

Input by civil society organisations to the Asylum Report 2023

Fields marked with * are mandatory.

Dear Colleagues,

The production of the *Asylum Report 2023* is currently underway. The annual [Asylum Report series](#) presents 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, policies or practices in 2022 (and early 2023) 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, 2023 contributions will be published on the EUAA webpage. For reference, contributions to the 2022 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 Asylum Report 2023 by Friday, 3 February 2023.

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 2022 and new or remaining challenges; and
- Changes in policies or practices, transposition of legislation or institutional changes during 2022.

Please ensure that your responses remain within the scope of each section. Thus, kindly refrain from including 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 the asylum procedure (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 established 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 any rejected asylum seekers would fall on the third country. The legal basis allows for different models regarding jurisdiction and the implementation of the law depends on Denmark making a treaty with a third country.

Despite continues critique from the European Commission (In Danish: <https://www.altinget.dk/artikel/eu-kommissionen-advarer-saa-snart-danmark-sender-asylansoegere-til-rwanda-undersoeger-vi-om-aftalen-er-lovlig>), the Danish Social-democratic government has engaged in discussions with Rwanda about a possible agreement. But by the end of 2022, Denmark had yet to reach an agreement with a third country.

After the establishments of a new government consisting of the Social-democratic Party, the Liberal Party and the Moderates in December 2022, the Minister for Immigration and Integration in January 2023 stated that the government now aims to externalize asylum processing and refugee protection in collaboration with other EU countries (in Danish: <https://www.altinget.dk/artikel/kaare-dybvad-vi-indleder-jo-ikke-forhandling-er-lige-nu-om-at-lave-et-dansk-modtagecenter-i-rwanda> and <https://www.politico.eu/newsletter/brussels-playbook/webers-migration-push-marx-on-steroids-ukraine-eyes-strasbourg/>)

Convicted third country-nationals to serve prison sentences in Kosovo

In December 2021, a political agreement was reached at the Danish Parliament to let non-EU citizens (including refugees) convicted of a crime serve their prison time in Kosovo. In 2022, the relevant legislation to back up the agreement has still not been passed by the Danish Parliament.

Access to territory for people fleeing Ukraine

Ukrainian citizens with a biometric passport can enter Denmark and stay for 90 days without a visa. In the absence of a biometric passport, an application for a visa is required. Upon arrival at the Danish border, people fleeing Ukraine can also apply for a residence permit under the Special Act on displaced persons from Ukraine or for asylum.

Ukrainian citizens, who have been granted residence in Denmark under the Special Act, have the right to travel back to Ukraine and return to Denmark. However, the duration of the stay in Ukraine will depend on whether the Danish authorities recognize the aim of the travel as being justifiable.

The Danish Immigration Service has made a FAQ describing the terms of entry, re-entry and eligibility for a residence permit in Denmark under the Special Act: <https://www.nyidanmark.dk/en-GB/Words%20and%20Concepts%20Front%20Page/Shared/Information%20Ukraine> (information in Danish and Ukrainian)

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

Extended funding to information and legal aid activities due to the war in Ukraine

Due to the war in Ukraine, more than 30,000 people fled Ukraine to Denmark in 2022. Due to the increased need for information, DRC Danish Refugee Council received additional funding to be able to provide information and legal aid to people fleeing Ukraine.

DRC Danish Refugee Council has made a FAQ about the rights of people fleeing Ukraine upon entry into Denmark: <https://integration.drc.ngo/bliv-klogere/ukraine-faq-og-hotline/> (information in Danish, Ukrainian and Russian)

DRC Danish Refugee Council has also made a FAQ with information about the rights of people, who have been granted residence in Denmark under the Special Act: <https://ukrainian-in-denmark.dk/> (information in Danish, Ukrainian and Russian)

It is also possible to call DRC Danish Refugee Council for counselling and communicate through a Ukrainian interpreter.

To provide free legal counselling, legal advisors from DRC Danish Refugee Council have frequently throughout 2022 visited the asylum centres in Denmark, where people displaced from Ukraine have been accommodated. DRC Danish Refugee Council has also had a close corporation with the Association of Danish Law Firms to help coordinate the best legal assistance throughout Denmark.

DRC Danish Refugee Council is also present in Ukraine, in neighbouring countries as well as in other countries in the EU, which has enabled DRC Danish Refugee Council to provide legal aid about many diverse issues of relevance to people, who had been displaced by the war in Ukraine.

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)

Suspension of Dublin transfers due to the war in Ukraine

Several countries such as Poland and Romania suspended reception of Dublin returnees due to having received a high number of people displaced by the war in Ukraine. Although transfers could not take place and many national courts in other EU+ countries prevented transfers to these countries, the Danish authorities continued to make Dublin decisions towards these countries arguing that the suspension was only temporary.

Suspension of Dublin transfers to Italy

From June to September 2022, the Italian authorities suspended Dublin transfers of families due to lack of proper accommodation. Dublin transfers were resumed, but since December 2022, the Italian authorities suspended Dublin transfers due to lack of reception capacity. Due to the suspension in December, the Refugee Appeals Board decided to ex officio reopen finalized Dublin cases towards Italy. The cases were referred to the Danish Immigration Service as the first instance.

Although it remains unclear when Italy will resume transfers, the Italian authorities continue to accept Dublin requests, and the Danish Immigration Service still makes decisions about Dublin transfers to Italy.

Reception crisis in Belgium

The Belgian authorities (Fedasil) have reported that they cannot accommodate all asylum seekers in the country due to lack of reception capacity. Although many asylum seekers have taken their cases to the Labour Court in Belgium to gain access to reception and the ECtHR since December 2022 has granted interim measures in many cases, many asylum seekers are still forced to live in the streets.

The Danish authorities still make Dublin decisions towards Belgium, and in selected cases the Refugee Appeals Board in January 2023 requested the Danish Return Agency to gain guarantees from the Belgian authorities to ensure that Dublin returnees from Denmark will be accommodated upon a transfer to Belgium.

Detention of vulnerable persons

Asylum seekers in the Dublin procedure are being detained due to the number of EURODAC hits, regardless of whether they are vulnerable. Vulnerable asylum seekers are not being released although the authorities recognize that the individual person belongs to a specific vulnerable group.

As the Dublin procedure in Denmark sometimes can be very long (many months), vulnerable asylum seekers can be detained for a long time.

Separation of children and one of their parents

The Danish authorities have a very restrictive interpretation of the Dublin III Regulation, which causes separation of families in the Dublin procedure. As an example, the Danish authorities do not want to utilize the Dublin III Regulation art. 9, 10 or 17 to reunite or keep a family together when a child has residence in Denmark (non-refugee and non-asylum seeker). This practice is even continued in situations, where the child does not have any other caretaker in Denmark.

Best interests of the child in inadmissibility cases

Denmark has a inadmissibility procedure in situations, where an asylum seeker has been granted international protection in another Member State, similar to the Asylum Procedures Directive art. 33(2)(a). In cases with families, where one parent has been granted refugee status in another country than Denmark, where the other parent and the children are, the Danish authorities usually do not decide that the family should be reunited or kept together.

Instead, the Danish authorities will refer the family to apply for family reunification, although the rules for

family reunification in Denmark are so strict, that the families end up being separated for many years. Families in such situations usually do not have the possibility to travel between Denmark and the other country, thereby hindering the children from regular and direct contact with the parent that has been granted status in the other country.

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

Special Act on displaced persons from Ukraine

Due to Denmark's legal reservation or so-called "opt-out" from the EU cooperation in the area of Justice and Home Affairs, the Temporary Protection Directive (TPD) does not apply in Denmark. Instead, the Danish Parliament on 16 March 2022 passed a Special Act on displaced persons from Ukraine that resembles the TPD (link to the legal text in Danish: https://www.ft.dk/samling/20211/lovforslag/L145/som_vedtaget.htm).

The Special Act applies to Ukrainian citizens and refugees recognized in Ukraine who fled the country after 1 February 2022. It also applies to those in the above groups who resided or had a residence permit in Denmark on 1 February 2022.

It is also possible for close family members of the two groups to be reunited with a person, who has been granted residence under the Special Act in Denmark. Family members are defined as nuclear family members, i.e. spouse, partner and minor unmarried children, as well as other close relatives, who prior to the flight shared a household with and were financially dependent on the main person.

By 28 January 2023, 37,687 persons had applied for residence in Denmark under the Special Act on displaced persons from Ukraine of which 33,493 persons were granted residence (<https://us.dk/media/10548/saerlov-pr-29-januar-2023.pdf>).

Residence under the Special Act

A residence permit under the Special Act is valid until 17 March 2024 with the possibility of extension for an additional year (until 17 March 2025). The decisions on the extension will be taken by the Danish Minister of Immigration and Integration.

Persons, who are granted a residence permit under the Special Act, have the same rights as persons, who are granted refugee status in Denmark, e.g. Danish language lessons, right to housing, health care, access to the labour market, access to education for children and social welfare assistance.

Displaced people from Ukraine, who are not eligible for residence under the Special Act

The Special Act does not apply to third-country national unless they have been recognized as refugees in Ukraine.

The residence permit will not be granted to Ukrainian nationals with another citizenship other than Ukrainian (dual citizenship), and to those who have a residence permit in another country other than Ukraine.

People, who are rejected residence under the Special Act, have the right to complain to the Immigration Appeals Board.

The right to apply for asylum

People fleeing from Ukraine also have the option of applying for asylum. However, the Refugee Appeals Board (second instance in all asylum cases) has suspended decisions in asylum cases of Ukrainian citizens. The decision was reviewed by the Refugees Appeals Board on 8 December 2022, and the Board decided to continue the suspension (link to the news in Danish: <https://fln.dk/-/media/FLN/Koordinationsudvalg/Referat-af-moede-i-koordinationsudvalget-den-8-december-2022.pdf?la=da&hash=2D7E6FE07F505D90A47CCFB9B12F943258BA7FBA>)

Third country nationals fleeing Ukraine

Third country nationals, who have fled directly from Ukraine to Denmark cannot be granted residence permit under the Special Act unless they are a family member of a person granted residence under the Special Act.

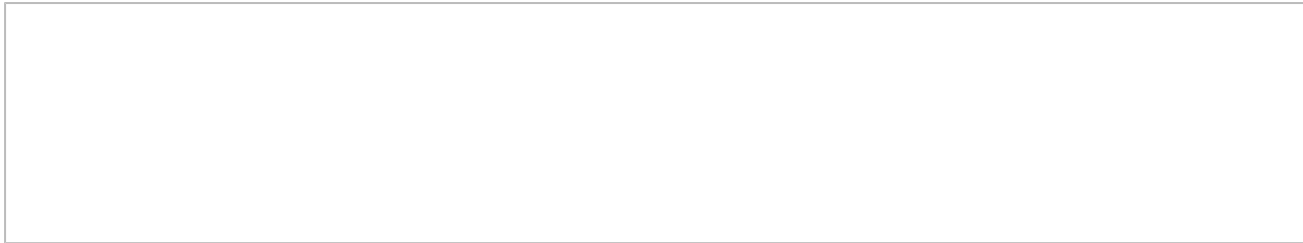
Instead, they can apply for asylum and the Danish authorities will assess their cases based on the risk of return to their country of origin - and not towards Ukraine. This practice applies regardless of how long the person has been living in Ukraine and without considering to whether the person has any ties to his or her country of origin.

Many third country nationals, who have fled the war in Ukraine, have the asylum applications processed in a special fast track procedure for manifestly unfounded asylum cases (the so-called ÅG-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)

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, 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)

Change in asylum practice for Afghan women

In December 2022, the Refugee Appeals Board eased its evidence assessment in the Board's processing of asylum applications from women and girls from Afghanistan. On 15 December 2022, the Coordination Committee of the Refugee Appeals Board decided to continue concrete and individual processing of asylum applications from Afghan women and girls. However, the Committee found that in cases concerning Afghan women and girls, a lenient assessment of evidence should be applied in view of the arbitrariness and uncertainty with which the Taliban's de facto exercise of authority takes place, as well as the continued serious deterioration of conditions for women and girls, which the background information reflected.

At an extraordinary meeting on 30 January 2023, the Coordination Committee of the Refugee Appeals Board decided to change practice in cases concerning women and girls from Afghanistan. Now; women and girls from Afghanistan will be covered by the Danish Aliens Act section 7(1) (asylum) solely because of their gender (<https://fln.dk/da/Nyheder/Nyhedsarkiv/2023/30012023>).

The decision is made on the basis of information about the continued worsening conditions for women and girls in Afghanistan, including a Country Guidance report by the European Union Agency for Asylum (EUAA), published on 24 January 2023. The report shows that the situation for a number of groups of people in Afghanistan, including women and girls, is of such a nature that it constitutes persecution within the meaning of the Refugee Convention.

The Refugee Appeals Board has also decided to reopen all cases concerning female Afghan citizens, where the Board in the period from 16 August 2021 to end January 2023 has refused asylum etc. with a aim to grant protection in accordance with the Danish Aliens Act section 7(1). This concerns about 10 cases.

The Refugee Appeals Board has also decided to review all cases concerning male Afghan citizens where the board has refused asylum etc. since the Taliban took power on 16 August 2021 in order to assess whether there are grounds for re-examining the cases considering the latest background information. This concerns approx. 30 cases.

Afghan nationals, who have had their cases rejected by the Refugee Appeals Board before 16 August 2021 and who continue to reside in Denmark, can request for to the Refugee Appeals Board to reopen their cases if they believe that the basis for the original decision has changed significantly according to the latest background information.

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

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

Denmark resumed resettlement in 2020, where 31 refugees were granted residence (<https://us.dk/media/9141/tal-og-fakta-paa-udlaendingeomraadet-2020-final-a.pdf>). In 2021, 197 refugees were resettled to Denmark (<https://us.dk/media/10506/tal-og-fakta-2021-tilgaengelig-udgave.pdf>).

The resettlement quota for 2022 was 200 refugees from Rwanda. The refugees should primarily be women and children, who had fled from DR Congo. However, only 165 refugees were granted resettlement to Denmark in 2022 (<https://us.dk/media/10481/hjemmeside-december-2022.pdf>).

In August 2022, the Minister of Immigration and Integration decided that Denmark again in 2023 should resettle 200 refugees from Rwanda, primarily women and children. (<https://www.uim.dk/nyhedsarkiv/2022/august/danmark-tager-200-kvoteflygtninge-fra-rwanda/>)

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 2022 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))

Continued focus on Syrians in Denmark

In 2022, the Danish authorities continued their focus on examining cases regarding Syrian refugees from Damascus, who had been granted a temporary residence permit pursuant to the Danish Aliens Act section 7 (3) of due to the general security situation in Syria and the risk of being exposed to generalized violence.

Until November 2022, the Danish Immigration Service automatically renewed the residence permits of Syrians from other areas of Syria than Damascus. But in November 2022, the Danish Immigration Service began calling Syrians from the areas Latakia and Tartous in for interviews as part of the renewal process. DRC Danish Refugee Council is not aware of any decisions in these cases yet.

Russia is no longer on the ÅGH country list

Denmark has a special procedure for manifestly unfounded asylum applications, the so-called ÅG procedure. In addition, asylum seekers from a specific list of countries such as the EU+ countries, can have their asylum application processed in a special fast procedure for manifestly unfounded cases, the so-called ÅGH-procedure.

With the developments in Russia, the Danish authorities have as of 19 January 2023 decided to remove Russia from the list of so-called ÅGH countries. (https://www.nyidanmark.dk/en-GB/News%20Front%20Page/2023/01/aagh_landelisten_opdateret)

Asylum cases from Ethiopian nationals

On 16 December 2021, the Coordination Committee of the Refugee Appeals Board decided to suspend the processing of cases concerning Ethiopian citizens due to lack of sufficient COI about the constantly changing situation in the country (news in Danish: <https://fln.dk/da/Nyheder/Nyhedsarkiv/2021/161220211>)

On 24 February 2022, the Coordination Committee of the Refugee Appeals Board decided to lift the suspension of cases again, because the Refugee Appeals Board did not find the current situation in Addis Ababa to be of such a nature that any person of Tigrayan ethnicity would be at risk of being subjected to arrest, mistreatment or assault, etc. The Refugee Appeals Board therefore continues to assess the individual applicant's circumstances, whether the conditions for issuing a residence permit according to section 7 are met (news in Danish: <https://fln.dk/da/Nyheder/Nyhedsarkiv/2022/240220222>)

Asylum cases from Myanmar nationals

Since the military coup in Myanmar on 1 February 2021, DRC Danish Refugee Council has been following the political situation in Myanmar closely as well as the practice in asylum cases for people fleeing Myanmar.

In 2022, DRC Danish Refugee Council has applied for a reopening in six cases concerning nationals from Myanmar, primarily based on new COI on Myanmar. The cases have all been reopened by the Refugee Appeals Board: In two of these cases, the Refugee Appeals Board has decided to refer them back to the first instance, the Danish Immigration Service, for a new assessment. Three cases are being processed by the Refugee Appeals Board. In one case, the Refugee Appeals Board has granted protection in accordance with section 7(1) of the Danish Aliens Act.

17. Other important developments in 2022

The Danish Ombudsman has criticised the case processing time of the Immigration Appeals Board

Based on a recent study, the Danish Parliamentary Ombudsman concludes that the case processing times of the Immigration Appeals Board are too long. (Statement of the Ombudsman in Danish: https://www.ombudsmanden.dk/find/nyheder/alle/sagsbehandlingstider_er_fortsat_for_lange/)

The study shows that the case processing times for some cases at the Immigration Appeals Board is between three and four years. The cases processing times in 2021 for 42% of the cases was one year or more. As some complaints would regarding issues such as entry bans of two years, the applicants were not able to have their complaint processed before the entry ban had run out.

The large number of displaced people from Ukraine impacts the asylum system

With the large number of people seeking protection due to the war in Ukraine in a relatively short time, the asylum system in Denmark has been massively challenged. Even though new legislation, procedures and financial agreements quickly were established for the Ukrainian refugees, it has come with a cost for other nationalities in the asylum system in terms of frequent moves between different asylum centres, longer case processing of their cases and a general feeling of being 'forgotten'.

References and sources

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

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

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

Useful links

[EUAA Asylum Report 2022 \(https://euaa.europa.eu/asylum-knowledge/asylum-report\)](https://euaa.europa.eu/asylum-knowledge/asylum-report)

[Executive Summary -Asylum Report 2022 \(https://euaa.europa.eu/executive-summary-asylum-report-2022\)](https://euaa.europa.eu/executive-summary-asylum-report-2022)

[Sources on Asylum 2022 \(https://euaa.europa.eu/publications/sources-asylum-2022\)](https://euaa.europa.eu/publications/sources-asylum-2022)

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

Background Documents

[Word template to submit input](#)

Contact

[Contact Form](#)