

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)

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)

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, 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)

In the Netherlands, the following developments are relevant regarding unaccompanied children:

1. There is a huge challenge in providing reception: both for children who are in their asylum procedure and for children who have been provided with a residence permit. The main cause is the large influx of asylum seekers combined with a lack of housing (in general).
2. The large influx of asylum seekers also causes long waiting times in the asylum procedure (up to one year before first decision is being taken). This has a negative impact on the children. This also influences the procedure for family reunification.
3. The large influx also cause a challenge in staffing regarding guardians and reception staff. Guardians have a very high caseload as a result of this and it's a challenge to provide the right amount of guidance.
4. The Dutch authorities took a temporary measure to enable suspending the procedure for family reunification. Family members can only come to the Netherlands if housing is available. (See official letter in Dutch attached)
5. When the flow of Ukrainian refugees to the Netherlands started, the Dutch Ministry of Justice and Safety, the Dutch Child Protection Board and the Dutch guardianship authority for unaccompanied and separated children, Nidos, received signals that Ukrainian minors without parents were also among the Ukrainian refugees. In consultation with these three organizations it was then decided to make a distinction between children who needed acute care and reception and children who did not. From that moment on, unaccompanied children who needed acute care and reception could be registered with Nidos, so that Nidos could take care of these children in their small-scale reception facilities and reception families. All other children who were taken care of by family members, befriended host families or who stayed in a shelter offered by a municipality together with caring adults, could stay there for the time being. However, all these

reception places were screened by the Child protection Board.

For all Ukrainian children who are in the Netherlands without parents, it is necessary to investigate how parental authority is exercised over them. If this investigation shows that the parental authority cannot be sufficiently exercised, a guardianship measure must be requested at the Court. According to an agreement between the Child Protection Board, the Ministry of Justice and Safety and Nidos, this task is assigned to Nidos. Any guardianship measure also falls to Nidos (or exceptionally to the William Schrikker Foundation in case of physical or mental disability).

6. From 1 January 2023, Nidos can guide young people who turn 18 towards self-reliance and integration for a longer period of time, by offering extended care. Unaccompanied children with a residence permit who turn 18 can then stay with their reception family or within their small-scale reception facility and receive guidance if they want to. Thus, the interest of the young person is central and the choice of the young person is leading. The young person can also opt for an 'outpatient variant', whereby they start living independently, but continue to receive guidance from Nidos or a contract partner. If the young person is already in a family reunification process and opts for extended care, the family reunification officer of Nidos will continue with the guidance until the phase the process is in has been completed. Preparations for this new policy have started in autumn 2022.

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](#))

National jurisprudence on UAC in the Netherlands:

1. Judgment Council of State on age determination

In May 2022, there was a court session on age registration at the Council of State, the Dutch highest general administrative court. In short, the policy on this is that the IND may adopt the age registered in another Member State, even if an unaccompanied minor has stated that they are a minor upon arrival in the Netherlands. This only leads to an exception if an inspection on arrival in the Netherlands showed that the unaccompanied minor is clearly a minor. This policy follows from rulings by the Council of State in 2016. In May 2022, the Council of State reviewed this policy again. In its judgment of November 2022, the Council of State ruled that the policy is not unreasonable. There came, however, an important nuance within the new judgment: the IND must inquire with the other Member State under which circumstances the age registration took place. Since the judgment of the Council of State, about 15 judgments of lower courts have been issued. In the majority of the judgments, judges ruled that the IND wrongly did not investigate the determination of the age. The Council of State has now raised the question in another case whether the interstate principle of trust is at all a ground for adopting the age from the other Member State.

2. Judgment Council of State on TQ-arrest

The State Secretary for Justice and Security may not require an unaccompanied minor foreign national to return to the country of origin before he has investigated whether there is adequate reception there. The State Secretary must proceed expeditiously in this respect and may not omit the investigation until the foreign national has reached the age of majority. This is the judgment of the Administrative Jurisdiction Division of the Council of State in three judgments issued on 8 June 2022. Link: <https://www.raadvanstate.nl/@131522/alleenstaande-minderjarige-vreemdelingen/>

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

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

737c841c-d223-4ea4-97dd-d9d6142ff688/tk-brief-besluitvorming-opvangcrisis.pdf

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](#)