

Input by civil society to the 2022 Asylum Report

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C o l l e a g u e s ,

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 complete the online survey and 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.

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)

Remaining challenge. In 2015, following the transposition of the Asylum Procedures Directive into national legislation, the Maltese authorities created a strategy document entitled “Strategy for the Reception of Asylum Seekers and Irregular Migrants” with a new system of procedures and reception for asylum seekers. According to this document, all migrants entering Malta irregularly by boat were pre-screened and then taken to an Initial Reception Centre (IRC) in order “to be medically screened and processed by the pertinent authorities” for a time limited of up to seven days.

Since 2018, after the entry into force of the informal agreement concluded between Italy and Malta in 2014, people rescued are now directly placed in detention.

From 1 January to 31 December 2021, 832 persons arrived to Malta. In the same year the recognition rate and the percentage of asylum decisions resulting in Refugee Status or Subsidiary Protection was 8% of total decisions. There was a high number of 'Closed' cases, referring to applications that resulted in an administrative closure, Dublin closure, or applications that are explicitly withdrawn, implicitly withdrawn or inadmissible.

The Top 5 nationalities of First-time Asylum Applicants in 2021 (number of applications 1190) were: Sudan 16%, Syria 15%, Eritrea 14%, Somalia 9%, Libya 5%.

The top 5 nationalities of International Protection Rates - Refugee Status and Subsidiary Protection in 2021: Eritrea 37%, Syria 30%, Libya 23%, Sudan 3%, Palestine 3%, Others 5%.

Changes. With the New Pact on Migration and Asylum in 2021 the Agreement reached on the new European Union Agency for Asylum will probably affect part of the current procedures until now put into practice.

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

Remaining challenge. The free legal assistance available to asylum seekers is mainly that provided by NGOs through their lawyers. The main obstacle regarding access to this kind of assistance is that there are a limited number of NGO lawyers who are able to provide such a service in relation to the number of asylum seekers requiring it. Additional services are guaranteed by the Law Clinic of the Faculty of Laws at the University of Malta.

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)

Remaining challenge. The availability of interpreters is numerically limited and their remunerations is honoured by the NGOs during the assistance of the legal cases as other activities that happen during the year.

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

Remaining challenge. Dublin Regulation has not been transposed into a national specific legislation but through an administrative procedure implemented by the IPA.

The application of the criteria is not standardized and is based case by case. The Maltese authorities do not use DNA tests, the procedure is based on documents and information provided by the applicant. UNHCR, IOM or AWAS (the Agency for the Welfare of Asylum Seekers) in particular cases can provide additional information.

All those who apply for asylum in Malta are registered by the Immigration authorities in the Eurodac database. Those who enter irregularly are immediately taken to detention.

The Dublin procedure is very long, usually the asylum seekers wait for months, sometimes more than a year, before receiving the decision for their application.

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

Remaining challenge. If the application is clearly unfounded, according to the International Protection Act, it's possible that the application is examined with a special procedure named accelerated procedure and rejected. In last year several applications from nationalities as Bangladeshi, Moroccan, or Ghanaian were rejected examined with the accelerated procedure.

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)

Remaining challenge. According to the Maltese law reception conditions are designed for “applicants [who] do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence”. Housing, food (the drinking water is not included), clothing and a daily expenses allowance are assured.

Asylum seekers in open centres are provided with accommodation and a daily food and transport allowance, they have given free access to state health services and free access to state education services for under 16. They are free to move around the island and to access the labour market, even if they are vulnerable to exploitation and abuse, low wages, long working hours, irregular and unsafe work. Usually people living outside of the centres are not entitled these benefits. But since 2019, and also in the 2021, some services have been extended. Asylum seekers in detention are supplied with accommodation, food and clothing in kind.

Changes. In last 2 years, due to the Covid19, the conditions of applicants for international protection continued to deteriorate. Many migrants lost their jobs or remained unable to work for several months. In the reception centres safe distance and the use of protective masks have not been guaranteed. NGOs tried to provide certain activities. MOAS provides over 6000 ecological, reusable protective masks in the centers and in migrants community and technology packs (composed by tablets, modem and internet connection) to allow children and young people to continue remotely their education (project still ongoing).

In May 2021, the Maltese Ministry of Home Affairs introduced a new policy denying asylum seekers from “safe countries” (including those awaiting their asylum decisions, appealing decisions or who have had their request for asylum rejected) the right to work for nine months after arrival in Malta. On the 5 June 2021, 28 human rights organisations endorsed a statement issued by the Malta Refugee Council, expressing their concern about this new policy. The statement described the new policy as “discriminatory and inhumane”, claiming that it is aimed at denying people the possibility to work and earn a living.

NGOs outlined that asylum-seekers from countries deemed safe are now likely to experience forced redundancy in Malta for up to nine months before being allowed to work, and that this would deprive many people, including families, of the minimum income for a decent life. It could potentially also exacerbate issues of extreme labor exploitation, and criminal or other irregular activity. People who are not in contact with support structures in the country risk being further marginalised, especially those who suffer from mental health problems, substance abuse issues, and chronic illness.

In the statement the Malta Refugee Council, endorsed by several NGOs, including MOAS, demands that the government immediately revoke the policy due to the potential impact on people that already experience vulnerability and unstable sources of income. At the same time, the council reiterates within the statement the importance of a more human approach to migration management.

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)

Remaining challenge. From 2018 all migrants rescued at sea, including asylum applicants to be relocated to other Member States, are detained without justification.

Changes. In March 2021, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report following its visit to Malta in September 2020 focused on this issue as “inhuman and degrading treatment”.

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, decisionmaking, 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)

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)

Remaining challenge. According to the Maltese legislation the list of vulnerability includes:

Serious chronic illness;

Psychological problems, stemming from trauma or some other cause;

Mental illness;

Physical disability;

Age (where the individual concerned is over 60).

Vulnerability is assessed on 4 levels:

1 being a very urgent support needed,

2 being in need of medical support,

3 being in need of medical but not urgent,

4 being a need in terms of housing and education.

If the person is vulnerable is transferred to the IRC under the control of a therapeutic unit.

Asylum-seeking children are entitled to access the education system in the same manner as Maltese nationals, and this may only be postponed for up to three months from the date of submission of the asylum application. Access to state schools is free of charge. These rules apply to primary and secondary education. Access to education for unaccompanied children was significantly hindered as a consequence of delays in the registration of asylum applications.

Among vulnerable persons, detained asylum seekers suffering from mental health problems. No specialised services exist in Malta for victims of torture or trauma.

Changes. The 2020 Minor Protection Act designed a system for the protection of children in need of care and support, including unaccompanied and/or separated children. Unaccompanied children need legal guardians to submit an asylum application. Unfortunately, also in 2021, the vast majority of minors were not appointed legal guardians. Minors receive very little information about the procedure and they are not supported by anyone during the process.

Depending on the educational activity, minors need to have a legal guardian to get enrolled to courses. This is problematic as very few minors are appointed a legal guardian.

A new Minor Protection (Alternative Care) Act came into force in July 2021 replacing earlier legislation on the protection of children in need of care and support, including unaccompanied minors and/or separated children. The Act establishes the position of the Director (Protection of Minors) within the Foundation for Social Welfare Services, Malta's welfare entity, who is responsible for protecting minors. It introduces the duty for all persons to report any minor who is at risk of suffering or being exposed to significant harm and establishes various forms of protection orders the Juvenile Court may impose, including care orders.

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

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)

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 2020 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))

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

https://asylumineurope.org/reports/country/malta
https://www.unhcr.org/mt/figures-at-a-glance
https://ec.europa.eu/migrant-integration/news/malta-new-policy-denies-asylum-seekers-safe-countries-right-work_en
https://maltarefugeecouncil.org.mt/A-new-policy-to-drive-people-into-poverty-and-marginalisation
https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3241

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

Please upload your file

The maximum file size is 1 MB

Contact details

* Name of organisation

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Name and title of contact person

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

Useful links

[EASO Asylum Report 2021 \(https://euaa.europa.eu/easo-asylum-report-2021\)](https://euaa.europa.eu/easo-asylum-report-2021)

[Executive Summary -EASO Asylum Report 2021 \(https://euaa.europa.eu/executive-summary-asylum-report-2021\)](https://euaa.europa.eu/executive-summary-asylum-report-2021)

[Bibliography for the EASO Asylum Report 2021 \(https://euaa.europa.eu/sites/default/files/EASO_Asylum_Report_2021-Bibliography.pdf\)](https://euaa.europa.eu/sites/default/files/EASO_Asylum_Report_2021-Bibliography.pdf)

[Summary of legislative, institutional and policy developments in asylum in EU+ countries in 2019 \(https://euaa.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf\)](https://euaa.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf)

[National asylum developments database \(https://euaa.europa.eu/national-asylum-developments-database\)](https://euaa.europa.eu/national-asylum-developments-database)

[EASO Asylum Report 2021 Key Findings \(https://euaa.europa.eu/sites/default/files/key_findings.pdf\)](https://euaa.europa.eu/sites/default/files/key_findings.pdf)

[EU+ and Country Data \(https://euaa.europa.eu/sites/default/files/europe-country-data-2020.pdf\)](https://euaa.europa.eu/sites/default/files/europe-country-data-2020.pdf)

Background Documents

[Input by civil society to the 2022 Asylum Report.docx](#)

Contact

[Contact Form](#)