



Input by civil society organisations to the Asylum Report 2023

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, 2022 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 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. 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 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)

<https://www.forumrefugies.org/s-informer/publications/articles-d-actualites/en-france/1136-comment-s-organise-la-relocalisation-vers-d-autres-pays-europeens-des-passagers-de-l-ocean-viking-accueillis-en-france> (FR)

Article on the Ocean Viking, that rescued 234 people at sea, and brought them to France because Italy refused to open its ports. France created “waiting zones” during the relocation procedures.

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

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)

Case-law: [CAA de LYON, 7ème chambre, 06/01/2022, 21LY03266 - Légifrance \(legifrance.gouv.fr\)](#) (FR)

The applicant had been placed under the Dublin procedure and a request had been sent to Germany. Without waiting for the decision, the applicant returned to Germany, and shortly after asked for asylum in France a second time. The Court considers that he triggered a new procedure and therefore new deadlines.

[Conseil d'État \(conseil-etat.fr\)](#) (FR)

The appeal against a refusal to requalify is admissible only if the person concerned is able to establish that the transfer period has expired or that another new circumstance has occurred.

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)

<https://www.forumrefugies.org/s-informer/publications/articles-d-actualites/en-france/1090-pres-d-un-quart-des-demandeurs-d-asile-ne-disposent-pas-des-conditions-materielles-d-accueil#:~:text=Share-Pr%C3%A8s%20d'un%20quart%20des%20demandeurs%20d'asile%20ne%20disposent,orientation%20vers%20un%20h%C3%A9bergement%20d%C3%A9di%C3%A9>. (FR)

Almost a quarter of asylum seekers do not have material reception conditions.

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)

[Décision n° 2021-972 QPC du 18 février 2022 - Légifrance \(legifrance.gouv.fr\)](#) (FR) :

The Constitutional Council declared that the provisions requiring a foreigner to go to the French consulate in his country of origin in order to have his civil status documents legalized are unconstitutional. Nevertheless, considering that the immediate repeal of the provisions declared unconstitutional would result in excessive consequences, the Constitutional Council allowed the current rule to continue until 31 December 2022.

Since May 2, 2022, exchanges with the French Office for the Protection of Refugees and Stateless Persons (OFPRA) of asylum seekers are paperless, unless otherwise requested due to a particular vulnerability or material difficulty.

There is also an obligation to apply for a residence permit in a paperless manner (online) for beneficiaries of the international protection.

The decision of the Council of State dated 3 June 2022 ([décision du Conseil d'État](#) (FR)) called on the Ministry of the Interior to establish a substitute solution because of the troubles it brought (many do not have access to the call for the personal interview for example).

Case-law : [Conseil d'État, 10ème - 9ème chambres réunies, 15/11/2022, 457799 - Légifrance \(legifrance.gouv.fr\)](#) (FR)

The Council of State considers that, even if Afghanistan had once again become the main source of heroin in the world, the mere fact that the applicant had engaged in poppy cultivation is not a serious crime.





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)

[LOI n° 2022-140 du 7 février 2022 relative à la protection des enfants \(1\) - Légifrance \(legifrance.gouv.fr\)](#) (FR)

Creation of Article L221-2-4 governing the conditions for age evaluations, “after having granted him/her some time” and emergency provisional reception conditions.

The assessment must be carried out “with particular regard to the statements made by that person about his identity, age, family of origin, nationality and state of isolation”. The use of identity and nationality verification and bone examination are opportunities to “inform” the department.

The majority cannot be deduced from the refusal to give his/her fingerprints.

Among other things.

Case-law: [20-17.343.pdf \(dalloz-actualite.fr\)](#) (FR)

The Court of Cassation considered that the doubt on the age had to be in favour of the person concerned and that the bone examinations alone could not contradict the minority that derives from the other evidence collected.

[Conseil d'État, 4ème - 1ère chambres réunies, 24/01/2022, 432718, Inédit au recueil Lebon - Légifrance \(legifrance.gouv.fr\)](#) (FR)

The doubt about the minority cannot lead the rector of the academy to refuse the registration of a person declaring himself a minor, whose right to education takes precedence over the administrative procedure.

CNDA 16 mai 2022 n°21023491 (FR)

The decision rejecting an individual’s claim for asylum shall extend to his child, including the one born during the proceedings. The fears for the child, presented during the parent’s litigation proceedings, are inadmissible to the National Court of Asylum.





CNDA 16 août 2022 n°22009861 (FR)

A protection decision to one of the parents also extends to the child.

- 12.** Content of protection (including access to social security, social assistance, health care, 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)

[Priorités pour 2022 de la politique d'intégration des étrangers primo-arrivants, dont les réfugiés - Légifrance \(legifrance.gouv.fr\)](#) (FR)

Instructions to the Prefects from the Ministry of the Interior:

- reaffirms the absolute priority of integration through employment, for which local expertise and territorial adaptation are decisive, as well as French classes;
- the employment of women will need to be strengthened;
- sets the framework for the deployment, in 27 departments in 2022, of the global and individualized support programme for refugees (AGIR), which should eventually enable all beneficiaries of international protection to benefit from support towards sustainable employment and housing;
- calls on prefects to support actions aimed at strengthening the interactions between foreigners and the host society, including through sponsorship and mentoring programmes, notably on the Republic's principles.

Case-law : [Conseil d'État \(conseil-etat.fr\)](#) (FR)

The State Council has cancelled (as an exclusion of access to the labor market to Dublin applicants) the new article L. 554-1 of the entry and residence code for foreigners.

13. Return of former applicants for international protection

Case-law: [Conseil d'État, 7ème - 2ème chambres réunies, 28/03/2022, 450618 - Légifrance \(legifrance.gouv.fr\)](#) (FR)

Judges repeat the terms of a judgment of the ECHR, stating that it is not up to the refugee to demonstrate the risks he would incur in case of return to his country of origin but to the State to demonstrate the absence of risks.

[R c. FRANCE \(coe.int\)](#) (FR)

[W c. FRANCE \(coe.int\)](#) (FR)

The European Court on Human Rights declared that there has been a violation of Article 3 of the Convention, because of the decision to return someone to Russia, and, in the second case,





that there would be a violation of Article 3 if the applicant's decision to return to the Russian Federation was enforced.

[Le juge des référés du Conseil d'État ne suspend pas l'expulsion de M. Hassan Iquioussen \(conseil-etat.fr\)](#) (FR)

The Council of State recalled that public security and public order need to be balanced with private and family life aspects.





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

17. Other important developments in 2022

Case-law: CNDA 7 janvier 2022 M. G. n°20045490 (FR)

The National Court of Asylum considered that the applicant, who obtained a protection in Malta, had been prevented from making a family reunification request. Therefore, according to the Court, the protection obtained in Malta was not effective. Consequently, the applicant obtained the refugee status in France.

CNDA 23 septembre 2022 n°22025059 (FR)

The applicant, a Congolese national, had a refugee status in Greece. According to the judges, because of the particularly degraded and difficult living conditions in which the applicant lived with her young child, the constant insecurity in the Moria camp, the impossibility of receiving assistance from the authorities, the lack of information on the rights she could have claimed, the lack of follow-up by humanitarian associations on the spot and the impossibility of attending Greek language courses for integration through work, the protection granted by the Greek authorities couldn't be regarded as effective. Consequently, the judges granted subsidiary protection.

Regarding Ukrainians:





[Légifrance - Droit national en vigueur - Circulaires et instructions - Instruction relative à la mise en œuvre de la décision du Conseil de l'Union européenne du 5 mars 2022, prise en application de l'article 5 de la directive 2001/55/CE du Conseil du 20 juillet 2001 \(legifrance.gouv.fr\)](#) (FR)

This interdepartmental instruction addressed to the prefects of region and department specifies the modalities of implementation of temporary protection at the national level.

It extends the protection to:

- Ukrainian nationals temporarily present in a Member State on 24 February 2022 and establishing that their permanent residence was in Ukraine on that date; and
- To family members, without being required to demonstrate an inability to return to their country.

In each department, a referral association is designated to coordinate the reception of these refugees.

Because the beneficiaries of temporary protection do not fall under the asylum system, the instruction of 10 March 2022 specifies that they will not be housed within the national system of reception of asylum seekers. Housing can be proposed by operators specialized in the reception of asylum seekers or social emergency (accommodation within social hotels, opening of specific accommodation places), and by public authorities and social donors. This system is complemented by citizens, as many offers have been listed on a dedicated Internet platform.

Persons eligible for temporary protection obtain in the prefecture a provisional residence permit of six months, renewable up to a maximum of three years (subject to the maintenance of the system on a European scale).

Upon their arrival in the territory, refugees from Ukraine must go to “the single window “Ukraine””, set up within the prefectures to issue residence permits. In some large cities, the stop to the prefecture must be preceded by a stop to an association in charge of making appointments.

Beneficiaries of Temporary Protection benefit from the Asylum Seekers Allowance (ADA). They also have access to immediate care, through universal health protection, without the application of the waiting period (unlike asylum seekers). Beneficiaries are also entitled to housing allowances (APL), and children have access to the education system under the same conditions as nationals (and there are classes for children who do not speak French).

They can work as soon as they obtain their provisional residence permit ([Journal officiel de la République française - N° 78 du 2 avril 2022 \(legifrance.gouv.fr\)](#)) (FR).

Pôle emploi has developed an online questionnaire (in [French](#) and [Ukrainian](#)), in order to identify the wishes, diplomas, skills and professional experiences of people with temporary protection. Depending on the diagnosis, *Pôle emploi* can provide support for job search. For those under 25, the local mission can offer socio-professional support. A [decree of 27 April 2022](#) also amended the Commercial Code and the order of 29 December 2021. Beneficiaries





of temporary protection can now apply for registration in the trade register as well as in the Trade and Companies Register in order to exercise an independent profession.

The circular of 22 March 2022 on the reception of displaced students from Ukraine benefiting from temporary protection clarified the modalities of reception of displaced students. A special system has been put in place to support applications from students arriving now. However, there are great difficulties in pursuing higher education: language level, need for transcripts to enter university...

There is also a recognition of driver's licence, they are allowed to open a bank account and transfer funds to it, and travel by train (TGV, TER and intercity) is free of charge.

Moreover, they enjoy the right to family reunification for members of their families not yet present in the territory of the European Union or who benefit from temporary protection in another Member State.

Global support is planned for all, on the same model as existing programmes for the integration of refugees (such as the *Accelair*).

Beneficiaries have the possibility to exercise their fundamental right to asylum at the same time. They will remain subject to the temporary protection regime while their application is being processed and, if international protection is not granted, they will keep the benefit of temporary protection as long as it remains in force. If they are protected under asylum (refugee status or subsidiary protection), it is this status that will take over from the temporary protection status.

Regarding minors, alone or not, a circular has been published: www.justice.gouv.fr/bo/2022/20220429/JUSF2211427N.pdf (FR).

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





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