



Input by civil society to the 2022 Asylum Report

Dear Colleagues,

The production of the *Asylum Report 2022* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2021 (and early 2022) by topic as presented in the online survey.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2022 contributions will be published on the EUAA webpage. For reference, contributions to the 2021 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

*Please submit your contribution to the 2022 Asylum Report by **Monday, 21 February 2022**.*





Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- ✓ New developments and improvements in 2021 and new or remaining challenges; and
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2021.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments

Contributions by topic

1. **Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)**

Law to outsource asylum processing and refugee protection

In June 2021, the Danish Parliament made a [change to the Danish Aliens Act](#) that establishes the legal basis for the transfer of asylum seekers to a third country outside of the EU for asylum processing and potential subsequent refugee protection. Similarly, the responsibility to return rejected asylum seekers will fall on the third country.

The legal basis allows for different models regarding jurisdiction and the implementation of the law depends on Denmark reaching an agreement with a third country. By the end of 2021, Denmark had yet to reach an agreement with a third country.

In 2018, the [European Commission carried out an assessment](#) and found that: “Sending back an asylum seeker to a third country without processing their asylum claim constitutes refoulement and is not permitted under EU and international law. (...) it is not possible under EU law on returns to send someone, against their will, to a country they do not originate from or have not transited through. An agreement with a third country would be a necessary pre-condition for implementing this scenario, as is a revision of EU rules. The risk of infringing the principle of non-refoulement is high.”





The aim to outsource asylum processing and refugee protection has been widely criticized by UNHCR, INGOs and experts in both Denmark and the EU.

Convicted third country-nationals to serve prison sentences in Kosovo

[A political agreement](#) was reached in December to let non-eu citizens (including refugees) convicted of a crime serve their prison time in Kosovo.

Special residence permits for Afghan evacuees

After the Taliban took over control of Kabul on 15 August 2021, the Danish government [evacuated about 1,000 persons from Afghanistan](#). The selection of persons was based on a [political agreement of 11 August 2021](#).

The evacuation scheme also covers persons, who have applied under the [2013 Interpreters' Agreement](#). The Interpreters' Agreement is ongoing and covers persons, "who have assisted the Danish effort in Afghanistan and who are directly menaced or imperiled as a result of having assisted the Danish effort in Afghanistan". The agreement from 2013 has been prolonged for the sixth time until the end of 2022.

On 11 November 2021, the Danish Parliament [passed a special law](#) on temporary residence for persons, who had assisted the Danish authorities in Afghanistan. The residence permit is valid for two years and cannot be extended. Only the groups covered by the political agreement are eligible for the special residence permit. The main person can get family reunification with nuclear family, but family members that were evacuated with the main person do not have the same rights. For them, family reunification to other family members will only be possible in special cases, where it otherwise would be a breach of Denmark's international obligations.

Evacuated Afghans must apply for asylum to be eligible for residence permits as refugees.

2. Access to information and legal assistance (including counselling and representation)

[The Danish Government has decided to fund the Organization LGBT Asylum with 2 million Danish Kroner](#) (around 270,000 euro) to enable access to specialized counselling of LGBTQI+ asylum seekers.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)





4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management - including backlog management)





9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

Suspension of Afghan asylum cases

Due to the Taliban takeover, [the Refugee Appeals Board suspended the examination of Afghan asylum cases](#) in the period from 16 August 2021 to early February 2022. [The Refugee Appeals Board conducted a screening of cases](#) regarding rejected Afghan asylum seekers, who were still present in Denmark, to assess whether their cases should be re-examined. It was also possible for rejected Afghan asylum seekers to apply for re-examination of their cases.

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

13. Return of former applicants for international protection

New Return Law

In May 2021, the Danish Parliament enacted a [new law on return of persons without a legal stay](#) (the so-called Return Law). The purpose of the Return Law is to establish more transparent and speedy





procedures after a return order has been issued and to promote voluntary return. In Denmark, the asylum decision and the return order is made in a single procedure.

The Return Law brings together all national regulations related to return as well as the Return Directive and contains provisions on e.g. re-entry bans, time limits for departure, and access to reintegration support including the introduction of receiving a bonus of DKK 20,0000 DKR for waiving the right to appeal to the Refugee Appeals Board. It also strengthens the Danish authorities' opportunities to obtain relevant data from foreigners' mobile phones for more easy identification.

14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

Resettlement to Denmark

In June 2021, the Minister of Immigration and Integration [announced that Denmark would receive 200 resettled refugees from Rwanda in 2021](#) with a focus on women and children. The same number and focus as 2020. However, [Denmark has received 31 in 2020 and 197 in 2021](#), which means that Denmark has only received a bit more than half of the expected numbers for resettled refugees in 2020 and 2021. The lower number of arrivals is primarily due to travel restrictions because of Covid-19.

15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

16. National jurisprudence on international protection in 2021 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

Withdrawal of protection from some Syrians in Denmark

In 2021 the Danish authorities continued their focus on examining cases regarding Syrian refugees from Damascus, who had been granted a temporary residence permit pursuant to Section 7 (3) of the Danish Aliens Act due to the general security situation in Syria and the risk of being exposed to generalized violence.

However, in late 2020, the Danish Immigration Service expanded their focus on reassessing the protection needs for Syrians to include the whole area of Rural Damascus. The assessment that the security situation has improved beyond "completely temporary" was based on a reduced level of





conflict and less security incidents following the Syrian government establishing full control of Damascus (May 2018) and Rural Damascus (March 2020) respectively. In the beginning of 2021, the Refugee Appeals Board confirmed the first cessation decisions from the Danish Immigration Service regarding Syrian refugees from Rural Damascus.

UNHCR, experts and INGOs have strongly rejected the Danish interpretation of the security situation in Damascus and Rural Damascus.

In revocation cases it is always tried if the personal ties to Denmark have reached a level where revocation would breach the rights of private or family life according to ECHR art 8. But the test seems very lenient, and the proportionality test likewise. According to current Danish practice 5 or 6 years stay in Denmark is not enough to remain, even for families with minor children attending school or in other ways with significant ties to Denmark. In several cases young adults (women) with extensive family in Denmark have lost their residence permits, even when it would mean that they would be without close family members in Syria.

Furthermore, the Danish Immigration Service and the Refugee Appeals Board will always assess whether the applicant is qualified for protection under section 7 paragraph 1 (Refugee status) or 2 (Subsidiary protection) of the Danish Aliens Act due to individual grounds, if there are no longer basis for a residence permit after section 7 paragraph 3 due to the general security situation in Syria in revocation cases.

When assessing the cases, the Refugee Appeals Board is operating with a precautionary principle which has been described as followed by the Board:

"The Syrian authorities' assessment of which citizens constitute a security threat is characterized by arbitrariness and unpredictability, which is why there may be good reason to exercise caution in the assessment and to allow any reasonable doubt to benefit an applicant/complainant. "

However, despite of the precautionary principle the Refugee Appeals Board is still confirming a lot of cases, where there are several individual risk factors, for example cases regarding family member to military draft evaders, individuals originating from areas previously controlled by the opposition, returnees etc.

In general, the Refugee Appeals Board does not find that having fled Syria puts the individual at risk upon return, unless he/she is wanted for other reasons. The Refugee Appeals Board has stated in several cases that the information from the recent reports from Amnesty International and Human Rights Watch cannot lead to a different decision. Furthermore, in several cases the Refugee Appeals Board has referred to the possibility of obtaining a security clearance before the return to Syria even though several reports have documented that there is a risk of being targeted despite having obtained a security clearance.

In the period from 1 January 2019 to 31 November 2021, the Danish Immigration Service has made [378 revocation decisions regarding persons from Syria](#). The first instance decisions of the Danish Immigration Service are automatically appealed to the Refugee Appeals Board that is the highest





authority for this type of cases. Of the 378 first instance decisions, the Refugee Appeals Board has so far examined 284 cases and decided to confirm 106 cases, finalize 17 cases without a decision, send 42 cases back to the Danish Immigration Service, and overturn 119 cases.

17. Other important developments in 2021

References and sources

18. Please provide links to references and sources and/or upload the related material in PDF format

19. Feedback or suggestions about the process or format for submissions to the Asylum Report

Contact details

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I accept the provisions of the EUAA [Legal and Privacy Statements ACCEPTED](#)

