement to provide comprehensive health assistance to refugees in Spain. The project will provide mental health care, dental assistance and support for emotional well-being to more than 75 refugees.<sup>1243</sup>

An AMIF-funded project in Italy aims to develop a training curriculum for cultural mediators in the health sector.<sup>1244</sup>

The Finnish Institute for Health and Welfare produced a multilingual video series on mental health for beneficiaries of international protection. Beneficiaries themselves were included in the development of the material and they also appear in the video (see *Section 4.9*).<sup>1245</sup>

The civil society organisation Are You Syrious drafted a handbook on accessing health care for beneficiaries of international protection in Croatia. The publication explains the legal framework and provides recommendations for practitioners in treating beneficiaries.<sup>1246</sup>

In Greece, a Ministerial Decision that came into effect in March 2022 provided that the prescription of medicine, therapeutic operations and diagnostic examinations for patients without health insurance will be possible only by doctors of public hospitals and primary health care structures, not private doctors. According to the Greek Council of Refugees, this affected the vast majority of beneficiaries of international protection, since most of them do not have health insurance and will therefore no longer be able to visit private doctors.<sup>1247</sup>

'I have rights', an NGO from Greece, applied for interim measures to the ECtHR concerning the cases of two people with Hepatitis B who were denied urgent medical care for months in Samos. The interim measures were granted and the beneficiaries of international protection were transferred to the mainland for their medical treatment.<sup>1248</sup>

Following the lifting of free interpretation in the health care sector in 2018, researchers from the University of Copenhagen interviewed general practitioners on the experiences with consultations with non-Danish speaking foreigners – many of them being beneficiaries of international protection. The study concluded that this policy led to a lack of understanding between doctors and patients, risked inadequate treatment and created an inequality in accessing knowledge.<sup>1249</sup>

#### 4.14.4.5. Welfare



In Germany, the legal framework on social benefits for German nationals and beneficiaries of international protection was revised completely, with the new rules entering into force on 1 January 2023. The amount of financial benefits was raised for several categories of beneficiaries, according to their profile. Additionally, grounds for penalties upon non-compliance with obligations to cooperate were reduced and the amount of financial reserves and extra income next to the unemployment benefits were raised. To soften the continued effects of the





COVID-19 pandemic and inflation, the federal government introduced several additional measures, including monthly support for certain categories of beneficiaries.<sup>1250</sup>

The list of persons eligible for maternity allowance was extended in Italy; however, it still does not include persons with asylum application permits or beneficiaries of international protection.<sup>1251</sup> According to ASGI, this exclusion might amount to illegal discrimination under Italian law.<sup>1252</sup> The Tribunal of Bergamo [referred](#) a question to the CJEU for a preliminary ruling on whether national law could require beneficiaries of subsidiary protection to have a total of 10 years of residence in Italy, with 2 years of continuous residence, immediately before applying for welfare benefits, such as basic income.

As of January 2022, a new Civic Integration Act entered into force in the Netherlands. A part of this new system entails that beneficiaries of international protection will no longer be entitled to social benefits during the first 6 months of their legal stay in a Dutch municipality. Instead, the municipality will pay their costs for housing, energy bills and health care insurance, as far as the social benefits reach. The beneficiaries will receive the rest of the amount as an allowance, in addition to the benefits provided by the Tax Office and the Social Security Bank. The goal of this system is to support refugees from the start so they can focus more on their integration into Dutch society.<sup>1253</sup>

In Cyprus, beneficiaries of international protection have a right to apply for financial aid through the national Guaranteed Minimum Income (GMI) scheme. The Cyprus Refugee Council reported that throughout 2021 and 2022 the examination of GMI applications, including the rental allowance, reached or passed 12 months, even in cases of vulnerable or homeless persons. During the examination period, an emergency allowance is provided which varies from district to district and is considered extremely low, at about EUR 100-150 for one person/month and approximately EUR 150-280 for a family/month.<sup>1254</sup>

DRC Greece noted issues for beneficiaries of international protection in accessing social benefits unless they could prove certain years of legal stay in Greece.<sup>1255</sup>

On several occasions, UNHCR reiterated its concerns from 2019<sup>1256</sup> on the fact that beneficiaries of subsidiary protection were entitled to a significantly lower level of basic care.<sup>1257</sup>

#### 4.14.4.6. Housing



In several countries, for example, in Belgium, Germany, Ireland, Portugal and Spain, a lack of or limited social housing alternatives and a shortage of low-cost housing made it difficult for beneficiaries of protection to find accommodation.<sup>1258, 1259, 1260, 1261</sup>

The general housing crisis in the Netherlands had a significant impact on the outflow of recognised beneficiaries of international protection from the reception system (see *Section 4.7*). Municipalities were given the task in spring 2022 to establish 13,500 accommodation places by the end of the year, but according to later forecasts, they were expected to accommodate more than 20,000 by the end of 2022. For 2023, the target was set between 20,400-23,900 persons. The establishment of a general Housing Construction Programme was announced.<sup>1262</sup> The Hotel and Accommodation Regulation was extended until the end of 2022, offering funds for municipalities which arrange temporary accommodation for beneficiaries in anticipation of their long-term housing.<sup>1263</sup>



The Spanish Ministry of Inclusion, Social Security and Migration, Bank Santander Foundation and Accenture are developing a solidarity platform called "Techo" to help beneficiaries of international protection and temporary protection find accommodation. The project will create an NGO-managed database of apartments which are available for rent.<sup>1264</sup>

Considering the risk of homelessness, the Higher Administrative Court in Baden-Württemberg [annulled](#) the inadmissibility decision for an applicant and his wife, who were recognised as beneficiaries of international protection in Greece. The court observed that they would not be eligible for the HELIOS or ESTIA housing programmes, would not have access to social or private housing, and the mere fact that civil society organisations provide some accommodation does not mean that there would be sufficient housing capacity. The court concluded that even healthy and able-bodied single men would face a real risk of homelessness and a treatment contrary to the EU Charter of Fundamental Rights, Article 4. As this situation could persist for an unforeseen period, the court added that it was not relevant to examine whether the applicant would have access to employment to cover his living needs.

## Section 4.15. Resettlement and humanitarian admissions

Resettlement involves the selection and transfer of refugees from a country in which they have sought protection to a third country which has agreed to admit them as refugees with permanent residence status.<sup>lxii, 1265</sup> In the EU context, resettlement programmes are voluntary and persons in need of protection are identified as eligible by UNHCR.



Resettlement and complementary pathways for admission are an expression of international solidarity, involving several national and international stakeholders. EU resettlement schemes are based on national pledges corresponding to the number of third-country nationals that Member States commit to admit. They aim to manage migration based on predictable timelines and ensure common grounds for eligibility, while carrying out rigorous security checks.

<sup>lxii</sup> Practices at the EU+ level may vary in granting refugee status and permanent residence in resettlement cases.

After scaling back on resettlement activities during the COVID-19 pandemic, countries began to gradually reactive programmes in 2021 and 2022. While new developments were not identified in this field, countries continued efforts to fulfil their commitments. This required adjusting priorities and programmes to the new challenges during the year, such as the continued crisis in Afghanistan and the mass arrival of displaced persons from Ukraine.

The role of civil society organisations, private companies and faith groups was reinforced with new agreements as they play an important role in the reception of resettled refugees and the selection and referral process. To measure their impact, EU+ countries and civil society organisations undertook evaluations and monitored programmes to identify lessons learned and good practices.

### 4.15.1. Pledges for resettlement and humanitarian admissions



EU resettlement schemes are based on national pledges corresponding to the number of third-country nationals that Member States commit to admit yearly. To support resettlement efforts, every year the European Commission launches a pledging exercise through AMIF,<sup>1266</sup> by which countries commit to receive a certain number of refugees as part of resettlement and humanitarian admission programmes. Although not all national commitments are connected to AMIF funding, pledges submitted to the European Commission give an idea of the overall number of refugees to be received in the EU under these programmes in the following year.

#### 4.15.1.1. Annual pledging exercise



In October 2022, the European Commission published its report on migration and asylum with the breakdown of pledges for the period 2021-2022.<sup>1267</sup> In total, 15 countries agreed to resettle almost 30,000 refugees, in addition to about 37,000 Afghans who were at risk during that period. In reality, however, the number of refugees who were successfully resettled into the EU during 2021-2022 was considerably lower.<sup>1268</sup>

At the end of November 2022, following the High-Level Forum on Legal Pathways to Protection and Resettlement Cooperation,<sup>1269</sup> the European Commission published for the first time the breakdown of country pledges for the following year, 2023.<sup>1270</sup> Although the number of participating countries remained similar (16), countries reflected challenges encountered in 2022 in their commitments. Thus, the overall number of refugees that countries committed to receive under these programmes decreased significantly to about 29,000 refugees.

Additional countries – such as Bulgaria, Ireland and Slovakia – made pledges for 2023, but the numbers did not balance the overall drop.



Some countries intended to continue increasing their annual quotas as planned in their national programmes. Belgium, for example, has been gradually increasing its quotas since 2013, with 1,250 refugees pledged in 2022 and a promise to reach 1,400 people in 2023 and 1,500 people in 2024. However, due to the asylum and reception crisis, the 2022 quota was not reached and the targets set for 2023 and 2024 were lowered. In October 2022, Belgium pledged to resettle 500 refugees and to admit 125 people under humanitarian admission programmes.

In Finland, selection missions were resumed in 2022, with an increased budget and quota (about 500 additional refugees), making a total of 1,500 refugees pledged for 2022.<sup>1271</sup> However, commitments for 2023 dropped to 1,075, around 400 fewer people than in 2022, which meant returning to a pledge similar to 2021.

Following a decision of the new Swedish parliament, Sweden reduced its annual refugee quota from 5,000 to 900 refugees for 2023.<sup>1272</sup> France also adjusted its resettlement quota from 5,000 to 3,000 for 2023, due to the arrival of more than 100,000 displaced persons from Ukraine in 2022 and its commitments under the new Voluntary Solidarity Mechanism (3,000 relocations by mid-2023), in a context of substantial increases in asylum applications.

The unprecedented shortage in reception places in the Netherlands also resulted in the government's decision on 26 August 2022 to temporarily pause resettlement selections out of Turkey,<sup>1273</sup> which will have an impact on the Dutch quota for 2023. Under AMIF, the country pledged 750 refugees under resettlement programmes, with no commitments to receive refugees under humanitarian admissions programmes. This represents a quota of about 4,000 less refugees pledged than in the previous period (2021-2022 pledges).<sup>1274</sup>

#### 4.15.1.2. Implementing pledges



Several challenges were encountered by national administrations in implementing their resettlement programmes in 2022, which had an impact on national priorities in this area.

Some challenges were still linked to the COVID-19 pandemic, such as delays in the selection of people previously referred by UNHCR<sup>1275</sup> and difficulties in organising missions in certain geographical areas. Other challenges were directly due to crises in national reception systems<sup>1276</sup> due to the mass arrival of displaced citizens of Ukraine and the admission of hundreds of Afghan citizens at risk.

Some countries continue to face a major challenge with the reception crisis, resulting in a lack of sufficient accommodation places for resettled refugees. After the suspension of the Belgian resettlement programme in 2019 due to the lack of reception capacity, operations restarted in 2021. However, Belgium re-announced a deceleration of the programme in April 2022.<sup>1277</sup> Consequently, Fedasil was exploring alternative reception models to support resettled refugees upon their arrival, including the creation of a specific resettlement reception centre in 2023 that would better withstand fluctuations in the overall reception network (see *Section 4.7*). It also planned to launch an awareness-raising campaign for local authorities and civil society organisations in the first quarter of 2023 to attract more reception partners for resettled refugees.

Similarly, the implementation of Dutch commitments was affected by shortages in housing. In August 2022, the Dutch government announced several measures to alleviate the situation in the national reception system (see *Section 4.7*). In this context, temporary measures were introduced until the end of 2023, aimed at municipalities which are responsible for the provision of housing to beneficiaries of international protection, including resettled refugees.<sup>1278</sup>

The new regulation for the national reception system for applicants and beneficiaries of international protection, including resettled refugees<sup>1279</sup> (see *Section 4.7*), establishes different conditions for the stay of resettled refugees in each reception phase. It becomes 6 months in the first phase (reception phase) and a maximum of 12 months in the second phase (autonomy phase).

Other impediments were related to the fragile security situation in some countries of first asylum, making selection missions and the transfer of selected refugees difficult. This included natural disasters such as the earthquakes in Türkiye and Syria. Other challenges related to the management of expectations of refugees who are to be resettled, when misunderstandings and frustration can arise for them and their families. Extra resources and additional efforts are needed to provide sufficient information in these situations.<sup>1280</sup>

In the face of these challenges, civil society organisations have stressed the need for national administrations to urgently invest and prepare their systems, for instance, with long-term planning of reception capacity and resettlement programming. Their resettlement programmes would then not need to be placed on hold, delayed or suspended. In this context, a joint statement was signed by several NGOs in June 2022, where several recommendations were made for countries to increase their efforts in this area.<sup>1281</sup>

Several studies evaluating resettlement programmes were carried out during 2022. The Irish Ministry for Children, Equality, Disability, Integration and Youth published a report, "Voices of Syrians-Resettled Refugees in Ireland", in August 2022 which presents lessons to improve future integration outcomes of resettled Syrian nationals. Key areas identified in the report include planning, cooperation between stakeholders and housing security.<sup>1282</sup>

Similarly, in the framework of the research project "Reorienting Integration" of the Aarhus University, a report was published in November 2022 with key recommendations for national authorities on the resettlement of Congolese refugees from Rwanda arriving in Denmark.<sup>1283</sup>

New studies were already in the pipeline in some countries to optimise the implementation of national programmes. In Belgium, Fedasil, with the support of the Migration Policy Institute (MPI) Europe, is developing a monitoring and evaluation framework for their programmes, in particular for community sponsorship schemes. The first results are expected by the end of 2023.<sup>1284</sup>

To assess integration capacity and the needs of resettled refugees, the German Research Centre of BAMF will launch a 3-year research project in 2024. The study will cover recommendations for decision-makers and contribute to the development of the programmes.<sup>1285</sup>

## 4.15.2. Complementary pathways for admission



Complementary pathways are safe and regulated avenues that complement resettlement programmes by providing a lawful stay in a third country where international protection needs are met. They are additional to resettlement and do not substitute the protection afforded to refugees under the international protection regime. Programmes are diverse by nature and can benefit refugees in a variety of ways depending on their specific objectives.<sup>1286</sup>

### 4.15.2.1. Humanitarian admission programmes



Humanitarian admission programmes are complementary pathways to international protection through which a country, following a referral from the EUAA, UNHCR or another relevant international body, admits third-country nationals or stateless persons from a third country to which they have been forcibly displaced to the territory of the Member State. They are granted international protection or a humanitarian status under national law, which provides them rights and obligations equivalent to those of beneficiaries of subsidiary protection, which are defined in the recast QD, Articles 20 to 34.<sup>1287</sup> Different practices prevail in the implementation of these programmes at the national level.

During 2022, humanitarian admission programmes mainly focused on the arrival of Afghan nationals at risk. While countries continued activities for the evacuation of Afghans through humanitarian visas or other forms of protection, other countries developed new programmes with the support of civil society organisations.

In Ireland, the deadline for applications for the Afghan Admission Programme was extended to March 2022. It is an immigration programme which offers temporary residence to people at risk who have family members in Ireland, whether resident in Afghanistan or neighbouring countries where they fled since 1 August 2021. A total of 528 applications were received, mainly from minors. The programme no longer accepts applications.

In Germany, a new federal admission programme was launched in October 2022 to approve the admittance of around 1,000 vulnerable Afghan nationals per month. Under this programme, submissions are done by authorised agencies and NGOs with experience in Afghanistan, and not by UNCHR.<sup>1288</sup> The target group is Afghans who have exposed themselves to a particular risk through their commitment to women's and human rights or their work in the spheres of justice, politics, the media, education, culture, sport or academia, and are thus vulnerable. The programme also targets persons who are particularly vulnerable due to their gender, sexual orientation, gender identity or their religion. Special focus is placed on serious individual women's rights violations and homophobic or transphobic human rights violations.<sup>1289</sup>

A new Memorandum of Understanding was signed between Italian authorities and several institutions, civil society organisations and international bodies, through which a new 2-year humanitarian corridors programme was established to transfer 1,200 Afghans from Iran and Pakistan. The first group of people was received through this programme in July 2022.<sup>1290</sup>



Likewise, and based on experience from other countries, the Belgian State Secretary for Migration and Asylum signed a Memorandum of Understanding in December 2021 with the Sant' Egidio community to start a humanitarian corridor during the period 2022-2024. The aim was to resettle 250 vulnerable refugees residing in Afghanistan, Lebanon, Libya and Syria. The quota established for 2022 was 75 people. However, the reception crisis in the country delayed the start of the programme and the first group of refugees, 26 people, arrived only in November 2022. In contrast to the process under resettlement programmes, under this humanitarian corridor, beneficiaries follow the same path as regular applicants for international protection.

In 2022, civil society organisations continued activities in close cooperation with the Italian authorities, UNHCR and the IOM. Under existing humanitarian corridors programmes, they transferred more than 1,200 people from Afghanistan, Libya, Jordan, Lebanon and Niger. A new protocol for humanitarian corridors from Ethiopia, Jordan and Niger was signed by the Italian Ministry of the Interior in October 2022, with the aim to provide 2 years of protection to 600 people in need.

#### 4.15.2.2. Community sponsorship programmes



As a safe and legal pathway to protection, community-based sponsorship programmes are gaining ground as an alternative to support refugees arriving to EU+ countries. This type of programme allows individuals, private companies and organisations to directly engage in financial, emotional and practical support to refugees who are resettled in their communities.<sup>1291</sup>

Although some countries continued to rely on these initiatives as complementary to their resettlement programmes, not many developments were identified during 2022 in terms of community sponsorship programmes.

The EMN found that the main challenges encountered during the year were difficulties to find new sponsor groups, insufficient involvement of municipalities, delays in transfers due to medical reasons and administrative procedures, and questions on how to continue and scale initiatives to more participants.<sup>1292</sup>

In 2022, in the framework of a pilot project called "Univ'R", implemented with UNHCR and the Agence universitaire de la Francophonie, France opened university corridors for 20 refugee students. In addition, in 2022, France carried out the transfers of Syrians and Iraqis in need of protection in Lebanon who were hosted by faith-based organisations under the humanitarian corridors scheme, in line with protocols renewed in 2021.

In Germany, the federal government announced in July 2022 the consolidation of the Neustart im Team (NesT) programme as of January 2023, after the 3-year pilot phase.<sup>1293</sup> The programme is in addition to governmental humanitarian admission programmes, offering up to 200 places in 2023, with an increase planned in subsequent years. NesT is based on support provided by mentoring groups (consisting of legal or natural people) who jointly finance and provide accommodation and non-material support to participants.<sup>1294</sup> As the programme became permanent, adjustments were made based on the experience of the pilot phase, such as shortening the funding for suitable housing from 2 years to 1 year. After the pandemic-related delays in taking in refugees and the concentration of volunteer involvement in Germany on the refugees from Ukraine in 2021, current efforts focus on the recruitment of



new mentoring groups. Further findings can be found in the formative evaluation of the programme by the BAMF Research Centre.<sup>1295</sup>

Several initiatives were developed by civil society organisations to overcome some of the challenges and further develop different programmes. The 3-year programme, EU-Passworld, emerged in 2022, linking community sponsorship to labour and education pathways. The AMIF-funded project will be implemented by a multi-stakeholder consortium in Belgium, Ireland and Italy, where new complementary programmes will be designed and piloted to create a minimum of 200 new places for refugees.<sup>1296</sup>

Some evaluation reports were published during the year to assess challenges, in combination with an analysis of good practices and lessons learned. For instance, in its report on monitoring and the evaluation of community sponsorship programmes in Belgium, France, Germany, Ireland, Italy, Spain and the United Kingdom, the organisation Share Network issued a series of recommendations to support the development of new programmes and enhance the quality and sustainability of current ones.<sup>1297</sup> Furthermore, to support countries with the planning and implementation of their community sponsorship programmes, the Global Refugee for Sponsorship Initiatives (GRSI) developed a monitoring and evaluation toolkit which is available for national administrations and stakeholders involved in the programmes since October 2022.<sup>1298</sup>

## Box 7. Return of former applicants



The EU legal framework on the return of former applicants for international protection falls within the remit of general immigration law. An effective and humane return of rejected asylum seekers is an integral part of a credible asylum system, as is the possibility to return to a country of origin voluntarily if an application for international protection is withdrawn. For the practical functioning of CEAS, returning a rejected asylum applicant effectively to the country of origin is essential, since an inability to return such a person in an efficient and sustainable way may corrode confidence in the system and stigmatise migration. Indeed, Frontex has identified several risks and challenges leading to a widening gap between return decisions and effective returns.<sup>1299</sup>

Return options include:

- Voluntary return and departure: when a person withdraws a claim and voluntarily returns to the country of origin (voluntary return) or a person complies with a return decision (voluntary departure); and
- Forced return/removal: the return of persons who are required by law to leave but have not consented to do so and who are subject to coercion in order to carry out the removal.

In many cases, returnees can receive support under assisted return schemes prior to departure. In addition, reintegration support is available after arrival to the country of return in various forms.



## Relevant publications



**EMN, Inform on Incentives and motives for voluntary departure** was published in July 2022. It covers the reasons for accepting, or refusing, available assistance for a voluntary departure. As such, incentives are currently not usually developed to target specific motivations.

**FRA, Forced return monitoring systems - 2022 update:** Since 2014, FRA publishes an annual update on forced return monitoring systems that EU Member States have set up under Article 8(6) of the recast Return Directive (2008/115/EC).

**ECRE Policy Note: Monitoring the Implementation of Returns:** A Complex Puzzle with Missing Pieces: The note addresses that there is no specific, independent monitoring framework to report on fundamental rights compliance by Member States that covers pre-return, the return process as well as follow-up in and with the country of return.

## Relevant developments in 2022

**ERRIN** came to an end on 30 June 2022 and has now been taken over by the Frontex Joint Reintegration Programme and the ICMPD Return and Reintegration Facility (RRF).

Initiatives to support voluntary returns were launched in Austria,<sup>1300</sup> Finland,<sup>1301</sup> **Greece**, Norway,<sup>1302</sup> Lithuania<sup>1303</sup> and Italy.<sup>1304</sup>

Legislative changes concerning relevant procedures were reported in Romania.<sup>1304</sup>

Civil society organisations raised concerns over the expulsion procedure, for example in **Bulgaria**.

Bilateral agreements were signed to enhance cooperation with third countries in Lithuania<sup>1305</sup> and **Greece**.

<sup>1303</sup> The Central Control Section on the management of State Administrations of the Court of Auditors published a report on “Voluntary and assisted repatriation in the management of migratory flows” on 12 May 2022. The document outlined the state of play and the evolution of assisted voluntary returns in Italy, including experiences of other EU countries. It is accompanied by a long series of data on migration flows and on forced and voluntary returns. The Court of Auditors included some final recommendations. Court of Auditors, Il rimpatrio volontario ed assistito nella gestione dei flussi migratori, 12 May 2022, available at: <https://www.integrazionemigranti.gov.it/AnteprimaPDF.aspx?id=3469>



## **Section 5. Children and people with special needs in the asylum procedure**

The situation of children and applicants with special needs are described in Section 5.

The section combines quantitative, qualitative, and legal information to provide an overview of the situation for minors, women, victims of violence and human trafficking, and lesbian, gay, bisexual, trans-gender, intersex and queer (LGBTIQ) asylum applicants. The section focuses in particular on unaccompanied minors, reviewing changes to legal representation, age assessments and reception conditions.

To include diverse perspectives, observations by civil society organisations and other stakeholders are presented throughout the report by topic. In 2022, concerns often centred around access to the asylum procedure, reception conditions and applicants with special needs.



EU legislation contains provisions to address the special needs of applicants who may be considered particularly vulnerable in the asylum system. These provisions ensure that vulnerable applicants receive adequate support to benefit from their rights and comply with the obligations which are defined under CEAS so that they can be on an equal footing with other applicants.

The recast APD, Article 2(d) defines applicants in need of special procedural guarantees as those with a limited ability to benefit from rights and fulfil the obligations granted in the directive due to individual circumstances. Recital 29 gives examples of these circumstances: age; gender; sexual orientation; gender identity; disability; serious illness; mental disorders; consequences of torture, rape or other serious forms of psychological; and physical or sexual violence.

The term ‘unaccompanied minor’ refers to “a minor who arrives on the territory of the Member State unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not taken into the care of such a person. It includes a minor who is left unaccompanied after he/she has entered the territory of the Member State”.

The recast APD, Article 24 outlines the special procedural guarantees for applicants in general, and Article 25 specifies the guarantees for unaccompanied minors. Member States are required to assess within a reasonable time whether there is a need to implement these guarantees for individual applicants and provide adequate support.

The recast RCD defines applicants with special reception needs. It also lists examples, which are non-exhaustive, but they cover a slightly different scope. It explicitly mentions unaccompanied minors, single parents with minor children, victims of human trafficking and victims of FGM, but it does not refer to gender, sexual orientation or gender identity. Detailed provisions are listed in the recast RCD, Chapter IV and require Member States to take into account the specific situation of a vulnerable applicant, assess vulnerabilities within a reasonable period and ensure that the needs are addressed. Chapter IV also lists specific provisions for minors, unaccompanied minors and victims of torture and violence. Article 11 lists the conditions for detaining vulnerable persons and applicants with special reception needs.

All instruments of the EU asylum acquis must be applied and interpreted by taking into consideration the Charter of Fundamental Rights of the European Union, as it is part of primary EU law. Article 24 of the Charter concerns the rights of the child and specifies that children have the right to protection and care as necessary for their well-being. The right to express their view freely and have them taken into consideration are also guaranteed. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child has the right to maintain a personal relationship and direct contact with both parents on a regular basis, unless it is contrary to the child's interests.

# Unaccompanied child applicants on the rise in Europe



## 42,000

applications by unaccompanied minors lodged in 2022

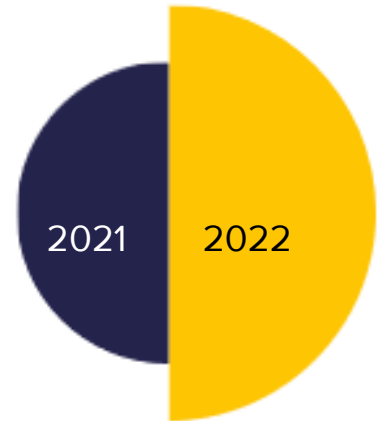
## 18,000

applications by unaccompanied minors were withdrawn, twice as many as in 2021

## 2/3



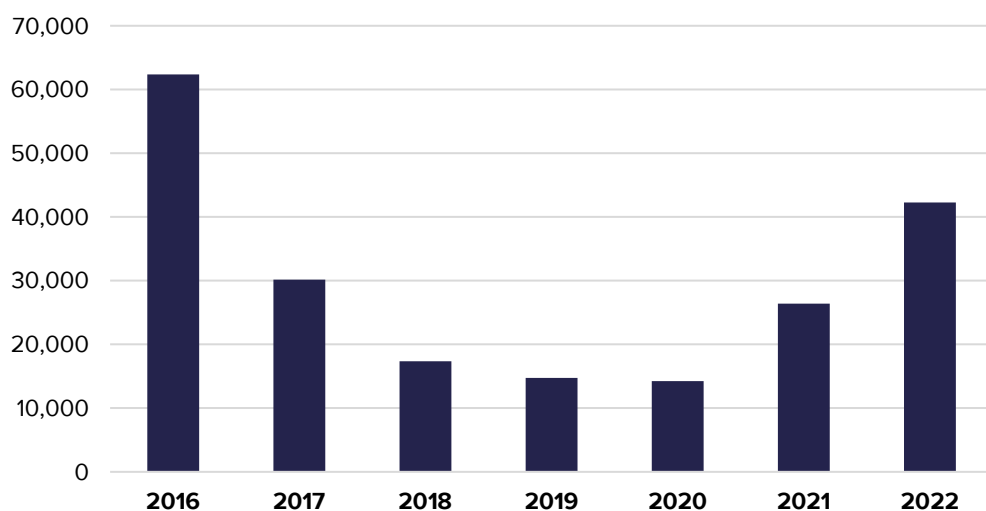
of all unaccompanied minor applicants were from Syria and Afghanistan



Applications by unaccompanied minors increased by **3/5** compared to the previous year

The increase in the number of unaccompanied children seeking protection exerted additional pressure on asylum processes.

Growth in asylum applications by unaccompanied minors in EU+ countries



Since persons in need of temporary protection comprised mainly women and children, EU+ countries needed to adjust their support services in 2022, which were generally geared towards applicants for international protection who are predominantly men.<sup>1306</sup> Women and children fleeing Ukraine were at a heightened risk of being trafficked, so several EU+ countries revised legislation, policies and practices on prevention and identifying victims more rapidly and providing them with adequate support.<sup>1307</sup>

With the increased arrivals of both persons in need of international and temporary protection, the majority of EU+ countries needed to mobilise additional resources – staff, budget, reception places and experts – to meet the new demand in needs. The dramatic situation in reception (see *Section 4.7.*) meant that identifying special needs and offering timely accommodation and support to the most vulnerable became even more challenging. In addition, several Member States and civil society organisations noted that applicants for international protection arrived in the EU in worse states of health than in previous years. Undue delays in the asylum procedure (see *Section 4.4.*) can negatively impact the integration prospects of vulnerable applicants and children (see *Section 4.14.*).

Compared to 2021, even more countries reported an alarming increase in the number of unaccompanied children, putting a strain on specific processes, such as appointing a guardian, assessing the age of self-proclaimed minors, remaining within the time limits for processing and providing adequate material reception conditions and support.

## 5.1. Comprehensive approaches to identify and support children and applicants with special needs



The German BAMF published updated methodology for the identification of vulnerable persons in the asylum procedure, which provides detailed guidance and identifies special procedural guarantees. In addition, the organisation developed two forms for transmitting data to ensure that information flows rapidly to the authorities responsible at the federal and federal-state levels.<sup>1308</sup>

In Portugal, a new sub-working group was established to foster cooperation and coordination between stakeholders involved in the identification and referral of applicants with special needs. The sub-group is organised under the umbrella of the Single Operative Group, established in 2020 to improve cooperation in general in the asylum procedure, reception and integration.

The Icelandic Ministry of Education established a steering group on refugee children's issues. The group was tasked to monitor the situation of refugee children, provide advice, assess government measures and ensure that measures are aligned with international standards.<sup>1309</sup>

The UN Human Rights Committee issued its Concluding Observations on Ireland with recommendations. It requested the government to establish a robust system of vulnerability assessments.<sup>1310</sup>

A legislative proposal amending the Refugee Act was approved by the Council of Ministers in Cyprus. If adopted by the parliament, the Asylum Service will be obliged to obtain a health care professional's advice for an applicant's ability to be interviewed.<sup>1311</sup> The Cyprus Refugee





Council underlined that standard operating procedures and referral pathways were still lacking, even though authorities were working on their elaboration. The organisation acknowledged that in the meantime the vulnerability team conducts regular meetings to discuss challenges and harmonise approaches on identification and follow-up.<sup>1312</sup>

Face-to-face training was co-organised by OFPRA, UNHCR, and the Asylum Directorate with the participation of the Red Cross for various stakeholders working with unaccompanied minors in France. The Asylum Directorate developed an online version of the training, which would be deployed soon. The directorate also financed training courses organised by specialised partners. In addition, the Themis association launched a guide to the asylum procedure for unaccompanied minors in February 2022 with the financial support of the French Ministry of the Interior. Training for reception staff on vulnerabilities was ongoing, with three regions covered in 2022.

The Greek RIS, with support from the EUAA, created and deployed a team of case management reception assistants for reception facilities under its responsibility throughout Greece. Their task was to ensure the identification of needs, referral and follow-up for all persons residing in reception facilities. A standard operating procedure was drafted to create a harmonised system for case management in first- and second-line reception. The NGO Network for Children's Rights highlighted gaps in the identification of vulnerable applicants after the launch of the online registration platform for applying for international protection (see *Section 4.1*). The organisation encouraged the relevant ministry to set up an identification system that addresses these gaps.<sup>1313</sup> The Greek Council for Refugees observed delays in vulnerability assessments and referrals, which led to applicants being interviewed prior to establishing their eventual specific needs.<sup>1314</sup>

On 31 December 2022, the ESTIA II scheme – designed to accommodate vulnerable applicants – ended in Greece. Applicants were transferred to larger mainland structures.<sup>1315</sup> Several civil society organisations and UNHCR expressed their concern about the modalities of the move and the fact that the needs of vulnerable applicants could not be adequately addressed in larger facilities (see *Section 4.7*).<sup>1316</sup>

The Human Rights Committee of the Seimas in Lithuania discussed the situation of applicants, and its chairperson highlighted that the committee had repeatedly raised the lack of vulnerability assessment criteria as an issue. The committee also noted that psychological support was rarely available in reception facilities.<sup>1317</sup> The Lithuanian Red Cross published a thematic monitoring report on the rights of vulnerable groups in reception and detention centres. The organisation concluded that the availability of vulnerability assessments and support services significantly improved in the second half of 2022, due to a decrease in the number of residents, newly-employed specialists and the freedom of movement which allowed foreigners to choose the services independently. However, it noted that the newly-established reception agency should design an effective system for identifying vulnerabilities.<sup>1318</sup>

The Danish Immigration Service launched a tender for providing accommodation to applicants who cannot receive the necessary support within ordinary reception centres. These profiles include applicants suffering from mental and physical disabilities, substance abuse, trauma or mental illness. This service was previously offered by a different service provider, but the Immigration Service did not renew the contract due to unsatisfactory collaboration.<sup>1319</sup> The new centre, operated by the Red Cross, started operating in Sjælsmark as a separate, independent centre from the already-existing ordinary reception facility.<sup>1320</sup>



The Romanian Ombudsperson carried out visits to several reception facilities throughout 2022. In Marumures–Somcuta Mare, recommendations were made to organise training for staff on identifying and supporting persons with special needs.<sup>1321</sup> In Giurgiu, the Ombudsperson recommended adjustments to make all areas accessible for persons with physical disabilities and set up a special, fully-accessible room for their accommodation.<sup>1322</sup>

Improving vulnerable applicants' reception conditions and support, the Romanian National Council for Refugees (CNRR) and AIDRom launched the second part of their AMIF-funded project, "Complex social assistance for asylum applicants". Among other services, the project offers accommodation and support to vulnerable applicants in Bucharest and Timișoara for a maximum of 6 months.<sup>1323</sup>

The Italian NGO Don Bosco 2000 launched its Child Safeguarding Policy, which ensures that all staff are specifically trained and their work is adequately monitored.<sup>1324</sup>

Input from the Swiss NGO Platform for Human Rights to the Universal Periodic Review of Switzerland highlighted gaps in the detection of applicants with special needs and suggested to address these through the involvement of trained translators and systematic access to medical care.<sup>1325</sup> Asylex added that follow-up measures and referral to medical professionals were particularly sporadic for applicants in the Dublin procedure.<sup>1326</sup>

The AIDA report for Bulgaria highlighted persisting gaps in the identification of applicants' vulnerabilities at registration and their follow-up during the asylum procedure. The report notes, for example, that social reports are prepared for unaccompanied children, but these are rarely shared with asylum case officers.<sup>1327</sup>

The Finnish Non-Discrimination Ombudsperson launched a project monitoring the identification of and support to vulnerable persons in return procedures. The project aims to help authorities develop structure and guidance in the preparation for the return of a vulnerable person, since the Ombudsperson identified some weaknesses in previous monitoring projects.<sup>1328</sup>

In Belgium, in addition to efforts made by national authorities (see *Sections 5.2 and 5.6*), the civil society organisation NANSSEN organised a workshop on several dimensions of special needs, including applicants with disabilities, applicants with health issues, victims of torture and LGBTIQ+ applicants.<sup>1329</sup>

## 5.2. Protecting women and girls



In 2022, the EUAA published COI focusing on FGM/C in Mali<sup>1330</sup> and in Ethiopia (see *Section 4.12*).<sup>1331</sup> EIGE announced new research to map applicant and beneficiary women's access to specialised health care services, in particular related to reproduction and sexual health. The outcome of the research is planned to be published in 2023.<sup>1332</sup>

On the occasion of International Women's Day, the Belgian CGRS provided an overview of the authority's activities related to supporting women and girl applicants. The gender unit, which was created in 2005 and operates through geographical and horizontal sections of the CGRS, is involved in designing the content of draft directives. These aim to



advise protection officers and identify and relay their needs to better manage these files, as well as to monitor the quality of files related to gender.<sup>1333</sup>

The Luxembourgish government adopted a proactive approach to raise awareness about the impact of FGM/C. The ONA has collaborated with the Group for the Abolition of Female Genital Mutilation since 2017, and training on this profile of applicants is compulsory for staff working with women and girls in reception.

In accordance with the Swedish government's national strategy for preventing and combating men's violence against women, the SMA continued its collaboration with other national authorities in various government assignments. Efforts mainly focused on training staff and adequately informing applicants. The agency's website includes information on domestic violence and support sources, in order to encourage women to seek support.

The Council of Europe's Expert Group on Action against Violence against Women and Domestic Violence (GREVIO) published its baseline evaluation report on Switzerland in November 2022. The group encouraged Swiss authorities to improve the identification of cases of violence against applicant women and assess whether countries of origin are able to provide effective protection.<sup>1334</sup>

The implementation of the Spanish Protocol against Gender Violence in the Reception System continued,<sup>1335</sup> with support from UNHCR<sup>1336</sup> and NGOs, such as CEAR.<sup>1337</sup>

French authorities focused on the creation of suitable accommodation and since 2020, 300 reception places were made available for female applicants who were victims of violence or trafficking.

In Lithuania, the Vilnius Regional Prosecutors Office launched a pre-trial investigation into the sexual abuse of residents in one of the foreigners' registration centres by an SBGS employee.<sup>1338</sup>

In *H.M. and others v Hungary*, among other issues (see Sections 4.8 and 5.6.5), the court observed that a pregnant mother had received the necessary medical attention. Nonetheless, the constraints she had to suffer during the advanced stage of her pregnancy (such as the conditions in the transit zone, as well as seeing her husband handcuffed and on a leash) resulted in anxiety and mental issues that were serious enough to find a violation of the ECHR, Article 3.

The Austrian Supreme Administrative Court referred two questions to the CJEU for a preliminary ruling (C-608/22 and C-609/22), inquiring whether the situation of Afghan women in their country of origin could be regarded as sufficiently severe to qualify as persecution. The court also asked whether it is enough that a woman is affected by the measures merely on the basis of gender or if her individual situation still needs to be assessed.

In Denmark, the Coordination Committee of the Refugee Appeals Board decided to change its approach to women and girls from Afghanistan at the end of January 2023. They may now be granted international protection solely on the basis of their gender.<sup>1339</sup>

The CNDA granted international protection to a woman, holding that she belonged to the particular social groups of Ethiopian women and girls having escaped forced marriage and Ethiopian women, adolescent and children of Amhara ethnicity at risk of FGM/C. The court



underlined that the authorities in the country of origin were powerless to provide effective protection to victims.

In another case, the court [granted](#) international protection to a young girl, recognising she belonged to the particular social group of Egyptian women and children who are exposed to the risk of FGM/C. The court also considered that her maternal aunts supported this practice and that her father, a refugee in France, would be unable to protect her. The CNDA was also asked to [review](#) the case of a woman whose application based on a risk of forced marriage and FGM/C was rejected at first instance, but on appeal, she claimed that her daughter, born after the first instance decision, had her own fears of persecution due to FGM/C. The court observed the absence of special provisions for this situation and concluded that the child's claims should be examined in a separate, child-specific asylum application.

The NGO NANSSEN published an analysis of jurisprudence related to FGM/C in Belgium. The organisation noted that authorities provide protection to women and girls in a broad manner, but a more coherent approach is needed to address these claims.<sup>1340</sup> In their shadow report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), NANSSEN made recommendations on how the authorities can improve the use of medical reports in FGM/C cases.<sup>1341</sup>

The Irish High Court [quashed](#) IPAT's decision on a claim by a Nigerian family whose daughters were at risk of FGM/C by family members if returned. The tribunal did not consider all documents submitted by the applicants, did not determine the validity of one document and incorrectly stated that the piece of document was post-dated after their departure for Ireland.

The Federal Administrative Court in Austria concluded that having to watch one's daughter undergoing FGM/C amounts to the parent's persecution.<sup>1342</sup> The Danish Refugee Appeals Board [reopened](#) the case of a woman whose daughter was at risk of FGM/C in Somalia, following a [communication](#) from the UNCRC in 2021. The committee had assessed that the board failed to consider the best interests of the child and ensure the child's well-being upon a return. The board considered the parents' will and ability to withstand social pressure and noted that the girl's father resided in the United States and her mother would need to face the pressure on her own. Thus, the board concluded that the girl would be at risk of FGM/C and should be given a residence permit.

The Danish Refugee Board [reopened](#) another case, following a [communication](#) from the UNCRC in 2022. In that case, the committee disagreed with the board's original conclusions that the applicant and her daughter could receive state protection in India against the husband's violence. The committee reiterated concerns about widespread violence, abuse and neglect, the lack of implementation of the Domestic Violence Act and the deeply-entrenched patriarchal attitudes of police officers, prosecutors and judges who handle domestic violence cases. Consequently, the Danish Refugee Board re-examined the case and concluded that the applicant and her daughter would be in a concrete and individual risk of abuse if returned to India.

The Irish High Court [sent back](#) a case to IPAT, as it failed to adequately consider the need for a hearing in the case of an applicant who was a victim of domestic violence in Georgia. The court acknowledged that there was no statutory right to a hearing in an appeal for applicants from a safe country of origin. However, in the particular case, the applicant submitted additional written evidence and IPAT modified its reasoning for the rejection compared to the



IPO, but without allowing the applicant to clarify some additional adverse findings. In addition, IPAT did not make a reference to the applicant's request to submit further medical evidence.

The court sent back a similar [case](#) to IPAT, as it was unclear how the tribunal approached the concept of a safe country of origin and the availability of state protection for another victim of domestic violence from Georgia. In a third [case](#), the High Court quashed IPAT's decision to reject the claim of a victim of sexual abuse and rape in Georgia. The court found that IPAT was incorrect in concluding that the applicant was not credible, as her husband did not mention this attack in his own international protection claim and she had not sought to call him as a witness.

When authorities assess the availability of internal protection alternatives for victims of domestic violence, the Supreme Administrative Court in Lithuania [held](#) that they must specifically examine what consequences the applicant may face if she requested assistance.

The Dutch Court of The Hague [considered](#) that the authorities did not sufficiently investigate a case and required an extreme threshold from a female rape victim to decide that Armenia was a safe country of origin in her specific case. The court underlined that the police would have been the competent authority to investigate, and complaining to the Ombudsperson or to the public prosecutor service was not an adequate way to prevent imminent danger.

The High Administrative Court of Lüneburg in Germany [rejected](#) the appeal of a female Eritrean victim of violence who sought refugee status instead of subsidiary protection. The court concluded that women in the Eritrean national service who are victims of sexual assault do not constitute a particular social group, as a clearly defined identity is missing and they are not regarded as different by the rest of the society.

The Irish High Court [confirmed](#) IPAT's decision to reject an application from a mother and daughter from Zimbabwe, claiming that the father would subject the daughter to forced marriage. The court noted that the applicant's general credibility must be established, so that the benefit of doubt could be applied for undocumented aspects of a claim, and the applicant in this case failed to show the burden of proof which was resting on her.

The Tribunal of Genova in Italy [overturned](#) the first instance authority's decision and granted international protection to a victim of trafficking from Nigeria. Contrary to the asylum authority, it considered that the applicant's statements were sufficiently detailed and credible, while the anti-trafficking centre highlighted several indicators which supported that the woman was a victim of forced prostitution. The tribunal noted that these elements also explained the woman's evasive behaviour and contradictions in her story.

In Austria, the Supreme Administrative Court [confirmed](#) that even a very general, unspecified fear of sexual assault would allow an applicant to request a case officer of a certain sex, as provided by law. This specific provision was analysed in detail in light of recent jurisprudence on Blog Asyl.<sup>1343</sup>



## 5.3. Applicants with disabilities and special health needs



The reconstruction of the reception facility in Humenné in Slovakia finished in 2022, making the facility completely barrier-free. In Czechia, the OPU noted that only one centre was barrier-free in 2022, while the Ministry of the Interior noted that in the beginning of 2023, two centres were functioning as barrier-free. The OPU observed that centres struggled to ensure that qualified nurses and doctors provide services to applicants with physical disabilities within the public insurance framework.<sup>1344</sup>

The Finnish Institute for Health and Welfare published a multilingual video series on mental health for applicants and beneficiaries of international protection. The videos aim to increase the understanding of mental health and reduce the stigma associated with seeking help. Beneficiaries themselves participated in the elaboration of the videos (see *Section 4.14*).<sup>1345</sup>

Asylos and the ARC Foundation set up a joint research project to address information gaps in COI research about applicants with disabilities and published suggestions to improve disability-focused COI (see *Section 4.12*).<sup>1346</sup>

The CJEU [clarified](#) that the non-voluntary committal of an applicant to a hospital psychiatric department was not considered to be imprisonment for the purposes of extending the transfer time limit under the Dublin III Regulation (see *Sections 2.6, 4.2 and 4.8*).

The Swedish Migration Court of Appeal [examined](#) the case of an applicant with a hearing impairment who may have also suffered from multiple other disabilities. The court noted several flaws in the process, including the fact that the investigation of the applicant's additional disabilities was still ongoing. From the notes of the interview, it was clear that the applicant had difficulties in understanding the question or simply imitated the interpreters, even though his legal representative, two deaf interpreters and two sign interpreters were present.

The French Council of State [referred](#) a question to the CJEU for a preliminary ruling on issues related to the interpretation of the limits of UNRWA's protection and assistance, and the possibility of qualifying or being excluded from international protection. The case concerned an applicant with a genetic disease who required regular blood transfusions and a specific medication, but the UNRWA refused to supply the medication due to its high costs.

The Supreme Court of Cassation in Italy [delivered](#) a judgment clarifying the credibility assessment when an applicant has suffered physical or mental trauma from torture. The court underlined that the assessment should follow the criteria set in the Istanbul Protocol<sup>1347</sup> and that the medico-legal expert report must be considered in conjunction with the applicant's statements, country of origin information and other documentary evidence brought to the attention of the authority.

The Tribunal of Bari [confirmed](#) the rejection of international protection but still granted humanitarian protection to an applicant from Pakistan who suffered from a serious mental condition. The applicant submitted medical certificates to attest his condition and evidence that he could not access the necessary treatment in his country of origin.





The Irish High Court **quashed** IPAT's decision for an applicant with albinism. The court noted that country of origin information was not available in full length, but the information available should be considered as supporting the claim.

Medical conditions were also considered by courts when assessing transfers to specific countries under the Dublin III Regulation (see *Section 4.2.6*). Another category of cases involved the examination of medical conditions when adopting a return decision or implementing a return.

The CJEU **ruled** that Member States cannot adopt or implement a return decision when the person would be at real risk of a rapid, significant and permanent increase in pain caused by an illness due to the fact that appropriate care was not available in the country of origin (see *Section 2.6*).

The UNCRC **condemned** the Swiss authorities for not taking all the necessary steps to ensure that a child with a hearing impairment would receive appropriate medical care upon return to the country of origin.

The Austrian Federal Administrative Court **confirmed** the return order of a rejected Nigerian applicant, noting that his prescribed medication and treatment are available in his country of origin. Return assistance would allow him to obtain the treatment for at least 10 years.

The Swiss Federal Administrative Court gave **guidance** on assessing the return of a family with minor children who obtained international protection in Greece, while several family members suffered from different medical conditions. The court underlined that the authorities should examine the health claims, the services and assistance already received in Greece, and whether favourable conditions exist for their return, such as the length of stay in Greece, language knowledge and the existence of a support network.

## 5.4. Seeking protection and receiving support in reception for applicants with diverse SOGIESC



The German BAMF reviewed its internal instructions and clarified some aspects of cases lodged by LGBTIQ applicants. When examining the risks, it must be assumed that the applicant would be able to openly live their sexual orientation or gender identity in the country of origin. Specially-trained case officers for gender-specific persecution were informed and sensitised on applying the amended instructions.<sup>1348</sup> The Higher Administrative Court of Baden-Württemberg **underlined** the importance of this approach. It noted that the fact that the applicant could avoid persecution by secretly living his homosexuality by holding back or even renouncing a sex life must be considered irrelevant because the wording of the recast QD does not differentiate between clandestine and non-clandestine conduct. Homosexuality is an identity-forming part of the applicant's personality, which would expose him to degrading living conditions due to his sexual orientation. The AIDA report for Germany expressed concerns over the situation of LGBTIQ applicants in collective reception centres, citing several reports which document harassment and attacks.<sup>1349</sup>

On the same issue, UNHCR intervened as a third party before the ECtHR in the case of *M.I. v Switzerland*. In its submission, UNHCR underlined that denying refugee status by compelling





individuals to conceal their sexual orientation or gender identity may have a serious impact on both mental and physical health and could lead to an unbearable situation amounting to persecution.<sup>1350</sup>

In 2022, French authorities made more than 200 reception places available for vulnerable LGBTIQ applicants. The Maltese civil society organisation, aditus foundation, launched the #Safe4All legal initiative for the protection of LGBTIQ asylum seekers. The organisation proposed an amendment to legislation to ensure that countries that criminalise LGBTIQ communities should not be assessed as safe countries of origin.<sup>1351</sup>

A group of 37 NGOs sent a joint letter to the Greek authorities to share their observations on the difficulties faced by LGBTIQ applicants in the asylum procedure and in reception, and made recommendations to improve the situation. For example, the organisations found several examples of stereotypical questions in interview transcripts that do not seem to respect European and Greek standards, which suggest that case officers had not received adequate training on assessing applications based on sexual orientation.<sup>1352</sup>

The NGO QueerBase analysed CJEU and national case law to expose biases that some national authorities may still have towards LGBTIQ refugees, including an expectation that LGBTIQ applicants should live and express their sexual orientation openly. The analysis underlines earlier judgments from the CJEU and the Austrian Constitutional Court that the form of expression of one's sexual orientation in the host country or in the country of origin is not a relevant factor. The decisive element is whether an LGBTIQ applicant could live openly in their country of origin without a risk of persecution.<sup>1353</sup>

The Cyprus Refugee Council observed inconsistencies in the approach to the assessment of applications based on sexual orientation or gender identity. For example, the organisation noted that, while case officers used the suggested DSSH (difference, stigma, shame, harm) model during interviews, they often used closed questions instead of open ones.<sup>1354</sup>

The civil society organisation NANSSEN analysed the CGRS COI on LGBTIQ in Jordan, noting discrepancies between the sources used and the conclusions drawn in decisions on asylum applications.<sup>1355</sup>

The Organisation Intersex International Europe highlighted the specific needs of intersex applicants in reception, especially in ensuring access to health care without discrimination.<sup>1356</sup>

The French CNDA delivered two significant judgments and granted international protection to an applicant from [Iraq](#) and another from [Tunisia](#) based on their sexual orientation. In both cases, the court recognised that members of the LGBTIQ community formed a particular social group.

The Dutch Council of State [referred](#) a case back to the lower court, as it did not adequately consider the report, "LGBTI Asylum Support". The lower court took the report into account, but it did not clarify what classification it attached to the report. If it was considered to be an expert report, the authorities could deviate from its findings only with due justification.

The Irish High Court [confirmed](#) IPAT's rejection of an applicant from Nigeria who claimed to be perceived as homosexual. The court agreed that the claim was coherent and consistent with country of origin information and not implausible, but it lacked specificity and detail. His answers regarding his travel were implausible, vague and evasive, so the court doubted his credibility and confirmed that the benefit of doubt could not be applied in his favour.



The court also [confirmed](#) IPAT's negative credibility finding for an applicant from Zimbabwe, who stated that his two brothers were arrested for being gay, and a few days later the applicant's mother received an arrest warrant stating that the applicant was wanted by the police based on his perceived sexual orientation. The court noted concerns related to the authenticity of the arrest warrant and inconsistencies in his overall claim. The court ruled on several other cases related to the credibility assessment of applicants claiming international protection based on sexual orientation, for example, for applicants from [Georgia](#) and [Pakistan](#).

The Belgian CALL [concluded](#) that vulnerabilities were not adequately assessed in the authorisation to stay (a national form of protection) of a minor who revealed his sexual orientation during the procedure. The approach of the nuclear family members should have been considered in a nuanced manner. In addition, the court found that the authorities did not adequately consider country of origin information and the specific situation of members of the LGBTIQ community.

The Brussels Labour Tribunal [ordered](#) Fedasil to provide suitable accommodation in a medium- or small-scale facility for an applicant who was assessed to be particularly vulnerable due to his sexual orientation and multiple traumatic experiences. The applicant was at first accommodated in a collective centre, sharing a room with persons who were hostile against the LGBTIQ community. He was then re-allocated to another large collective centre, without consideration for the medical recommendations from the doctor who confirmed his PTSD and suicidal state. The applicant had an anxiety attack in the new facility and had to be hospitalised.

## 5.5. Identifying and supporting survivors of human trafficking



Combatting the trafficking of human beings remained at the forefront of discussions in 2022 as a shift in patterns was noted.<sup>1357</sup> The COVID-19 pandemic had spurred exploiters to turn increasingly to online activities, which made it more difficult to identify and protect victims.<sup>1358</sup> Traffickers also began to target new travel routes to recruit victims. This was in part due to the Russian invasion of Ukraine in February 2022 which created waves of displaced persons – notably women and children – who were particularly prone to falling victim to trafficking. See the EUAA's ["Identifying and supporting victims of human trafficking in the asylum procedure, Situational Update No 17"](#) for more detailed developments in 2022.

The [EU Strategy on Combatting Trafficking in Human Beings 2021-2025](#) covers various aspects, including prevention, protection, the empowerment of victims and bringing traffickers to justice. One of its key actions includes the evaluation and a possible revision of the Anti-Trafficking Directive. In December 2022, the European Commission proposed to revise the directive, by streamlining structures and procedures in the EU and formalising national referral mechanisms to improve early identification and referral. These would then serve as a basis for developing a European Referral Mechanism (see [Section 2](#)).<sup>1359</sup>

Gaps in data continued to be a challenge, preventing policymakers to have a clear picture of the scope of the situation in the EU. While Eurostat publishes annual statistics on the number of registered victims as reported by EU Member States,<sup>1360</sup> not all countries report data, they may use different reporting approaches or different levels of transposition of the Anti-



Trafficking Directive.<sup>1361</sup> The revisions of the directive propose to address the lack of data on human trafficking by formalising a reliable EU-wide data collection which would be conducted and published by Eurostat.<sup>1362</sup> During 2023, the European Parliament and the Council will examine this proposal, and once approved, the new rules will have to be transposed by Member States into their national laws.<sup>1363</sup>

Enhanced cooperation plays a crucial role in combatting trafficking. In this context, the European Commission and Morocco renewed their operational partnership, which involves border management support and awareness-raising on the dangers of unlawful migration to tackle human trafficking.<sup>1364</sup>

The Council of Europe's GRETA published various reports during 2022, namely on France,<sup>1365</sup> Luxembourg,<sup>1366</sup> Ireland,<sup>1367</sup> Latvia,<sup>1368</sup> Norway,<sup>1369</sup> Portugal<sup>1370</sup> and Belgium.<sup>1371</sup> Overall, the reports call for additional efforts to identify victims and provide assistance.

The European Migration Network (EMN) published a study in March 2022 which maps national practices in detection, identification and protection of third-country nationals who are victims of trafficking in human beings. National reports for 18 Member States for 2021 were subsequently released throughout 2022.<sup>1372</sup>

### 5.5.1. Policy, legislative and judicial developments at the national level



In 2022, EU+ countries introduced policy and legislative changes to better identify, refer and protect victims. For example, the French Ministry of the Interior published an instruction in April 2022 requesting the prefects to harmonise practices related to victims who were trafficked for sexual exploitation.<sup>1373</sup> The Romanian government approved a national identification and referral mechanism for victims of human trafficking in January 2023.<sup>1374</sup>

Italy adopted a National Action Plan 2022-2025 with long-term strategies and actions aimed at raising awareness, better prevention and the social integration of victims of trafficking.<sup>1375</sup> In line with this, Italy's civil courts granted protection to two Nigerian women who were victims of sexual exploitation and prostitution, as they would either risk an act of persecution on grounds of membership of a particular social group or be re-trafficked if returned to the country of origin (see [here](#) and [here](#)). In another [case](#), a male trafficking victim from Nigeria, initially excluded from refugee protection, was recognised as eligible for subsidiary protection since he could suffer inhuman or degrading treatment by his family after having been a victim of human trafficking.

In Austria, the Constitutional Court [ruled](#) on the link between being the victim of human trafficking and belonging to a particular social group, and confirmed that a Nigerian woman could be regarded as being a member of a particular social group since she had been sexually exploited as a victim of trafficking and would be stigmatised, marginalised and discriminated against upon a return to Nigeria. In another case, the court [ruled](#) on the evidentiary value of the assessments undertaken by the national victim protection organisation and questioned the lower court's approach to disregard the detailed analysis submitted by that organisation.

Protection was also granted to a transsexual trafficking victim from India by the Administrative Court of Cologne in Germany. The court [noted](#) that the victim's return to the country of origin would not constitute a safe environment since the applicant would face family members or



members of the Hijra community through whom she had experienced sexual abuse since childhood, violence and forced to prostitution.

In contrast, CALL in Belgium [reviewed](#) the case of a perpetrator of human trafficking who tried to obtain international protection. He claimed to have been threatened, arrested and abused by Hamas. He travelled to Belgium, where he was arrested on charges of human trafficking and participation in criminal groups. He was sentenced to imprisonment and excluded from refugee and subsidiary protection status.

There were several developments with regard to referral mechanisms in EU+ countries. Ireland adopted a bill in July 2022 to amend the national referral mechanism to make it easier to identify victims and involve a broader range of actors to provide support.<sup>1376</sup> In Finland, legislative amendments were introduced and entered into force in January 2023 to improve the identification and referral of victims of trafficking and their right to services and assistance, irrespective of the progress of criminal proceedings.<sup>1377</sup>

Spain's Council of Ministers adopted a draft bill on trafficking and exploitation which focuses on prevention, assistance and the protection of victims by guaranteeing a series of rights and support measures. A national referral mechanism for potential trafficking victims will also be created.<sup>1378</sup>

In Estonia, a new Victim Support Act enters into force on 1 April 2023. The act will further improve the availability and quality of victim support services.<sup>1379</sup>

As part of a reform process, the Human Rights Initiatives Unit in Malta will develop a national strategy and action plan against human trafficking, which will then serve as the national referral mechanism.<sup>1380</sup> This initiative will receive the support of the Council of Europe through a 2-year project to help with the preparation of the new national anti-trafficking strategy and action plan.<sup>1381</sup>

### 5.5.2. Practical tools and awareness-raising campaigns



Several EU+ countries conducted targeted awareness-raising activities and published guidelines on the identification and referral of victims.

The French Ministry of Gender Equality, Diversity and Equal Opportunities developed a training manual on the identification and protection of victims of trafficking, coordinated by the interdepartmental mission on human trafficking (MIPROF).<sup>1382</sup> Since March 2022, a working group on the risks of trafficking for refugees fleeing Ukraine – piloted by UNHCR in coordination with MIPROF, and including the General Directorate of Foreigners (DGEF), OFPRA, MIPROF and many specialised NGOs, produced identification and awareness tools (leaflets) in several languages with a special focus on minor victims of human trafficking.

The Polish Ministry of the Interior and Administration published a handbook on practical aspects of conducting proceedings in cases of human trafficking,<sup>1383</sup> and the Icelandic Ministry of Justice issued guidelines on indicators of trafficking in human beings, which was published in three languages (Icelandic, English and Polish).<sup>1384</sup>

In Greece, the National Referral Mechanism for the Protection of Victims of Human Trafficking, which is a coordinating mechanism that includes all stakeholders from national authorities and



civil society organisations involved in identifying and protecting trafficking victims, published its report for the first semester of 2022.<sup>1385</sup>

Slovakia launched a new preventive information campaign<sup>1386</sup> and carried out training activities on the signs of human trafficking for about 3,000 staff in 2022.<sup>1387</sup> Portugal launched a new 2-year project to improve prevention, protection and support to trafficking victims. The project will assess national mechanisms which are currently in place and were affected by COVID-19 measures. It will also map sociodemographic characteristics of victims and traffickers.<sup>1388</sup> Czechia created a reference card for the identification of possible victims of human trafficking and launched a new project to map the situation of child trafficking.<sup>1389</sup>

The German Institute for Human Rights (*Deutsches Institut für Menschenrechte*) introduced an independent monitoring and reporting mechanism unit on human trafficking. Their objectives are to sensitise policymakers and other stakeholders, and to ensure that international regulations are implemented more effectively by collecting and evaluating data.<sup>1390</sup> This project receives funding from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth for a period of 4 years.<sup>1391</sup>

## 5.6. Children going through the asylum procedure

### 5.6.1. Data on unaccompanied minors

#### 5.6.1.1. Applications for international protection by unaccompanied minors



According to Eurostat Technical Guidelines, all applicants for international protection who are considered by the responsible national authority to be unaccompanied minors are counted as such. The age of an applicant refers to their age as accepted by the national authority, which may have been determined through an age assessment procedure. Applications by unaccompanied minors present additional challenges given the more extensive asylum procedures<sup>1392</sup> and special reception conditions<sup>1393</sup> that they require.

In 2022, 42,000 applications for asylum were lodged by unaccompanied minors across EU+ countries, which was the most since 2016. This represented an increase of three-fifths from the previous year, slightly exceeding the growth in total applications (+53%).

Unlike total applications for all ages, however, most of the increase was concentrated among just two citizenships (see *Figure 29*). Almost one-half of all applications by unaccompanied minors were submitted by Afghans (20,000), which increased the most in absolute terms compared to 2021 (+ 6,500). They were followed at a distance by Syrians (10,000, +5,200). Together, these two nationalities accounted for over two-thirds of all applications lodged by unaccompanied minors in EU+ countries and almost three-quarters of the annual increase. Nonetheless, at far lower levels, applications by unaccompanied minors from Egypt, Türkiye, Tunisia, India, Yemen, Burundi and Ukraine (in descending order) reached unprecedented levels.<sup>lxiv</sup>

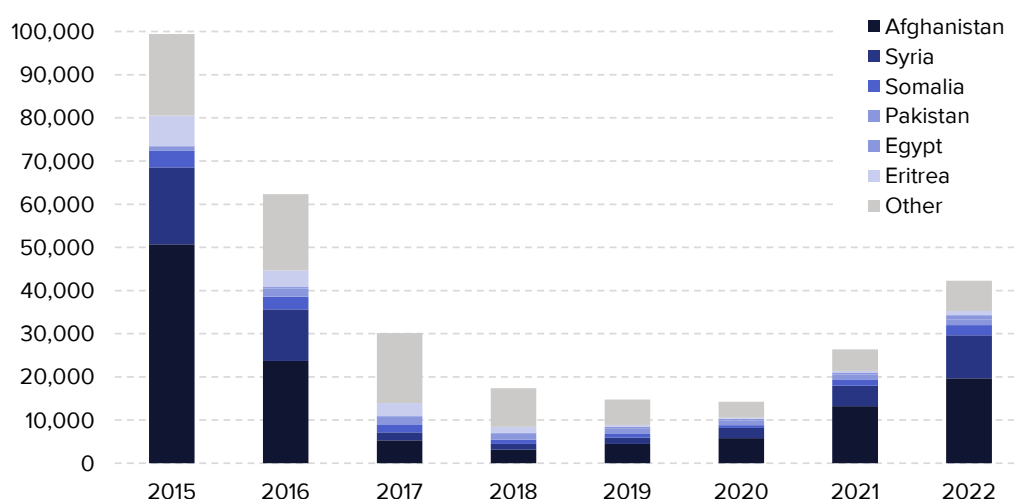
<sup>lxiv</sup> The highest since at least 2008. This only includes citizenships with at least 100 applications by unaccompanied minors.

Since both applications by unaccompanied minors and others grew significantly in 2022, the share of unaccompanied minors remained stable at about 4 %. Nevertheless, there was significant variation among citizenships. About 1 in 7 applicants from Afghanistan and 1 in 8 applicants from Somalia were considered to be unaccompanied minors, but only 1 in 14 Syrians. In contrast, applications by unaccompanied minors were almost negligible among several top citizenships for asylum applications, including Colombians, Turks and Venezuelans.



### The most unaccompanied minors lodged asylum applications in EU+ countries since 2015

**Figure 29. Asylum applicants considered to be unaccompanied minors by main country of origin, 2015-2022**



**Note:** Data for Iceland were missing.

Source: Eurostat [[migr\\_asyunaa](#)] as of 13 April 2023.

Overall in 2022, 1 in 6 of all applicants under the age of 18 was an unaccompanied minor. The proportion was higher for minors aged 14 to 17, with more than one-half being unaccompanied.<sup>lxv</sup> Most notably, over 80% of the Egyptian, Bangladeshi and Indian minors between 14 and 17 years of age were unaccompanied, as well as about three-quarters of Afghans and Pakistanis in this age group. In contrast, just 7% of the 14-to-17-year-old Colombians and Ukrainians were unaccompanied.

Over 93% of all unaccompanied minor applicants were 14-to-17 years old. Only 7 % of the total for EU+ countries were younger than 14 years, but over 70% of the unaccompanied minors in Poland were in this age group. Girls represented just 7% of all unaccompanied minors in EU+ countries. Their representation was higher in the youngest age cohort (below the age of 14), where they accounted for about 18%. Girls represented a minority of the unaccompanied minors of most nationalities.

<sup>lxv</sup> This is calculated as the number of unaccompanied minor applicants (Eurostat [migr\\_asyunaa](#)) divided by the number of applicants for international protection younger than 18 years (Eurostat [migr\\_asyappctza](#)).

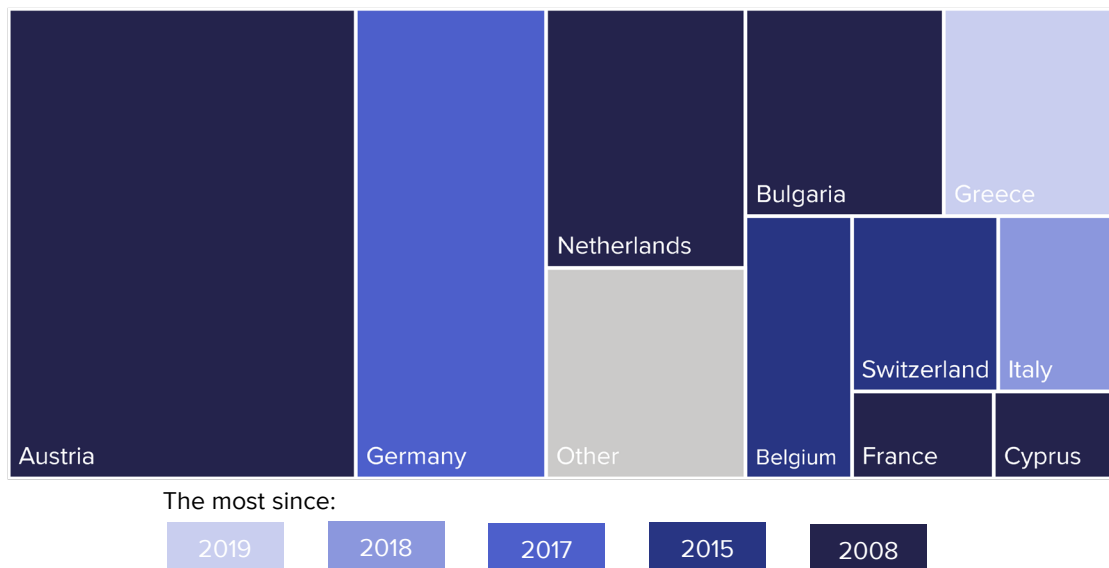
Almost all unaccompanied minors applied for the first time, with subsequent applicants accounting for a negligible share of the total.

More than one-half of all applications for international protection by unaccompanied minors were lodged in Austria (13,000 or 31%), Germany (7,300, 17%) and the Netherlands (4,200, 10%). In both Austria and the Netherlands, as well as in Bulgaria (3,400), France (1,000) and Cyprus (900), figures for 2022 were the highest on record<sup>lxvi</sup> (see Figure 30).



### Record-high numbers of unaccompanied minors in Austria, Bulgaria, Cyprus, France and the Netherlands

**Figure 30. Top 10 EU+ countries receiving applications by unaccompanied minors, 2022**



**Note:** Data for Iceland were missing.

Source: Eurostat [[migr\\_asyunaa](#)] as of 13 April 2023.

In contrast, in Romania and Slovenia applications by unaccompanied minors fell significantly from peak levels in the previous year. Of all applications lodged in Austria, Bulgaria, the Netherlands and Norway in 2022, more than 10 % were lodged by unaccompanied minors. This contrasts with France and Spain where the proportion was less than 1 in 100 applications.

#### 5.6.1.2. Case closures related to unaccompanied minors

##### Decisions at first instance and recognition rates

In 2022, asylum authorities issued some 13,000 first instance decisions to unaccompanied minors in EU+ countries, which was one and a half times as many as in 2021. As illustrated in Figure 31, large increases were recorded in the number of first instance decisions issued to unaccompanied minors from Afghanistan and Syria, and at lower levels, Somalia and Bangladesh.

<sup>lxvi</sup> Since at least 2008.

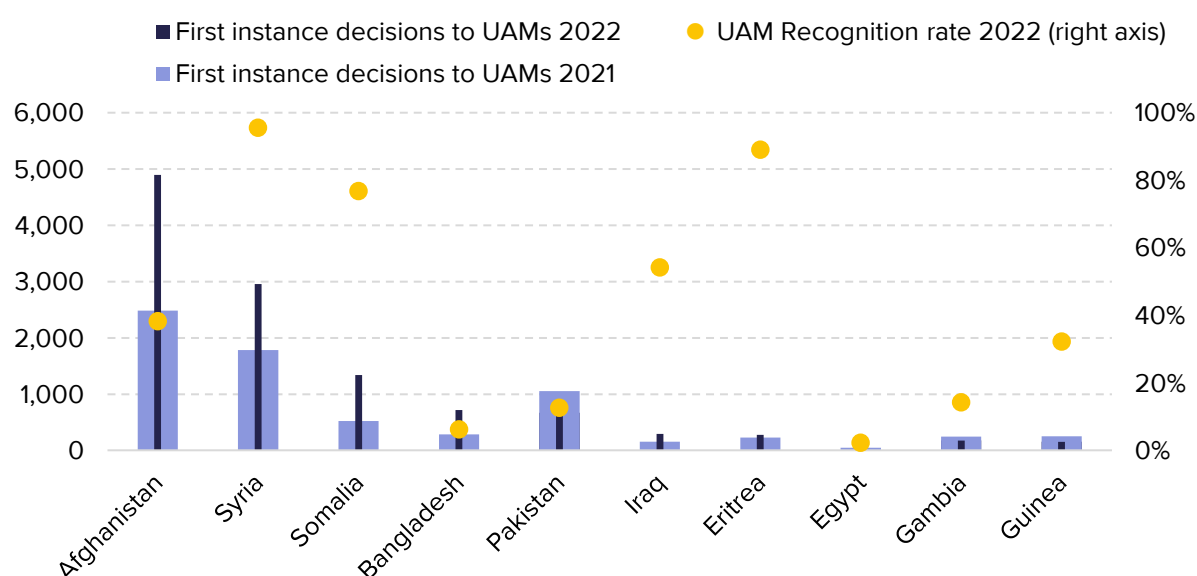


While the number of first instance decisions increased across all four main nationalities, the outcome of such decisions varied significantly. Refugee status or subsidiary protection were granted to almost all Syrian unaccompanied minors (96%) in contrast with the small minority of positive decisions being issued to minors from Bangladesh (6%).



### First instance decisions issued to unaccompanied minors from Afghanistan doubled

**Figure 31. First instance decisions issued to unaccompanied minors and respective recognition rates by Top 10 nationalities, 2022**



**Note:** The recognition rate is calculated as the proportion of first instance decisions granting EU-regulated types of protection.

Source: Eurostat [[migr\\_asyumdcfa](#)] as of 13 April 2023.

In both cases, recognition rates for unaccompanied minors mirrored the recognition rates for adults from the same country of origin. Notable exceptions included unaccompanied minors from Somalia and Iraq who had higher recognition rates than their adult counterparts. In contrast, unaccompanied minors from Afghanistan were granted refugee or subsidiary protection less frequently than adults, on account of a higher proportion being granted national forms of protection.

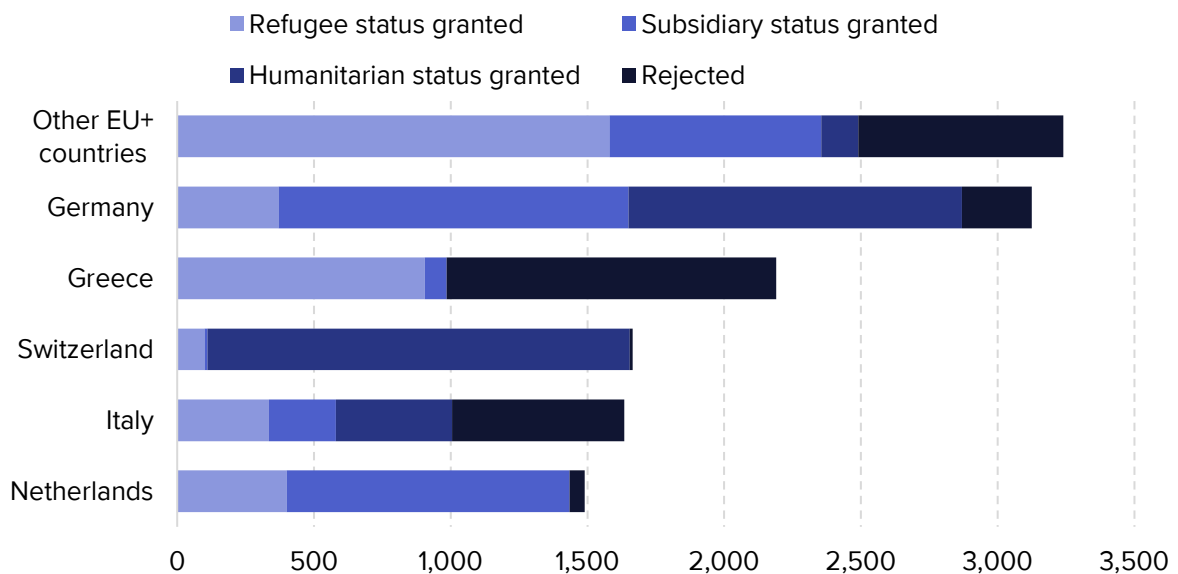
As illustrated in Figure 32, five EU+ countries jointly issued about three-quarters of all first instance decisions on applications submitted by unaccompanied minors in 2022: Germany (23%), Greece (16%), Switzerland (12%), Italy (12%) and the Netherlands (11%).

Of the top countries, Germany issued about two and a half times more first instance decisions to unaccompanied minors than in 2021. The increase was mainly driven by many more decisions issued to the two main groups of unaccompanied child applicants in the country, namely Afghans (1,500 decisions) and Syrians (1,100 decisions) which more than tripled and doubled, respectively. Most decisions concerned older male minors aged 14-17.



## Germany issued almost one-quarter of all decisions to unaccompanied minors

**Figure 32. Outcome of first instance decisions issued to unaccompanied minors by Top 5 EU+ country, 2022**



Source: Eurostat [[migr\\_asyumdcfa](#)] as of 13 April 2023.

In terms of the outcome, the share of rejections declined from almost one-quarter in 2021 to less than one-tenth as many more decisions granted an authorisation to stay for humanitarian reasons (1,200, up from 200 in 2021). In addition, about 53% of first instance decisions issued to unaccompanied minors in Germany granted EU-regulated forms of protection, including refugee status and subsidiary protection (see *Figure 32*).

Greece issued the second highest number of first instance decisions to unaccompanied minors in 2022, up by one-half from the previous year. The increase was driven solely by more decisions being issued to minors aged 14-17 as the number of decisions issued to those younger than 14 decreased from already low numbers. Decisions issued by Greece to unaccompanied minors from Somalia increased the most in absolute terms, making them the top nationality and exceeding decisions issued to unaccompanied minors from Pakistan, which declined by one-half from the previous year. Many more decisions were also issued to unaccompanied minors from Bangladesh, Afghanistan and Egypt (in descending order).

Overall, 45% of all first instance decisions issued to unaccompanied minors in Greece granted EU-regulated forms of protection in 2022. This represented a significant increase from the previous year (26%) as more decisions were issued to minors from countries with higher recognition rates.



First instance decisions issued to unaccompanied minors in Switzerland surged to the third-highest across EU+ countries, driven by many more decisions issued to Afghan unaccompanied minors. In fact, about 90% of first instance decisions issued to unaccompanied minors in Switzerland related to nationals of Afghanistan and almost all of them were granted temporary admission under Swiss law.

In contrast, the number of first instance decisions issued to minors by Italian asylum authorities remained stable in 2022, with unaccompanied minors from Bangladesh receiving the largest number of decisions, as was the case in the previous year. The share of positive decisions also remained largely stable in Italy, with refugee and subsidiary status being (jointly) granted in 35% of all first instance decisions issued to unaccompanied minors, while about one-quarter of decisions granted humanitarian status under the national framework.

Significant increases were recorded in the Netherlands, where the number of first instance decisions issued to unaccompanied minors rose by over two-thirds from 2021. More than one-half of these decisions were issued to Syrians, while decisions issued to Eritreans, Iraqis and Somalis accounted for about one-tenth each. For these top four nationalities, most decisions were positive (granting refugee status or subsidiary protection).

Turning to final decisions issued in appeal or review on applications by unaccompanied minors, these increased by around one-third from the previous year. This was driven by many more decisions issued by Greece (1,000), which in fact issued almost two-thirds of all second or higher instance decisions to unaccompanied minors, mostly to minors from Pakistan and Bangladesh (640 and 150 respectively, with all of them consisting of rejections).

### **Withdrawn applications**

An asylum application can be explicitly or implicitly withdrawn for various reasons before a final decision has been issued, regardless of whether an application is pending at first or higher instances (see *Section 4.4.8*).

In 2022, about 18,000 applications were withdrawn by unaccompanied minors in 20 EU+ countries which reported data. Similar to withdrawn applications by adult applicants, this was about twice as many as in 2021. In fact, the growth in withdrawn applications outpaced the growth in applications lodged by unaccompanied minors. In particular, a sharp increase was noted during the second half of the year, peaking at over 2,600 withdrawn applications by unaccompanied minors in October 2022. The applications were predominantly withdrawn by one particular group, with male applicants, aged 14-17, accounting for 95% of withdrawals. In fact, in 2022, the most withdrawals since at least 2008 were recorded for applicants within the 14-17-year age group.

Almost all withdrawals were implicit, suggesting that the unaccompanied minors did not notify the authority of their intention to withdraw the application. It is possible that an asylum applicant implicitly withdraws their application from one EU+ country to apply again elsewhere, thus indicating secondary movements towards other EU+ countries.

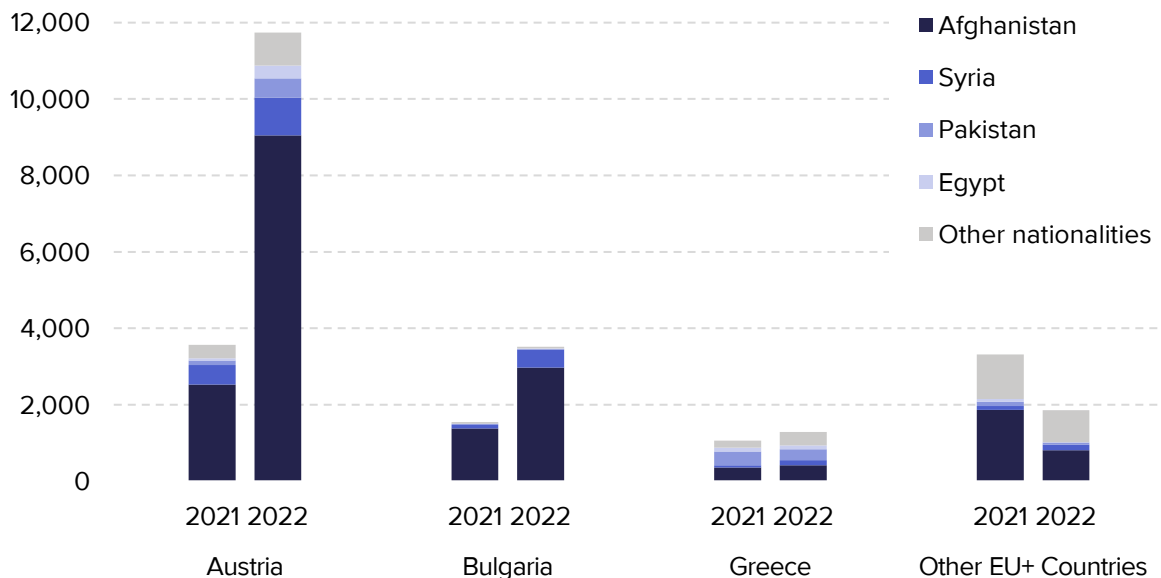
The majority of EU+ countries recorded more withdrawals in 2022 compared to 2021. However, notable exceptions were Romania and Slovenia, where withdrawals declined to just one-quarter and one-third of 2021 levels, respectively.





## Sharp increase in withdrawals of asylum applications in Austria by unaccompanied minors from Afghanistan

**Figure 33. EU+ countries with the most withdrawals by citizenship of the unaccompanied minor applicant, 2022 compared to 2021**



Source: Eurostat [[migr\\_asyumwita](#)] as of 13 April 2023.

As with withdrawals by adults, the sharpest increases took place in Austria and Bulgaria, where the number of withdrawals by unaccompanied minors more than tripled and doubled (see Figure 33). In fact, Austria accounted for almost two-thirds of the total in 2022. Bulgaria followed at a distance, accounting for one-fifth of the total. At lower levels, Greece recorded an increase of one-fifth from 2021, where the third-most withdrawals by minors took place.

Afghan unaccompanied children accounted for almost three-quarters of all withdrawals by unaccompanied minors. They withdrew over 13,000 applications in 2022 compared to 6,100 in 2021, largely in Austria (68% of all applications withdrawn by Afghan unaccompanied minors) and Bulgaria (22%).

At far lower levels, the second-highest number of withdrawals by unaccompanied minors corresponded to Syrian nationals (about 1 in 10 of all withdrawals by unaccompanied minors), increasing more than two-fold from the previous year. Once again, most withdrawals occurred in Austria and Bulgaria, followed at a distance in Greece and Romania.

Withdrawals by unaccompanied minors from Pakistan and Egypt also increased significantly from 2021 and were the third and fourth highest out of all citizenships. They accounted for 5% and 3% of all withdrawals by unaccompanied minors, respectively.

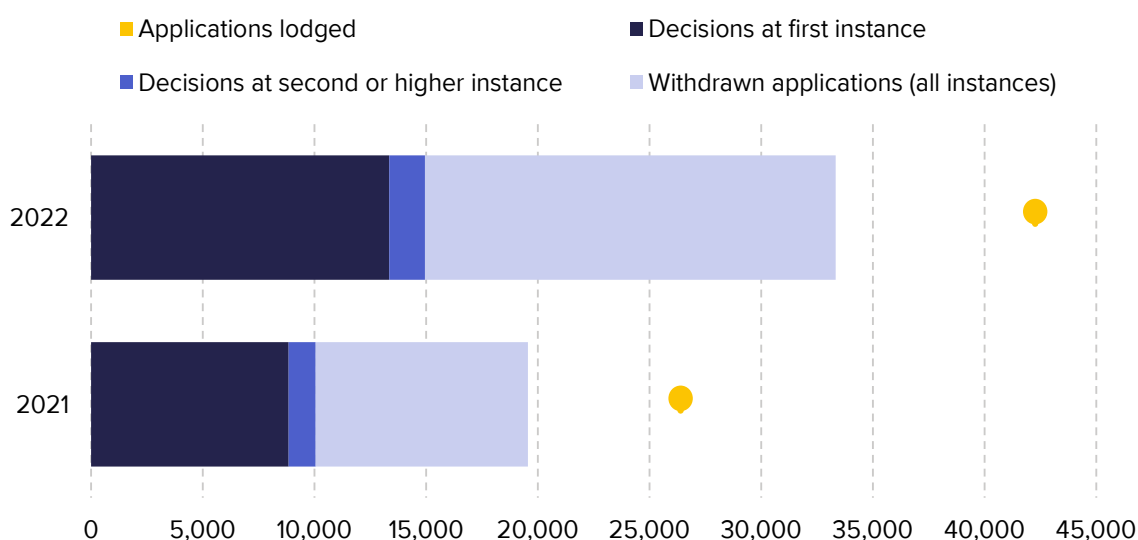
## Pending cases

The increase in the number of asylum applications lodged by unaccompanied minors outweighed the significant increases in both decisions (at all instances) and withdrawals (see *Figure 34*). As a result, the number of unaccompanied minors with an asylum application pending at the end of 2022 increased by more than two-fifths in comparison to 2021.



### More applications than case closures resulted in a large caseload of applications by unaccompanied minors

**Figure 34. Applications by unaccompanied minors: lodged, withdrawn at any instance and closed with a decision at first and second or higher instance, 2022 compared to 2021**



Source: Eurostat [[migr\\_asyumwita](#), [migr\\_asyumdcfa](#), [migr\\_asyunaa](#), [migr\\_asyumpctm](#)] as of 13 April 2023.

Increases occurred in most countries, albeit to a different extent. In the countries with the most pending cases related to unaccompanied minors, namely Germany and the Netherlands, such cases increased at least two-fold (see *Figure 35*), whereas numbers increased more moderately, albeit still markedly, in Belgium and Austria (up by 37% and 57%, respectively). Together, these top four countries accounted for three-fifths of all pending cases for unaccompanied minors, with Germany alone accounting for one-fifth.

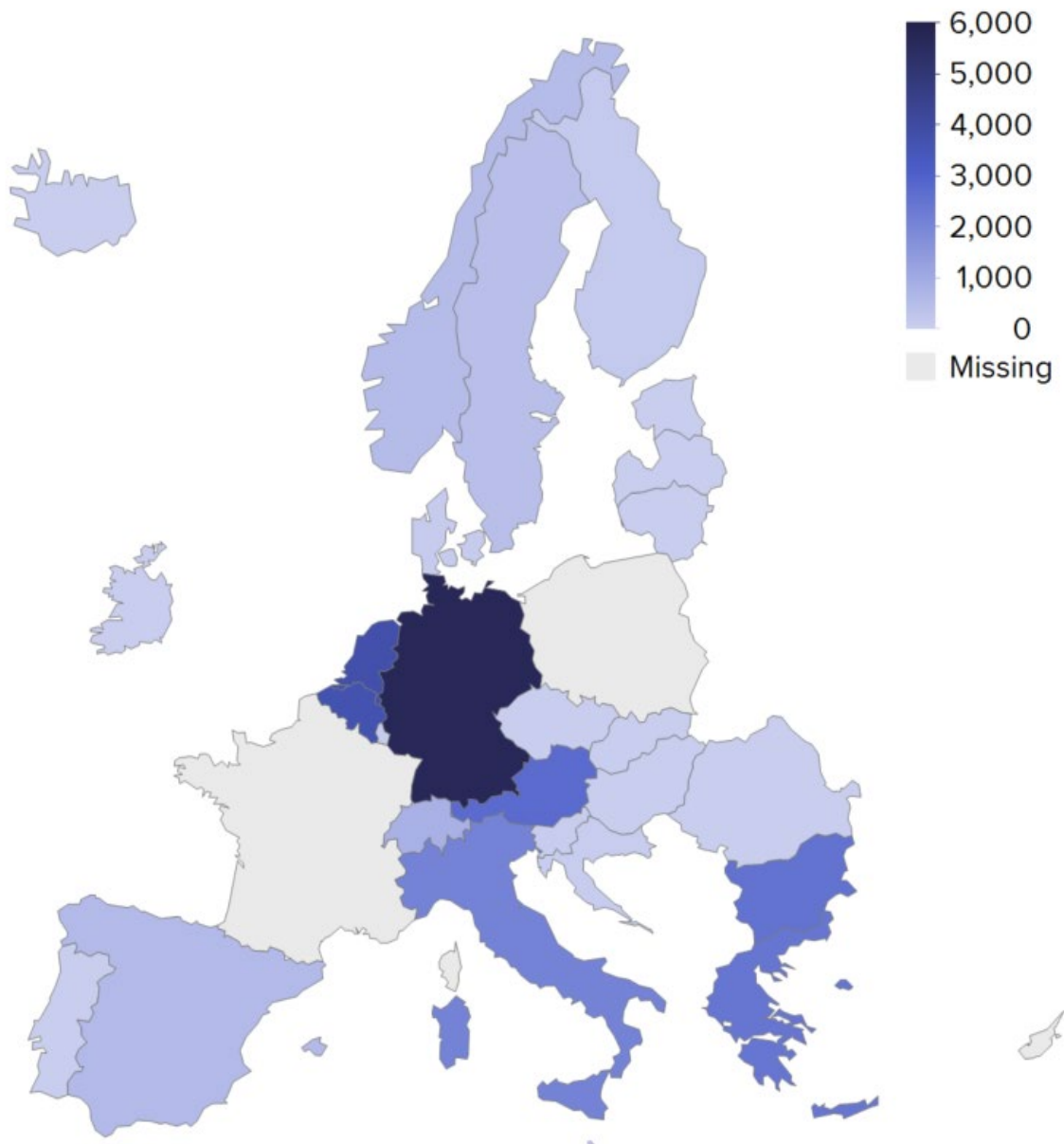
Conversely, pending cases decreased by one-quarter in Greece, mostly due to more decisions being issued.

Almost two-thirds of all pending cases for unaccompanied minors at the end of 2022 related to children from Afghanistan and Syria. The latter increased far more significantly with respect to the previous year (7,600, +144% from 2021) but remained the second-largest group after Afghans (9,200, +17%). Caseloads for unaccompanied minors were also relatively high for Eritreans (+70%) and Somalis (+47%), with around 1,400 pending cases each.



## One-fifth of applications by unaccompanied minors were awaiting a final decision at the end of 2022 in Germany

**Figure 35. Unaccompanied minors with an asylum application pending at the end of December 2022 by EU+ country**



**Note:** Data on pending cases for unaccompanied minors were not available for countries marked in grey.  
**Source:** Eurostat [[migr\\_asyumpctm](#)] as of 13 April 2023.



### 5.6.2. Legal representation for asylum-seeking children



Due to the arrival of unaccompanied children from Ukraine, amendments to the Lithuanian Law on the Legal Status of Foreigners aimed to speed up the procedure to appoint a legal guardian for them.<sup>1394</sup> Arrivals from Ukraine prompted legal amendments in Slovakia as well. A new government regulation allowed an adult who accompanied the child to be appointed as a legal guardian even if the person does not have legal custody.<sup>1395</sup>

A similar situation led to a court case in Italy. A group of children arrived from Ukraine from a family-type orphanage, together with the director of the establishment. At first, the authorities would not appoint him as a legal guardian. The Juvenile Court of Bolzano underlined that the absence of a parent does not automatically mean that the child should be considered as unaccompanied.<sup>1396</sup>

The Immigration Act was amended in Malta to change the rules for appointing an interim legal guardian for prohibited migrants (persons entering the territory in an irregular manner or who overstay their visa) who claim to be a minor. The Chief Executive Officer of AWAS may appoint the interim guardian, who retains responsibilities until it is established that the person is not a minor or an ordinary guardian is appointed based on the Minor Protection (Alternative Care) Act.<sup>1397</sup> All alleged minors referred to AWAS are referred to the Child Protection within 72 hours from disembarkation or arrival to issue them with a provisional care order and appoint a representative from the Unaccompanied Minors Asylum Seekers Protection Services within AWAS. The interim guardian acts in the best interests of the minor, ascertains the minor's views and wishes, and collaborates with all those involved in the protection. Previously, after changes in 2021, the interim representative was appointed from Unaccompanied Minor Asylum Seekers (UMAS) Protection Services (a separate entity falling under the Ministry for Social Policy and Children's Rights), to ensure that there was no potential conflict due to the fact that social workers and guardians belonged to the same institution.<sup>1398</sup> Aditus foundation commented that the amendments in 2022 revert to a situation where AWAS could be in a conflict of interest when performing its various tasks.<sup>1399</sup>

Following the announcement of the transfer of unaccompanied children from Pournara to another reception facility (see Section 5.6.5), the Cypriot Social Welfare Services launched an urgent call for 12 guardians and 46 social workers.<sup>1400</sup>

The UNCRC noted some developments in recent years in Greece, for example, the preparation of a draft legal framework to establish a uniform national guardianship system for unaccompanied migrant children. However, it expressed serious concerns about delays in activating the guardianship system.<sup>1401</sup> The committee also expressed worries about the age assessment procedure (see Section 5.6.3), other aspects of the asylum procedure (see Section 5.6.4) and reception conditions (see Section 5.6.5) for children.

The Foundation for Access to Rights in Bulgaria published a study on the role of the legal representative in the asylum procedure, following legislative changes that were introduced in 2020. The study noted that one of the main challenges was the low number of representatives in practice and the legal framework allowing one representative to be responsible for up to 50 children.<sup>1402</sup> The discrepancy between the number of legal representatives at the National Legal Aid Bureau and the number of unaccompanied children applying for protection gave rise to parliamentary questions.<sup>1403</sup>





Due to the high influx of unaccompanied children, the Dutch Nidos reported challenges in finding enough guardians. Those already working had very high caseloads and struggled to provide adequate support to all the children.<sup>1404</sup>

In Austria, UNHCR, UNICEF and the IOM urged authorities to ensure that unaccompanied children are immediately assigned a guardian, as currently the procedure is only initiated when unaccompanied children above the age of 14 are assigned to provincial reception centres.<sup>1405</sup>

### 5.6.3. Assessing the age of an applicant claiming to be a child



ECRE published a legal note on challenges in age assessment procedures and the international and European legal standards that guide the process in January 2023.<sup>1406</sup>

The Spanish Ministry of Justice approved a preliminary draft of a new law on age assessments. The process aims to bring the legislative framework in line with recommendations from the UNCRC and the Spanish Ombudsperson.<sup>1407</sup> Civil society organisations working with unaccompanied minors sent their comments on the draft law. The organisations argued, for example, that the procedure should be planned as preferential but not urgent. This would allow judges to suspend or extend deadlines when necessary to make an adequate age assessment.<sup>1408</sup>

Convive-Fundación Cepaim noted that the trend from previous years continued, whereby unaccompanied children arriving in Ceuta and Melilla declared themselves as adults to be transferred more quickly to the mainland.<sup>1409</sup>

In Luxembourg, due to a rise in the number of applications from unaccompanied minors, and thus in cases where minority was in doubt, the Directorate of Immigration requested an increase in the number of age assessments that could be conducted in a month.

The description of the age assessment method followed by the National Board of Forensic Medicine was updated in Sweden. The procedure itself did not change, but its description became more detailed and transparent to minimise risks and to interpret the margin of errors and factors affecting the statistical model. The legal position on a child's age assessment for family reunification was updated with recent CJEU case law (see *Section 4.14.*). The Netherlands Forensic Institute changed its practice based on a recent literature review, and since October 2022, applicants with a mature collarbone are considered to be at least 18 years old, instead of 20 years.<sup>1410</sup>

The UNCRC expressed its concern about the generalised use of the age determination procedure in Greece, and it found the procedure to be inappropriate overall.<sup>1411</sup> The Greek Council for Refugees observed delays in the age assessment procedure in Samos due to a lack of trained staff.<sup>1412</sup>

Caritas International noted a gap in Belgian age assessment practices, leaving several youngsters on the streets without access to material reception conditions. In October and November 2022, the Guardianship Service did not conduct age assessment procedures among the youngsters sleeping outdoors, but without a proof of their minority, these youngsters could not be prioritised for reception. Qualifying as single male adults, they had little chance to be accommodated during the crisis situation (see *Sections 4.7 and 5.6.5.*)<sup>1413</sup>



The Cypriot Administrative Court of International Protection **observed** several deficiencies in the age assessment procedure of a Somali applicant. The youngster provided his birth certificate in English, but this was not evaluated by the authorities. He needed to undergo a medical examination, without receiving details on the reason for it nor about the possibility that he can provide comments on the procedure. The choice of method for the medical examination was not reasoned and justified. In addition, for the purpose of family reunification, the authorities took into account the date of his medical examination and not the date of his application for international protection.

The Immigration Appeals Board in Malta **examined** the age determination process in a case of a child who was declared to be an adult following the age assessment of AWAS, based on a photo of a documentation from the Principal Immigration Officer. The board underlined that the Principal Immigration Officer did not have the right to intervene in age assessment procedures, and AWAS had no competence to review its own age assessment. The applicant was declared to be a minor again and the board ordered that he should be accommodated in the open shelter for unaccompanied minors.

The Council of State in the Netherlands **clarified** some principles of age determination in the framework of the Dublin procedure. The applicant was registered with different ages – both as a minor and as an adult – in various Member States (see Section 4.2).

The ECtHR **found** that the age assessment procedure of an unaccompanied child in Italy was in breach of the ECHR, Article 8 (respect for private and family life). The child expressed his wish to apply for international protection, but a guardian was not assigned to him for 6 months and he went through the age assessment procedure without a representative. The authorities did not provide information on the chosen method and its consequences, and they did not send the medical report to him. As there was no formal decision issued to consider him an adult, he was unable to appeal the decision. The Italian authorities failed to apply the principle of the presumption of minority.

#### 5.6.4. Rights of the child during the asylum procedure



The Austrian Commission on the Best Interests of the Child delivered its report and recommendations for improving the legal framework and practices related to children in the asylum procedure in 2021. In 2022, the Federal Ministry of Justice stated that it had implemented 22 of the recommendations, some others were being implemented and the remainder were considered not to be feasible.<sup>1414</sup> The commission members established a platform “Together for children’s rights” to organise civil society monitoring of the implementation of the recommendations.<sup>1415</sup> For example, selected cases from the Austrian Federal Administrative Court were analysed to assess the consideration of the best interests of the child in the asylum procedure.<sup>1416</sup> The commission’s chairperson,<sup>1417</sup> experts working with children and civil society organisations<sup>1418</sup> expressed concern about follow-up on the recommendations.

A new law was adopted concerning child protection in France and – among other measures – it requires the child welfare services to inform unaccompanied minors about the possibility to apply for international protection. The amendment was adopted to ensure that children are aware of the different options to lawfully stay by the time they reach majority.<sup>1419</sup> Since 2019, the French Asylum Directorate undertook several steps to facilitate unaccompanied minors’ access to the asylum procedure. Specific information material was distributed to all reception



facilities throughout the country, as well as to GUDA and departmental councils, including posters and leaflets which were made available in 10 languages.<sup>1420</sup>

The Dutch IND had rejected a child's asylum application without examining if adequate reception was available in the country of origin before issuing a return decision. Following the CJEU ruling in [TQ](#), the Council of State found in several cases (for example, for [Guinean](#), [Moroccan](#) and [Russian](#) children) that this practice was against EU law and the best interests of the child. As a result, the asylum procedure for unaccompanied minors was changed, with the State Secretary for Justice and Security noting that it would lead to a longer process for this group of applicants. The possibility of an additional appeal was added, when the applicant contests the assessment or the length of the procedure.

When taking a decision on an application by an unaccompanied minor, the IND may conclude that further examination is required on the existence of adequate reception conditions in the country of origin. In this case, the authority takes a decision on the application only and transfers the file to the DT&V, which then completes the examination within a reasonable period of time. This period can be a maximum of 1 year but could be extended if the child does not cooperate with the authorities. The time limit is suspended when the child is granted an interim order or makes a repeated or subsequent application, as the DT&V cannot contact the country of origin during this period. When a child disappears, it is assumed that no further examination is needed and a return decision can be taken.<sup>1421</sup> The Advisory Council on Migration assessed that this policy was still not entirely in line with EU law and noted that it left children in a lengthy legal limbo.<sup>1422</sup>

The [TQ](#) ruling led the SMA in Sweden to publish a legal commentary.<sup>1423</sup> In addition, the agency reviewed the assessment and decision-making process involving cases of accompanied children. The review concluded that, while the outcome of the cases can be approved, the decisions should include a clearer and better justified assessment of the best interests of the child.<sup>1424</sup>

In order to decrease the backlog of cases launched by unaccompanied minors, the Belgian CGRS allocated 32 new staff members to work on applications by this profile.

Some countries introduced changes for a better overview of the asylum procedure for children. A new regulation was adopted in Italy to consolidate in one legislative piece the tasks of the Ministry of Labour and Social Policies related to unaccompanied minors.<sup>1425</sup> A coordination mechanism was approved in Bulgaria to facilitate communication among the authorities and organisations working with unaccompanied and separated children.<sup>1426</sup> However, the Bulgarian Helsinki Committee observed that this mechanism was not yet implemented in practice in 2022.<sup>1427</sup> A regulatory amendment modified the composition of the Advisory Commission for the Assessment of the Best Interests of the Child in Luxembourg.<sup>1428</sup> This commission meets to assess the best interests of the child in the return procedure. The objective of the change was to add a civil society representative to the commission.

The UNCRC called on Greece to “(e)nd the practice of forced returns (‘pushbacks’) of families and migrant children and ensure that they are individually identified, registered and protected against *refoulement*, including through an effective access to the asylum procedure, and free legal and humanitarian assistance” (see [Section 4.1](#)). The committee noted several improvements in the institutional framework in recent years, such as the establishment of the Special Secretariat for the Protection of Unaccompanied Migrant Children under the Ministry of Migration and Asylum, and the adoption of a national protection strategy (2021–2025). It



further encouraged the Greek government to review its legislation on asylum and ensure that the law includes appropriate safeguards for children, for example exempting them from the accelerated border procedure or through the expansion of the definition of family members to families created in transit.<sup>1429</sup>

In order to further improve the protection of unaccompanied and separated children, the Greek Special Secretariat for the Protection of Unaccompanied Migrant Children signed an agreement with UNHCR. The two organisations have been working closely since 2020, and in 2021, they established a national emergency response mechanism.<sup>1430</sup> Collaborating NGOs, such as the Network for Children's Rights, welcomed this new mechanism and highlighted its importance in supporting unaccompanied children.<sup>1431</sup> The organisation also began implementing a new programme supporting unaccompanied children who do not want to enter the national mechanism.<sup>1432</sup>

In the case [A.J. v Greece](#), the ECtHR dismissed all the complaints for different reasons. The case concerned the return of a child to the Occupied Palestinian Territory, but in the meantime, the return decision was withdrawn, and the child and siblings received international protection. Thus, the court found that there was no need to examine his complaint related to the return and the lack of his involvement in the procedure for revoking his status. The court found that his complaint related to the lack of psychosocial support was manifestly unfounded, as his mental health appeared to have been monitored on a regular basis. Concerning the separation of the siblings in different facilities, the court noted that this was for a short period, the authorities facilitated their contact, and as soon as possible, reunited them. Thus, the court concluded that this claim was also unfounded.

To support stakeholders working with child applicants, the civil society organisation Arsis published the second, updated edition of a collection of relevant national court decisions.<sup>1433</sup>

The UNCRC called on Croatia to “(e)nd the practice of forced returns (‘pushbacks’) of families and children in situations of migration and ensure that they are individually identified and registered and protected against *refoulement*, including through effective access to the asylum procedure”<sup>1434</sup> and Cyprus to “(e)nd the practice of forced returns, or pushbacks, of families and children, uphold the principle of *non-refoulement* in border management, ensure that children receive appropriate protection, access to the asylum procedure and legal and humanitarian assistance, (...) investigate pushback incidents and hold accountable those responsible”.<sup>1435</sup> The Ministry of the Interior in Croatia made a statement that it fully respected and ensured all standards prescribed in EU legislation related to access to procedures and reception conditions. The ministry underlined that a Cooperation Agreement was concluded in June 2021 to monitor the actions of police officers in the area of illegal migration and international protection (implemented between 8 June 2012-8 June 2022). A new agreement was concluded for another year on 4 November 2022, funded by the European Commission. The novelties planned include that direct implementers receive access in 24 hours to the Ministry of the Interior's information system (a printout of data on a specific event), following an oral or written request.

The UNCRC encouraged the authorities in Germany to strengthen measures to ensure that applicant children are interviewed in a child-friendly manner and that they receive age-appropriate information and legal advice about their rights.<sup>1436</sup>



In preparation for Sweden's periodic UNCRC report, 31 civil society organisations elaborated a report produced by applicant and refugee children themselves, expressing their experiences in the asylum procedure and integration. The report is accompanied by an analysis and recommendations prepared by the organisations.<sup>1437</sup>

The UNCRC **condemned** Swiss authorities for not taking all the necessary steps to ensure that a child with a hearing impairment would receive appropriate medical care upon being returned to the country of origin (see *Section 5.3*), as well as not hearing the sibling in the asylum application lodged on his own behalf. The authorities rejected the application because his case had already been examined as part of the parents' rejected claim.

The Icelandic Immigration Appeals Board **requested** the Directorate of Immigration to re-examine the case of a child to assess if he could qualify for a residence permit on humanitarian grounds instead of international protection. The board also asked it to re-assess his mother's case, based on the principle of family unity. Their application was rejected on formal grounds, as the mother had a valid residence permit in Chile and the child had Chilean citizenship. On appeal, the board found that the directorate did not fulfil its duties for an appropriate assessment.

In Lithuania, the Supreme Administrative Court confirmed in two cases in **June** and **July** 2022 that the situation of children must still be individually assessed, when the family as a whole apply for international protection.

The Finnish Human Rights Centre submitted its observations to the UNCRC on the report on Finland. The organisation had recommended to abolish the 12-year age limit for hearing child applicants and suggested a framework where children are heard based on an individual assessment of their maturity. The centre also made recommendations to improve the family reunification procedure and ensure adequate consideration of the best interests of the child.<sup>1438</sup>

The Finnish Immigration Service (FIS) requested UNHCR to examine the assessment of best interests in 50 asylum cases during December 2018-December 2021. The results were positive, and UNHCR confirmed that the cases included clearly-structured analysis and legal reasoning on the best interests of the child and that detailed internal instructions on how to process and decide on applications by children is provided to case officers. It recommended to improve the assessment of child-specific forms of persecution in decision-making and systematically include more child-specific COI in decision-making.

In Spain, UNHCR published a guide for professionals working with unaccompanied children to overcome some of the challenges that the organisation observed in the asylum procedure and provide recommendations for a more child-sensitive approach in the assessment of their protection claims.<sup>1439</sup>

#### 5.6.5. Children in the reception system



Saturated reception centres and the surge in the number of unaccompanied children across the EU created multiple issues for their accommodation and support, for example in Austria, Belgium, Ireland, Italy, Luxembourg, the Netherlands and Switzerland.

Due to a shortage of places in provincial reception facilities in Austria (see *Section 4.7*), unaccompanied children needed to spend months in large federal reception



facilities. In addition, UNHCR was alarmed about their high abscondment rate and the lack of follow-up in these cases.<sup>1440</sup> The national authority underlined that in their view there was no link between the situation in reception – which they consider to be fully in line with the recast RCD – and the abscondment rate, and many of the applicants claimed to be between 16-18 years old but their minority had not yet been established.

Fedasil identified several challenges for the reception and support of unaccompanied minors. The organisation noted that it was able to offer general support for these children, but many of them had specific needs due to their age, psychological or psychiatric vulnerabilities, disabilities or addiction. The group of unaccompanied children in reception was also rather homogenous in Belgium, with 80% being Afghans. The agency assessed that this required the deployment of a greater number of initiatives aiming for their long-term reception.<sup>1441</sup>

The Odisee College presented the results of a 2-year, AMIF-funded study on adapting reception centres to families' and children's needs, which was endorsed by Fedasil.<sup>1442</sup> Still, the lack of enough places for unaccompanied children persisted throughout the year. Fedasil focused on expanding its accommodation places for children, but on 11 October 2022, the agency announced that only one-half of the children registered that day could also be accommodated.<sup>1443</sup>

The ECtHR indicated interim measures in several cases throughout 2022, involving minor male applicants (see *Section 4.7*).<sup>1444</sup> In addition, some requests from unaccompanied minors were rejected as they had not obtained a final domestic decision, while others withdrew their requests for interim measures as they had obtained accommodation in the meantime.<sup>1445</sup> Caritas International observed in November 2022 that around 150 youngsters were sleeping on the street in Belgium, waiting to be accommodated, and many of them disappeared from the asylum system.<sup>1446</sup> Youngsters whose age was in doubt were in a limbo: the Guardianship Service did not conduct the age assessment, but without this, they were not offered shelter (see *Section 5.6.3*).<sup>1447</sup>

The Irish Refugee Council expressed concern about the safety of children and families in the Citywest Transit Hub in Dublin in a letter sent to the Minister for Children, Equality, Disability, Integration and Youth. The organisation observed that sanitary facilities were not segregated by sex or by age, children were mixed with unrelated adults, and experienced and trained child protection personnel was lacking.<sup>1448</sup> In January 2023, the government announced that new international protection applicants would no longer be accommodated in the site's emergency accommodation area, as it had reached full capacity.<sup>1449</sup>

At the beginning of 2022, the NGO CIR, with the support of UNHCR, published guidelines on supporting unaccompanied minors in Italy.<sup>1450</sup> In March 2022, due to the arrival of Ukrainian children, the Italian government adopted the Plan for Unaccompanied Minors. The plan was updated several times throughout the year to address concerns as they arise,<sup>1451</sup> for example related to the prevention of trafficking of unaccompanied children.<sup>1452</sup>

UNICEF published the results of research carried out in 2021 in six Italian regions on psychosocial support for adolescent and young applicants and beneficiaries of international protection. The mapping identified that successful initiatives focused on individualised support, employed a multidisciplinary approach and were attentive to linguistic and cultural needs. Some challenges were due to the structure of the reception system and external providers of mental health and psychosocial support.<sup>1453</sup>





Throughout the year, the National Association of Italian Municipalities highlighted the need to create more reception places for unaccompanied children and allocate more funds for their care. Due to the exceptionally high number of arrivals of children in need of temporary and international protection, accommodation and support services were often lacking, even though many new, dedicated places were created in 2022.<sup>1454</sup>

In Luxembourg, the Ombudsperson for Children and Youngsters focused the 2022 report on children in need of international or temporary protection and their reception.<sup>1455</sup> The Ombudsperson concluded that not all reception structures were adapted to children's and family needs, and children's rights were often considered auxiliary. Some of the gaps included: insufficiently-protected sanitary facilities, the absence of systematised procedures when a child's well-being is in danger, and gaps in the availability of psychological care. The Ombudsperson also noted that the facilities had been saturated and staff had been working at the limit of their capacity for several months, which exacerbated structural weaknesses.

The Minister for Asylum and Migration acknowledged that, due to the significant increase in arrivals, emergency facilities needed to be opened, which could not be considered an optimal solution in the long-term. It confirmed that the authorities focused on closing them as soon as possible, and that the ONA was working on increasing the number of facilities fully adapted to the needs of families and children.<sup>1456</sup> A draft law was pending in parliament to facilitate newly-arrived children's access and integration into education.<sup>1457</sup>

Similar to a measure last year in the Netherlands,<sup>1458</sup> as a one-time action, the care for unaccompanied children who were at least 17.5 years on 1 July 2022 was taken over by COA from Nidos, and the minors were accommodated in regular reception places instead of ones dedicated to minors. The measure was applied again, as there was an urgent need for reception places for unaccompanied children. Nidos underlined that once a child is moved to a regular reception place they are unable to provide the follow-up as foreseen in the Dutch Civil Code and Youth Law. The State Secretary noted this position but underlined that the alternative would be to leave children in overcrowded reception places and assessed that this would have more serious repercussions. Since November 2022, unaccompanied minors aged 17 years and 9 months or older are placed in regular asylum reception centres (azc's), without special support. This measure was meant to be applicable until 1 March 2023, but due to persisting capacity issues for the reception of unaccompanied minors, the measure was prolonged until 1 September 2023. This applies to unaccompanied minors who register at the central registration centre in Ter Apel, as well as minors who have already been accommodated in facilities for unaccompanied minors until June 2023. In practice, COA and Nidos assess on a case-to-case basis whether a transfer to a regular asylum reception centre is possible. The Dutch parliament has been informed about the measure as well as its prolongation.

The State Secretary also noted issues with access to education for unaccompanied children at the process reception centre for unaccompanied minors in Ter Apel. Children normally stay there for only 5 days and are then transferred to a location with organised education. However, due to the pressure on the reception system, this stay had grown longer. A working group was set up with the municipality, COA and local providers to increase educational activities. In the meantime, children are offered four slots of Dutch language classes weekly, fitness and sports activities, other weekly activities organised by an NGO, intercultural coaches to support them, and weekly information sessions by the health service.<sup>1459</sup> In October 2022, the Court of the Hague – amongst other obligations – [ordered](#) the state and COA to create additional reception places for unaccompanied minors, particularly those who





were staying for more than 5 days in the centre in Ter Apel. The measures were [confirmed](#) on appeal in December 2022. Throughout the year, several organisations, including the Ombudsperson for Children, the Inspectorates for the Ministries of Justice and Security, and Healthcare and Youth, and the special working group on children in reception expressed their concerns about the worrying conditions for children, especially at emergency reception locations.<sup>1460</sup>

Throughout 2022, COA continued with AMIF-funded projects targeted at unaccompanied minors with behavioural issues who required more supervision and guidance.<sup>1461</sup> The organisation also extended its collaboration agreement with TeamUp, established in 2015 by Save the Children, UNICEF Netherlands and War Child. The project offers psychosocial support to applicant children between 6 and 17 years through play and exercise. It is currently implemented in 37 COA locations.<sup>1462</sup>

A new facility was opened in Ruse, Bulgaria for unaccompanied children and applicant children at risk. The facility has 16 places and 12 staff members. The municipality provides services in the centre, but this will be taken over by a private operator after a tender. The Bulgarian Helsinki Committee welcomed the efforts of the State Agency for Refugees to accommodate unaccompanied children in family-type children's centres.<sup>1463</sup> The Ombudsperson carried out an urgent inspection in the detention facility in the same municipality, which was used for investigative arrests after children were apprehended during an irregular exit, following the signalling of the National Network for Children. She found two Syrian children in the centre who had been detained for more than 40 days, and the authorities had not notified the child protection department. She also gathered other evidence that the detention of unaccompanied children was a common practice. The Ombudsperson requested the Deputy Prime Minister, the Minister of the Interior, the Minister of Justice and the Chief Prosecutor to investigate the issue.<sup>1464</sup>

In Cyprus, the Deputy Minister for Social Welfare announced plans to transfer children from Pournara to a dedicated facility in Famagusta in March 2022.<sup>1465</sup> The move followed the opinion published by the Ombudsperson for Children,<sup>1466</sup> decisions taken during the extraordinary meeting of the Council of Ministers on the situation in Pournara<sup>1467</sup> and the president's visit to the centre.<sup>1468</sup> Previously, in 2021 the Cyprus Refugee Council and UNHCR reported on worrying living conditions for children in the centre, including the accommodation of children outside of the dedicated safe zone and incidents of alleged sexual harassment.<sup>1469</sup>

The Spanish Ombudsperson reiterated concerns about deficiencies in the reception of women and children arriving to the Canary Islands by boat, which in some cases led to their falling victim to trafficking. Accem reported that on mainland Spain the police dismantled a child trafficking network, where the victims were accommodated in a reception facility in Madrid.<sup>1470</sup> The AIDA report for Portugal highlighted similar concerns, noting that many children absconded from reception and were potentially at risk of trafficking.<sup>1471</sup>

The UNCRC acknowledged the creation of a national protection mechanism for unaccompanied children living in precarious conditions in Greece, but it expressed serious concern about the reception conditions of applicant children. The committee demanded that the authorities provide sustainable, open and quality accommodation outside detention, ensure access to essential services, such as food and hygiene, and address barriers in applicant and beneficiary children's education, for example, by organising school transport, ensuring access to distance learning and providing catch-up courses.<sup>1472</sup> Civil society



organisations welcomed the recommendations and further urged the Greek authorities to change their practices.<sup>1473</sup>

Prior to the submission of the eighth periodic report on Greece, UNCAT requested the Greek authorities to provide more information on measures to ensure that unaccompanied children are detained only as a last resort.<sup>1474</sup> Due to the reduction of the number of applicants on the island of Leros, the non-formal education centre Ledu, managed by the NGO Arsis and offering educational and psychosocial support for children and their families since 2018, had to be reformed and continued its activities as a mobile educational unit. Its funding was taken over by UNICEF from UNHCR.<sup>1475</sup>

The Danish Refugee Appeals Board **analysed** the situation of an unaccompanied minor who had received international protection in Greece but re-applied for asylum in Denmark. The board found no evidence that the child would be provided adequate housing considering his particular situation. It took into account that the child had no network in Greece, while he had several relatives in Denmark. Thus, the decision by the Immigration Service was overturned, and the case was referred back to the Immigration Service for a consideration of the merits of the asylum application.

The civil society organisation Save the Children Denmark launched a new website with information and support material for volunteers and professionals welcoming newly-arrived children in need of international or temporary protection.<sup>1476</sup>

Following arrivals from Ukraine, the Norwegian government revised the national budget to employ more experts working with children in reception facilities.<sup>1477</sup> The German Federal Ministry of the Interior also announced increased support to cities and municipalities to accommodate applicants for international protection and persons in need of temporary protection, especially in terms of housing and supporting unaccompanied children.<sup>1478</sup> Nonetheless, the AIDA report for Germany cited examples of inadequate assistance to unaccompanied children due to the general overcrowding of reception centres in several locations over the country.<sup>1479</sup> The Lithuanian Ministry of Social Security and Labour launched a special procedure for the reception of unaccompanied children arriving from Ukraine.<sup>1480</sup>

The UN Committee on Economic, Social and Cultural Rights (CESCR) issued its concluding observations on the third periodic report for Czechia, and it expressed concern that the detention of children was allowed prior to an age assessment. Children older than 15 years could also be placed in immigration detention.<sup>1481</sup>

In *H.M. and other v Hungary*, the ECtHR upheld its approach in previous case law and concluded that a 4-month stay in the transit zone amounted to a violation of the ECHR, Article 3.

The ECtHR **condemned** Italy for placing an unaccompanied minor in an adult reception centre, following an age assessment conducted in breach of the ECHR (see *Section 5.6.3*). The court noted that the facility was overcrowded, understaffed and the young applicant had difficulties in accessing medical care. The court acknowledged that the number of arrivals was dramatically high at the time of the facts, but this did not exonerate the country from its obligations under the ECHR, Article 3 (prohibition of torture and inhuman or degrading treatment or punishment).



A Polish district court [provided](#) compensation to a young boy who was placed in a guarded centre together with his adult friend. The court noted that the detention was justified and it was not possible to apply an alternative to detention before the boy's identity was established and his application for international protection submitted. However, afterwards, the placement in detention was not justified. Authorities had not taken sufficient steps to clarify the relationship between the boy and the adult friend.

Several cases involved the detention of applicants claiming to be minors in Malta. The civil society organisation *aditus* actively challenged detention decisions throughout the year.<sup>1482</sup> In a [case](#) from January 2022, the Immigration Appeals Board concluded that restrictions due to the applicant's disease could not be considered as detention, and the Superintendent of Public Health was not required to issue a detention order or an order for the extension of the restrictions for up to 10 weeks. The applicant sent a complaint to the ECtHR, where the case was pending a decision.

In another case, the Immigration Appeals Board [found](#) that the detention of a Bangladeshi applicant claiming to be a minor was lawful, as he had first given a date of birth that indicated that he was an adult. Pending the appeal of the age assessment, the board ordered that he should be accommodated in the buffer zone within an AWAS open centre. In the [case](#) of another Bangladeshi applicant, the board found that the detention was lawful due to a risk of absconding but, as in the previous case, ordered the applicant to be transferred to the buffer zone of an open facility, pending the results of the appeal of the age assessment. For an applicant from Côte d'Ivoire, the board [found](#) the detention measure lawful and ordered that the applicant is kept in facilities adequate for minors pending the age assessment.

The Immigration Appeals Board in Malta ordered the immediate release of two children from detention as their age was determined in a procedure against the law (see *Section 5.6.5*). In January 2023, the ECtHR granted an interim measure wherein it ordered Malta to ensure that "the applicants' conditions are compatible with Article 3 of the Convention and with their status as alleged unaccompanied minors" who arrived by boat in mid-November 2022. The Immigration Appeals Board found in December 2022 that the detention of children was legal but requested that a legal guardian is appointed to them.<sup>1483</sup>

In Poland, the Association for Legal Intervention continued with its strategic litigation against the detention of applicant children at the national and European levels (see *Section 4.8*).<sup>1484</sup>

#### 5.6.6. Future perspectives for applicant children



Unaccompanied children who are granted international protection can request to be reunited with their family members. Some Member States aimed to facilitate and accelerate this procedure but challenges were encountered, such as practical burdens, delays and legal dilemmas resulting in requests to the CJEU for a preliminary ruling (see *Section 4.14.2.4*). One ruling by the CJEU [clarified](#) that unaccompanied children requesting family reunification have the right to appeal against another Member State's refusal to take charge in the framework of a Dublin procedure (see *Section 4.2*).

A new presidential decree in Italy confirmed that the authorities need to examine on a case-by-case basis the conversion of an unaccompanied children's residence permit when the person reaches adulthood. The decree also determined that residence permits based on integration can be issued until the age of 21 years.<sup>1485</sup> To support young applicants' and



beneficiaries' transition to employment, UNICEF and the Ministry of Labour and Social Policies published the second edition of a practical guide, which is available in eight languages.<sup>1486</sup>

In their submissions to the UN CRC, France terre d'asile made suggestions to facilitate access to residence documents for unaccompanied children once they reach the age of majority.<sup>1487</sup>

In the Netherlands, the IND re-assessed approximately 30 files related to the regularisation of applicant children (*kinderpardon*) in 2022, following a confirmation from the Minister for Migration that in some cases a permit can be granted even if an asylum application was not submitted on behalf of a child (see *Section 4.14.2.1*).<sup>1488</sup> Since January 2023, Nidos can offer extended care for children who turn 18 years. They can either stay with their host family or at the small-scale reception facility, or opt for a variant, where they start their independent life but continue receiving support and guidance from Nidos or its partners.<sup>1489</sup>

The Finnish Institute for Health and Welfare published a report on youth who were in child welfare after-care: of the 8,300 young people, approximately 2,500-4,500 arrived in the country as unaccompanied minors. According to the report, 8% of the unaccompanied minors were not in employment, education or military service, and 2% were homeless. The institute underlined that unaccompanied minors do not have the statutory right for after-care, and access to support is dependent on municipalities and individual employees.<sup>1490</sup>

The Austrian Platform for Children's Rights raised several issues with the return of well-integrated children.<sup>1491</sup> However, the Austrian Lawyers Bar noted that recent decisions from the Constitutional Court and the Federal Administrative Court strengthened the rights of children at risk of deportation, when they have spent a reasonable time in the country.<sup>1492</sup>

The German Federal Administrative Court [referred](#) a question to the CJEU for a preliminary ruling on the interpretation of the recast Return Directive. The court [asked](#) whether a return decision can be taken for a minor, when neither parent can be returned for legal reasons, or is it sufficient that the removal is suspended after taking a decision on a return, based on family ties and the best interests of the child. The CJEU delivered its [ruling](#) in February 2023, underlining that the best interests of the child and the family life of that child must be protected in proceedings leading to the adoption of the return decision, and it is not enough to allow the child to rely on these two interests in the proceeding related to the enforcement of the return decision.

The case *Hasani v Sweden* is currently pending in front of the ECtHR. It concerns two Afghan orphan brothers, one of them blind, who lost the services of the guardian and the family foster home upon turning 18. He attempted suicide. He was placed several hundred kilometres away from his brother, and when their asylum application was rejected, it was considered that he could provide a social network in Afghanistan for his minor brother. He then committed suicide. In the court proceedings, the AIRE Centre and ECRE provided their comments on the case as third-party interventions.<sup>1493</sup>



## Concluding remarks

In 2022, EU+ countries received a record number of persons in need of protection, as witnessed by a sharply increasing number of asylum applicants and over 4 million displaced persons from Ukraine seeking temporary protection. While the combined figure of 5 million people arriving into the EU put considerable pressure on national administrations, solutions at the European and national levels were created to address the needs of people seeking protection.

The European response to the needs of millions of displaced persons from Ukraine was constructive and protection-oriented, and they can serve as a political and operational blueprint for the future. A number of factors catalysed this success, including the pre-existing legislation that had been tailor-made to specifically address this need, as well as the political will to activate this legislation and swiftly set up the corresponding support structures. Importantly, the collaboration among multiple and diverse stakeholders on the basis of multifaceted solidarity played a major role in designing and delivering the solutions: solidarity toward persons in need of protection; solidarity across EU countries; and solidarity among different actors who managed to mobilise resources and pull toward the same direction. EU institutions and agencies, national and local authorities, international and civil society organisations, as well as private citizens and communities, came together and cross-fertilised their respective expertise in providing effective solutions.

To advance the optimisation of the EU's asylum systems in 2022, the French and Czech Presidencies of the Council of the EU advocated a gradual approach, managed to catalyse progress in the negotiations on the Pact on Migration and Asylum, and further fostered practical cooperation among Member States. This work culminated in the adoption of negotiating mandates on the Screening and Eurodac Regulations, in the political agreement among co-legislators on a joint roadmap for negotiations on the reform package, and in the agreement on the Voluntary Solidarity Mechanism. These increments of commitment, based on a balance between expressions of solidarity and responsibility, can have a positive cumulative effect, further informing policymaking and eventually facilitating the adoption of the pact in the coming years.

Against the background of such advances in the reform of CEAS, the EU and its Member States have been striving to achieve dual integrity, that is, integrity in the asylum procedure and integrity of border management. Indeed, over the past years, there has been an emphasis on an effective approach, which has been presented as a core element of the method to enhance the pact. A stated objective of the revision of the Schengen system is to enhance resilience to serious threats, such as the instrumentalisation of migrants, through integrated border management. At the same time, effective management entails integrity in receiving persons in need of protection in full respect of fundamental rights and processing applications in a fair and dignified manner.

While modernising border management, it is therefore essential to ensure uninhibited access to protection for those in need. While key steps in this direction have been initiated, such as the discussion – and associated guidance – on setting up independent national mechanisms to monitor human rights compliance at external borders, alarming reports by international and civil society organisations raise concerns about practices that impede effective access to protection.



To ensure the correct interpretation of CEAS, the CJEU, as well as judicial institutions at the national level continued scrutinising national legislation, policies and practices on a number of CEAS-related areas in 2022. Particular emphasis was placed on the application of the principle of *non-refoulement* and effective access to territory and the asylum procedure. To safeguard the integrity of CEAS, it is of paramount importance that national authorities implement the decisions issued by the courts to this end.

In a rapidly-changing asylum landscape, which requires multi-stakeholder cooperation in designing and implementing protection solutions, the EUAA has evolved into a vital component of a European asylum architecture. Equipped with its reinforced mandate, the Agency will continue to support the implementation of CEAS across Europe. In conjunction with the technical, operational and training support provided by the Agency, the new position of the independent Fundamental Rights Officer will catalyse work to ensure that the rights of asylum applicants are always safeguarded. Through its Monitoring Mechanism, the Agency will work even closer with Member States in the coming years to monitor the operational and technical application of EU legal obligations and assist Member States in identifying possible limitations in asylum and reception systems, ultimately contributing to a more harmonised EU asylum system.



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<sup>375</sup> Κοινή Υπουργική Απόφαση Αριθμ. 42799 Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου, κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169), ΦΕΚ Β 2425/2021 [Joint Ministerial Decision No 42799 Designating third countries considered as safe and drawing up a national list, in accordance with Article 86 of Law 4636/2019 (Gov.Gaz. A 169), Government Gazette B 2425/2021], June 7, 2021.

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# Reader's guide

## Legal basis

The *Asylum Report 2023: Annual Report on the Situation of Asylum in the European Union* is produced in accordance with the EUAA Regulation, Articles 69, 16(4), 20(7), 35(6), 50(5b) and 51(10).

Its objective is to provide a comprehensive overview of the situation of asylum in EU Member States and Iceland, Liechtenstein, Norway and Switzerland, describing and analysing flows of applications for international protection, major developments in legislation, jurisprudence and policies at the European and national levels, and the practical functioning of CEAS.

The production process follows the methodology and basic principles agreed by the Agency's Management Board in 2013. Drafts are disseminated to the Management Board for their comments prior to its formal adoption and public launch.

## Qualitative information

Primary factual information presented in the report was collected by the EUAA throughout the year in the framework of its information management activities organised around the EUAA [Information and Documentation System](#) (IDS). This involves desk research on developments related to each step of the asylum procedure and the validation of the information by representatives of national authorities. Bilateral calls were organised with IDS focal points, who are nominated representatives of national authorities, to confirm, amend and add new information to ensure an accurate and comprehensive picture of developments in 2022. Information was further verified with EMN reports.

The European Commission was consulted during the drafting process, in accordance with its role under the 1951 Convention relating to the Status of Refugees, Article 35, which is reflected in EU Treaties and the asylum *acquis* instruments. UNHCR was also consulted during the drafting process and public information produced by its experts were included in the report.

The report provides an analysis based on a wide range of duly-referenced sources of information to reflect the ongoing debates at the European level. It also identifies areas where improvement is most needed (and thus where the EUAA and other key stakeholders should focus their efforts) in line with its declared purpose of improving the quality, consistency and effectiveness of CEAS. To that end, the EUAA takes due account of information already available from other relevant sources, as stipulated in the EUAA Regulation, including from EU+ countries, EU institutions and agencies (such as Frontex and FRA), civil society organisations, international organisations and academia.

Two open calls for contributions were launched to members of the Agency's Consultative Forum and other civil society stakeholders, inviting them to provide information on their work which is relevant to the functioning of CEAS. They were also invited to share their publications to be used as sources and provide written input through a standardised online form.



Jurisprudence was collected throughout the year and added to the [EUAA Case Law Database](#), a publicly-available platform which serves as a point of reference for European and national case law related to CEAS. In addition, members of the EUAA Network of Courts and Tribunal members contributed to the report by providing relevant examples of national case law. Links to cases in the report redirect to the English summary in the EUAA Case Law Database.

The *Asylum Report 2023* covers the period 1 January to 31 December 2022 but also refers to relevant developments in the year of writing. Whenever possible, information referring to 2023 was based on the most up-to-date sources available at the time of adoption of the report by the EUAA Management Board.

The report is not exhaustive and country examples presented in the report serve only as illustrations of relevant aspects of CEAS.

## Quantitative information

Statistical information was primarily derived from Eurostat. Selected data at the EU+ level were also obtained from the EUAA's Early Warning and Preparedness System (EPS) data exchange for additional information and for the section on Dublin procedures (due to the unavailability of respective Eurostat data at the time of writing).

The data published in this report were extracted from Eurostat on 13 April 2023. The data are provisional and may be updated or revised by Member States. These data are provided to Eurostat by ministries and national administrations in Member States in the framework of [Regulation \(EC\) 862/2007](#) on community statistics on migration and international protection as amended by [Regulation \(EU\) 2020/851](#), except for data on first-time asylum applicants.

The annual data presented in the statistical annexes are computed as the aggregation of data submitted to Eurostat throughout the year on a monthly (or quarterly) basis or based on the annual statistics provided to Eurostat.

The following indicators are presented in this report:

- Applicants for international protection, withdrawn applications and pending cases collected monthly by Eurostat and presented based on their annual datasets.
- Asylum decisions in first instance (refugee status granted, subsidiary protection status granted, authorisation to stay for humanitarian reasons granted, and rejections) collected quarterly by Eurostat and presented annually based on the aggregation of their quarterly datasets.
- Asylum applicants considered to be unaccompanied minors collected annually by Eurostat.

Data published by Eurostat are rounded to the nearest five. As such, aggregates calculated on the basis of rounded figures may slightly deviate from the actual total. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.



When reference is made in the report to applications for international protection, the total number of applications is used. Sub-categories of this indicator will refer to subsequent or first-time applications.

The definitions for the indicators presented in the report are available in the [Eurostat Glossary](#) and the [Eurostat Technical Guidelines](#). With the exception of the indicator on withdrawn applications, all statistics reported to Eurostat refer to persons. Therefore, family members under one application should be counted and reported individually, irrespective of the national legal requirements or administrative procedures.

The Eurostat Technical Guidelines for data collection were amended in December 2013 and subsequently entered into force in the reference month of January 2014. Thus, data published prior to 2014 are not necessarily comparable. The main changes for data collection included:

- Clarification on the definitions of first-time and repeated applicants;
- Instructions on how to report persons subject to a Dublin procedure in the pending cases table;
- Instructions not to report cases where another Member State assumed responsibility of negative asylum decisions; and
- Clarification on the definition of humanitarian protection.

Methodological changes to the Eurostat Technical Guidelines entered into force as of January 2015 in reference to reporting on cases in the Dublin procedure and withdrawn cases, as follows:

- Persons subject to the Dublin procedure shall be removed from the stock of pending applications of the sending country from the time of the acceptance decision;
- Persons subject to the Dublin procedure shall be included in the stock of pending applications of the receiving country from the moment of physical arrival and when such persons apply or re-apply for asylum;
- Dublin transfers shall not be considered as an implicit or explicit withdrawal;
- Persons subject to the Dublin procedure and who abscond after the acceptance decision shall not be reported in withdrawn applications data;
- Revisions at the own initiative of the national asylum authority shall be considered as regular revisions (i.e. require revision of the previously-reported data); and
- Persons reappearing after implicit or explicit withdrawal of an application shall be considered under regular revisions and be removed from data on withdrawn applications.





Further modifications to the Eurostat Technical Guidelines were published in February 2018<sup>lxvii</sup> and introduced:

- A new voluntary data disaggregation on 'status of minor' as of the 2018 reference period. The new concept measures whether a minor applicant was 'unaccompanied' or 'accompanied' by an adult with responsibility for the minor during the application procedure;
- An amendment and new specification to the 'Resettlement Framework' variable: the former category "Agreement in the JHA Council on 20.07.2015 – JHAC15" was changed to "EU Resettlement Frameworks – EU\_RFW" to include Resettlement Frameworks launched by the European Commission (or Justice and Home Affairs Council) applicable to each reference year; and
- Methodological guidance on reporting on the new variables of Table A16 (resettled person), namely 'country of residence', 'decision' and 'Resettlement Framework'. These guidelines were agreed in the Asylum and Managed Migration Working Group in 2016.

Following the entry into force of [Regulation \(EU\) 2020/851](#), additional amendments to the Eurostat Technical Guidelines were published in December 2020:<sup>lxviii</sup>

- New monthly table on subsequent applicants, introduced from January 2021 reference month. It includes clarification of the concepts of subsequent, new and re-opened applications.
- New monthly table on applicants under accelerated procedures, introduced from January 2021 reference month.
- New annual table on applicants receiving material reception conditions, introduced from 2021 reference year.
- New mandatory disaggregation by type of withdrawal (implicit, explicit) for monthly Table A03 (applications withdrawn) introduced from January 2021 reference month.
- New mandatory disaggregation by reason to withdraw a protection status (revocation, ending, refusal to renew) for Tables A09 and A17, introduced respectively from Q1 2021 reference quarter and 2021 reference year.
- Mandatory provision of disaggregation by status of minor introduced from 2021 reference period.
- Mandatory provision of disaggregation by country of residence and decision for Table A16 (resettled persons), introduced from 2021 reference year.

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[https://ec.europa.eu/eurostat/cache/metadata/Annexes/migr\\_asydec\\_esms\\_an7.pdf](https://ec.europa.eu/eurostat/cache/metadata/Annexes/migr_asydec_esms_an7.pdf)

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## Products related to the *Asylum Report 2023*

The [National Asylum Developments Database](#) presents the legislative, institutional and policy developments which are described in the report. Updates can be searched by country, topic, year and type of development. The information is also summarised and presented in a table by country and by thematic area in a PDF document.

The report presents a selection of jurisprudential developments based on the [EUAA Case Law Database](#). The hyperlinks within the text will bring readers to the specific case in the database.

The sources used for the production of the *Asylum Report 2023* are presented in the list of references at the end of the report. They are also available in a separate, detailed [Sources on Asylum 2023](#), grouped by type of source. Readers can easily identify whether sources are from European institutions and agencies, international organisations, national authorities, civil society organisations or think tanks and academia. A list of legislation and case law referenced in the report is also provided.

# Statistical tables

## Table 1: Asylum applicants in EU+ countries by reporting country and main citizenship, 2018-2022

						2022					
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline		
Reporting country						Citizenship					
Germany	184,180	165,615	121,955	190,545	243,835	↗	28	24%	Syria (30%)		
France	137,665	151,070	93,200	120,685	156,455	↗	30	16%	Afghanistan (15%)		
Spain	54,050	117,800	88,530	65,295	117,945	↗	81	12%	Venezuela (39%)		
Austria	13,710	12,860	14,760	39,900	108,755	⬆	173	11%	Afghanistan (22%)		
Italy	59,950	43,770	26,940	53,610	84,290	↗	57	8%	Bangladesh (18%)		
Greece	66,965	77,275	40,560	28,355	37,375	↗	32	4%	Afghanistan (15%)		
Netherlands	24,025	25,200	15,255	26,520	37,020	↗	40	4%	Syria (34%)		
Belgium	22,530	27,460	16,710	24,970	36,740	↗	47	4%	Afghanistan (17%)		
Switzerland	15,160	14,195	10,990	14,850	24,440	↗	65	2%	Afghanistan (29%)		
Cyprus	7,765	13,650	7,495	13,670	22,190	↗	62	2%	Syria (19%)		
Bulgaria	2,535	2,150	3,525	11,000	20,390	↗	85	2%	Syria (42%)		
Sweden	21,560	26,255	16,225	13,990	18,605	↗	33	2%	Afghanistan (12%)		
Ireland	3,670	4,780	1,565	2,650	13,660	⬆	415	1%	Georgia (20%)		
Croatia	800	1,400	1,605	2,930	12,870	⬆	339	1%	Iraq (19%)		
Romania	2,135	2,590	6,155	9,585	12,355	↗	29	1%	Ukraine (36%)		
Poland	4,110	4,070	2,785	7,795	9,810	↗	26	1%	Belarus (31%)		
Slovenia	2,875	3,820	3,550	5,300	6,785	↗	28	1%	Afghanistan (19%)		
Finland	4,500	4,520	3,190	2,525	5,780	⬆	129	1%	Ukraine (31%)		
Norway	2,660	2,265	1,375	1,635	4,840	⬆	196	0%	Syria (33%)		
Denmark	3,570	2,700	1,475	2,080	4,565	⬆	119	0%	Ukraine (45%)		
Estonia	95	105	50	80	2,945	⬆	3,581	0%	Ukraine (89%)		
Luxembourg	2,335	2,270	1,345	1,415	2,445	↗	73	0%	Syria (43%)		
Portugal	1,285	1,820	1,000	1,540	2,115	↗	37	0%	Afghanistan (13%)		
Czechia	1,690	1,915	1,160	1,405	1,685	↗	20	0%	Ukraine (17%)		
Malta	2,130	4,090	2,480	1,595	1,320	⬇	-17	0%	Syria (21%)		
Lithuania	405	645	315	3,940	1,025	⬇	-74	0%	Belarus (40%)		
Latvia	185	195	180	615	620	➡	1	0%	Russia (20%)		
Slovakia	175	230	280	370	545	↗	47	0%	Ukraine (28%)		
Liechtenstein	165	50	35	95	80	⬇	-16	0%	Algeria (19%)		
Hungary	670	500	115	40	45	↗	13	0%	Afghanistan (33%)		
Iceland*	775	845	640	870	4,555	⬆	424	0%	Ukraine (51%)		
Citizenship						Reporting country					
Syria	85,180	79,410	70,340	117,810	138,310	↗	17	14%	Germany (53%)		
Afghanistan	46,925	60,580	50,010	103,205	131,700	↗	28	13%	Germany (31%)		
Türkiye	24,045	26,380	16,720	24,635	57,590	⬆	134	6%	Germany (43%)		
Venezuela	22,515	45,640	30,940	18,335	50,860	⬆	177	5%	Spain (90%)		
Colombia	10,325	32,470	29,580	13,975	43,305	⬆	210	4%	Spain (83%)		
Pakistan	27,670	28,845	18,635	24,885	37,470	↗	51	4%	Italy (32%)		
Bangladesh	13,740	15,845	11,570	20,080	33,810	↗	68	3%	Italy (44%)		
Iraq	42,415	32,085	19,960	30,555	30,345	➡	-1	3%	Germany (54%)		
Georgia	20,950	22,765	8,905	14,975	29,160	↗	95	3%	France (34%)		
Ukraine	10,070	9,640	6,025	6,525	27,555	⬆	322	3%	Romania (16%)		
India	4,080	5,180	2,805	4,010	25,975	⬆	548	3%	Austria (75%)		
Morocco	8,880	10,185	7,875	15,035	21,975	↗	46	2%	Austria (39%)		
Tunisia	3,540	4,090	3,150	9,855	21,640	⬆	120	2%	Austria (59%)		
Russia	16,030	15,255	8,370	7,230	18,950	⬆	162	2%	Germany (20%)		
Nigeria	26,705	25,875	14,135	16,685	18,635	↗	12	2%	Italy (27%)		
Other**	281,255	301,865	186,425	222,060	308,805	↗	39	31%	France (26%)		
EU+	644,325	716,110	485,445	649,855	996,085	↗	53		Syria (14%)		

': Data not available

\*Annual data were not available for Iceland. The annual estimate was produced by summing monthly data.

\*\*This number includes the summed monthly data for Iceland.

Source: Eurostat [migr\_asyappctza] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asyappctza/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asyappctza/default/table?lang=en)

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## Table 2: First-time asylum applicants in EU+ countries by reporting country and main citizenship, 2018-2022

						2022					
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline		
Reporting country						Citizenship					
Germany	161,885	142,450	102,525	148,175	217,735	↗	47	24%	Syria (33%)		
France	126,580	138,290	81,735	103,790	137,510	↗	32	15%	Afghanistan (16%)		
Spain	52,730	115,175	86,380	62,050	116,135	↗	87	13%	Venezuela (39%)		
Austria	11,580	10,985	13,400	37,800	106,380	⬆️	181	12%	Afghanistan (22%)		
Italy	53,440	35,005	21,330	45,200	77,200	↗	71	8%	Bangladesh (19%)		
Netherlands	20,465	22,485	13,660	24,725	35,495	↗	44	4%	Syria (36%)		
Belgium	18,130	23,105	12,905	19,545	32,100	↗	64	4%	Afghanistan (18%)		
Greece	64,975	74,910	37,860	22,660	29,125	↗	29	3%	Syria (15%)		
Switzerland	13,465	12,545	9,725	13,240	23,075	↗	74	3%	Afghanistan (30%)		
Cyprus	7,610	12,695	7,065	13,260	21,590	↗	63	2%	Syria (19%)		
Bulgaria	2,465	2,075	3,460	10,890	20,260	↗	86	2%	Syria (42%)		
Sweden	18,075	23,125	13,595	10,145	14,045	↗	38	2%	Syria (13%)		
Ireland	3,655	4,740	1,535	2,615	13,645	⬆️	422	1%	Georgia (20%)		
Croatia	675	1,265	1,540	2,725	12,750	⬆️	368	1%	Iraq (19%)		
Romania	1,945	2,455	6,025	9,065	12,065	↗	33	1%	Ukraine (36%)		
Poland	2,405	2,765	1,510	6,240	7,700	↗	23	1%	Belarus (37%)		
Slovenia	2,800	3,615	3,465	5,220	6,645	⬆️	27	1%	Afghanistan (18%)		
Finland	2,950	2,445	1,445	1,355	4,815	⬆️	255	1%	Ukraine (36%)		
Norway	2,530	2,165	1,325	1,595	4,650	⬆️	192	1%	Syria (34%)		
Denmark	3,465	2,605	1,420	1,995	4,475	⬆️	124	0%	Ukraine (46%)		
Estonia	90	100	45	75	2,940	⬆️	3,820	0%	Ukraine (89%)		
Luxembourg	2,225	2,200	1,295	1,365	2,395	↗	75	0%	Syria (44%)		
Portugal	1,240	1,735	900	1,350	1,975	↗	46	0%	Afghanistan (13%)		
Czechia	1,350	1,570	790	1,055	1,335	↗	27	0%	Türkiye (16%)		
Malta	2,035	4,015	2,410	1,200	915	⬇️	-24	0%	Syria (27%)		
Lithuania	385	625	260	3,905	905	⬇️	-77	0%	Belarus (44%)		
Latvia	175	180	145	580	545	⬇️	-6	0%	Russia (22%)		
Slovakia	155	215	265	330	500	↗	52	0%	Ukraine (30%)		
Liechtenstein	145	40	25	80	70	↗	-13	0%	Algeria (21%)		
Hungary	635	465	90	40	45	↗	13	0%	Afghanistan (33%)		
Iceland*	730	805	625	865	4,535	⬆️	424	0%	Ukraine (53%)		
Citizenship						Reporting country					
Syria	82,175	76,405	64,965	100,470	134,705	↗	34	15%	Germany (53%)		
Afghanistan	41,880	55,795	46,010	87,845	120,940	↗	38	13%	Germany (30%)		
Türkiye	23,020	25,010	15,135	22,655	54,620	⬆️	141	6%	Germany (44%)		
Venezuela	22,265	45,010	30,460	17,795	50,180	⬆️	182	5%	Spain (90%)		
Colombia	10,120	32,020	29,135	13,270	42,710	⬆️	222	5%	Spain (83%)		
Pakistan	23,435	24,460	15,995	21,140	32,765	↗	55	4%	Italy (35%)		
Bangladesh	11,355	13,200	10,430	18,840	31,985	↗	70	4%	Italy (46%)		
Georgia	19,545	20,500	7,085	12,775	26,640	⬆️	109	3%	France (33%)		
Iraq	37,430	27,525	16,690	26,610	25,910	➡️	-3	3%	Germany (59%)		
Ukraine	8,875	8,555	5,160	5,405	25,485	⬆️	372	3%	Romania (17%)		
India	3,775	4,735	2,510	3,620	25,445	⬆️	603	3%	Austria (76%)		
Morocco	8,060	9,300	7,160	14,230	21,225	⬆️	49	2%	Austria (40%)		
Tunisia	3,260	3,770	2,825	9,085	21,190	⬆️	133	2%	Austria (59%)		
Somalia	13,095	13,280	10,450	15,560	16,650	↗	7	2%	Germany (24%)		
Russia	12,350	11,940	5,545	4,480	15,590	⬆️	248	2%	Germany (18%)		
Other**	260,350	275,345	159,200	179,355	267,515	↗	49	29%	France (26%)		
EU+	580,990	646,850	428,755	553,135	913,555	↗	65		Syria (15%)		

': Data not available

\*Annual data were not available for Iceland. The annual estimate was produced by summing monthly data.

\*\*This number includes the summed monthly data for Iceland.

Source: Eurostat [migr\_asyappctza] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asyappctza/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asyappctza/default/table?lang=en)  
Eurostat [migr\_asyappctzm] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asyappctzm/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asyappctzm/default/table?lang=en)



**Table 3: Pending cases at the end of the year in EU+ countries by reporting country and main citizenship, 2018-2022**

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country						Citizenship				
Germany	384,815	326,770	257,210	264,425	268,895	➡	2	30%	Syria (21%)	
France	142,970	160,785	151,200	145,180	142,940	➡	-2	16%	Afghanistan (17%)	
Spain	78,705	133,020	103,410	104,010	134,740	➡	30	15%	Colombia (30%)	
Italy	102,995	47,020	53,895	39,820	80,005	⬆	101	9%	Pakistan (18%)	
Austria	38,045	27,140	21,205	27,935	54,240	➡	94	6%	Syria (32%)	
Belgium	19,535	29,065	29,240	28,960	41,775	➡	44	5%	Afghanistan (23%)	
Netherlands	15,965	20,205	17,130	23,520	38,375	➡	63	4%	Syria (34%)	
Cyprus	10,180	18,795	19,590	25,925	29,870	➡	15	3%	Syria (32%)	
Greece	76,330	105,450	62,270	37,535	22,585	⬇	-40	3%	Afghanistan (12%)	
Switzerland	15,130	11,440	6,855	7,435	15,590	⬆	110	2%	Afghanistan (27%)	
Sweden	37,620	27,530	18,525	14,275	14,940	➡	5	2%	Afghanistan (14%)	
Ireland	7,060	7,330	6,805	6,565	14,865	⬆	126	2%	Georgia (20%)	
Bulgaria	1,820	1,100	2,200	7,555	11,185	➡	48	1%	Syria (51%)	
Finland	10,490	8,315	6,330	5,045	6,065	➡	20	1%	Iraq (21%)	
Norway	1,985	1,325	805	935	4,220	⬆	351	0%	Syria (31%)	
Malta	2,020	4,260	5,140	4,110	2,975	⬇	-28	0%	Syria (16%)	
Poland	4,460	4,790	3,600	3,850	2,825	⬇	-27	0%	Russia (27%)	
Luxembourg	1,525	1,790	1,890	1,815	2,625	➡	45	0%	Syria (36%)	
Denmark	2,600	1,440	1,250	1,440	2,580	➡	79	0%	Ukraine (33%)	
Romania	1,520	930	2,260	1,515	1,290	➡	-15	0%	Syria (24%)	
Croatia	250	620	610	600	1,255	⬆	109	0%	Afghanistan (25%)	
Iceland	450	425	295	385	1,165	⬆	203	0%	Venezuela (55%)	
Slovenia	410	530	640	1,615	1,020	⬇	-37	0%	Afghanistan (15%)	
Czechia	795	775	590	540	770	➡	43	0%	Ukraine (18%)	
Estonia	80	55	45	30	670	⬆	2,133	0%	Ukraine (78%)	
Lithuania	380	550	250	500	505	➡	1	0%	Belarus (55%)	
Latvia	125	100	95	255	295	➡	16	0%	Russia (29%)	
Slovakia	155	110	145	150	245	➡	63	0%	Türkiye (29%)	
Portugal	90	180	95	75	225	⬆	200	0%	India (40%)	
Hungary	125	235	45	15	30	⬆	100	0%	Afghanistan (17%)	
Liechtenstein	80	30	20	35	20	⬇	-43	0%	Iraq (25%)	
Citizenship						Reporting country				
Syria	93,560	86,545	69,235	95,680	116,040	➡	21	13%	Germany (48%)	
Afghanistan	129,165	117,930	92,900	101,280	98,020	➡	-3	11%	Germany (36%)	
Türkiye	29,355	34,575	30,645	32,725	58,115	➡	78	6%	Germany (54%)	
Colombia	11,990	36,785	26,775	23,005	47,220	⬆	105	5%	Spain (85%)	
Iraq	78,370	65,145	47,465	43,785	41,790	➡	-5	5%	Germany (73%)	
Venezuela	34,590	37,970	22,645	21,835	40,120	➡	84	4%	Spain (86%)	
Pakistan	44,450	41,245	31,570	27,360	33,525	➡	23	4%	Italy (43%)	
Bangladesh	18,595	19,085	19,910	20,020	29,165	➡	46	3%	Italy (46%)	
Nigeria	50,145	42,005	36,080	29,935	25,535	⬇	-15	3%	Germany (32%)	
Georgia	20,310	17,875	12,945	14,115	23,370	➡	66	3%	Germany (37%)	
Russia	32,405	30,870	26,130	18,775	22,030	➡	17	2%	Germany (44%)	
Iran	35,860	37,940	31,200	22,885	21,710	➡	-5	2%	Germany (66%)	
Somalia	21,620	22,435	20,110	21,305	21,410	➡	0	2%	Germany (26%)	
Morocco	7,285	6,950	6,680	11,055	16,430	➡	49	2%	Spain (36%)	
Eritrea	24,760	21,465	22,870	17,915	15,255	⬇	-15	2%	Italy (34%)	
Other	326,250	323,290	276,480	254,375	289,050	➡	14	32%	France (23%)	
EU+	958,710	942,110	773,640	756,050	898,785	➡	19		Syria (13%)	

'-' Data not available

Source: Eurostat [migr\_asypenczm] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asypenczm/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asypenczm/default/table?lang=en)



# Table 4: Withdrawn applications in EU+ countries by reporting country and main citizenship, 2018-2022

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country	Citizenship									
Austria	2,720	2,200	2,500	7,855	42,240	⬆️	438	30%	Afghanistan (40%)	
Bulgaria	805	1,120	475	2,935	14,915	⬆️	408	11%	Afghanistan (66%)	
Greece	11,740	16,610	5,970	15,760	14,380	⬇️	-9	10%	Afghanistan (24%)	
Italy	7,730	14,310	10,430	8,340	10,225	↔️	23	7%	Tunisia (19%)	
Germany	7,190	4,680	4,735	5,240	8,885	↔️	70	6%	Iraq (10%)	
Romania	1,275	945	2,260	5,120	7,845	↔️	53	6%	Ukraine (50%)	
Cyprus	810	1,765	2,145	2,860	7,005	⬆️	145	5%	Pakistan (17%)	
Spain	2,985	4,295	2,645	2,195	4,280	↔️	95	3%	Colombia (26%)	
Poland	1,940	1,990	1,040	1,110	4,120	⬆️	271	3%	Iraq (29%)	
Slovenia	2,370	3,270	2,875	3,445	3,985	↔️	16	3%	Bangladesh (19%)	
Croatia	500	765	1,315	2,035	3,470	↔️	71	2%	Afghanistan (34%)	
Belgium	1,275	1,420	1,100	2,580	2,860	↔️	11	2%	Georgia (9%)	
Sweden	4,645	3,810	2,650	2,080	2,840	↔️	37	2%	Ukraine (33%)	
Netherlands	900	1,225	590	1,785	2,245	↔️	26	2%	Algeria (18%)	
Denmark	1,450	885	445	435	2,060	⬆️	374	1%	Ukraine (59%)	
Switzerland	1,665	1,455	1,090	1,080	2,010	↔️	86	1%	Algeria (31%)	
Portugal	380	475	720	1,040	1,335	↔️	28	1%	Afghanistan (18%)	
Malta	235	310	385	1,535	1,305	⬇️	-15	1%	Sudan (25%)	
France	1,665	2,235	2,565	900	920	➡️	2	1%	Ukraine (15%)	
Ireland	355	425	180	270	740	⬆️	174	1%	Pakistan (14%)	
Lithuania	100	:	260	585	630	↔️	8	0%	Iraq (57%)	
Norway	105	145	60	50	400	⬆️	700	0%	Ukraine (54%)	
Slovakia	70	180	175	210	385	↔️	83	0%	Ukraine (35%)	
Finland	365	340	160	150	360	⬆️	140	0%	Ukraine (35%)	
Czechia	310	160	80	145	355	⬆️	145	0%	Türkiye (30%)	
Luxembourg	205	380	105	70	245	⬆️	250	0%	Eritrea (31%)	
Latvia	55	80	70	290	205	⬇️	-29	0%	Iraq (54%)	
Iceland	165	145	75	25	110	⬆️	340	0%	Georgia (18%)	
Estonia	25	5	5	10	80	⬆️	700	0%	Ukraine (50%)	
Liechtenstein	40	20	10	20	35	↔️	75	0%	Algeria (29%)	
Hungary	120	110	70	0	5	n.a.	0%	Afghanistan (0%)		
Citizenship	Reporting country									
Afghanistan	4,945	6,415	5,015	18,280	35,280	↔️	93	25%	Austria (47%)	
India	460	915	985	1,220	11,155	⬆️	814	8%	Austria (73%)	
Syria	3,895	3,470	3,020	5,115	9,350	↔️	83	7%	Austria (31%)	
Ukraine	930	1,635	840	615	9,245	⬆️	1,403	7%	Romania (43%)	
Türkiye	1,925	3,810	1,495	3,970	7,700	↔️	94	5%	Austria (37%)	
Pakistan	4,000	4,790	3,350	4,390	7,495	↔️	71	5%	Austria (31%)	
Tunisia	490	685	505	2,130	7,300	⬆️	243	5%	Austria (66%)	
Iraq	5,780	4,780	2,730	3,740	4,910	↔️	31	3%	Poland (24%)	
Bangladesh	955	1,450	1,255	2,615	4,465	↔️	71	3%	Greece (21%)	
Morocco	1,485	2,355	2,500	1,880	4,420	⬆️	135	3%	Austria (32%)	
Egypt	490	885	975	1,210	3,325	⬆️	175	2%	Italy (43%)	
Georgia	2,035	1,955	1,920	1,605	2,395	↔️	49	2%	Germany (29%)	
Algeria	1,675	2,410	1,395	1,520	2,185	↔️	44	2%	Switzerland (28%)	
Nigeria	2,100	2,745	1,750	1,375	2,100	↔️	53	1%	Cyprus (34%)	
Russia	2,615	2,180	1,380	720	1,825	⬆️	153	1%	Poland (51%)	
Other	20,415	25,275	18,070	19,770	27,325	↔️	38	19%	Germany (14%)	
EU+	54,195	65,755	47,185	70,155	140,475	⬆️	100		Afghanistan (25%)	

'-' Data not available

Source: Eurostat [migr\_asywitha] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asywitha/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asywitha/default/table?lang=en)





# Table 5: Unaccompanied minors in EU+ countries by reporting country and main citizenship, 2018-2022

						2022					
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline		
Reporting country						Citizenship					
Austria	390	860	1,370	5,605	13,275	⬆️	137	31%	Afghanistan (71%)		
Germany	4,085	2,690	2,230	3,250	7,275	⬆️	124	17%	Afghanistan (39%)		
Netherlands	1,225	1,045	985	2,190	4,205	↔️	92	10%	Syria (58%)		
Bulgaria	480	525	800	3,170	3,350	↔️	6	8%	Afghanistan (54%)		
Greece	2,640	3,330	2,800	2,275	2,875	↔️	26	7%	Somalia (27%)		
Belgium	750	1,220	1,210	1,780	2,275	↔️	28	5%	Afghanistan (61%)		
Switzerland	435	490	600	1,100	2,090	↔️	90	5%	Afghanistan (80%)		
Italy	3,885	660	520	1,495	1,655	↔️	11	4%	Pakistan (15%)		
France	740	755	650	880	1,000	↔️	14	2%	Afghanistan (60%)		
Cyprus	260	565	190	395	850	⬆️	115	2%	Somalia (43%)		
Norway	145	125	75	170	655	⬆️	285	2%	Afghanistan (52%)		
Sweden	900	875	500	525	650	↔️	24	2%	Afghanistan (28%)		
Croatia	25	35	115	195	435	⬆️	123	1%	Afghanistan (32%)		
Denmark	240	195	145	115	315	⬆️	174	1%	Afghanistan (52%)		
Romania	135	185	980	1,745	270	⬆️	-85	1%	Syria (44%)		
Slovenia	555	670	550	780	255	⬆️	-67	1%	Afghanistan (61%)		
Finland	105	95	145	135	245	↔️	81	1%	Somalia (31%)		
Poland	125	105	115	200	220	↔️	10	1%	Russia (25%)		
Luxembourg	35	35	50	55	110	⬆️	100	0%	Eritrea (41%)		
Spain	75	100	45	45	95	⬆️	111	0%	Mali (47%)		
Portugal	40	45	95	65	55	⬆️	-15	0%	Afghanistan (36%)		
Ireland	15	50	30	55	40	⬆️	-27	0%	Afghanistan (38%)		
Malta	5	20	10	5	40	⬆️	700	0%	Somalia (25%)		
Slovakia	10	30	10	20	10	⬆️	-50	0%	Afghanistan (50%)		
Lithuania	0	0	0	120	10	⬆️	-92	0%	Ukraine (50%)		
Hungary	40	10	0	5	5	➡️	0	0%	n.a.		
Latvia	5	5	0	15	5	⬆️	-67	0%	n.a.		
Czechia	10	10	0	0	0	n.a.	0%	0%	n.a.		
Estonia	0	0	0	0	0	n.a.	0%	0%	n.a.		
Liechtenstein	0	0	0	0	0	n.a.	0%	0%	n.a.		
Iceland	5	5	5	5	:	n.a.	:	:	n.a.		
Citizenship						Reporting country					
Afghanistan	3,105	4,450	5,830	13,195	19,680	↔️	49	47%	Austria (48%)		
Syria	1,355	1,515	2,315	4,735	9,930	⬆️	110	23%	Germany (28%)		
Somalia	1,000	810	675	1,490	2,395	↔️	61	6%	Greece (32%)		
Pakistan	1,365	1,350	1,090	1,160	1,365	↔️	18	3%	Austria (37%)		
Egypt	175	320	390	460	955	⬆️	108	2%	Austria (39%)		
Eritrea	1,420	450	225	385	910	⬆️	136	2%	Netherlands (66%)		
Türkiye	95	105	90	130	740	⬆️	469	2%	Germany (51%)		
Bangladesh	430	355	490	1,340	570	⬆️	-57	1%	Greece (51%)		
Iraq	815	650	250	480	470	➡️	-2	1%	Germany (37%)		
Tunisia	135	45	50	140	460	⬆️	229	1%	Austria (64%)		
Morocco	505	560	455	440	405	⬆️	-8	1%	Austria (36%)		
Guinea	1,225	795	400	305	340	↔️	11	1%	Germany (37%)		
India	15	30	15	15	300	⬆️	1,900	1%	Austria (90%)		
Yemen	35	65	40	75	275	⬆️	267	1%	Netherlands (69%)		
Burundi	30	50	25	0	250	n.a.	1%	1%	Croatia (48%)		
Other	5,655	3,185	1,885	2,045	3,220	↔️	57	8%	Italy (17%)		
EU+	17,360	14,735	14,225	26,395	42,265	↔️	60		Afghanistan (47%)		

'-' Data not available

Source: Eurostat [migr\_asyunaa] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asyunaa/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asyunaa/default/table?lang=en)



# Table 6: Refugee status at first instance in EU+ countries by reporting country and main citizenship, 2018-2022

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country						Citizenship				
Germany	41,370	45,050	37,820	32,065	40,910	↗	28	28%	Syria (37%)	
France	21,125	17,360	11,955	21,340	29,305	↗	37	20%	Afghanistan (40%)	
Greece	12,635	13,515	26,370	13,035	18,730	↗	44	13%	Afghanistan (36%)	
Austria	10,620	5,620	5,000	9,500	11,455	↗	21	8%	Syria (74%)	
Belgium	7,860	5,555	4,735	8,280	10,495	↗	27	7%	Afghanistan (23%)	
Netherlands	1,760	2,455	4,975	7,825	9,245	↗	18	6%	Syria (41%)	
Italy	6,490	10,120	4,580	7,380	7,610	➡	3	5%	Afghanistan (40%)	
Spain	575	1,640	4,360	5,355	6,815	↗	27	5%	Afghanistan (22%)	
Switzerland	6,190	5,395	5,260	5,240	4,715	➡	0	3%	Türkiye (37%)	
Sweden	5,990	3,300	2,830	2,075	2,200	↗	6	1%	Afghanistan (30%)	
Ireland	630	585	620	800	1,440	↗	80	1%	Afghanistan (18%)	
Norway	1,335	1,645	1,010	925	1,015	↗	10	1%	Syria (48%)	
Finland	1,765	1,295	850	855	960	↗	12	1%	Afghanistan (25%)	
Luxembourg	950	635	720	725	720	➡	-1	0%	Eritrea (45%)	
Portugal	220	60	75	225	615	⬆	173	0%	Afghanistan (85%)	
Romania	305	320	210	515	490	➡	-5	0%	Somalia (35%)	
Denmark	825	645	205	360	395	↗	10	0%	Afghanistan (32%)	
Cyprus	195	150	150	310	335	↗	8	0%	Iran (18%)	
Poland	170	130	135	1,020	300	⬇	-71	0%	Belarus (43%)	
Lithuania	120	80	80	405	290	⬇	-28	0%	Belarus (67%)	
Latvia	25	30	5	65	210	⬆	223	0%	Afghanistan (57%)	
Bulgaria	315	140	105	145	100	⬇	-31	0%	Syria (65%)	
Iceland	85	90	80	50	75	↗	50	0%	Afghanistan (33%)	
Czechia	40	50	40	190	70	⬇	-63	0%	Afghanistan (50%)	
Estonia	15	40	20	45	60	↗	33	0%	Russia (58%)	
Slovenia	100	80	85	15	40	⬆	167	0%	Syria (38%)	
Croatia	115	55	35	70	20	⬇	-71	0%	Afghanistan (25%)	
Slovakia	0	5	5	15	15	➡	0	0%	Afghanistan (100%)	
Malta	150	50	75	20	15	⬇	-25	0%	Libya (33%)	
Hungary	70	20	85	20	10	⬇	-50	0%	Iran (50%)	
Liechtenstein	0	5	0	0	0	n.a.	0%	n.a.		
Citizenship						Reporting country				
Afghanistan	10,725	6,915	8,755	20,105	40,215	⬆	100	27%	France (29%)	
Syria	35,975	36,815	41,385	33,185	37,950	↗	14	26%	Germany (40%)	
Türkiye	6,520	9,400	9,150	7,925	9,250	↗	17	6%	Germany (32%)	
Eritrea	9,950	7,975	6,380	7,625	7,570	➡	-1	5%	Germany (34%)	
Iraq	11,235	9,040	6,820	5,225	6,110	↗	17	4%	Germany (48%)	
Somalia	4,310	3,645	4,145	4,935	5,855	↗	19	4%	Germany (37%)	
Palestine	1,505	1,990	2,705	3,015	3,220	↗	7	2%	Greece (62%)	
Unknown	2,515	2,780	2,690	2,875	3,050	↗	6	2%	Germany (79%)	
Iran	6,080	4,525	3,600	3,855	2,865	⬇	-26	2%	Germany (44%)	
Guinea	2,010	1,920	1,915	2,955	2,540	⬇	-14	2%	France (68%)	
Congo (DR)	2,060	1,620	1,280	1,595	2,030	↗	27	1%	France (55%)	
Côte d'Ivoire	1,155	1,200	1,255	1,970	1,905	➡	-3	1%	France (86%)	
Russia	2,490	1,805	1,280	1,310	1,740	↗	33	1%	France (29%)	
China	1,970	2,025	2,010	955	1,635	↗	71	1%	France (71%)	
Nigeria	2,450	3,250	1,840	1,750	1,545	⬇	-12	1%	Italy (49%)	
Other	21,095	21,215	17,265	19,590	21,175	↗	8	14%	France (34%)	
EU+	122,045	116,120	112,475	118,870	148,655	↗	25	Afghanistan (27%)		

'-' Data not available

Source: Eurostat [migr\_asydcfst] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfst/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfst/default/table?lang=en)

**Table 7: Subsidiary protection status at first instance in EU+ countries by reporting country and main citizenship, 2018-2022**

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country						Citizenship				
Germany	25,030	19,415	18,950	22,995	57,530	⬆️	150	56%	Syria (91%)	
Spain	2,320	1,540	1,390	2,025	7,385	⬆️	265	7%	Mali (66%)	
Italy	4,205	6,870	4,970	7,350	7,205	➡️	-2	7%	Ukraine (20%)	
France	11,600	10,780	7,180	12,535	6,235	⬇️	-50	6%	Somalia (18%)	
Netherlands	1,485	1,830	2,820	2,865	5,045	↔️	76	5%	Syria (45%)	
Austria	3,620	1,075	1,050	2,145	4,815	⬆️	124	5%	Syria (61%)	
Bulgaria	420	265	715	1,870	4,270	⬆️	128	4%	Syria (85%)	
Poland	190	130	220	1,135	3,570	⬆️	215	3%	Belarus (70%)	
Estonia	5	5	5	0	2,040		n.a.	2%	Ukraine (100%)	
Iceland	20	205	285	200	840	⬆️	320	1%	Venezuela (80%)	
Sweden	3,985	2,300	1,365	520	655	↔️	26	1%	Syria (69%)	
Switzerland	1,120	970	985	740	635	⬇️	-14	1%	Eritrea (37%)	
Romania	290	265	425	625	535	⬇️	-14	1%	Syria (51%)	
Greece	2,575	3,835	7,955	3,535	515	⬇️	-85	0%	Somalia (23%)	
Belgium	1,815	975	975	885	430	⬇️	-51	0%	Somalia (30%)	
Luxembourg	60	35	30	135	255	⬆️	89	0%	Syria (96%)	
Czechia	110	80	65	70	250	⬆️	257	0%	Ukraine (66%)	
Cyprus	1,015	1,150	1,530	1,985	235	⬇️	-88	0%	Syria (70%)	
Malta	475	345	190	155	170	↔️	10	0%	Syria (50%)	
Slovenia	5	5	0	0	165		n.a.	0%	Ukraine (97%)	
Finland	395	205	135	80	105	↔️	31	0%	Iraq (33%)	
Ireland	180	120	120	70	70	➡️	0	0%	Somalia (14%)	
Portugal	405	115	15	80	60	⬇️	-25	0%	Afghanistan (17%)	
Denmark	55	575	70	260	55	⬇️	-79	0%	Eritrea (36%)	
Norway	50	45	50	135	55	⬇️	-59	0%	Afghanistan (55%)	
Slovakia	35	20	20	15	45	⬆️	200	0%	Afghanistan (67%)	
Hungary	280	30	45	15	20	↔️	33	0%	Afghanistan (50%)	
Latvia	5	5	15	25	20	⬇️	-20	0%	Afghanistan (50%)	
Lithuania	20	15	0	10	15	↔️	50	0%	South Sudan (33%)	
Croatia	20	0	5	0	0		n.a.	0%	n.a.	
Liechtenstein	5	5	10	0	0		n.a.	0%	n.a.	
Citizenship						Reporting country				
Syria	27,215	22,495	22,640	28,935	63,390	⬆️	119	61%	Germany (82%)	
Ukraine	535	510	450	580	7,425	⬆️	1,180	7%	Estonia (27%)	
Mali	530	710	565	2,145	5,725	⬆️	167	6%	Spain (85%)	
Afghanistan	11,460	9,100	12,920	13,745	4,415	⬇️	-68	4%	Germany (43%)	
Somalia	2,730	1,715	2,020	2,370	3,560	↔️	50	3%	France (31%)	
Belarus	10	5	90	1,040	2,500	⬆️	140	2%	Poland (99%)	
Yemen	1,200	1,770	1,460	1,055	2,310	⬆️	119	2%	Netherlands (51%)	
Iraq	4,310	2,810	1,940	1,580	1,905	↔️	21	2%	Germany (42%)	
Venezuela	225	1,245	935	775	1,230	↔️	59	1%	Iceland (55%)	
Eritrea	3,885	2,280	1,350	1,470	1,120	⬇️	-24	1%	Netherlands (34%)	
Pakistan	760	990	715	1,205	1,020	⬇️	-15	1%	Italy (90%)	
Sudan	695	450	90	300	770	⬆️	157	1%	France (49%)	
Unknown	535	450	470	490	720	↔️	47	1%	Germany (78%)	
Albania	860	685	270	315	550	↔️	75	1%	France (98%)	
Burkina Faso	20	65	55	110	450	⬆️	309	0%	Spain (53%)	
Other	6,825	7,930	5,620	6,345	6,135	➡️	-3	6%	France (43%)	
EU+	61,795	53,210	51,590	62,460	103,225	↔️	65		Syria (61%)	

'.' Data not available

Source: Eurostat [migr\_asydcfsta] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfsta/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfsta/default/table?lang=en)

















































# Table 8: Humanitarian protection at first instance in EU+ countries by reporting country and main citizenship, 2018-2022

						2022					Sparkline
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share			
Reporting country						Citizenship					
Germany	9,540	5,855	5,700	4,785	30,020	⬆️	527	43%	Afghanistan (88%)		
Spain	0	35,240	45,300	13,030	20,925	↔️	61	30%	Venezuela (98%)		
Italy	19,970	1,385	2,035	7,080	10,865	↔️	53	15%	Bangladesh (13%)		
Switzerland	7,920	4,425	3,945	3,035	4,530	↔️	49	6%	Afghanistan (66%)		
Ireland	195	265	200	590	2,085	⬆️	253	3%	Nigeria (19%)		
Netherlands	375	560	820	1,375	890	⬇️	-35	1%	Türkiye (44%)		
Sweden	670	465	230	355	530	↔️	49	1%	Afghanistan (25%)		
Austria	780	725	780	460	290	⬇️	-37	0%	Russia (41%)		
Finland	240	165	165	130	165	↔️	27	0%	Afghanistan (36%)		
Denmark	435	355	145	160	60	⬇️	-63	0%	Syria (75%)		
Iceland	0	10	20	5	40	⬆️	700	0%	Honduras (38%)		
Norway	75	100	80	40	30	⬇️	-25	0%	Afghanistan (33%)		
Slovakia	10	15	10	15	10	↔️	-33	0%	Afghanistan (50%)		
Malta	25	15	5	5	10	⬆️	100	0%	Libya (50%)		
Liechtenstein	5	5	0	0	5		n.a.	0%	Afghanistan (100%)		
Poland	15	5	15	0	0		n.a.	0%	n.a.		
Czechia	5	5	5	5	0	⬇️	-100	0%	n.a.		
Hungary	20	5	5	0	0		n.a.	0%	n.a.		
Romania	0	0	0	0	0		n.a.	0%	n.a.		
Greece	0	0	0	0	0		n.a.	0%	n.a.		
Cyprus	0	0	0	0	0		n.a.	0%	n.a.		
Lithuania	0	0	0	0	0		n.a.	0%	n.a.		
Croatia	0	0	0	0	0		n.a.	0%	n.a.		
Estonia	0	0	0	0	0		n.a.	0%	n.a.		
Slovenia	:	:	:	:	:		n.a.	:	n.a.		
Bulgaria	:	:	:	:	:		n.a.	:	n.a.		
Portugal	:	:	:	:	:		n.a.	:	n.a.		
France	:	:	:	:	:		n.a.	:	n.a.		
Luxembourg	:	:	:	:	:		n.a.	:	n.a.		
Belgium	:	:	:	:	:		n.a.	:	n.a.		
Latvia	:	:	:	:	:		n.a.	:	n.a.		
Citizenship						Reporting country					
Afghanistan	8,460	4,190	4,320	4,195	29,750	⬆️	609	42%	Germany (89%)		
Venezuela	145	35,195	45,385	13,030	20,975	↔️	61	30%	Spain (98%)		
Nigeria	4,235	770	845	1,425	1,980	↔️	39	3%	Italy (66%)		
Pakistan	1,495	295	220	985	1,715	↔️	74	2%	Italy (83%)		
Iraq	2,455	1,325	1,195	915	1,650	⬆️	80	2%	Germany (77%)		
Bangladesh	2,635	135	310	645	1,525	⬆️	136	2%	Italy (94%)		
Georgia	295	75	125	290	805	⬆️	178	1%	Italy (67%)		
Somalia	1,110	740	475	515	795	↔️	54	1%	Germany (65%)		
Syria	2,205	1,945	1,150	825	760	⬇️	-8	1%	Switzerland (47%)		
Mali	1,255	85	85	455	690	↔️	52	1%	Italy (99%)		
Türkiye	370	365	490	365	595	↔️	63	1%	Netherlands (66%)		
Albania	175	70	80	285	540	↔️	89	1%	Italy (65%)		
Gambia, The	2,315	130	105	265	445	↔️	68	1%	Italy (92%)		
Colombia	50	25	180	215	415	↔️	93	1%	Italy (47%)		
Senegal	1,355	75	100	325	385	↔️	18	1%	Italy (97%)		
Other	11,725	4,180	4,395	6,335	7,430	↔️	17	11%	Italy (52%)		
EU+	40,280	49,600	59,460	31,070	70,455	⬆️	127		Afghanistan (42%)		

'-' Data not available

Source: Eurostat [migr\_asydcfsta] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfsta/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfsta/default/table?lang=en)

# Table 9: Rejections at first instance in EU+ countries by reporting country and main citizenship, 2018-2022

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country					Citizenship					
France	82,325	85,750	67,200	103,140	94,195	📉	-9	29%	Bangladesh (8%)	
Germany	103,175	83,855	66,120	72,830	69,075	📉	-5	21%	Iraq (19%)	
Spain	8,980	19,615	73,740	50,580	48,260	➡️	-5	15%	Colombia (32%)	
Italy	64,540	75,110	29,215	21,745	27,385	🔄	26	8%	Bangladesh (20%)	
Austria	19,500	6,465	3,660	6,655	22,440	⬆️	237	7%	Tunisia (28%)	
Greece	17,130	15,350	27,830	20,630	19,405	📉	-6	6%	Pakistan (23%)	
Belgium	9,340	10,640	10,650	11,865	13,105	🔄	10	4%	Afghanistan (24%)	
Cyprus	1,265	1,975	1,695	9,980	8,425	📉	-16	3%	Pakistan (24%)	
Sweden	20,690	14,655	12,790	7,260	6,615	📉	-9	2%	Afghanistan (10%)	
Romania	700	730	1,870	2,960	3,045	➡️	3	1%	India (29%)	
Netherlands	6,665	8,095	4,965	4,435	2,220	📉	-50	1%	Syria (9%)	
Switzerland	1,775	1,525	1,090	895	1,590	🔄	78	0%	Ukraine (12%)	
Finland	2,035	3,180	1,895	1,235	1,365	🔄	11	0%	Iraq (38%)	
Poland	2,125	1,730	1,630	1,455	1,320	📉	-9	0%	Russia (39%)	
Malta	855	635	605	630	1,075	🔄	71	0%	Sudan (26%)	
Ireland	170	895	330	85	880	⬆️	935	0%	Pakistan (18%)	
Czechia	1,230	1,255	855	675	775	🔄	15	0%	Vietnam (14%)	
Denmark	1,315	1,455	765	750	470	📉	-37	0%	Georgia (14%)	
Bulgaria	1,370	850	1,375	1,255	445	📉	-65	0%	Morocco (18%)	
Lithuania	135	230	265	2,860	435	📉	-85	0%	Iraq (41%)	
Iceland	275	400	200	305	275	📉	-10	0%	Palestine (24%)	
Norway	660	665	420	215	270	🔄	26	0%	Albania (9%)	
Luxembourg	400	510	415	310	270	📉	-13	0%	Venezuela (15%)	
Portugal	415	570	325	200	195	➡️	-3	0%	Morocco (15%)	
Latvia	95	120	95	115	165	🔄	43	0%	Iraq (45%)	
Slovenia	135	130	215	155	140	📉	-10	0%	Morocco (25%)	
Estonia	55	45	45	30	90	⬆️	200	0%	Russia (56%)	
Croatia	300	265	250	365	80	📉	-78	0%	Türkiye (31%)	
Slovakia	40	55	40	85	75	📉	-12	0%	Morocco (20%)	
Liechtenstein	30	20	15	10	10	➡️	0	0%	North Macedonia (50%)	
Hungary	590	650	345	20	5	📉	-75	0%	Afghanistan (0%)	
Citizenship					Reporting country					
Pakistan	21,470	21,130	16,940	20,345	21,455	🔄	5	7%	Italy (24%)	
Colombia	1,450	5,880	41,510	20,435	19,060	📉	-7	6%	Spain (82%)	
Bangladesh	13,655	14,200	9,805	15,765	19,010	🔄	21	6%	France (39%)	
Georgia	13,645	18,165	8,810	10,515	17,805	🔄	69	5%	France (41%)	
Iraq	22,340	17,295	12,735	12,890	17,410	🔄	35	5%	Germany (76%)	
Türkiye	7,555	8,030	10,400	10,490	14,770	🔄	41	5%	France (46%)	
Nigeria	26,600	25,335	14,410	16,855	12,735	📉	-24	4%	France (33%)	
Afghanistan	30,090	15,805	17,680	14,680	12,630	📉	-14	4%	France (41%)	
Albania	15,845	17,785	8,735	7,595	11,160	🔄	47	3%	France (58%)	
Morocco	4,595	6,965	4,960	5,895	10,045	🔄	70	3%	Spain (41%)	
Tunisia	1,795	2,810	2,365	3,155	9,355	⬆️	197	3%	Austria (68%)	
India	2,520	3,100	2,315	4,280	7,980	🔄	86	2%	Austria (60%)	
Venezuela	2,285	1,470	2,495	4,045	6,920	🔄	71	2%	Spain (74%)	
Egypt	2,945	3,470	2,775	3,550	6,665	🔄	88	2%	Italy (50%)	
Congo (DR)	4,790	3,895	4,480	6,465	6,435	➡️	0	2%	France (62%)	
Other	176,735	172,090	150,495	166,770	130,665	📉	-22	40%	France (35%)	
EU+	348,315	337,425	310,910	323,730	324,100	➡️	0		Pakistan (7%)	

': ' Data not available

Source: Eurostat [migr\_asydcfsta] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfsta/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfsta/default/table?lang=en)

# Table 10: Decisions at first instance in EU+ countries by reporting country and main citizenship, 2018-2022

						2022					
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+		Highest share	Sparkline	
Reporting country						Citizenship					
Germany	179,115	154,175	128,590	132,680	197,540	↗	49	31%	Syria (36%)		
France	115,045	113,890	86,330	137,015	129,735	↘	-5	20%	Afghanistan (13%)		
Spain	11,875	58,035	124,795	70,985	83,385	↗	17	13%	Venezuela (31%)		
Italy	95,210	93,485	40,795	43,550	53,060	↗	22	8%	Pakistan (15%)		
Austria	34,525	13,890	10,495	18,760	39,000	⬆️	108	6%	Syria (30%)		
Greece	32,340	32,700	62,155	37,205	38,645	➡️	4	6%	Afghanistan (20%)		
Belgium	19,020	17,170	16,360	21,030	24,025	↗	14	4%	Afghanistan (23%)		
Netherlands	10,285	12,940	13,580	16,505	17,400	↗	5	3%	Syria (37%)		
Switzerland	17,000	12,315	11,275	9,910	11,475	↗	16	2%	Afghanistan (32%)		
Sweden	31,335	20,720	17,215	10,215	10,005	➡️	-2	2%	Afghanistan (15%)		
Cyprus	2,475	3,275	3,375	12,270	8,995	↘	-27	1%	Pakistan (23%)		
Poland	2,500	1,995	2,000	3,610	5,190	↗	44	1%	Belarus (51%)		
Bulgaria	2,110	1,250	2,195	3,270	4,815	↗	47	1%	Syria (78%)		
Ireland	1,175	1,870	1,275	1,545	4,470	⬆️	189	1%	Nigeria (13%)		
Romania	1,295	1,315	2,505	4,100	4,070	➡️	-1	1%	India (22%)		
Finland	4,440	4,845	3,045	2,300	2,595	↗	13	0%	Iraq (28%)		
Estonia	75	90	70	75	2,195	⬆️	2,827	0%	Ukraine (93%)		
Norway	2,115	2,455	1,565	1,315	1,370	⬆️	4	0%	Syria (38%)		
Malta	1,500	1,040	875	810	1,270	↗	57	0%	Sudan (22%)		
Luxembourg	1,410	1,180	1,165	1,170	1,245	↗	6	0%	Syria (39%)		
Iceland	380	710	585	555	1,225	⬆️	121	0%	Venezuela (60%)		
Czechia	1,385	1,390	960	935	1,100	↗	18	0%	Ukraine (23%)		
Denmark	2,625	3,030	1,185	1,525	985	↘	-35	0%	Syria (20%)		
Portugal	1,045	745	420	505	865	↗	71	0%	Afghanistan (61%)		
Lithuania	270	325	350	3,275	740	⬇️	-77	0%	Belarus (29%)		
Latvia	125	150	120	200	400	⬆️	100	0%	Afghanistan (33%)		
Slovenia	235	215	300	175	345	↗	97	0%	Ukraine (46%)		
Slovakia	80	90	80	130	150	↗	15	0%	Afghanistan (33%)		
Croatia	435	320	295	435	100	⬇️	-77	0%	Türkiye (25%)		
Hungary	960	710	475	60	35	↘	-42	0%	Afghanistan (29%)		
Liechtenstein	40	35	25	15	15	➡️	0	0%	Afghanistan (33%)		
Citizenship						Reporting country					
Syria	74,295	71,430	76,480	86,940	108,390	↗	25	17%	Germany (65%)		
Afghanistan	60,750	36,025	43,675	52,760	87,015	↗	65	13%	Germany (44%)		
Venezuela	3,225	38,870	49,455	18,480	29,685	↗	61	5%	Spain (87%)		
Iraq	40,370	30,485	22,695	20,615	27,080	↗	31	4%	Germany (67%)		
Pakistan	24,855	23,780	18,875	23,740	25,410	↗	7	4%	Italy (30%)		
Türkiye	14,590	17,985	20,265	19,000	24,880	↗	31	4%	Germany (37%)		
Bangladesh	17,045	15,285	10,605	17,070	21,295	↗	25	3%	France (37%)		
Colombia	1,735	6,335	42,615	22,245	20,780	↘	-7	3%	Spain (79%)		
Georgia	14,325	18,935	9,240	11,095	19,320	↗	74	3%	France (40%)		
Nigeria	33,625	29,790	17,370	20,515	16,690	↘	-19	3%	Italy (36%)		
Somalia	15,010	11,820	10,830	13,335	16,420	↗	23	3%	Germany (27%)		
Albania	17,170	18,860	9,235	8,360	12,495	↗	49	2%	France (58%)		
Morocco	5,340	7,615	5,520	6,600	10,865	↗	65	2%	Spain (40%)		
Eritrea	16,805	13,010	9,800	11,245	10,315	↘	-8	2%	Germany (34%)		
Mali	8,685	8,505	4,130	6,180	10,090	↗	63	2%	Spain (50%)		
Other	224,600	207,625	183,665	197,950	205,715	➡️	4	32%	France (29%)		
EU+	572,425	556,355	534,455	536,130	646,445	↗	21		Syria (17%)		

'-' Data not available

Source: Eurostat [migr\_asydcfst] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfst/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfst/default/table?lang=en)



**Table 11: Refugee status at second or higher instances in EU+ countries by reporting country and main citizenship, 2018-2022**

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country						Citizenship				
France	6,015	9,335	6,115	10,015	10,515	➡	5	39%	Afghanistan (14%)	
Germany	19,980	13,275	7,895	8,110	8,565	↔	6	32%	Iran (23%)	
Austria	4,195	4,350	3,260	2,645	2,465	↘	-7	9%	Syria (36%)	
Sweden	2,045	1,845	1,245	1,285	1,235	➡	-4	5%	Afghanistan (54%)	
Netherlands	400	350	440	770	1,035	↔	34	4%	Iran (34%)	
Italy	825	895	615	750	815	↔	9	3%	Nigeria (58%)	
Greece	175	295	480	730	730	➡	0	3%	Afghanistan (38%)	
Ireland	185	360	410	300	485	↘	62	2%	Zimbabwe (18%)	
Finland	925	665	640	865	385	↘	-55	1%	Afghanistan (40%)	
Lithuania	5	0	0	440	315	↘	-28	1%	Belarus (65%)	
Belgium	475	330	275	595	225	↘	-62	1%	Palestine (27%)	
Denmark	200	125	120	40	110	⬆️	175	0%	Afghanistan (32%)	
Switzerland	170	155	150	120	100	↘	-17	0%	Syria (30%)	
Spain	45	10	20	55	60	↔	9	0%	Syria (33%)	
Norway	110	80	50	75	55	↘	-27	0%	Afghanistan (27%)	
Czechia	5	10	0	10	25	⬆️	150	0%	Azerbaijan (40%)	
Croatia	15	5	35	70	20	↘	-71	0%	Afghanistan (25%)	
Romania	15	25	30	10	10	➡	0	0%	Iraq (50%)	
Cyprus	5	15	0	15	10	↘	-33	0%	Lebanon (50%)	
Latvia	0	10	0	15	10	↘	-33	0%	Afghanistan (50%)	
Bulgaria	0	10	0	5	5	➡	0	0%	Afghanistan (0%)	
Slovenia	0	15	5	5	5	➡	0	0%	Congo (DR) (100%)	
Slovakia	0	5	0	10	5	↘	-50	0%	Afghanistan (0%)	
Poland	20	5	0	0	5	n.a.	0%	Belarus (100%)		
Hungary	0	0	0	0	0	n.a.	0%	n.a.		
Portugal	0	0	0	0	0	n.a.	0%	n.a.		
Malta	0	5	0	0	0	n.a.	0%	n.a.		
Luxembourg	5	0	0	0	0	n.a.	0%	n.a.		
Liechtenstein	0	0	0	0	0	n.a.	0%	n.a.		
Estonia	0	0	5	5	0	↘	-100	0%	n.a.	
Iceland	30	15	55	10	:	n.a.	:	n.a.		
Citizenship						Reporting country				
Afghanistan	6,360	6,530	4,790	4,895	4,685	➡	-4	17%	France (31%)	
Iran	2,440	2,790	2,765	3,250	3,225	➡	-1	12%	Germany (62%)	
Syria	11,950	5,805	1,930	2,725	2,935	↔	8	11%	Germany (34%)	
Türkiye	835	1,475	1,285	1,910	2,390	↔	25	9%	France (50%)	
Nigeria	775	1,075	755	1,170	1,540	↔	32	6%	France (54%)	
Russia	445	680	555	665	1,040	↔	56	4%	Germany (63%)	
Iraq	2,075	1,900	1,595	1,450	1,035	↘	-29	4%	Germany (43%)	
Côte d'Ivoire	210	660	320	690	910	↔	32	3%	France (95%)	
Pakistan	1,105	1,175	915	875	850	➡	-3	3%	Germany (59%)	
Guinea	600	930	945	1,155	815	↘	-29	3%	France (85%)	
Somalia	975	865	735	720	645	↘	-10	2%	France (45%)	
Bangladesh	520	590	370	730	555	↘	-24	2%	France (92%)	
Congo (DR)	475	520	285	475	485	➡	2	2%	France (78%)	
Sri Lanka	285	355	325	525	405	↘	-23	1%	France (89%)	
Sudan	680	855	510	375	340	↘	-9	1%	France (84%)	
Other	6,115	5,985	3,765	5,340	5,335	➡	0	20%	France (46%)	
EU+	35,845	32,190	21,845	26,950	27,190	➡	1		Afghanistan (17%)	

'-' Data not available

Source: Eurostat [migr\_asycdfina] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asycdfina/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asycdfina/default/table?lang=en)

**Table 12: Subsidiary protection status at second or higher instances in EU+ countries by reporting country and main citizenship, 2018-2022**

						2022		Highest share	Sparkline
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+		
Reporting country						Citizenship			
Germany	27,660	18,330	12,145	7,460	7,780	➡	4	43%	Syria (70%)
France	2,705	4,645	4,140	5,100	3,935	⬇	-23	22%	Somalia (14%)
Italy	4,365	3,840	2,790	2,025	2,375	↔	17	13%	Mali (40%)
Austria	1,065	1,265	1,600	2,285	1,170	⬇	-49	6%	Afghanistan (53%)
Greece	95	310	565	1,130	1,130	➡	0	6%	Afghanistan (80%)
Netherlands	625	525	540	1,005	740	⬇	-26	4%	Syria (24%)
Spain	15	0	0	5	540	⬆	10,700	3%	Ukraine (95%)
Sweden	855	380	230	150	225	↔	50	1%	Syria (49%)
Romania	55	30	45	60	75	↔	25	0%	Afghanistan (47%)
Czechia	5	5	10	50	65	↔	30	0%	Ukraine (92%)
Belgium	95	75	45	55	60	↔	9	0%	Palestine (33%)
Ireland	45	45	45	35	30	⬇	-14	0%	Albania (17%)
Finland	310	250	130	80	25	⬇	-69	0%	Iraq (40%)
Bulgaria	20	35	15	5	20	⬆	300	0%	Iraq (75%)
Lithuania	0	0	0	10	20	⬆	100	0%	Syria (50%)
Switzerland	30	30	45	40	15	⬇	-63	0%	Iran (67%)
Denmark	130	80	30	25	15	⬇	-40	0%	Afghanistan (33%)
Norway	25	25	5	5	10	⬆	100	0%	Eritrea (50%)
Latvia	0	10	0	0	5		n.a.	0%	Congo (DR) (100%)
Poland	30	10	10	10	0	⬇	-100	0%	n.a.
Slovakia	0	0	0	5	0	⬇	-100	0%	n.a.
Malta	5	15	5	0	0		n.a.	0%	n.a.
Cyprus	10	0	0	0	0		n.a.	0%	n.a.
Croatia	5	0	5	0	0		n.a.	0%	n.a.
Liechtenstein	0	0	5	0	0		n.a.	0%	n.a.
Slovenia	0	0	0	0	0		n.a.	0%	n.a.
Portugal	0	0	0	0	0		n.a.	0%	n.a.
Hungary	0	0	0	0	0		n.a.	0%	n.a.
Luxembourg	0	0	0	0	0		n.a.	0%	n.a.
Estonia	0	0	0	0	0		n.a.	0%	n.a.
Iceland	20	35	50	30	:		n.a.	:	n.a.
Citizenship						Reporting country			
Syria	20,315	12,330	8,495	5,320	5,920	↔	11	32%	Germany (92%)
Afghanistan	3,555	4,145	4,375	4,920	2,500	⬇	-49	14%	Greece (36%)
Ukraine	70	65	30	55	1,500	⬆	2,627	8%	Italy (37%)
Mali	795	940	1,450	1,165	1,050	⬇	-10	6%	Italy (90%)
Iraq	3,485	2,870	2,160	1,790	885	⬇	-51	5%	Germany (36%)
Somalia	950	870	730	720	745	➡	3	4%	France (74%)
Eritrea	1,230	985	765	810	445	⬇	-45	2%	Germany (58%)
Nigeria	1,380	1,050	440	360	370	➡	3	2%	France (39%)
Congo (DR)	105	155	90	205	350	↔	71	2%	France (89%)
Yemen	135	225	160	180	330	↔	83	2%	Germany (76%)
Pakistan	1,190	790	420	245	285	↔	16	2%	Italy (86%)
Bangladesh	310	400	220	375	275	⬇	-27	2%	France (93%)
Russia	165	175	130	235	265	↔	13	1%	France (53%)
Guinea	245	300	220	305	260	⬇	-15	1%	France (52%)
Côte d'Ivoire	185	235	120	220	255	↔	16	1%	France (88%)
Other	4,055	4,405	2,650	2,665	2,800	↔	5	15%	France (47%)
EU+	38,170	29,940	22,455	19,570	18,235	⬇	-7		Syria (32%)

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfina/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfina/default/table?lang=en)

**Table 13: Humanitarian protection at second or higher instances in EU+ countries by reporting country and main citizenship, 2018-2022**

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country						Citizenship				
Germany	15,975	14,300	15,520	14,005	14,560	➡	4	51%	Afghanistan (65%)	
Italy	12,025	7,900	6,285	9,085	10,790	➡	19	38%	Nigeria (27%)	
Austria	420	685	1,290	1,810	1,080	➡	-40	4%	Iraq (28%)	
Sweden	6,115	3,530	1,340	850	890	➡	5	3%	Afghanistan (20%)	
Ireland	40	170	135	600	850	➡	42	3%	Georgia (22%)	
Netherlands	150	120	100	265	290	➡	9	1%	Iran (36%)	
Norway	140	105	120	115	125	➡	9	0%	Eritrea (20%)	
Finland	320	300	120	95	80	➡	-16	0%	Iraq (38%)	
Switzerland	120	70	125	75	55	➡	-27	0%	Afghanistan (9%)	
Spain	10	95	115	50	40	➡	-20	0%	Venezuela (50%)	
Denmark	5	0	0	0	5		n.a.	0%	Congo (DR) (100%)	
Greece	325	640	370	0	0		n.a.	0%	n.a.	
Poland	15	0	10	0	0		n.a.	0%	n.a.	
Slovakia	0	0	5	0	0		n.a.	0%	n.a.	
Hungary	0	0	0	0	0		n.a.	0%	n.a.	
Romania	0	0	0	0	0		n.a.	0%	n.a.	
Czechia	0	0	0	0	0		n.a.	0%	n.a.	
Malta	0	0	0	0	0		n.a.	0%	n.a.	
Cyprus	0	0	0	0	0		n.a.	0%	n.a.	
Lithuania	0	0	0	0	0		n.a.	0%	n.a.	
Liechtenstein	0	0	0	0	0		n.a.	0%	n.a.	
Croatia	0	0	0	0	0		n.a.	0%	n.a.	
Estonia	0	0	0	0	0		n.a.	0%	n.a.	
Iceland	40	20	95	15	:		n.a.	:	n.a.	
Slovenia	:	:	:	:	:		n.a.	:	n.a.	
Bulgaria	:	:	:	:	:		n.a.	:	n.a.	
Portugal	:	:	:	:	:		n.a.	:	n.a.	
France	:	:	:	:	:		n.a.	:	n.a.	
Luxembourg	:	:	:	:	:		n.a.	:	n.a.	
Belgium	:	:	:	:	:		n.a.	:	n.a.	
Latvia	:	:	:	:	:		n.a.	:	n.a.	
Citizenship						Reporting country				
Afghanistan	16,530	11,165	8,955	8,295	9,745	➡	17	34%	Germany (97%)	
Nigeria	2,865	2,265	2,195	3,030	3,580	➡	18	12%	Italy (81%)	
Iraq	1,015	1,820	2,455	2,445	1,700	➡	-30	6%	Germany (72%)	
Pakistan	2,010	1,105	895	1,260	1,535	➡	22	5%	Italy (81%)	
Bangladesh	1,795	1,480	1,235	1,350	1,110	➡	-18	4%	Italy (95%)	
Gambia, The	1,375	920	730	870	1,110	➡	28	4%	Italy (93%)	
Senegal	1,190	635	590	800	1,025	➡	28	4%	Italy (99%)	
Guinea	510	410	385	560	700	➡	25	2%	Italy (78%)	
Ghana	590	380	385	560	655	➡	17	2%	Italy (94%)	
Côte d'Ivoire	715	550	415	645	625	➡	-3	2%	Italy (94%)	
Somalia	675	650	560	465	485	➡	4	2%	Germany (87%)	
Russia	320	355	405	460	415	➡	-10	1%	Austria (48%)	
Georgia	95	145	130	185	415	➡	124	1%	Ireland (45%)	
Iran	190	180	270	290	355	➡	22	1%	Germany (32%)	
Albania	230	325	150	245	350	➡	43	1%	Italy (51%)	
Other	5,595	5,550	5,875	5,505	4,960	➡	-10	17%	Germany (43%)	
EU+	35,700	27,935	25,630	26,965	28,765	➡	7		Afghanistan (34%)	

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfina/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfina/default/table?lang=en)















































# Table 14: Rejections at second or higher instances in EU+ countries by reporting country and main citizenship, 2018-2022

						2022				
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+	Highest share	Sparkline	
Reporting country						Citizenship				
France	37,700	52,470	31,575	31,785	51,825	📈	63	35%	Bangladesh (11%)	<div><div></div></div>
Germany	82,855	85,140	64,530	51,720	44,170	📉	-15	30%	Iraq (13%)	<div><div></div></div>
Greece	6,605	11,070	22,340	13,785	15,780	📈	14	11%	Pakistan (28%)	<div><div></div></div>
Sweden	15,965	13,725	11,240	8,345	5,975	📉	-28	4%	Iraq (9%)	<div><div></div></div>
Italy	25,755	22,870	14,120	6,945	5,360	📉	-23	4%	Nigeria (25%)	<div><div></div></div>
Belgium	5,675	4,840	6,365	5,890	5,085	📉	-14	3%	El Salvador (7%)	<div><div></div></div>
Cyprus	465	750	530	2,590	4,250	📈	64	3%	Bangladesh (32%)	<div><div></div></div>
Spain	905	725	290	2,110	3,295	📈	56	2%	Colombia (48%)	<div><div></div></div>
Austria	4,810	5,015	3,825	3,175	2,295	📉	-28	2%	Iraq (14%)	<div><div></div></div>
Switzerland	2,965	2,710	2,435	1,875	1,755	📉	-6	1%	Sri Lanka (17%)	<div><div></div></div>
Poland	1,435	830	1,920	1,885	1,570	➡️	0	1%	Russia (51%)	<div><div></div></div>
Netherlands	780	1,080	1,240	1,605	1,030	📉	-36	1%	Nigeria (30%)	<div><div></div></div>
Ireland	380	600	405	10	935	📈	9,250	1%	Georgia (20%)	<div><div></div></div>
Lithuania	20	0	10	2,770	550	📉	-80	0%	Iraq (45%)	<div><div></div></div>
Norway	1,850	910	780	490	430	📉	-12	0%	Iran (17%)	<div><div></div></div>
Malta	665	470	495	605	415	📉	-31	0%	Egypt (17%)	<div><div></div></div>
Czechia	395	395	395	395	395	➡️	0	0%	Ukraine (39%)	<div><div></div></div>
Portugal	465	550	790	460	325	📉	-29	0%	The Gambia (15%)	<div><div></div></div>
Denmark	1,625	1,105	605	365	285	📉	-22	0%	Iran (12%)	<div><div></div></div>
Finland	3,625	3,045	2,390	1,280	280	📉	-78	0%	Iraq (48%)	<div><div></div></div>
Romania	175	165	165	245	240	➡️	-2	0%	Afghanistan (48%)	<div><div></div></div>
Luxembourg	250	170	105	165	160	➡️	-3	0%	Iraq (13%)	<div><div></div></div>
Croatia	65	20	115	290	80	📉	-72	0%	Türkiye (38%)	<div><div></div></div>
Latvia	40	55	55	50	50	➡️	0	0%	Iraq (30%)	<div><div></div></div>
Slovenia	85	90	130	55	40	📉	-27	0%	Algeria (13%)	<div><div></div></div>
Estonia	30	45	15	25	20	📉	-20	0%	Belarus (25%)	<div><div></div></div>
Liechtenstein	50	10	10	5	15	📈	200	0%	Albania (33%)	<div><div></div></div>
Slovakia	20	30	15	15	5	📉	-67	0%	Afghanistan (0%)	<div><div></div></div>
Bulgaria	15	20	0	0	0	⚪	n.a.	0%	n.a.	<div><div></div></div>
Hungary	0	0	0	0	0	⚪	n.a.	0%	n.a.	<div><div></div></div>
Iceland	285	275	110	210	:	⚪	n.a.	:	n.a.	<div><div></div></div>
Citizenship						Reporting country				
Nigeria	13,745	14,845	12,165	11,730	11,095	📉	-5	8%	Germany (39%)	<div><div></div></div>
Pakistan	14,020	14,425	14,390	8,645	10,140	📈	17	7%	Greece (44%)	<div><div></div></div>
Bangladesh	6,650	6,955	5,750	6,770	10,115	📈	49	7%	France (59%)	<div><div></div></div>
Iraq	15,235	15,130	13,520	12,280	9,295	📉	-24	6%	Germany (64%)	<div><div></div></div>
Türkiye	3,035	4,195	4,155	5,350	7,495	📈	40	5%	France (47%)	<div><div></div></div>
Georgia	6,245	11,040	6,860	3,135	6,795	📈	117	5%	France (37%)	<div><div></div></div>
Afghanistan	21,275	18,730	15,500	9,940	6,055	📉	-39	4%	France (32%)	<div><div></div></div>
Albania	10,535	10,945	7,020	2,315	5,265	📈	127	4%	France (43%)	<div><div></div></div>
Iran	4,240	5,165	5,115	5,500	5,020	📉	-9	3%	Germany (65%)	<div><div></div></div>
Russia	6,875	6,970	6,530	6,415	4,795	📉	-25	3%	Germany (54%)	<div><div></div></div>
Guinea	4,580	6,050	5,930	5,700	4,785	📉	-16	3%	France (65%)	<div><div></div></div>
Congo (DR)	2,640	2,935	2,235	3,555	4,100	📈	15	3%	France (65%)	<div><div></div></div>
Côte d'Ivoire	3,355	5,225	2,910	3,730	4,035	📈	8	3%	France (79%)	<div><div></div></div>
Somalia	3,155	3,370	3,150	2,990	2,890	➡️	-3	2%	France (32%)	<div><div></div></div>
Colombia	295	625	770	1,220	2,635	📈	116	2%	Spain (60%)	<div><div></div></div>
Other	80,075	82,575	61,000	49,870	52,100	➡️	4	36%	France (35%)	<div><div></div></div>
EU+	195,955	209,180	167,000	139,145	146,615	📈	5		Nigeria (8%)	<div><div></div></div>

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfina/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfina/default/table?lang=en)

**Table 15: Decisions at second or higher instances in EU+ countries by reporting country and main citizenship, 2018-2022**

						2022			Highest share	Sparkline
	2018	2019	2020	2021	2022	% chg. on last year	Share in EU+			
Reporting country						Citizenship				
Germany	146,470	131,050	100,095	81,300	75,075	📉	-8	34%	Afghanistan (17%)	
France	46,415	66,450	41,830	46,895	66,275	📈	41	30%	Bangladesh (10%)	
Italy	42,970	35,500	23,810	18,805	19,335	📈	3	9%	Nigeria (25%)	
Greece	7,200	12,315	23,755	15,645	17,640	📈	13	8%	Pakistan (25%)	
Sweden	24,980	19,480	14,055	10,630	8,325	📉	-22	4%	Afghanistan (16%)	
Austria	10,490	11,320	9,970	9,915	7,010	📉	-29	3%	Afghanistan (19%)	
Belgium	6,240	5,245	6,685	6,540	5,370	📉	-18	2%	El Salvador (7%)	
Cyprus	480	770	530	2,605	4,255	📈	63	2%	Bangladesh (32%)	
Spain	975	830	425	2,215	3,930	📈	77	2%	Colombia (41%)	
Netherlands	1,955	2,080	2,320	3,645	3,100	📉	-15	1%	Iran (17%)	
Ireland	645	1,180	990	940	2,300	📈	0	1%	Georgia (18%)	
Switzerland	3,285	2,970	2,755	2,115	1,925	📉	-9	1%	Sri Lanka (16%)	
Poland	1,495	840	1,940	1,895	1,575	📉	-17	1%	Russia (51%)	
Lithuania	25	0	15	3,220	885	📉	-73	0%	Iraq (30%)	
Finland	5,175	4,260	3,280	2,315	770	📉	-67	0%	Iraq (42%)	
Norway	2,130	1,120	950	685	625	📉	-9	0%	Iran (18%)	
Czechia	405	415	405	455	485	📈	7	0%	Ukraine (43%)	
Malta	670	495	505	605	420	📉	-31	0%	Egypt (17%)	
Denmark	1,965	1,310	755	425	415	📈	-2	0%	Afghanistan (16%)	
Romania	245	215	240	315	325	📈	3	0%	Afghanistan (46%)	
Portugal	465	550	790	460	325	📉	-29	0%	The Gambia (15%)	
Luxembourg	255	170	110	165	160	📈	-3	0%	Iraq (13%)	
Croatia	85	25	155	360	100	📉	-72	0%	Türkiye (30%)	
Latvia	40	75	55	65	65	📈	0	0%	Iraq (23%)	
Slovenia	85	110	135	55	50	📉	-9	0%	Algeria (10%)	
Bulgaria	35	65	20	15	25	📈	67	0%	Iraq (60%)	
Estonia	30	45	20	35	20	📉	-43	0%	Belarus (25%)	
Liechtenstein	55	10	10	5	15	📈	200	0%	Albania (33%)	
Slovakia	25	30	20	30	10	📉	-67	0%	Morocco (50%)	
Hungary	0	0	0	0	0		n.a.	0%	n.a.	
Iceland	375	350	310	265	:		n.a.	:	n.a.	
Citizenship						Reporting country				
Afghanistan	47,725	40,570	33,625	28,045	22,980	📉	-18	10%	Germany (54%)	
Nigeria	18,775	19,245	15,560	16,290	16,585	📈	2	8%	France (31%)	
Iraq	21,835	21,720	19,720	17,960	12,925	📉	-28	6%	Germany (62%)	
Pakistan	18,320	17,510	16,625	11,025	12,820	📈	16	6%	Greece (35%)	
Bangladesh	9,280	9,435	7,600	9,230	12,055	📈	31	5%	France (56%)	
Syria	35,295	21,610	15,725	11,715	11,580	📈	-1	5%	Germany (67%)	
Türkiye	4,005	5,810	5,615	7,450	10,105	📈	36	5%	France (47%)	
Iran	6,990	8,290	8,270	9,190	8,765	📈	-5	4%	Germany (63%)	
Georgia	6,455	11,425	7,110	3,410	7,400	📈	117	3%	France (35%)	
Guinea	5,950	7,690	7,490	7,715	6,550	📉	-15	3%	France (60%)	
Russia	7,795	8,190	7,635	7,790	6,510	📉	-16	3%	Germany (54%)	
Albania	11,410	11,775	7,380	2,730	5,835	📈	114	3%	France (41%)	
Côte d'Ivoire	4,460	6,670	3,780	5,295	5,815	📈	10	3%	France (73%)	
Congo (DR)	3,295	3,695	2,725	4,275	5,020	📈	17	2%	France (67%)	
Somalia	5,760	5,775	5,180	4,905	4,780	📈	-3	2%	France (37%)	
Other	98,315	99,865	72,895	65,595	71,085	📈	8	32%	France (32%)	
EU+	305,665	299,275	236,935	212,620	220,810	📈	4		Afghanistan (10%)	

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 13 April 2023, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asydcfina/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asydcfina/default/table?lang=en)

# Asylum Report 2023

As the go-to source of information on international protection in Europe, the *Asylum Report 2023* provides a comprehensive overview of key developments in asylum in 2021.

The European Union Agency for Asylum (EUAA) collates information on all aspects of the Common European Asylum System. To this end, the report outlines changes to policies, practices and legislation. It presents trends in asylum, key indicators for the reference year 2022, an overview of the Dublin system which determines the Member State responsible for a case and a dedicated section on applicants with special needs, including unaccompanied minors. Examples of case law are featured to interpret European and national laws in the context of the EU asylum *acquis*.

The *Asylum Report 2023* draws on information from a wide range of sources – including perspectives from national authorities, EU institutions, international organisations, civil society organisations and academia – to present a complete picture and diverse perspectives. The report, covering 1 January to 31 December 2022, serves as a reference for the latest developments in international protection in Europe.