

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)

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” outlining a new system of reception procedures 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 limited time period of up to seven days.

Between 1 January and 30 September 2022, there were 283 sea arrivals to Malta (7 persons were airlifted by AFM, 12 persons arrived spontaneously, whilst 264 persons were rescued by AFM at sea). This is a 39% decrease in arrivals compared to the same period in the previous year (where boat arrivals were registered at 464 persons).

The Top 5 nationalities of first-time asylum applicants, between 1 January and 30 September 2022, (number of applications 695) were: Syria 23%, Eritrea 13%, Ukraine 9%, Libya 7%, Egypt 7%.

The recognition rate – the percentage of asylum decisions resulting in Refugee Status or Subsidiary Protection – is 5% 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 nationalities of recognition of International Protection Rates - Refugee Status and Subsidiary Protection were: Syria (42), Eritrea (40), Libya (6), Palestine (2), Bangladesh (1), Cote d'Ivoire (1), Somalia (1), Sudan (1).

Changes. At the end of 2022 the New Pact on Migration and Asylum didn't affect the procedures that have been in practice until now. In line with a gradual approach proposed by the French Presidency of the Council in June 2022, the Member States reached an agreement on several reform aspects relating to the screening and registration of migrants arriving at the EU's external borders. Discussions are still ongoing on how to devise and implement a solidarity mechanism and asylum procedures that cater to both normal and exceptional migratory circumstances. In September 2022, the European Parliament and the rotating presidencies of the Council agreed on a joint roadmap that would bring about the adoption of the legislative proposals on asylum and migration management before the end of the 2019-2024 legislature.

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 honored 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 International Protection Agency. The registration process – whether undertaken by the IPA or EUAA – consists of collecting personal details and issuing a unique IPA number as well as the Asylum Seeker Document/Certificate. The lodging of applications consists in filling and signing an application form stating the basic reasons for seeking protection. Immigration and asylum procedures only commence following confirmation by the Health Authorities that applicants have been screened and found not to suffer from any contagious disease (namely COVID-19 and tuberculosis). All those who apply for asylum are systematically fingerprinted and photographed by the immigration authorities for insertion into the Eurodac database.

Following the initial collection of information in the application form, and if Malta is deemed responsible for processing the application, the IPA schedules an appointment for an interview with the applicant. After the recorded interview takes place, the applicant is informed that he or she will be notified of the decision in due course.

According to the amended Procedural Regulations, the IPA shall ensure that the examination procedure is concluded within six-months of the lodging of the application. The examination procedure shall not exceed the maximum time limit of twenty-one months from the lodging of the application.[2] However, most of the decisions by the IPA are, in practice, not taken before the period of time established by the Regulations.

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. The International Protection Agency may grant Temporary Humanitarian Protection (THP) where someone has been refused refugee status or other forms of subsidiary protections. The THP was a discretionary policy, which in 2020 was converted to law and embedded in the International Protection Act. The categories of persons eligible for such status are: accompanied minors, terminally ill applicants or who suffers from a severe or life-threatening medical condition not treatable in his country of origin; or applicant who cannot be returned for other humanitarian reasons.

The legalisation of such status is a positive element, but the inclusion of THP assessments within the interview for asylum is problematic, as the assessments of eligibility to these distinct statuses require entirely different approaches and a different set of elements, information, and documents to examine. Therefore we believe they should be conducted separately and distinctly. An additional problem is the lack of possibility to appeal should THP be denied, as it gives complete discretion to the IPA regarding the decision. THP status can also be withdrawn at any time by the IPA, when it deems the beneficiary does not meet the requirements anymore. Until June 2021, the IPA would notify the withdrawal without giving any possibility to contest it. Subsequently, the IPA has started to allow such beneficiaries just 10 days submit the written explanation as to why the status should not be withdrawn.

In 2021 and 2022, the International Protection Agency significantly reduced its backlog by discontinuing applications en masse through applying a very strict approach of their regulatory procedures. Anybody who missed a call for an interview or a renewal of document saw the application discontinued immediately and without exception. Many asylum seekers saw their applications discontinued following issues with communication regarding procedures or appointments due to linguistic challenges or a lack of administrative clarity. Others lost status when they were unable to attend fixed appointments due to health issues or simply because lack of access to information or legal advice led them to miss important deadlines. This issue was exacerbated for asylum seekers in prison, who saw their application discontinued as the IPA could not reach them for the interview or because they could not access documents or information being requested.

These individuals then have to file a request to reopen their application with the help of a lawyer; however, it is unknown how many of them actually did find a way to file this request.

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, clothing and a daily expenses allowance are assured.

Asylum seekers in open centers 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 16s. 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. Asylum seekers in detention are supplied with accommodation, food and clothing in kind.

Life for asylum seekers in open reception centres continued to be challenging. The situation worsened significantly since the emergence of the new work policy which forbids access to the labour market to asylum seekers hailing from safe countries of origin for the first 9 months after they registered their asylum application. 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.

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)

In 2021 the European Council for Refugees and Exiles (ECRE) released its comparative report on asylum, the “AIDA Overview Asylum in Europe: the Situation of Applicants for International Protection in 2021”. According to this report, Malta is amongst the countries which implemented unlawful border practices hindering the possibility for persons in need of protection to cross European borders with records of illegal push-backs and refusal to carry out rescues at sea. Malta, along with Cyprus, France, Italy and Spain is reported to force people to live in informal camps due to a strict eviction policy from reception centers. Finally, Malta is reported to be one of the few countries, like Greece, which implements a policy of de facto automatic detention upon arrival with severe restrictions on the access to lawyers and NGOs. The report notes that due to the use of widespread detention, the Dutch Council of State ruled that the principle of mutual trust no longer applies to Malta, and as such Dublin transfers from the Netherlands to Malta were suspended.

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 specialized services exist in Malta for victims of torture or trauma.

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 needed legal guardians to submit an asylum application. The vast majority of minors were not appointed legal guardians. Minors received very little information about the procedure and they were not supported by anyone during the process. Depending on the educational activity, minors needed to have a legal guardian to get enrolled to courses. This is problematic as very few minors were 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 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

References and sources

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

<https://www.unhcr.org/mt/figures-at-a-glance#:~:text=2022%20Arrivals%20and%20Asylum%20Trends,is%205%25%20of%20total%20decisions.>
[https://www.europarl.europa.eu/thinktank/it/document/EPRS_BRI\(2022\)739247](https://www.europarl.europa.eu/thinktank/it/document/EPRS_BRI(2022)739247)
<https://asylumineurope.org/reports/country/malta/asylum-procedure/general/short-overview-asylum-procedure/>
<https://ecre.org/aida-2021-update-malta/>

<https://ecre.org/wp-content/uploads/2022/07/Asylum-in-2021-1.pdf>

<https://asylumineurope.org/reports/country/malta/detention-asylum-seekers/legal-framework-detention/detention-vulnerable-applicants/>

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

MOAS - Migrant Offshore Aid Station

Name and title of contact person

Lucia Martines

* Email

lmartines@moas.eu

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](#)