



Input by civil society to the 2023 Asylum Report

Dear Colleagues,

The production of the *Asylum Report 2023* 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 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!





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 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)**

Access to the territory

Austria: Following the German announcement of the prolongation of border controls in October 2019, the Austrian Minister of Interior had also prolonged the temporary border controls with Slovenia and Hungary until 14 May 2020. The argumentation of the Austrian Government had slightly changed, however: while it initially argued that the situation was not sufficiently stable, the Minister of Interior argued that “border controls in the heart of Europe have led to a positive effect on migration movements”. These border controls were further prolonged on 11 May 2021, based on the “continuing migration pressure” and “the tense situation resulting from Covid-19”. The border controls were prolonged until May 2023. Furthermore, in October border controls to Slovakia were introduced in November. This caused uproar in Slovenia as the border controls to Slovenia were found unlawful following judgements in ECJ case C-368/20 and C-369/20. The prolongation of border controls were justified, among others, with the fear of proliferation of weapons from Ukraine.

In July 2021 the Regional Administrative Court of Styria issued a landmark decision concerning a case of a Moroccan national living in Bosnia. (...) The Court concluded that the policemen “overheard” the asylum application, i.e. they did not carry out a proper interview; the body search resulted in inhuman treatment and the rejection to Slovenia was unlawful. In the statement of facts, the Court stated that push-backs are “partly applied as a method in Austria.” (...) In July 2021, a Somali minor was also unlawfully returned to Slovenia on the basis of that readmission agreement, despite the fact that he had articulated the words “asylum” various times when talking to police officers. In February 2022, the Regional Administrative Court of Styria decided that the police measures taken were unlawful and resulted in an illegal push back.



In both cases, the revision by the Regional Police Directorate Styria to the High Administrative Court were rejected in May 2022 (VwGH Ra 2021/21/0274-6, 5 May 2022; VwGH Ra 2022/21/0074-6, 19 May 2022 available in German at: <https://bit.ly/3miz1nc>). As a consequence the Ministry of Interior regulated by non public internal Decree GZ: 2022-0.344.927, "Awareness with regard to rejections", 11 May 2022, on how to proceed with foreigners that apply for asylum when apprehended by the police. It is stated explicitly that it is no mandatory condition that the foreigner mentions the word "asylum", the application can be brought in by "conclusive action". A mandatory e-learning tool was developed and is available for all officers that are on duty close to border regions.

After the second judgement concerning push-backs by Regional Administrative Court of Styria there are no more reports of push-backs on Austrian territory.

Slovenia reaffirmed its opposition as regards Austrian border controls in recent years. The Slovenian Ministry of the Interior considers border controls unjustified and disproportionate and stressed that there were no statistics demonstrating a risk of secondary migration nor a threat to Austria's internal security. In 2019 it added that the border controls are "unnecessary and cause great economic damage". Until October 2022, 176 persons coming from Slovenia were denied entry.

Germany refused entry to 6,206 persons between January and October 2022 on the border to the province of Salzburg. 1,445 persons were Afghan nationals, 1,014 Syrian nationals. 483 of the persons rejected then applied for asylum in Austria. In the same time, 646 persons were rejected on the border to the province of Vorarlberg, 57 of them applied for asylum in Austria then. On the border to Upper Austria, 2,946 persons were rejected from entering Germany. Mainly persons from Afghanistan and Syria, 1,070 persons applied for asylum after being rejected. In total, 11,249 persons were rejected from Germany to Austria until October 2022, of whom 1,659 applied for asylum in Austria.

Hungary and Austria engage in a bilateral police cooperation on Hungarian territory in the so called "Operation Fox". Since September 2021 Austria deploys police officers to the Hungarian-Serbian and Hungarian-Serbian-Romanian border. In 2022, 45 Austrian police officers supported the Hungarian police. The Ministry of Interior announced that the Austrian police is not applying force by themselves but only supporting the Hungarian police in their tasks. This cost more than 5 million Euro in 2022. Until October 2022, 431 persons were denied entry.

As there are no border controls from Austria at the borders to Czech Republic, Germany, Switzerland, Italy and Liechtenstein, no rejections were made in 2022 at these borders. 40 persons coming from Slovakia was denied entry.

Following the earthquake in Syria in Türkiye in February 2023, Austria announced that it will not make any visa liberalisation but will prioritise the handling of visa applications of persons affected by the earthquake that have relatives in Austria.

Bulgaria: Access of asylum seekers to the territory remained severely constrained in 2022. In November 2022 the new caretaker cabinet's interior minister reported that the army has completed the repairs along 121 km section and continue to work until the end of the year in the areas of Elhovo, Sredets, Malko Tarnovo and Rezovo. Along with these activities in November 2021, 350 soldiers and 40 technical army units were sent to the border with Türkiye to support around 1,000 border police officers already stationed there. In August 2022 the new caretaker cabinet increased the army presence along this border with another 300 soldiers equipped with drones and transportation units. In 2022 Frontex launched a new operation at EU's external land border, Joint Operation Terra 2022 with 450 standing corps officers, patrol cars and thermo-vision vehicles taking place across 12 EU Member States, including Bulgaria where the deployed Frontex personnel throughout the year reached collectively 1,200 corps officers. The Frontex deployed staff focused mainly on border surveillance, border checks and assistance in detecting fraudulent documents as well as gathering



information on smuggling networks, migratory phenomena and identification of vulnerable groups. The Frontex officers worked in mixed teams with the national guards and under the command of the Bulgarian border authorities. Among the patrol teams along the Bulgarian-Turkish border just the half were mixed ones, the rest however comprised by national border policemen only.

Notwithstanding the national authorities remained unable to counteract the human smuggling, neither to provide safe legal channels for those who attempt to enter to claim asylum. The sheer scale of reports about intercepted vehicles transporting irregular migrants made evident that a significant number of people, including in large groups, manage to cross the border, enter the territory, board onto various vehicles and travel undetected through the country on their exit routes – A1 highway to Serbia and E87 to Romania. If in 2020 3,487 migrants entered the country, and in 2021 – 10,799 migrants, in 2022 this figure reached 16,767 migrants. The number of persons who sought international protection increased from 3,525 in 2020, and 10,999 in 2021, to reach 20,407 asylum seekers in 2022 – an increase of 86% compared to 2021 and by 481% compared to 2020.

This brought to a dramatic increase of pushback practices with the national monitoring mechanism establishing another negative record with 5,268 alleged pushbacks affecting 87,647 persons. Verbal abuse and physical violence, reported since 2015, as well as the humiliating practices of unlawful detention, strip searches and illegal confiscation of footwear, clothing and other belongings have reached epidemic proportions. The situation additionally exacerbated after two separate incidents resulting in the death of three police officers. In August, two policemen died in Burgas while attempting to stop a bus with 48 migrants onboard among whom pregnant women and children. In November, another police officer died while patrolling a stretch of the Bulgarian-Turkish border near Golyam Dervent village. On 30 November, the investigative journalists' network Lighthouse published a report exposing the pushback practices in Hungary, Croatia and Bulgaria, which among others was exposed to maintain the so called "black sites" - clandestine detention centres, where refugees and migrants are denied the right to seek asylum, detained unlawfully and held prior to being forced back to Türkiye. A secret footage shot in the summer showed a former patrol dogs' cage in the backyard of Sredets Border Police precinct on Bulgarian-Turkish border with people kept in it in inhuman and degrading conditions. In December, a Sky News investigation released another footage of Bulgarian border police allegedly shooting a Syrian man who was on the Turkish side of the border. Both the Ministry of Interior and the Chief Prosecutor's Office denied the shooting, though admitted that on the day in question the border patrol was provoked by stones thrown at them with one of the officers hit in the head. Since 1 January 2017, the Ministry of Interior no longer discloses the number of prevented entries in its publicly available statistics. However, in January 2023 the interior minister reported 160,000 prevented entries in 2022. Despite the widely reported pushbacks and violence along the Bulgarian-Turkish border, the number of new arrivals in Bulgaria continued to increase.

Cyprus: The number of submitted asylum applications continued to increase, rendering Cyprus the EU Member State with most applicants per capita. The majority arrived by irregularly crossing the 'green line'.

Arrivals in 2021 were significantly higher than in 2020, and in 2022 the number of arrivals once again doubled the majority of which arrived by irregularly crossing the 'green line', a testament to the fact that the installation of razor wire had little, if any, impact on arrivals.

Throughout 2022 other measures were announced to prevent migrants crossing the Green Line, including hiring 300 border guards who will monitor the Green Line, continuing the installation of the surveillance system and extending the wire fence. In early 2023, it was announced that only 255 border guards were hired due to low interest and are expected to take up operations in April 2023. Furthermore, two cameras have been installed on the Green Line, with the intention to install in total 100 cameras across the line, which will be monitored by members of the national army. According to the authorities when migrants are identified attempting to cross the Green Line they attempt to stop these persons from crossing or, if this is not possible, they will be transferred to Pournara First Reception Centre.





In 2022, 40 boats arrived in the areas under the control of the Republic. Six boats were identified, all departing from Lebanon, that were intercepted by the Cypriot authorities, however there may be more cases of refoulement which were not identified or located. Four boats were reported to have been returned to Lebanon, carrying approximately 354 persons. It has also been reported that among them were three Syrians, who were eventually returned to Syria. The other two boats after being intercepted by the RoC continued the journey; one was reported to have reached Greece following the disembarkation of two people in Cyprus and the second was reported to have reached Türkiye.

Pushbacks at land and specifically at the Green Line continued throughout 2022, as third country nationals are denied access to territories under the effective control of the Republic and to the asylum procedure when they try to cross from the official checkpoints. In December 2022 the Greek Cypriot police at the Ledra Palace checkpoint denied entry to two Turkish nationals of Kurdish origin seeking to seek asylum. The two persons remained stranded in the buffer zone since 15 December 2022 without support from the authorities; tents were supplied by UNHCR and food was supplied initially by foreign embassies and UNHCR and subsequently by UNFICYP.

Germany: With the outbreak of the Covid-19 pandemic, the German government introduced temporary border controls at internal Schengen borders at various points in time. In June 2022, all remaining entry restrictions and Covid-related border controls were lifted, except for countries designated as ‘virus-variant-areas’. No countries were designated as such areas in 2022.

Independently of the pandemic situation, Germany has regularly re-introduced border controls at its borders with Austria since 2015. The controls have been continued throughout 2022, and are in place until 11 May 2023 at the time of writing of this report. The extension has been criticised by NGOs such as PRO ASYL, who argue that controls lead to refusals of entry of would-be asylum seekers in Germany, who are denied access to an assessment by the BAMF whether Germany might be responsible for handling their asylum application. A representative of the union of police officers equally criticised the extensions, on the grounds that they do not reduce irregular immigration but rather shift routes to other land borders.

Spain: In 2022, 31,219 migrants arrived to Spain by land and sea, which represents a decrease of 25.6% compared to the 41,945 arrivals in 2021. While the arrivals to mainland and the Canary Islands decreased in 2022, the number of persons who arrived to Ceuta and Melilla increased compared to the previous year. The number of persons arriving in Ceuta and Melilla by land in 2022 was 2,289, marking an increase compared to 2021, when 1,845 persons entered the enclaves. In addition, a total of 293 personas arrived by sea to the enclaves, being 169 those who reached Melilla (representing a +333.3% increase compared to 2021), and 124 Ceuta by sea (a 69.3% decrease compared to the previous year).

In July 2022, the Council of Ministers approved the plan to carry out additional renovations to the borderline fence in Ceuta, allocating a budget of 4 million Euros. Such renovations are part of the Plan to reinforce and modernize the land border protection system in Ceuta and Melilla, which started in 2019.

In January 2022, more than 40 organisations denounced the plan of the Government to use facial recognition surveillance tools at the borders of Ceuta and Melilla, and warned that the use of artificial intelligence could result in discriminations and violation of fundamental human rights. The Spanish Government has allocated 4.1 million euros for the deployment of said tools at the borders; the operations to install them are still ongoing at the moment of writing, despite the initial plan to finalise them in 2 years, starting from 2019.

In view of the reopening of the land borders between Spain and Morocco, closed for two years due to the pandemic, in May 2022 the Spanish Government announced that border management authorities would start using drones to survey Melilla’s border, together with the air surveillance.





At the end of November, three men were detected by Salvamento Marítimo at the port of Las Palmas de Gran Canaria after traveling during 12 days in the rudder blade of a ship from Nigeria to the Canary Islands. The migrants were immediately referred to the hospital, as they presented symptoms of dehydration and hypothermia. The Minister of Interior denied their asylum applications at first instance, despite UNHCR recommendation that at least one of them be granted a residence permit for humanitarian reasons, due to his vulnerability and health conditions. Following the re-examination of the denial, the Minister of Interior admitted their applications, and authorised the three asylum seekers to access the Spanish territory, while their asylum requests will follow the accelerated procedure.

At the beginning of December, a migrant entered Melilla using a paraglider to pass the border fence.

In 2022, the construction of a wall around the port of Bilbao continued; the main objective is to prevent migrants to access ferries leaving Spain for the UK through this route. The decision to build such a wall was taken a couple of years before. The wall will be 4 metres high and 520 metres wide, will include a metallic fence, and had a cost of 300,000 Euros.

Especially during 2022, arrivals through the migratory route from Algeria to the Balearic Islands increased, also due to the rupture of the friendship agreement between Algeria and Spain, following the declarations of the Spanish President of the Government to support the Moroccan sovereignty over the Western Sahara in spring 2022. In 2022, a total of 176 boats with 2,637 migrants reached the archipelago.

At the beginning of March 2022, around 2,500 people attempted to enter Melilla by jumping the fence, and almost 500 managed to access to the enclave. Many organisations denounced the violence used by the police against migrants that attempted the jump, which resulted in about 20 people being hospitalised and 30 pushed-back. Two videos disseminated through social networks show how the Guardia Civil violently attacked some migrants descending from the fence on Spanish soil.

The land border between Morocco and the two Spanish enclaves of Ceuta and Melilla, which was closed since the start of the COVID-19 pandemic, was reopened only on 17 May 2022.

On 24 June 2022, around 2,000 persons attempted to enter Melilla from Morocco by jumping the fence, resulting in 37 persons dead and hundreds injured, while 133 individuals managed to enter the Spanish enclave. Different organisations expressed concerns regarding the use of indiscriminate violence in border management activities. In addition, various actors asked for an independent investigation to be carried out in order to clarify the situation and to ascertain political accountability. The Spanish Public Prosecutor Office opened an investigation to ascertain whether a violation of fundamental rights had occurred, due to the seriousness of the allegations. The Ombudsman also announced an investigation and visited Melilla in July to collect information and testimonies on the incident.

Among the persons who attempted to jump and those who achieved to enter Melilla, there were many Sudanese nationals. Many of them witnessed the violence used by Moroccan police officers, who beat and killed migrants. Testimonies of similar acts performed by the Spanish police against migrants were also collected from those who were pushed back. All those who achieved to reach Melilla applied for asylum. According to the Moroccan Association for Human Rights, immediately after the incident, Morocco sped up the burial of the dead migrants, without carrying out autopsies nor identifications.

The Government reiterated that the intervention on the fence was “proportionate”, and that no deaths were registered on Spanish territory as a consequence of the action. However, a joint investigation carried out by El País and Lighthouse Reports established that, among others, at least 1 Sudanese migrant died on Spanish territory. These findings were considered credible by different Members of the Parliament composing the Committee of Interior, who concluded that the incident had in fact happened in the Spanish side of the border, and that the Spanish Civil Guard pushed back 470 persons in collaboration with the Moroccan Police, a number that was also confirmed by the Spanish Ombudsman.





Throughout 2022, and at the beginning of 2023, pushback practices continued to be reported.

In February 2022, a judge in Ceuta (Juzgado de lo Contencioso Administrativo número 1) ordered the Government to bring back to Spain the children who were returned to Morocco in August 2021, establishing that the repatriation was not in line with Spanish legislation and that it generated a serious risk for the children involved.

In 2022, 28,930 persons and 1,704 boats reached Spain via sea routes.

According to official data, the Moroccan Government declared having impeded the arrival of almost 15,000 migrants to Spain during the first 3 months of 2022, thanks to the deployment of its security forces, and that during 2021 it had prevented 63,121 attempts to enter Spain. The decrease of arrivals of almost 26% in 2022 compared to 2021 has been connected also to the renewal of the cooperation between Morocco and Spain.

France: In the first 10 months of 2022, 72,581 decisions on refusal at the external border have been issued at the border with Italy (40,274), Spain (16,988), Belgium (10,761) and Switzerland (4,558). In January 2023, local authorities have declared that almost 40,000 arrests took place at the border in 2022 with 33,000 returns to Italy and 4,909 unaccompanied minors coming from Italy accommodated in emergency shelters in France. Following the refusal of Italy to welcome the ship Ocean Viking in November 2022, border controls have been reinforced.

The current temporary border control measure is valid since 1 November 2022 and up until 30 April 2023 and justified by 'new terrorist threats, organised criminality and activity of organised groups of smugglers, risk of arrival of persons who could pose a threat among the flow of refugees, irregular migration, secondary movements, the situation at the external border (Ukraine war)'. The decision reintroducing border controls was challenged again by NGOs in 2022, following the CJUE decision on this issue (26 April 2022, C368/20 and C369/20). However, the Council of State validated the measure in July 2022, considering that the threat is renewed (although the CJUE requires a new threat): Council of State, Decision 463850, 27 July 2022, available in French at : <https://bit.ly/3I3BERa>.

According to the UK authorities, attempts to cross the Channel to join the United Kingdom reached a record number of 45,756 in 2022 compared to 28,395 persons in 2021 (three times more than the number reported in 2020). According to French authorities, 51,786 persons have been detected trying to cross the Channel in 2022 (compared to 35,382 in 2021). Analysis shows that majority of people in small boats crossing the Channel are refugees.

Reports of people being refused entry without their protection needs being taken into account at the Italian border persisted in 2022. ANAFE continued to note in 2022 an "uninhibited/unapologetic violation of the right of asylum". In a report published in September 2022, the NGO Anafe described the main places of detention at the French-Italian border (Menton Garavan, Menton Pont Saint Louis, Montgenèvre, Frejus) and confirmed that many violations of fundamental rights have been observed there.

Greece: In 2022, a total of 18,780 refugees and migrants arrived in Greece. This marks an increase of 105,09% compared to 9,157 in 2021. 12,758 persons arrived in Greece by sea in 2022 compared to 4,331 in 2021. The majority originated from Palestine (21,7%), Afghanistan (17,2%) and Somalia (14,1%). Nearly half of this population were women (17,8%) and children (28,3 %), while 54% were adult men.

Moreover, according to UNHCR 6,022 persons arrived in Greece through the Greek-Turkish land border of Evros in 2022, compared to a total of 4,826 in 2021. In 2022, a total of 12,758 refugees and migrants arrived in Greece by sea, according to UNHCR. According to police statistics, 6,672 arrests were carried out in the first ten months of 2022 for irregular entry at Evros land border with Türkiye, compared to 5,256 arrests in 2021.





In the statistical data of the Minister of Public Order, a total of 230,993 third country nationals in 6,736 incidents were “prevented from entrance” in Greece only in the first 10 months of 2022, compared to 175,301 in 6,319 incidents in 2021. According to an announcement of the Ministry of Public Order in January 2023 referring to police statistics, a total number of 256,000 persons were prevented from “illegal invasion” in 2022.

Figures on the number of entries in 2022 may under-represent the number of people attempting to enter Greece or that found themselves on the Greek territory, given that cases of alleged pushbacks have been systematically reported in 2022, as was the case in 2021.

In May 2022, National Transparency Authority released an investigation report following the referral of a case by the Minister of Migration and Asylum in response to Lighthouse Report material on push backs against refugees and migrants by Greece. The investigation was carried out from November 2021 to March 2022. Both the contents and process of publication of the report were marred by serious deficiencies.

Additionally, in July 2022 and following discussion between the EU Commission and the Greek Authorities on a ‘new proposal to mainstream fundamental rights’ within the Greek asylum system, a Fundamental Rights Officer (FRO) and a Special Commission on Fundamental Rights Compliance (Task Force for Fundamental Rights Compliance) have been appointed, within the Ministry of Migration and Asylum.

Furthermore, the Recording Mechanism of Informal Forced Returns that started operating early in 2022, under the supervision of the National Commission for Human Rights, presented its first Interim Report in January 2023. In the framework of this Mechanism, 10 participating civil society organizations, including GCR, recorded at least 50 incidents and 58 testimonies of informal forced returns which, according to testimonies of the alleged victims, occurred between April 2020 and October 2022. The total number of alleged victims of the report were approximately 2,157 third country nationals, including asylum seekers and recognised refugees in Greece.

In 2022, the practice of illegal refoulements continued being utilised as a “front-line” tool of the country’s migration policy to halt the flows of refugees and to deter others from attempting to irregularly cross the borders.

Especially in cases of persons in need of international protection who entered Greece through the land border, since March 2022 the Greek Council for Refugees (GCR) has represented 451 Syrian and 38 Turkish refugees, including many children, before the European Court of Human Rights. GCR filed 21 applications for interim measures (Rule 39), requesting humanitarian assistance and access to the asylum procedure. Some of the members of these 21 groups have been formally arrested by the Greek authorities but most of them complain they have been pushed back to Türkiye. It should be noted that persons even from the groups that were formally arrested, complain that in the past they had been subjected to violent and informal return (pushback) to Türkiye from Greece.

Furthermore, both with respect to those stranded on the islets and those in the Greek mainland, the refugees who complain that they have been pushed back to Türkiye, also complain that they were informally arrested by the Greek authorities, informally detained in an unspecified detention facility in Evros region, they were ill-treated and were transferred to Evros river bank where they were forcibly boarded on boats and pushed back to Türkiye.,

Moreover, in 2022 GCR sent at least 159 interventions to the Greek authorities for the cases of more than 900 refugees including many children, from Syria, Türkiye, Afghanistan and Iraq, who entered Greece from the Evros region seeking international protection. In approximately half of these interventions, the Greek authorities responded positively on locating them and providing them access to the procedures provided by law. Regarding the rest of the interventions, the Greek authorities either did not reply or replied that they had not been able to locate them. In some of these interventions, which concerned refugees from Türkiye and Syria, GCR was informed later that the refugees were informally and forcibly returned to Türkiye, without being given the opportunity to submit an asylum application.





In April 2022 a research was published on the involvement of Frontex in the illegal pushbacks of at least 957 refugees between March 2020 and September 2021. It is noted that “the term “prevention of departure” is commonly used to report practices better known as pushbacks, illegal under Greek, EU and international law. This was confirmed in interviews with several sources within Frontex as well as the Greek authorities.

Forensic Architecture, on a platform of incidents of pushbacks that allegedly occurred from 2020 to 2022 on the Greek islands, report around 1,000 incidents within the last two years. According to that platform, 103 incidents were recorded during 2022. By way of illustration, the following pushback incidents at sea were reported in 2022 and documented by Forensic Architecture:

- An incident that allegedly happened on 26/02/2022 on Lesbos, when 35 asylum seekers on an inflatable boat with no engine were intercepted by Hellenic Coast Guard vessel ΛΣ 050 and later found drifting by the Turkish Coast Guard off the coast of Ayvalık.
- An incident that allegedly happened on 27/02/2022 on Kos, when 22 asylum seekers, including children, on an inflatable boat with no engine were found drifting by the Turkish Coast Guard off the coast of Datça Muğla.
- An incident that allegedly happened on 27/02/2022 on Kos, when 18 asylum seekers on an inflatable boat with no engine were found drifting by the Turkish Coast Guard off the coast of Bodrum district.

In relation to pushbacks at sea, Aegean Boat Report’s Annual Report for 2022 outlined that 1,675 boats carrying 52,163 people were apprehended by the Turkish Coast Guard and Police in 2022. According to Aegean Boat Annual Report 2022, “26,133 people has been illegally pushed back by Greek authorities. In 2022 Aegean Boat Report have registered 988 pushback cases in the Aegean Sea, involving 26,133 children, women and men who tried to reach safety in Europe. Over a third of them, 9,656 people, had already arrived on the Greek Aegean islands, arrested by police, forced back to sea and left drifting in life rafts, illegally deported by the Hellenic Coast Guard (HCG), on orders from the Greek government, so far there has been no reaction from the EU on these illegal actions. Almost 60% of all boats picked up by Turkish coast guard in 2022 had been pushed back by Greek authorities. 60% of all pushback cases registered happened around Lesbos and Samos. 15,225 people have been pushed back at sea in 583 rubber boats, engines or petrol removed and left drifting, and in some cases even towed back to Turkish waters by HCG. In 384 registered cases, 9,656 people have been forced into a total of 575 life rafts, and left drifting in the Aegean Sea by the Hellenic Coast Guard, a systematic use of rescue equipment as a deportation tool”. In January 2023, Aegean Boat Report have registered “66 illegal pushbacks in the Aegean Sea, performed by the Hellenic coast guard, 1,881 people, children, women and men, have been denied their right to seek asylum, their human rights have been violated by the Greek government”.

No readmission operations took place during 2021 and 2022.

Croatia: Reports of push backs and violent police practices at the border have been documented in 2022.

In 2022 Rohingya child submitted complaints against Croatia and Slovenia at the UN Child Rights Committee for multiple violations of the Convention on the Rights of the Child (CRC). The child spent over a year in Bosnia and Herzegovina (BiH) from 2020 to 2021. During this time, the child was pushed back five times from Croatia to BiH and subjected to violence. In Slovenia he was subjected to a “chain” pushback, and was forcibly returned first to Croatia by Slovenian authorities and then onwards by Croatian authorities to BiH.

In April 2022, in the case M.H. and Others v. Croatia request for referral was rejected by the Grand Chamber panel of five judges and the judgement become final. In October the Action plan in the case was published.

Hungary: In 2022 there were 152,004 pushbacks carried out. Although the vast majority of irregularly staying third country nationals get automatically pushed out of Hungary to Serbia in a summary procedure, there have been some rare exceptions, such as the cases of unaccompanied minors who were injured when crossing the border – e.g. fell off the border fence or were beaten by the Police or military so severely that they needed to be hospitalised. For them, a guardian was appointed and following their release from the hospital, they





were placed in a children's home in Fót, near Budapest. When the guardians did submit the statement of intent, the embassy forwarded it to the asylum authority in a speedy manner, and the asylum authority invited the minor and the guardian to formally submit the asylum application within a couple of days. This, however, should in no way be understood in the sense that unaccompanied minors are, as a rule, exempted from pushbacks, as such procedure was applied only in a handful of cases in 2021 and 2022. At the time of writing, only a few cases resulted in a favourable decision. Unaccompanied and separated children suffer from the systemic denial of access to the territory and procedure as much as adults. Practice shows that it is the level of their injuries upon irregular entry, or a rare spark of humanity in the Police officer in question, as opposed to a child-focused approach, which determines their fate following interception by the authorities near the border.

No one arrived via Embassy procedure in 2022. The system is currently in force until 31 December 2023.

Ireland: In October 2022, it was reported that a unit was to be established at Dublin Airport in order to facilitate stricter immigration checks in respect of arriving passengers. The establishment of the unit was reported to be part of a range of measures introduced by Government with a view to reducing the number of individuals claiming international protection in Ireland.

Further reports in September and October 2022 indicated that additional immigration control measures had increased at Dublin Airport, targeting in particular individuals seeking to disembark from arriving aircraft with false documentation. One such report indicated that 'before the flight landed, the crew asked passengers to get out their passports for immigration checks...Once it touched down, border control officers came on the plane.' When passengers queried the practice, they were advised that Immigration Officers were 'looking for people without visas.' Despite indications from the Department of Justice in recent years that this practice had been largely scaled back, such reports suggest that the policy continues to operate in practice as of 2022.

Italy: In 2022, according to MOI data, 105,129 people were disembarked in Italy - 37,652 more than the previous year -, marking a 55,79% increase in the number of disembarkations.

The main nationality of people disembarked was Egyptian (20,542 in total), which represented a change compared to 2021, when most of the people disembarked were Tunisian. The number of Egyptian nationals registered as asylum seekers in 2022 was 7,102.

Considering sea arrivals, 53,310 third country nationals came from Libya, 32,371 from Tunisia, 16,205 from Türkiye and 1,603 from Lebanon, a maritime route used in a significantly higher number of cases when compared to the past (in 2021, only 141 migrants left Lebanese shores to reach Italy). In 2022, at least 24,684 persons were returned to Libya, which represented a 24% decrease compared to 2021 (when it was estimated that the total number was 32,425).

Italy continues to play a key role in indirect refoulements to Libya, continuing to equip and train the Libyan authorities thus preventing access to protection for thousands of people. As reported by authoritative sources, Libyan Coast Guards officers are often directly linked with smuggling networks, fostering a wicked chain of human rights violations.

As of 26 October, according to FTDES (Tunisian Forum for social and economic rights) data for 2022, more than 29,000 migrants were intercepted at sea and 544 died. MRCC Tunisia is independently managing Coastal guard activities and search and rescue operations even if a Search and Rescue area has not been communicated to IMO so far.

By the end of 2022, after the appointment of the new government, the policy of the closed ports had a strong comeback. On 24 October, the new Ministry of Interior, Matteo Piantedosi, issued a directive (prot. 0070326) denying access to Italian ports to the Ocean Viking and Humanity 1, ships which had been involved in SAR operations in the Mediterranean. The Italian government instructed the involved ships to refer to the flag States (Norway and Germany) for the indication of a place of safety. On 4 November 2022, the government issued a decree allowing the Geo Barents and Humanity 1 ships to enter the territorial waters only with the





purpose to disembark migrants in critical health conditions. The selective approach followed by the government failed due to the principles of international and maritime law which, as previously underlined, impose the duty to rescue people in distress and to grant a place of safety to the passengers.

Following the same purpose to prevent disembarkation of migrants rescued at sea by hindering NGO's search and rescue activities, the government adopted the Law decree 1/2023 which is still in process to be amended and converted into law.

On 6 February 2023, the Civil Court of Catania ruled on an appeal promoted by Humanity 1, with regards to the standoff ordered in accordance with the Inter-ministerial Decree of 4 November 2022. The Court ruled on the unlawfulness of the decree, remarking that all people rescued from the ship Humanity 1 had the right to reach a place of safety ashore and to seek asylum in Italy. This decision concerns people who had been defined as "residual cargo" by the Italian government, and who, unlike minors and shipwrecked people in critical sanitary conditions, had not been disembarked immediately after the ship docked in the port of Catania.

On 15 December 2022, the Court of Rome ruled on a case regarding the death of 286 people, including at least 60 minors, following a shipwreck that occurred near the island of Lampedusa, but within Malta search and rescue region. Despite six verbal communications between a doctor onboard and the Italian MRCC and the presence of various commercial ships in the vicinity of the distress area, the Italian authorities did not take responsibility for the coordination of the SAR operation, nor informed Maltese authorities. The Coordination centre ordered the commercial ships to move away from the distress area, which in turn led to the death of the migrants onboard. The criminal procedure against the General Commander for the port Authority and the Chief of the branch of CINCNV control room indicted for refusal of acts of duty (art. 328 penal code) and involuntary manslaughter (art. 589 penal code) was concluded when the Court dismissed the claim on the ground that it was statute barred, even if it ascertained the criminal responsibilities of the indicted, observing that the attempt to avoid the obligation of coordination and assistance to search and rescue operation constitutes a reason for criminal accountability.

Refoulement to Libya: On 2 February 2023, the Memorandum of Understanding between Italy and Libya was renewed for the second time after February 2020. (...) The agreement provides funding, equipment and technical support to the Libyan authorities, primarily the Libyan coastguard, for patrolling and rescuing boats in international waters. (...) According to the agreement, as anticipated, Italy undertakes to continue to financially support, with training courses and equipment, the Libyan coast guard of the Ministry of Defence, for search and rescue activities at sea and in the desert, and for the prevention and fight against irregular immigration.

In 2022, readmissions and refoulements were still recorded also to Albania.

On 7 February 2022, the Adriatic Ports Network sent a new communication to the Committee of Ministers of Europe, requesting the continuation of the procedure to oversee the implementation of the Sharifi ruling, denouncing, contrary to the Government's claim in the Action Report of 15 December 2021, the persistence of illegitimate practices. (...) the profiles of illegitimacy persist and the rejections and readmissions of foreign nationals traced onboard ships or in the immediate landing area of the main Italian Adriatic ports continue. Readmissions and rejections also occur many hours after apprehension, as intercepted foreign nationals are held in transit areas or inside the ferries themselves and in a condition of total invisibility. The testimonies collected report incidents of mistreatment and behaviour detrimental to personal dignity both during the tracing phase on board the ship or ashore, and during and at the end of readmission procedures, such as confiscation and destruction of personal belongings, forcing them to undress, and exposure to extreme temperatures. (...) In January 2022, a family with a minor in need of health care was turned away from the port of Bari, despite presenting relevant documentation attesting said health needs. From April to November 2022, the Network received 21 calls from nationals of different countries (Iraq, Türkiye, Afghanistan), mostly





from Bari and Brindisi, while 1 was from Ancona. Most of them were adult men, two were unaccompanied minors. All these cases had a positive outcome, as access to the territory was ensured after an individual intervention.

Through a F.O.I.A request sent to public administrations by Altreconomia, it has been made public that, from 1 January 1 2022 to 14 November 2022, 1,917 third Country nationals have received a return order from the Border Police Office at the Adriatic ports cities and that 81 people have been readmitted to Greece. Among these, 29 Afghan citizens, 15 Iraqi citizens and 11 Albanian citizens.

As of 31 October 2022, 980 third country nationals were not granted access to the Italian territory at the airport borders, and only 105 asylum applications were lodged at air borders. (...) According to Inlimine ASGI project's FOIA, as of 31 October, 2022, 909 third Country nationals have been pushed back from Malpensa airport, while only 128 people were able to seek asylum at the airport. Among people refouled, according to the same information, it is clear that persons coming from country of origin with critical security situations (such as Syria, Palestine, Democratic Republic of Congo or Pakistan) did not have access to the international protection procedure.

According to information acquired by ASGI via FOIA, by 31 October 2022, 980 persons were pushed back at Fiumicino airports, of which 208 were Albanians (21%). In the same period, there were 105 asylum applications, 28 from Turkish people (27%).

(Border with Slovenia) On several occasions, the Government outlined the imminent resumption of readmission procedures. (...) During the summer and autumn of 2022, partly as a result of changed entry policies at the Bosnia Herzegovina-Croatia border and the political change of government in Slovenia, there has been a major increase in foreign national arrivals from the Balkan route. (...) This situation has created obvious unease and led to a new intensification of police controls on the Slovenian side, starting from 2 September 2022. After the change of government, more focus was put on enhancing border controls, and on 28 November, Interior Ministry Chief of Staff issued a directive calling on public administrations at the borders to intensify actions to curb arrivals. NGOs regard it as a de facto reinstatement of informal readmissions, which were previously declared illegitimate by the Rome Civil Court decision, confirmed during a visit by the undersecretary at the Interior Ministry last December 6.

In 2022, the situation at Italian French internal border remains unchanged: since November 2015 and due to the reintroduction of border controls by France, many migrants attempting to cross the borders with France have been subject to rejection at the border, often with the use of violence. (...) 2022 has been a crucial year for the development of the investigation on the Blessing Matthews case, (...) (who in 2018) in a desperate attempt not to be caught by police officers who had reached her at the edge of the river Durance, fell into the water and drowned. With the support of the organisation Tous Migrant, Blessing's sister filed different legal actions in order to ascertain the responsibilities of the public authority, but all actions were dismissed both by the Tribunal of Gap and the Court of Appeal of Grenoble. Due to a counter investigation conducted by Border Forensic, the case was submitted to the Public Prosecutor in May 2022, but again dismissed. On the 25 October 2022, an appeal on the case was presented to front of the European Court of Human Rights.

Malta: The substantial drop in arrivals is reported to be a direct consequence of Malta's involvement in pushbacks incidents and its reluctance to carry out rescues at sea. (...) 2022 saw a dramatic decrease in the number of arrivals by sea, due to issues flagged below.

Between January and December 2022, the UNHCR recorded 444 sea arrivals to Malta (12 persons were airlifted by AFM, at least 23 persons arrived spontaneously, whilst 409 persons were rescued by AFM at sea). This is a 48% decrease in arrivals compared to the same period last year. In a new trend during 2022, two boats that departed from Lebanon were rescued by the AFM in the Maltese SAR zone and disembarked in





Malta. The top five nationalities arriving by sea to Malta were from Syria (26%), Bangladesh (53%), Egypt (8%), and Lebanon (7%). The average age of those arriving by sea was 26. As with previous years, arrivals are mostly adult males 83%.

It is estimated that Malta ignored calls of distress and failed to rescue around 7,459 people in distress at sea in its SAR zone. Malta was also accused of being involved in 14 pushbacks for a total of 789 people. These numbers are an estimation based on incidents reported by rescue NGOs and news agencies.

- In February 2022, Malta allegedly refused to reply to repeated distress calls from 1 boat with 90 total passengers and instructed a merchant vessel not carry out the rescue.
- (...)
- In June 2022, Malta was allegedly responsible for 4 pushbacks of 4 boats of more than 200 people. Malta reportedly refused to reply to repeated distress calls from 24 boats with more than 500 total passengers. The outcomes of 272 people from 11 boats in the Maltese SAR remain unknown.
- In July 2022, Malta was allegedly responsible for 3 pushbacks of 3 boats of approximately 62 people. Malta reportedly refused to reply to repeated distress calls from 7 to 8 boats estimated at 300 passengers. The outcomes of 163 people from up to 8 boats in the Maltese SAR remain unknown.
- (...)
- In August 2022, Malta allegedly refused to reply to repeated distress calls from an estimated 22 boats with around 700 total passengers. (...) The German vessel Sea-Eye 4, carrying 87 migrants was denied entry to Malta after waiting several days outside of Malta following a rescue. A group of 40 people was rescued in the Maltese search and rescue area by the Armed Forces of Malta. The group was reportedly flagged by Alarm Phone on 28 July 2022 and the operation came after the people were left out at sea for over 6 days, despite Alarm Phone repeatedly calling on the authorities to intervene.
- In September 2022, Malta reportedly refused to reply to repeated distress calls from 5 boats with 633 total passengers. The outcome of 152 people from 2 boats in the Maltese SAR remains unknown. Malta is allegedly responsible for the death of two children as a result of its inaction. Malta was furthermore accused of coordinating one pushback of one boat. A group of 80 migrants who departed by boat from Lebanon and had been left adrift in Maltese waters after their distress calls were ignored by authorities were finally rescued and disembarked in Malta.
- In October 2022, Malta was allegedly responsible for 2 pushbacks of 2 boats, with more than 90 people onboard. Malta reportedly refused to reply to repeated distress calls from 11 boats with approximately 1,700 total passengers. (...) Sea-Watch accused the Libyan coast guard of threatening to shoot down their monitoring plane that helps the group document the interception of migrants in the Mediterranean Sea.
- In November 2022, Malta is estimated to have ignored distress calls and refused disembarkation of around 1,500 people while the outcome of around 160 people from the Maltese SAR remains unknown. Three NGO rescue ships (Doctors without borders, SOS Mediterranee, and SOS Humanity) carrying nearly 1,000 people were reportedly denied disembarkation in Italy or Malta. (...) A group of 36 asylum seekers were rescued by the AFM and disembarked in Malta.
- In December 2022, Malta is estimated to have ignored distress calls and refused disembarkation of around 1,200 people who were in distress in its SAR zone. Notably, between the 7 and the 9th of December, a boat with 90 people on board was rescued by Geo Barents, one woman was pregnant and gave birth on Geo Barents and the AFM insisted that only the woman and her new-born could be medically evacuated, while her other three children (all under 11 years old) should stay on board. The woman and all of her children were eventually evacuated to Italy. Another pregnant woman (9 months pregnant) was evacuated to Malta. Geo Barents was not allowed to disembark the



remainder of the passengers (around 249 people) in Malta, and eventually moved North to try to disembark in Italy. (...)

Poland: The humanitarian crisis at the Polish-Belarusian border that has started in August 2021 and continued throughout 2022 left many prospective asylum seekers without access to material reception conditions, including medical assistance.

In 2022, the special fence has been built at the Polish-Belarusian border. It is 5.5 m high, and it is topped with razor wire. The new fence did not stop third-country nationals from crossing this border but contributed greatly to their increased suffering. As reported by Grupa Granica, many persons have suffered injuries while climbing and coming off the fence, including fractures of the bones. Crossing the border through swamps, wetlands, and rivers (risked now more due to the construction of the fence) increased risk of drownings, injuries, hypothermia and – in consequence – death. The ambulances have been called for by Grupa Granica rarely due to the fact that the Border Guard was known for taking third-country nationals from hospitals and pushing them back to Belarus.

(...)

In the increasing number of judgments issued in 2022 courts condemned pushbacks at the Polish-Belarusian border, also in cases concerning pushbacks from Polish hospitals. In the judgment no. IV SA/Wa 615/22, the Provincial Administrative Court in Warsaw considered a case of a Syrian national who was pushed back to Belarus in November 2021 after short stay in a Polish hospital and in spite of his pleadings for asylum. In Belarus he was subject to violence from the Belarusian authorities forcing him to go back to Poland. The decision ordering his immediate removal was issued and challenged by the Helsinki Foundation for Human Rights' lawyer. The court annulled the decision, explaining that the Border Guard did not rigorously assess the factual situation of the foreigner, in particular the circumstances of his arrival to Poland and his situation upon return. The court highlighted that the principle of non-refoulement still applies at the Polish-Belarusian border. A case concerning a pushback from a hospital was also communicated to the Polish government by the ECtHR in June 2022.

Besides leaving people without any assistance in the border area (without access to shelter, food, drinking water), Border Guards also carried out push backs. According to the report of the Protecting Rights at Borders initiative, some migrants have been pushed back numerous times, irrespective of their age or vulnerability. Push backs on the border with Belarus took place also at the official border crossing points.

According to the report of Grupa Granica (GG) (a social movement of activists and NGOs voluntarily assisting asylum seekers and migrants at the border), since the beginning of the crisis at the border in August 2021 until 17 February 2023 at least 37 persons were found dead on both sides of the border. The main reasons of deaths were hypothermia and drowning. Organisations and humanitarian and medical aid workers reported cases of frostbitten limbs (leading in extreme cases even to amputation), food poisoning resulting from lack of access to drinking water, hypothermia, fractures and other injuries suffered by migrants trying to cross the border from Belarus to Poland.

In fact the real number of deaths may be much higher - the persisting restrictions in access to the border zone made it difficult to investigate the cases properly. According to HFHR, there are many indications that the death proceedings are not conducted by the Polish authorities in a diligent manner. From the requests for access to public information sent by the HFHR to law enforcement authorities, it is known that most proceedings are pending in one prosecutor's office under a common file number - despite the fact that deaths were often separated by a large time interval and significant geographic distance.

Organisations also reported escalation of violence in 2022 at the border zone. Polish officers used intimidation, threats to use firearms, use of gas, destruction of smartphones and sim cards, deliberate deception. Eventual push back to the Belarusian border meant the migrants suffered more violence from Belarusian officers and smugglers.



On 1 July 2022 the construction of the fence on the Polish-Belarusian border was officially completed. The fence is approximately 187 km long and equipped with special throughways for animals and electronic protection (perimetry).

Also on 1 July 2022, the ordinance of the Ministry of the Interior and Administration on a temporary ban on staying in 183 localities in the border area of Podlaskie and Lubelskie voivodships, which was in force since 1 December 2021, ceased to apply. At the same time, under the law the Podlasie voivode prohibited stay within 200 meters from the state border line justifying it by ongoing installation of electronic devices at the border and therefore security reasons. The latter ban of access was in force until 31 December 2022. Changing the restricted area from around 3 km from the border to 200 m from the border allowed for more efficiency in providing assistance to those in need, but NGOs still reported problems in accessing migrants, because push backs happened so quickly.

(...)

According to the Border Guards, in 2022 12,155 persons were 'prevented from irregular crossings of the border'. This number includes persons intercepted at the border, those who managed to avoid interception (e.g. they run away from Polish officers to Belarus) and persons who were returned to Belarus in accordance with the Regulation in force since August 2021 (controversial act giving basis to return a person without any decision being issued).

As a result of litigation before domestic courts, two controversial legal amendments from 2021, legalizing push backs were put into question.

The Voivodeship Administrative Court in Warsaw, in four judgments, revoked orders to leave Poland issued by the Border Guard Commander on the basis of the amendments of the Law on Foreigners, which entered into force on 26 October 2021. In all four cases, the foreigners were intercepted shortly after crossing the border from Belarus. The court assessed that because of improperly collected evidence, it was impossible to determine whether the foreigners expressed a wish to apply for international protection in Poland. The court pointed out that only properly conducted proceedings can guarantee compliance with the principle of non-refoulement and obligations under the UN Refugee Convention, the EU asylum acquis, and the European Convention on Human Rights (Judgment of the Provincial Administrative Court in Warsaw no IV SA/Wa 420/22 of 26 April 2022, judgement no IV SA/Wa 471/22 of 27 April 2022, judgment no. IV SA/Wa 615/22 of 20 May 2022; judgment no IV SA/Wa 772/22 of 27 May 2022, see: <https://hfhr.pl/upload/2022/12/hfhr-legal-brief-on-push-back-judgements-eng.pdf>).

In another three cases, the Provincial Administrative Court in Bialystok held that the Border Guard's action of escorting foreigners to the border with Belarus under the provisions of the Ministry of Interior's Regulation adopted in August 2021 was ineffective. As the Court pointed out, after the Border Guard officers discovered the illegal crossing of the Polish border (which is also the external border of the EU), they should have - depending on the situation - either initiated proceedings to oblige the applicant to return or allowed the applicants to formally apply for international protection as soon as possible. At the same time, the Court, in its judgments, held that the Regulation was issued in excess of statutory authority and, as such, should not be applied. This is because the Minister can only restrict or suspend traffic at border crossings but does not have the authority to regulate the situation of people who have crossed the borders outside the territorial scope of a border crossing. (Judgments of the Provincial Administrative Court in Bialystok no II SA/Bk 492/22, 493/22 and 494/22, all from 15 September 2022, see: <https://hfhr.pl/upload/2022/12/hfhr-legal-brief-on-push-back-judgements-eng.pdf>).

In another judgment, delivered as a result of a complaint filed by the Polish Ombudsman, the Voivodeship Administrative Court in Bialystok overturned the appealed decision to leave the Republic of Poland, which resulted in the return of an unaccompanied minor of Syrian citizenship from Poland to Belarus. According to the Court, it did not appear from the apprehension protocol of the minor foreigner and the accompanying





foreign adult that they were informed of the possibility of filing an application for international protection, as would be required by respect for the principle of non-refoulement. The case file also does not show that the foreigners were heard before being returned to Belarus. In the Court's view, the case was not properly investigated, and, moreover, the appropriate procedures related to the appointment of a guardian and other guarantees enjoyed by unaccompanied minors were not applied. The Court found that the case involved a collective expulsion in violation of Article 4 of Protocol 4 of the European Convention on Human Rights (Judgement of the Voivodeship Administrative Court in Bialystok, no II SA/Bk 558/22 of 27 October 2022).

Poland (ECRE Fact-finding visit): An important distinction should be drawn between refusals of entry under the amended Foreigners law and under the suspension of cross-border movement Regulation, which also reflects on data collection. To provide an example, in 2022, according to statistics from the Border Guard on decisions made under Article 303b of the Act on Foreigners, 2,549 third country nationals were ordered to immediately leave Poland; similar numbers were registered in 2021, when 2,384 decisions ordering an immediate removal from Poland were issued. On its side, the OFF reported it only disregarded five international protection applications due to the applicants' irregular access to the territory throughout the year. More frequently, however, denial of entry decisions are based on the Regulation on temporary suspension or restriction of border traffic at certain border crossing points, which was criticised by the Polish Ombudsman and has been subjected to scrutiny from Polish Courts, as will be further discussed below. By a way of illustration, in 2022 the Border Guard registered 12,144 "preventions of irregular crossings of the border".

Migrants who are detected while crossing the border outside official points should be taken to a Border Guard post. Border guards should then draft a report on a person who has been arrested for irregular border crossing and has the option to grant them access to the asylum procedure, initiate a return procedure under the provisions of the Act on Foreigners transposing provisions of the Return Directive, or to issue a decision to remove them from the territory of the Republic of Poland under article 303b of the Act on Foreigners. In practice, the latter appears to be the most common outcome of apprehensions at the border; the decision under this procedure is provided through a 1-page document, stating that the person crossed the border illegally and has been "re-directed" to Belarus. While the decision can be appealed within 7 days, it has no suspensive effect. Moreover, within this time limit, the appeal (to be submitted in Polish) should be registered in the Polish postal office system, but people that have to file appeals from Minsk are often not registered on time. Some Polish NGOs reported that, in the second half of 2022, most of the people met by activists providing humanitarian support in the forests close to the Belarusian border were not in possession of documents attesting their first removal from Polish territory. Additionally, many among those assisted by NGOs indicated that, upon apprehension from the Border Guard, they had not received proper information on the asylum procedure nor access to legal counsel, as posts from the Border Guards are not accessible to lawyers and NGOs.

When the same individual is apprehended again, the immediate return takes place under the provisions of the Regulation on temporary suspension or restriction of border traffic at certain border crossing points, which does not require a legal procedure or a return order to be initiated against the migrant to be removed from the territory of Poland. In this case, the individual's data (name, surname, etc.) are not collected. The Border Guard only records how many returns to the border line were conducted on a given day. From various accounts, it appears that repeated pushbacks of the same individual are a common occurrence; in these cases, only the first removal decision is recorded, which makes it challenging to obtain clear data on these practices. Concerns emerged also regarding the lack of access to information on the right to apply for international protection and to legal aid for persons apprehended at the borders.

Activist organisations also started providing humanitarian and medical assistance to migrants stranded in Polish forests from the beginning of the border crisis in 2021. Only between October and November 2022,





organisations forming part of Grupa Granica reported having received requests for humanitarian aid from 1,104 people.

Poland lifted the state of emergency in the border area in June 2022; instead, a 186-kilometer long steel wall was constructed on the border, aimed at stopping irregular crossings. Despite the lifting of the state of emergency, a prohibition for unauthorized individuals to access the area in the immediate proximity of the wall was established. The ban, which arose from a Regulation of the Podlaski Voivodeship, initially impeded access in an area of 200m from the wall, which has been recently reduced to 15m. According to the Border Guards Unit in Białystok, numbers of people detected and detained after irregularly crossings the green border with Belarus in the region spiked in 2021, with 2,412 people registered (while only 117 were registered in 2020) by the Unit; in 2022, this number, up to 6 November 2022, had significantly decreased, reaching only 357 people. The number of individuals apprehended at the border and “removed” from Poland was however much more significant, reaching 37,833 in 2021 and 11,862 until the beginning of November in 2022. According to the Border Guard, the number of removals from Polish territory in 2022 was significantly higher than that of apprehensions followed by detention due to the profile of migrants arriving: while in 2021 there were mostly families, that were interested in staying in Poland, and there were thus more cases in which people were detained, pending the necessary security checks and in case return procedures had to start, new arrivals are mostly single young men at the border – still mainly nationals from Syria, Afghanistan and Iraq - that have limited interest in remaining in Poland. With respect to these numbers it can be noted that, according to the organization Egala, official statistics do not necessarily represent fully the current situation as regards new arrivals, as some people manage to access Polish territory without being detected and move to other European countries, while others are pushed back to Belarus without being registered.

Many stakeholders indicated that some major differences can be highlighted regarding the profile of migrants trying to cross the green border, when compared to 2021.

First of all, the most represented nationalities are different. In 2021, migrants were mostly citizens from Iraq, Syria and Afghanistan. People from Iraq and Syria were arriving mainly by air through tourist visas issued by Belarus, while Afghans came by land routes. In most cases, people arrived in family groups.

In 2022, newly arrived migrants were mostly young men and there were fewer families with children were present. In addition, the pattern of nationalities involved was different. There were more people from African and Asian countries – as well as a few from Cuba and Haiti - and a decrease in the number of people from Iraq, likely due to the suspension of flights from Iraq to Belarus. Nonetheless, the Regional unit of the Border Guard in Białystok reported that the main countries of origin of migrants summarily returned to Belarus in 2022 were still Iraq, Syria, Türkiye, Iran, Sudan, and Afghanistan.

Another difference is that new arrivals do not appear to be organised directly by Belarus. These migrants generally obtained a visa – often either a labour or study one – in Russia, and remained in the country for a few weeks or, in some cases, years, trying to reach Europe via Belarus upon expiration of the visa.

Some people reported being victims of trafficking, but most had come directly in contact with smugglers.

Even after the construction of the wall and the lifting of the state of emergency, NGOs and activist organisations active at the Polish-Belarusian border reported having assisted various individuals alleging having been pushed back multiple times after trying to cross the green border. Most indicated that Polish authorities failed to consider their protection needs and to take them to border stations for processing their asylum cases, similarly to what was reported in previous months.

Romania: The Timisoara Border Police Territorial Inspectorate (ITPF Timisoara) representative stated that 685 persons were returned to Serbia based on the readmission agreement in 2022.

The Timisoara Border Police Inspectorate representative declared that 1,838 persons were apprehended for irregular entry in 2022, of which 950 were Indian nationals (the high number being explained as they are



exempted from visa requirements in Serbia), 185 Pakistani nationals, 160 Syrians and 160 Afghan nationals. Out of the total of persons apprehended by the ITPF Timisoara 1,652 made an asylum claim.

According to the ITPF Timisoara, that is responsible for 3 counties in border areas (Timis, Caras Severin, Mehedinti) the statistics for persons prevented from entering the country just in this limited area looked as follows: 2019 – 6,107, 2020 – 34,938, 2021 – 75,303 and 2022- 27,469.

In 2022, UNHCR Serbia reported 1,232 pushbacks from Romania. The number decreased significantly in comparison with 2020, when 13,409 were collectively expelled from Romania to Serbia.

CNRR representative in Timisoara stated that many asylum seekers reported that they entered Romania at their first attempt, while only one person complained that he tried to cross the border 10 times. The same was reported by the CNRR representative in Giurgiu.

CNRR reported that its counsels did not receive any report about push-backs or collective expulsions.

According to Save the Children/CNRR representative in Timisoara, no reports of ill-treatment at the border were made by the asylum seekers. They only complain that their phones are confiscated by the Border Police for further investigations. The same was echoed by the NGO representatives in Giurgiu.

Sweden: Despite the fact that the reintroduction of border control at the internal borders must be applied as a last resort measure, in exceptional situations, and must respect the principle of proportionality, Sweden has regularly re-introduced border controls at its internal borders in recent years. The current temporary border control is valid up until 11 May 2023. The decision to re-introduce border controls is based on the government's assessment that there is still a threat to public order and internal security in Sweden, including an important terrorist threat, and that there are shortcomings in the control of the external borders around Schengen. Checks are thus set up accordingly to address the threat.

As of the end of 2021 Sweden still applied an entry ban for people travelling to Sweden from certain countries outside the EU/EEA and an extended ban on entry to Sweden from countries within the EU/EEA, but with several exemptions. Currently, there are no travel restrictions due to Covid-19. Between 7th of January and 19th of January 2023, travellers from China, above 12 years old, were required to present a negative Covid-19 test when travelling to Sweden directly from China.

Slovenia: In early 2017, Slovenia adopted amendments to the Foreigners Act which allow for future restrictions on access to the asylum procedure. (...) In 2021 the National Assembly accepted the amendments of the Foreigners Act that establish the concept of a “complex crisis in the field of migration”. (...)

Upon activation of the articles the police would have the authority to determine whether a person can apply for international protection after they express the intention to apply. If the police determine that an individual can be returned to another country, they can return the individual regardless of the provisions of the IPA. Exceptions would apply to unaccompanied minors and individuals whose health conditions prevent a return. The assessment of whether someone is an unaccompanied minor would be made by the police based on the person's appearance, behaviour and other circumstances. An appeal against the police order would not have a suspensive effect. In 2022 the amended provisions of the Foreigners Act were not yet activated.

The Slovenian Human Rights Ombudsman notified the European Commission of the newly adopted provisions and his position regarding the provisions. In his statement he noted that as the Government had failed to respect the decision of the Constitution Court by proceeding with the adoption of the amended provisions, there is the possibility that another procedure before the Constitutional Court would not be effective, as the Government could once again fail to respect the decision. In February 2022, opposition parliamentarians submitted the provisions to the Constitutional Court for constitutional review. The decision on constitutional review was not made taken in 2022.



In the first half of 2022 the new government was formed. The new Minister of Interior announced in June 2022 that Slovenia will remove the border fence between Slovenia and Croatia. The works began in July 2022, however only 4,142 metres of the fence were removed until by the middle of September. The new Minister also planned a new migration and asylum strategy that included legislative and policy changes. The Ministry constituted working bodies for preparation of the legislative changes, new integration policies and new migration and asylum strategy. In December 2022 the Minister of Interior resigned and a new one was not appointed by the end of the year.

In 2022 the police detected 32,024 irregular crossings of the Slovenian border. This is a 214% increase in comparison to the previous year. The most common countries of origin of people who were apprehended for irregular border crossing were: Afghanistan (6,010), Burundi (5,142), India (3,868), Pakistan (2,361), Bangladesh (2,110), Russia (1,816), Iraq (1,545), Cuba (1,474), Türkiye (1,294), Iran (940) followed by other nationalities. In practice Ukrainians are not processed for irregular border crossing even if they do not fulfil the entry requirements

According to the statistics, 31,447 individuals expressed their intention to apply for international protection. This is a 456.6% increase from the 4,995 individuals who applied in 2021. In previous years there was a huge discrepancy between the number of irregular crossings and the number of expressed intentions to apply for international protection due to systematic denial of access to the asylum procedure by the police and subsequent readmission of people to the neighbouring countries from which they entered, mainly Croatia. In February 2022 the practice changed and the number of individuals readmitted dropped in comparison with the previous year. Although individuals continued to be readmitted on a monthly basis the number of readmissions continued to drop in comparison with 2021. In 2022 2,361 individuals were readmitted which is a 41% decrease in comparison to 2021. In 2021, 40.5% of individuals who irregularly crossed the border were readmitted to a neighbouring country while in 2022, 7.4% of individuals who irregularly entered were readmitted. This decrease can be mainly attributed to the change of practice of the Croatian authorities who in the beginning of 2022 started to refuse to accept readmitted people back to Croatia.

Out of 2,361 readmitted individuals 406 were from Afghanistan, 311 were from Bangladesh, 277 were from Türkiye, 272 were from Pakistan, 201 were from India, 200 were from Nepal, 153 were from Iraq, 11 were from Kosovo and 88 were from Iran. Out of 2,361, 2,169 individuals were readmitted to Croatia.

Based on the readmission agreements, Slovenia also received 427 individuals in 2022. This is an increase in comparison to 2021 when 217 persons were received. The number in 2022 increased because more people were readmitted to Slovenia through the airport.

Following an Italian court decision in January 2021 mass readmissions from Italy mostly stopped in 2021. The court determined that the 1996 readmission agreement could not form a legal basis for return as it is not in accordance with Italian and EU law. Nonetheless, PIC observed that returns did take place in 2022 based on readmission agreements from Italy to Slovenia. In 2022, 65 people were readmitted from Italy.

Switzerland: There is no reported case of push backs known to the Swiss Refugee council in 2022.

United Kingdom: In September 2020 a parliamentary committee opened a new inquiry on the issue of channel crossings and asylum-seeking routes throughout the EU and following written and oral evidence published its report in July 2022. The government responded in October 2022. The response indicated that its recent reforms (including the 2022 NABA and Rwanda plan) were aimed at deterrence and shortly afterwards a new announcement was made outlining cooperation with the French authorities including monitoring the French coastline, investment in reception and removal centres in France and more funding for surveillance and detection technology.

Border monitoring





Poland (ECRE Fact-finding visit): Frontex's Fundamental Rights Office conducted various visits at different border crossing points, and did not report observing any major issue. At the same time, visits are limited to official crossing points, and monitoring visits are carried out in agreement with national authorities and FRONTEX staff, which means they have to be planned in advance. UNHCR also indicated that its monitoring activities are limited to official border crossing points. No unlawful practices have been identified by UNHCR through these activities, but the organisation expressed concerns regarding the legal changes introduced in 2021, which appear to have had a negative impact on the possibility for individuals to access the territory, as can be observed by analysing statistics on the number of refusals of entry and redirections to Belarus.

Slovenia: There is no systematic border monitoring in Slovenia. Border monitoring is conducted by UNHCR. In 2022 UNHCR conducted 3 visits to police stations where they checked police records and conducted talks with the police. (...)

Border monitoring is also conducted by the Slovenian Ombudsman within the National Preventive Mechanism framework. (...) In 2022 the Ombudsman visited 18 police stations. During one of the visits the Ombudsman noted that the procedures with the foreigners were not conducted individually. In addition, only two foreigners in the group had the chance to give a statement during the procedure. The Ombudsman reiterated that the right to be heard is one of the basic procedural rights that allows a foreigner to defend their rights and legal interests. If the foreigner does not have the chance to give a statement during the procedure and if their statements are not recorded it is not possible to subsequently check how the police procedure was conducted.

Criminalisation of solidarity and access to the territory

Greece: In May 2022, four additional organisations were reportedly under criminal investigation for potential involvement with smuggling networks, because they notified the authorities about the location of newly arrived migrants and requested authorities to intervene to provide assistance and provide access to asylum procedure in Greece. In the next months, no investigations took place but it was created an increasingly hostile environment on the field of the HRD's work in Greece and a widespread fear of criminalization.

Soon after, in June 2022, UN special rapporteur on human rights defenders, Mary Lawlor, carried out an official country visit to Greece from 13 to 22 June 2022 following invitation from the government. (In the statement on preliminary observations) It was also noted that "the sense of pervasive fear that is felt by a significant segment of human rights defenders, which seems to be a direct result of the criminalization of migration and their legitimate, peaceful work for the rights of refugees, asylum seekers and migrants.

Later, in January 2023, regarding the charges on 24 human rights defenders who were helping to rescue migrants in distress at sea in Lesvos in Greece, the UN Special Rapporteur on the human rights of migrants stated that: "Trials like this are deeply concerning because they criminalize life-saving work and set a dangerous precedent. Indeed, there has already been a chilling effect, with human rights defenders and humanitarian organisations forced to halt their human rights work in Greece and other EU countries". On 13 January, the espionage charges were dropped by the Court.

Prosecutions of activists working with migrants continued in year 2022 and early 2023, against the founders of the Greek Helsinki Monitor (GHM) and of the Aegean Boat Report (ABR), who were both subjected to investigation and charged by Greek judicial authorities on the island of Kos for "forming or joining for profit and by profession a criminal organization with the purpose of facilitating the entry and stay of third country nationals into Greek territory."

Italy: On 14 October 2021, the criminal Court of Naples sentenced a commercial vessel captain, Asso28, to a one-year imprisonment, due to having returned migrants to Libya. On 30 July 2018, the vessel intercepted a rubber dinghy with 101 people on board and, having taken on board a Libyan customs officer, he let him carry





out the rescue and return operations to Libya of the migrants. The captain was acquitted of the charge of "disembarkation and arbitrary abandonment of persons", pursuant to art. 1155 of the navigation code, and of "abandonment of minors" pursuant to art. 591 of the penal code. For the first time, the return to Libya led to the condemnation of a private boat. The conviction of the ship's captain was confirmed by the Court of Appeal of Naples on 10 November 2022.

In June 2020 the Criminal Appeal Court of Palermo overturned the decision of the Criminal Court of Trapani that had acquitted two migrants rescued at sea by Vos Thalassa ship in 2018 who had rebelled aboard the ship threatening the captain and the crew once they realized that it was bringing them back to Libya. (...) Through Decision n. 15869/2022, adopted on 16 December 2021, and published on 26 April 2022, the Court of Cassation overturned the decision issued by the Court of Appeal of Palermo, reaffirming the principle that the migrants rescued at sea, asserting their right not to be refouled to Libya, were justified in resisting return procedures, as soon as their reaction to the risk of refoulement was proportionate and there were no prove of collusion with the traffickers.

On 25 November 2022, the Criminal Court of Trieste acquitted a man accused of having provided false personal details to the authorities, in order to be registered as a minor. The Court recognized that the man was justified as he had acted in a state of necessity, to protect himself from the danger of serious harm that was the chain refoulement from Italy to Bosnia, which, in any case, he then suffered, being victim of inhuman treatment in Croatia, before being able to return to Italy and obtain refugee status.

The criminal proceeding against the NGO Baobab, accused of aiding illegal immigration for helping 9 asylum seekers to buy train tickets to reach Ventimiglia after the eviction of an informal reception centre in Rome in 2016, was considered unfounded by the Criminal Court of Rome (Judge for the preliminary hearing, GUP) who acquitted the NGO on May 2022.

Malta: The main 2022 case regarding criminalisation of rescue at sea was the El Hiblu case going on since 2019. (...)

During another hearing held on 3 February 2022, a witness declared that it was the captain of the oil tanker El Hiblu who approached the three men accused of hijacking it, calling them into his cabin after seeing them calming down the panicking migrants it had rescued. (...) Another hearing was held on 8 February 2022 where a witness was summoned to testify and based on his testimony he was threatened to being held in contempt with the court and remanding him in custody.

No further hearing has been held in 2022.

On 29 September 2022, an open letter was addressed to Malta's Attorney General Dr. Victoria Buttigieg by members of the Free the El Hiblu 3 campaign asking the Attorney General to drop the charges.

Concerns have been raised regarding the criminalisation by the authorities of the use of false documentation by asylum-seekers in their attempt to enter Malta. (...) In the past years, several cases of applicants for international protection imprisoned and convicted for that reason have been reported, including cases of very young individuals. NGOs expressed their concern over the situation as this criminalisation goes against the provisions of the 1951 Geneva Convention and penalises persons opting not to risk their lives at sea. Unless a lawyer or an NGO assists them, it is unlikely these individuals will be given the chance to lodge their international protection application before the end of their sentence. (...) In 2021, 34 migrants were convicted to prison sentences of the above-mentioned articles at law while only 14 migrants were convicted in 2022. This number however does not include minors, as information on this regard is not made public. In 2022, the majority of convicted adults were sentenced to an affective term of imprisonment of six months, provided that in cases where the individuals were convicted of multiple offences a longer term of imprisonment was imposed. NGOs and lawyers reported that several individuals, mostly from countries of origin listed as safe in





the IPA Act, are sent to detention in Hal Safi directly after they finish their prison sentence due to their asylum claim not being processed before the end of their term. (...)

- On 8 February 2022, the Court of Criminal Appeal in its Inferior Jurisdiction decided to revoke the Court's initial sentence whereby the 17-year-old appellant was sentenced to one-year imprisonment. The court found that since the appellant was a minor, he was considered more vulnerable and susceptible to trafficking and exploitation, and hence invoked a one-year probation period rather than an effective jail sentence.

On 27 October 2022, the Court of Criminal Appeal in its Inferior jurisdiction stated that, in certain cases, although the entry into the territory of a country is deemed to be illegal, the circumstance of the case would deem it to be justified. The court highlighted that when faced with cases falling within the ambit of article 189 of the Maltese Criminal Code, the court has to decide on a case-by-case basis, taking into account the United Nations Convention Relating to the Status of Refugees, to which Malta is a signatory. The Court provided that according to the most recent jurisprudence, in cases relating to Refugees, the accused were normally sentenced with a six-month jail term, which is the minimum sentence stipulated at law. The court confirmed that although under Maltese law court precedence does not find application, this has over time developed as a form of sentencing policy. The Court of Appeal therefore amended the judgment of the first court and reduced the penalty from a nine-month imprisonment sentence to six months.

Poland (ECRE Fact-finding visit): Activist organisations reported having had a period of particular clash with Polish authorities between November 2021 and March 2022, when many were stopped by the police or the Border Guard and accused of supporting smugglers; in one occasion in March 2022, KIK's activists were questioned and their personal belongings were confiscated, and returned only in September 2022.

Access to the asylum procedure

Bulgaria: In 2022, 4,233 asylum seekers were able to apply for international protection at the national entry borders and only 1% of them (i.e. 49 individuals) had direct access to the asylum procedure without detention. The remaining 99% who were able to apply at entry borders were sent to the Ministry of Interior's pre-removal centers. It showed worsening of the situation as far as in the previous 2021 3% (34 out of 1,065 asylum seekers) of the applicants at entry border had direct access to procedure and protection.

Cyprus: In early 2022, it was reported that each day between 40 and 50 newly arrived persons were not admitted for registration, and returned the following days until given access. In late 2022 due to the high number of arrivals it was decided to admit a maximum of 60 persons per day to keep the numbers of persons in the Centre under control. Due to this approximately 40 persons were denied admission each day, leading to some persons entering the Centre irregularly in order to find shelter and others sleeping outdoors in front of the registration gate in the hopes of securing a position in the queue the following day. Several DIY tents and shelters have appeared around the centre, mostly inhabited by persons awaiting registration.

Spain: In May 2022, the UNHCR Representative for Spain expressed concerns for the long waiting time for obtaining an asylum interview appointment, especially in certain provinces, and affirmed that the resources allocated to ensuring access asylum in Spain are not adequate.

Due to a computer mistake, all asylum applications lodged from the end of January to the end of March 2022 in the province of Valencia went lost.

In 2022, it was reported that asylum appointments were sold on the black market, with offers published also in Wallapop. In November, the Provincial Public Prosecutor Office started an investigation on the issue, following a denounce lodged by SOS Racismo and Extranjeristas en Red. In December, a group of asylum





seekers gathered in front of the Minister of Interior to protest against the violation of their rights due to the lack of asylum appointments. They also lodged a claim in front of the Spanish Ombudsman.

In order to improve the access to the asylum procedure through the prior appointment, and to assess the possibility that the waiting time does not exceed 1 month, the Commission of Internal Affairs at the Congress approved a legislative proposal.

In January 2023, the obstacles and long waiting times to ask for asylum in Burgos was also denounced. Provinces in which at times it was impossible to receive an appointment for registration via internet or no appointments were available throughout 2022: Almería, Málaga, Sevilla, Zaragoza, Gijón, Salamanca, Valladolid, Barcelona, Madrid, Castellón, Valencia, Alicante, Vitoria, Coruña, Cartagena and Murcia.

In a report on the human rights violations in the Canary Islands published by the NGO Irídia on May 2022, the organisation denounced the practice of detaining migrants who go to police stations to request information on asylum.

France: Reports of people being refused entry without their protection needs being taken into account at the Italian border persisted in 2022.

In a report published in September 2022, the NGO Anafe described the main places of detention at the French-Italian border (Menton Garavan, Menton Pont Saint Louis, Montgenèvre, Frejus) and confirmed that many violations of fundamental rights have been observed there.

Regarding access to asylum in waiting zones, mainly at airports, difficulties have been reported by ANAFE in a report published in January 2022 and in an open-letter in October 2022.

Greece: According to data provided by the Ministry of Migration and Asylum by June 30 2022, the total number of pre-registrations of asylum claims (“registered intentions”) pending lodging was 9,491, which amounts to a 7.14% increase compared to the first half of 2021. Out of the total, 1,533 were submitted to the Asylum Service, 3,701 to the Reception and Identification Service and 4,257 to the Greek Police. The Asylum Service received 10,545 new applications in the first half of 2022.

Different procedures were applied for arrivals in Rhodes, as, up until November 2022, certain arrivals were considered as illegally residing in Greece and they were transferred to the Pre- Removal Detention Centre of Kos while others were given a police note and they were transferred to the mainland. No reception services were provided for either category. Since November 2022 the procedure changed and the newly arrived to Rhodes Island are finally considered as new arrivals and are transferred to the Kos RIC (now CCAC), where they are being provided with reception services and their asylum applications are being processed.

Croatia: The number of applicants for international protection increased significantly from 3,039 in 2021 to 12, 872 applicants in 2022. Although detailed statistics were not made available by national authorities, the recognition rate remained low as only 21 persons were granted asylum in the course of 2022. Croatia continues to be a transit country as the majority of applicants for international protection leave Croatia to other countries. In the second half of 2022 further intensification of transit migration levels was observed as during August and September 2022 applicants were staying for an average of 3 days. According to the report of independent monitoring mechanism covering the period June 2021-June 2022. approximately 80% of persons who applied for international protection and were therefore accommodated in the Reception Centre for Applicants for International Protection in Zagreb had left the Reception Centre and their proceedings were suspended.

Italy: Reports of denial of access to the asylum procedure recorded by ASGI continued in the last three years. However, from the early months of 2022, the situation reached unprecedented critical levels. Where they prevent access to the procedure, Questure do not issue any document attesting the intention of the persons concerned to seek asylum. This exposes them to risks of arbitrary arrest and deportation. In recent years, this problem mainly affected people who disembarked, as they had to face the so-called hotspot procedure, being





channelled to the asylum procedure or to a deportation procedure (being sent to a CPR) mainly depending on their nationality and on the base of a “foglio notizie” not translated in their language and fulfilled without an effective assistance from cultural mediators. This still happened in 2022, and such practices were still reported mainly concerning Tunisian and Moroccan nationals.

In 2022, there were numerous reports of cases in which access to the asylum procedure was hindered on even on national territory, and practices widely differed among different areas of the territory.

As detailed in the report published by Altreconomia, many Questure declared having set several conditions, not established by national law, that potential asylum seekers are asked to satisfy before being allowed to access the asylum procedure.

Some Questure, for example, ask to apply by certified mail, others personally, others by lawyer. Several reported accepting only a limited number of asylum requests per day or per week and that, often, lawyers are not allowed to access the competent office together with their clients.

Moreover, some Questure such as the one of Sassari and Siracusa, declared to ask to submit legalised documents to prove the family bond among parents and children who are, otherwise, prevented from applying.

The system adopted by the Questura in the last months of 2022 and still valid at the time of writing, consists of the collection of names for the appointment to express the intention to apply for international protection, only on Mondays in a maximum of around 120.

There are no rules for standing in line and people have therefore started sleeping in front of the police station since Sunday night with serious risks for the personal safety of people, even recently victims of repressive violence by the police. Also, the police usually select people to to give the date for the appointment.

The situation has been covered by various press articles.

Regarding the requests of evidence of family bonds, in 2022 some Questure - such as those of Caserta and Rome -, started, as reported to ASGI, to ask for a DNA test to prove the family bond.

As reported to Asgi, the Questura of Bologna refused to formalise an asylum request of a family lacking family documents.

On 14 October 2022, the Civil Court of Turin accepted the appeal lodged by an asylum seeker from Morocco who had obtained to access to the asylum procedure just a few days before the end of his prison sentence. The Territorial Commission applied an accelerated procedure and evaluated the asylum request to be manifestly unfounded. Judging on the appeal presented by the applicant, the Court of Turin established that the applicant should be granted special protection, due to his long stay in Italy and to the family ties created in the country.

As recorded by ASGI, in 2022, as in previous years, in many cases the detained, not informed of the possibility and the way to ask for asylum, could not express this will even before the Judge of the Peace (Giudice di Pace) at the hearing to validate the detention. Only in some cases they were able to submit the asylum request thanks to their lawyers after the detention order had been issued. This was possible, however, mainly in the CPRs, such as that of Gradisca, where mobiles are not seized.

Regarding the possibility to apply for asylum by applicants serving prison terms, ASGI recorded ample difficulties in recent years.

Netherlands: Pre-registration: due to the high number of asylum applications and the ongoing capacity problems at the IND, (...) an alternative procedure has been introduced. Since 10 September 2022, submitting an asylum application in Ter Apel cannot be done immediately. Instead, once the asylum seeker reaches the centre Ter Apel, an IND employee will register their basic information such as their identity, nationality and origin. This is called the pre-registration (Dutch: ‘voorregistratie’) and is not yet considered an official asylum application. After pre-registration, asylum seekers are divided into four groups: (1) first applications, (2)



unaccompanied children (AMV's), (3) family members eligible for family reunification, and (4) others. Only those applying for asylum for the first time are transported to a temporary shelter location (tijdelijke opvanglocatie) in Zoutkamp (in the North-West of Groningen). The other groups will be accommodated at Ter Apel. Having arrived at Zoutkamp, asylum seekers will have to wait for the confirmation of their appointment for registration in either Ter Apel or Budel. This waiting period can in some instances take four months.

After receiving confirmation of their appointment, an asylum seeker will travel from Zoutkamp to either Ter Apel or Budel, where identification and registration will take place. The AVIM will register the asylum seeker by taking their fingerprints and taking a photo. The asylum seeker will sign their asylum application and the application is officially lodged. After the registration the asylum seeker will be transported to a reception centre elsewhere in the Netherlands. Within three months, the asylum seeker will receive an invitation for their first interview.

During the beginning of 2023, asylum seekers arriving at Ter Apel were registered according to the regular registration procedure again, meaning they do not have to travel to the temporary shelter location at Houtkamp. However, during February 2023 many people were only pre-registered again, and had to travel to Houtkamp for accommodation and to wait for official registration. At the end of February 2023, the Houtkamp location will be closed down, meaning all asylum seekers arriving at Ter Apel will be officially registered again the moment the asylum application is lodged.

Poland: The humanitarian crisis at the Polish-Belarusian border, that has started in 2021 and continued in 2022, left many prospective asylum seekers without access to material reception conditions. Foreigners that were stuck on that border or pushed back to Belarus were often not allowed to apply for international protection in Poland – against Polish, EU and international law – thus, they could not obtain material reception conditions, including medical assistance, that is available to asylum seekers whose applications have been registered.

In 2020, when the applications for international protection could not be lodged, mostly the 'declarations of intention to submit the asylum application' were accepted and registered by the Border Guards. However, by law, the persons who 'declared the intention to submit the asylum application' are not covered by the medical and social assistance since they are not considered yet as applicants under national law. In a letter to the Ministry of the Interior and Administration, the Consortium of NGOs raised the need to include these persons in the social system for asylum seekers (see Obstacles to accessing reception). According to the Office for Foreigners, there were 4,013 persons who declared the intention to apply for international protection in 2022, compared to 937 in 2021 and 298 in 2020. Unfortunately, the declarations are registered without any information on legal grounds.

Romania: CNRR reported one case where the Border Police refused to register the asylum claim at the Otopeni International Airport. There were 2 Indian citizens who arrived in Romania on 26.09.2022, with the intention to continue their journey to their final destination, Belgrade, Serbia. They were detained in the transit area of the Otopeni Airport without being informed about the reasons. They stated that they manifested their will to make an asylum claim and that they did not receive any information about their requests being registered. They were eventually returned to Cairo, Egypt (the country from which they travelled to Romania), and the justification of the Border Police was that they were part of a larger group of Indian citizens who encountered problems with the airline companies with which they travelled and were supposed to continue their journey. The airline company who was supposed to take them from Otopeni to Belgrade refused to board them on the plane due to a misunderstanding between this company and the one which brought them from Cairo. The Border Police argued that it was not within their competence to intervene in this situation. No further explications were submitted and there was no prompt response to the urgent request from the CNRR counsels to be granted access to the respective foreigners for assistance in the transit area.



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

Legal assistance at first instance

Austria: In December 2022, the Constitutional Court announced that it will start proceedings and an examination of the constitutionality of the BBU-G and whether the mechanisms provided are sufficient to guarantee the independence of the legal counselling body in the sense of Art 47 FRC.

Bulgaria: Asylum seekers have the right to ask for the appointment of a legal aid lawyer from the moment of the registration of their asylum application. However, legal aid in first-instance procedures has still not been implemented as of the end of 2022.

(...) In 2022, legal aid was not provided to applicants other than unaccompanied asylum seeking and refugee children. It represented significant deterioration in this respect as 50 asylum seekers at first instance had been assisted with state provided legal aid in 2021, and 818 vulnerable applicants in 2020.

Cyprus: Until late 2022 Attached to this first page is only a half-page summary of the reasoning of the decision was provided and this is provided only in Greek or rarely in English, whereas a (...) From late 2022 onwards a detailed reasoning of the decision is provided in cases of negative decisions, which is a positive development as it provides the applicant and legal advisors/lawyers with immediate access to the reasons the asylum application has been rejected. However the reasoning is only provided in Greek or English.

Germany: With the entry into force of the Act on the Acceleration of asylum court proceedings and asylum procedures on 1 January 2023, the state-run counselling is to be replaced by independent counselling, financed by the Federal Government but carried out by welfare associations or 'other civil society actors'. This is in line with long-standing demands from welfare associations (see below). The BAMF will continue to carry out the first stage of counselling as described below, whereas independent organisations will carry out individual counselling. Throughout 2022, counselling of asylum seekers was done by the BAMF, and this is to continue until the new system is established.

As of 1 January 2023, the provisions on counselling have been reformed and it now encompasses advice on legal remedies against asylum decisions, but falls short of covering legal representation at first or second instance.

Greece: Since June 2020, by decision of the administration of Central Asylum Service, there has been a "Provision of legal assistance through video conference to the Regional Asylum Services of Leros, Samos, Chios and Lesbos due to increased needs in the provision of legal aid services in the second degree to applicants for international protection". However, in practice in a significant number of cases taken over by lawyers on the mainland, the latter had no communication with the rejected applicants before drafting the appeals. This is something that continued throughout 2021 and 2022. As a result, appeals have taken into consideration solely the material already included in the file and the appellants had no way to communicate to their appointed lawyer any new elements related to their case and/or new significant documents. Moreover, some asylum applicants reported communication issues with their state-registered lawyers and the short duration of their preparation meetings.

Hungary: On 7 December 2022, the Hungarian Parliament amended the Stop Soros law in a last-minute amendment that was introduced through a parliamentary supercommittee to an unrelated omnibus bill. The changes entered into force on 1 January 2023. In the HHC's view, the amendments fail to implement the CJEU's judgment. The general criminalisation of assistance was replaced by a new, vaguely defined criminal activity that jeopardises the attorney-client privilege, and in the case of non-attorney helpers, forces them to sacrifice the applicant's best interests in order to protect themselves from potential prosecution.





Ireland: (Following an admissibility procedure) the lack of transparency with respect to the information and legal assistance provided to persons refused access to the international protection procedure, particularly those at the frontiers of the State who are refused 'leave to land', remains an ongoing concern in 2022.

The Irish Refugee Council assisted a number of people who had registered with the Legal Aid Board and had been told to complete the questionnaire by themselves due to a general lack of capacity within the Legal Aid Board or a lack of capacity within the solicitors on the Legal Aid Board panel. Anecdotal reports show that the level of funding provided to the panel is insufficient to cover the number of hours required to give comprehensive representation. This issue persisted as of January 2023, with many applicants waiting in excess of 6 weeks to be assigned legal representation by the Legal Aid Board.

Malta: NGOs reported they received consistent testimonies of asylum seekers who arrived in 2022 claiming that the first people they met were individuals from the Returns Unit from the Ministry for Home Affairs, who reportedly tried to coerce them into signing declarations of voluntary departure by telling them that if they apply to asylum, they will remain in detention for 2 years before they are sent back to their country of origin. Asylum seekers also claimed that they were later given the same options by inspectors of the Immigration Police which they could identify by name. This, they claimed would happen weeks or months before they could access a lawyer or apply for international protection. The UNHCR confirmed having received such testimonies as well.

However, it must be noted that recent years saw some positive improvement with the creation of the Migrant's Advice Unit (MAU) by AWAS staffed with welfare officers who provide information on employment, housing, education and health. The Unit reportedly gives group sessions on services and activities to assist with integration into the community. Each open centre has a member of the team operating as a focal point for referrals to other stakeholders. AWAS reported that a total of 2947 information sessions were delivered by Migrants Advice Unit in 2021.

NGOs welcomed this improvement and aditus foundation's lawyers met with the team in June 2022 to exchange on the needs of residents and answer questions from the MAU members. An informal referral system was put in place, where the MAU can call or send an email to aditus' lawyers to inquire about a more complex issue and refer the person appropriately.

Netherlands: It should be noted that asylum seekers receive a brochure from the IND at the start of the registration procedure; however, the brochure just provides general information about the asylum procedure in the Netherlands, and cannot be considered as a substitute for individualised assistance. On 25 February 2022, the Regional Court of Zwolle agreed with the asylum seeker that due to their explicit request for legal assistance at the start of the application procedure not being addressed, the Secretary of State had violated the principle of due care. (Regional Court of Zwolle, Decision [No NL21.19915](#), 25 February 2022.)

Poland: Reduction of the no-entry zone near the Polish-Belarussian border from around 3 km from the border to 200 m from the border, which took place on 1 July 2022, made it easier for the lawyers to provide legal advice. However, as noted by NGOs, this does not mean that there is a full access to legal assistance. Pushbacks happen so quickly that sometimes the legal representative does not have the opportunity to present his power of attorney, and s/he learns about the push back only after the fact. We have also received information that the Border Guard sometimes questions the authenticity of powers of attorney concerning - especially if they concern legal representatives who are not professional attorneys. There were also cases of termination of powers of attorney by migrants, acting under the influence of the Border Guards, who were supposed to present them with false information, for example that they would receive other, better legal assistance.

Slovenia: The AMIF project enabled PIC lawyers to represent all asylum seekers during the asylum procedure. Since then, PIC continues to provide free legal help and representation, but on a smaller scale. In 2022 PIC





assisted more than 810 asylum seekers. PIC lawyers provide legal information about asylum, represent the asylum seekers during the application and throughout the first instance procedure.

In 2021 the Ministry of Interior published a new AMIF call for individuals, particularly refugee counsellors to provide free legal help and representation to asylum seekers during the first instance. Under the program free legal help and representation would not be provided to all asylum seekers. Vulnerable and detained asylum seekers would be provided with free legal help and representation for lodging the application while others could be provided with the services during the personal interview if they asked for representation. Non-governmental organisations were not able to apply to the call. The call was not public but was instead sent to a limited number of refugee counsellors that were selected by the Ministry of Interior. Out of the applications 6 refugee counsellors were selected for the call based on the offered price and their references. The project lasted from April to the end of November 2022. The project implementation was very inconsistent and discriminatory against vulnerable individuals. PIC estimates that throughout the project implementation (1. 4. 2022 – 30. 11. 2022) only 135 asylum seekers were provided with free legal help and representation, more than 60% being unaccompanied minors. In the time period of the project implementation 4,282 asylum seekers lodged an application for international protection, meaning that less than 3% were provided with free legal help by the AMIF project. Vulnerability assessment is not conducted before or while lodging the application therefore access to free legal aid within this pilot project was not provided to the majority of eligible individuals.

Sweden: The EUAA Annual Report p. 198 mentions that the Swedish Refugee Law Centre continued to offer remote counselling in 2021 due to COVID-19 restrictions. However, this does not mean that the continuation of remote counselling was solely because of the COVID-19 pandemic. The remote counselling was actually maintained as a way for the centre to continue to reach a wider group of asylum seekers. With remote counselling, the centre could provide legal advice to individuals who may not have been able to access in-person services, either due to geographical barriers or COVID-19 restrictions. By offering remote counselling, the Swedish Refugee Law Centre could continue to help a larger number of asylum seekers understand their rights and the asylum procedure.

Switzerland: In 2022, the SEM has decided that the granting of free legal advice should also apply to persons who file an asylum application from detention, thus changing its long-term practice.

Legal assistance at second instance

Austria: One project run by Caritas Austria offers assistance during the hearing before the Federal Administrative Court, but this resource is limited and therefore only a certain number of cases can be assisted. AMIF funding is no longer guaranteed but the project continues on a smaller scale with alternative funding. It also worked on a very small scale during 2022.

Cyprus: In 2022, there was an increase in the number of applications for legal aid as 225 applications were submitted. However, the number still remains low as over 8,000 appeals were submitted before the IPAC in 2022.

Greece: As indicated above a total of 8,304 appeals were lodged against Asylum Service decisions in the first semester of 2022. According to Ministry of Migration and Asylum data, only in 3,872 cases did appellants request free legal assistance through the Registry of Lawyers managed by the Asylum Service under the terms and conditions set in the Ministerial Decision 3449/2021. According to the same source all legal aid requests were met. Since it is unlikely that the remaining 46.63% of appellants had either sufficient funds and/ or access to free legal provided by NGOs, the aforementioned discrepancy rather highlights the difficulties faced by applicants in accessing and securing state funded free legal aid in appeals procedure, as provided by law.





Italy: The Court of Cassation ruling at United Sections, with decision n. 15177 published on 1 June 2021, gave a very formalist interpretation of the provision of Article 35 bis c.13 of LD 25/2008 - as amended in 2017 - concerning the power of attorney for the Cassation procedure in international protection cases (Court of Cassation, decision n. 15177 of June 2021, available in Italian at: <https://bit.ly/3Jf43TH>). The interpretation given by the Court will affect the admissibility of many pending cases, as it established that when bringing a case to the Court of Cassation, the lawyer has to expressly certify not only the client's signature on the specific power of attorney, but also that the date is posterior to the judgement appealed.

The third Section of Court, however, submitted a question regarding the constitutionality of the interpretation given to the provision by the United Sections to the Constitutional Court.

The Constitutional Court, with Decision n. 13 of 2022, rejected the question and declared that said interpretation was in line with constitutional provisions, ruling that "In the case of the contested provision, however, it cannot be considered that the declaration of inadmissibility of the appeal in the hypothesis of a special power of attorney, the date of which, after the pronouncement of the contested provision, has not been certified by the defender, constitutes an expression of excessive formalism in the application of the procedural rule." (Constitutional Court, Decision n. 13 of 2022, available in Italian at: <https://bit.ly/36nS8Ec>)

Poland: In 2022, 169 applicants appealing the decision of the Head of the Office for Foreigners benefited from the free legal aid system, 21 persons were assisted by counsellors or advocates and 126 by NGO lawyers. Taking into account the overall number of appeals (1,531) in 2022, the system does not have much impact on effective provision of legal aid to applicants.

There is also a separate free legal aid system for the administrative court proceedings (onward appeal). (...) In 2022 the Voivodship Administrative Court in Warsaw (examining all the complaints against decisions regarding international protection) granted free legal assistance in 30 cases and refused to grant it in 33 cases.

Access to information

Bulgaria: In 2022 UNICEF developed for SAR special videos in Arabic and Farsi/Dari/Pashto languages targeting as audience the unaccompanied asylum seeking and refugee children. The videos aim to promote the specialized childcare facilities (ЛНСТ) where the children should be accommodated after the recognition, but also can be accommodated during the asylum procedure. Since mid-2022 the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЛНСТ). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to wait the reunification with their parents or other family members in SAR reception centres. However, the majority of the children do hesitate to leave the familiar conditions of the reception centres. Therefore the videos show-case other children who have been already accommodated in specialized childcare facilities who share their positive experience thus assisting to mitigate the existing prejudice among the children in reception centres and their anxiety of the unknown.

As regards urban asylum seekers and refugees living in the Sofia region, UNHCR has funded an Information Centre, run by the Red Cross along with an Information Bureau for Third Country National, co-funded by Sofia Municipality, both located in Sofia. In 2022 altogether 992 asylum seekers and beneficiaries of international protection (438 individuals at the Information Center; 554 at the Information Bureau) were provided 1,494 consultations and different types of information (654 consultations at the Information Center; 842 consultations at the Information Bureau).

From mid-April to end of May 2022, UNHCR and UNICEF gradually opened Blue Dot services at two main border entry points in Ruse and Durankulak as well as in the rest of the major hot-spots in Sofia, Varna,





Dobrich and Burgas, which after the beginning of the war in Ukraine received and hosted large number of refugees.

Monitoring from the Bulgarian Helsinki Committee in 2022 shows that oral guidance on determination procedures is provided by caseworkers in the majority of the cases (94%) with information brochures delivered in 77% of the cases.

Cyprus: In practice, the provision of information has always been one of the most important gaps in the system and remained so throughout 2022. There has never been sufficient information provision. Overall there is extremely limited information available, written or otherwise and very few information providers, mainly NGOs with limited capacity.

Greece: According to Article 47 (1) of L. 4939/2022, the competent authorities shall inform the applicant, within 15 days after the lodging of the application for international protection, of his or her rights and the obligations with which he or she must comply relating to reception conditions, by providing an informative leaflet in a language that the applicant understands. This material must provide information on the existing reception conditions, including health care, as well as on the organisations that provide assistance to asylum seekers. If the applicant does not understand any of the languages in which the information material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter. However, access to comprehensive information remains a matter of concern, especially in the context of asylum, due to the expanded set of obligations and penalties that can be imposed on applicants based on L. 4939/2022.

Italy: According to the SOPs, all hotspots should guarantee inter alia “provision of information in a comprehensible language on current legislation on immigration and asylum”, as well as provision of accurate information on the functioning of the asylum procedure. In practice, however, concerns with regard to access to information persisted in 2021 and 2022.

most recent visit to the Lampedusa hotspot, conducted in March 2022 by ASGI’s delegation: legal information is not provided on an individual basis, but rather through a paper brochure delivered to the person without specific instructions being given. While waiting for the photo identification, groups of people stop in a designated area of the centre where, through the use of two monitors other information is provided. These tools in the presence of the usual large number of people do not ensure adequate information as imposed by Article 3, Legislative Decree 142/2015.

Portugal: Despite having been designated as legal representative of a significant number of unaccompanied children who applied for asylum in 2022, CPR is unaware of the provision of child-friendly information by SEF, including the specific information leaflet for unaccompanied children and the information leaflet provided for by Article 4(3) of the Dublin Regulation.

Romania: Rădăuți: no collective information sessions were held in 2020 or in 2021, 2022 according to a stakeholder. According to the director of the centre asylum seekers are informed in writing when they arrive in the centre. Subsequently, the information about asylum seekers’ rights and obligations and the procedure is provided by the NGOs individually. CNRR presents them a video with all the relevant information. Group information sessions with an interpreter were held when ROI was breached.

Galați: when transferred asylum seekers are accommodated in the centre there is no information provision, because they arrive very late. Group information sessions with the help of an interpreter are held 24-48h after their arrival in the centre. IGI-DAI provides on their rights, obligations, ROI, Dublin Procedure, services provided by each NGO. When the asylum claim is made directly at the centre information is provided in writing.





Sweden: In December 2021 Swedish Public Radio reported that due to a significant increase in the number of questions received by e-mail there had been a long waiting period for a reply from the Migration Agency. In 2022 it has not been reported that this particular problem has continued.

Information is also provided by NGOs, notably by the Swedish Network of Refugee Support groups (FARR), which published on its website an 152-page booklet entitled Goda Råd (Good Advice), updated in May 2022, available in several languages. This information on the entirety of the procedure focuses on what asylum seekers can do themselves to contribute to a fair process and contains links to other NGOs in Sweden. This information is available and can be downloaded in English, Swedish, Arabic, Russian, Spanish and Persian.

Access to NGOs

Cyprus: Kofinou centre. Regarding access to the Centre for NGOs, there is limited access and only upon approval by the Asylum Service, however access is granted in most cases. A new structure to host residents and volunteers in order to carry out activities, operating as an integration hub, was developed and operated during 2021. This space was affected by the renovations in 2022 and is now temporarily closed. Activities are currently taking place in a container donated by the Red Cross and EUAA has also made a section of their container available to use to this end. Throughout 2022, 9 organisations have had regular access to the Centre, providing medical supplies, psychosocial support, language classes, upskilling workshops and activities specifically aimed at children including psychological therapy, occupational therapy, arts and sports classes, and educational support for easier integration.

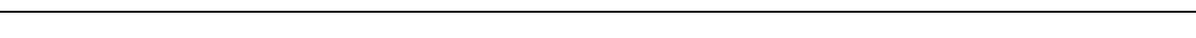
France: In 2021, the prefects of Alpes-Maritime and Hautes-Alpes again issued new decisions denying the access to NGO's, but the administrative courts of Nice (4 March 2021) and Marseille (16 March 2021), and then the Council of State (23 April 2021), confirmed the illegality of these decisions. However, the Council of State refused the main request, which was the closure of these places of detention. In a similar decision published in September 2022, the administrative court of Grenoble ordered the State to authorise access to the detention centre in the Fréjus tunnel but did not order the closure of this place.

Greece: In May 2022, GCR was denied access to visit VIAL (Chios RIC). RIS claimed that the number of residents had significantly decreased and there was no longer need for legal information and assistance. In January 2023, lawyers working for a registered legal aid NGO operating in Samos CCAC, reported that the CCAC administration informed them that they will no longer have access to the CCAC unless they issue a smart card.

According to Article 60 (2)(b) of L. 4939/2022, asylum seekers in reception facilities have the right to be in contact with relatives, legal advisors, representatives of UNHCR and other certified organisations. These shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.

With the exception of NGOs that are operational within a site and enrolled to the registry of NGOs of the MoMA, access to temporary accommodation Centres, Reception and Identification Centres and the new Closed-Controlled Centres is subject to prior official authorization at the central level, while the Director of each facility may define more specific terms and conditions for each relevant visit (e.g. time of visit).

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)





Interpretation

Austria: In most cases, external interpreters were hired throughout 2022.

Bulgaria: Both at first and second instance, interpretation continued to be difficult in 2022, and its quality was often poor and unsatisfactory. Interpretation in determination procedures remains one of the most serious, persistent and unsolved problems for a number of years. Interpretation is secured only from English, French and Arabic languages, and mainly in the reception centres in the capital Sofia. Interpreters from other key languages such as Kurdish (Sorani or Pehlewani), Pashto, Urdu, Tamil, Ethiopian and Swahili are scarce and largely unavailable. In such cases, as well as in cases when an interpreter from the spoken language is available in another reception centre, the asylum administration organises videoconference interpretation. Communication interruptions and other technical problems are the most common obstacles during interpretation via videoconference. It often creates an environment which does not allow the applicant to present properly his accounts in a detailed and systematic way, thus preventing the case worker from clarifying the relevant facts and circumstances for the decision-making process. The scarce fees paid for interpretation by the asylum agency SAR remain one of main reasons for the lack of proper interpretation during the eligibility interviews at first instance.

(...)

65% of the monitored court hearings were assisted by interpreters in 2022.

Greece: Until 30 September 2022 interpretation was provided both by interpreters of the NGO METAdrasi and EUAA interpreters. Following the non-renewal of the agreement with the NGO METAdrasi, the capacity of interpretation services has been challenging, as currently, EUAA is the sole provider of such services. The use of remote interpretation has been observed more frequently and is not limited to distant RAO and AAU. Technical deficiencies and constraints should be taken into consideration when assessing the quality of remote interpretation. When it comes to rare languages, if no interpreter is available to conduct a direct interpretation from that language to Greek (or English in cases examined by EUAA case workers), more interpreters might be involved in the procedure.

Hungary: In 2022, the HHC lawyers did not report any problems with the interpretation through videoconference. However, it was reported that sometimes the interpreter does not stay in the neutral position and does not translate in an objective manner.

Poland: In 2022, the Office for Foreigners did not report any problems with availability of interpreters, which are provided by an interpretation agency.

Romania: The director of Timisoara centre reported that the Border Police is using interpreters that IGI-DAI is refusing to contract because there were suspicions that they were connected with the smugglers.

Galati: according to the director there is lack of interpreters. Interpreters of rare languages such as Somali, Tigrigna and other languages from Ethiopia and Eritrea are hard to find, or even not existent in the whole country. There is only one Somali interpreter in Bucharest. Double interpretation (from one language to another and then into Romanian) was not used in 2022.

Rădăuți: IGI-DAI frequently uses the same three interpreters – one for Arabic, one for Farsi / Dari / Urdu and Kurdish. In 2021 IGI-DAI also contracted a female Arabic interpreter. The Farsi interpreter is also used in Galati by IGI-DAI and the courts. Double interpretation was used in 1-2 cases, according to the director of the centre. He also reported that they have interpreters of Tigrigna, Arabic, Turkish, Russian, Ukrainian, however, as reported in Galati, there is a lack of interpreters of rare languages.

Timișoara: The director of the Regional Centre Timișoara mentioned that they have interpreters for all languages, except for Somali language, and when they have no interpreter they conduct the interview through videoconference. However, this was not the case in 2022, as there were no Somali asylum seekers. No new interpreters were recruited in 2022. Double interpretation was not used in 2022.





Giurgiu: The director mentioned that there are 15 contracts signed with interpreters of Arabic, Hindi, Urdu, Pashto, Persian, Turkish, Dhari, Russian, Farsi, Tajik, and Ukrainian. There is still a lack of interpreters at national level, especially for Tamil and Sinhala as for Somali there is only one interpreter in Bucharest. According to the director double interpretation was used in 2022 for asylum seekers from Sri Lanka from Tamil/Sinhala to English and English to Romanian.

A number of problems regarding the quality of the interpretation and conduct of interpreters has been reported. Interpreters are not sufficiently trained and, therefore, they are not impartial.

Related problems were also pointed out:

- Some interpreters still have private conversations with the asylum seeker and do not translate the conversation, or they express emotions, however not at the same scale as in previous years;
- Asylum seekers complained that an interpreter selected the documents that the asylum seeker should present at IGI-DAI, and translated only a summary of what is written on the page and not the whole interview (question and answer).
- Asylum seekers complained that the transcript was not read at the end of the interview in most of the centres.

In Timișoara, in 2022 no issues were reported in regards to the quality and conduct of interpreters.

Rădăuți: asylum seekers complained that their declarations were not relayed exactly or coherently, after they receive a negative decision. Many asylum seekers are declaring that the interpreter is making a summary of the transcript and not only in Radauti centre, but also in the other centres.

Giurgiu: the CNRR representative reported that asylum seekers have complaints after a negative decision. One asylum seeker complained after the interview that he would like to conduct again the interview as the interpreter was of another religion and he did not understand his problems. He was advised to request this at IGI-DAI, however, the CNRR representative had no information on the outcome of this case.

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

Dublin: General information and statistics

ECRE/AIDA – Dublin Implementation in 2021: In September 2022, ECRE published a report providing a detailed overview of developments in legislation, policy and practice relating to the application of the Dublin III Regulation in 2020, based on current practice, case law and up-to-date statistics in 29 European Countries. It also illustrated the challenges faced by the Dublin system in times of COVID 19 and in the context of the war in Ukraine

See: ECRE/AIDA - The implementation of the Dublin III Regulation in 2021, September 2022, available at: https://asylumineurope.org/wp-content/uploads/2022/09/AIDA_Dublin-Update-2021.pdf

Austria: A record number of 24,000 incoming Dublin requests were registered in 2022. However, in the same time only 1,337 applicants were actually transferred to Austria while 1,085 applicants were effectively transferred to other countries.

Most outgoing requests went to Bulgaria (9,243 out of 14,958), then to Romania (1,596) and Italy (1,120). For incoming requests, many came from France (9,065 out of 24,092) and Germany (8,143)

Bulgaria: In 2022, Bulgaria received 20,014 incoming requests and made 175 outgoing requests, compared to 7,811 incoming and 190 outgoing requests in 2021; 1,904 incoming requests and 116 outgoing requests in 2020; and 3,088 incoming and 80 outgoing requests in 2019.





In 2022, 79 outgoing transfers were carried out compared to 175 requests, indicating a 45% outgoing transfer rate. At the same time, out of 20,014 incoming requests just 202 transfers were carried out in practice, thus marking 1% incoming transfer rate. The prevailing majority were Dublin transfers of unaccompanied children to members of their family in receiving Member States.

In 2022, Bulgaria applied the humanitarian clause of Article 17(2) in 1 case.

Cyprus: out of 30 outgoing requests, 109 transfers occurred in 2022. 65 outgoing take back requests were issued but no transfers; 663 take charge outgoing requests were issued and 109 transfers took place, with 40 to Germany (164 requests), 22 to Finland (164 requests), 18 to France (71 requests), 5 to the Netherlands (56 requests), and none to Sweden despite 60 requests.

843 incoming requests were received (mostly take back requests: 597), and 10 transfers effectively occurred, including 3 take back transfers each from Austria and Germany and 1 from France.

Regarding the criteria concerned for outgoing take charge cases, 261 sent requests concerned article 8 (minors), as well as 83 requests accepted; 16 requests sent and 9 requests accepted concerned article 9 (family members granted protection); 381 requests sent (90 regular humanitarian cases, 291 relocations) and 299 requests accepted (27 regular humanitarian cases, 272 relocations) concerned the take charge humanitarian clause of article 17(2). For outgoing take back cases, all requests sent (65) and accepted (1) concerned article 18(1)(b). (...) In 2022, (...) one such case of use of the humanitarian clause concerned an adult male from Ivory Coast, with severe mental health issues whose application to be transferred to France to their sister, under the humanitarian clause, was approved.

Regarding the criteria for incoming take charge requests, 116 received requests and 81 accepted requests concerned article 12 (visa and residence permit); 12 requests received and 6 requests accepted concerned article 13 (entry and/or remain); 5 requests received and 3 accepted concerned family procedures under article 11 and 4 requests received and 1 accepted concerned article 9, family members granted protection. For incoming take back requests, most of those both received and accepted (respectively 557 out of a total of 594 and 319 out of 364) concerned article 18(1)(b); additionally, 37 requests received and 27 requests accepted concerned article 18(1)(d) and 3 requests received and 2 accepted concerned article 20(5)?

France: in 2022, 36,891 asylum claims have been registered under the Dublin procedure.

Italy: In 2022, 27,928 requests (including both take charge and take back requests) were received in the incoming procedure, which marked a significant increase when compared to the 19,936 incoming requests Italy received in 2021. Regarding the outgoing procedure, there were 5,315, total requests, also considerably higher than in 2021 when 3,318 requests were sent.

Family criteria: In 2022, 12 family reunifications transfers towards other States under took place, while 153 incoming transfers were realised based family criteria. (...) According to a report published by the Ministry of Labour, however, incoming transfers under the family criteria were 145, and involved 140 minors and 5 adults. (...) Transfers in the outgoing procedure were only 65, similarly to 2021 when they were 53, but significantly less that the 431 realised in 2020, and 579 in 2019. (...) In 2022, in the incoming procedure, article 17(1) was applied in around 20 cases and article 17 (2) in around 100, while in the outgoing procedure, article 17 (2) was applied in around 250 cases (including the so-called voluntary relocations).

In 2022 the Dublin Unit dealt with 196 cases of unaccompanied minors eligible for transfers under Articles 8 and 17 (2) of the Regulation. (...) Between July and December 2022, transfers based on family unit were 66, out of which only one was an outgoing request, while the others were all related to incoming requests. (...) Between January and June 2022, the reunification procedures involving minors were 130 (of these 128 were male), out of which 4 were outgoing requests.





Of the 65 incoming practices dealt with between July and December:

- 30 were accepted and 22 were transferred in the second half of 2022, while 8 were still awaiting transfer;
- 20 were rejected;
- 15 were still pending by the end of December.

(...) As of 31 December 2022, 14 minors reached the age of majority pending the procedure, 49 were between the age of 14 and 17 and only 2 were younger than 14.

(...)The most represented country of origin of the minors was Pakistan (36 minors), followed by Bangladesh (15 minors). Regarding family ties, 28 minors applied to be reunited with an uncle or an aunt, 26 with a brother or sister, 6 with a cousin and 5 with their father or mother. (...)54 requests came from Greece, 6 from Cyprus, 2 from Bulgaria, one from the Netherlands, one from Spain and one from Switzerland.

Regarding the period between January and June 2022:

- 51 were accepted, and 40 already transferred;
- 27 were rejected.

One minor became unreachable and two others autonomously reached Italy. 41 reached the age of majority during the procedure, 84 were between 14 and 17 years of age and only 1 was younger than 14. Minors were predominantly from Bangladesh (63) and Pakistan (50). Concerning the degree of kinship between the minors involved in incoming practices and their respective family members resident in Italy, 79 minors applied to be reunited with an uncle or an aunt, 43 with a brother or sister and 4 with a cousin. (...)as for the requesting State, almost all of the applications (119 out of 126) came from the Greek Dublin Unit. The remaining 7 applications were sent by Cyprus.

Poland: Poland sent 67 take charge outgoing requests, of which 27 were accepted. Around half (31 sent, 19 accepted) were based on article 12, visas and residence permit. Poland also sent 15 take charge requests based on the humanitarian clause of 17(2), of which 4 were accepted. Poland also sent 216 take back requests, of which 139 were accepted, mainly based on article 18(1)(b) (184 sent, 66 accepted).

Poland received 3,161 incoming take charge requests, of which they accepted 1,575. Most were based on articles 12, visa and residence permit (1,434 sent, 1,402 accepted) and 13, entry and/or remain (1,645 received, 151 accepted). Poland in addition received 2,764 take back requests and accepted almost all of them (2,679).

Dublin procedure

Austria: (concerning the family unity criterion) In 2021, The Ministry of Justice introduced a Child Welfare Commission headed by former presidential candidate Irmgard Griss to evaluate the implementation of children's rights in asylum procedures. In July 2022, the former member of the (Child Welfare) Commission made a press conference in which they announced that an evaluation done by asylkoordination and the Vienna Refugee Law Clinic shows that improvement in practice is still very poor, recommendations neglected by the authorities. They also demanded the introduction of a permanent monitoring board concerning childrens' rights in Austria.

The High Administrative Court ruled in December 2022 concerning the responsibility of a state for family member. Article 9 of the Dublin III Regulation, Chapter III contains a special jurisdiction for family members who are beneficiaries of international protection. If the applicant has a family member - regardless of whether the family already existed in the country of origin - who is a beneficiary of international protection and has the right to reside in a Member State, that Member State is responsible for examining the application for international protection, provided that the persons concerned express this wish in writing. This regulation not only allows the persons concerned (the applicant and the beneficiaries of international protection) to have a say, but gives them the power to decide whether they want to be reunited. This rules out the possibility that people are brought together against their will. The applicant must be informed of the requirement for such declarations within the framework of his right to information (cf. Art. 4 Para. 1 lit. b and c Dublin III





Regulation) and, in the event of such a request by the applicant, the beneficiaries of the international protection to verify that they agree to a reunification. (VwGH Decision, 15.12.2022, [Ra 2022/18/0182](#)).

Until July 2022, the sovereignty clause was not applied at all

Belgium: The final report of the Commission Bossuyt states that the most effective alternative to detention seems to be the Individual Case Management Support (ICAM), where a return coach is appointed to provide intensive guidance for return. (...) Since 2022, Dublin cases are, among other target-groups, the priorities of the ICAM coaches.

Despite all the proposed alternatives, neither the law nor the Royal Decree has yet been amended. This means that until now, no clear gradation of the different possible coercive measures is listed. It is yet too early to report on the concrete impact of these so called ICAM coaches, and whether or not this approach can be considered an effective alternative to detention. However, due to the mass influx of Ukrainians after the Russian invasion, most of the ICAM coaches were deployed in the registration centre at the Heysel to process the requests for temporary protection. As a result, the ICAM coaches could no longer follow up on their files for several months in 2022.

Bulgaria: In June 2022 the government adopted amendments to the ordinance regulating the coordination between the asylum and police (border and immigration) administrations while implementing Dublin III Regulation. The amendments updated and clarified the division of responsibilities among these authorities.

In cases where another Member State accepts the responsibility to examine the application of an asylum seeker who is in Bulgaria, the outgoing transfer was usually implemented within 5 months on average in practice. However, in 2022 SAR reported to have shrunk the period up to 1 month. If an incoming transfer is being organised however, the duration of actual implementation varies, reaching in the past up to 15 months. In 2022 this period some reorganizations undertaken by SAR in its Internal Regulations decreased the implementation of incoming transfers up to 4 months on average.

Cyprus: Despite improvements in 2021 in relation to the submission of i Take Charge Requests within the timeline set by the Dublin Regulation, delays were observed in the first half of 2022 in cases of adults and unaccompanied children alike. The situation improved during the second half of 2022 and the team handling TCRs was staffed with additional personnel.

Germany: In 2022, 4,158 persons were transferred following a Dublin procedure.

According to BAMF internal guidelines of December 2022, even if there are reasons to believe that another Member State might be responsible, the BAMF case officer is to conduct a personal interview related to the grounds for asylum after the 'Dublin interview' to increase efficiency of the procedure.

Church asylum: As of 2 November 2022, according to the ecumenical Federal Working Group on Asylum in the Church, there were 314 active cases of church asylum involving 508 persons, out of which 112 were children. 294 out of the 314 cases concerned Dublin transfers. According to church activists, demand has been rising over the course of 2022, with far more requests than the participating churches can accommodate. Church asylum was challenged by prosecution authorities in Bavaria in recent years, leading to criminal charges against persons providing this type of shelter. The Bavarian High Court ruled on 25 February 2022 that granting shelter and food to persons obliged to leave Germany cannot be considered a criminal offence if the agreement on church asylum is followed. The court further found that there is no obligation on the host to actively end church asylum when the stay is unauthorised.

France:



[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 he asked for asylum in France a second time. The Court considers that he triggered a new procedure and therefore new deadlines.

[Conseil d'État \(conseil-etat.fr\)](#) 27/10/2022 , Decision 465885 (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.

Ireland: It is understood that, as of March 2022, a specific division within the Dublin III unit was established in order to examine applications pursuant to Article 17, however, information on the exact process and procedures followed by the division in determining such applications are not clear.

Italy: Moreover, on 20 October 2022, the Civil Court of Venice ruled that the practice, based on a note spread by the Dublin Unit, to impede Dublin asylum seekers to apply for national protection (protezione speciale) was to be considered in contrast with national law. (Civil Court of Venice, Decision of 20 October 2022, available at: <https://www.bit.ly/3Z3ZTG5>).

In 2022, the Civil Court of Catanzaro, annulled the decision taken by the Italian Dublin Unit to transfer an asylum seeker to the UK as the court considered that the Dublin Regulation would no longer apply to the country, even if it had recognised its responsibility (Civil Court of Catanzaro, Decision of 10 December 2022).

According to the data published by the Ministry of Labour in 2017, the time period between a “take charge” request for unaccompanied children and its acceptance by the destination country was 35 days on average, while it was on average 46 days between the acceptance of the request and the actual transfer of unaccompanied children. According to ASGI’s experience, the duration of the procedure is much longer in practice, and the procedure may last over one year. (...) In 2022, no significant changes were recorded in the majority of the cases, but in Friuli Venezia Giulia, it was observed a concrete acceleration of procedures related to the transfer of asylum seeker to Austria: many asylum seekers from Gorizia and Trieste were notified of the transfer decision within 4 or 5 months.

To the knowledge of ASGI, in 2022, as in the previous three years, the Questure waited for the 30-day deadline for lodging the appeal to expire before proceeding with the organisation of the transfer.

Malta: The length of the Dublin procedure remains an issue since applicants are kept waiting for months, sometimes more than a year, before receiving a decision determining which Member State is responsible for their application. In 2020, there were applicants who were not transferred within the Regulation’s deadlines, yet who were not taken up by the IPA as falling under its responsibility and left without any documentation or information about their status. NGOs encountered a few individuals in this situation in 2021 and 2022 as well.

Netherlands: Normally, the asylum seeker will be notified that their application will be handled in the Dublin-track pretty soon after registration. However, the procedure has taken a lot longer than usual in 2022. For comparison: in 2019 it took an average of 14-15 weeks from the moment of registration to the moment of a Dublin decision. In 2022 it took 20-28 weeks.

Since August 2022, Member States no longer require a negative PCR test or proof of vaccination prior to a Dublin transfer. Therefore, Dublin transfers were not influenced by the pandemic in 2022 as much as in previous years.



Portugal: According to CPR's observation, in 2022, applicants in a Dublin procedure seem to be systematically interviewed. Nevertheless, CPR is aware of cases where a transfer decision was adopted in the absence of an interview when the applicant absconded.

Sweden: Sweden made 1 request based on the "humanitarian clause" (Article 17(2) Dublin Regulation) in 2022 and based on the "dependent persons' clause" (Article 16 Dublin Regulation), and received 37 and 1 incoming requests on those grounds respectively.

Effective remedies

Italy: According to the law, the Court should decide on the application for suspensive effect within 5 days and notify a decision to the parties, who have 5 days to present submissions and 5 days to reply thereto. In this case, the Court must issue a new, final decision, confirming, modifying or revoking its previous decision. In ASGI's experience, the Civil Courts never complied with these timeframes in 2020, 2021 and 2022.

The appeal brought before the Court of Cassation has no suspensive effect and the law does not expressly provide for the possibility of requesting such a suspension. On 2 September 2022, the Civil Court of Rome (Civil Court of Rome, Decision of 2 September 2022, available at: <http://bit.ly/3KHOCMa>) accepted the urgent appeal submitted by an asylum seeker whose appeal against the Dublin transfer to Austria had been accepted in 2021 and who, after one year and half, was still waiting for Italy's declaration on having competence to examine his asylum request. The Civil Court rejected the arguments presented by the Dublin Unit, according to which the submission of an appeal before the Court of Cassation in the Dublin procedure would entail the automatic suspension of the procedure itself.

Suspension of transfers

Austria: In 2022, the Constitutional Court disagreed with a decision by BVwGn in the second instance court found a planned transfer of a Syrian national to Malta admissible. The Syrian national claimed that he would be put in detention upon return to Malta and that the conditions in detention in Malta would violate his rights guaranteed by Art 2, 3 ECHR. The BVwG did not assess the situation in detention in Malta and ignored the deterioration following the Covid-19 situation in Malta. VfGH, Decision [E622/2022](#), 20 September 2022.

Transfers of persons with status in Greece are not suspended in general, however, there are no cases known of completed Dublin transfers to Greece in 2022.

In 2022, 7 transfers were completed in the first 7 months. In the same time, 5,465 take back requests were sent from Austria to Bulgaria.

In 2022, 6 transfers have been completed to Croatia in the first 7 months.

Belgium: In January 2022, the Immigration Office confirmed that there were still no transfers carried out to Hungary, and that currently, no Dublin-transfer decisions are taken for Hungary. The Dublin procedure takes place but Belgium ends up declaring itself responsible for the asylum application, by applying article 17(1) of the Dublin Regulation.

In January 2022, the Immigration Office informed that currently no Dublin-transfer decisions are taken for Greece.

In January 2022, the Immigration Office confirmed it no longer takes Dublin-transfer decisions for Bulgaria.

Germany: Several court decisions halting transfers to Hungary in 2022 indicate that the BAMF is again ordering transfers to Hungary at least in some cases.





In 2021, the BAMF appealed a decision of the Higher Administrative Court of North Rhine Westphalia in July 2021, halting the transfer of a single man to Italy ruled unlawful due to the lack of accommodation in Italy, based on an alleged lack of sufficient consideration of the facts on the ground. The Federal Administrative Court however confirmed the decision on [27 January 2022](#).

Italy: On 5 December 2022, the Italian Dublin Unit issued a letter to other countries bound by the Dublin system, informing that from the following day incoming transfers to Italy would be suspended due to the absence of places in the reception system. Italy specified that the suspension does not affect the reunification procedures for minors.

In 2021 and 2022, many Civil Courts - including that of Rome - suspended decisions related to the principle of non-refoulement pending the CJEU preliminary rulings on questions raised by some courts regarding Article 17 (1) of the Dublin Regulation. The Civil Courts of Rome and Florence asked the CJEU to clarify if Courts are entitled to order the application of the sovereignty clause in cases where the non-refoulement principle could be violated because the applicant could be repatriated to his or her country of origin, considered unsafe. In both cases, the applicants are Afghan citizens who appealed against the transfer to, respectively, Germany and Sweden, where their asylum application was already rejected. They claim that the execution of their transfer, would expose them to an irreparable damage because of the consequent repatriation to Afghanistan.

ASGI observed that, while in the previous years the assessment of the individual risk for the applicant led to an annulment of the transfer based on the discretionary clause, in 2022 Courts applied Article 3 (2) of the Dublin Regulation as interpreted by the CJEU.

In October 2022, the Civil Court of Rome annulled an applicant's transfer to Romania according to Article 3(2) of the Dublin Regulation and to Article 4 of the EU Charter of Fundamental Rights of the European Union, considering the systemic deficiencies existing in that country. The Court observed that the country was already unprepared to accommodate asylum seekers before the Ukrainian crisis and that with the arrival of thousands of people from Ukraine the situation has reached an extremely critical level. (Civil Court of Rome, Decision of 13 October 2022)

On 12 January 2023, the Civil Court of Rome confirmed its previous orientation, annulling the transfer to Romania (Civil Court of Rome, Decision of 12 January 2023, available at: <http://bit.ly/3lyzWaH>).

On 3 November 2022, the Civil Court of Bologna cancelled a transfer to Germany on the basis of Article 3(2) of the Dublin Regulation and Article 4 of the Charter, considering the transfer unsafe for the individual risk of the applicant, vulnerable as disabled and as possible victim of trafficking for begging (Civil Court of Bologna, Decision of 3 November 2022, available at: <http://bit.ly/3m80szY>).

Netherlands: In a letter to parliament dated 17 March 2022, the Secretary of State stated that Poland, Slovakia, the Czech Republic and Romania had suspending all incoming Dublin transfers due to the influx of Ukrainian refugees. This suspension lasted only until summer; around August 2022, the Secretary of State resumed Dublin transfers to these countries.

On 13 April 2022, the Council of State ruled that the Secretary of State must conduct further research on the situation of asylum seekers being transferred to Croatia under the Dublin Regulation (Council of State, [ECLI:NL:RVS:2022:1042](#) and [ECLI:NL:RVS:2022:1043](#), 13 April 2022). This is due to reports of frequent pushbacks (including of asylum seekers who have already reached Croatian territory), which may result in a violation of the principle of non-refoulement. On 30 May 2022, the Secretary of State announced that until this research is concluded, no Dublin transfers to Croatia will be carried out. On 20 January 2023, the Secretary of State announced that Dublin transfers to Croatia would be resumed. The Croatian authorities had





responded to answers put forward by the Dutch authorities and had assured that they will act in line with international obligations, according to the Secretary of State.

(Council of State, [ECLI:NL:ABRVS:2022:1862](#); ECLI:NL:ABRVS:2022:1863 and [ECLI:NL:ABRVS:2022:1864](#), 6 July 2022) On 6 July 2022, the Council of State issued three judgments on indirect refoulement in Dublin cases in the event of differences in protection policies between Member States. Two of these cases concerned Syrian nationals who argued that would be at risk of refoulement in case of being returned to Denmark, as in the country the province of Damascus is considered safe enough to return to. The Council ruled that a difference in protection policy may be a reason to suspend the Dublin transfer. To this end, the applicant must demonstrate: 1) that there is a fundamental difference in protection policy between the Netherlands and the other Member State (whereby it is established that he would receive protection in the Netherlands and not in the other Member State), 2) that the highest national court in the other Member State does not disapprove of the policy applicable there. In the opinion of the Council of State, the applicants had fulfilled their burden of proof with regard to the Danish policy on Damascus and the level of judicial protection in Denmark.

On 5 December 2022 the Italian authorities issued a circular letter asking the other Dublin Units to temporarily halt all Dublin transfers to Italy due to a lack of reception facilities for Dublin returnees. The IND emphasizes that this is a temporary transfer impediment and that this does not mean that Italy can no longer be regarded as the responsible member state. Some Regional Courts have agreed with this (See, for example: Regional Court of Arnhem, [NL22.25014](#), 23 January 2023; Regional Court Den Haag, NL22.25592, 12 January 2023), some have concluded that this cannot be seen as a temporary issue and must rather be seen as a possible structural issue with Italian reception conditions (Regional Court of Utrecht, [NL22.25746](#), 13 January 2023; Regional Court Roermond, [ECLI:NL:RBDHA:2023:1082](#), 3 February 2023). There are multiple onward appeals pending at the Council of State.

At the time of writing this report, no Dublin transfers had been carried out to Italy since the circular letter.

Following a Council of State ruling in November 2015, the “sovereignty” clause is applied in cases where it has been established that Hungary is the responsible Member State. As a result, to our knowledge, no asylum seekers have been transferred to Hungary. There were differences of opinion between the Dutch and Hungarian authorities concerning the interpretation of the Regulation. (...) In a letter to the House of Representatives of 22 March 2018, the Secretary of State made clear that Hungary refuses to participate in a conciliation procedure. As the Secretary of State has no other means to resolve the differences of interpretation between the Hungarian and Dutch authorities, he informed the House of Representatives that Dublin claims to Hungary are suspended. This was still the case in 2022.

The Regional Court of Den Bosch has referred prejudicial questions to the CJEU on the on the scope and purport of the principle of mutual trust in the context of the transfer of the applicant to the Member State responsible. The Court made specific reference to cases in which said Member State allegedly infringed fundamental rights with respect to the applicant and third-country nationals generally, in the form of, inter alia, pushbacks and detention. The Court also asked questions relating to the evidence the applicant has at their disposal and the standard of proof that applies when they claim that transfer should be prohibited under Article 3(2) of the Dublin Regulation. Because the decision in that case has been withdrawn, the questions have also been withdrawn and there will be no judgment from the CJEU in that case. However, the questions have been asked again in a case about Dublin transfer to Poland (Regional Court Den Bosch, [ECLI:NL:RBDHA:2022:5724](#), 15 June 2022). The Council of State has held a hearing on Dublin-Poland cases on 12 December 2022 and has decided to wait for the CJEU case before issuing a judgment on Dublin-Poland.

Poland: In 2022 Covid-19 pandemic had no influence on Dublin procedures, but Poland suspended “in” transfers as a result of Russian invasion on Ukraine.





Sweden: In November 2022, the Migration Agency issued a new legal guidance note regarding Dublin transfers to Hungary. The Migration Agency currently do not consider that such systemic deficiencies in the asylum procedure and reception conditions in Hungary exists that transfers would engage Article 3(2) of the Dublin Regulation. The Migration Agency however consider that there are serious doubts on whether an asylum seeker, after transfer to Hungary, can gain access to the asylum procedure. Therefore, the Migration Agency assesses that no transfers to Hungary can be done until further notice.

Switzerland: In December 2019, taking into account the changes in the Italian legislation introduced by the Salvini Decree (Decree 132/2018), the Court extended the need to obtain individual guarantees from Italian authorities to the cases of applicants with serious health problems: such guarantees include both adequate accommodation and immediate access to medical care. Following that jurisprudence, a number of cases were referred back to the SEM for further instruction with the requirement of obtaining individual guarantees from Italian authorities. In 2022, this obligation was lifted again regarding take-charge procedures. For take-back procedures, guarantees are still required. The Court reasoned this with the risk of being excluded from accommodation in take-back cases. Federal Administrative Court, [Decision D-4235/2021](#), 19 April 2022.

According to SEM statistics, there were no transfers to Hungary under Dublin in 2022, just as in 2021, 2020, 2019 and 2018. On the other hand, in 2022 there were 6 transfers under the bilateral readmission agreement between Switzerland and Hungary which applies to persons having received international protection in Hungary, compared to 4 in 2021.

In 2022, 325 transfers to Italy took place, compared to 294 in 2021.

In 2022, 3 Dublin transfers to Bulgaria took place, compared to 7 in 2021. In October 2022, the Court dealt with a Dublin Bulgaria case, the Afghan complainant was suffering from health problems and drug addiction. He had been detained and mistreated in Bulgaria. The application for readmission to Bulgaria did not contain any information on the man's health condition and remained unanswered. The SEM used text modules to state that there were no indications of systemic deficiencies in Bulgaria and that the country had sufficient infrastructure. On the one hand, the Court considered the legally relevant medical facts to be incomplete. It also states that it cannot be assumed without further ado that the conditions in Bulgaria meet the requirements of international law. Furthermore, in view of the protection quotas for Afghans in Bulgaria, the Court considered it questionable whether the Bulgarian authorities take sufficient account of the non-refoulement requirement. Furthermore, the SEM had failed to deal with the effects of the war in Ukraine. Next, the SEM was asked to comment on the admissibility and reasonableness of a transfer to Bulgaria against the background of the OSAR report on police violence in Bulgaria and Croatia.

(Regarding Malta) According to its own manual, the SEM does not transfer vulnerable asylum seekers to Malta if they are facing detention. 4 transfers took place to Malta under the Dublin Regulation in 2022, compared to 1 in 2021.

(Regarding Croatia) Federal Administrative Court, Decision [F-5675/2021](#), 6 January 2022. In a judgement of January 2022, the Court referred a case back to the SEM due to insufficient establishment of the facts regarding the situation in Croatia (push-backs) and the psychological state of health of the complainant. The Court was of the opinion that Croatia's responsibility for the asylum application is not clear. In addition, the so-called push-backs practice by the Croatian police at the border were still not sufficiently clarified. The complainant had credibly explained how he had been beaten with fists and batons, tortured and held captive. Under these circumstances, the SEM could not rely on old reports and conclude that there was no systemic failure in the Croatian asylum and reception procedure. Regarding the question of pushbacks, the SEM asked the Swiss embassy in Croatia to conduct an investigation. Decisions regarding Dublin Croatia cases in 2022 were amongst other based on those investigations, which are supposedly proving that the problem of pushbacks is only relevant in the border region and should not effect Dublin returnees. The report of the





embassy is not shared or publicly available, which makes it difficult to counter-argument and is in the view of the Swiss Refugee Council in breach of the right to be heard, as this would require the full inspection of the investigations of the embassy. Further, the Croatian NGO Centre for Peace Studies, who was consulted by the embassy for their research, was very surprised on the outcome and their citation. The Centre for Peace Studies told the Swiss newspaper “Wochenzeitung” that they were only meeting with an intern of the embassy, and that they shared the information that pushbacks are not just happening in the border region of Croatia but also within the country. Taking into account the various reports and evidence of pushbacks and the use of violence against asylum seekers by the Croatian authorities, the association “Droit de rester” started a petition against Dublin transfers to Croatia. The Swiss Refugee Council also calls for a stop of Dublin transfers to Croatia.

17 persons have been transferred to Croatia under Dublin in 2022, compared to 15 transfers in 2021.

Situation of Dublin returnees

Bulgaria: For any Dublin returnee who is not considered vulnerable, food and accommodation is contingent to the limited national reception capacity and availability. If there is no available place for accommodation in reception centres of the asylum agency SAR, the returnees will have to secure their accommodation and nutrition at their own expenses. In 2022, SAR reported to suffer a severe lack of capacity to accommodate in its reception centres Dublin returnees who were not considered vulnerable, due to the constantly increasing number of arrivals (55% in 2022; 205% in 2021) and to reduced reception capacity.

Cyprus: In 2022 10 persons were returned to Cyprus under Dublin.

Italy: Replying on 3 March 2022 to the ASGI’s information request, the Ministry of Interior informed that “Dublin returnees access the accommodation system at the same conditions than the other asylum seekers”.

In December 2021, an Afghan citizen, evacuated from Afghanistan by the Italian authorities at the end of August, who was a Dublin returnee from France where he had applied for asylum, was reached by an expulsion decree and held in the CPR of Gradisca d'Isonzo for over a month without having access to asylum. Transferred by flight to Venice he was asked, at the airport, to fill the foglio notizie and, without any examination of his individual situation, was sent to the CPR. After having had access to the asylum procedure, his detention was not validated by the Civil Court of Trieste on 8 January 2022.

Malta: On 7 April 2022, The Tribunal of Rome annulled a Dublin transfer to Malta for a Bangladeshi applicant. The applicant claimed that during his stay in Malta, he was detained for 16 months and, due to inhumane and degrading conditions of the detention centre, he fell ill and spent two months in hospital. The Tribunal of Rome noted that the risk of inhumane and degrading treatment upon transfer to Malta is well-founded, taking into consideration reports from the European Council for Refugees and Exiles (ECRE), Amnesty International, the US Department of State, and UNHCR. The Tribunal noted that the transfer was in violation of Articles 3.2, 4, 5 and 17 of the Dublin III Regulation and ruled to annul the decision. Italy, Civil Court [Tribunali], Applicant v Dublin Unit of the Ministry of the Interior (Unita di Dublino, Ministero dell'Interno), R.G. 4597/2022, 07 April 2022, available at <https://bit.ly/3kKXOzy>.

Switzerland report re Italy: In February 2022, the Swiss Refugee Council published a report on the treatment of mental health problems of asylum seekers and beneficiaries of international protection in Italy. The report showed that there are no sufficient identification mechanism in place and there is no specialised and long-term treatment available.





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

Border procedures

Spain: Following the identification of irregularities in the processing of the asylum applications lodged at the borders, in July 2022 the Spanish Ombudsman recommended the Minister of Interior to register and count all asylum applications lodged at borders, and to present disaggregate data with respect to those unadmitted, specifying how many have the positive supporting report issued by the UNHCR. The General- Directorate of Internal Policy of the Minister of Interior has not answered to the recommendation at the time of writing of this report.

France: The main event regarding border procedures in 2022 was the disembarking of the ship Ocean Viking in November 2022.

The French authorities first carried out procedures related to placements in the waiting zone for the 234 passengers rescued by the ship. 44 unaccompanied minors were quickly released and accommodated in the child protection system, but at least 26 of them quickly left the hotel to which they had been directed. The people held in the waiting zone submitted asylum applications at the border: 66 people were admitted to the territory to register their asylum application, after OFPRA assessed in the waiting area that their request was not "manifestly unfounded". The others were released by the judge of freedoms and detention (JLD) who nullified their stay in the waiting area due to procedural irregularities. Only four people remained in the "zone d'attente", with the aim to send back to their country of origin, which was the case for at least two people sent back to Mali.

Following this waiting zone procedure, the French authorities only maintained continuous contact with the 66 people admitted to the territory for asylum based on OFPRA's assessment, who were directed to dedicated accommodation.

Greece: In Lesvos, legal aid actors observed that, since June 2022, RAO is automatically applying non-border procedures for applicants where the first instance decision has not been notified to them within 28 days from registration, without however issuing any decision for a referral to the normal procedure (as it is not foreseen in the law, according to RAO). In these cases, the deadline for the appeal is automatically extended as follows: for admissibility, the 10 days turn automatically to 20 days and for eligibility they turn from 10 to 30 days. This practice is based on article 95 par. 2 of law 4939/2022, however the JMD regulating this procedure is not issued for 2022.

In Kos this practice was first noticed in the beginning of 2023, however, during 2022, all asylum applications were examined under the border procedure regardless of whether a first instance decision had been issued and served to the asylum seekers within 28 days of the registration of the asylum application.

Portugal: An additional concern regarding interviews conducted at the Lisbon Airport were the space and privacy constraints of the interview offices, notably due to inadequate sound isolation (see Conditions in Detention Facilities). While the facility has been subject to extensive renovation work in 2020, CPR confirmed that the problems of the offices persisted during visits in 2022.

SEF confirmed that the border procedure has not been applied in 2021, and, consequently detention did not take place within this context. This continued to be the case in 2022. According to CPR's experience, and despite some unclear instances, persons applying for international protection at the border in 2022 have been granted entry into national territory, referred to the provision of reception conditions if needed, and their cases were processed accordingly.





Switzerland: If a person arrives at the international airport of Geneva and claims asylum, the airport police records the personal details, takes their fingerprints and photographs and immediately informs the SEM of the asylum application. The asylum seeker receives a flyer with information on the airport procedure. The SEM decides whether to authorise entry into Swiss territory within two working days. If it temporarily denies entry, asylum seekers are allocated a place of stay in the transit zone of the airport where they can be held for a maximum of 60 days, which constitutes de facto detention (see Detention of Asylum Seekers). (...) In 2022, the SEM continued to authorise the entry of applicants from countries such as Türkiye, Afghanistan, Syria, Pakistan, when they do not have a "Eurodac hit" (or a "Greece hit") so that their hearings can be conducted in the federal asylum centre in Boudry.

Admissibility procedure

Germany: Between 2019 and April 2022, the BAMF 'de-prioritised' cases from applicants who had already been granted international protection in Greece, meaning applications were de facto not processed, which left applicants in legal limbo, retaining the status of asylum seekers. In July 2021, the German and Greek ministers of the Interior signed a memorandum of understanding aimed at improving the integration of beneficiaries of international protection in Greece regarding accommodation, health care and the provision of necessary goods through a project implemented by the IOM and financed by EU and German funds. In March 2022, it was reported that an agreement was reached, and that accordingly the BAMF was planning on starting to examine the pending cases. Decisions of the Higher Administrative Courts of Baden-Württemberg and Saxony in 2022 (Higher Administrative Court of Baden-Württemberg, [A 4 S 2443/21](#), 27 January 2022; Higher Administrative Court of Saxony, [5 A 492/21.A](#), 27 April 2022) confirmed that beneficiaries cannot be sent back to Greece, and that their applications cannot be deemed inadmissible for the reason that protection has been granted in another Member State.

The BAMF took up the processing of applications again on 1 April 2022. The BAMF stated that it planned to assess each case again on its merits, instead of accepting the decision to grant international protection from another Member State, and to only deem applications inadmissible "in justified individual cases" where no threat of violation of Art. 3 or 4 ECHR exists. Over the course of 2022, this has led to cases where asylum applications have been rejected although protection had been granted by Greek authorities, and some administrative courts have confirmed this decision, arguing that the BAMF is not bound by decisions of the Greek asylum authorities. This question has been put before the CJEU in a request for preliminary ruling in September 2022. On 31 July 2022 28,633 asylum applications of persons who are likely to already have a protection in Greece were pending at the BAMF. This is lower than in December 2021 (39,000), but still a significant backlog.

Greece: However, despite the suspension of returns to Türkiye since March 2020, the applications lodged by applicants falling under the scope of the JMD 42799/2021 (FEK B' 2425/07.06.2021) in 2022 were still examined in the context of the Safe third country concept and the Fast-Track Border Procedure.

The Appeals Committees do not apply Art. 38(4) of the Procedural Directive with regards applications having been rejected as inadmissible on the basis of the safe third Country concept vis a vis Türkiye despite the fact that readmissions to Türkiye have been suspended since March 2020. It is only in a limited number of cases that the Appeals Committees have proceeded to an in merits examination of the Application.

- In May 2022, the 4th Appeals Committee accepted the appeal of an Afghan family, composed of a couple and 5 minor children, and overturned the first instance negative decision of the Regional Asylum Office of Western Greece that had rejected their asylum application as inadmissible, based on the safe third country concept. (...) The Appeals Committee also acknowledged the inexistence of any family members or social support network in Türkiye, and concluded that "due to the situation of the appellants, it will be particularly difficult for them to contact the Turkish authorities in order to obtain the necessary documentation in order to get access to health facilities and to education".





Finally, the Appeals Committee also highlighted that women and girls are vulnerable to sexual and labour exploitation in Türkiye, putting the mother and several of the children at risk.

Hungary: According to the HHC's information, no inadmissibility decision based on the safe-third country grounds was issued in 2021 nor in 2022.

Hybrid safe third country / first country of asylum: According to the HHC's information, no inadmissibility decision based on this ground was issued in 2021 nor in 2022. The unlawful ground was finally removed from the Asylum Act, as of 1 January 2023

Accelerated procedure

Bulgaria: In 2022, 246 asylum applicants have been rejected under the accelerated procedure. Of those, 74 came from Morocco, 74 from Pakistan, 28 from the Russian Federation, 17 from Algeria, 14 from Afghanistan, 7 from Tunisia, 6 from Türkiye, 5 were Stateless and 21 individuals from other nationalities. Nationalities from certain countries such as Algeria, Morocco Tunisia and Pakistan thus continue to be systematically treated as manifestly unfounded applicants, however in 2022 none of these nationalities suffered zero recognition rates, i.e. 100% rejection.

In the past, Turkish and Afghan nationals were subjected to unfair and discriminatory treatment with very low recognition rates with their applications overwhelmingly determined in accelerated procedure. In 2022 their situation, especially the one of Afghan applicants, improved. Out of all 69 Afghan cases decided on their substance just 20% were dealt in accelerated procedure as manifestly unfounded, while in 2021 these were 86% of the decided cases, and 95% in 2020. The improvement in Turkish applicants' treatment was not so significant as 33% of them were dealt as manifestly unfounded in accelerated procedure, while in 2021 these were 83% of the decided cases, and 58% in 2020.

Cyprus: From September 2022 onwards the use of accelerated procedures has increased, focusing mostly on nationalities such as Pakistan, Bangladesh, India, Nepal and to a lesser extent Nigeria.

Cases have been identified that were initially being examined under the accelerated procedures and were transferred to the regular procedure due to the applicant raising arguments that are complex and cannot be examined within the 30-day timeframe as stipulated by the Law (usually either due to submitting a lot of evidence or there being a need for multiple interviews). However, as the procedure has only implemented recently, further monitoring is required to ensure that such safeguards are implemented.

(2020 Action Plan) An application concerning a country of origin included in the National List of Safe Countries will be declared to be manifestly ill-founded and will be examined in a speedy manner within a maximum of 10 days: (...) 2021 and early 2022 accelerated procedures were not used as widely as expected. From September 2022 an increase in use was noted.

contrary to the regular procedure, in the beginning of interviews in the accelerated procedure, case workers inform applicants that their country has been designated a safe country of origin, on the basis of the Ministerial Decree of 202/2022. Applicants are then asked to explain if there are any reasons why they believe that in their individual case the safe country of origin presumption does not apply.

Greece: Both the IPA and the Asylum Code that entered into force on 10 June 2022 set out two forms of prioritised examination of asylum applications.

First, the Asylum Service shall process "by way of absolute priority" claims concerning:

- (a) Applicants undergoing reception and identification procedures who do not comply with an order to be transferred to another reception facility;
- (b) Applicants who are detained.





Processing by way of “absolute priority” means the issuance of a decision within 20 days.

Second, an application may be registered and examined by way of priority for persons who:

- (a) Belong to vulnerable groups, insofar as they are under a “restriction of liberty” measure in the context of Reception and Identification procedures;
- (b) Fall under the scope of the Border Procedure;
- (c) Are likely to fall within the Dublin Procedure;
- (d) Have cases which may be considered as manifestly unfounded;
- (e) Represent a threat to national security or public order; or
- (f) File a Subsequent Application;
- (g) Come from a First Country of Asylum or a Safe Third Country;
- (h) Have cases reasonably believed to be well-founded.

Malta: All rejected applications from individuals coming from a country of origin listed as safe will be considered to be manifestly unfounded on above ground (b), independently of the claim raised by applicants. In the past and until 2022, the IPA generally refrained to make this finding when applicants from a safe country of origin claimed to be LGBTI, thus offering them the possibility to file an appeal against the first instance rejection in accordance with the regular procedure. However, it seems like IPA changed this policy and the IPA now strictly applies this determination to all applications, including those made by individuals claiming to be LGBTI. According to the IPA, the Agency is allegedly under the obligation to decide all these applications to be manifestly unfounded as Article 23 (1) of the Act provides that the application “shall” be examined under accelerated procedures where the application appears to be manifestly unfounded. Therefore all applicants coming from a country listed as safe are channeled through the accelerated procedure and their application is automatically decided as manifestly unfounded if rejected.

In 2022, the IPA increasingly resorted to accelerated procedures and found a substantial number of applications to be manifestly unfounded for any of the above reasons.

See also ECtHR, S.H v. Malta, application no. 37241/21, 20 December 2022.

On 10 August 2022, an appellant assisted by aditus foundation filed a request for a preliminary reference before the CJEU to the IPAT in the context of an appeal filed following the rejection of his application as manifestly unfounded. The appellant contends that Article 23 of the International Protection Act is contrary to EU law and that therefore he should be allowed to appeal according to the normal procedure. In view of such claim which raises issues of interpretation of EU law, the appellant requested the IPAT to file a request for a preliminary reference before the CJEU. A hearing was held on 11 October 2022 and the request is still pending, more than 6 months after it was filed.

Switzerland: In October 2022, the fast-track procedures were re-introduced for certain countries of origin: Morocco, Tunisia, Algeria and the safe countries of origin (see the relevant chapter Safe country of origin). These procedures are specifically about merging the normally separate procedures of the Dublin-interview and the interviews according to Art. 26 and Art. 29 AsylA in the national asylum procedure for these selected countries. According to the SEM, this should enable the asylum procedure to be completed more quickly.

Subsequent applications

Austria: There were 2,377 subsequent applicants in 2022, with 587 from Afghanistan, 187 from Russia, 184 from India.

Belgium: From mid-August until March 2022, certain decisions on Afghan applications for international protection were temporarily and partially suspended, including decisions about the non-admissibility of subsequent applications. During this period, each case was checked on the presence of relevant new



elements. If such elements were present, a decision of admissibility was taken. However, no decisions of inadmissibility were notified as long as the CGRS was still gathering information about the situation in Afghanistan. As of 2 March 2022, the CGRS has determined its new policy towards Afghan applicants for international protection and decision taking in these cases will resume, including for subsequent applications.

Bulgaria: In 2022, 87 applicants submitted subsequent asylum claim and were dealt with in an admissibility procedure, of which 48 were declared inadmissible and 29 were granted access to further determination.

Cyprus: In 2022, 357 applicants of subsequent applications were considered admissible and 3,909 inadmissible.

In 2022, according to the Asylum Service, in an effort to speed the procedure, 16 caseworkers were appointed to examine subsequent applications. Throughout 2022 the examination time for newly submitted subsequent application was 3-4 months however many applications submitted in prior years are still pending. In early 2023 in another attempt to reduce the examination time an unofficial cap of 20 submissions of subsequent applications per day was implemented.

If the Asylum Service considers the subsequent application inadmissible, an appeal can be submitted before the IPAC. Such appeal, however, does not have automatic suspensive effect, and a separate application must be submitted to the IPAC requesting the right to remain pending the examination of the appeal. The procedure to submit such an application was not provided for in the procedural rules, until their amendment in 2022. Following the reasoning of the Administrative Court in a 2021 case, the amended Regulations provide that the application for the right to remain must be submitted at the same time as the appeal, and in any case within the deadline for the submission of the appeal, which is 15 days. The prescribed form for the application is provided for in the Regulations, as Form number 4. The Form can be found at the counter of the Registry of the IPAC, however, it is not always readily available and often requires the applicant to request it. In addition, there is no information materials provided by the PAC regarding the need to file the right to remain application alongside the appeal, although the requirement to make such an application is included in the first-instance decision issued by the Asylum Service.

In 2022, a decision by the Supreme Court set the precedent, by reaffirming the decision of the Administrative Court that the submission of a subsequent asylum application begins with the fact that the applicant is not an asylum seeker. It therefore starts with the status that the applicant had, after the rejection of the first asylum application became final. If the applicant submits an interim application of the right to stay, the submission of such an application does not on its own suspend the removal decision. (Appeal against the decision of the Administrative Court No. 8/2022, Sohel Madber v. Republic of Cyprus, 17 November 2022, available at <https://rb.gy/xrdoyy>)

Germany: Administrative Court Minden, judgement of 6 April 2022, [10 K 3200/20.A](#); VG Berlin, 22 October 2022, [38 L 340/22 A](#). On the necessity of a personal interview during the subsequent application procedure, the Administrative Court of Minden (North Rhine Westphalia) found that a personal interview needs to take place in principle and that the BAMF has to provide a reasoning when it decided not to, while the Administrative Court of Berlin found that the BAMF has full discretion, but there has to be evidence that it actually exercised discretion by considering reasons for or against conducting an interview.

The number of subsequent applications decreased in 2022 after a significant increase in 2021. A total of 26,358 persons lodged subsequent applications in 2022, compared to 42,583 in 2021 and 19,589 in 2020. The statistics show that 41.6% of subsequent applications were being rejected as inadmissible before the asylum procedure was reopened in 2022, which is lower than in the previous year (75 % in 2021, 48.5 % in 2020). In 13% of cases, the follow-up procedure was terminated later either for formal reasons or because the application was found to be inadmissible at this stage (12.5 % in 2021, 28.6 % in 2020). However, when looking



strictly at the subsequent applications decided on the merits, almost 84.3% of them were successful (12,402 decisions, compared to 2,919 decisions in 2021 (54.9 %), and 2,471 decisions in 2020 (49.1 %)). The highest number of subsequent appeals in 2022 came from Afghan nationals, which is likely still related to the withdrawal of international troops and the takeover of the Taliban in 2021. Only a minority of subsequent applications from Afghan nationals were deemed inadmissible (462), whereas the overwhelming majority (9,919) resulted in the granting of some form protection, in most cases a removal ban based on national law (8,543 cases).

Greece: Moreover, many subsequent applications were firstly examined on admissibility based on the safe third country concept under the JMD. In February 2022, the RAO of Thessaloniki accepted the subsequent application of a single vulnerable woman from Syria as admissible in the preliminary stage on the basis that 'the absence of the applicant from [Türkiye] for more than a year is a new element'. Additionally, the RAO considered that the link with Türkiye was 'weakened due to the lapse of a period of more than a year' according to Article 86(1)(f) of Law 4636/2019. The subsequent application was firstly examined on admissibility based on the safe third country concept under the JMD. During the interview the case worker deemed that Türkiye could not be considered a safe third country for the applicant and found her claim to be admissible. Accordingly, the interview continued, her claim was examined on the merits and she was granted refugee status.

Since September 2021, each subsequent application after the first one is subject to a fee amounting to 100 € per application. (...) A Joint Ministerial Decision of the Ministers of Migration and Asylum and of Finance, entered into force on 1 January 2022, determining various issues concerning the implementation of the aforementioned statutory provision (definitions, payment procedure, reimbursement of unduly paid fees etc.). In the intervening time between the legislative change and the issuance of the aforementioned JMD – between September 2021 and 1 January 2022, competent authorities refused to register second subsequent applications or more but one month after the JMD, they resumed the registration of such applications.

Malta: An asylum seeker whose claim has been rejected may submit a subsequent application to the International Protection Agency. A person may apply for a subsequent application if they can provide elements or findings that were not presented before – subject to strict interpretation – at first instance. The applicant is required to submit evidence of which they were either not aware, or which could not have been submitted at an earlier instance.

Act XIX of 20 December 2022 removed the requirement to present new facts or evidence within 15 days of becoming aware of such information. This brought the Act in line with the CJEU judgement in XY v Bundesamt für Fremdenwesen und Asyl.

Netherlands: On 15 September 2022, the Council of State (Council of State, Decision No [202006762/1](#), 15 September 2022) ruled that the practice after the ruling in LH had been incorrect. Article 40(3) of the APD stipulates that Member States can examine subsequent applications where the nova add significantly to the likelihood of the applicant qualifying as a beneficiary of international protection. However, this provision has not been transposed into Dutch law, which means that determining whether subsequent applications are deemed admissible should not be based on article 40(3) of the APD, but Article 30a(1)(d) of the Aliens Act, which only stipulates that nova must be relevant in order for the subsequent application to be considered. In accordance with this judgement, the IND changed their policy, and only determines whether new documents or elements are relevant for examining the subsequent application. The IND is examining whether it is necessary to change national laws to better reflect the rules laid down in the APD.

(Council of State, Decision [No 202104524/1](#), 26 January 2022) The Council of State (...) ruled that its established case law on the assessment of new elements and findings, in particular concerning documents of which the authenticity cannot be established, had to be revised. The Council of State also ruled that, in order to ascertain whether the new elements and findings add significantly to the likelihood of the applicant





qualifying for international protection (first stage, second step), a more substantive research is required. In accordance with Article 4(1) and (2) the Secretary of State could, for example, examine new documents in relation to previous statements of the applicant or country of origin information.

In the same judgement however, the Council of State established that, according to Article 42 (2) (b) of the APD, the Secretary of State does not automatically have to interview each asylum seeker lodging a subsequent application, provided that the decision includes a justification for the exclusion of the subsequent applicant from the personal interview.

The Secretary of State responded to the judgment of the CJEU and stated that it did not have strong implications regarding the assessment of a subsequent application. In the Dutch Council for Refugees' opinion, Dutch policy has only partially been adjusted to the Judgment of the CJEU, specifically regarding cases of exemption from an interview regarding subsequent applications. On 1 July 2022, the IND published a new Work Instruction 2022/13 outlining their policy regarding subsequent applications, including the situations in which an interview will not be conducted.

On 15 September 2022 ([202006762/1](#)), the Council of State ruled in accordance with the CJEU, stipulating that the Secretary of State could not declare a subsequent application non-admissible if new elements and findings could have been submitted in a previous application. In the Information Message published in response to this ruling, the IND did not mention the considerations by the Council of State regarding the culpability test.

Romania: Timișoara: The director of the Regional Centre Timișoara stated that there were 43 subsequent applications, of which 24 were made by foreigners in Arad detention centre.

Giurgiu: the director of the regional centre stated that only 5 subsequent applications were made in 2022 and all were rejected.

Galați: 4 subsequent applications were made and were rejected. 2 were made by Russian nationals and 2 by Somali nationals.

Rădăuți: 12 subsequent application were made in 2022 and were admitted, as they were submitted by Ukrainian nationals.

Sweden: On 30 November 2021 the Migration Agency published a legal instruction on Afghanistan due to the Taliban takeover. The Agency considered that the general situation in Afghanistan after the Taliban takeover and the implementation of Sharia law amounts to new circumstances that will in most cases meet the criteria for the Migration Agency to grant re-examination. 575 subsequent applications from Afghan nationals was made in the first month of 2022 alone. Most decisions on subsequent applications submitted by Afghan nationals after the legal instruction dated 30 November 2021 were admitted for re-examination; however the processing time varied considerably from case to case.

In 2022, a total of 9,307 subsequent applications were submitted and the Migration Agency decided on 10,409 subsequent applications. Out of them, 735 subsequent applications resulted in a residence permit being granted, and 1,172 subsequent applications was admitted for re-examination. The main countries of origin of applicants lodging a subsequent application were Afghanistan (1,706); Iraq (920); Iran (527); Ukraine (387) and stateless (368).

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)





Access to reception conditions

Belgium: between October 2021 and March 2022 not all single men were able to gain access to the reception network. Since March 2022 the access to the reception network is systematically denied to single men applying for international protection. Homeless shelters in the city of Brussels being completely full, the applicants have no other option than to sleep rough, returning to the arrival centre every day hoping to get access to a reception place. Families with children and non-accompanied minors were given priority in the search for a reception place and gained access to the reception network on most days. However, in October 2022, there were some days on which Fedasil was not able to provide shelter to families with children. The reception crisis also severely impacted the access to the asylum procedure. There are currently around 800 places in the arrival centre (around 600 regular places and around 200 buffer capacity).

Applicants without access to the reception network are not given an individually motivated decision. They are merely informed about the shortage of places, and instructed to register themselves on a waiting list. Registration on this waiting list does not guarantee a reception place within a predefined time limit. In addition, in the event that someone from a 'more vulnerable' category has to register on this waiting list this person is given priority. Once someone can be given a reception place, this person is invited to present himself at 'Klein Kasteeltje'.

Collective legal proceedings: Since the beginning of the reception crisis in October 2021, several NGOs have asked the Federal government to find solutions. Although possibilities of opening new reception places were urgently examined and several new reception centres – some structural, some emergency shelters – were announced to open in the near future, these processes took several weeks, often due to the unwillingness of local administrations to admit the opening of a centre on their territory. The Secretary of State was unwilling to provide emergency shelter in empty hotel rooms, stating this might provoke a pull factor. Although several new places opened in the course of December 2021 and 2022, these were insufficient for all applicants in need of shelter.

On 18 November 2021, several organisations declared the Belgian State and Fedasil in default at the Brussels court of first instance. In a [judgment of 19 January 2022](#), the court condemned the Belgian State and Fedasil for not ensuring access to the asylum procedure and to reception conditions and ordered both parties to ensure the respect of these fundamental rights, imposing a € 5,000 penalty payment for the respective parties for each day during the following 6 months on which at least one person did not receive access to the asylum procedure (penalty for the Belgian State) or to the reception system (penalty for Fedasil). (...) The court also explicitly stated that the waiting list used by Fedasil is unlawful.

After this judgement, single men were still being denied access to the reception network, and the waiting list was still being used. On 24 January 2022 – only 5 days after the Court of First Instance ruled against the Belgian State and Fedasil – the government launched a 'five-point action plan' to counter the 'growing problem of asylum seekers crossing Belgium'. One of the pillars of this action plan consisted in giving priority to 'new' asylum seekers, who had not yet applied for or/and received asylum in another EU member state. Applicants with a Eurodac hit indicating they had already applied for or received international protection in another country, were denied access to the reception network and were told to send an e-mail to Fedasil in order to be put on the waiting list.

As a result, the group of 10 NGOs filed a new appeal at the court of first instance, requesting an increase of the penalty payment from €5,000 to €10,000 for each day that the judgement would not be respected. In a [judgement of 25 March 2022](#), the Court condemned Fedasil again, thereby increasing the penalty payment to €10,000. The court repeated that Fedasil is bound by the EU Reception Directive to provide accommodation to all first-time applicants for international protection, regardless of external factors influencing the availability of places. It specifically stated that it is unlawful to automatically exclude applicants for international protection with a Eurodac hit or with a protection status in another EU member state. Fedasil introduced an appeal against this judgement of 25 March at the Court of Appeal. This led to a new judgement on 13 October 2022. The Court of Appeal discarded Fedasil's arguments, and upheld the judgement of the 25th of March. It also lifted the period of 6 months during which the penalty fees could be claimed. It argued



that Fedasil did not provide a concrete action plan to solve the reception crisis. The court went further and stated that Fedasil ‘deliberately and manifestly disregards the judgement of the 19th of January 2022’. Therefore, the penalty fees can be claimed for every working day that Fedasil does not respect the judgment of 24 January 2022, until the Court of First instance has delivered a judgement on the merits of the case. This is to be expected in the course of 2023.

Despite these judgements, Fedasil has continued to violate the right to reception to this day. The 10 NGO’s have tried to demand the payment of the penalty fees, so far with no success. Legal procedures on the payment of these penalties are currently pending.

Over the course of the whole reception crisis, these legal proceedings have led to 6000 convictions of federal reception agency (Fedasil) on the national level and 800 interim measures against the Belgian state granted by the European Court of Human Rights (Rule 39). Even after having received a positive court injunction, applicants wait for several months before receiving an invitation for access to the reception network.

In the context of the reception crisis that started in October 2021, the reception rights of applicants with a ‘Dublin-hit’ are again restricted. Since 24 January 2022, applicants for whom, at the moment of registering their asylum application, a EURODAC hit indicates they have already applied for or received international protection in another country, are being denied access to the reception network and told to send an e-mail to Fedasil in order to be put on a waiting list. Since they do not receive a formal decision of refusal of reception, these applicants cannot automatically challenge this decision before the labour court. Lawyers thus have to first send an e-mail to Fedasil to notify their client’s individual application for reception and give Fedasil a 24h delay to reply, before being able to file a unilateral request. Labour court presidents have accorded the right to reception to the applicants in these cases, condemning Fedasil to give them immediate access to a reception place. The Secretary of State announced he would appeal against these court decisions. Some of these appeals are currently pending. The limitation of the reception rights of people having applied for asylum in another EU member state, is part of a ‘five-point action plan’ announced by the Secretary of State, to counter the ‘growing problem of asylum seekers crossing Belgium’. A significant difference with the previous exclusion on the basis of the Fedasil instruction of 3 January 2020 is that this time, the exclusion does not follow the issuance of an annex 26quater after examination of the case on the basis of the Dublin criteria and determination of the responsible EU state on the basis of the Dublin III Regulation, but is immediately applied at the moment of registration of the international protection application.

Cyprus: In early 2022, it was reported that daily, between 40 and 50 persons were not admitted into the Centre for registration after their arrival and did not have access to reception conditions, and had to return various multiple times before being granted access. Furthermore, in mid 2022 the authorities dismantled all the tents in the pre-submission section, leaving only 3 tents which are currently placed outside the centre. There were approximately 100-150 persons outside the Centre each morning waiting for admission, with only 50-60 allowed in each day. The remaining persons either reside in the 3 tents, or leave the area and return the following day. Persons without any documentation wait significantly longer before they are admitted into the Centre. Overall, throughout 2022 the number of persons waiting to be registered and therefore not having access to reception conditions fluctuated and on average 40-60 persons were admitted each day. The authorities prioritise persons with passports or valid documentation, whereas persons without passports wait approximately 2 weeks before they are admitted into the Centre.

Application for material reception conditions: The recently revised application to apply for MRC requires the submission of eight types of documentation for the applicant and each member of his or her family. These include:

- An unemployment card from the District Labour office or medical certificate of inability to work from the Public Healthcare Unit, unless it has been less than a month from the submission of the asylum application);
- A rent/lease agreement, although the claimant may be homeless;



- Confirmation of school attendance of the dependents;
- Confirmation from the Asylum Service that there is no availability at the reception centre to host the claimant, which is either secured by direct telephone communication between the SWS and the Asylum Service, or typically omitted since the reception centre is almost constantly at full capacity.

In practice, there are systematic delays in the examination of the application and granting of financial assistance. Currently, the average processing time of applications for material reception conditions at the SWS is approximately 2-6 months, depending on the district. This is due to various administrative difficulties, among which: staff shortages; demanding paperwork to be completed and documentation to be gathered and submitted by beneficiaries; the requirement for Welfare Officers to go through a time-consuming administrative procedure for all asylum-seeking beneficiaries in order for the benefits to be approved every month; difficulties experienced by the applicants in physically reaching and meeting with Welfare Officers. Furthermore, although the application for material assistance can be submitted without a rental contract in such cases applicants will not receive rent allowances and the received amounts for bills and daily expenses will also be reduced.

Until recently asylum seekers registered in Pournara, could only apply for material reception conditions once they had exited Pournara, which led to delays until they received financial assistance. Furthermore, asylum seekers do not have freedom of movement while staying in Pournara and they can only exit Pournara upon presenting a valid address in the community. Without being able to access the community to search for accommodation and without any assistance from any agencies to identify accommodation, this has led to significant exploitation and scams from persons in the community toward asylum seekers. In August 2022 the SWS with the assistance of UNHCR and CyRC piloted a new procedure where asylum seekers submit an application for material reception conditions before exiting the Centre. This led to the procedure being established in Pournara, which has led to a faster examination of applications for material reception conditions.

This is not the case for applicants of material reception conditions residing already in the community, which, currently, need to wait for app. 2 months in order to be able to submit an application for material reception conditions.

Practical difficulties in obtaining certain requirements such as a rental agreement, a deposit, and/or advance payments, which although foreseen in the 2022 Ministerial orders, they are still not covered by Social Services, continue to generate issues in relation to securing shelter for applicants. Reports of landlords being unwilling to provide housing to asylum seekers are also alarming. The rapid rise in demand for housing in urban areas has led to a sharp increase in rent prices, making the gap between the allocated resources and rent prices even greater.

Subsequent application: Until recently once a subsequent application was submitted the applicant had the right to remain and access reception conditions during the examination of the admissibility of the application. However, in 2022 following a decision issued by the Supreme Court once a subsequent application is submitted, the applicant is not considered an asylum seeker, and until the administrative examination of the subsequent application, the discretion to examine the applicant's right to remain in the Republic, belongs to the Head of the Asylum Service. In practice no applicants have received the right to remain and access to reception conditions during the administrative examination of a subsequent application.

Spain: On 15 December 2022, the SEM adopted an instruction detailing the requirements for accessing and staying in the international protection reception system. Among other issues, the instruction foresees that the phase of initial assessment and referral, despite being part of the reception system, does not count while calculating the 18-month (or 24-month) period of stay, and that just the other two phases are taken into consideration for the calculation of the duration.





Shortcoming and delays in accessing the reception system have been reported during 2022. In his 2022 Annual Report, the Spanish Ombudsman affirmed that the situation of emergency that the Spanish reception system is experimenting since 2015 turned into a structural problem, and that an appropriate budget should be assured to the NGOs which are managing the reception facilities. In fact, the national body highlighted that in many occasions asylum seekers are temporarily accommodated in emergency shelters and other kind of emergency resources while waiting to be referred to a place within the asylum reception system.

France: One of the most important developments in this area concerns the growing proportion of asylum seekers who do not have any material reception conditions, because these have been refused, withdrawn or suspended. No public data is available, but if we compare the number of asylum seekers in asylum proceedings at the end of 2022 (142,940 according to Eurostat) and the number of asylum seekers benefiting from the allowance for asylum seekers at this date (100,598 according to figures published by the authorities - OFII - on social media), approximately 30% of asylum seekers were not eligible for reception conditions at the end of 2022. Some of them, under the Dublin procedure, may have left the territory, but for the others this leads them to great precariousness and obliges them to turn to a saturated general emergency accommodation system. Many of them thus find themselves homeless.

This phenomenon has been accentuated by the implementation since 2021 of a national reception scheme aimed at directing asylum seekers from the Paris region to other regions in a directive manner: those who refuse this orientation no longer have right to material reception conditions including allowance.

Greece: Delays in accessing reception continued to be reported in 2022, on account of chronic delays in accessing asylum on the mainland, via the skype registration system.

Destitution and homelessness still remain matters of concern, despite the efforts made in order to increase reception capacity in Greece (see Types of Accommodation). As stated by UNHCR in February 2020, "Housing options and services to cater for the present population are scarce countrywide". This remains valid in 2022.

Ireland: Capacity within the Direct Provision accommodation system remained a significant issue throughout 2022. At numerous times throughout the year, IPAS exhausted its accommodation stock, resulting in many international protection applicants being refused accommodation on arrival in the state. While all applicants were later provided with accommodation, and vulnerable applicants, such as women and children, were often prioritised, in many cases, single male applicants had no option but to sleep on the street for several nights until such time as suitable accommodation became available. At the time of updating, forty-one newly arrived asylum seekers, including single males and females remain without any state-provided accommodation. 122 applicants who presented to seek international protection since the 24th of January 2023 were refused accommodation. Eighty-one have since been accommodated.

Poland: Asylum seekers are entitled to material reception conditions after claiming asylum, from the moment they register in the first reception centre. They should register there within two days after making their application, otherwise their procedure is discontinued (unless they declare another place of stay), as was the case in 427 cases in 2022 (up from 59 in 2021).

Exceptionally, the SG is entitled to inform an asylum seeker that it is impossible to apply for asylum the day he/she presents him/herself at the SG unit (...) and determines a later date (...). In 2022 such later date was given in total in regard to 4.013 foreigners (3.570 declarations registered, a significant rise in comparison with recent years). By law, asylum seekers waiting to officially apply for asylum are not entitled to any form of material reception conditions in Poland.

In principle, during the onward appeal procedure before the Voivodeship Administrative Court in Warsaw, asylum seekers are not entitled to material reception conditions. In practice, when the court suspends enforcement of the contested decision of the Refugee Board for the duration of the court proceedings, asylum seekers are re-granted material reception conditions to the same extent as during the administrative





asylum procedure, until the ruling of the court (according to the Office for Foreigners, there were 10 such cases in 2022).

The special rules concerning the duration of material reception conditions related with the COVID-19 pandemic have been repealed in April 2022. Thus, the prolongation of the provision of the material reception conditions beyond the regular time-frames lasted only until 15 May 2022. According to the Association for Legal Intervention (SIP), the repeal was adopted in violation of the constitutional principle of protection of rightfully acquired rights. In 2022, SIP joined cases before administrative courts concerning the protection of these rights. These proceedings are pending.

There are some practical obstacles reported in accessing material reception conditions. In 2022, the problems identified in the recent years continued. The difficulties intertwined with transport from detention centres to reception ones, and with the humanitarian crisis at the Polish-Belarusian border, were most prominent. The humanitarian crisis at the Polish-Belarusian border, that has started in 2021 and continued in 2022, left many prospective asylum seekers without access to material reception conditions. Foreigners that were stuck on that border or pushed back to Belarus were often not allowed to apply for international protection in Poland – against Polish, EU and international law – thus, they could not obtain material reception conditions, including medical assistance, that is available to asylum seekers whose applications have been registered.

In 2020, when the applications for international protection could not be lodged, mostly the ‘declarations of intention to submit the asylum application’ were accepted and registered by the Border Guards. However by law, the persons who ‘declared the intention to submit the asylum application’ are not covered by the medical and social assistance since they are not considered yet as applicants under national law. In a letter to the Ministry of the Interior and Administration, the Consortium of NGOs raised the need to include these persons in the social system for asylum seekers (see Obstacles to accessing reception). According to the Office for Foreigners, there were 4013 persons who declared the intention to apply for international protection in 2022, compared to 937 in 2021 and 298 in 2020. Unfortunately, the declarations are registered without any information on the legal grounds applied.

Reception capacity

Austria: In 2022, a reception crisis hit Austria. Due to high number of applications and non-cooperation of provinces who are supposed to take over asylum seekers upon completion of the admissibility procedure, federal reception centres reached full capacity in the fall of 2022. The number of asylum seekers in basic care only increased moderately from 17,000 in January 2022 to 21,500 in December 2022 even though Austria registered more than 100,000 asylum applications in the same time. Many applicants travelled on to other countries after registration. However, although the number of applicants absconding from the procedure was very high, the BBU GmbH had to build up tents in order to prevent homelessness. The reception crisis was foreseeable as the backlog of persons admitted to the procedure but not being transferred to the basic care offered by the provinces increased steadily since summer 2021.

The problems in the reception crisis in fall 2022 was only partly due to the high number of asylum applications: The provinces had decreased their housing capacities massively in the last years due to smaller number of applications and lack of finances. A crisis plan was never elaborated.

The situation in federal reception centres was very tense: As many applicants travelled on, there was a high fluctuation rate which was a big challenge for the BBU GmbH that operates the federal centres. When the weather reached lows and snow fell a public outcry resulted in closing down the tents and moving persons to buildings in November.

As of 31 December 2022, 92,984 (2021: 30,363) persons received basic care (compared to 30,363 in 2020). The main reason for the increase is the political decision to put TPD refugees from Ukraine into the basic care





system (55,262). The rest refers to 21,661 (2020: 18,273) applicants for international protection and 11,655 (2020: 9,484) beneficiaries of international protection. The total number of beneficiaries of basic care more than tripled compared to 2021. This is attributed mainly to the TPD refugees from Ukraine.

At the end of 2022, 27 federal facilities with the maximum capacity of 8,000 were in use. During the reception crisis from October until December 2022, the BBU GmbH built up tents in 4 locations to house asylum seekers. The crisis was a result of a lack of cooperation of the provinces that failed to overtake asylum seekers after admissibility procedure was completed. This led to a backlog of over 8,500 asylum seekers in federal accommodation facilities. The inadequate reception conditions in the tents caused a public uproar.

Belgium: The entire reception system had a total of 30,124 places, out of which 94% were occupied on 25 January 2022. Unaccompanied children should in principle first be accommodated in specialised reception facilities: Orientation and Observation Centres (OOC). On 19 January 2022, there were 561 places in OOCs. The Centres reached a 97% occupation rate, having been completely saturated for some time.

Bulgaria: For many years SAR's claimed that the capacity of its reception centers was up to 5,160 individuals. However, in December 2022, the new SAR management shared that the actual reception capacity was up to 3,932 individuals maximum as far as the remaining 1,228 places were located in premises unfit for living on the background of no funds planned or secured in the SAR budget for capital repair or refurbishment. The Ukrainian temporary protection holders were not accommodated in SAR reception centers as due to the large number of arrivals their housing was secured outside them under a Humanitarian Aid Program adopted in March by the regular government (see Temporary Protection). Notwithstanding the increase by 85%, compared to previous 2021, of asylum seekers originating from other countries, mainly Syria and Afghanistan, further worsened the reception capacity, also due to the fact that SAR's 2022 budget for accommodation, food, medical and other key assistance has been calculated based on a prognosis for up to 10,000 individuals, while the real number of newly arrived asylum seekers during the year doubled said figure. The sole reason overcrowded situations to be avoided in the reception centers during 2022 was the high absconding rate of Afghan applicants, which reached 95%, while they represented the second largest country of origin after Syria. The main reason for Afghan absconding laid in almost ten-year period of low recognition rates varied from 0.1% to 1%, which demotivated them to remain in Bulgaria. This discriminatory approach however began to turn in 2022, which may motivate more Afghan applicants to remain until their first instance decisions are issued, which could aggravate additionally an already diminished national reception capacity.

2,412 asylum seekers resided in reception centres as of the end of 2022, thereby marking an occupancy rate of 61%.

Cyprus: The leasing of various premises, such as housing or hotel units by the State for the residence of asylum seekers was heavily reduced in 2020 and onwards, however due to lack of capacity in reception centres there was a sufficient rise in homelessness and use of below standard accommodation. Furthermore, persons were removed from hotels/hostels with no prior warning and transferred to the First Reception Centre where many remained for months. In early 2021 and 2022 new efforts were made to remove asylum seekers from hotels/hostels by encouraging them to seek accommodation elsewhere.

In late 2021, the newly established Limnes Accommodation Centre began operations. The Centre has open and closed sections and throughout 2022 has held on average 100-200 persons whereas the capacity is 3,000 persons. It has since been reported that the Centre will close in June 2023 for renovations.

With the total number of asylum seekers reaching over 30,000 by the end of 2022, and capacity of Reception Centres limited to around 1,000 persons, most asylum seekers reside in the community in private houses/apartments, which they are required to secure on their own. SWS bear the responsibility of processing





applications and addressing asylum seekers' needs, including the allocation of an allowance to cover housing expenses. The asylum seeker is expected to provide all necessary documentation.

The nominal capacity of the Centre is 1,000 persons. Since 2020, however, it has largely surpassed its capacity, which has severely impacted the general living conditions. At the beginning of 2022 the number was just over 3,000 persons, however from mid-year onwards the number dropped to under 2000. Furthermore, there are reports of an unknown number of persons residing in Pournara irregularly, who returned to the Centre after they had exited as they were unable to secure accommodation in the community.

Throughout In early 2022 there were no more available spaces in the housing units or tents, and residents were instructed to sleep wherever they could; persons reported that they sleep two to a bed, on the floor or even in the playground.

Kofinou Reception Centre for Applicants of International Protection (...)An extension of the Centre was announced in August 2022 and since October 2022 works have been underway. For this reason, the Centre has recently been operating at a lower capacity and the actual number of residents stands at approximately 210 people at the time of this report. The redevelopment will increase the capacity of the Centre to 700 people and is expected to be completed within the first half of 2023.

Germany: In Berlin and Hamburg, around 99% percent of the reception capacities were occupied at the end of September 2022. In Brandenburg, Mecklenburg-Vorpommern and Lower Saxony 80% are currently occupied. According to the administration of Berlin 10,000 additionally places are required, 3,200 shall be built as emergency shelters in tents on the territory of the former airport Berlin-Tegel. Also the local administration of Augsburg, Bavaria claims that nearly all of the 67 accommodation centres are occupied and that the city is considering using sports facilities of local schools as emergency shelters. The authorities on the local, state and federal level blame each other for the shortcomings. While the local authorities are by law responsible for the accommodation of protection seekers, they claim that they do not have enough financial and housing resources to fulfil the current need. They therefore ask the Federal States to vacate more housing properties. The Federal States in turn urge the Federal government to strengthen their efforts and to take up a coordinating role. According to the Minister of North Rhine-Westphalia, the statement of the Federal government that 4.000 federal properties shall be made available for additional accommodation facilities is misleading, since most of these properties are farmland and thus not suitable for quick usage. In North Rhine-Westphalia, only 3 out of 39 proposed facilities by the Federal government are suitable for accommodating people.

Spain: In October 2022, the Government announced that 215 million Euros of the Plan would be used to build 17 reception facilities for migrants, with a capacity of 6,100 places.

In August 2022 the Government announced the plan to open a Migrant Temporary Stay Centre (CETI) in Algeciras, which has been opposed by the city's major, political parties, residents, etc. According to the NGO Asociación Pro Derechos Humanos de Andalucía (APDHA), the main objection from the city's major is just due to the preoccupation that it would increase the presence of migrants in the city.

France: According to the ministry of Interior, there were 108,814 places in accommodation centres for asylum seekers at the end of 2022 (+4,900 places compared to 2021) including 102,192 places (+3,400) in accommodation centres where people can stay during all the asylum procedure (CADA and HUDA) and 6,622 (+1,500) places in temporary centres (CAES).

However, some of these places are not available to asylum seekers because they are occupied, legally or illegally, by people whose application has been rejected or persons that have been recognised as beneficiaries of international protection but without housing solutions. Moreover, some places in practice vacant due to renovations or poor responsiveness in orientation.





Greece: In practice, a variety of accommodation schemes remained in place as of the end of 2022. These included large-scale camps, initially designed as emergency accommodation facilities, apartments and NGO-run facilities. Moreover, Closed Control Access Centres (CCACs) where asylum seekers are contained in prison-like conditions operated –under EU funding– on the Eastern Aegean islands.

On Kos, despite the inauguration of the new centre, new infrastructures remained non-operational, until August 2022.

Also, during 2022 the existing facilities in Lesvos and Chios have been converted to Controlled Access Centres of Islands (CCACI). However, on Lesvos and Chios, two new Closed Controlled Access Centres of Islands (CCACI) are under construction and foreseen in 2023.

On Samos and Leros the new closed facilities have been transferred to different areas compared to where RICs were located, namely in Zervou (Samos) and Lepida (Leros). Similarly, the new facilities on Lesvos and Chios which are planned for 2022 are going to be located in different areas, namely in Plati- Vastria (Lesvos) and in Akra Pachi – Tholos (Chios). In Kos the new facility has been expanded in an area detached to the existing RIC located in Pyli.

Based on the ministry’s official data, during 2022 new arrivals have increased by 96% compared to 2021 giving a significant rise to the number of the transfers to the mainland.

The end of 2022 also marked the end for the accommodation program for vulnerable asylum seekers “ESTIA - Emergency Support to Integration and Accommodation”; an accommodation scheme whose positive impact on local communities has been recognized in the municipalities that hosted it. (...) The Ministry of Migration and Asylum had confirmed since 22 February that the programme will come to an end by the end of 2022 and announced that the persons living in ESTIA apartments will be transferred to camps, but with no further provision for the vulnerable asylum seekers. From 16 of April ESTIA’s accommodation places were limited to 10,000, in comparison to the 27,000 available in 2021; reduction justified by the Ministry of Migration and Asylum with the decrease in the number of arrivals as a result of the “improved immigration management”. The program was officially terminated end of 2022; its termination undermines the legal obligation of the State to provide specific support for the special reception needs of vulnerable persons throughout the asylum procedure (...). Moreover, its termination marks the complete transformation of the Greek Reception system into a system of social isolation of those seeking international protection in Greece.

By September-November 2022, the ESTIA II accommodation programme operated in 1,683 apartments and 76 rooms found in 9 buildings, in 19 cities throughout Greece. Out of the total of 10,363 places reported by November 2022, 404 were reported on the islands of Crete and Tilos, as the programme was terminated on the rest of the islands in November 2021.

Between January and December 2022 a total of 7,363 persons from the islands of Lesvos, Samos, Chios, Kos and Leros were able to leave the islands, while another 558 were transferred to the mainland from other islands. By the end of December 2022, 4,371 asylum seekers and refugees were living in facilities with a designated capacity of 15,190, with the majority in Lesvos (1,709), Samos (1,013) and Kos (917). Yet despite available capacity conditions remain unfit for purpose.

Croatia: During 2022, the renovation of the Reception Centre for applicants of international protection in Kutina was completed and the capacity for accommodation of applicants has been increased to 140 persons.

Hungary: Until the end of year 2022, asylum seekers were never left without accommodation due to a shortage of places in reception centres.

Ireland: Capacity within the Direct Provision accommodation system remained a significant issue throughout 2022. In addition to the large number of beneficiaries of Temporary Protection arriving in Ireland, many of whom sought accommodation from IPAS, 2022 saw a very significant rise in the number of individuals seeking international protection in Ireland. Accommodation capacity was therefore extremely constrained. At





numerous times throughout the year, IPAS exhausted its accommodation stock, resulting in many international protection applicants being refused accommodation on arrival in the state.

Owing to the significant increase in the number of protection applicants arriving in the State in 2022, as of November 2022, there were 47 Direct Provision accommodation centres and a further 79 emergency accommodation centres located nationwide.

As of June 2021, 1,360 protection applicants, 174 of whom were children, were housed in emergency accommodation. As of January 2023, this figure had increased significantly to 11,414 residents across 79 centres. This marks an increase of almost 56 times the number of people in emergency accommodation in 2018, when 202 persons were residing in five hotels.

As of January 2023, there were 19, 635 people accommodated within the IPAS system, 11,414 of which were accommodated in emergency accommodation.

As of January 2023, IPAS has begun publishing weekly reports containing statistics regarding accommodation occupancy, including occupancy by accommodation type, occupancy breakdown by county and nationality.

Italy: By the end of 2022, four hotspots were operating in: Apulia (Taranto) and Sicily (Lampedusa, Pozzallo, and Messina). (...) Messina's hotspot was reopened in December 2022 after a period of being non-operational.

As of 28 of February 2023, the hotspots hosted 945 people in Sicily and 168 in Apulia.

Malta: With the decrease in arrivals, consequential to the reported increase in pushbacks, the reception system is not under pressure anymore and space is largely available in across all open centres. Despite this, the Agency for the Welfare of Asylum Seekers (AWAS) is still implemented, and non-vulnerable asylum seekers must exit the open centre at 6 months. Some positive improvements were noted with regard to the reception of unaccompanied, but the legal guardianship system is still plagued by unjustifiable delays.

Netherlands: At the beginning of 2023, 13,952 individuals entitled to reception conditions were not granted access to any type of reception centre. Over 2023 this number is expected to grow, as contracts with municipalities for reception centres are ending and many of them do not want to renew the contracts. At the end of 2023, a shortage of 35,067 places is expected by COA.

On 26 August 2022, the Secretary of State announced several measures to address the reception crisis, often referred to as the 'asylum deal'. The most important measures are the prolonging of the time period of decision-making (WBV 2022/22), the suspension of family reunification, temporary cancellation of resettlement of refugees under the EU-Türkiye deal and the launch of the 'Spreading law' (Spreidingswet). In response to the reception crisis, on 8 November 2022 a legislative proposal aimed at distributing the number of reception places in the country was put forward. The Spreading law – currently pending – will ensure that the municipalities are also be responsible for providing sufficient reception places for asylum seekers (article 6 paragraph 1).

Asylum seekers whose request is dealt with in Track 2 are only entitled to 'austere' reception (sobere opvang) as of September 2020. (...) In 2022, no separate 'austere' reception centre was used as no municipality wanted to offer one. For 2023, COA might open another 'austere' reception centre in a former prison in Almere.

Poland: In mid-2022, the two latter centres were returned under management of the Office for Foreigners and again served only as reception centres (the centre in Biała Podlaska since 20 June 2023). The centre designed exclusively for women and children was not reopened in 2022. They were accommodated in a separate building in the centre in Podkowa Leśna-Debak.

At the end of 2022, 9 reception centres operated in Poland, offering 1,714 places for asylum seekers. Throughout the year, on different dates, three centres served as the first-reception centres (located in





Podkowa Leśna-Dębak Kolonia-Horbów and Biała Podlaska) and six functioned as accommodation centres (located in Białystok, Czerwoný Bór, Bezwola, Łuków, Grupa and Linin). The Head of the Office for Foreigners is responsible for the management of all the centres.

As of 31 December 2022, 732 (compared to 1,076 in 2021) asylum seekers were residing in the reception centres. Another 2,963 (compared to 4,795 in 2021) asylum seekers were receiving assistance outside the centres.

Portugal: CAR centre, capacity 60, occupancy at 31 December 2022 105 ; CACR centre, capacity 14, occupancy at 31 December 2022 23.

It has been announced that AMIF funding has been granted to JRS for the creation of a reception centre in Vendas Novas. According to the available information, it is expected to start its operations in 2023.

Romania: construction works in Timsoara and Radauti were suspended, due to a lawsuit filled by the constructor in regards to the price of the construction works.

Sweden: The total number of asylum seekers registered in the reception system at the end of 2022 was 61,350 (up from 23,353 in 2021), of which 8,542 were living in Migration Agency accommodation, 38,070 in private accommodation and 14,738 in other forms of accommodation. Most likely the increase from the end of 2021 is due to persons from Ukraine coming to Sweden.

The number of places in Migration Agency accommodation increased from 14,810 in 2021 to 19,593 in 2022.

In 2022 the government asked the Migration Agency to comment on a proposal to introduce a new kind of departure centre (återvändandecenter). The Migration Agency's assessment was that the assignment to introduce such new departure centres was complex and needed further analysis. Among other things the Migration Agency came to the conclusion that the new kind of departure centres (återvändandecenter) would be similar to the existing departure centres (återreseboende) but would include more persons at an earlier stage of the process.

Switzerland: In autumn 2022, the situation in the asylum field in Switzerland got tense due to the increase of in asylum applications. Although, the overall number of asylum applications was not that high compared to other years, together with the refugees from Ukraine, the challenges in the whole migration sector became visible in terms of accommodation, care and support as well as in terms of procedures. The Swiss Refugee Council is observing the developments in the asylum sector with great concern.

In the view of the Swiss Refugee Council, the conditions in some federal asylum centres became untenable - especially in the regions of north-western and western Switzerland. The Swiss Refugee Council therefore welcomed the introduction of emergency measures intended for such extraordinary situations in order to ease the situation. In the emergency regime, the asylum procedure is decentralised and some steps are accelerated. There is a risk that the rights of the refugees will suffer. The Swiss Refugee Council emphasised that standards in favour of the refugees should be respected despite of the exceptional situation. In particular, child protection must be guaranteed in accommodation, care and asylum procedures: unaccompanied children and adolescents must have access to a trusted person and be accommodated separately from adults at any time.

On 25 October 2022, the SEM stated that the federal asylum centres were approaching saturation due to the increasing arrivals of asylum seekers as well as the ongoing arrival of Ukrainian nationals in search of protection. According to media reports, the centre of Boudry was at that time accommodating 900 people whereas it has a capacity of 700, and people were forced to sleep in common spaces or in the corridor of the centres. In order to increase the reception capacity, the SEM reallocated some spaces in the ordinary centres into dormitories and opened about 20 temporary federal asylum centres, increasing the capacity at federal level to over 10,000 places. At the same time, the SEM has taken some measures to reduce the number of





residents in federal centres: it implemented some measures to accelerate asylum procedures and it exceptionally attributed some asylum seekers to the cantons suspending their asylum procedure.

Most temporary asylum centres opened by the SEM belong to the army and consist in either military barracks or military multi-purpose or sports halls. In the latter case, some curtains have been installed to provide for smaller dorms, but the personal and family sphere cannot be adequately respected in such big spaces that were not planned as accommodation. Furthermore, in at least two of the six asylum regions, the SEM has resorted to underground civil protection shelters as temporary federal asylum centres. On 16 December 2022, the SEM communicated again that more military buildings were to be temporarily used as reception centres and that the army was going to provide for further support in the areas of logistics and transportation, but not assistance nor security. Given the acute lack of personnel, civil servants are also providing support in assistance tasks. At its meeting of 1 February 2023, the Federal Council adopted the corresponding report for the parliament's attention. Parliament will decide on this deployment of the army in the spring session 2023.

Duration of stay

Cyprus: During 2022 the average duration of stay was 40-60 days however there are always cases that remain longer. Furthermore, the duration of stay for UASC is significantly longer reaching 2-3 months.

Germany: In 2022 PROASYL and the Refugee Council Berlin published a comprehensive study on reception conditions. Accordingly, the average duration of stay varies not only for the different nationalities but rather due to regional differences. In Berlin the average duration in initial arrival centres were 6 weeks to 6 months, in North Rhine-Westphalia a few days to six months for families, up to 24 months for single adults. One interviewee stated that in one part of the AnKER centre in Bavaria, which is reserved for people who should be expelled, a man has been living there for 25 years.

Standards for reception

Cyprus: From 2016 until 2022 the criteria and level of material reception conditions were not included in the Law or in a Ministerial decision but only in the application used in practice for material reception conditions. In 2022 a new Ministerial Decision was issued which determines the criteria and level of material reception conditions as well as a new application form. According to the new Ministerial Decision, the person must be an applicant for international protection, for whom material reception conditions cannot be covered in Reception and/or Accommodation Centres, who lives in the areas controlled by the Republic of Cyprus and both the applicant and their family members meet the following conditions:

- No member of the applicant's family is employed.
- In the event that the applicant or any member of their family is employed, the family may continue to receive assistance as long as the monthly income is less than the total amount of assistance to which the family is entitled.
- (...)

Regarding family members the Ministerial Decision states that for the purposes of examining an application, the status of an applicant for international protection is also influenced by the applicant's family members who reside with them, regardless of whether they are included in the applicant's application for international protection or whether they have submitted a separate application for international protection. Family members means any of the following members of the applicant's family unit who reside in the government-controlled areas.

- a) The applicant's spouse or partner, with whom the applicant lives and shares a residence for accommodation purposes.





- b) the minor and unmarried children either of the applicant, or of the applicant and his/her spouse or according to paragraph (a) of his/her partner.
- I. Unmarried children still attending school.
 - II. Unmarried children who have reached the age of eighteen (18) and are searching for employment even if they submitted a separate application for international protection.
 - III. Unmarried children between eighteen (18) and twenty-three (23) years of age, as long as they receive regular education.

In 2022 according to the new Ministerial Decision, material reception conditions include:

- 1) Financial assistance to cover basic needs (food, clothing and footwear)
- 2) Financial assistance to cover minor expenses, including electricity and water costs. The amount of the financial assistance to cover such expenses is determined according to the applicant's place of residence.
- 3) Financial assistance to cover rent allowance to the owner of a property.
- 4) Advance payment of rent.

Spain: During many years, and until 2022, detailed rules on the functioning of the Spanish reception system were provided through a non-binding handbook, as the Regulation implementing the Asylum Act was pending from 2009. Finally, on March 2022, the Government adopted the Royal Decree 220/2022 of 29 March, approving the Regulation governing the international protection reception system. The new Regulation entered into force on 31 March 2022.

Greece: On 10 June 2022, IPA (articles 1-112 and 114) was replaced by L 4939/2022 (Asylum Code), which constitutes a codification of the legislation on reception, international protection of third country nationals and stateless persons and temporary protection in the event of a mass influx of displaced persons.

As per the new L 4939/2022, the Reception and Identification Service (RIS) within the Secretariat General of Reception of Asylum Seekers under the Ministry of Migration and Asylum (MoMA), is defined as the responsible authority for reception.

Article 59(1) of L. 4939/2022 provides that material reception conditions must provide asylum seekers with an adequate standard of living that guarantees their subsistence and promotes their physical and mental health, based on the respect of human dignity.

Sweden: On 14 October 2022 the newly elected Swedish Government announced that it intends to end altogether the opportunity for asylum seekers to choose and arrange their own accommodation. The government wants to introduce transit centres where asylum seekers are to spend the entire asylum process. The details of the proposal are not yet decided.

According to a political agreement between the Government political parties and the Sweden Democrats party the migration legislation will be subject to comprehensive changes with the aim to restrict the rights of asylum seekers to a minimum level in accordance with international obligations.

Reception conditions

Austria: In October 2022, a reception crisis hit Austria. Due to the lacking cooperation between the provinces that are responsible for accommodation of asylum seekers after positive conclusion of the admissibility procedure and the federal system, asylum seekers had to be accommodated in tents due to shortage of capacity in the federal reception centres.

As the registration process for non-vulnerable applicants was altered, so called waiting zones were established close to police stations where the first interviews were conducted. The reception conditions in these waiting zones were very poor and inadequate, possibly contributing to the high number of applicants travelling on to other countries after applying for asylum in Austria.





However, although the number of applicants absconding from the procedure was very high, the BBU GmbH had to build up tents in order to prevent homelessness. (...) The situation in federal reception centres was very tense: As many applicants travelled on, there was a high fluctuation rate which was a big challenge for the BBU GmbH that operates the federal centres. When the weather reached lows and snow fell a public outcry resulted in closing down the tents and moving persons to buildings in November.

Due to the high number of Ukrainians coming to Austria at the start of 2022, the basic care system has shown its dysfunctions in many ways: While many housing places had to be closed in the last years due to smaller number of asylum applications and lack of money, there was no system established for the case of crisis. Thus, many applications for basic care were not be decided for months, many people stayed without basic care for months. Civil society organisations jumped in and provided housing: more than 70% of all Ukrainians were accommodated in private housing.

The totally underfinanced system received an increase. However, especially the monthly rates for accommodated unaccompanied minors have not been raised leading to high numbers of unaccompanied minors being housed in inadequate federal camps. The housing operators, mostly civil society organisations, could not afford to open up new housing possibilities in the provinces which leads to a backlog of over 600 UAM in federal camps at the end of 2022.

Bulgaria: In 2022, three meals per day were thus distributed to all asylum seekers accommodated in reception centres. The food distribution to adults is provided once a day, while for unaccompanied children the food is distributed three times a day in order to prevent the excess meals to be taken from them by the adults.

(...)

In mid-2022, the catering service for reception centres contracted since 2020 expired. The new contracts, valid for a period of two years onward agreed on BGN 6.00, equal to EUR 3.06 value for three meals daily. SAR's new management was forced to look for donations to secure food provision for asylum seekers accommodated in its reception centres, for example - from April 12 to May 15 the food in the largest Harmanli reception centre was provided entirely thanks to donations.

The individual monthly allowance provided for in the law is not corresponded in practice. The only other assistance provided by the government are sanitary packages. The costs of prescribed medicines, lab tests or other medical interventions which are not covered in the health care package, as well as for purchase of baby formula, diapers and personal hygiene products, are still not covered, thereby raising concerns despite the efforts of SAR to address them through different approaches.

The running costs for medicines and medical supplies in 2022 were met only to the extent of the remaining funds of a SAR AMIF project, which ended on 31 December. Preventive measures against infectious diseases, such as scabies and pyoderma, as well as provision of personal hygiene and treatment packages in 2022 were delivered through donations, and again - due to lack of budget, with the Red Cross providing the major part of the necessary medicines. The country's shortage of health practitioners was the main reason why medical care for asylum seekers was mainly provided in the Sofia and Harmanli reception centres, with a total of 29,071 medical examinations until the end of the year.

Cyprus: With the total number of asylum seekers reaching over 30,000 by the end of 2022, and capacity of Reception Centres limited to around 1,000 persons, most asylum seekers reside in the community in private houses/apartments, which they are required to secure on their own. SWS bear the responsibility of processing applications and addressing asylum seekers' needs, including the allocation of an allowance to cover housing expenses. The asylum seeker is expected to provide all necessary documentation.

2022 continued to be an extremely challenging year for the country's reception system. The ongoing absence of a comprehensive reception system combined with the stringent measures adopted by the authorities to address migration and refugee flows, along with the continued increase in arrivals had a severe impact on the





ability of the reception system to address the needs of newly arrived persons, as well as of those already present in the country.

Reception standards remain below adequate levels, exposing asylum seekers to the risk of homelessness and destitution. The majority of asylum seekers live in the community, and are often extremely impoverished. Centres are overcrowded and in need of structural renovation to reach acceptable sanitation and hygiene standards, as well as to provide safeguards against sexual and gender-based violence for both children and single women. The timely identification and response to the needs of vulnerable individuals, including children, both within reception facilities and in the community, requires improvement.

Pournara: In early 2022, another serious clash broke out among residents, leading to serious injuries and damages. Such incidents continued throughout 2022.

Kofinou: Due to renovation works, residents have all been moved to a designated area of the camps that remains accessible, meaning that families and single men share the same area. This triggered some complaints from residents in the beginning but as the measures are temporary there is tolerance of the situation.

Regarding access to the Centre for NGOs, there is limited access and only upon approval by the Asylum Service, however access is granted in most cases. A new structure to host residents and volunteers in order to carry out activities, operating as an integration hub, was developed and operated during 2021. This space was affected by the renovations in 2022 and is now temporarily closed. Activities are currently taking place in a container donated by the Red Cross and EUAA has also made a section of their container available to use to this end. Throughout 2022, 9 organisations have had regular access to the Centre, providing medical supplies, psychosocial support, language classes, upskilling workshops and activities specifically aimed at children including psychological therapy, occupational therapy, arts and sports classes, and educational support for easier integration.

Germany: Reintroduction of emergency shelters: In Berlin the former airport Tegel is used as emergency shelter and its capacities have been continuously expanded since its reintroduction. In July 2022 tents located in the former Terminal A and B had a capacity for 900 protection seekers which were extended to 1,900 in October 2022. Whereas in the beginning the emergency shelters should only be provided until the end of 2022, the Berlin Senate decided that due to the arrivals from Ukraine a prolongation is required until 15 March 2023. Additionally, 3,200 places shall be made available in Terminal C. The facility at Tempelhof which was closed in 2019 reopened in December with a capacity for 840 people. In Cologne, North Rhine Westfalia and Hamburg exhibition grounds were used as emergency shelters.

VGH Baden-Wuerttemberg, Decision [12 S 4089/20](#), 2 February 2022. In February 2022 the Higher Court of Baden-Wuerttemberg ruled that private rooms in mass accommodation centres are protected under the German Constitution, article 13(1) and that consequently any entry and raids by security personnel must be regulated by law and justified in the individual case, which is not the case if house rules generally allow for security personnel to enter private rooms.

The living conditions in many initial reception centres have been criticised by asylum seekers, volunteers and NGOs – especially in light of the extended obligatory stay in these facilities. In 2022 the conditions deteriorated even more due to the massive overcrowding as consequence from the war in Ukraine and the situation in Afghanistan. (...)

As consequence of the overcrowding, the authorities seem to be overburdened and deteriorating conditions have been reported. In emergency shelters e.g. in Berlin, it has been reported that the tents at the former Berlin-Tegel airport do not protect from the cold causing numerous illnesses and facilitating the spread of Covid-19. Additionally, since the airport is surrounded by barbed wire no systematic access for NGOs and volunteers is granted. At the same time protection seekers need to take a shuttle bus to enter and exit the





emergency shelter, thereby making it difficult for protection seekers to access legal aid and social assistance. In the emergency tents in Bremen protection seekers report of non-functional and unclean sanitary facilities, coldness due to non-functional heating systems and a tense atmosphere. Only one month later the municipality of Bremen decided to evacuate the tents due to the non-functionality of the infrastructure. Inhabitants were partially relocated to emergency shelters on exhibition grounds. This solution seems to be again only temporary since the exhibition grounds are only available until the end of January. The local authorities hope that the infrastructure in the tents will be repaired by that time.

In arrival centres, the overcrowding mostly leads to backlogs in the registration procedure and conflicts among the protection seekers stemming from the lack of privacy. Asylum seekers at the arrival centre in Hamburg-Rahlstedt, for example, have reported inter alia a backlog of registration, lack of privacy, unclean sanitary facilities and disturbances at night. The sleeping areas are placed in former warehouses and divided by thin partitions into several compartments, which do not allow for privacy. Besides reading lamps attached to each bed, there is one common light for the whole warehouse, which is switched on from 8:00am to 22:00pm. A backlog of registration, lack of access to health care and social assistance has been reported also from the arrival centre in Berlin. In the arrival centre in Thuringia, many violent conflicts have been reported stemming from the lack of staff members, stressed social workers and non-trained security personnel.

In addition to overall living conditions, the security of residents can also be an issue of concern. According to preliminary police statistics up to October 2022, 65 attacks on accommodation centres were reported, compared to 61 in 2021, 84 in 2020 and 128 in 2019.

Spain: In January 2022, the Provincial Court of Las Palmas ruled on the case lodged against the inhumane treatment of migrants at the Arguineguín camp. Despite acknowledging the terrible conditions of the encampment, the judge considers that the situation was not caused by a voluntary action of the authorities to violate migrants' rights. The NGO CEAR condemned the decision, in arguing that human rights violations should always be recognised as such.

Canada Real: At the end of October 2022, the Committee on Social Rights of the Council of Europe urged the Spanish Government to restore the electricity in the area, and established a deadline on 15 December for the government to provide information on the measures implemented to comply with such requirement.

The situation in informal settlements across Spain (especially in Andalucía) continued to be a concern in 2022. A report developed by the organisations Provivienda and Andalucía Acoge and published by the Ministry of Equal Opportunities in March 2022 underlines that structural racism present in the country leads to housing exclusion, and that the situation and the living conditions in informal settlements result in a violation of the access to rights.

Greece: In Lesbos, during the last months of 2022, due to the increased arrivals, there was a limited housing capacity in the CCAC, and consequently, not a few residents, even families with children, ended up living in tents without electricity, despite the weather conditions.

Sharp criticism has been raised regarding the conditions in the quarantine sites. According to testimonies, the sites do not meet with hygiene standards (cockroaches and mice in their containers, bathrooms dirty and mouldy, lack of heat or proper insulation from the elements, insufficient number of mattresses, shortcomings in access to health care). The same conditions could be seen during 2022, especially when it comes to PRDC in Kos.

A Joint Ministerial Decision published on 19 November 2022 (GG B' 5874) terminated the five-day quarantine period, stipulating that new arrivals who test negative to COVID19 are held in the CCAC's First Reception Area for registration by RIS, undergoing Reception and Identification procedures.





Living conditions in the camps remain unsuitable. By way of illustration, out of 22 people residing in mainland camps interviewed by GCR, Diotima Centre and IRC between mid-November 2021 and 1 March 2022, 10 described the living conditions in the camps as “very bad”, 8 as “Bad” and 4 as “neither good nor bad”. Moreover, in 68% of the cases respondents stated that they do not feel safe in the camp, 60% stated they felt forced to share accommodation with people they did not know and/or with whom they did not wish to be jointly accommodated, 64% that the place they lived in was not clean, 50% that they could not easily reach necessary services (e.g. hospitals) outside of the camp and 60% that they did not have a chance to get to know the Greek society or meet Greek people, due to their accommodation.

At the beginning of February 2022, the Ministry of Migration and Asylum assigned to a contractor -selected in an international tender- the work of fencing and installing security infrastructure in the camps of Koutsochero, Vagiochori, Lagadikia, Alexandria, Filippiada and Serres until the end of April 2022. The same happened also in the camp of Katsikas in Ioannina.

Ireland: over the course of 2022, there was a consistent deterioration in the standard of accommodation provided to international protection applicants. 2022 saw a movement away from the traditional use of hotel and guest house accommodation and an increased reliance by the State on so-called ‘emergency centres.’ In March 2022, Citywest Hotel and Convention Centre was contracted by the International Protection Accommodation Service and repurposed as a transit hub for the processing of beneficiaries of Temporary Protection, as well as for the accommodation of newly arrived international protection applicants. Owing to limited bed capacity, many international protection applicants were forced to sleep on the floor of the Convention centre or on chairs for periods of up to 6 weeks while awaiting transfer to more permanent accommodation. Many residents reported sub-standard, overcrowded living conditions, as well as significant safety and child protection concerns, posing a risk to the personal safety, health and wellbeing of both adults and children living at the facility. In December 2022, the Irish Refugee Council wrote to the Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman, outlining its concern in relation to conditions at the facility and calling for a phased closure of the centre.

In July 2022, the State also began to use tent style accommodation, in which applicants were accommodated in marquee-style structures at various locations around the country. While initially intended as a temporary measure, many applicants spent months residing in wholly unsuitable accommodation which did not meet their basic needs and exposed them to at times freezing and wet weather conditions. As of December 2022, it was understood all tent accommodation had been decommissioned and residents had been transferred to alternative accommodation, following a commitment by the Minister for Children, Roderic O’Gorman’s that such accommodation would not be used again. However, on 5th of January 2023, it was reported that tented accommodation was once again being used to house international protection applicants at Knockalisheen in Co. Clare. Additionally, on the 1st of February, it was reported that Columb Army Barracks, Co. Westmeath was to be used as a site for the establishment of 15 further tents for the accommodation of approximately 120 male international protection applicants for a period of 12 months.

Other emergency centres established in 2022 comprised of disused offices, large conference rooms, schools, and sports halls. Applicants were often accommodated in congregated and overcrowded settings without access to basic public services. The Irish Refugee Council has been alerted to numerous grievous risks to vulnerable residents accommodated in these centres, including to women and minor children. These reports included significant child protection issues and very serious privacy concerns.

Throughout 2022, the Department of Children continued its engagement with HIQA and various other stakeholders regarding HIQA’s proposed monitoring of IPAS centres against the National Standards, which became legally binding in January 2021.

Concurrently, in consultation with the Office of the Attorney General, the Department of Children drafted a Regulation in which to provide the necessary legal basis for HIQA’s monitoring role. At the time of updating, the draft Regulation has yet to be published, however, the Minister for Children, Roderic O’ Gorman, had confirmed that HIQA’s monitoring role would only apply to so-called ‘permanent Direct Provision Centres’,





and not to emergency or temporary centres, on the basis that such centres are subject to separate contractual arrangements. While the enacting of legislation giving effect to HIQA's monitoring function is welcomed, the Irish Refugee Council is deeply concerned regarding the exclusion of emergency centres from HIQA's remit. In the experience of the IRC, the most difficult conditions persist within 'emergency' and 'pre-reception' facilities, and not in permanent centres. Moreover, the number of emergency centres established around the country increased substantially throughout 2022, with more than half the population of the Direct Provision system living in emergency or pre-reception centres.

As of February 2022, the number of unrelated single residents sharing a room in International Protection Accommodation Services (IPAS) accommodation was 2,374. This comprises 1,361 residents in a room assigned to 2 people and 1,015 residents in a room assigned to 3 people. Data for 2022 was not available at the time of updating.

Italy: In March 2022, ASGI's delegation working on the InLimine Project visited Lampedusa's hotspot, finding that overcrowding was so severe that people in the centre were forced to sleep on the ground due to the lack of available beds; the food provided resulted insufficient for the number of people hosted in the facility, and healthcare services were lacking; sanitary conditions were also below standard, thus compromising the protection of individual and collective health.

The organisation also collected relevant data on hotspots at the beginning of 2022, based on which it filed urgent appeals to the European Court of Human Rights, demanding the immediate transfer from the Lampedusa hotspot of three family units; the Court issued interim measures ordering the Italian government to immediately transfer one of the family units.

Netherlands: The reception crisis started in 2021 continued throughout 2022. Approximately 20,000 asylum seekers have been estimated to be living in inhumane conditions, that do not meet minimum legal standards.

Ter Apel: From May 2022, newly arrived asylum seekers who have to apply for asylum in Ter Apel have been sleeping on chairs, on the floor or outdoors in front of the centre, for one or more days. By July, the number of asylum seekers sleeping in the open air had risen to 300. On 24 August 2022, 700 people slept outside in front of the Ter Apel centre. Although attempts were made to house them in crisis emergency locations, there were not always enough available. Moreover, many asylum seekers felt compelled to stay in Ter Apel because they feared that they would not be registered otherwise (which proved to be a well-founded fear).. The Secretary of State stated, on 25 May 2022, 'every day it is uncertain to what extent reception can be assured'. From 25th August until 11th of September Médecins sans Frontières (Artsen zonder Grenzen) provided medical care in Ter Apel. It was the very first time that MSF operated in the Netherlands. MSF provided 449 medical and 203 psychological consults.

At the beginning of September, the Ministry of Defence opened a location at Marnewaard to temporarily house unregistered asylum seekers during their registration period at Ter Apel. From the opening of this 'waiting room' on, no more asylum seekers slept outside in Ter Apel – except for one night.

Almost half of the people entitled to access reception conditions have been hosted in regular asylum seekers centres in 2022. The others are hosted in temporary emergency locations (managed by COA) or crisis emergency locations (managed by the municipalities). These locations vary from sport halls, tents, boats, cruise ships, old office buildings and hotels. Overall, the conditions in these locations are very bad. Often, privacy, protection to weather conditions and peace and quiet are lacking.

In 2022, reception conditions provided to many asylum seekers did not meet the minimum legal standards. The Dutch Council for Refugees (VWN) published three Quicksans on the conditions in (crisis) emergency locations. The living conditions in emergency reception centres for refugees and asylum seekers are seriously inadequate. Many locations do not ensure that basic needs - such as privacy, security and warmth – are





fulfilled. There are also concerns about health care, access to education and other activities for children and the fact that asylum seekers need to move from place to place all the time.

After almost a year of witnessing said conditions, the Dutch Council for Refugees (VWN) formally announced that it holds the State and COA responsible for the current circumstances which violate the Reception Conditions Directive, and that if the situation would not improve, within a month, it would take the matter to court in a tort procedure. The situation did not change, therefore VWN summoned the State and COA in front of the Regional Court of the Hague on 17 August 2022. On 6 October 2022, the court in first instance confirmed that the State has an obligation of result to take appropriate measures to guarantee dignified reception facilities for asylum seekers ([ECLI:NL:RBDHA:2022:10210](#)). In fulfilling these obligations, the State must take into account the EUAA reception guidelines, as they are widely supported scientific insights and internationally accepted standards. Furthermore, the court decided that COA and the State needed to improve reception conditions quickly: (in order of the imposed term)

- In Ter Apel, every asylum seeker who wants to register must immediately be offered a safe covered sleeping place, food, water and access to hygienic sanitary facilities.
- All asylum seekers must be given immediate access to any form of necessary health care.
- The vulnerable asylum seekers mentioned in the Crisis Emergency Locations Guide (including babies and their families and heavily pregnant women) may no longer be placed in crisis emergency shelters with immediate effect.
- All asylum seekers must be medically screened before being placed in a crisis emergency location within two weeks.
- Additional reception for unaccompanied minors must be realized within two weeks, in particular for the unaccompanied minors currently residing in Ter Apel.
- A maximum of 55 unaccompanied minors may stay in Ter Apel for a maximum of five days, within two weeks.
- Minor asylum seekers must be given access to play facilities and education within four weeks.
- All asylum seekers residing in (crisis) emergency reception locations must receive a financial allowance, within four weeks.
- Vulnerable asylum seekers may no longer be placed in an emergency reception location in four weeks' time, unless their specific special reception needs are met in that location.

The overall situation had to be improved within nine months. The State and COA appealed the court decision and asked for the judgment to be suspended. This request was not allowed, meaning that the State and COA needed to fulfil the obligations that were imposed within a short time period. On 20 December 2022, the Hague Court of Appeal ([ECLI:NL:GHDHA:2022:2078](#)) upheld the merit of the earlier ruling: the reception conditions in which thousands of asylum seekers are forced to live and do not meet minimum legal requirements. The 'reception crisis' is a self-made crisis caused by the government's policies. Therefore, the State and COA could not invoke the force majeure situation of article 18(9) Reception Conditions Directive. However, although the Court expects the State and COA to fulfil their legal obligations as soon as possible, the deadline given to the State to improve all reception conditions was revoked. The State and COA still need to provide with immediate effect that:

- Asylum seekers are no longer left in the streets or sleeping outdoors in Ter Apel.
- Vulnerable asylum seekers should not be placed in (crisis) emergency locations unless their special needs are met there.
- The State and COA must make every effort to screen asylum seekers medically before they are transferred from Ter Apel to another reception centre – especially if that other facility is an (crisis)emergency location; if the screening could not take place immediately, it should take place as soon as possible thereafter.
- Access to basic health care is to be provided.





- Asylum seekers in crisis emergency locations must be provided with a weekly financial allowance in accordance with Article 14 Rva 2005.
- Children in (crisis) emergency locations should have access to playing facilities and education. An exception can only be made if there is no way to meet this condition immediately due to a shortage of teachers, and then only as long as the State continues its efforts to make education accessible to minor asylum seekers.

Moreover, the Court ruled that the State treats displaced persons from Ukraine and asylum seekers from other countries unequally. The Court rejected VWN's request to order the State and COA to treat all asylum seekers equally, based on the fact that the goal of ensuring that reception conditions meet the State's minimum legal obligations, was deemed impossible to achieve within a short period of time. The Court also does not consider it their role to instruct the State on how to ensure that the State ensures equal treatment of all asylum seekers. None of the parties appealed this decision, so the judgement is final.

In August 2022, the Inspection department of the Ministry of Justice and Security paid an unannounced visit to the HTL following the report of a 'whistle-blower' who notified eight incidents in the twenty days that he worked at the HTL. During this visit, employees and asylum seekers were interviewed. Observations were also made and supervision plans were examined in the information system of COA. Finally, the Inspection requested documentation and camera images. The findings are alarming. The Inspection established that housing supervisors, who work for the COA and the DJI, use coercion and violence. For example, housing supervisors pushed, slapped or kicked asylum seekers and made unauthorized use of handcuffs.

In his response, the Secretary of State indicates that he does not recognize any pattern of disproportionate violence on the HTL. According to the Secretary of State these cases were isolated and COA always investigates thoroughly when this happens. However, the daily program will be examined.

Poland: In 2022, there was no problem of overcrowding in these centres. On average, the centres were occupied in 45,1%. As of 31 December 2022, the highest occupancy rate was 70,91% in Kolonia-Horbów and the lowest was in Dębak-Podkowa Leśna – 20,83%.

In 2022, the centres managed by private contractors were monitored 15 times, while the ones managed by the Office itself – 7 times. In addition, in 2022, once a year for all centres, a special control concerning security services was performed. Medical establishments within the centres were monitored too – 11 times in 2022. Conditions in the centres managed by the Office for Foreigners are occasionally monitored by other authorities and entities as well, e.g. health authorities (8 times in 2022), the UNHCR, or the Commissioner for Human Rights.

In 2022, 15 requests and 9 complaints concerning reception centres were lodged in the Office for Foreigners. They concerned mostly food served in the centres and living conditions therein. Out of the complaints, only one was considered justified.

In January 2022, one hunger strike was reported in the centre in Grupa. According to the Office for Foreigners, Afghan nationals protested the food they were served in the centre, the meagre number of NGOs working in the centre, and the low quality of the support they received from the NGO operating there. They were also afraid of how their life will look like when they leave the centre.

The access to the reception centres was restricted until 2021 due to the COVID-19 pandemic. In 2022, while the access was allowed again, persons wanting to enter the reception centres were informed that they cannot be ill, should apply social distancing and should act in accordance with the instructions of the health authorities.

Poland (ECRE fact-finding visit): The Polish Supreme Administrative Court has not recently received cases on reception conditions, and the national Commissioner for Human Rights has not reported on major issues





affecting the reception system of the country, apart for the limited preparation of the centres to host people with disabilities, and for the fact that asylum applicants face problems in reaching reception centres after being released from detention. More broadly, however, Polish NGOs report that asylum seekers face problems when trying to find private accommodation, as rent prices significantly increased in the past years, and financial allowances received remain would not allow them to ensure their livelihood.

Romania: At the time of the author visit on 16 February 2023 at the ITPF Timisoara there were 4 shipping containers where asylum seekers were accommodated and 2 mobile toilets placed in the inner court yard of the institution. One of these containers was presented to the author. It had 8 bunk beds, without mattresses and a broken fan heater. The representatives of ITPF stated that the mattresses were taken out for cleaning. They also declared that these containers were not used since December 2022; these are being used only when there is a group of 10-20 people waiting for their interview and registration process. In the first trimester of 2022 ITPF Timisoara they had to process groups of 10-12 persons.

In 2022 the Ombudsman conducted monitoring visits in Bucuresti, Galati, Radauti, Somcuta Mare and Giurgiu. Galați: The Ombudsman described the hygienic conditions in the majority of rooms as appropriate. However, there were also rooms with inadequate hygienic conditions: walls were dirty and scratched.

Bathrooms were clean, but there were also bathrooms with worn down sanitary installations. The kitchens were also described as clean and appropriate, the stoves were new. The Ombudsman observed that out of 28 rooms only 2 were equipped with air conditioning and recommended their installation in all rooms. The director of the centre reported that the living conditions improved in 2022, as they painted the entire building, the linoleum was replaced, mattresses and furniture were changed. The water pipes in bathrooms were repaired. The centre is still confronting bed bugs infestation, even though disinfection is carried out twice a month.

Somcuta Mare: The Ombudsman reported inadequate hygienic conditions in kitchens: mold and food scraps were observed next to the pipes, there was no furniture where asylum seekers may eat. In 2021, the JRS representative reported that the roof of the building was damaged and it was raining inside and because of the damp, the wall and ceiling plaster was falling. They repaired the ceiling but there is still water coming in because they did not repair the roof. At the time of the Ombudsman's visit at the end of March 2022 this was still an issue, mold and infiltration was observed. Bathrooms were in a precarious state of hygiene: walls with damp, damaged sanitary items, no head showers, rusty toilets.

In Giurgiu, the author observed during its visit and it was also confirmed by interviewed NGO representatives that the hygiene conditions had improved. Hallways were freshly painted, rooms were clean and painted, only in one room there were doodles on the walls. The conditions also improved from the Ombudsman's visit on 15 April 2022, when it was noted that hallways were dirty and not painted as well as the accommodation rooms, refrigerators were dirty and smelly and bugs were also spotted. In regards to the bathrooms the situation was the same as reported the Ombudsman, water on the floor, damp, the walls separating the showers were rusty, there was a leaking pipe and the smell was stinky. The toilets had old tiles and the smell was unbearable. The director of the centre stated that the centre will be renovated, without knowing when works will start.

In Rădăuți, the Ombudsman reported that the bathrooms, even though they were renovated in 2021 were worn down and the hygienic conditions were inadequate. The kitchens were also dirty, the tiles were broken and dirty, bugs were spotted on the dirty floor. The same situation was observed also in the building intended for the accommodation of vulnerable asylum seekers: floors, walls were dirty. It was also reported by the NGO representative that hot water and heating was not available 24h/7 in the accommodation rooms but also in the NGO offices. Asylum seekers complained that during cold days the heating was not running all day. Also, bed bugs remain an issue. The director of the centre reported that during 2022 rooms, kitchen, bathrooms and hallways were refurbished.

In Timisoara, NGO representatives reported that residents did not complain about bed bugs, fleas, bugs, the poor condition of mattresses and plumbing in the showers and toilets. After the renovation the centre is clean; asylum seekers are cleaning their rooms. At the time of the author's visit there were only 3 asylum





seekers accommodated in the centre in building C, out of which one asylum seeker was living in the centre for a longer period of time. The rooms, kitchen and bathrooms were tidily kept. Asylum seekers who were to be transferred were accommodated in the same 2 rooms. The mattresses in these rooms were not so well kept. All the kitchen equipment and refrigerators were replaced. The bathrooms were also clean

Slovenia: In 2022, overcrowding due to the large number of new arrivals continued. Due to the lack of capacity the accommodation centre in Logatec was reorganised in a reception/accommodation centre for people fleeing Ukraine due to conflict. All of the families, single women and unaccompanied children were moved to the Asylum Home in Ljubljana or the Student dormitory in Postojna. In Logatec, some people were first accommodated in containers, and moved to one of the rooms in the separate buildings when they became available. Vulnerable asylum seekers were also accommodated in Logatec during the year. The medical examination is performed before the interview. . Before the medical examination was performed people could move freely on the premises of the Asylum Home. After they lodged their applications, they were accommodated in the Asylum Home or one of its branches.

Switzerland: On 25 October 2022, the SEM stated that the federal asylum centres were approaching saturation due to the increasing arrivals of asylum seekers as well as the ongoing arrival of Ukrainian nationals in search of protection. According to media reports, the centre of Boudry was at that time accommodating 900 people whereas it has a capacity of 700, and people were forced to sleep in common spaces or in the corridor of the centres. (...) Most temporary asylum centres opened by the SEM belong to the army and consist in either military barracks or military multi-purpose or sports halls. In the latter case, some curtains have been installed to provide for smaller dorms, but the personal and family sphere cannot be adequately respected in such big spaces that were not planned as accommodation. Furthermore, in at least two of the six asylum regions, the SEM has resorted to underground civil protection shelters as temporary federal asylum centres.

Between July 2016 and December 2018, a pilot project with Muslim chaplains was set up in the test centre in Zurich, which was evaluated as very positive. In January 2021, another pilot project started with Muslim chaplains in the federal asylum centres, after its prolongation in January 2022. Due to the positive effects shown in the evaluation study, the SEM is definitively introducing Muslim chaplaincy in the Federal Asylum Centres. In order to ensure the long-term financing of this service, an amendment to the Asylum Act is required.

On 1st November 2022, the SEM has launched a pilot project creating two reporting offices (Meldestelle) in the federal asylum centres of Basel and Zurich. The non-profit organisation SAH (Schweizerisches Arbeiterhilfswerk) has been mandated to manage those reporting offices. Asylum seekers residing in these two centres as well as security and assistance employees (but not employees of SEM nor legal representatives) can address those offices with their complaints. The office will provide counselling to the reporting person and transmit the complaints – only if wished, and in anonymised form – to the SEM with their recommendations, that the SEM can decide to follow or not. Although the office is placed outside the centre, the office is subordinate to the SEM and has no power to order any measures or proceed to investigations in alleged cases of violence. As such, it is not an independent complaint mechanism such as recommended by the NCPT, the Swiss Refugee Council and Amnesty International, among others. However, it is a first step in that direction and it will allow to register the complaints and better identify future needs thanks to the final evaluation.

At its meeting on 25 January 2023, the Federal Council communicated its will to create transparent and comprehensive regulations for operating and guaranteeing the safety of asylum seekers and staff in federal asylum centres. Therefore, it opened the consultation process on an amendment to the Asylum Act. In doing so, it relied in particular on the recommendations of former federal judge Niklaus Oberholzer, who had investigated security in the centres.





Financial allowances

Austria: The maximum compensation rate was increased in 2022 for the first time since 2016 but has not been implemented yet by all provinces.

In 2022, the monthly allowance was increased for the first time since 2016 from € 215,- to € 260,- (food) and for rent from € 150 to € 165,- (single person). Asylum seekers e.g. in Vienna, can receive €425 (food allowance & rent money) in cash. The payments for rent allowance are different and not uniformly regulated in all federal states,

Cyprus: In 2022 according to the new Ministerial Decision , material reception conditions include:

- 1) Financial assistance to cover basic needs (food, clothing and footwear)
- 2) Financial assistance to cover minor expenses, including electricity and water costs. The amount of the financial assistance to cover such expenses is determined according to the applicant's place of residence.
- 3) Financial assistance to cover rent allowance to the owner of a property.
- 4) Advance payment of rent.

Form of distribution of material reception conditions. Despite the improvement, various challenges remained throughout 2022 such as the time needed for processing applications for opening an account, which increased reaching 5-7 months in certain districts. Furthermore, there was an increase in the incidents where banks requested a clear criminal record from the country of origin.

In 2019, and following a Ministerial Decision, the amounts granted for covering material reception conditions had been revised upwards but remain low. In 2022, the new Ministerial Decision introduced lower amounts for electricity, water and minor expenses for asylum seekers who do not submit a rental agreement.

Although an in advance payment of rent is foreseen in the 2022 Ministerial orders, no such payments have been observed yet.

Germany: Federal Constitutional Court, Decision [1 BvL 3/21](#), 19 October 2022. Following a decision by the Federal Constitutional Court, single adults who live in mass accommodation centres and those who live in private housing shall now receive the same amount of financial social benefits. Prior to the judgement it was assumed by the authorities that those who live in mass accommodations economise together and therefore require fewer financial benefits. The Federal Constitutional Court ruled that there is no evidence which proves that single adults in accommodation centres economize together. Consequently, they cannot be compared to people who share a household and should therefore be treated equally to single adults staying outside of accommodation centres. The Court maintained its earlier rulings regarding the question whether asylum seekers may generally receive fewer social benefits and on the question of whether sanctions are possible. Since the judgement applies retrospectively from the 1st September 2019, civil society organisations urged everyone formerly affected by the distinction to request a review of the amount of benefits at the local immigration authorities.

The annual adjustment of the rates for social benefits for asylum seekers are linked to the annual rates for social benefits for German nationals. As the social benefits legal framework changes drastically from the 1st January 2023 on, so does the calculation basis for social benefits for asylum seekers. Prior to the legal reforms the annual adjustment was mainly based on the development of prices and wages. Due to the dynamic development of prices for food and energy as result from the war in Ukraine, the German government decided an additional increase on top of the compensation for the development of prices and wages. The German government further argued that the annual adjustment of social benefits for German nationals shall be adhered to more strictly. Whether this will be the case also for social benefits for asylum seekers remains unclear in the reasoning to the legal reforms.





Greece: Regarding the distribution of cash assistance, in December 2022, a total of 4,728 asylum applicants (3,008 households) received cash assistance throughout Greece, primarily in the region of North Aegean (22%), Epirus (17%) and Central Macedonia (15%).

The amount distributed to each household is proportionate to the size of each household and differs depending on whether the accommodation is catered or not. The financial sums in 2022 remained the same as the ones distributed in 2021, ranging from €75 for single adults in catered accommodation to €420 for a family of four or more in self-catered accommodation. In general terms, the sum provided is lower than what is provided under the Minimum Guaranteed Income.

Ireland: From 22 January 2022, the Pandemic Unemployment Payment closed to new applicants.

Netherlands: During the procedure started by the Dutch Council for Refugees (VluchtelingenWerk Nederland, VWN) in August 2022, COA stated that asylum seekers would receive allowances during the Rest and Preparation period starting from 1 August 2022 – except for asylum seekers staying at crisis emergency shelter centres. The RVA has not been altered yet and no public report on this is available.

In 2020, another problem arose: asylum seekers who received significant monetary indemnities, as a result of the legal penalties imposed on the IND that had not deliberated on time on their applications, were considered to have enough resources to pay for their reception. The COA considered the legal penalty payments as assets. Up until August 2022, 61 people received this request (this is because courts were not allowed to impose legal penalties as of 11 July 2021).

Poland: Since 24 February 2022, it is possible to grant a financial allowance for asylum seekers living outside reception centres without their prior registration in one of the first-reception centres.

In 2022, also the Human Rights Commissioner noticed the financial problems of asylum seekers and appealed – unsuccessfully – to the Ministry of Interior and Administration to increase the amount of financial allowance for asylum seekers living outside the reception centres. In February 2023, the Human Rights Commissioner again appealed to the Ministry in this respect.

Despite the fact that the government started a legislative procedure to increase some of the allowances for asylum seekers (in particular, the one for those living outside the reception centres) in 2021, the proposed ordinance in this regard has not been adopted. Only one amount was increased in 2022, thus, the equivalent for meals in the reception centre (PLN 11 instead of PLN 9).

Portugal: Level of financial allowances per expense

- Social support allowance for food, clothing, transport and hygiene items: ISS € 148.25, SCML € 147.22
- Complementary allowance for housing: ISS € 63.54, SCML € 63.10
- Complementary allowance for personal expenses and transport: TBC

Romania: Asylum seekers are entitled to receive, upon request, the following allowances, which were doubled as of 27 February 2022:

- Food daily allowance of 20 RON / €4.08 per person;
- Clothing one-off allowance of 135 RON/ €27.55 per person during summer and 200 RON/ €40.81 per person during winter;
- Pocket money of 12 RON/ €2.45 per day per person for other expenses such as local transport expenses, cultural services, press, repair and maintenance services and personal hygiene products expenses.

Monthly amount of financial allowances for asylum seekers, for single adults: RON 960 / EUR 195





When the capacity in the reception centres for asylum seekers is exceeded, IGI-DAI may grant asylum seekers an accommodation allowance for the purpose of renting a house or contracting specialised services for the reception and accommodation of asylum seekers in individual or collective locations, within the limits of the available funds.

In these situations, IGI-DAI may provide, upon request, material assistance amounting to the following monthly sums per person: rental assistance of 808 RON / €165; and maintenance assistance of 145 RON / €29.59 during the summer season and 185 RON / €37.75 during the winter season. In the case of a two-member household, the monthly amount paid to a person for rental decreases by 30%. In the case of households consisting of three or more members, the amount granted monthly to a person for rental decreases by 40%.

According to the director of Timisoara centre, the majority of asylum seekers are transferred before they receive the financial aid, especially in the last part of 2022, when asylum seekers were transferred in maximum 3 days since their arrival. This was also confirmed by the directors from the other centres. Based on the financial assessment made in Timisoara; asylum seekers receive the financial aid in the destination centre, according to the director of Timisoara.

It was reported by the CNRR representative in Giurgiu, that asylum seekers receive the financial aid after a week since their arrival in the centre, as the assessment of their financial situation has to be approved in Bucharest, as Giurgiu centre is not finance controller. In Galati asylum seekers are granted the aid within 3 days.

In addition to the material reception conditions afforded by IGI-DAI, asylum seekers also benefited from material assistance provided by AIDRom through the project "A.C.A.S.A. - Complex Social Assistance for Asylum Seekers". The project ended in December 2022. AIDRom provided material assistance to asylum seekers accommodated in all Regional Centres, in the 2 Accommodation and Counselling Centres run by AIDRom in Bucharest and Timișoara.

Sweden: In 2020, new rules were implemented for asylum-seekers who choose to settle in so-called socio-economically challenged areas. These persons are no longer entitled to a daily allowance. (...) Reports from the Swedish Migration Agency indicate that this legislative change did not result in a change of practice yet, as asylum seekers continue to settle in "socio-economically challenged areas". According to the Swedish Migration Agency 3,067 asylum seekers settled in such areas in 2021. In 2022, 6,526 asylum seekers settled in such areas.

The allowance for asylum seekers is considerably lower than the allowance for settled persons in need of social assistance, which covers similar areas of support. The following table relating to the amount of the monthly social welfare allowance as of January 2023 illustrates this difference:

- Single adult: Asylum seekers in private accommodation 2,130 SEK; Settled persons on social welfare 4,620SE
- 2 adults 3,660 SEK vs 7,550 SEK
- 1 adult 1 child (aged 2) 3,240 SEK vs 7,440 SEK
- 1 adult 2 children (aged 2-5) 4,530 SEK vs 10,470 SEK
- 2 adults 2 children (aged 5-12) 6,160 SEK vs 14,680 SEK
- 2 adults 3 children (aged 2-5-12) 7,020 SEK vs 17,650 SEK
- 2 adults 4 children (aged 12-14-15-17) 8,160 SEK vs 25,190 SEK

Slovenia: Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2022: EUR 18

Food





Portugal: In the course of 2022, CPR also noted an increase in the number of requests for additional food support, particularly from families with children.

Reduction or withdrawal of reception conditions

Belgium: In November 2022, in the context of the reception crisis, Fedasil issued a new instruction concerning the forced and voluntary withdrawal of reception conditions for working applicants. The aim of this instruction being to free up spaces in the reception network, it ordered the forced withdrawal of reception conditions for applicants having a stable work contract (min. 6 months) providing an income higher than the minimal living wage. Applicants who meet these conditions receive a motivated decision indicating that they have to leave the reception centre within a month. Around 350 applicants for international protection were given such a decision at the time of writing. In most cases, the departure term has been extended in order to give the applicants more time to look for housing. Given the housing crisis on the private housing market, it appeared to be very difficult to find housing within a month. Although the aim of the instruction was to target financially independent applicants so as not to overburden the public centres for social welfare (PCSW), the PCSW's receive many requests from this group of applicants looking for housing support.

Cyprus: According to the new Ministerial Decision persons cease to be entitled to the provision of Material Reception Conditions when they do not meet the following requirements:

- When they are granted international protection status by the Asylum Service.
- When the status of an applicant for international protection ceases. (...)
- When they leave the areas controlled by the Republic of Cyprus for any period.
- When placed in detention. In cases where the detained person is a family member, the provision of the material reception conditions of the family will continue without taking into account the proportion of the detained person.
- When they refuse a visit by the Director of Social Welfare Services (including an authorised representative) to the place where they live or refuse to provide information in relation to any issue that will affect any decision that will be made during their assessment or re-assessment of the coverage of the material reception conditions.
- When they have concealed financial resources and therefore unfairly benefited from the material reception conditions.
- When they refuse a job offer twice for reasons which are not considered objectively acceptable / justified. In case of refusal by them or another member of his family who can work, they will be deleted from the register of the Public Employment Service and will consequently lose any assistance they are entitled to by virtue of this capacity.
- The right to submit a new application after the applicant is considered voluntarily unemployed is granted after 4 months.
- When the applicant is employed, in the case of a family, the income from work should be less than the total amount of assistance to which the family is entitled, based on the specified amounts of the Material Reception Conditions. Otherwise, the Material Conditions of Reception are terminated.

Up to 2022, when asylum seekers were able to secure employment, the provision of MRC was immediately terminated without taking into account the sufficiency of the remuneration, again forcing asylum seekers into destitution. (...) In 2022, the new Ministerial Decision states that if a member of the household is working and the income is lower than the foreseen MRC amounts, the family may be eligible to receive the rest of those amounts. Very few such cases were observed to benefit from this provision and further monitoring is required.





Regarding reception conditions provided in other settings, there were no incidents of material reception conditions refused or terminated for asylum seekers in Pournara or Kofinou Reception Centers. The Reception/Pre-Removal Center, Limnes operated at the end of 2021 with small groups of asylum applicants being transferred to Limnes from Pournara camp. All persons, mainly from Pakistan and Bangladesh, had been issued with negative asylum decisions at 1st instance and a decision determining their place of residence as Limnes, with a proviso that should they decide to leave Limnes they would have no access to welfare assistance. The trend has been for persons to voluntarily leave the Centre and waive entitlements to welfare.

Partial restriction of reception conditions only applies to persons not residing in a reception centre and, in particular, to persons receiving aid from the SWS. For those persons, rent allowance can be rejected if they are not able to submit all the required documents and other required information regarding the property they are renting, which currently include (apart from taxation stamps for agreements exceeding €5,000) signatures and ID numbers of two witnesses, a declaration by the property owner confirming the number of residents per room and the availability of rent/water in the premises as well as copy of the property title. For those persons, and according to the latest Ministerial Decree in 2022, the amounts allocated for bills and daily expenses are also reduced. They can receive amounts for covering electricity costs and other bills and daily expenses, but not rent.

France: One of the most important developments in this area concerns the growing proportion of asylum seekers who do not have any material reception conditions, because these have been refused, withdrawn or suspended. No public data is available, but if we compare the number of asylum seekers in asylum proceedings at the end of 2022 (142,940 according to Eurostat) and the number of asylum seekers benefiting from the allowance for asylum seekers at this date (100,598 according to figures published by the authorities - OFII - on social media), approximately 30% of asylum seekers were not eligible for reception conditions at the end of 2022. Some of them, under the Dublin procedure, may have left the territory, but for the others this leads them to great precariousness and obliges them to turn to a saturated general emergency accommodation system. Many of them thus find themselves homeless.

This phenomenon has been accentuated by the implementation since 2021 of a national reception scheme aimed at directing asylum seekers from the Paris region to other regions in a directive manner: those who refuse this orientation no longer have right to material reception conditions including allowance.

Ireland: In the experience of the Irish Refugee Council in 2020 and 2021, requests for re-entry into Direct Provision under the Regulations – by people who had not taken up an initial offer of accommodation or have since experienced a change in their circumstance – have been refused on the ground of a lack of accommodation or have been subject to considerable delays. These delays have been further exacerbated by the COVID-19 pandemic. In some cases, individuals were waiting up to ten days to re-access accommodation in circumstances where they were rendered homeless. These difficulties persisted throughout 2022/ Throughout 2022, the Irish Refugee Council assisted approximately 147 international protection applicants at risk of, or experiencing, homelessness. A number of these individuals had been staying in private rented accommodation since their arrival in the State and had never accessed state-provided accommodation, while others lost their accommodation within the Direct Provision system due to alleged breaches of the House Rules. In the experience of the Irish Refugee Council, in the vast majority of these cases, requests for re-accommodation went unanswered by IPAS for several weeks, sometimes months. During this period, many applicants were forced to sleep on the street, without access to food or shelter and often in very severe weather conditions.

Poland: Financial allowance can be reduced to a half also in case of a refusal to undergo medical examinations or necessary sanitary treatment of asylum seekers themselves and their clothes. This rule was not applied in 2022.





Romania: Timișoara: According to the director of the Regional Centre Timișoara, an asylum seeker that leaves the centre without a formal request, will be re-accommodated in the centre upon return and his or her allowance will be suspended for maximum of 2 weeks. In 2022, 82 persons received a decision to withdraw their reception conditions.

Rădăuți: Asylum seekers received withdrawal of reception conditions decisions for leaving the centre without formal approval, for breaching the ROI. 5 decisions were issued in 2022. For the asylum seekers who breached the ROI by causing damage in the centre the allowance was suspended for 1 month.

Giurgiu: according to the director of the regional centre 456 decisions to withdraw the financial allowance were issued, because the asylum seekers left the regional centre and in the cases of 10 unaccompanied children who were taken over by DGASPC.

Galați: 12 decisions were issued and in most of the cases this occurred to asylum seekers who left the regional centre without prior approval or for repeated violations.

Access to the labour market

Bulgaria: In 2022 only 12 asylum seekers, 5 beneficiaries of international protection and 2,214 temporary protection holders were actually employed under different state programmes.

Cyprus: A change in the registration and servicing procedure of unemployed persons was initiated in the second half of 2021. Along with all jobseekers in the country, asylum seekers are now required to register on a new online system, run by the Public Employment Services under the Labour Department in order to get assistance to find work. The system requires the creation of an online account, creation/use of an email address in order to communicate and forward documentation to the Labour Officers and efficient navigation in a complex virtual environment.

Many asylum seekers, especially those lacking experience with similar tools, persons with limited English and Greek language skills and people without proper equipment (phones, laptops) were not able to register on time or use efficiently the system, while the authorities announced a deadline of mid-March 2022 for beneficiaries to sort out their online labour registrations, resulting in cuts or disturbances in receiving material reception conditions. Since then, delays in following PES time frames for renewing labour registration online often leads to disruption or termination of material reception conditions. The new system hinders the Labour Office staff's capacity to attend beneficiaries and in combination with limited face-to face interaction, beneficiaries are poorly guided to overcome practical obstacles in registering and using the new PES system.

Practice is a little more flexible for vulnerable persons. Following an assessment by SWS, single mothers of children up to two-years-old who are unable to take up work due to childcare may be exempted from the duty of registering with the Labour Department, without a disruption in the provision of benefits. This applies until the child/children reach the age of two. Following short disruptions during 2019, the practice reinitiated before the pandemic and it continues to be in effect.

Up until the end of 2022, only nine professions were legislatively regulated in regard to wages (salespersons, clerks, nurse assistants, childcare assistants, baby nurse assistants, school assistants, guards, carers, and cleaners) out of which asylum seekers are only allowed to exercise one (cleaners).

As of 1st of January 2023, a National Minimum Wage is in effect based on a Ministerial Decree issued in August 2022. The decree provides that the minimum wage is 885EUR for the first 6 months and will be increased to 940EUR after six months of continuous employment. However, the Decree excludes domestic workers, workers in agriculture and farming, workers in shipping and workers who are covered by the relevant Decree for the Hospitality Sector issued in 2020. Concerns have been raised by trade unions in regards to the height and the revisions of minimum wage and the actual implementation.





At the time of submitting this report, however, the issuance of a new Ministerial Decision was announced which will increase the period of prohibition to work to 9 months after the date of submission of the asylum application, with effect from August 2023.

France: According to the ministry of Interior, between April 2021 and April 2022, out of 4,745 work permit applications submitted by asylum seekers, 1,814 were granted an authorisation to work, i.e. 38.2%.

Greece: Following the entry into force of the IPA on 1 of January 2020, a 6-month time limit for asylum seekers' access to the labour market has been introduced. (...) his 6-month time limit continues with the new L. 4939/2022 entered into force on 10 of June 2022. The new law specifies that access to employment shall be "effective".

Also, difficulties in accessing the labour market for international protection applicants residing in ESTIA accommodation program that ceased end of 2022 and also persons residing in Elaionas camp in Attica that was evacuated the 30 of November 2022. These persons were obliged to leave their home and were transferred to camps far from urban areas and lost their jobs because of this forced transfer.

In October 2022, a new Ministerial Decision was issued regarding access of international protection applicants to health care services, medical and pharmaceutical care, social security, the labour market, and the acquisition of a P.A.A.Y.P.A. number. Regarding labour market, the Ministerial Decision states that the System of the Social Security e-governance updates the information regarding the P.A.A.Y.P.A. of international protection applicants with the indication "access to the labour market", so that this information can be used by other systems related to work and social security. Deactivation of the P.A.A.Y.P.A. for any reason results in the loss of the right to access the labour market.

Ireland: As a result of the COVID-19 pandemic, in December 2021, the Minister for Justice, Helen McEntee announced a further temporary extension of immigration and international protection permissions, until 31 May 2022. This extension applies to permissions that are due to expire between 15 January 2022 and 31 May 2022 and includes permissions that have already been extended by the previous eight temporary extensions since March 2020. The extension applies to labour market access permission whereby an applicant has not yet received a final decision on their international protection claim and the applicant holds a current, valid permission or a permission that has already been extended under the previous notices issued.

Portugal: An amendment to the Asylum Act enacted in 2022, determines that asylum seekers are entitled to the right to work from the moment of the application for international protection. Furthermore, asylum seekers are entitled to benefit from support measures and programmes in the area of employment and vocational training under specific conditions to be determined by the competent Ministries.

There are no limitations attached to the right of asylum seekers to employment such as labour market tests or prioritisation of nationals and legally resident third country nationals. The issuance and renewal of provisional residence permits by SEF, which clearly state the right to employment, are free of charge. The only restriction on employment enshrined in the law consists in limiting access to certain categories of the public sector for all third-country nationals.

Access to education

Cyprus: For the school year 2022-2023 the Minister of Education acknowledged that the induction of non-Greek speaking children in the schools needs to be improved and announced a series of additional measures which aim to increase interaction of schools with families of children whose mother language is not Greek, while introducing a more intensive evaluation process of Greek language use and a closer monitoring and reporting on the learning process, progress and learning outcomes. The operation of obligatory classes during the summer break for students whose language capacity has not increased according to set targets is also proposed. Further monitoring of the implementation of those measures is required.





Greece: According to Article 55 of L. 4939/2022, asylum-seeking children are required to attend primary and secondary school under the public education system under similar conditions as Greek nationals. Children who are applicants of international protection are obliged to attend school and competent authorities are obliged to provide the necessary and adequate means to support and facilitate the relevant procedure. The integration takes place under conditions, analogous to those that apply to Greek citizens. Contrary to the previous provision, IPA (L 4636/2019) and afterwards L 4939/2022 (that replaced L 4636/2019) does not mention education as a right but as an obligation.

The school year 2021-2022 was marked by improvements in enrolment (...), attendance (...), transportation of children to school (...), adequate staffing and timely scheduling of reception classes (...), inclusiveness of education (...), although difficulties remain.

Despite the positive steps undertaken by the Ministry of Education in the last school year, and the announcements made at the beginning of the school year 2022-23 for an upgraded education system and improved school integration of refugee students, including the establishment of reception classes, numerous shortcomings remain in school enrolment, attendance, and transportation. At the beginning of the school year, Greek Refugee Education Coordinators reported that a significant number of children with their families have moved within Greece, due to the above-mentioned termination of the ESTIA accommodation program. This forced students to leave their school and enroll in new schools in other regions, disrupting their education and integration into the school community, an essential part of children's development and wellbeing. The new asylum application system introduced on 1 September 2022, is also impeding school enrolment and attendance, as the electronic lodge of the asylum claim does not provide asylum seekers with an official document serving as a proof of their application, rendering children and their families 'invisible' to the state until the registration of their asylum claims at one of the competent RICs. Without being able to prove the legality of their residence, children often face difficulties in school enrolment, as an identity document and proof of vaccination booklet are usually requested during enrolment, despite not being a legal requirement. Finally, families' fear of being deprived of their freedom of movement or arrested, deters parents from approaching public authorities generally, including schools.

As regards vocational training, Article 17(1) L 4540/2018 provides that applicants can have access to vocational training programmes under the same conditions and prerequisites as foreseen for Greek nationals. The same is reiterated in Article 58 (1) of L. 4939/2022. (...) Article 58 (2) of L. 4939/2022 provides that the conditions for the assessment of applicants' skills who do not have the necessary documentation will be set by a Joint Ministerial Decision of the Ministers of Labour and Social Affairs, Education and Religious Affairs and Migration and Asylum. The same is reiterated in Article 58 (2) of L. 4939/2022. As far as GCR is aware such a decision had not been issued by the end of 2022.

Hungary: Refugee children are often not enrolled in normal classes with Hungarian pupils but placed in special preparatory classes. Integration with Hungarian children therefore remains limited. They can move from these special classes into normal classes once their level of Hungarian is sufficient. However, there are only a few institutions which accept such children and are able to provide appropriate programmes according to their specific needs, education level and language knowledge. In some other cases, the local school only accepts asylum seeking children in segregated classes but without a meaningful pedagogical programme and only for 2 hours a day, which is significantly less than the 5-7 hours per day that Hungarian students spend in school. The HHC is also aware of positive examples of schools accepting asylum-seeking children in the last years, including in 2021 and 2022.

Unaccompanied children in the Károlyi István Children's Home find it hard to enrol in formal education for a number of reasons, such as the delays in providing them with documents (such as an ID card) and the lack of available capacity in the few schools that accept unaccompanied minors. Children therefore need the support of NGOs so that they can successfully fulfil the obligations imposed by the school. In the last few years, the Menedék Association in cooperation with the legal guardians provided them the necessary help in this regard.





In 2022, UAMs still had significant difficulties and access to education could be ensured through many individual solutions, not at the system level.

Ireland: In August 2021, it was announced that the Student Support Scheme would be expanded to include allow postgraduate applications for the 2021 to 2022 academic year.

In 2022, the Student Support Scheme was re-named 'the International Protection Student Scheme' Funding pursuant to the scheme is now administered by SUSI (Student Universal Support Ireland), as opposed to the Department of Further and Higher Education, Research, Innovation and Science. Additionally, the three-year residency requirement is no longer considered as commencing on the 31st of August 2019, but rather the day prior to the course start date. Data in respect of the number of applications to the scheme for 2022 was not available at the time of updating.

In the academic year 2022-2023, the Education Fund supported 67 students to gain access to third level education with an average award of €650 per student.

Poland: In September 2022, 912 asylum-seeking children attended 231 public schools and kindergartens in Poland. 226 of them lived in the reception centres, mostly in Białystok, Łuków and Bezwola.

There are various obstacles to accessing education in practice. The biggest problem is a language and cultural barrier. However, asylum-seeking children are supported by:

- Polish language courses that are organised in all reception centres;
- Additional free Polish language classes, that should be organised by the authority managing the school that asylum seekers are attending. Those classes are organised for a maximum period of 24 months (changed since 1 September 2022, beforehand no time limit was provided for in the law), not less than 2 hours a week but max. five hours per week for one child;
- Basic supplies necessary for learning Polish.

Asylum-seeking children can also participate in compensatory classes (...) According to the Office for Foreigners, in 2022, 434 children were assisted in the reception centres in learning Polish by assisting them with homework and compensatory classes. Moreover, 145 children who were about to start school or already started it, took part in the preparatory classes.

Preparatory classes: In March 2022, the number of maximum pupils in a preparatory class was raised from 15 to 25 minors and the minimum number of hours for learning Polish language during a week was increased from 3 to 6 hours.

In 2022, the large influx of Ukrainian pupils additionally strained and challenged the Polish educational system.

Educational opportunities for adults: In 2022, there was also a possibility to learn Polish online.

The Office for Foreigners indicated that asylum seekers actively participate in Polish language lessons. In total, 665 adults attended such course in 2022. However, these numbers seem meagre when the overall number of asylum seekers is taken into account.

Portugal: Following the 2022 amendment, the Asylum Act establishes that all asylum seekers are entitled to access vocational training. Nevertheless, according to CPR's experience, access to vocational training by adults remains particularly limited as opportunities generally require a good command of the Portuguese language and diplomas that asylum seekers and beneficiaries of international protection rarely have or are unable to legalise due to the legal requirements of recognition procedures.

Access to health care, COVID-19 measures and vaccination campaigns





Cyprus: In regard to COVID-19 vaccinations, most residents have received at least two shots and the administration of the third dose administration has also been carried out in 2022.

Since May 2022, asylum seekers during the first year after the application for asylum are able to access public health institutions just with their Confirmation Letter.

Currently, there is only one NGO, the Cyprus Refugee Council, offering specialised social and psychological support to victims of torture and gender-based violence, operating through the funds of United Nations Voluntary Fund for the Victims of Torture (UNVFVT) and the EU. During 2021, 118 persons received relevant services and in 2022, 142 persons. The fund has been renewed for 2023.

Greece: In October 2022, meaning one year after its opening, Samos CCAC, still has no permanent doctor.

Furthermore, challenges in accessing healthcare due to the lack of interpreters and cultural mediators in the majority of public healthcare facilities (hospitals, social clinics etc.) also continued to persist in 2022.

Hungary: The Asylum Decree states that asylum seekers residing in private accommodation are eligible for health care services at the general physician operated by the competent local government and determined by the residency address of the applicant. In practice, these asylum seekers struggle with accessing medical services as physicians systematically refuse the registration and treatment of asylum seekers on the ground that they lack a health insurance card. The same problem persisted in 2022 as well, as some doctors believe that they can only treat free of charge people who have Hungarian social security number (TAJ).

Netherlands: As addressed above, issues connected to the lack of accessible health care services in emergency locations and crisis emergency locations emerged in 2022. On 3 August 2022, the Inspection of the Ministry of Health Care and Youth warned the Minister of Health Care and Youth and the Secretary of State of Justice and Security about the alarming situation with regard to access of health care in crisis emergency locations. The Inspection saw that medical care for asylum seekers in crisis emergency locations is seriously suffering under the current crisis conditions. The care is sometimes limited to emergency care. That is less than the normal medical care to which everyone is entitled. It is also less than the medical care that asylum seekers' centres and 'ordinary' emergency reception locations offer. In crisis emergency locations, care providers often cannot work according to the usual standards and guidelines, no matter how hard they try. This is due to the rapid grow of crisis emergency locations, to a lack of personnel and to the fact that many of the asylum seekers staying at these locations have not been registered yet – making it difficult to arrange the health insurance. There is a risk that healthcare will stagnate even more.

The Hague Court of Appeal judgement of 20 December 2022 states that medical screening always needs to be offered and that special needs of vulnerable groups need to be provided. (The Hague Court of Appeal (civil department), [ECLI:NL:GHDHA:2022:2078](https://www.ecliv.nl/ECLI:NL:GHDHA:2022:2078), 20 December 2022)

In the night between 23 and 24 August 2022, a three-months old baby, staying with his family in a sport hall at Ter Apel, died. The Inspections of the Ministry of Justice and Security and Health Care and Youth will investigate whether adequate care is provided and whether the living conditions in Ter Apel caused the death of this baby.

Poland: Several cases of refusals of medical treatment, drawing from the SIP's yearly reports, have been described in the previous AIDA reports. The problems continued in 2022.

In 2022, 26 complaints about medical assistance were registered (including couple complaints repeatedly submitted by the same asylum seekers). They concerned inter alia:

- Long waiting times for the specialist consultation,





- Problems with the hospital treatment coverage (wrongly filled hospital invoices),
- Doctors and nurses providing medical assistance.

The humanitarian crisis at the Polish-Belarusian border that has started in August 2021 and continued throughout 2022 left many prospective asylum seekers without access to material reception conditions, including medical assistance. In those circumstances, medical assistance was mostly provided by NGOs, activists and groups of doctors. However, its scope and effectiveness were greatly limited after the introduction of the emergency state and afterwards other measures that excluded access of NGOs, activists and medical staff to some areas near the Polish-Belarusian border. On 1 July 2022, after 301 days, the scope of the prohibition of mobility in the near-border area was changed – the area affected was since then much smaller (only 200 m from the border, instead of 3 km). It allowed persons providing medical assistance to have access to more ill and injured persons that crossed the Polish-Belarusian border.

Foreigners crossing the Polish-Belarusian border often required medical assistance, in particular in winter. They were starved, dehydrated, freezing (some with hypothermia), suffering from food poisoning, beaten up by – according to their accounts – Polish or Belarusian officers, and with other injuries, inter alia foot and leg injuries resulting walking barefoot or climbing through a wired fence.

In 2022, the special fence has been built at the Polish-Belarusian border. It is 5.5 m high, and it is topped with razor wire. The new fence did not stop third-country nationals from crossing this border but contributed greatly to their increased suffering. As reported by Grupa Granica, many persons have suffered injuries while climbing and coming off the fence, including fractures of the bones. Crossing the border through swamps, wetlands, and rivers (risked now more due to the construction of the fence) increased risk of drownings, injuries, hypothermia and – in consequence – death. The ambulances have been called for by Grupa Granica rarely due to the fact that the Border Guard was known for taking third-country nationals from hospitals and pushing them back to Belarus. In consequence, in the second part of the year, the increasing number of interventions of Grupa Granica required providing professional medical assistance.

The blood-curdling example of the dangers that the fence created and of the indifference of the Polish authorities is the case of a man stuck on the wall in October 2022. His leg got tangled up in the wire and he was hanging head-down 5 meters above the ground. It was watched and ridiculed by the Polish army who did not offer the man any assistance. They only photographed and recorded the event. Eventually, the man fell down. His fate afterwards is unknown.

Since August 2021, at least 37 persons died at the border. The total number of deaths is surely higher. Third-country nationals who were interviewed by HFHR said that there were bodies lying in the woods on the both sides of the Polish-Belarusian border. One of the interviewees stated that she witnessed one man dying after falling into a swamp. When she was apprehended, she tried to inform the Border Guard about the location of the body, but they did not listen. The body was found approx. one week later by the local inhabitant. In January 2023, a body of a doctor from Yemen was found in the woods near the Polish-Belarusian border. The third-country nationals that were accompanying the ill Yemeni national informed the Border Guard about his location and very bad condition. Their appeals for sending medical assistance were ignored; they were pushed back to Belarus. The Yemeni national was found only when another patrol was informed about his grave condition; however, when he was found, he was already dead.

In the increasing number of judgments issued in 2022 courts condemned pushbacks at the Polish-Belarusian border, also in cases concerning pushbacks from Polish hospitals. In the judgment no. IV SA/Wa 615/22, the Provincial Administrative Court in Warsaw considered a case of a Syrian national who was pushed back to Belarus in November 2021 after short stay in a Polish hospital and in spite of his pleadings for asylum. In Belarus he was subject to violence from the Belarusian authorities forcing him to go back to Poland. The decision ordering his immediate removal was issued and challenged by the Helsinki Foundation for Human Rights' lawyer. The court annulled the decision, explaining that the Border Guard did not rigorously assess the factual situation of the foreigner, in particular the circumstances of his arrival to Poland and his situation





upon return. The court highlighted that the principle of non-refoulement still applies at the Polish-Belarusian border. A case concerning a pushback from a hospital was also communicated to the Polish government by the ECtHR in June 2022.

The information about persons providing medical assistance at the Polish-Belarusian border was misrepresented by the Border Guard. For example, in January 2023, on its social media, the Border Guard accused activists of refusing to reveal the location of three Afghan nationals needing medical assistance. They were dehydrated, in hypothermia, losing consciousness. According to the NGO Stowarzyszenie Egala, the information about their location was given to relevant authorities twice. Moreover, the activists personally showed the firemen a way to the ill foreigners.

Some persons who had aided ill or injured foreigners at the Polish-Belarusian border were prosecuted in 2021 and 2022. In July 2022, one of the activists who had transported an ill third country national to a hospital was acquitted. The court highlighted that providing humanitarian aid is not illegal. Another activist was found guilty of insulting a policeman during the rescue action of three drowning Syrians. She showed the firemen where the foreigners were located when she saw that the authorities were looking in a wrong place. According to the activist, she was told by the firemen that the Syrian nationals were rescued in time thanks to her intervention. One of them was in hypothermia and unconscious. When the police appeared at the scene, one of the policemen felt insulted by the words of the activist. She was subsequently prosecuted and convicted with a fine. In another case, persons seeking in the border area a Syrian national in hypothermia were arrested by the Polish army and their phones and rescue equipment was seized. The court found those actions generally legal, albeit identified some procedural violations.

Portugal: CPR's CACR has also registered an improvement in access to mental health care in 2022 due to a protocol established with Psychiatric Hospital Centre of Lisbon that allowed easier and faster access to services, medication and specialised care.

In 2022, CACR continued to face challenges in liaising with the geographically responsible healthcare unit, including for registration (a necessary requirement for subsequent medical follow-up, vaccination, Covid testing). Access has been ensured with the support of other healthcare units.

In 2021, CPR created a Psychological Support Department. The department, which has one psychologist, provides psychological assistance to applicants for international protection supported by CPR, and also facilitates referrals to relevant services provided by partners such as psychiatric follow-up. In the course of 2022, the Psychological Support Department provided 525 individual consultations, mediated multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services.

Romania: In 2022, not all the regional centres had a medical doctor employed.

In Giurgiu, according to the director there is a nurse and a psychologist. However, since August 2021, there has been no medical doctor in the centre. The director of the centre reported that the psychologist provided counselling to 577 asylum seekers during 2022 and 3 counselling sessions were held with an interpreter.

In Timișoara, a medical doctor is present in the centre 3 hours per day and two nurses are provided by IGI-DAI. The nurses work on 8h shifts. The medical screening conducted by the medical doctor in Timișoara was done without an interpreter, however he is speaking Arabic. A summary evaluation is made without an interpreter, after which the medical file is drafted. There was no psychologist in the centre since December 2021 until November 2022. A social assistant was also hired in 2022, who has attributions more during the integration programme.

Switzerland: The health concept implemented by the SEM in French-speaking Switzerland prohibits direct contacts between legal representation and health professionals, both inside and outside the federal centres. In 2020, only email contacts were allowed between the infirmary of the centres. This situation has gotten even worse in 2021 – and did not improve in 2022 – as the legal representatives were forbidden to contact





the infirmary, except for organisational requests such as an appointment date. Otherwise, they can only communicate through the SEM. (...) From the perspective of organisations such as the Swiss Refugee Council, direct and effective communication between medical staff and legal representation is necessary to ensure adequate care and a complete establishment of the relevant facts, especially in the context of an accelerated procedure.

Freedom of movement

Cyprus: Asylum seekers in Pournara and in the closed section of Limnes do not have freedom of movement. Regarding Pournara during 2022 the stay is approximately 40-60 days and during this time they are not allowed to leave the Centre. In the case of Limnes for those in the open section there is free movement between 9am-9pm, however exceptions are made in relation to persons who might need to exit the centre at different times, either for medical or employment reasons.

Greece: More precisely, for asylum-seekers who entered Greece through the islands of Lesvos, Chios, Samos, Kos, Leros, and Rhodes during 2022, a restriction of movement within each island ('geographical restriction') was imposed as per the Ministerial Decision 1140/2.12.2019 (GG B' 4736/20.12.2019) which has been in force since 1 January 2020.

People residing in the RICs continued being subjected to a "geographical restriction", based on which they are under an obligation not to leave the island and to reside in the RIC facility (see Freedom of Movement). Moreover, as mentioned, since March 2020, asylum seekers residing in RICs and mainland camps remain subject to a further and disproportionate restriction of their movement, in the context of measures aimed at countering the spread of the COVID-19 pandemic. These disproportionate restrictions, with small variations, continued to be imposed, albeit implemented differently in different locations, up to 2022.

More than 35 Joint Ministerial Decisions, inter alia imposing and/or renewing or amending restrictions in the RICs and camps were issued in 2022.

Poland: in 2022, out of 124 persons, 78 have been allowed to move to another centre, while 44 were denied this possibility. According to the Office for Foreigners, the denials resulted from the organisational reasons: the need to have free spaces left in the first-reception centres and making all centres equally occupied. Moving an asylum seeker to another centre without his/her request is very rare. In 2022, 2 asylum seekers were required to move to another centre due to the fact that they had alcohol in the centre (which is prohibited) and disturbed the order therein.

Portugal : According to the Statistical Report of Asylum 2022, the dispersal mechanism is a good practice despite the implementation challenges. Among the challenges identified by the Report are: (i) the reluctance of applicants in moving from the Lisbon area to other parts of the country; (ii) the need to finetune the distribution criteria; and (iii) discrepancies in the response capacity of local Social Security services. These are persisting implementation challenges, also mentioned in prior reports.

Romania: Starting in April 2022 around 70-80% of asylum seekers were transferred to other centres within 2-3 days their arrival. As of June 2022, by order of the general inspector of IGI, all asylum seekers from Timisoara centre were transferred. According to the Director of the Regional Centre of Timișoara and NGO representatives, asylum seekers are not informed beforehand about the transfers. IGI-DAI officers jointly with the special police forces/gendarmes wake them up on the morning of the transfer. No problems were reported in regards to transfer process.

According to the director of Timisoara, food packages were not offered to asylum seekers when they were transferred to other centres in the second half of 2022.

As of June 2022 until 25 February 2023, another order of the general inspector of IGI was to transfer asylum seekers from one regional centre to another in order to hinder contact with smugglers. The transfer





procedure was described by the director of Galati centre as follows: asylum seekers are transferred from the centre where the claim was made within maximum 3 days; the preliminary review is conducted within another three days and within 7 days of arrival at the second centre, they are transferred to a third centre where the personal interview is conducted. After maximum 7 days, the person is transferred to a fourth centre where the decision is communicated; if it is not communicated within these 7 days they are transferred again, as many times as necessary until an administrative decision is issued. The appeal will then be assessed in the regional court with jurisdiction over the last asylum centre.

CNRR reported that this measure was not entirely effective. Due to this practice the asylum procedure tends to be more difficult, applicants are less cooperative because the length of the asylum procedure. Moreover, the legal counsellor in Timisoara centre noticed that the human trafficking networks are still widespread, and the asylum seekers remain in contact with the smugglers, who are well aware of this chain transfers.

The director of Galati centre also mentioned that this measure entailed a lot of human and financial resources. The ITPF Timisoara representatives reported that in order to discourage Timisoara being an intermediary stop, the Border Police jointly with IGI and Jandarmerie conducted twice a day raids of the usual meeting places of migrants.

Sweden: On 14 October 2022 the newly elected Swedish Government announced that it intends to introduce transit centres where asylum seekers are to spend the entire asylum process. The details of this proposal are not yet decided but the use of such transit centres would likely have an impact on the freedom of movement if they are to be used.

Integration

Germany: An education measure of practical relevance for adult asylum seekers are the integration courses, coordinated and financed by the BAMF. Asylum seekers are in principle not entitled to participate in an integration course. Only two groups of asylum seekers are eligible to participate:

- those with a 'good prospect to remain' based on their nationality and its recognition rate – as of 2021 these were Eritrea, Syria and Somalia. Afghanistan was added in early 2022.
- asylum seekers who have arrived in Germany before 1 August 2019 and who are employed, follow vocational training, are registered as unemployed, participate in preparatory training to take up employment, or are taking care of children under the age of three. According to the government, a registration as unemployed requires that access to the labour market exists in the first place. However, such access is very limited especially during the first nine months (see Access to the labour market).

Greece: out of the aforementioned 188 asylum seekers and refugees interviewed by GCR, Diotima Centre and IRC as of 1 March 2022, access to bank accounts seems to remain an ongoing barrier, as 62% of them did not have a bank account.

Differential treatment of nationalities in reception

Ireland: In the experience of the Irish Refugee Council, as of January 2023, newly arrived Afghan refugees are being accommodated at one of three Emergency and Orientation Reception Centres in Mosney, Co. Meath, Clonea, Co. Waterford and Balaghaderren, Co. Roscommon.

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)





Detention capacity and statistics on detention

Bulgaria: Out of a total of 20,407 applicants registered in 2022, 15,262 individuals applied for asylum at border and immigration detention, and just 2% had a direct access to asylum procedure without detention. The overall number of people held in immigration detention gradually increased in recent years, going from 119 persons at the end of 2019, to 337 at the end of 2020 and 728 at the end of 2021 and 704 at the end of 2022. Out of the 704 persons being detained in immigration detention centres at the end of 2022, 127 were asylum seekers.

(...)

Short-term detention order were widely applied by the police until the summer of 2022, when in attempt to convince the EU for the readiness of Bulgaria to join the Schengen zone the caretaker cabinet's MOI management instructed on direct application of long-term detention orders with initial period of 6 months without any prior consideration of personal circumstances or submitted asylum claim.

In general, the immigration police implements very few removals of detained third country nationals on an annual basis. In 2022 out of 16,767 third country nationals issued a detention orders the MOI carried out 583 removals, which represented just 3% implementation rate. The rest of the detainees had to be released either on account of submitted first asylum applications, or because the ordered initial 6 months detention duration has expired. The inability of MOI to implement the removals is attributed to the fact that the overwhelming majority of the third country nationals originate from Syria or Afghanistan, to which removal or return are legally and/or practically impossible. These circumstances made the majority of the detention orders not only issued without a legitimate purpose, but also completely pointless from a practical point of view.

(...)

In May 2022 the MOI finished working on the instalment of a new detention facility in the town of Elhovo, which consists of 221 container compartments fit for 1,768 individuals. In 2022 it was the regular government which first tried to use it as a transit centre for Ukrainian refugees. This attempt was abandoned following widespread protests from the public and non-governmental organisations. On 16 November 2022 the caretaker government officially designated Elhovo detention centre to serve as a transit centre for redistribution of newly arrived Ukrainian refugees despite its utterly unsuitable conditions, including due to its remote location, and the repeated protests.

Cyprus: Number of asylum seekers in detention for 2022, including January 2023: 26.

at the end of 2022, there were a total of 119 persons detained in Menogia, out of which approximately 19 were asylum seekers. There has been no official justification for the increased use of police holding cells, however it seems to be due to the lack of space in Menogia Detention Centre. As of January 2023, out of approximately 160 total detainees, 56 were held in police holding cells, and out of those, 32 were detained based on the Refugee law. Furthermore, Menogia should only be used to detain persons who are in removal procedures. Therefore, persons who have applied for asylum whilst in a holding cell, and while the detention order is issued based on the Refugee Law, should not be transferred to Menogia, although in practice this is not always adhered to. Till this day, there is no official detention centre for the detention of asylum seekers.

Germany: The capacity of these detention facilities has increased significantly in recent years, from around 400 places in 2016, to 821 available places at the beginning of 2022.

Spain: In 2022, 932 persons applied for asylum from CIEs.

Greece: At the end of 2022, the total number of third-country nationals detained in pre-removal detention centres countrywide was 2,500. Out of these, 1,006 persons (40.24%) were asylum seekers. An additional 316 third-country nationals were detained in police stations or other facilities countrywide by the end of the year, out of which, 35 persons (11.07 %) were asylum seekers. Furthermore, the total number of unaccompanied





children in pre-removal detention centres countrywide was 14 at the end of 2022, and the number of unaccompanied children in other detention facilities such as police stations was 9.

Italy: As of 30 April 2022, 1,420 people - only 15 of which were women - were detained in CPRs. Out of the total number, 859 were actually returned. Out of the 1,420 detained migrants, 589 (41%) were Tunisians; out of the 859 returned migrants, 431 (50%) were Tunisians.

As of April 2022, the most the most represented countries of origin of individuals detained in CPRs were Tunisia (589 persons, representing almost 42% of CPRs' population), Egypt (183 persons, 13%), Morocco (137 persons, 10%), Nigeria (80, 6%) and Albania (71 persons, 5%). These numbers were similar to those registered in 2021, when the most the most represented countries of origin for CPR detainees were Tunisia (2,805 persons, representing almost 55% of CPRs' population), Egypt (515 persons, 10%), Morocco (420 persons, 8%), Albania (219 persons, 4%) and Nigeria (215, 4%).

Poland: Since 2018, the Border Guard does not collect the total number of asylum seekers detained in guarded centres. On the other hand, the local branch of border Guards in Biala Podlaska stated that there were 270 asylum seekers in total detained in Biala Podlaska in 2022.

In January 2022, 468 children out of 1,349 foreigners were placed in detention centres.

Sweden: The number of detainees increased from 2,217 in 2021 to 3,029 in 2022. This includes 7 children and 3,022 adults, out of which 286 were women and 2,736 men (compared to 1 child and 2,215 adults - 167 women and 2,055 men – in 2021). There was a decrease in the number of detainees in 2020 compared with 2019 due to COVID-19. The number of detainees remained approximately at the same level in 2021 as in 2020. During 2022 the numbers returned to the normal situation before COVID-19.

Switzerland: 92 asylum applications were lodged from detention in 2022.

Detention centres and places of detention

Belgium: The asylum seeker is entitled to visits from his or her direct relatives and family members for at least 1 hour a day, if they can provide a proof of their relation. As of 3 November 2020, the visits were again restricted. Only visits by one adult and two minors were allowed once a week. The visit took place behind a screen and while wearing masks, touching each other was strictly prohibited. Only since March 2022, the visits have resumed normally.

Germany: the law also allowed for the execution of detention pending removal in regular prisons (with certain reservations and limited to a transition period until June 2022). Several Federal States (Berlin, Hesse, Lower Saxony, Mecklenburg-Vorpommern, Saxony Anhalt and Schleswig-Holstein) reported to make use of this possibility at least in individual cases as of March 2021. The provision ceased to be in effect as of 1 July 2022. On 24 November 2022, the court of appeal of Coburg (Landgericht Coburg, Decision of 24 November 2022, [41 T 25/21](#)) issued a ruling according to which a detention order was unlawful based on the detention conditions in Eichstätt, which are considered too similar to prisons so that the detention centre does not meet the standards of a “specialised detention facility” as defined by the CJEU in its decision of 10 March 2022.

In 2022, a new detention centre was opened at Munich airport (Bavaria) in January 2022 which replaced the more provisional detention facility ‘Hangar 3’.

France: all detention centres for migrants (*centre de retention administrative*) are described in an annual report published by NGOs who intervene in such centres, available in French at: <https://bit.ly/3Jr1S1T>





Greece: According to Article 51(1) L 4939/2022, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Returns Directive. Therefore, asylum seekers are also detained in pre-removal detention centres together with third-country nationals under removal procedures.

Seven pre-removal detention centres were active at the end of 2022. The PRDC of Lesbos, has temporarily suspended its operation due to extended damages following the widespread fire of September 2020. The total pre-removal detention capacity is 3,676 places. A ninth pre-removal centre has been legally established on Samos but was not yet operational as of March 2023.

Ireland: a purpose-built immigration facility was opened at Dublin Airport for use in circumstances where persons are refused leave to land. The facility houses the newly opened Dublin Airport Garda Station and the Garda National Immigration Bureau. The Garda station contains four single person cells and two additional detention rooms. As of May 2022, the facility was fully operational.

Italy: Under the Reception Decree, asylum seekers can be detained in CPRs - previously known as CIEs -, where third-country nationals who have received an expulsion order are generally held. The functioning of CPRs and their essential rules are laid out in the CIE Regulation adopted in 2014. This Regulation has been abolished by the Interior Ministry Directive of the 19 May 2022. Effective capacity in 2021 and first four months of 2022 was reduced, due to the temporary closure of some structures and COVID-19 restrictions (...)

The situation as of 31 May 2022 in the 10 CPRs can be described as follows:

- Milan's CPR, situated at the outskirts of the city, currently has an official capacity of 140 places; as of May 2022, 46 persons were detained, while the total capacity of the centre is of 72 people.
- Turin's CPR, which was first opened in 1999, currently has an official capacity of 210 places. As of May 2022, out of 112 places available, 94 persons were detained. (...) From February 2022, it is managed by Ors Italia S.r.l., operating also in Rome's CPR.
- Gorizia's CPR, which was first activated in 2006 but has been closed from 2013 to 2019 following protests on its conditions, had an official capacity of 150 places; as of May 2022, 80 persons were detained, out of an effective capacity of 100 places.
- Macomer's CPR is the first immigration detention facility in Sardinia and was opened in 2020 (...) It has an official capacity of 50 places; as of May 2022, it hosted 48 detainees. From 21 March 2022, it is managed by the social cooperative Ekene.
- Rome's CPR (...) currently has an official capacity of 210 places. It is the only Italian immigration detention facility for women; the women's section was partially renovated in 2020, but some parts remain in dire conditions. As of May 2022, 123 persons (119 men and 4 women) were detained, out of 125 places available at that time.
- Potenza's CPR (...) has an official capacity of 198 places and, as of May 2022, 71 persons were reportedly detained there, out of 112 places available
- Bari's CPR has an official capacity of 126 places and has been managed from 2018 to 2021 by the social cooperative Badia Grande (which also manages Trapani's CPR). In October 2021, several CPR's managers, including the director of the CPR until February 2021, were involved in criminal investigations for serious malpractices in the management of the CPR. On 25 November 2022, the local Prefettura excluded the social cooperative Badia Grande from the European open tender for the award of management services of the local CPR. As of 31 May 2022, 49 people were detained out of 72 places available.
- Brindisi's CPR has an official capacity of 48 places and as of May 2022 44 persons
- Caltanissetta's CPR currently has an official capacity of 92 places



- Trapani's CPR currently has an official capacity of 205 places; as of May 2022, 32 persons were detained here, out of an effective capacity of 36 places.

In 2022, the National Guarantor stressed concerns over de facto detention in transit zones, noting the persisting practice at air or port borders where the effective rejection of the foreign citizen present at border crossings does not take place immediately and people are blocked for days in the transit area, and its criticalities in terms of lack of judicial review of detention as well as conditions of detention.

Responding to ASGI requests, the air border police offices of Rome Fiumicino and Milan Malpensa communicated in early 2020 that still no premises have been identified within the transit areas of the two airports for the detention of those who have to be expelled and that therefore no detention measures had been carried out in these areas. The situation remained unchanged as of December 2022, as reported by ASGI's through the InLimine Project.

Malta: In early 2022 a specific area in Safi Barracks was designated as a space for detaining children pending their age assessments. No information is available on the layout of this space or on activities/services organised therein (if at all), as access to UNHCR and NGOs is prohibited.

Poland: Furthermore, the Border Guard placed migrants directly stopped at the Polish-Belarusian border in two of its stations (in Dubicze Cerkiewne and Połowce), defined as "centres for foreigners' registration" (Centrum Rejestracyjne Cudzoziemców).

In 2021 and in 2022 the profiles of the detention centres were changed a couple of times. In 2022, men are placed in Lesznowola, Przemyśl and Krosno Odrzańskie. Biała Podlaska, Czerwony Bór (closed in August 2022), Lesznowola, Białystok, Kętrzyn were for families with children and single women. In practice it means that it is not possible to estimate the length of the detention of the foreigners who were for example in two or more detentions centres as the detention centres have separate registration systems. In the opinion of Commissioner for Human Rights the conditions in detentions centres were not always adapted to the changed profiles.

In June 2022 – Biała Podlaska detention centre placed in the former open centre was closed. In August 2022 Border Guards closed the detention centre in Czerwony Bór and in Wędrzyn. As for March 2023 there are 6 detention centres but their capacity raised.

The detention centres in Biała Podlaska was closed in June 2022, Wędrzyn and Czerwony Bór were closed in August 2022. On the other hand, the new department for families with children in detention centre in Lesznowola was opened in 2023 with the capacity of 200 places. The new departments in detention centre in Białystok and Krosno in 2024/2025.

Portugal: Until March 2020, the detention facility at Lisbon airport was the most relevant detention space of applicants for international protection (mostly within the context of border procedures). It was closed in March 2020, and reopened in August 2020, but the application of the asylum border procedures has not resumed, leading to a significant decrease of the number of asylum seekers detained in the facility since then. According to the information publicly available, the new regulation of EECIT Lisbon explicitly excludes detention of applicants for international protection in the facility. Nevertheless, there were cases of applicants for international protection detained in the facility in 2022 (mainly cases where the application for asylum is made following a removal decision).

Slovenia: Due to the high numbers of new arrivals and the activation of the temporary protection due to the Ukrainian conflict the Asylum Home was reorganised in a de facto pre-reception centre in the beginning of 2022.



In 2022 the UOIM stopped the practice of locking up the area where newly arrived applicants are accommodated.

Although, since 2022, they are no longer locked in the Asylum home or the houses in Logatec and nothing prevents them from absconding, applicants are not allowed to leave the pre-reception area of the Asylum Home or Logatec and are therefore de facto detained.

Sweden: During 2022 a new detention centre in Mölndal replaced the detention centre in Kålleröd. At the end of 2022 there were six detention centres (Gävle, Märsta, Flen, Mölndal, Ljungbyhed, Åstorp) with an overall capacity of 567.

Grounds for detention

Belgium: July 2022, In its fourth periodic report on Belgium, the UN Committee against torture also formulated its concerns over the continued practice of systematic detention of asylum seekers at the border.

Cyprus: Until November 2022 administrative orders issued for detention are issued by the CRMD, which is under the Ministry of Interior. The Asylum Service does not issue such orders. In December 2022, a number of detention orders were issued directly from the Ministry of Interior. These cases concerned persons who were allegedly involved in clashes that took place in Pournara camp and thus detention orders were issued against them as ‘necessary to protect national security or public order’. More than 70 persons were issued detention orders for their alleged involvement in the clashes, regardless of the fact that there was no criminal investigation.

Greece: On 13 July 2022, the Ministry of Migration and Asylum published a new online platform for the electronic pre-registration of asylum seekers in Greece. (...) The appointment process mandates a maximum 25-day detention period in order for the procedure to be completed, restricting the freedom of movement of those who have registered for asylum. Pursuant to Article 8 of the EU Reception Conditions Directive (RCD), Member States “shall not hold a person in detention for the sole reason that he or she is an applicant for international protection”. Despite this, the new platform utilises detention as the status quo for the registration of an asylum application, violating the RCD’s conditions of exceptional implementation. During this detention period, asylum seekers complete their asylum interview and wait for the first instance decision on their case. If the individual’s decision is negative, they are permitted to leave the camp, yet no specific instructions are provided regarding the competent Regional Asylum Office for submission of their appeal or their right for free legal aid in the second instance of their asylum procedure, further obstructing individuals’ effective access to asylum and due process.

Law 4939/2022, in force since 10 June 2022, introduced extensive provisions on the detention of asylum seekers and lower significant guarantees for the imposition of detention measures against asylum applicants, following previous legislative amendments, threatening to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort. Particularly, Law 4939/2022 foresees:

- The possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of an extensive list of grounds justifying detention. Art. 50(2) Asylum Code provides that an asylum seeker who has already applied for asylum at liberty may be detained:
 - (a) in order to determine or verify his or her identity or nationality or origin;
 - (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
 - (c) when there is a risk of national security or public order;



- (d) when there is a significant risk of absconding within the meaning of Art. 2(n) of Regulation (EU) 604/2013 and in order to ensure the implementation of the transfer procedure in accordance with the Dublin Regulation;
- (e) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;
- The abolition of the safeguard to impose the detention of an asylum seeker only upon a prior recommendation of the Asylum Service. The IPA provided that the detention of an asylum seeker could only be imposed following a prior relevant recommendation of the Asylum Service, with the exception of cases that detention was ordered on public order grounds, in which the detention could be ordered directly by the Police Director. Art. 50(4) of the Asylum Code abolished the requirement of a recommendation issued by the Asylum Service and provides that the detention of an asylum seeker on any ground is imposed directly by the Police upon prior information of the Asylum Service. As the Asylum Service is the only authority that may assess the need of detention based on the specific elements of the application and substantiate the grounds for detention as required by law, said amendment raises concerns inter alia as of the respect of the obligation for an individual assessment and the principle of proportionality before the detention of an asylum applicant.

Throughout 2022, Greece has continued to subject newly arriving asylum seekers to several days of quarantine in Reception and Identification Centres, Closed Controlled Access Centres and other reception facilities throughout its territory, citing COVID-19 prevention reasons. There was no permanent presence of staff in quarantine sites, even for emergency cases. The policy had no basis insofar as all other movement restrictions previously imposed in light of the pandemic had been lifted for the remainder of the population. Furthermore, the authorities still refrained from notifying deprivation of liberty orders in the form of administrative decisions to the persons affected.

Other forms of de facto detention such as detention pending transfer to RIC, de facto detention in RIC, de facto detention in transit zones, detention of recognised refugees and detention in the case of alleged push backs continue to occur during 2022 according to GCR's knowledge.

Italy: In its report to Parliament of June 2022, the Guarantor for the rights of detained persons expressed concern on the fact that many people had been detained without legal basis, and in fact a significant number had been released based on court decisions.

As of 30 April 2022, out of 1,420 people who passed through the CPRs, 356(25%) were released because the detention was not considered legitimate by the Judge. 619 (44%) people were repatriated.

Malta: According to the most recent declarations made by the Government, from March 2020 until May 2022, all applicants arriving by boat were held for at least two weeks in the Hal Far Initial Reception Centre (HIRC), the so-called "China House", as measure of quarantine against COVID-19 on the basis of the Period of Quarantine Order and were allegedly served with a "Quarantine Order" explaining the reasons for such and the basis at law . (...)

The Period of Quarantine Order was repealed in May 2022 and briefly replaced by another regulation until the end of July 2022. As a result, applicants who arrived by boat after this period were not detained as a COVID related measure. They were however still detained on the basis of the above-mentioned Prevention of Disease Ordinance for several weeks, pending a medical clearance by the Public Health authorities. In terms of this Ordinance, the restriction of movement can be enforced for 4 weeks which can be extended to 10 weeks for the purpose of finalising such microbiological tests as may be necessary. The so-called "Restriction of Movement Order", issued in terms of this legislation, is in fact a document briefly mentioning the reasons for and basis at law for the measure in a single paragraph with the immigration number of the applicant and the date of issuance at the top of it. No individual assessments were conducted prior to issuing this document,



and it is issued to all arrivals by sea. Furthermore, it is only issued to arrivals by sea, and to no other person entering Malta.

Slovenia: In 2022 asylum seekers due to a large number of arrivals continued to wait for up to 20 days to lodge the application. The waiting period changed during the year depending on the number of new arrivals, however in general people had to wait 3 – 20 days to lodge the application.

While waiting to lodge the application, asylum seekers are de facto detained. (...) They also do not have the right to free legal advice or representation regarding their detention. Telephones and documents confiscated by the police during the police procedure are normally returned to asylum seekers when they lodge their application, meaning that while they are de facto detained, asylum seekers cannot communicate with the outside world in order to obtain legal counsel or in order to notify their family members of their whereabouts. In addition, translators are rarely present in the pre-detention area. As individuals are not considered to be asylum seekers until after they lodge the application, they do not have access to services before they lodge the application and thereby obtain the rights of asylum seekers. They are also not given any document that would allow them to move freely within the territory. They must sign a statement declaring that they agree to be processed as foreigners if they leave the premises of the Asylum Home or its branch before they lodge the application, meaning they can subsequently be detained in the Foreigners Centre and processed in the return procedure based on the bilateral readmission agreements or the Foreigners Act.

Alternatives to detention

Belgium: The final report of the Commission Bossuyt states that the most effective alternative to detention seems to be the Individual Case Management Support (ICAM), where a return coach is appointed to provide intensive guidance for return. (...) After receiving an order to leave the territory a migrant will be invited to a series of interviews, where his/her file would be explained to them and a trajectory towards return or other existing procedures would be organised (depending on the individual). Attendance is mandatory and failure to cooperate with return procedures or to show up may result in detention. In 2021, there were several cases of asylum-seekers in the Dublin procedure which were arrested after the first or second appointment with an ICAM coach. Since 2022, Dublin cases are, among other target-groups, the priorities of the ICAM coaches.

Despite all the proposed alternatives, neither the law nor the Royal Decree has yet been amended. This means that until now, no clear gradation of the different possible coercive measures is listed. It is yet too early to report on the concrete impact of these so called ICAM coaches, and whether or not this approach can be considered an effective alternative to detention. However, due to the mass influx of Ukrainians after the Russian invasion, most of the ICAM coaches were deployed in the registration centre at the Heysel to process the requests for temporary protection. As a result, the ICAM coaches could no longer follow up on their files for several months in 2022.

Cyprus: Overall, “alternatives to detention” are examined after detention is ordered and not prior. Throughout 2020 and in 2021 and 2022, alternatives to detention were ordered in an extremely low number of cases. In most cases of the only no asylum seekers was released from detention with a decision ordering on alternatives to detention, based on the Refugee Law. The only instances where alternatives/conditions were not ordered are detainees who challenged their detention order in Court successfully or detainees that had challenged their detention order before Court leading to forcing the CRMD to reassess their detention and decide to release them with alternatives to detention before the Court issued a decision. As such, the Court ordered their immediate release without imposing any conditions.

Greece: During 2022, applicants for international protection as well as rejected asylum seekers continued to remain systematically detained without any proper consideration of the prospect of return to Türkiye despite returns being suspended since March 2020. A number of court decisions acknowledged that in absence of an actual prospect of removal detention is lacking of a legal basis.





Italy: by 31 May 2022, 343 alternative measures were granted.

Poland: (All migrants, including asylum seekers. There were a total of 1,444 decisions of alternatives to detention in 2022. 934 were reporting obligations, 281 residences in a designated place, 6 bails and 223 surrendering of travel documents.

Switzerland: In 2022, the Federal Council has examined and rejected the possibility of introducing electronic surveillance as an alternative to detention. However, it decided to propose the introduction of another alternative consisting in the obligation to stay in a specific accommodation during a few hours every day or night.

Detention decision

Cyprus: since late 2021 till this day, detention orders now list the reasons for which detention has been ordered e.g. illegal entry, delay in applying for asylum, convicted for criminal offence, lack of travel document or address. However, there is no mention of the facts of the case or an individual assessment on how these reasons justify detention. The situation remained the same in 2022.

Until November 2022 administrative orders issued for detention are issued by the CRMD, which is under the Ministry of Interior. The Asylum Service does not issue such orders. In December 2022, a number of detention orders were issued directly from the Ministry of Interior. These cases concerned persons who were allegedly involved in clashes that took place in Pournara camp and thus detention orders were issued against them as 'necessary to protect national security or public order'. More than 70 persons were issued detention orders for their alleged involvement in the clashes, regardless of the fact that there was no criminal investigation.

in 2021 and 2022 cases were identified in Police Holding Cells where the detention order was issued or communicated to detainees with delays reaching 2-3 weeks.

Duration of detention

Bulgaria: The average asylum detention duration in 2022 continued to decrease to 56 days on average in comparison to 86 days in 2021, and 91 days in 2020, although it still remains far from the legal standard set in the law according to which detention should last for the "shortest period possible". It should be noted, however, that the duration of detention decreased when compared to previous years (252 days in 2019 and 192 days in 2018).

Cyprus: For asylum seekers detained in Menogia Detention Centre, the duration of the first instance examination of the asylum application is on average 2 months, whereas if detained in a holding cell it may take longer. Furthermore, if an appeal is submitted before the IPAC against a negative decision on the asylum application the duration of detention may reach or even go over 12 months. Duration of detention remained an issue throughout 2021 and early 2022.

In November 2022 (Supreme Court, Appeal, Application 15/22, 17 November 2022, available in Greek at <https://bit.ly/41U0jk4>), the Supreme Court decision ordered the release of a Syrian asylum seeker who was detained for reasons of 'national security or public order' when the police discovered photos he had posted on his Facebook account showing himself holding a gun and wearing the uniform of terrorist organisations. The Asylum Service found that he met the criteria to be recognised as a refugee since his return to Syria entailed risks of persecution; he was nevertheless deemed ineligible for an international protection status because of his involvement in extremist armed groups; his asylum application was rejected. The applicant appealed against the rejection and, through a separate application, challenged his detention through an





application for habeas corpus. In the application, he requested disclosure of the documents and information which the authorities had in their possession, which according to the authorities, justified his continued detention. The trial court rejected his application for habeas corpus, stating that the applicant already knew the reasons for his detention, namely his social media posts implicating him with terrorist organisations. He appealed the first instance rejection of his habeas corpus application arguing that the failure of the authorities to disclose the information on the basis of which they detained him infringed the principle of equality of arms and his right to a fair trial, in violation of the EU Charter for Fundamental Rights and the ECHR. The Appeal Court set aside the trial court decisions that rejected the habeas corpus application and ordered the applicant's release from detention, on the ground that the authorities failed to adequately and accurately justify why the applicant was seen as a risk to national security. As a result of the authorities' failure to justify why the applicant's detention for 14 months was necessary, his detention was rendered unlawful and the habeas corpus order was issued.

The above-mentioned court decisions have not had an impact on the policies or practices followed with regard to the length of detention which continues to be indefinite in 2021 and early throughout 2022. Furthermore in 2022, there has been an increase in detainees being deported, as well as a significant increase in detainees opting for voluntary return which has led to a decrease in the average duration of detention.

Greece: Additionally, by the end of 2022, the so called 'inter-islands arrivals', were subject to detention without access to services that shall be provided within the scope of Reception and Identification Procedures. From September 2021 until December 2021, the maximum detention period was reduced from 18 months to 12 months. In January 2022, it was further reduced to 6 months.

By the end of 2022, the period of pre-RIC detention was limited to few days as far as GCR is aware.

Law 4939/2022, in force since 10 June 2022, introduced extensive provisions on the detention of asylum seekers and lower significant guarantees for the imposition of detention measures against asylum applicants, following previous legislative amendments, threatening to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort. Particularly, Law 4939/2022 foresees: (...) extensive maximum time limits for the detention of asylum seekers. According to Article 50 (5) Asylum Code, the detention of an asylum seeker can be imposed for an initial period up to 50 days and it may be successively prolonged up a maximum time period of 18 months. Furthermore, according to Art. 46(5), the detention period in view of removal (return/deportation etc) is not calculated in the total time, and thus the total detention period of a third country national within the migration context may reach 36 months (18 months while the asylum procedure + 18 months in view of removal). The possibility to extend the period of detention of asylum seekers up to 18 months, raises serious concerns as of its compliance with the obligation as a rule to impose asylum detention "only for as short a period as possible" and to effectuate asylum procedures with "due diligence" in virtue of Article 9 Directive 2013/33/EU.

Following changes in legislation and practice, it is evident that detention lasts for prolonged periods, risking sometimes to reach maximum time limits. For instance, out of 2,500 persons detained at the end of 2022, 724 had been detained for periods exceeding six months. Moreover, out of 1,006 asylum seekers detained at the end of 2022, 283 had also been detained for periods more than six months.

Italy: As of 30 April 2022 the duration of detention in Lampedusa and Pozzallo was 5 days, while no data was available about Taranto.

Malta: 2022 saw both the duration of detention under health grounds and under the Reception Regulations substantially decreasing and applicants were generally not detained beyond the prescribed limits. However this positive improvement is likely to be linked only to the decrease in arrivals, consequential to the increase in pushbacks or failures to intervene.





Lawyers reported that the reviews that are required by the Regulations to be carried out two months after the first one is generally not automatically done and will only happen if requested by a lawyer. This is in part due to the fact that free legal aid is only provided for the first review. This results in large numbers of asylum seekers being detained without appropriate judicial oversight. This is confirmed by the numerous cases of asylum seekers being detained beyond the 9 months deadline, as will be discussed further below. According to the Malta Police Force, in the first 6 months of 2022, no applicants issued with a Detention Order were detained for longer than 9 months.

Poland: The duration of detention was varied. Depending on the place of deprivation of liberty, it ranged from 52 days to over 17 months. The average stay of children in detention was 60 days. On the other hand, the average stay in detention centre of asylum seekers was maximum 124 days.

Sweden: The average period of detention was 5752 days in 2022. This refers to an average 5853 days for men and 4037 days for women in 2022. The continued long detention periods in 2022 are probably due to the partly continuing COVID-19 situation, as travel restrictions hindered the Agency to carry out departures from Sweden.

Detention conditions

Belgium: Only since March 2022 have visits to detainees resumed normally after COVID-preventive measures.

Cyprus: regarding visits of relatives to detainees in Menogia restrictions still exist. According to CyRC monitoring visits during 2022, detainees are not allowed to have outside visitors, unless it is from a lawyer or NGO representative. This is due to the fact that after different trials of imposing some restrictions, they realised that continued to be exposed to the virus and decided not to take any risks; specifically due to a COVID-19 outbreak they had in early 2022.

Germany: Hof, Bavaria: The detention centre in Hof opened on 26 October 2021 and has a capacity of 150 places. It is administrated by the prison in Hof, but separated from it 'through structural and organisational measures'. Over the course of 2022, the maximum number of detained persons at the same time was 112, on 221 November 2022 (the lowest was 28 detainees on 13 March 2022). As of October 2022, 54 law enforcement officials and 20 social workers, psychologists, chaplains, and medical staff worked at the facility. The average number of detainees at a given time was 42 in the first half of 2022 and 80 in the second half. The average duration of stay in detention was 27 days. According to the Ministry of justice, detainees have access to a range of leisure facilities including sports, and each room has a TV with access to international channels. Leisure activities are offered by the social services present in the facilities. According to press reports, detainees can be outside their rooms between 9 am and 7 pm. As of October 2022, persons put in detention were first had to isolate for 5 to 12 days to prevent transmission of Covid-19. Often, detainees only have access to support structures after this time.

In Bavaria, Covid-related restrictions in detention facilities were lifted as of 26 May 2022.

Spain: A report published by Migra Studium in December 2022 denounced the lack of transparency and hostility at the CIE of Barcelona, as well as the difficulties for inmates in receiving visits by NGOs and family members. Similarly, the 2022 annual report on the situation of CIEs elaborated by the Jesuit Migrant Service denounced that they are unfair and hostile structures, and it called once again for their closure.

In September 2022, detainees at the CIE of Zapadores in Valencia started a hunger strike to protest against the quality of food (including due to the presence of worms in the food served) and lack of drinkable water at the facility.





Greece: Official statistics demonstrate that the situation has not improved in 2022 and that pre-removal centres continue to face a substantial medical staff shortage. At the end of 2022, there were only four doctors in total in the detention centres on the mainland (1 in Amygdaleza, 1 in Korinthos, 1 in Fylakio and 1 in Paranesti). Moreover in Kos PRDC, i.e. where persons are detained inter alia in order to be subject to readmission within the framework of the EU-Türkiye Statement, there was no doctor.

Italy: The hotspot approach is used beyond the actual hotspot centres. In October 2020, ASGI reported that the first line reception facility of Monastir, in Sardinia, was being used as a de facto detention facility. The new inspection conducted by ASGI in May 2022 confirmed the critical issues that emerged the previous year, which include unlawful detention practices, obstacles to access to the right of defence, violation of freedom of phone correspondence - in light of the seizure of incoming persons' phones - , inadequate detention conditions and promiscuity.

The right to phone correspondence is actually established by art. 5 of the Ministry Interior Directive of May 2022.

In 2022, the National Guarantor stressed concerns over *de facto* detention in transit zones, noting the persisting practice at air or port borders where the effective rejection of the foreign citizen present at border crossings does not take place immediately and people be blocked for days in the transit area, and its criticalities in terms of lack of judicial review of detention as well as conditions of detention.

The National Guarantor reported as of 31 December 2021 two people died inside CPRs. Other deaths occurred during 2022.

According to article 4(m) of the new Directive of the Ministry of the Interior of May 2022 - in line with the Article 4(h) of the CIE Regulation it substituted -, social, recreational and religious activities shall be organized in the centres, and to "this end the manager shall prepare a weekly calendar of planned activities, to be brought to the attention of all foreigners present."

In practice, it has been reported that in most CPRs, apart from unequipped outdoor concrete courtyards, there are no: (i) football fields or libraries; (ii) places of worship; (iii) recreational and cultural activities; (iv) agreements with civil society associations that can provide additional services and activities.

Malta: Refurbishments are reportedly under way in the Safi Detention Centre but the authorities have refused to share any detailed information on the matter. Applicants continued to complain of the detention conditions which are reported to have insufficiently improved since the damning CPT report of March 2021.

In January 2022, the Government of Malta provided the Committee of Ministers of the Council of Europe with information on initiatives taken within the framework of the execution of the judgement of Feilazoo v. Malta. The Government submitted that refurbishment works in the block where the applicant was held as well as in the other two blocks of the centre were under way with improved sanitary conditions. According to the government, at the time of writing, 86% of all persons residing in Safi Detention Centre were living in refurbished or brand-new compounds, making the accommodation more comfortable, modernised and resistant to vandalism.

The Government reported it increased outdoor activities and improved communication with families outside and with officers who are stationed inside the facility. According to the Government, at the time of writing, all persons residing at Safi Detention Centre had at least three hours access to outdoor space and a large number of residents have continuous access to outdoor space from sunrise until sunset. It further reported that professional football coaches provide weekly football sessions which are available to all residents. Furthermore, capoeira sessions are also being offered to female residents by a professional capoeira coach, adding that further projects are envisaged for 2022 to include literacy and life skills.





In *Ayoubah Fona vs. L-Avukat tal-Istat* filed on 12 July 2022 before the Civil Court of Malta (First Hall), the applicant complains of his conditions of detention and the unlawfulness of his detention under the Prevention of Disease Ordinance. The minor applicant arrived in Malta in November 2021 and remained in detention for 58 days, with a substantial amount of time spent with adults in the HIRC, the so-called “China House”.

In July 2022, aditus foundation released a series of testimonies from detainees who had been held for 18 to 25 months in both China House and Safi between December 2019 and April 2022. The testimonies confirmed the living conditions had not improved sufficiently since the CPT’s visit.

Netherlands: Since the beginning of the pandemic, this timetable underwent significant changes. Detainees were sometimes only allowed to leave their rooms for 1 hour a day due to lack of staff in the facilities. Overall, they were not allowed to leave their living areas for more than 3,5-4 hours a day. This regime ended at the beginning of April 2022.

Poland: Furthermore, the Border Guard placed migrants directly stopped at the Polish-Belarusian border in two of its stations (in Dubicze Cerkiewne and Połowce), defined as “centres for foreigners’ registration” (Centrum Rejestracyjne Cudzoziemców). These facilities are very similar to detention centres, as the individuals held in such facilities did not have access to Internet, computers or phones. Additionally, they (...) were left without any possibility to communicate with the outside world or leave these premises in any time. Moreover, the living conditions were critical, for example, foreigners were sleeping in one big room on the mattresses on the floor. Foreigners were accommodated there even for 3 -4 weeks.

On 13 of August 2021, a new amendment was introduced to the Ordinance of the Ministry of Interior and Administration of 24 April 2015 on the guarded centres and detention centres for foreigners which allows now to place foreigners in a room for foreigners or in a residential cell the area of which is not less than 2 m² per foreigner:

- in the case of no vacancies in rooms for foreigners,
- for a specified period of time,
- not longer than 12 months.

This new regulation has caused detention centers to become overcrowded, in particular the Lesznów, Przemyśl, Wędrzyn, Białystok and Kętrzyn detention centres in 2021 and in 2022. Due to the overcrowding in detention centres, the number of social assistants is insufficient in the detention centres. In practice it means that migrants’ right to information on the current status of their proceedings is not respected and foreigners are not aware of their rights and obligations. Since 25 of April 2022 in detention center in Biała Podlaska, Białystok, Czerwony Bór, and in Kętrzyn, migrants are placed in which has at least 4 m². In case of detention centres for men, the area per foreigner was reduced to a minimum, depending on the needs.

The migrants cannot use the smartphones, which means that the access to the Internet is only in dedicated rooms with computers.

Poland (ECRE fact-finding visit): According to recent information, it appears that some improvements were registered for what concerned the number of immigration detainees, whose number started registering a decrease after the spring in 2022. After a visit conducted in the country in July 2022, the Special Rapporteur on the human rights of migrants observed that efforts had been made by Polish Border Guards in improving the conditions of stay of asylum seekers in closed facilities. The Rapporteur, however, highlighted how some structural issues remained, especially regarding the lack of access to independent legal counselling and insufficient mental health care. Polish NGOs also report that access to psychological care in detention is particularly restricted as specialised NGOs providing these services are not allowed to access the centres. The Supreme Chamber of Control recently stated that, from August 2021 to the end of the year, activities of the Health Service did not ensure proper access to medical care for foreigners residing in detention centre in Białystok, that hosted for a period families with children.





Sweden: In March 2022 the Parliamentary Ombudsman (JO) made an inspection in accordance with the Optional Protocol to the Convention against Torture at the detention centre in Märsta. The Parliamentary Ombudsman (JO) expressed concerns about the following. During 2021 there had been detainees secluded for longer periods of time, as long as a couple of weeks. The Parliamentary Ombudsman (JO) noticed that the rooms where detainees were held secluded had camera surveillance all day long. According to the Parliamentary Ombudsman (JO) camera surveillance is a very serious breach of a person's privacy. Even though the area around the bathroom did not have camera surveillance, it was almost impossible for the detainee to take care of personal hygiene or changing clothes without being observed. The Parliamentary Ombudsman (JO) also noticed that personal information about the detainees were written on boards by the staff in a manner that made it possible for other detainees to see.

In the context of COVID-19, the Swedish Migration Agency had decided on 15 March 2020 to limit the detainees' access to visitors as indicated by the Parliamentary Ombudsman (JO) following an inspection. However, detainees could still request visits which were assessed on a case-by-case basis. The JO concluded, however, that detainees were not properly informed about this possibility. Restrictions were lifted in February 2022.

During 2022 the running of the detention centres returned to normal activities similar to the situation before COVID-19.

Slovenia: In 2022 addition cases of police violence and ill treatment prompted detained asylum seekers to start a hunger strike. The asylum seekers claimed that they were beaten, psychologically tormented and humiliated by the police. The police denied the accusations. An investigation into the accusations was not publicly announced therefore it is not known if it was conducted.

Switzerland: In October 2022, the Federal Supreme Court has ruled that access to the Internet must be provided to detainees in order for them to be able to keep social contacts outside detention.

In 2022, the Federal Supreme Court has judged the conditions of detention inadmissible in a number of cases concerning the Regional prison of Bern, the Regional prison of Moutier, the penitentiary of Realta and the prison of St. Gallen. A cantonal court has also considered the detention conditions in the prison of Gmünden (canton Appenzell Ausserrhoden) inadmissible. Federal Supreme Court, Decision [2C-27/2022](#), 9 May 2022 on the Regional prison of Bern and Moutier; Decision [2C 765/2022](#), 13 October 2022 on the Regional prison of Moutier; Decision [2C-662/2022](#) on the penitentiary of Realta; Decision [2C 781/2022](#) on the prison of St. Gallen.

Since June 2022, the FNIA provides for a new possibility of restraining the opportunities for detainees to have contact with specific persons or groups in cases where the person concerned is assumed to pose a specific risk to internal or external security, and even ordering solitary confinement if the restrictions have proven inadequate to counter such security risk.

Health care and special needs in detention

Cyprus: Menogia. There used to be a resident psychologist at the Centre, whose contract expired in the beginning of 2022 and has not been replaced. Currently the Centre provides psychosocial support to detainees volunteer psychology students on a weekly basis as part of a Red Cross initiative. Detainees who seek psychiatric assistance must make an appointment with the doctor, who then refers them to the psychiatrist at the General Hospital of Larnaca district if they deem necessary.

Italy: Art. 3 of the new Directive of the Ministry of the Interior of May 2022 provides for a medical examination of suitability for life in the CPR to be issued by the competent ASL prior to entry into the facility, or in case the





person enter without having had the visit “the examination must be repeated within 24 hours of entering the CPR by the doctor from the ASL with which the Prefecture headquarters of the CPR has entered into a special protocol.” The certification of the medical visit shall be forwarded to the Judge's file of the validation of detention.

It is necessary to note that the number of deaths in CPRs has never been as high as in recent years. Between June 2019 and May 2022, eight foreign nationals lost their lives whilst held in administrative detention. The specific instances differ in terms of causes and circumstances, but what is common between them is a lack of clarity about the circumstances of their deaths, doubts about the suitability of these persons to be placed in this restricted community setting in the first place, and the risks arising from inadequate protection of the health of detainees.

Malta: Healthcare in detention: NGOs reported that in 2022, asylum seekers appeared to be systematically screened upon arrival and referred to the appropriate services. However, this must be read within the context of a substantial drop in arrivals with little to no pressure on the system and it remains to be seen how the Migrant Health Service would perform in case of an increase in arrival.

Netherlands: Persons in detention have a right to health care, either provided by a doctor appointed by the centre or by a doctor of their own choosing. In March 2022, newspaper Trouw reported that due to a lack of qualified personnel and the right resources, the men detained in the Rotterdam immigration detention centre have been receiving poor medical care for years. In one example a detainee needed to wait four months in order to see a doctor for a growing bump on his chin, because the nurse recorded his request as ‘no emergency’. In response, the Custodial Institutions Agency denied the lack of access to adequate care, neither physical nor mental.

Poland: According to the law, all detainees have access to regular health care. Unfortunately, in some detention centres access to the physician (Wędrzyn) and psychologist (Przemysł, Lesznowola, Krosno, Białystok, Kętrzyn, Biała Podlaska) was very restricted in 2022.

Additionally, the Border Guards refused to allow psychologists hold meetings with specific individuals in 2021 and in 2022 in detention centres in Wędrzyn, Kętrzyn, Biała Podlaska and Lesznowola, declaring that the foreigners have access to the psychological care in detention centres.

Poland (ECRE fact-finding visit): Issues in accessing psychologists and specific medical services have been reported, especially for women. The only provision of psychological support granted is from personnel employed by the Border Guard, but this leads to a limited willingness for detainees to access the service, due to a lack of trust. In this respect, UNHCR as well as other organisations have been advocating for the possibility of introducing an external service providing this kind of support.

Various stakeholders highlighted that the extensive use of child detention in the country should be considered as an issue for particular concern. The situation regards both children who are placed in detention with their families and unaccompanied minors, who are often placed in detention despite being recognised as unaccompanied due to the lack of places in foster homes. The persistence of the problem can be exemplified by noting that, from 2018 to 2023 five different ECtHR judgements (see: *Bistieva and Others v. Poland*, no. 75157/14, 10 April 2018; *Bilalova and Others v. Poland*, no. 23685/14, 26 March 2020; *A.B. and Others v. Poland*, nos. 15845/15 and 56300/15, 4 June 2020; *Nikoghosyan and Others v. Poland*, no. 14743/17, 3 March 2022; *R.M. and Others v. Poland*, no. 11247/18, 9 February 2023) condemned Poland for detaining children for several months in prison-like conditions. Despite said judgements, the practice does not appear to have stopped. Recently the new case from detention centre in Biała Podlaska was communicated to the Polish government.

Access of NGOs to detention facilities





Hungary: As of February 2022, a HHC lawyer was again denied access to detention centre due to COVID-related restrictions. Later on there was no issue with the access.

Malta: Access to detention remains an issue for all actors in the field, including the UNHCR, which is the only entity allowed to enter the living quarters of the detention centre and provide information sessions.

Throughout 2022, only persons providing legal services are granted access to applicants, and with several practical obstacles explained below. As such, access is only viewed within the scope of the lawyer-client relationship and not within the broader aim of information or service provision to detainees irrespectively of whether they are represented by the lawyer of the NGO. JRS Malta reported that its psychologists and social workers are not allowed to provide their services to detainees. Practice shows that the EUAA or the UNHCR does not refer cases to NGOs and the contact details of the NGOs are generally not provided to the detainees, who in any case are likely to be unable to access a working phone.

Poland: NGOs provided legal assistance, but unfortunately not on a regular basis in 2021. In 2022 situation has changed. NGO visits the detention centres on regular basis.

In practice, NGOs which want to meet with more than one or with unspecified asylum seekers, monitor conditions in a detention centre etc. must ask the SG Commander in Chief in writing for permission to visit a detention centre. Since 2017 permission is authorized by the Border Guard Headquarters. Nevertheless, visits are generally not limited to visiting hours. On the other hand, in 2021, 2022 and 2023) NGOs, which provided psychological assistance started to face problems in accessing the detention centres, i.e., in Wędrzyn, Lesznowola, Biała Podlaska or Kętrzyn.

Access to information, legal assistance and counselling

Cyprus: In 2022, according to the IPAC, 18 applications for legal aid to challenge detention were successful.

Germany: In October 2022, a coalition of over 50 NGOs, including PRO ASYL, Amnesty International, welfare associations and lawyer associations, published a position paper to demand free legal representation of all persons subject to detention, pointing to the frequent errors in detention orders as well as the high number of detention cases found to be unlawful by courts. The legal changes adopted in late 2022 did not address this, issue however.

Spain: In September 2022, the Municipality and the Bar Association of Barcelona signed an agreement on the provision of legal assistance to inmates at the CIE of Barcelona.

Greece: In practice, no free legal aid system has been set up to challenge his or her detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive. This continued to be the case in 2022, where only two to three NGOs were providing free legal assistance to detainees with limited resources and less than 10 lawyers in total focusing on detention countrywide.

Hungary: Officially appointed lawyers often provide ineffective legal assistance when challenging immigration detention, which is caused by their failure to meet their clients before the hearing, study their case file, or present any objections to the extension of the detention order. Besides, this ex officio legal assistance is only provided at the first court prolongation of the detention order (after 72 hours). These statements remain true for 2022 as no changes have been implemented.





As of February 2022, a HHC lawyer was again denied access to detention centre due to COVID-related restrictions. Later on there was no issue with the access.

Italy: The right of detainees to be adequately informed of their rights and of the possibility to apply for asylum is expressly provided for by the Interior Ministry Directive of 19 May 2022, that abolished the previous CIE Single Regulation.

Malta: Due to their limited access to detention, NGOs are not able to inform all newly arrived asylum seekers and most of them never get the chance to access a lawyer before their asylum interview. The UNHCR provides information sessions but has not been able to do so for all asylum seekers due to their limited capacity. It reported having carried out only 4 information sessions in 2022.

NGOs reported they received consistent testimonies of asylum seekers who arrived in 2022 claiming that the first people they met were individuals from the Returns Unit from the Ministry for Home Affairs, who reportedly tried to coerce them into signing declarations of voluntary departure by telling them that if they apply to asylum, they will remain in detention for 2 years before they are sent back to their country of origin. Asylum seekers also claimed that they were later given the same options by inspectors of the Immigration Police which they could identify by name. This, they claimed would happen weeks or months before they could access a lawyer or apply for international protection. The UNHCR confirmed having received such testimonies as well.

UNHCR visits the detention centres to also provide information, but in 2022 these visits were limited due to staffing limitations. During the first half of 2022, the UNHCR carried only one visit to detention in February due to limited staffing capacity. It only resumed its visits in August and September where it carried out 3 visits. Throughout the year, the Agency was able to engage with approximately 91 persons for information counselling sessions.

Throughout 2022, only persons providing legal services are granted access to applicants, and with several practical obstacles explained below. As such, access is only viewed within the scope of the lawyer-client relationship and not within the broader aim of information or service provision to detainees irrespectively of whether they are represented by the lawyer of the NGO. (...) Lawyers are only allowed to visit named clients, yet are not allowed access to newly-arrived groups or to lists of names in order to identify clients. This means that, in practice, for applicants to have access to legal information and services, NGOs must call regularly each block of the detention centres and request personal information of groups of people over the phone. Police numbers, exact names, detention grounds, and countries of origins have to be continuously registered and updated in order for the lawyers to specify which individual applicants they would like to visit as clients. With this information, generally quite randomised and superficial, NGO lawyers are required to submit a visit request to the Detention Services in order to reserve a slot in the centre board room. NGOs are usually allocated up to four hours, during which the lawyers (accompanied by an interpreter, as needed) are able to talk to between six to eight persons. There are weeks when NGOs visit a detention centre twice, whilst there are times when weeks pass without any slot being allocated.

This lack of access is particularly problematic due to the fact that deadlines stipulated in Maltese legislation for the filing of appeals against Detention Orders (3 days), Removal Orders (3 days), age assessment decisions (3 days), and negative asylum decisions (15 days) are extremely stringent and template application forms are not provided in detention. The actual deadlines amount more or less to the actual time needed to get the approval for a visit the following week.

Interferences from the Ministry for Home Affairs or other state entities are recurrent.

Poland: Furthermore, the Border Guard placed migrants directly stopped at the Polish-Belarusian border in two of its stations (in Dubicze Cerkiewne and Połowce), defined as “centres for foreigners’ registration”





(Centrum Rejestracyjne Cudzoziemców). (...). Additionally, they could not access legal assistance, as they were left without any possibility to communicate with the outside world or leave these premises in any time.

NGOs provided legal assistance, but unfortunately not on a regular basis in 2021. NGOs had to narrow their assistance, including legal assistance, in the detention centres, due to lack of financial means as a result of delay in the implementation of AMIF; delay in the announcement of the call for proposals and delay in publishing the results co-financed by AMIF. In 2022 situation has changed. NGO visits the detention centres on regular basis. On the other hand, there is no state founded systemic legal assistance to foreigners granted by law.

Poland (ECRE fact-finding visit): According to the Polish Commissioner for Human Rights, lack of access to legal support might constitute an issue for individuals in detention. However, it is more concerning that access to legal aid is not ensured for individuals apprehended after irregularly crossing the border, which often results in persons in need of protection only being able to present their asylum application after being detained and channelled in return procedures.

Portugal: Since the beginning of 2022, however, CPR has, on occasion, been in the facility to provide legal assistance to applicants for international protection detained there.

Switzerland: In September 2022, the SEM has informed that all persons applying for asylum from detention or prison would be assigned a legal representation, provided by the legal advice offices in the cantons that are mandated for the extended procedure.

Asylum procedure

Poland: According to the Office for Foreigners, the asylum cases of asylum applicants placed in detention are prioritised but it does not mean that they are examined more quickly. In practice, it means that asylum seekers have only 7 days to present additional evidence in their case, before an asylum decision is made, which can be very difficult to provide as the asylum seekers have a limited access to the internet and no access to social apps as messenger or WhatsApp.

Effective remedies

Belgium: While in detention, the CGRS prioritises the examination of the asylum application, although no strict time limit is foreseen. The appeal must be lodged within 10 days after the first instance decision. The Court of Alien litigation has already criticized the use of this fast-tracked procedure and annulled the decision of the asylum authorities in a case of an asylum applicant at the border because of the threat to his rights of defence and the principle of equality of arms (CALL, case n° 284.595 of 10th of February 2023.).

Cyprus: Throughout 2021 and 2022 interventions were made by the Cyprus Refugee Council toward the CRMD, the AIU, the Office of the Ombudsperson and the Asylum Service advocating for clear procedures to be put in place to ensure access to legal remedies. However, no progress was noted and individual cases required repeated interventions to ensure detainees in holding cell were transferred to court. On the contrary, the Cyprus Refugee Council has monitored instances where detainees were taken to Court to apply for legal aid, one day before the deadline of their appeal. The judge would grant the legal aid on the same day and the detainees had to find a lawyer to submit an appeal for them the next day. In another instance, the detainee in a holding cell was not given access to Court and therefore missed his deadline to appeal his detention. He was given access to Court several days after he was transferred to Menogia.

IPAC: In 2021 and 2022, the duration of examination improved; however, in cases that required interim procedures to the main judicial procedure, either to adduce evidence or modify a legal point, the 4-week time





limit was almost always exceeded. Such requests are usually submitted by the lawyer representing the asylum seeker, however, lawyers representing the Attorney General might also make such a request. In such cases, the IPAC asks for consent from both lawyers to consent for the proceedings to go over the 4-week time limit.

In early 2022 (Mondeke v. RoC (MONDEKE v. ΚΥΠΡΙΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ, ΑΝ.ΔΙΕΥΘΥΝΤΗ ΤΜΗΜΑΤΟΣ ΑΡΧΕΙΟΥ ΠΛΗΘΥΣΜΟΥ ΚΑΙ ΜΕΤΑΝΑΣΤΕΥΣΗΣ, Έφεση κατά απόφασης Διοικητικού Δικαστηρίου Διεθνούς Προστασίας αρ.43/2021, 20/1/2022) available at <https://bit.ly/3vVudHe>), the Supreme Court rejected an appeal against a negative IPAC decision on detention on the basis of article 9F(2)(d) of the Refugee Law. In the specific case, the asylum seeker had entered RoC and attempted to travel towards another EU country with fake documents. He was arrested and convicted. After serving his prison sentence, he was subject to deportation as a “prohibited migrant”, and he lodged an application for asylum shortly thereafter. The authorities issued a detention order under article 9F(2)(d) and the IPAC deemed the detention order to be legal because, inter alia, the asylum seeker behaviour justified the conclusion that his asylum application was not ‘authentic’ and was lodged with the sole purpose of obstructing his return to DRC. The Supreme Court agreed with the IPAC and found its judgment to be ‘reasonable and desirable’. The Supreme Court did not find that the fact that the applicant’s country was not listed as safe created any presumption of an ‘authentic asylum application’ and considered that the examination of alternative measure to detention conducted by the first-instance court was sufficient and correct.

In 2022, according to the IPAC, 49 decisions were issued in recourses against detention orders, of which 17 succeeded, 23 rejected and 9 explicitly withdrawn.

Greece: In 2022, only 2,803 objections against detention were submitted to the competent Administrative Courts across the country compared to a total of 12,020 detention orders issued by national authorities. This illustrates the difficult access to an effective review of detention orders.

Italy: In 2022, the National Guarantor stressed concerns over de facto detention in transit zones, noting the persisting practice at air or port borders where the effective rejection of the foreign citizen present at border crossings does not take place immediately and people be blocked for days in the transit area, and its criticalities in terms of lack of judicial review of detention as well as conditions of detention

Malta: The ineffective judicial review of the Detention Order carried out by Division II of the Immigration Appeals Board (IAB) reportedly happens in the general indifference of the Board members and the legal aid lawyers appointed by the Ministry for Home Affairs, under which all entities fall, including the Board. The Board is reported to carry out mass hearings where it confirms the detention of all applicants taken before it without any individual assessment of each case.

The Immigration Appeals Board failed to provide any statistics in 2021 and 2022 and the Government rejected a Freedom of Information Request filed by aditus foundation in mid-2022. However, NGOs and lawyers confirmed that nearly all reviews carried out in 2021 and 2022 confirmed the detention to be lawful.

Lawyers reported that the reviews that are required by the Regulations to be carried out two months after the first one is generally not automatically done and will only happen if requested by a lawyer. This is in part due to the fact that free legal aid is only provided for the first review. This results in large numbers of asylum seekers being detained without appropriate judicial oversight. This is confirmed by the numerous cases of asylum seekers being detained beyond the 9 months deadline, as will be discussed further below. According to the Malta Police Force, in the first 6 months of 2022, no applicants issued with a Detention Order were detained for longer than 9 months.

This remedy also allows a detainee to challenge the lawfulness of on-going detention before the Court of Magistrates (Criminal Jurisdiction) and is based on an assessment of the legality of the person’s detention.





Several successful applications were brought before the Courts since 2019, resulting in the immediate release of the applicants. All the cases challenging the de facto detention of applicants under the Prevention of Disease Ordinance filed before the Court of Magistrates were successful except for one case decided in January 2022.

In this case, A.D. v. the Superintendent for Public Health decided on 21 January 2022, the Court rejected the petition by finding that he was not actually being detained. The Court decided that “it cannot be said that any public authority ordered the applicant’s detention (...) because he is presently not under any detention order but limitedly under an order that restricts his movement in relation to which Article 409A of the Criminal Code does not apply.” aditus foundation reacted to the judgement by pointing out that it was incongruent to hear that the teenager was not being detained when he was actually accommodated in a place described by Maltese law as “a place of detention for the purposes of the Immigration Act”, a structure administered by a public entity called ‘Detention Services’, with the impossibility to leave the centre, limited communication with the outside world, and being under the constant supervision of a Government entity. Court of Magistrates of Malta, A.D. v. the Superintendent for Public Health, 21 January 2022, summary available at <https://bit.ly/3yxemyN>. The decision of the Court of Magistrate will be scrutinized by the ECtHR in A.D. v. Malta, filed in February 2022.

Poland: In the appeal procedure, detained migrants cannot be present in the court and present their standpoint. In 2021 none of the Regional Courts decided to bring a foreigner for the second instance court hearing. At the same time, foreigners are not informed about the reasons for prolonging their stay in a detention centre by the Border Guard, such as for example in Kętrzyn and Białystok. The application is not handed over to them, so they cannot present their reasons before the Regional Court will submit a decision in their case. Additionally, the individuals are not informed of the date of the court meeting, so they are not able to ask the court to establish a legal representative in their case. Furthermore, the appeal has to be prepared in Polish, so foreigners are dependent on NGOs.

Romania: In comparison with previous years when only a few appeals were lodged against detention order in 2022, the the Court of Appeal of Timișoara had registered 23 appeals against detention orders of the Prosecutor’s Office attached to the Court of Appeal of Bucharest. However 22 appeals were rejected and 1 annulled as judicial taxes were not submitted.

According to the Courts of Appeal of Timișoara, in 2022, the court hearings were held through videoconferences in 54 cases.

Differential treatment of nationalities in detention

Romania: In 2022 in Rădăuți a woman Russian national was detained in the specially designed closed space for 30 days on national security reasons. The detention order was appealed against and the court decided to maintain the detention order. She was granted a form of protection.

In Galati, a Russian national was also detained in this specially designed closed space also due to national security reasons. The order was appealed against and the court rejected the appeal. According to the director of the centre the reasons were communicated to the applicant. He was detained for approximately 20 days. He later withdrew his asylum application and voluntary left Romania to Türkiye.

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)

Statistics on applicants and information





Austria: in Austria, there were a total of 108,781 applicants in 2022, according to government preliminary statistics. Of those, 99,402 (91.05%) were men, including children.

A record number of over 108,000 asylum applications have been lodged in 2022 (2015: 88,000). In the same time, a record number of discontinued cases of over 42,000 have been registered due to the onward travel of applicants to other countries.

Afghanistan remained the top country of origin of applicants with 24,000 applications. In 2022, 17,000 cases of Afghan nationals have been discontinued as they have left the country. Applications from nationals from India, Tunisia and Morocco have surged as a consequence of visa-free entry to Serbia and onward travel through Hungary to Austrian border.

Cyprus: In 2022, there were 22,182 applicants in Cyprus.

Ireland: In 2022, 13,229 asylum applications were lodged.

Romania: According to the director of Timisoara Regional Centre half of the asylum claims were made by persons who legally entered Romania, holding a working permit and they were apprehended trying to irregularly cross the border from Romania to Hungary.

Sweden: There were 16,738 applicants for international protection in 2022. Afghans were the main nationality applying (2,154) followed by Syrians (1,947), Ukrainians (1,940), and Iraqis (1,329).

Out of 16,738 applicants, 10,736 were men and 6,002 were women, with 4,038 children and 630 unaccompanied children.

In 2022, 16,738 preliminary applications for international protection were lodged in Sweden. This marks an increase of 48% compared to 2021, where 11,412 applications were lodged. In comparison, in 2022 the number of asylum applications the EU increased by more than 50%.

In 2022, 16,738 applications were lodged in Sweden, with the majority being lodged in Stockholm (8,466), in Malmö (3,345) and in Gothenburg (3,332).

Of the 16,738 applications, 1,319 were channelled into track 1 (presumed positive outcome), 9,031 in track 2 (presumed negative outcome), 23 in track 3 (delayed case processing), 483 in track 4A (accelerated procedure), 1,880 in track 4B (safe country of origin), 1,420 in track 5A (Dublin procedure), 216 in tracks 5B and 5C (admissibility procedure), and 2,366 were classified as unknown.

Determining authorities

Cyprus: In 2022, in addition to the support staff, the Asylum Service included the Head, 3 senior coordinators, 14 administrative officers and 53 asylum officers recruited in 2022 for a 1-year contract, with the possibility of a 1-year renewal until the project's completion. Of the above, approximately 33 officers work exclusively on the examination of asylum applications whereas the others work on other issues such as the implementation of Dublin Regulation, statistics, tenders, and reception etc.

Poland: The Office for Foreigners (OFF) is the authority responsible for examining applications for international protection and competent to take decisions at first instance. The number of caseworkers in 2022 was around 50 (in comparison to 29 in 2021), who were responsible for conducting interviews and examining applications for international protection.

Portugal: In 2020, the Government announced its intention to conduct a structural reform of SEF. The main piece of legislation governing this reform was approved in November 2021. It provides for the reallocation of SEF's competencies to existing/new entities. (...) The entry into force of this law has been repeatedly postponed. In May 2022, it was postponed sine die, until the entry into force of the legal framework creating and governing the new Migrations and Asylum Agency. In December 2022, the government publicly





announced that the restructuration would be in place by March 2023. At the time of writing, APMA had not been created yet and no further developments were public.

Sweden: As a general rule, the Ministry of Justice and other Government Offices cannot intervene in individual cases concerning applicants for international protection. However, in cases concerning serious threats to national security, the Act concerning Special Controls of Certain Aliens may be used (2022:700). The Act entered into force on 1 July 2022 and replaced the previous Act concerning Special Controls in Respect of Aliens (1991:572). According to Chapter 1, Section 2, the latter Act becomes applicable upon request of the Swedish Security Service. An expulsion decision is, however, according to Chapter 2, Section 1 always issued by the Migration Agency at first instance. According to Chapter 7, Section 1 of the Act, the Migration Agency's decision can be appealed to the Government.

Registration

Austria: Due to the high number of asylum applications at the Austro-Hungarian border, the police changed the registration system by internal decree. UAM were continued to be handled in the regular scheme, all other applicants were only registered and finger-printed right at the border. In case of a EURODAC hit the applicants were also transferred to the first reception centres. All others were sent to other provinces. The Regional Police Directorates in other provinces were then responsible to conduct the first interviews. The applicants received a train ticket and address and had to travel to the police stations by themselves. This led to several problems as the police stations were not able to provide sleeping places. Many applicants never arrived at the police stations and their cases were discontinued. Austria saw a record number of 42,000 discontinued cases in 2022.

Due to the increase of applications in summer 2022, non-vulnerable applicants without EURODAC hit were not questioned right at the border but sent to another police directorate in different parts of Austria. The aim was to distribute the work from the police in the province close to Hungary, Burgenland, to other provinces.

Belgium: between October 2021 and March 2022 not all single men were able to gain access to the reception network. Since March 2022 the access to the reception network is systematically denied to single men applying for international protection. (...) The reception crisis also severely impacted the access to the asylum procedure.

Due to a significant increase of applicants for international protection after the outbreak of the war in Ukraine, access to the arrival centre was once again limited as of 28 February 2022. Minors, families with children and particularly vulnerable applicants are given priority and are allowed to enter in order to apply for asylum and receive a reception place. A large part of the single men are refused access to the asylum procedure and asked to come back on an unspecified later date. On some days, more than 150 men are refused access to the asylum procedure and reception conditions. The situation at the arrival centre is tense, the police being present in large numbers.

Bulgaria: An important improvement, monitored in 2022 related to the access to procedure of the so called 'self-reported asylum seekers', i.e. those who managed to enter and travel in Bulgaria undetected by the police to turn up on their own directly at a SAR reception centre (Sofia, Banya, Harmanli or Pastrogor) and seek protection. Since 2016 the SAR has been refusing to register the self-reported asylum seekers, instead it has been alerting the local police departments as a result of which the asylum seekers have been arrested and detained in MOI pre-removal centres. During the previous 2021 this malpractice affected 196 newly arrived asylum seekers, among whom families with minor children and pregnant women. The registration of these asylum seekers in immigration detention centres was, and still is carried out within the same day. In 2022 the new management of the SAR reverted to a great extent this malpractice. If in early 2022 it affected, in the period from 1 January to 31 May, 0.9% (72 out of 7,924) persons who had lodged an asylum application by that time, after the SAR management was replaced in the following period from 1 June to 31 December





the number of refused registrations drastically dropped to 0.1% (22 persons out of 12,483) persons lodging an application for international protection during that period of time.

Another improvement with respect to registration of asylum seekers in 2022 related to registrations and determinations carried out by SAR in MOI immigration detention centres in violation of the law. Under the law SAR indeed can detain asylum seekers pending the asylum procedure, however it can be done solely in closed SAR reception centres. Since 2015 SAR began to carry out registrations and asylum procedures in MOI immigration detention centres instead. In 2022 SAR almost entirely discontinued this practice, with only 1 registration and 1 procedure in a MOI immigration detention centre.

Germany: As a result of the increasing number of asylum seekers since September 2022, the BAMF experienced some delays in registering asylum applications in the autumn of 2022. According to the BAMF, measures have been taken to remedy this situation as of January 2023.

France: Since May 2022, the then experimental process of OFPRA communicating with asylum seekers through an online account was generalised to the entire territory. All individual communications from the Office to the asylum seekers are sent through this platform, including the letter confirming the introduction of their asylum claim, sent to asylum seekers after receiving their written OFPRA form sent by post. This does not apply to asylum seekers in French overseas territories, or to unaccompanied minors.

Greece: Since September 2022, Asylum applications are lodged in Malakasa (in South Greece) and Diavata (in North Greece) Reception and Identification Centres (RICs). Subsequent applications are lodged before the Regional Asylum Offices (RAO) across the country.

On 13 July 2022, the Ministry of Migration and Asylum published a new online platform for the electronic pre-registration of asylum seekers in Greece. The procedure applies for all third country nationals arriving in Greece and wishing to claim asylum, as well as for those already residing in Greece and who have not been through reception and identification procedures. The platform is available in nine languages (Albanian, Arabic, Bengali, Dari, English, Farsi, Pashto, Turkish and Urdu), and after applicants have provided their personal information, they are asked to choose one of two registration facilities: Diavata (Thessaloniki) or Malakasa (Attica). Once the electronic form is completed, a registration appointment will be assigned to the applicant and communicated via email. The first appointments took place on 1 September 2022, and it is understood that the facilities reached full capacity on the same day.

The appointment process mandates a maximum 25-day detention period in order for the procedure to be completed, restricting the freedom of movement of those who have registered for asylum. (...) the new platform utilises detention as the status quo for the registration of an asylum application, violating the RCD's conditions of exceptional implementation. During this detention period, asylum seekers complete their asylum interview and wait for the first instance decision on their case. If the individual's decision is negative, they are permitted to leave the camp, yet no specific instructions are provided regarding the competent Regional Asylum Office for submission of their appeal or their right for free legal aid in the second instance of their asylum procedure, further obstructing individuals' effective access to asylum and due process.

The new camps in Diavata and Malakasa are far from the urban centres where most asylum seekers live and are extremely difficult to reach as no financial or logistical provisions have been made for asylum seekers' transport, resulting in an increased risk for individuals to miss their registration appointments and consequently their access to international protection. Furthermore, the camps began operating with understaffed and under resourced Mobile Units of the Reception and Identification Service (RIS), lacking the medical and psychosocial personnel required for first reception procedures. The failure to provide first reception services and adequate registration procedures for refugees and migrants has left hundreds of people unregistered and vulnerable to detention.

In addition, there have been reports of an irregular distribution of appointments and extensive delays of appointment dates, with several appointments being assigned over twelve months after the initial pre-registration application was submitted. In many cases, appointments were not available at all, further





highlighting the lack of capacity of the facilities and resources available, forcing people to remain undocumented for extensive periods of time, without basic medical care, accommodation or essential services.

Consequently, the issues that existed during the previous Skype pre-registration system persist, where people are forced into a legal limbo without any official documentation or legal status and remain unsupported by appropriate structures to provide for their essential needs.

Ireland: Once an applicant presents to the IPO, the applicant makes a formal declaration that they wish to apply for international protection, outlined under Section 13 IPA. The applicant is interviewed by an authorised officer of the IPO to establish basic information.

This interview usually takes place on the day that the person attends the IPO, though due to restrictions associated with the COVID-19 outbreak and resultant delays, applicants were sometimes called back for their initial interview on a separate day following registration of their claim. (...) Typical waiting periods were approximately 2-4 weeks. However, the Irish Refugee Council Information and Referral Service became aware of cases whereby it took clients up to 2 months to complete their preliminary interview and receive their Temporary Residence Certificate. In a press release published on 8 April 2022, the Irish Refugee Council noted that in many cases, these applicants were staying in emergency accommodation where they had limited access to support and information. Moreover, without a Temporary Residence Certificate, applicants were unable to obtain PPS numbers and consequently, were not receiving their Daily Expense Allowance, thereby forcing individuals to live in abject poverty for long periods of time. In some instances, children were unable to access education, despite having arrived in the State several months previously. A parliamentary question answered by Minister Roderic O’Gorman in April 2022 revealed that as many as 1200 applicants are awaiting an appointment to complete their preliminary interview. In the latter half of 2022, the IPO worked through the backlog of applicants awaiting registration. As of January 2023, applicants were facilitated in registering their application and undergoing their preliminary interview on the same day.

Romania: In Giurgiu in case of asylum applications made directly in the centre, IGI-DAI ensures the availability of an interpreter, if not physically present then over the phone, according to the director of the centre. Only 38 applications were made directly at the centre in 2022. The majority of asylum seekers (1,055) were transferred from Timisoara and at the transfer there is no interpreter. The security officer is providing them the information in writing.

The director of Timisoara centre reported that temporary identity documents were issued only for those who remained in centre. In 2022, 99% of the asylum seekers were transferred to other centres, in maximum 3 days from their arrival in the centre.

In Bucharest the majority of asylum seekers arrived from Timisoara with certificates. In Galati not all transferred asylum seekers had temporary identity documents at arrival. The same was reported also in Somcuta Mare. In Giurgiu, the JRS representative said that asylum seekers transferred from Timisoara scarcely ever had identity documents, while the director of Giurgiu centre stated the opposite. The JRS representative from Giurgiu further mentioned that asylum seekers are not allowed to leave the centre until they are issued an identity document, after the preliminary interview, that takes place within 2-3 days of their arrival. This was still the case in 2022. Only one or 2 persons from the group were allowed to go outside to buy food.

Slovenia: There is no time limit prescribed for the authorities between the expression of intention to apply for asylum and the lodging of the application. The average time for registration of the application has increased steadily. In 2022 asylum seekers due to a large number of arrivals continued to wait for up to 20 days to lodge the application. The waiting period changed during the year depending on the number of new arrivals, however in general people had to wait 3 – 20 days to lodge the application.





While waiting to lodge the application, asylum seekers are de facto detained. (...) They also do not have the right to free legal advice or representation regarding their detention. Telephones and documents confiscated by the police during the police procedure are normally returned to asylum seekers when they lodge their application, meaning that while they are de facto detained, asylum seekers cannot communicate with the outside world in order to obtain legal counsel or in order to notify their family members of their whereabouts. In addition, translators are rarely present in the pre-detention area. As individuals are not considered to be asylum seekers until after they lodge the application, they do not have access to services before they lodge the application and thereby obtain the rights of asylum seekers. They are also not given any document that would allow them to move freely within the territory. They must sign a statement declaring that they agree to be processed as foreigners if they leave the premises of the Asylum Home or its branch before they lodge the application, meaning they can subsequently be detained in the Foreigners Centre and processed in the return procedure based on the bilateral readmission agreements or the Foreigners Act.

First instance procedure

Ireland: On the 8th of November 2022, the International Protection Office introduced a revised international protection application procedure. In accordance with the European Communities (International Protection Procedures) Regulations 2022, an applicant attending at the IPO in order to make an application for international protection is now required to complete their International Protection Questionnaire onsite at the IPO, in addition to completing their preliminary interview. The international protection questionnaire has been reduced significantly to just 24 questions in order to enable applicants to complete the questionnaire at the time of making their application.

Malta: In 2022, the International Protection Agency continued to massively discontinue applications as implicitly withdrawn, significantly reducing its backlog in the process. Asylum seekers who miss a call for an interview or fail to renew a document on time see their application systematically discontinued by the Agency. While it is true that many applicants absconded from Malta or abandoned their applications, mostly due to the length of the asylum procedure and the lack of any prospect in the country, the asylum seekers who remained in Malta are also impacted by this policy. NGOs noted that this policy disproportionately affects asylum seekers who are employed and work long hours and those who are doing jail time as the IPA tends to notify people by phone call during working hours. According to NGOs, applications which were discontinued and subsequently reopened are treated as fresh applications as if they were lodged the year of the decision to reopen the application.

Length of first instance procedure

Austria: In 2022, the number of decisions taken in the fast-track procedure increased significantly. Until October 14,606 decisions were taken in the fast-track procedures (compared to 2,581 in 2021). The average length of the fast-track procedure was 24.7 days (2021: 28.2 days). In 2021, the accelerated procedure which mostly applies to persons from countries listed as safe countries of origin and manifestly ill-founded applications (Morocco: 1,014; Pakistan: 621; Egypt: 567), a decision is usually taken within 72 hours. Until July 2022, in 69% of the cases the decisions were taken within this time frame as well (2021: 68%). Only one decision of the accelerated procedure cases was lifted up by the BVwG.

In 2022, the BFA focused on fast track procedures of mainly Tunisian, Indian, Pakistani and Moroccan nationals: 29,525 procedures were started, but only 14,606 were concluded.

In 2022, the practice of fast-track processing focused on applicants coming from countries listed as “safe countries of origin” and on applicants who have already been sentenced by a criminal court. The great majority of fast-track processing deals with cases from applicants originating from so called safe countries of origin (see Safe Country of Origin). This was also due to the sharp increase of applicants coming from India, Tunisia, Pakistan and Morocco.





Bulgaria: In 2022, the general decision-taking 6 months deadline was observed in 100% of the cases, leaving 0% of the cases with prolonged determination duration. According to the SAR, the average duration of asylum procedures on the merits ranges from 3 to 6 months, including for nationalities such as Syria, and Afghanistan.

Cyprus: average length of first instance procedure in 2022: 18 to 24 months.

In 2021 and 2022, the Cyprus Refugee Council challenged before the IPAC the delays in issuing decisions on asylum applications in 2 two cases. During the court proceedings, the Asylum Service issued decisions granting international protection in both cases, which led to the cases having to be withdrawn before the Court and the Court not issuing a decision on the issue of delays.

France: In 2022, the average length of first instance procedures was 5,2 months.

Greece: Both the IPA in force during the first semester of 2022 and the Asylum Code, the Greek Law to 4939/2022 ratifying the Code on reception, persons, and temporary protection in cases of mass influx of displaced persons, that came into force on the 10th of June 2022, provide that an asylum application should be examined “the soonest possible” and, in any case, within 6 months, in the framework of the regular procedure. This time limit may be extended for a period not exceeding a further 3 months, where a large number of third country nationals or stateless persons simultaneously apply for international protection. According to the Asylum Code in any event, the examination of the application should not exceed 21 months.

Hungary: In 2022, according to the HHC’s experience, procedures got longer due to the Ukrainian crisis and lack of additional capacity. NDGAP usually decided between 3 to 5 months, but in some cases it took even longer, more than 6 months.

Ireland: Throughout 2022, the median processing time for first instance decisions was approximately 18 months for non-prioritised applications

Netherlands: In 2022, a decision for applications assessed within the regular asylum procedure were assessed in 30 weeks on average. For applications referred to the extended procedure, on average, 45 weeks were needed.

on 30 November 2022 the Council of State ruled, in two separate cases, that the Temporary Act was partially not in accordance with European Law. Regarding the judicial penalty (rechterlijke dwangsom) (Council of State, case number [202203068/1](#), 30 November 2022), the Council of State judged that by suspending the ability of receiving judicial penalties, asylum seekers did not have an effective way of forcing the IND to take a decision regarding their asylum application. Therefore, the Temporary Act was deemed incompatible with the right to an effective remedy stemming from article 47 of the Charter of Fundamental Rights of the European Union, preventing asylum seekers from being able to effectuate their rights. Following this judgment, the IND published a new Information Message outlining the new policy that for any ongoing and future cases, judicial penalties would be forfeited.

Regarding the administrative penalty (bestuurlijke dwangsom) (Council of State, case number [202203066/1](#), 30 November 2022), which is automatically forfeited after two weeks from the submission of the notion of default, the Council of State evaluated that its abolition under the Temporary Act conformed to the existing legal framework. The main reasoning for this is the administrative penalty is a measure that goes beyond the minimal rules dictated by the recast Asylum Procedures Directive. Considering that asylum seekers would still be able to enjoy their rights by receiving only the corresponding amount from a judicial penalty, abolishing the administrative penalty in asylum cases was deemed possible. As a result, in ongoing and future asylum cases, no administrative penalties will be forfeited.





Extension of the time limit for deciding: Due to the large number of cases received over the last year and the arrival of a large number of asylum seekers from Afghanistan and people fleeing from Ukraine, in September 2022 the IND decided to extend the time limit for deciding with 9 months in all cases where the 6-months time limit had not yet expired on 27 September 2022. In addition, for all asylum applications lodged after 27 September 2022, the time limit was pre-emptively extended by 9 months, meaning that the IND can take a maximum of 15 months to decide on asylum applications lodged after 27 September and before 1 January 2023. At the start of January 2023, it was uncertain whether this general extension of the decision-making period would be prolonged for asylum applications lodged after 1 January 2023. For some asylum seekers, this means that the IND can take the maximum number of months (21) to decide on their asylum application. On 3 February 2023, it was announced that this measure would also be in place for asylum requests lodged between 1 January 2023 and 1 January 2024.

On 23 November 2022, the Regional Court of Den Bosch (Regional Court of Den Bosch, Decision No. [NL22.21366](#), 23 November 2022) ruled in favour of the general extension of the time limit for deciding. On the contrary, on 6 January 2023, the Regional Court of Amsterdam (Regional Court of Amsterdam, Decision No. [NL22.21969](#), 6 January 2023) issued a judgement declaring the time limit extension unlawful. The IND argued that, due to the numerous new arrivals – especially regarding Afghan and Ukrainian nationals, but also many individuals later channelled into the Dublin procedure - it was impossible to manage the existing caseload. Despite this, the Court maintained that, even though there was an increase in the amount of asylum applications, it was not of such magnitude that the threshold included in art. 42(4)(b) Aliens Act was reached. As such, it is to be seen in coming months what the effect of this and other cases will be on the extension of the time limit for deciding. The Secretary of State has decided to submit an onward appeal with regards to the judgment of the Regional Court of Amsterdam.

Poland: The time limit set in law for the Head of the Office for Foreigners to make a decision on the asylum application is 6 months. This period can be prolonged to 15 months if the case is considered complicated (165 cases in 2022), if there are many asylum seekers applying at the same time (35 cases in 2022) or if the asylum seeker did not fulfil the obligation of presenting all the evidence and documents or attending the interview (none in 2022). Excluding accelerated procedures, the number of decisions issued within 6 months-time limit was 9,134 in 2022.

In 2022 the average processing time for a decision on the merits was 127 days (like in 2021) . The longest processing time took 967 days (in comparison to 531 days in 2021) and the shortest 3 days.

Romania: depending on the regional centre, average duration of first instance procedure ranged from 21 days (Giurgiu) to 45 days (Galati and Bucharest). The overall average was 33.5 days.

Radauti: the duration of the procedure depends on the declarations made by the asylum seekers at the interview. The procedure may last 5 weeks according to the legal counsellor.

Giurgiu: the director reported the transferred asylum seekers are scheduled for the preliminary interview and personal interview the day after their arrival. This also depends on the availability of interpreters. For example, because there is only one interpret of Bengali language, IGI-DAI had to organise all the interviews with Bangladesh nationals before the interpreter took 1-month of leave. This was also reported by the director in Radauti. Both interviews for Bangladesh nationals who arrived from Timisoara on Saturday were conducted on Sunday.

Sweden: The average length of the asylum procedure (i.e. for all tracks) had significantly decreased from 507 days in 2018 to 288 days 2019. In 2020 the asylum procedure increased to total of 302 days, but decreased again to 256 days in 2021. For 2022 the number decreased to 166 days, i.e. 5.5 months.

Backlog at first instance





Austria: At the end of 2022, a total of 54,253 cases were pending, out of which 47,820 at first instance and 6,433 at second instance. The second instance managed to reduce the backlog of the years before: At the end of 2021, a total of 8,351 cases were pending before the BVwG. The number of pending cases at first instance increased compared to 2021 (19,529). Due to the fact that the number of recipients of Basic Care increased only by 4,500 (January 17,000 to 21,500 in December) and the high number of discontinued cases (42,000) it is to be expected that the number of applicants actually still residing in Austria is much lower than the number of pending cases. The BFA files a case as discontinued three months after not being able to reach the applicant.

In both cases, the backlog majorly concerned Syrian applicants (14,599 before the BFA; 2,694 before the BVwG), followed by Indians (6,695 and 201 respectively), Afghans (6,657 and 688 respectively) and Moroccans (3,423 and 16 respectively).

Bulgaria: The backlog of pending cases continued to significantly increase from 2,021 cases in 2020, 7,556 cases in 2021 to more than 8,000 cases in 2022. Many of these cases have been delayed by 5 to 7 months beyond the legally set deadline. Of these, 4,700 files had been pending with decisions drafted and ready to be served in cases mainly relating Syrian applicants.

Cyprus: in 2022 it increased sharply to 29,715 due to the increase in asylum applications but also the practice to not examine asylum applications from Syrian nationals from February onwards with very few exceptions.

Refugee Reviewing Authority: Operations ceased in December 2020 and at the time 432 cases involving a total of 665 persons were not concluded and were transferred back to the Asylum Service. In 2022 the Asylum Service set up a team to examine these cases however at the end of 2022, limited progress had been made.

In recent years, the EUAA has been providing technical support to the Asylum Service in an effort to address the backlog and speed up the examination of asylum applications and in 2020, the Ministry of Interior also introduced measures specifically targeted at reducing the backlog and examination times of asylum applications, mainly by increasing the examiners. The result of these actions are evident in 2021 and 2022 as there has been a significant increase in the number of decisions issued.

In 2020, the Asylum Examination Centre adjacent to 'Pournara' First Reception Centre initiated operations with the aim of examining asylum applications of newly arrived asylum seekers residing in Pournara during their stay in the Centre. (...) This measure had a positive impact on the backlog of pending asylum applications of Syrian nationals. Such attempts continued in 2021 and 2022, aiming at issuing decisions prior to the applicants' exit from the Centre. However, due to the significant increases in asylum applications the impact is limited. .

Germany: The overall number of pending applications at the BAMF was 136,448 at the end of 2022. This is a significant increase compared to 2021 (108,064) where the number had already doubled compared to 2020 (52,056) and significantly higher than in previous years too (57,012 in 2019 and 58,325 in 2018).

Greece: However, despite the number of first instance decisions issued during the year, significant delays occur in processing applications at first instance if the total number of pending applications is taken into consideration, i.e. applications registered in previous years and still pending by June 30, 2022. According to the Ministry of Migration and Asylum, a total 18,177 applications were pending by the end of June 2022. Of a total 18,177 pending in the first half of the year, 7,781 (42.80%) were pending for a period over 12 months since the day they were registered, 3,080 (16.95%) were pending for a period over 6 months and 7,316 (49.25%) were pending for a period under 6 months.

Ireland: There was a total of 13,229 applications for international protection made throughout 2022. This marks a 133% increase on the same period last year. This increase can be explained by reference to a number





of factors, including the ceasing of the international travel restrictions associated with the Covid-19 pandemic, conditions in countries of origin and first countries of asylum, as well as significant changes in migration policy in the United Kingdom.

Malta: In 2022, the International Protection Agency continued to massively discontinue applications as implicitly withdrawn, significantly reducing its backlog in the process. Asylum seekers who miss a call for an interview or fail to renew a document on time see their application systematically discontinued by the Agency.

In 2022, IPA received 913 new applications, where in 2021 it received 1,281 applications. No information is available on the backlog of pending cases at the end of 2022.

Netherlands: Although the Task Force took over the backlog from the IND, due to an increase of applications, a new backlog of 6,400 applications originated in the last months of 2021. The objective to clear it during the first quarter of 2022 was not met, and the backlog continues to grow. The IND has prognosed that the number of asylum seekers waiting for a decision is 31,400 at the start of 2023. In January 2023, the numbers of the processing time show that it takes 19 weeks when the Regular asylum procedure starts. When the application is referred to the extended procedure, on average, 51 weeks pass before a decision is taken.

Backlog on 31 December 2022 at first instance: 26,620 (also IND source).

Poland: As of 31 December 2022, there were 2829 persons whose cases were pending before the Office for Foreigners.

Sweden: 8,445 cases were pending at the end of 2022, including 1,321 applicants from Afghanistan.

Personal interview

Bulgaria: In 2022, timely invitations for personal interviews were presented in 24% of monitored procedures; in another 27% asylum seekers signed interview invitations without being given a copy, instead the signed invitation was attached to their personal file. 8 of these cases concerned unaccompanied children. Therefore, it can be concluded that in 2022 asylum seekers did not enjoy timely notification about the personal interview's appointments, which violation was particularly serious at SAR's reception centre in Banya where all invitations were served at its beginning.

(...)

At the beginning of 2023 the new SAR management introduced an interview form adapted for asylum seeking children, including unaccompanied ones.

There are no guidelines or a code of conduct for asylum caseworkers to elaborate on the methodology for conducting interviews specifically. Similarly, there are currently no age or gender-sensitive mechanisms in place in relation to the conduct of interviews, except for the asylum seekers' right to ask for an interpreter of the same gender. In 2022, from the cases where the case-worker and the asylum seeker were from different genders only in 13% of these cases the asylum seeker was informed about the possibility to request that the interview be conducted by an interviewer of the same gender and only in 12% - about the possibility to request an interpreter of the same gender.

Cyprus: In early 2022, interviews were for the first time carried out in the Central Prison for asylum seekers serving prison sentences, due to the rise in numbers of such cases.

In 2021 and early 2022, the Cyprus Refugee Council received reports of interviews lacking in terms of quality, including in cases of vulnerable persons or complex cases, such as applicants with a sexual orientation or gender identity related claim. Specifically, in LGBTIQ+ cases it was noted that, although the examiners applied



the Difference, Stigma, Shame, and Harm (DSSH) model, they did so in a problematic way, such as using closed questions whereas the DSSH model is supposed to operate as a set of conversation ‘triggers’ ‘to enable a detailed narrative. Furthermore, there seems to be a lack of understanding regarding specific issues that might affect LGBTIQ+ persons outside of Europe. As a result, applicants were found to be non-credible including in cases where they were in the process of contracting civil partnership with their partner or had arrived in the country with their partner who was granted refugee status.

Germany: Act on the Acceleration of asylum court proceedings and asylum procedures. The reform entered into force on 1 January 2023. The most important changes of the reform include changes to the rules for personal interviews: an additional ground for dispensing with the interview was introduced when the BAMF is of the opinion that the foreigner is unable to attend a hearing due to permanent circumstances beyond their control and the possibility of conducting video interviews.

France: Since May 2022, the then experimental process of OFPRA communicating with asylum seekers through an online account was generalised to the entire territory. All individual communications from the Office to the asylum seekers are sent through this platform, including their convocation to their oral interview with the OFPRA. This does not apply to asylum seekers in French overseas territories, or to unaccompanied minors.

Greece: Different practices were adopted by the various RAOs in the different islands in 2022 as regards the conduct of asylum interviews. In Kos the asylum interviews were conducted with the physical presence of the caseworkers and usually the interpreter is also present. However, in certain cases the interpreter is only present through teleconference. In Lesvos were carried out both in person and through videoconferencing. Moreover, in view of the EUAA significant reduction of staff during 2022, EUAA case workers were under pressure to conduct at least 2 interviews per day and deliver 3 opinions per day or 4 admissibility interviews per day.

In 2022, legal aid actors continued to observe issues on the quality of the interviews as well as the procedural fairness of how they are conducted. Specifically, concerns were raised about the use of inappropriate communication methods and unsuitable questions related to past experience of harm and/or persecution which included closed questions impeding a proper follow-up, no opportunity to explain the case in the applicant’s own words, failure to consider factors that are likely to distort the applicant’s ability to express him- or herself properly (such as mental health issues or prior trauma and/or illiteracy), lack of clarification with regard to vague or ambiguous concepts mentioned by the interviewer, potential inconsistencies or misunderstandings regarding critical aspects of the case that could lead to confusion and/or the inability of the applicant to express him- or herself effectively, and more generally, violations of the right to be heard. Moreover, concerns have been raised regarding the use of inappropriate methods and questions unsuitable for a) the applicants’ age, in cases of alleged minors, and more generally, violations of the right to a child-friendly environment and procedure, b) GBV survivors, and c) LGBTIQI persons. In general, no individualised assessment of the specific profile and circumstances of the asylum applicant or gender-sensitive assessment was taking place.

Moreover, in 2022 a significant number of asylum applicants continued to report that, during the interview, they were not granted sufficient time and, as a result, their asylum claims were not examined thoroughly. Furthermore, an additional issue relates to the fact that the caseworkers do not follow a standard procedure on the examination of allegations regarding previous pushbacks that are being mentioned during the asylum interview. According to lawyers, in certain cases the caseworkers disregard the allegations claiming that they are not relevant to the interview, while other caseworkers proceed to further investigate the incidents by asking focused questions.

Netherlands: After the conclusion of the pilot project ‘written interviews’ (schriftelijk horen), in October 2022 the IND started with a further pilot of offering written interviews to Syrian, Turkish and Yemenite nationals.



This has been named the 'Paper & Ink procedure', or PIP. The invitation to partake in a written interview was sent one week before the start of the written interview, which was deemed insufficient by lawyers. The IND is planning to extend this period to four weeks. The IND currently estimates that 9,000 cases are eligible for being assessed in the PIP. To determine who is eligible for the PIP, the IND screens asylum seekers and excludes asylum seekers that are illiterate, in need of special medical guarantees, or people suspected of being a danger to public order and security. At the time of writing, 1,400 cases have been assessed through the PIP. The goal is to have 250 applications per week be assessed through the PIP. Originally, these applications which should all were to be decided upon within seven weeks. Because of delays, currently asylum seekers will receive a decision within ten weeks., which should all be decided upon within seven weeks. If based on the written interview the IND cannot take a positive decision on the asylum application, the asylum seeker will be referred to the regular asylum procedure. The asylum seeker has the option to partake in the PIP or follow the regular procedure. However, in practice many asylum seekers choose to partake in the PIP regardless, because they are worried that otherwise it will take even longer for an interview to take place. It has to be seen whether After 2,500 cases have been processed through the PIP, an evaluation will take place and a decision will be taken as to whether this procedure is will officially be adopted in official policy. It has to be seen whether this procedure is officially adopted and documented in official policy.

Interviews at location: In 2022, the IND started interviewing certain asylum seekers at their accommodation, as opposed to the asylum seekers making an appointment and visiting the IND themselves. This instrument has been introduced informally, and there is no official IND policy as regards to where these interviews are conducted. The IND has so far conducted interviews at different locations, mainly the emergency shelter locations such as boats which are not regularly used as accommodation, but because of the ongoing reception crisis many different places have been used to provide temporary shelter. Due to the lack of an official policy in this respect, it is difficult to make sure all necessary steps in the procedure – regarding, for example, the provision of healthcare and legal support - are being followed. In addition, the IND only interviewed people of certain nationalities, which led to a high level of uncertainty for applicants, who could not know when they would be interviewed; It is to be seen whether this procedure continues to be applied and whether guidelines will be established to regulate the process..

Poland: Beyond detention context, in 2020 and 2021 videoconferencing was applied on a larger scale because of the pandemic, but the applicants still had to come to the Office for Foreigners. Interviewee and interviewer were sitting in separate rooms and upon the termination of the interview, the interviewee still had to sign the protocol of the interview. This practice was continued in 2021 and allowed for less delays in the duration of proceedings. According to the Office for Foreigners, protocols are mainly prepared on the computer, not handwritten. In 2022 the Office for Foreigners declared that “not all” interviews were conducted remotely.

Portugal: According to CPR's observation in 2022, personal interviews were generally conducted in practice. Nevertheless, in 2021 and 2022 CPR has identified cases of relocated applicants where the interview conducted in the Member State of arrival was apparently used to analyse the case in Portugal without the applicant being offered a full interview in accordance with the applicable Portuguese legislation. CPR could not ascertain whether this is, or has been, a systematic practice within the context of relocation of applicants for international protection.

Romania: Rădăuți: In 2022 interviews were conducted through videoconferencing for Somali and Bangladeshi asylum seekers. No complaints were made by asylum seekers with regards to interviews conducted in this manner, only the fact that the interpreter makes a summary of the transcript.

Giurgiu: Videoconferencing was also used to conduct interviews with interpreters from Bucharest for asylum seekers from Sri Lanka, Iraq and Pakistan.

Decision making





Germany: LGBTIQ+ refugees: The Federal Ministry of the Interior issued new guidelines according to which as of 1 October 2022, applicants who fear persecution on the basis of their sexual orientation can no longer be expected to hide their sexual orientation upon return to the country of origin. This is a significant change in the BAMF practice, which before had repeatedly rejected asylum claims of LGBTIQ+ applicants on this basis, even in cases of LGBTIQ+ activists who had openly advocated for the rights of queer refugees in Germany.

Language or dialect detection software can also only be used when no identity documents are provided, and only for applicants older than 14 years. Applicants have to speak into a telephone, and a speech analysis software then produces a report on the languages or dialects detected and the probability that these were indeed the spoken languages or dialects. As for smartphone screening, the results can never be used as proof of identity or country of origin, but merely as indications which will be raised during the personal interview in cases where the reports contradict the information given by the applicant. According to BAMF internal guidelines, as of January 2023 speech recognition is used for the main Arabic dialects (Maghrebian, Egyptian, Iraqi, Levantine and Gulf) and for Dari, Pashto and Persian. As of August 2022, the detection rate for these languages and dialects was around 80 % for Arabic dialects, ca. 73 % for Dari and ca. 77 % for Pashto.

Greece: Without underestimating the fact that the recognition rate of the first instance procedure remains high (in-merit decisions), a number of first instance cases to the knowledge of GCR, and inter alia the way the interview was conducted, the assessment of the asylum claims and/or the decisions delivered, corroborates concerns already expressed with regards a “deterioration in quality at first instance”.

Hungary: In 2022, the HHC lawyer reported that in a case of a homosexual Bangladeshi asylum-seeker (later granted refugee status), the case officer had questions which did not consider the applicant's vulnerability and can be regarded as intrusive and had no relevancy regarding the applicant's reasons for claiming asylum. The applicant was asked for example: ‘Do you think that sexual relationships entail emotional attachment too?’, ‘How many partners did you have as a homosexual person?’, ‘What did your mother think of you after you did things which are done by girls?’, “What does the notion of 'family' mean to you?” etc.

As to Syrian citizens, Damascus remained to be applied by the NDGAP as an internal protection alternative throughout 2022.

Netherlands: In 2022 the country-specific policy of Afghanistan and Iraq include an 1F-paragraph.

In 2022 groups that have been identified as being at risk of group persecution are:

- Afghanistan: translators that have been working for international military or policy missions.
- China: Uyghurs
- China: Active followers of religious and spiritual movements identified by the Chinese authorities
- Russian Federation: LGBT individuals from Chechnya

Next there is a section considering serious harm under article 15 QD (subsidiary protection). Groups can be identified that are at risk of systemic exposure to serious harm. As a result, being a member of this groups is enough to qualify for subsidiary protection. In 2022, no groups were considered to be at risk of systemic exposure. Only in Somalia, the human rights situation in southern and central Somalia where Al-Shabaab is in power or controls the area is considered so severe that any returnee is considered to be at risk of serious harm. However, under certain conditions, it can be argued that an internal protection alternative in an area where Al-Shabaab is not in power exists.

The Country-specific policy also includes the countries and areas for which the Dutch Authorities consider an armed conflict is considered to reach the art. 15c QD standard. In 2022, this was the case for the whole of Yemen. As a result, every applicant coming from the country will be granted subsidiary protection status (subject to possible application of the safe third country concept and other contra-indications). In Congo DRC





there is also considered to be exceptional situation that reaches the art.15 QD standard in the provinces North-Kivu, South-Kivu and Ituri. However, an internal protection alternative is considered to be present in other areas of the country. The same accounts for Cameroon and the provinces North-West and South-West (NWSW).

Switzerland: The Observatory for Asylum and Foreigners Law in French-speaking Switzerland published in November 2022, a report that details the challenges LGBTQI+ applicants meet while navigating the Swiss asylum system. As far as the evaluation of credibility goes, the report relates that SEM officials tend to apply appreciate it too strictly, and that some questioning techniques aim mostly at finding contradictions, thus generating a “logic of suspicion”: for example, detailed recounts of sexual intercourses are sometimes still requested, despite the existence of very clear European jurisprudence against it, or some proofs are not thoroughly examined.

Safe country concepts

Austria: In 2022, the number of decisions taken in the fast-track procedure increased significantly. Until October 14,606 decisions were taken in the fast-track procedures (compared to 2,581 in 2021). The average length of the fast-track procedure was 24.7 days (2021: 28.2 days). In 2021, the accelerated procedure which mostly applies to persons from countries listed as safe countries of origin and manifestly ill-founded applications (Morocco: 1,014; Pakistan: 621; Egypt: 567), a decision is usually taken within 72 hours. Until July 2022, in 69% of the cases the decisions were taken within this time frame as well (2021: 68%). Only one decision of the accelerated procedure cases was lifted up by the BVwG.

In 2022, the practice of fast-track processing focused on applicants coming from countries listed as “safe countries of origin” and on applicants who have already been sentenced by a criminal court. The great majority of fast-track processing deals with cases from applicants originating from so called safe countries of origin (see Safe Country of Origin). This was also due to the sharp increase of applicants coming from India, Tunisia, Pakistan and Morocco.

In 2022, 26 EU-nationals originating from 14 Member States applied for asylum in Austria.

In March 2022, Ukraine was taken off the list (of safe countries of origin).

In 2022, 22,520 (2021: 3,495) applications were submitted by applicants originating from 16 different “safe countries of origins”, which represents 21% (compared to 9% in 2021) of the total numbers of applications for international protection. The largest numbers of applications were lodged by the following nationalities: Tunisia (12,667), Morocco (8,471) and Algeria (627).

Belgium: The Royal Decree of 14 January 2022 on Safe Countries of Origin reconfirmed the list of safe countries of origin adopted in 2017: Albania, Bosnia-Herzegovina, Northern-Macedonia, Kosovo, Serbia, Montenegro, India and Georgia.

Cyprus: In May 2022 the list (of safe countries) was amended to 27 countries as Ukraine and Kosovo were removed.

(2020 Action Plan) An application concerning a country of origin included in the National List of Safe Countries will be declared to be manifestly ill-founded and will be examined in a speedy manner within a maximum of 10 days: (...) 2021 and early 2022 accelerated procedures were not used as widely as expected. From September 2022 an increase in use was noted.

Germany: Since 2015, the Federal Government has to issue a report every two years to determine whether the requirements to be designated a safe country of origin continue to apply, based on the political and legal





situation in each country as well as the practical enforcement of existing laws. The last such report was published in January 2022, and concluded that all eight countries continue to fulfil the requirements. The report does not mention intentions to add new countries to the list.

Greece: Following a joint Ministerial Decision issued on 31 December 2019, 12 countries were designated as safe countries of origin. These are Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India and Armenia. In January 2021 Pakistan and Bangladesh were included in the aforementioned list. In February 2022 Benin, Nepal and Egypt were also added to the list. The list of safe countries of origin was updated in November 2022 by Ministerial Decision 708368, which excluded Ukraine from the list.

In May 2022, the 4th Appeals Committee accepted the appeal of an Afghan family, composed of a couple and 5 minor children, and overturned the first instance negative decision that had rejected their asylum application as inadmissible, based on the safe third country concept. (...) Finally, the Appeals Committee also highlighted that women and girls are vulnerable to sexual and labour exploitation in Türkiye, putting the mother and several of the children at risk.

In 2022, the Asylum Service issued first instance decisions regarding applications lodged by Syrian (initially subject to the fast-track border procedure), Afghans, Somalis, Bangladeshis and Pakistanis applicants, including third country nationals of Palestinian Origin with previous habitual residence Syria. The applications submitted by the aforementioned applicants were examined under the safe third country concept.

First country of asylum: No application was rejected solely on this ground in 2022.

Hungary: According to the HHC's information, no inadmissibility decision based on the safe-third country grounds was issued in 2021 nor in 2022.

Ireland: Under the revised procedure applicants from so-called 'safe countries of origin' will now receive a date for their substantive interview within four to six weeks of making their initial application. It should also be noted that, pursuant to the relevant regulation, this accelerated procedure may also be applied to any application subject to the need for fairness and efficiency and whereby the International Protection Office considered same necessary and expedient.

Italy: A list of safe countries of origin has been adopted by decree of the Minister of Foreign Affairs on 4 October 2019, in agreement with the Ministry of Interior and the Ministry of Justice. It includes: Albania, Algeria, Bosnia and Herzegovina, Cape Verde, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Senegal, Serbia, Tunisia and Ukraine. Only through the Decree published on 11 March 2022, the application to Ukraine has been suspended until 31 December 2022

Malta: All rejected applications from individuals coming from a country of origin listed as safe will be considered to be manifestly unfounded on above ground (b), independently of the claim raised by applicants. In the past and until 2022, the IPA generally refrained to make this finding when applicants from a safe country of origin claimed to be LGBTI, thus offering them the possibility to file an appeal against the first instance rejection in accordance with the regular procedure. However, it seems like IPA changed this policy and the IPA now strictly applies this determination to all applications, including those made by individuals claiming to be LGBTI. According to the IPA, the Agency is allegedly under the obligation to decide all these applications to be manifestly unfounded as Article 23 (1) of the Act provides that the application "shall" be examined under accelerated procedures where the application appears to be manifestly unfounded. Therefore all applicants coming from a country listed as safe are channelled through the accelerated procedure and their application is automatically decided as manifestly unfounded if rejected.





In November 2022, aditus foundation launched the #Safe4All legal initiative advocating for the removal of countries of origin which criminalise LGBTIQ+ identities and/or behaviour from the safe countries list of the International Protection Act. The NGO gathered data on the designation of safe countries of origin across all EU member states and found that Malta ranks second in terms of the percentage of its designated safe countries that criminalise LGBTIQ+ identities and/or behaviour which means that Malta designates as 'safe' a relatively high number of countries that are dangerous for LGBTIQ+ persons. The NGO found that 45% of the countries listed in the International Protection Act criminalise LGBTIQ+ identities and/or behaviour against a European average of 21%. aditus also found that only a couple of other EU MS include the countries of origin Malta designates as safe, in their own lists of safe countries which means that other EU Member States do not consider these countries to be safe countries of origin.

Netherlands: In 2022, just one case of application of the first country of asylum (concerning Costa Rica) was brought in front of a court. The Regional Court of Middelburg decided that when the 'first country of asylum' concept is used, the IND should investigate whether this country is 'safe' using the same sources as with the investigation of 'safe third countries' (Regional Court Middelburg, ECLI:NL:RBDHA:2022:10443, 6 October 2022.).

Moreover, the IND has used the 'first country of asylum' concept inconsistently in a few cases concerning BIPs from Denmark. The regional court of Rotterdam decided that the IND should have motivated why it inconsistently used this ground for inadmissibility and not the 'EU Member States'-ground (Regional Court Rotterdam, Decision Number [NL22.1573](#), 8 November 2022).

As of 1 January 2023, the following countries have been designated safe countries of origin: EU Member States, Albania, Armenia*, Bosnia-Herzegovina, Brazil*, Georgia **, Ghana**, India **, Jamaica*, Kosovo, The republic of North Macedonia, Morocco **, Mongolia**, Montenegro, Senegal **, Serbia **, Trinidad and Tobago*, Tunisia*, United States of America, Ukraine **.

Due to recent developments with Russia, the designation of Ukraine as a safe country of origin has been suspended until February 28, 2023. Until then, the safe countries of origin concept will not be applied to Ukrainian asylum seekers. The United Kingdom has been deleted from the list on 8 February 2023, because very few people from the UK apply for asylum in the Netherlands.

(Safe country of origin) On 25 May 2022, the State Secretary decided for procedural and economic reasons to no longer use the 'groups with higher concern' for procedural economic reasons in response to a ruling of the Council of State. The Council of State had ruled that the consequences of designating a specific 'group with higher concern' for the assessment framework are unclear and that the Secretary of State should either give a substantial interpretation to this concept or should abolish it. All groups with higher concern will henceforth be treated as exception groups.

Poland: Since the 2015 reform of the law, the safe country of origin concept is not applicable in Poland. The draft law submitted in 2017 (and updated in February 2019, yet not adopted as of February 2022) introduces the safe country of origin concept and foresees the adoption of national lists of safe countries of origin and safe third countries.

Slovenia: In 2022, the Migration directorate did not apply the safe third country concept. (re first country of asylum) The concept is used in practice, but so far only in a few cases per year. It was not used in any cases in 2022.

Sweden: In 2022 the government in Sweden changed following the election. Before being able to form a government the now governing parties issued an agreement, "Tidöavtalet", with a non-governing party, the Sweden Democrats, to secure their votes for Parliament. The agreement states that a review will be made of the existing regulations on safe countries of origin to enable that countries where parts of the country can be





considered safe can be brought up on the list. They also consider moving responsibility for the list of safe countries from the Swedish Migration Agency to the Government Offices.

Recognition rates

ECRE – Asylum statistics and the need for protection in Europe: In December 2022, ECRE published an update to its 2020 factsheet that takes a closer look at the reliability of asylum statistics, particularly on protection of individuals. By breaking down the numerous factors that can significantly affect such numbers, ECRE sounds a note of caution on their frequent use.

See ECRE, Asylum statistics and the need for protection in Europe, December 2022, available at: <https://ecre.org/wp-content/uploads/2022/12/Asylum-statistics-and-the-need-for-protection-in-Europe-final.pdf>

Austria: out of 89,447 decisions at first instance, 16,481 ie 18.43% were positive decisions: 11,471 granting refugee status, 4,827 granting subsidiary protection, and 183 decisions under article 8 ECHR. Out of the 30,270 negative decisions (33.84%), 8,650 were rejected for formal reasons whereas 21,620 were rejected on the merits. Lastly, almost half were classified by the government as other, eg discontinued cases: 42,696 ie 47.73%.

Cyprus: In 2022, there were 22,182 applicants in Cyprus. The Asylum Service took granted refugee status to 331 persons (202 decisions), subsidiary protection to 227 persons (177 decisions), and rejected 8,509 persons (8,178 decisions).

France: In 2022, the recognition rate at first instance was 28,8%.

Ireland: In 2022, 13,229 asylum applications were lodged. The International Protection Office (IPO) issued a total of 5,758 decisions, 81% of which were positive. Among these, 1,989 decisions granted international protection to the applicants, while 2,699 granted humanitarian permission to remain.

Malta: UNHCR reports that 2,637 decisions were issued at first instance in 2022, including 140 positive decisions (6% of the total). Out of these, 15 were recognitions of refugee status, 119 of subsidiary protection status and 16 of THP (although THP is not a form of international protection). There were 899 rejections (34%). The rest were 1,587 'closed' cases (60% of the total), referring to applications that resulted in an administrative closure, Dublin closure, or applications that are explicitly withdrawn, implicitly withdrawn or inadmissible. A total of 913 first time applications were made in 2022.

In 2022, protection was mainly granted to Eritreans (31%), Syrians (50%) and Libyans (6%) followed by Sudanese and Palestinians (2% each).

In 2022, the IPA rejected Sudanese applicants en masse. According to the UNHCR, the IPA issued 602 decisions: 342 were 'otherwise closed', 258 were rejected, and 2 were granted refugee status for a recognition rate of 0.3%.

Netherlands: the IND took a total of 17,400 decisions at first instance: 9,245 decisions granting refugee status, 5,045 granting subsidiary protection, 890 humanitarian protection, and 2,220 rejections, making for an 87.4% recognition rate.

Poland: There is also a national protection status called 'asylum'. A foreigner can be granted 'asylum' in a separate procedure if it is necessary to provide them with protection, but only if it is in the interest of the state. Political aspects are, therefore, taken into account in this procedure. Throughout the years, the procedure has been very rarely applied (8 positive cases in 2022).





Sweden: The Migration Agency decided on 44,156 applications for international protection in 2022. This included 14,245 decisions on new applications and 29,911 prolongation decisions where renewal of a temporary protection permit was requested.

At first instance, the recognition rates in cases decided on the merits was 37% in 2022, compared to 32% in 2021, and 25% in 2020 : The recognition rates for major countries of origin were as follows: 60% (887) for Afghans, down from 62% in 2021, 90% (949) for Syrians, up from 85% in 2021, 85%(247) for Eritreans, up from 82% in 2021, 61% (306) for Turkish, down from 63% in 2021, 54% (119) for Stateless persons, down from 57% in 2021. As regards second instance, the Migration Court approved 6% of appeals, in comparison to 7% in 2021.

According to The Swedish Refugee Law Center, significant differences exist between the asylum assessment units of the Swedish Migration Agency (SMA) with regards to approval rates and grant reasons. Although caution should be exercised when interpreting the statistics, as the analysis is based on a limited number of decisions (98), it is noteworthy that Stockholm approved asylum in 85% of Afghan asylum cases in the summer of 2022, while the overall approval rate in Göteborg was only 28% during the same period.

First instance decisions

Cyprus: From late 2022 onwards a detailed reasoning of the decision is provided in cases of negative decisions, which is a positive development as it provides the applicant and legal advisors/lawyers with immediate access to the reasons the asylum application has been rejected. However, the reasoning is only provided in Greek or English.

France: Since May 2022, the then experimental process of OFPRA communicating with asylum seekers through an online account was generalised to the entire territory. All individual communications from the Office to the asylum seekers are sent through this platform, including their convocation to their oral interview with the OFPRA. This does not apply to asylum seekers in French overseas territories, or to unaccompanied minors.

In 2022, 81% of first instance rejections by OFPRA were appealed before the CNDA.

Greece: The IPA further introduced the possibility for first instance decisions not to be communicated in person to the applicant ('fictitious service' πλασματική επίδοση) or the first instance decision to be communicated to the applicant by administrative authorities other than the Asylum Service. Both practices were maintained in the Asylum Code throughout 2022 and may significantly underestimate the possibility of the applicant to be informed about the issuance of the first instance decision and/or the content of said decision and/or the possibility to lodge an appeal. Consequently, deadlines for submitting an appeal against a negative first-instance decision may expire without the applicant being actually informed about the decision, for reasons not attributable to him/her. As the Greek Ombudsman has noted with regard to the provisions of fictitious service, said provisions effectively limit the access of asylum seekers to legal remedies.

In Lesvos and Kos, since the second quarter of 2022, an order for voluntary departure from the country (usually with a 7-day deadline) was incorporated in the first instance negative decisions issued by the RAO. In Chios, since March 2022, the same practice has been applied in the first instance negative decisions issued by the RAO.

Sweden: In 2021, a total of 9,695 cases were forwarded to the Migration Courts.¹ In 2022, the total number of forwarded cases was 5,463.

¹ Swedish Migration Agency, *Monthly Statistical Report December 2021*, DNR: 1.1.1.2-2021-2118.





Differential treatment of nationalities in asylum procedures

Belgium: Afghans: From mid-August until March 2022, certain decisions on Afghan applications for international protection were temporarily and partially suspended, including decisions about the non-admissibility of subsequent applications. During this period, each case was checked on the presence of relevant new elements. If such elements were present, a decision of admissibility was taken. However, no decisions of inadmissibility were notified as long as the CGRS was still gathering information about the situation in Afghanistan. The suspension lasted until 2 March 2022, when the CGRS resumed decision-making (subsidiary protection, non-admissibility of subsequent application and refusals) on all cases involving Afghan applicants. Overall, the CGRS indicates that the situation for many Afghans has clearly deteriorated. As a result, various “profiles at risk” can “count on refugee status”. Among these are journalists, human rights activists, political opponents and critics of the Taliban, people occupying certain functions under the previous government, staff members of the previous foreign military troops or foreign organisations, certain minorities, members of the LGBT community and other people opposing the conservative religious norms and values fostered by the Taliban rules, isolated minors or women not supported by a family network, family members of certain profiles at risk.

With regards to the need for subsidiary protection, the CGRS states that the level of indiscriminate violence has significantly decreased since the Taliban takeover. It highlighted that there still is violence in the country, but that most attacks are acts of targeted violence. As a result, the CGRS evaluated that there is no longer a real risk of falling victim to indiscriminate violence in Afghanistan. Therefore, subsidiary protection status will no longer be granted on the basis of the security situation.

This change in policy might result in a serious increase in the amount of negative decisions issued for cases of Afghan applicants for international protection, especially for those groups who used to rely on subsidiary protection recognition in the past. This is in stark contrast with the most recent guidance note of UNHCR on international protection needs of people fleeing Afghanistan, where the agency indicates it is not possible to determine with the requisite degree of certainty that an Afghan asylum seeker is not in need of international refugee protection. For this reason, UNHCR calls on States to suspend the issuance of decisions to individual applicants in all cases where it cannot be determined that the person in question is a refugee within the meaning of the 1951 Convention. It remains to be seen how this policy will be evaluated by the Council for Alien Law Litigation.

Ukrainians: Not long after the start of the conflict in Ukraine, the first Ukrainian refugees reached the gates of the already overwhelmed Arrival centre ‘Klein Kasteeltje’. On 28 February 2022, between 300 and 400 applicants for international protection were standing in line to apply for asylum. Since the reception crisis is still ongoing and the reception network could not handle all new arrivals, the centre went back to not let single men access, thus preventing them from being able to apply for international protection. As of 2 March 2022, Ukrainian applicants were handed out a document that informed them about the possible creation of a separate statute and procedure for them, and were recommended to come back the week after. TPD access was then set up. People who are not eligible for the temporary protection – such as Ukrainian citizens having left Ukraine before 24 February 2022 or having a residence status in another EU member state – are directed towards the asylum procedure, which remains also accessible for Ukrainian citizens who are eligible for or have asked for or received temporary protection. However, the examination of an application for international protection is suspended as long as the applicant enjoys temporary protection. Moreover, the CGRA announced on 28 February 2022 that it would freeze the treatment of requests for international protection introduced by Ukrainian citizens. This means that no decisions are taken, and no personal interviews are organised.

Bulgaria: In the past, Turkish and Afghan nationals were subjected to unfair and discriminatory treatment with very low recognition rates with their applications overwhelmingly determined in accelerated procedure. In 2022 their situation, especially the one of Afghan applicants, improved.



In 2022, for the first time in a decade, the situation of Afghan applicants changed; the overall recognition rate for Afghan nationals rose to 49% (14% refugee recognition rate and 35% subsidiary protection rate). Out of all 69 Afghan cases decided on their substance just 20% were dealt in accelerated procedure as manifestly unfounded, while in 2021 these were 86% of the decided cases, and 95% in 2020. Afghan applicants enjoyed 49% overall recognition (14% refugee status and 35% subsidiary protection) with 51% rejection. The vast majority of them, however (95%) continued to abscond before their first instance decision, which was issued on the merits in just 0.7% of the caseload.

2022 also marked a gradual improvement in Turkish applicants' treatment. Just 33% of the applications presented by Turkish nationals were considered as manifestly unfounded and channelled in the accelerated procedure. They enjoyed a moderate 16% overall recognition (5% refugee status and 11% subsidiary protection).

Iraqi applicants enjoyed 45% overall recognition rate (13% refugee recognition and 32% subsidiary protection rates).

Syrians continued to be the nationality with the highest recognition rate, reaching 99% - out of which 2% concerned the granting of refugee status and 97% the granting of the subsidiary protection with just 1% rejection rate. In 2022, out of 8,598 Syrian applicants, who submitted asylum claims in Bulgaria, nearly 51% (3,769 individuals) had their decisions issued within the same year.

Cyprus: in 2022 asylum applications submitted by Syrian and Afghani nationals were not examined with extremely few exceptions and even though the Ministry of Interior acknowledges that Syria is not considered a safe country and that returns to Syria cannot be made.

Until early 2023, there were indications that the Ministry of Interior put on hold the examination of applications from Syrian nationals, even though the Ministry of Interior acknowledged that Syria cannot be considered a safe country. 1,939 decisions were issued in 2021 for Syrian nationals, compared to 267 decisions in 2022. The Ministry has attributed the low number of decisions to the existing backlog.

Germany: [Federal Administrative Court, Case 1 C 1.22, 19 January 2023](#) (24 cases the same day). Following a 2021 decision by the CJEU according to which there is a 'strong presumption' that refusal to perform military service in the context of the Syrian civil war relates to one of the reasons to be granted refugee status, the Federal Administrative Court ruled in January 2023 that the risk of persecution still has to be established in each individual case, based on a connection between the ground for persecution and the type of persecution to be feared.

In 2022, the protection rate for Afghan nationals more than doubled, from 42.9 % in 2021 to 99.3 % in 2022 (it was at 36.6% in 2020: 36.6 %). Most Afghan nationals were given humanitarian protection in the form of a national removal ban (78.7 %) while 23.0 % of applicants were given refugee status. At the end of 2022, the number of pending cases was still high with 27,594 undecided cases (among which 24,959 first-time and 2,635 subsequent applications).

Following the protests and violent repressions in Iran, several Federal States declared a removal ban for Iran in October 2022. The Conference of Interior Ministers of the Federal States as well as the Federal level decided in December 2022 that no removals would take place to Iran, with exceptions for serious criminal offenders and persons posing a risk to security. The overall protection rate for asylum applications from Iranian nationals in was 44.9 % in 2022. 39.1 % were given refugee status, 4.1 % subsidiary protection and 1.7 % a removal ban based on national law; while 55.1 % of all applications were rejected. The protection rate was 46.2 % for decision taken between January and August of 2022, indicating that no significant increase can be detected after the outbreak of the protests.

Greece: Generally, in 2021, a large number of asylum seekers with specific profiles (i.e. asylum seekers from Palestine, Eritrea and Yemen) had been granted refugee status on the basis of their administrative file, without undergoing an asylum interview, although this was not a consistent practice of the Asylum Service throughout the year or even between different Regional Asylum Offices applying the border procedure. This

practice changed during 2022 and asylum seekers with specific profiles, that before their asylum application had been examined on the basis of their administrative file, had to undergo asylum interviews. In Lesvos, at least since April 2022, Eritrean nationals had to undergo asylum interviews, while before their asylum application had been examined on the basis of their administrative file. In Lesvos, Chios and Kos, all asylum seekers from Palestine had to undergo an asylum interview, while in Kos all Palestinians coming from Syria are being examined on admissibility and the safe third country basis.

As mentioned above, during 2022, as a rule, applications examined under the Fast Track Border Procedure submitted by Syrians applicants are rejected as inadmissible on the basis of the safe third country concept.

Ireland: In August 2021, in response to the emerging humanitarian crisis in Afghanistan, the Department of Justice confirmed that it would begin prioritising international protection applications from Afghan nationals in line with updated advice provided by UNHCR. In the experience of the Irish Refugee Council, the IPO dispensed with interviews for many Afghan nationals, who were subsequently issued with Declarations of Refugee status on a papers-only basis. This practice continued throughout 2023 in some, but not all cases. Afghan nationals facing transfers to other EU countries pursuant to the Dublin III procedure had their applications for international protection examined in Ireland on compassionate grounds.

Malta: Furthermore, applicants from Libya, Sudan and South-Sudan are likely to be rejected without an individual assessment of their claim considering the high rejection rate these nationalities face (see Statistics). According to the UNHCR, the IPA issued 602 decisions to Sudanese nationals in 2022, 342 were 'otherwise closed', 258 were rejected, and 2 were granted Refugee Status. This makes the recognition rate at 0.3% while the European average is 40%.

The IPA did not share statistics on Libyan nationals in 2020, but according to Eurostat the large majority of them obtained subsidiary protection (70 persons), none of them received a refugee status, and only 5 Libyan applicants were rejected. This confirmed that, where nationality was established, Libyan national continue to be systematically granted international protection.

This changed towards the end of 2021 and 2022, NGOs and lawyers noted a new trend to reject application of Libyan who do not have any personal circumstances which would increase the likelihood to be targeted by violence in the country. Still, 4 decisions to grant refugee status and 32 decisions to grant subsidiary protection were issued (19% of the total amount of positive decisions) while 13 applications were rejected. In 2021, 65 Libyans applied for International Protection, while 227 applications were still pending at the end of the year.

Faced with the arrival of Lebanese nationals in 2022, the authorities have adopted a hard-line approach to these applicants by also fast tracking the few appeals filed on the normal procedure. The IPAT was able to deliver rejection decisions within a few weeks despite the average duration of an appeal being 2 to 4 years. As of January 2022, nearly all of Lebanese nationals who arrived in Malta in September 2022 were returned to their country of origin after applying to voluntary return, all those who had applied for asylum were rejected.

Netherlands: In 2022, the Dutch had published the country-specific policy for 35 nationalities and is usually based on an official country report from the ministry of Foreign Affairs. It is published in the Aliens Circular C7 and currently includes the following countries: Afghanistan, Angola, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Burundi, Cameroon, China, Colombia, Democratic Republic Congo, Eritrea, Guinea, Iraq, Iran, Ivory Coast, Lebanon: situation for Palestinians, Libya, Mongolia, Nepal, Nigeria, Ukraine, Pakistan, Russian Federation, Sierra Leone, Somalia, Sri Lanka, Sudan, Syria, Türkiye, Uganda, Venezuela, Yemen

For other Afghan nationals, on 25 August 2021, the Secretary of State decided to install a decision and departure moratorium for Afghan nationals for six months until 25 February 2022. On 23 February 2022, it



was extended until 25 August 2022. For the duration of this period, no decisions were taken on asylum applications lodged by Afghan nationals and those that received a negative decision on their asylum application were not returned to Afghanistan. On 21 July 2022, the IND published Information Message 2022/71, outlining the new policy with regards to Afghan asylum seekers. Because of the worrying security and human rights situation in Afghanistan, the IND stated that many Afghans will receive the benefit of the doubt, leading to a high chance of the applications being accepted.

For Ukraine a decision and departure moratorium was installed on 28 February 2022. This was extended with another six months in August 2022. See for more information the section on Ukraine.

For Russian male deserters and conscripts between the ages of 18 and 27, a decision and departure moratorium was installed on 28 June 2022. This was extended with another six months on 13 December 2022.

For Sudanese political activists, a decision and departure moratorium was installed on 24 February 2022. This was extended with another six months on 23 August 2022.

In 2022 the country-specific policy of Afghanistan and Iraq include an 1F-paragraph.

In 2022 groups that have been identified as being at risk of group persecution are:

- Afghanistan: translators that have been working for international military or policy missions.
- China: Uyghurs
- China: Active followers of religious and spiritual movements identified as xie jiao by the Chinese authorities
- Russian Federation: LGBT individuals from Chechnya

Next there is a section considering serious harm under article 15 QD (subsidiary protection). Groups can be identified that are at risk of systemic exposure to serious harm. As a result, being a member of this groups is enough to qualify for subsidiary protection. In 2022, no groups were considered to be at risk of systemic exposure. Only in Somalia, the human rights situation in southern and central Somalia where Al-Shabaab is in power or controls the area is considered so severe that any returnee is considered to be at risk of serious harm. However, under certain conditions, it can be argued that an internal protection alternative in an area where Al-Shabaab is not in power exists.

The Country-specific policy also includes the countries and areas for which the Dutch Authorities consider an armed conflict is considered to reach the art. 15c QD standard. In 2022, this was the case for the whole of Yemen. As a result, every applicant coming from the country will be granted subsidiary protection status (subject to possible application of the safe third country concept and other contra-indications). In Congo DRC there is also considered to be exceptional situation that reaches the art.15 QD standard in the provinces North-Kivu, South-Kivu and Ituri. However, an internal protection alternative is considered to be present in other areas of the country. The same accounts for Cameroon and the provinces North-West and South-West (NWSW).

Romania: In 2022, as in previous years in Timișoara it was reported that all Syrian nationals are granted a form of protection. In Giurgiu, Radauti and Galati asylum applications of Syrian nationals are also rejected, according to the directors of these centres. In Radauti the majority of Syrian asylum seekers are rejected, including unaccompanied children; only one or two were granted a form of protection. In Galati only a few asylum seekers, Syrian nationals were rejected.

Sweden: (Regarding Syria) In 2022, the Migration Agency continued to consider that the security situation in the internal armed conflict was not such that each and every one is in need of international protection in several provinces in accordance with Article 15(c) of the Qualifications Directive, and that an individual assessment of the applicant's risk therefore must be made. However, it also considered that the improved





security situation was not such that it can be considered as significant and non-temporary in nature in the context of cessation. In 2021, the Migration Agency changed its position regarding refugee claims from Syria based on risks due to military service, as an adjustment to the CJEU case *EZ v. Germany*, meaning refugee status in general was granted to those who would be enrolled in military services. The Migration Agency maintained this position in 2022.

In July 2021, the Swedish Migration Agency decided to halt all enforcement of deportations to Afghanistan and to suspend decision-making in general in asylum cases concerning Afghans (...). In November 2021, the Migration Agency decided to lift the suspension of asylum decisions and stated that in general, Afghans with a deportation order would be entitled to a new examination of their protection claims. Throughout 2022, the Migration Agency and the Migration Courts have taken decisions and ruled on asylum cases. The Swedish Refugee Law Center compiled a report, analysing a number of Migration Agency asylum decisions for Afghans. On 6 December 2022 the Migration Agency published an updated legal position on protection assessment regarding Afghanistan. According to this new position, women and girls shall be granted refugee status due to the overall discriminatory human rights violations in Afghanistan.

Switzerland: In October 2022, the fast-track procedures were re-introduced for certain countries of origin: Morocco, Tunisia, Algeria and the safe countries of origin (see the relevant chapter Safe country of origin). These procedures are specifically about merging the normally separate procedures of the Dublin-interview and the interviews according to Art. 26 and Art. 29 AsylA in the national asylum procedure for these selected countries. According to the SEM, this should enable the asylum procedure to be completed more quickly.

Due to the events in Afghanistan in the second half of 2021, the SEM did not enforce deportations as of April 2022. On 15 February 2022, the SEM released a report on the potential risk profiles for being targeted by the Taliban. Anyone who is persecuted in a way that is relevant under refugee law is granted asylum. Those who do not meet these requirements are usually granted temporary admission. If there is an application for re-examination or if the case is pending before the Federal Administrative Court, the SEM generally orders temporary admission.

The practice and jurisprudence on Afghani asylum applications remains quite restrictive. For instance, according to the administration and the Courts, there's no risk of forced recruitment of underage soldiers by the Taliban, throughout the country. While the 'safety net' of temporary admission allows the authorities to provide some protection to most of the Afghans coming to Switzerland, this status is not as comprehensive and solid as the refugee status.

Regarding Iraq, since the Court's position of December 2015 according to which there is no situation of generalised violence in the northern Kurdish provinces, persons can be returned there if they have a sustainable social or family network there. Persons from central and southern Iraq usually receive a form of protection. As of 2022, the practice concerning Kurdish provinces remained the same.

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

ECRE Legal Note: In May 2022, ECRE published a Legal Note which aims at providing guidance as to the standards under EU and international law relating to examination of national security-related asylum cases with a view to guarantee the right to effective remedy, tying in with examples from state practice.

See: ECRE Legal Note 12, Effective remedies in national security-related asylum cases, with a particular focus on access to classified information, May 2022, available at: <https://ecre.org/wp-content/uploads/2022/05/Legal-Note-12.pdf>.





Appeal authorities

Austria: In 2022, de facto all 220 judges of the BVwG were assigned to decide in asylum and alien's law cases. 2,951 court hearings were conducted in the first half of 2022, 4,381 first instance decisions were dismissed or amended. In 3,107 cases the decisions of the first instance were confirmed.

Italy: In application of EU NEXT Generation Project, D.L. 80 of June 2021 - as amended by conversion Law n. 113 of August 2021 - provided for the reinforcement of the Courts Office personnel, with the implementation of the "Judicial Office" (Ufficio del Processo), a support office for judges and Courts administrations to which law clerks shall be deployed for 3 years starting from February 2022. They are also deployed to support the judges assigned to the Specialised sections on migration, with the objective of help reducing second instance backlog

Portugal: in early 2022, the Working Group for Administrative and Fiscal Justice, created by the Ministry of Justice, proposed an amendment to the Statute of the Administrative and Fiscal Courts that would allow CSTAF to create specialised sections in the Administrative Courts, namely in the field of asylum. In order for this to be implemented, the Statute would have to be amended and the CSTAF would then have to deliberate on the creation of the relevant section.

Second instance procedure

Cyprus: The procedure before the IPAC is judicial. Asylum seekers can also submit an appeal without legal representation. The court fees to submit an appeal are €96 if the applicant submits it without a lawyer, whereas if the appeal is submitted by a lawyer the court fees are €137. Furthermore, if the appeal does not succeed, the decision will be issued with a cost order in most cases app. 500 EUR which the applicant is expected to pay. In the past these orders were rarely pursued however in 2022 there were a few reports of asylum seekers wanting to withdraw their appeals and return to their countries of origin and be requested to pay this amount. There is no information on to the extent this is pursued.

The procedural rules followed by the IPAC were not considered sufficient (...). In 2022 the Regulations were amended in an attempt to address these issues; however many issues remain unresolved and unclear, e.g.:

- The procedure to be followed when applicants wish to add evidence in support of their claims remains unclear, especially in relation to cross-examination by lawyers representing the state. The procedure currently being followed is the procedure followed under civil procedure rules, however, given the administrative nature of the IPAC, in practice this often results in confusing and unclear procedures, for example regarding the burden and standard of proof applied, the purpose of the cross-examination by the state lawyer - who is not considered a competent national officer to conduct asylum interviews; - the conclusions to be drawn from such an examination in relation to the credibility of the applicant and more.
- Regarding the introduction of the 'fast-track' procedure, the Attorney General has been completely removed from the procedure and the Asylum Service is obliged to send the facts and relevant case-file to the Court directly. Even though this simplifies the procedure significantly in theory, it is not clear whether the deadlines can be and are met by the Asylum Service that is already overburdened.
- Rule 4 of the amended procedural rules obliges applicants to submit a proof of payment of any previous pending judicial cases before the IPAC, when submitting a new appeal. Failure to do so may result in the rejection of the new appeal, without any further examination of the substance of the case. It is not clear whether applicants are adequately informed about this by the Court Registry when submitting a new appeal.





- Rule 12 of the amended procedural rules obliges applicants to be present during the last hearing of their case and upon the announcement of the judge's decision, regardless of whether they are being represented by a lawyer. There have been reports of applicants being arrested immediately after rejection of their appeal by the IPAC, which effectively terminates their right to remain.

The amended Regulations provide that the application for the right to remain must be submitted at the same time as the appeal, and in any case within the deadline for the submission of the appeal, which is 15 days. It is not clear what the consequences of late submission would be and if it would lead to automatic rejection of the application. The Court's procedural rules also now include the application form to be used for the right to remain which is an *ex parte* application. However, there is no information provision at the IPAC regarding the need to submit the right to remain application alongside the appeal and although the requirement to make such an application is included in the first-instance decision issued by the Asylum Service applicants are not adequately informed. Furthermore, the form is not readily available at the counter of the Registry of the IPAC, although according to the Court it can be obtained following request by the applicants.

In 2022 the IPAC initiated accelerated procedures for negative first-instance decisions issued on the basis of an inadmissible subsequent application and safe country of origin. Upon the submission of an appeal in such cases, the Asylum Service must, within 10 days, file a memorandum at the Registry of the IPAC, alongside the administrative file relating to the claim. The case is then scheduled directly for a hearing, during which the presence of the Legal Service is not required, unless this is otherwise ordered by the IPAC. No written submissions by either the applicant or the Legal Service are envisaged in the accelerated procedure.

If the Asylum Service considers the subsequent application inadmissible, an appeal can be submitted before the IPAC. Such appeal, however, does not have automatic suspensive effect, and a separate application must be submitted to the IPAC requesting the right to remain pending the examination of the appeal. The procedure to submit such an application was not provided for in the procedural rules, until their amendment in 2022. Following the reasoning of the Administrative Court in a 2021 case, the amended Regulations provide that the application for the right to remain must be submitted at the same time as the appeal, and in any case within the deadline for the submission of the appeal, which is 15 days. The prescribed form for the application is provided for in the Regulations, as Form number 4. The Form can be found at the counter of the Registry of the IPAC, however, it is not always readily available and often requires the applicant to request it. In addition, there is no information materials provided by the PAC regarding the need to file the right to remain application alongside the appeal, although the requirement to make such an application is included in the first-instance decision issued by the Asylum Service.

In 2022, a decision by the Supreme Court set the precedent, by reaffirming the decision of the Administrative Court that the submission of a subsequent asylum application begins with the fact that the applicant is not an asylum seeker. It therefore starts with the status that the applicant had, after the rejection of the first asylum application became final. If the applicant submits an interim application of the right to stay, the submission of such an application does not on its own suspend the removal decision. (Appeal against the decision of the Administrative Court No. 8/2022, Sohel Madber v. Republic of Cyprus, 17 November 2022, available at <https://rb.gy/xrdoyp>)

Germany: As of 1 January 2023, with the entry into force of the Act on the acceleration of asylum court proceedings and asylum procedures, the Federal Administrative Court can also decide on the facts of the case as they pertain to the situation in the country of origin or destination. This only applies if the Higher Administrative Court grants leave for revision and if the Higher Administrative Court's appreciation of the situation in the respective country differs from that of other High Administrative Courts or of the Federal Administrative Court. The reform was introduced in an effort to unify jurisprudence when it comes to the situation in countries of origin or destination. PRO ASYL criticises the change as it stands in the way of an appreciation of circumstances in each individual case and hampers the appreciation of circumstances "in real





time” if lower administrative courts are bound by earlier decisions by the Federal Administrative Court. PRO ASYL thus expects the change to not enhance legal certainty, but to lead to legal disputes on the scope of Federal Administrative Court decisions regarding the situation in a given country.

As of 1 January 2023, the rules for filing a bias motion against the competent judge have changed so that the hearing can take place with said judge if a bias motion was filed three days or less before the hearing. If the judge is found to be biased after the hearing, the hearings that took place after the filing of the motion must be repeated.

Greece: The practice of Appeals Committees in the course of 2022 shows that the requirement of a separate request for suspensive effect under Article 104(2) IPA and Article 110(2) Asylum Code has introduced a superfluous procedural step, as the Committees systematically dismiss requests for suspensive effect as having no object (άνευ αντικειμένου), after having issued a positive or negative decision on the merits of the appeal.

Hungary: Gov. decree 570/2020. (XII. 9.) whose Section 5 removed the possibility to ask for interim measures in order to prevent expulsion in case of violation of epidemic rules or when expulsion is ordered based on the risk to national security or public order is no longer in force since June 2022. This provision had serious consequences for people who had been expelled prior to submitting their asylum application, as in case their asylum application was rejected in an accelerated procedure or admissibility procedure, the appeal did not have a suspensive effect and even if it was requested, it did not suspend the expulsion that was ordered prior to the asylum procedure.

Ireland: All appeals deemed suitable proceeded before the IPAT on a remote basis via audio-video link throughout 2022. In circumstances where an appeal was deemed unsuitable to proceed remotely, the appeal proceeded by way of an on-site oral hearing. This usually occurred in situations whereby to proceed with the appeal remotely would be contrary to the interests of justice. As of January 2023, the vast majority of appeals continued by way of remote hearing, save at the request of the applicant or whereby to conduct the appeal remotely would be contrary to the interests of justice.

Pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, whereby the IPO recommends that an applicant’s application for refugee or subsidiary protection should be refused on the basis of one of the reasons established pursuant to s.39(4) of the International Protection Act 2015, the timeframe in which to submit an appeal is shortened to 10 working days from the date of the decision. Such reasons include whereby a finding is made by the International Protection Office that the issues raised in the application were not relevant to the applicant’s eligibility for international protection, whereby the applicant’s representations have been inconsistent or contradictory, whereby the applicant failed to make the application as soon as they could without good reason, whereby a finding is made that the applicant did not require international protection due to the possibility of safe internal relocation within their country of origin, or whereby the application is refused and the applicant comes from a safe country of origin. An applicant’s appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.

the Irish Refugee Council has written to the Minister for Justice, addressing numerous significant concerns in relation to the appropriateness of the revised procedure. Such concerns relate particularly to applicants who may have had traumatic experiences prior to their arrival in the state. These applicants are required to complete and submit their questionnaire in an open-plan waiting area at the IPO, an environment which is often extremely busy, noisy and tense. This raises significant concern in relation to the applicant’s privacy and personal data protection. Moreover, it is an extremely inappropriate physical space for applicants to complete such a significant document and gives rise to a risk of re-traumatisation insofar as particularly vulnerable applicants are concerned. Additionally, the revised process completely removes the applicant’s practical access to legal advice prior to the submission of their international protection questionnaire. Unless an





applicant is accompanied to the IPO by a lawyer when making their application, they do not have the benefit of legal advice in advance of submitting their international protection questionnaire, a document upon which significant reliance is placed in the applicant's substantive interview.

Malta: The Tribunal is under the obligation to carry out a full and *ex nunc* examination of both facts and points of law, the expression "full and ex nunc" being introduced by amendment XIX of 2022.

Length of second instance procedure

Cyprus: In 2022 the IPAC initiated accelerated procedures for negative first-instance decisions issued on the basis of an inadmissible subsequent application and safe country of origin. Upon the submission of an appeal in such cases, the Asylum Service must, within 10 days, file a memorandum at the Registry of the IPAC, alongside the administrative file relating to the claim. The case is then scheduled directly for a hearing, during which the presence of the Legal Service is not required, unless this is otherwise ordered by the IPAC. No written submissions by either the applicant or the Legal Service are envisaged in the accelerated procedure.

Based on the appeals submitted so far . that fall under the accelerated procedure these are scheduled for a hearing within 1-2 months of the appeal submission, which is the same time in the regular procedure.

France: according to the court the average length of second instance procedure was 6 months and 16 days. The average length of proceedings for cases under the normal procedure was of 7 months and 5 days, and 5 months and 8 days for accelerated procedures.

Greece: The Asylum Code, which entered into force in the second half of 2022, provides that decisions have to be issued as soon as possible and in any case:

- (a) Within thirty (30) days of the hearing of the case in regular procedure cases,
- (b) Within twenty (20) days of the hearing in accelerated procedure case,
- (c) Within ten (10) days of the hearing in cases where the appellant is under administrative detention,
- (d) Within twenty (20) days of the hearing in cases when the application is rejected as inadmissible in accordance to Article 89,

An exception is introduced for cases heard in priority, as the decision must be issued within fifteen (15) days of the hearing.

Hungary: In 2022, according to the HHC's experience, the court procedures took in average 2 - 3 months.

Ireland: The average processing time for appeals before the International Protection Appeals Tribunal in 2022 was 10.5 months.

Poland: In 2022 the average processing time for the Refugee Board to issue a decision in appeal proceedings was 127 days for the cases which finished in 2022. The longest processing time in 2022 took 1,445 days (in 2021 it was 1697 days) and the shortest - 1 day. There were 2 cases (in 2021 - none) where the Refugee Board decided to hear the applicant and there were no cases of hearing a witness in 2022 (just like in 2021).

Romania: Average duration of the appeal procedure by regional court spanned from 10 to 45 days in Baia-Mare to over 113 days in Bucharest.

Giurgiu: according to the director of the centre the appeal procedure lasts around 45 days. The CNRR representative stated that the appeal procedure may be longer because interpreters refuse to go to hearings, because they are only payed at the end of the trial. Some interpreters were paid after 2 years. There were cases when there were 4-5 hearings due to interpreter's absence. The Regional Court Giurgiu failed to provide the average duration of the procedure.





For onward appeals, the average duration ranged from 60 (Galati) to 180 days (Bucharest).

Slovenia: If the application was rejected in the regular procedure the deadline for lodging the judicial review is 15 days. The Administrative Court needs to decide on it within 30 days, yet court procedures are usually much longer in practice, sometimes taking up to one year or longer. The length of the procedure mostly depends on the complexity of the case. This practice continued in 2022, similar to 2021 regardless of the pandemic.

Sweden: The average processing time for the Migration Courts to adjudicate a case in 2022 was 9,5 months, which is an increase from 7.9 months in 2021.

Switzerland: Average processing time for the appeal body to make a decision in 2022:

In the extended procedure:	201 days
In the accelerated procedure:	75 days
In Dublin procedures:	20 days

During 2022, the 20-day deadline was met in 44% of cases (140 procedures). It exceeded by a few days in 23% of cases, by 10 to 30 days in 20% of cases, and by more than 30 days in 57% of cases. Nevertheless, the average procedural duration in front of the Court was 75 days in the accelerated procedure, which constitutes an acceleration in comparison with the average duration of an appeal procedure between 2015 and 2017, that was 159 days. On the other hand, the average duration of the appeal procedure in the extended procedure has risen up in 2022 to 201 days. For Dublin procedures it is 20 days.

Backlog at second instance

Austria: At the end of 2022, a total of 54,253 cases were pending, out of which 47,820 at first instance and 6,433 at second instance. The second instance managed to reduce the backlog of the years before: At the end of 2021, a total of 8,351 cases were pending before the BVwG. The number of pending cases at first instance increased compared to 2021 (19,529). Due to the fact that the number of recipients of Basic Care increased only by 4,500 (January 17,000 to 21,500 in December) and the high number of discontinued cases (42,000) it is to be expected that the number of applicants actually still residing in Austria is much lower than the number of pending cases. The BFA files a case as discontinued three months after not being able to reach the applicant.

In both cases, the backlog majorly concerned Syrian applicants (14,599 before the BFA; 2,694 before the BVwG), followed by Indians (6,695 and 201 respectively), Afghans (6,657 and 688 respectively) and Moroccans (3,423 and 16 respectively).

Cyprus: In December 2022, the number of pending appeals both in the regular and accelerated procedure had reached 6,609, corresponding to 6,814 persons.

Refugee Reviewing Authority: Operations ceased in December 2020 and at the time 432 cases involving a total of 665 persons were not concluded and were transferred back to the Asylum Service. In 2022 the Asylum Service set up a team to examine these cases however at the end of 2022, limited progress had been made.

For 2022, according the EUAA the proposed line of cooperation regarding second instance determination will be focused on a) backlog reduction, b) supporting the creation of efficient management workflows, c) administrative support, by assisting the administrative tasks of the IPAC and enhancing the procedural rules of the Court d) coordination (with CAS and internal) and quality level, through supporting the development of quality control mechanisms and the overall coordination of deployed EUAA personnel. Throughout 2022 the above support was implemented however it had limited impact on the backlog that rose significantly, as well as on the time required to examine cases which has increase especially for complicated and well-founded





cases. Furthermore submitting an application or application or other submissions to the Court is extremely time-consuming, as all must be submitted in person and not digitally as is the case for other courts in Cyprus, whereas the staff receiving such submissions is not sufficient.

France: at the end of 2022, 27,763 cases were pending before the Court; however, 16.7% of those cases started more than one year ago.

Oral hearings

Germany: With the Act on the Acceleration of asylum court proceedings and asylum procedures which entered into force on 1 January 2023, personal hearings can be dispensed with if the applicant is represented by an attorney and if they do not concern a 'simple' rejection application or a withdrawal/revocation, e. g. in cases of rejection as 'manifestly unfounded' or inadmissible. However, a hearing has to take place if the applicant requests so. Court decisions on applications for suspensive effect usually conducted without a personal hearing. Courts are required to gather relevant evidence at their own initiative. As part of the civil law system principle, judges are not bound by precedent. Court decisions are generally available to the public (upon request and in anonymous versions if not published on the court's own initiative).

France: In 2022, CNDA organised for the first-time teleconferenced hearings with the Administrative Court of Lyon. This practice continued with the Administrative Court of Nancy and with overseas territories. Out of 6,775 hearings, 267 were video-hearings, including 200 from overseas territories.

Ireland: Pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, whereby the IPO recommends that an applicant's application for refugee or subsidiary protection should be refused on the basis of one of the reasons established pursuant to s.39(4) of the International Protection Act 2015, the applicant's appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.

Italy: The provisions allowing for written or remote hearings have been extended until the end of 2022. It is up to the judge in charge of the case to decide how to run the hearing, so different practices are observed even in the same Court. In any case, it is possible for the lawyer to require for the hearing to be held in presence, justifying the reasons for such a request.

Sweden: In 2021, the prevalence of oral hearings varied significantly across the migration courts. The most cases held with oral hearings were conducted in Malmö (38.85%), followed by Luleå (26.91%), Göteborg (25.46% and lastly Stockholm (15.53%). For 2022 the largest proportion were again in Malmö (37.18%), followed by Göteborg (35,21%), Luleå (27,56%) and Stockholm (18,44%), out of a total of 1,390 oral hearings.

Statistics and Appeal outcomes

Austria: The rate of first instance decisions amended or dismissed by the Court increased to 55% of all decisions challenged.

Cyprus: In 2022, regarding the regular procedure, 7,630 appeals were registered as part of the regular procedure and 7,975 decisions were issued, including rejections, positive decisions, implicit and explicit withdrawals. The top 5 nationalities registering an appeal were Pakistan, Bangladesh, India, Nigeria and Nepal. Furthermore, 1,324 appeals were registered as part of the accelerated procedures and 797 decisions were issued, including rejections, positive decisions, implicit and explicit withdrawals; the majority of which were explicit withdrawals. The top 5 nationalities registering an appeal under the accelerated procedures were Bangladesh, Pakistan, India, Sri Lanka and Nepal.



France: the CNDA ruled on 67,142 cases in 2022, with 14,450 protection decisions (21.5%), which include 10,513 decisions granting refugee status and 3,937 granting subsidiary protection.

Out of these decisions, 810 were further appealed before the Council of State (1.2%), 22 by OFPRA and 788 by asylum seekers. 52 decisions by the Council of State partially or entirely agreed with the appeal claims. Before the CNDA, the highest recognition rates concern Syrian nationals (70%), Kuwaitis (57%), Yemenis (54%), Djiboutian (54%), Iraqis (53%), Afghans (50%).

Greece: As it was also the case in the previous years, the recognition rate at second instance remains significantly low in the first half of 2022. Out of the total in merits decisions, the rejection rate reached 94.28%, while the refugee recognition rate stood at 3.37% and the subsidiary recognition rate at 2.35%.

During the first half of 2022, 892 Appeals were rejected as “manifestly unfounded” compared to 532 such decisions during the entire year 2021. Currently, there is no available information as to whether these rejections were issued on the basis of provisions imposing the in-person appearance of the appellant or his/her lawyer before the Committee or the communication of certification of residence (Article 83(3) of the Asylum Code) to the Committee.

Council of State: In the first half of 2022, out of a total of 626 decisions issued on Applications for Annulments 502 were rejected as inadmissible, 17 were granted, 87 were rejected and 20 were withdrawn.

Poland: NGOs point out that proceedings in the second instance conducted by this authority are often symbolic and largely uncritically confirm the findings of the Head of the Office for Foreigners.

In 2022, appeals to the Refugee Board were submitted in case of 1,531 applicants. In case of 1,449 applicants the negative decision was upheld, meaning that the chances of success of appeals are very low in practice. In 2022, refugee status was granted by the appeal body to 6 persons and subsidiary protection was not granted at all. As of 31 December 2022, there were 277 ongoing appeal cases before the Refugee Board.

Romania: According to the information provided by the Regional Courts the number of appeals in 2022 was 544, a significant decrease in comparison with last year, when a total of 1,489 appeals were made.

All regional court combined took a total of 467 decisions in 2022, including 12 affording refugee status, 20 recognising subsidiary protection.

There were a total of 307 onward appeals in 2022. Out of a total of 298 decisions, 7 recognised refugee status and 17 subsidiary protection.

Sweden: In 2022, the Migration Courts in total overturned decisions of the Migration Agency in 6% of regular asylum cases. This marks a slight decrease compared to 2021, when the Migration Courts overturned decisions of the Migration Agency in 8.7% of cases.

4,832 appeals were lodged; 4,941 decisions were taken.

Access to court decisions

Romania: The practice regarding the publication of the decisions of the Regional Court varies. Until 2020, the appeals reviewed by the Regional Court of Rădăuți and the Administrative Country Court of Suceava were all published on the national portal. In 2020 no information was published on the portal. Thus, in order to learn the decision of the court, the legal counsellor has to go or call the Court’s Registry. This was still the case in 2022. The legal counsellor requested to access the electronic file, but these requests were rejected.

The practice has changed also at the Regional Court and the Administrative Country Court of Giurgiu, where all the appeals were published and include full names, file number and a summary of the decision. As of 2022 no information was published on the portal. The legal counsellor reported that asylum seekers have no access to the electronic files. Requests were made by the legal counsellor but they were rejected. Asylum seekers are not aware of the first instance court decision, only if the legal counsellor calls the court’s registry or if she is aware of the court hearing she informs the asylum seeker to tell its lawyer paid through the state legal aid



to convey the solution over the phone. Decisions are communicated very late to asylum seekers. Decisions are drafted between 2-5 months. It was also reported that subpoenas are also communicated very late. In addition, decisions of the Regional Courts of Rădăuți and Giurgiu are no longer published.

The Regional Court of Bucharest District 4 mentioned that when the asylum seeker is in public custody, in Otopeni, or accommodated at the Bucharest Regional Center, the solution is communicated by the court's clerk to the representatives of the centre by fax/mail/telephone. And when applicant is not in one of the previously described situations, the solution is made available to him/her through the court registry.

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

Greece: In 2022 the issue of the use of outdated sources in a number of decisions for cases especially concerning the examination of the safe third country concept vis-a-vis Türkiye still remains. Additionally, in a number of cases, an absence of country-of-origin information with regard to the examination of the merits of the applications was noted (such as absence of sources regarding gender-based violence, honour crimes, persecution of rare ethnic origin groups in the country of origin).

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)

Statistics

Netherlands: there were 4,207 unaccompanied children applying for international protection in the Netherlands in 2022.

Sweden: The number of unaccompanied minors seeking asylum was 630 in 2022.

Identification of vulnerabilities

Bulgaria: In 2022, the overall lack of due vulnerability assessment and identification remained the most significant issue affecting the asylum procedure in the country. The SAR's social workers attended 67% of the registrations of asylum seekers. Out of them, 28% cases of unaccompanied children were registered. Only in 18% of all these cases the files of vulnerable asylum seekers contained the vulnerability identification and needs assessment, and only in 7% of them the files contained an attached support plan. In none of these cases the established vulnerability was taken into account in the first instance decision. In the remaining 33% of the cases the registration of asylum seekers was carried out without the presence of a SAR social expert and without any guarantees for early identification of their vulnerabilities. Moreover, unaccompanied children's files continue to lack the mandatory social report by the respective statutory child protection service from the Agency for Social Assistance (ASA). It has been confirmed that these reports are prepared in practice, but only a very few are shared with case workers. The social reports, if properly prepared and communicated, could play a vital role not only in the asylum procedure, but also after it to outline the measures which need to be taken with respect to the child depending on the outcome of the procedure – rejection or recognition. Such mandatory social reports with needs assessment in 2022 could be found just in 24% of the monitored children's files. Moreover, only 1 of these reports contained a proper risk assessment,





while the rest were purely formal. Thus, in practice the vulnerability assessment is still missing in 33% of the monitored cases.

Cyprus: In 2022, (...) as in previous years, there was still a lack of a comprehensive SoP and referral pathways and results in vulnerability assessments and referrals often carried out in a non-uniformed manner. Furthermore, there was no system in place for quality control of the vulnerability assessments to ensure the efficacy of the findings and referrals. In addition, there continued to be a high turnover among vulnerability officers, however an improvement has been noted in the training and guidance offered to newly recruited/assigned staff. In an effort to address the above the vulnerability team conducts meetings (approximately once or twice per month) to discuss guidelines on identifying vulnerabilities, guidelines on interviewing (i.e., families; single parents with minor children), as well as to discuss issues that arise, including challenging cases identified. In the 2nd half of the reporting periods, a training seminar on Trafficking in Human Beings was organised by EUAA for all vulnerability officers. EUAA is currently designing SoP for vulnerability assessments with clear instructions on procedures, vulnerability indicators and instructions for identification.

Germany: There is no requirement in law or mechanism in place to systematically identify vulnerable persons in the asylum procedure, with the exception of unaccompanied children. The BAMF and the Federal Ministry of Interior drafted a 'concept for the identification of vulnerable groups' in 2015, which was intended to be codified in law as part of the transposition of the recast APD and Reception Conditions Directive. However, the concept was initially only made available to BAMF staff as an internal guideline. In June 2022, the BAMF published a revised version of the concept as well as standardised forms with which the Federal States can communicate detected vulnerabilities and specifics to the BAMF and vice versa. Since 2022 the BAMF internal guidelines also acknowledge a duty on the side of the BAMF to identify vulnerabilities in order to guarantee a fair asylum procedure for the persons concerned.

Spain: In 2022 the Government, through the Minister of Justice, designed and approved a proposal for a comprehensive law to address trafficking in all its forms and in relation to all victims. The proposal is following the parliamentary procedure for its approval at the time of writing of this report.

Greece: In 2022, the registration of the newcomers carried out by the RIS on the island RICs was conducted within a few days, however significant shortcomings and delays occur in the provision of medical and psychosocial assessment/services as required by law, due to the insufficient number of medical staff working in the RIC on the islands (see also Identification).

According to GCR's knowledge, a lack or complete absence of psychosocial assessment, difficulties in carrying out referrals from RIS to public hospitals, low quality of the medical screening and the psycho-social support, the classification of vulnerability and non-vulnerability and the lack of information on the outcome of the procedure were the main problems concerning the vulnerability assessment in the context of Reception and Identification procedure during 2022. As mentioned in the Regular procedure and Fast-track border procedure, many asylum seekers continue to be forced into the personal interview before the Asylum Service without prior assessment of their vulnerability, including pregnant women.

The assessment of the vulnerability of persons entering irregularly into the territory takes place within the framework of the Reception and Identification Procedure and, since the entry into force of the IPA, on 1 January 2020 (and after with the new law 4939/2022 that abolished with its article 148 articles 1-112 and 114 of IPA), it is no longer connected to the assessment of the asylum application.

Ireland: Until January 2021 however, no standardised assessment was carried out in respect of vulnerable international protection applicants, despite this being a clear requirement under EU law. At the end of January 2021, a pilot project to assess the vulnerability of applicants was established at Baleskin reception centre in Dublin. As of January 2023, the pilot programme continued. Up to October 2022, approximately 2,114 assessments had been undertaken with 1,024 individuals identified as vulnerable.





In September 2022, IPAS published a Vulnerability Assessment Pilot Programme Policy, setting out the nature and purpose of the vulnerability assessment. Pursuant to the newly established policy, the vulnerability assessment procedure was also altered substantially. Vulnerability Assessment Questionnaires are provided to all individuals making an application for international protection. Questionnaires are made available to applicants in a number of languages, both at their accommodation centres and online via IPAS' website. A referral form for service providers and third parties working with international protection applicants have also been made available and can be completed by the service provider with the applicant's consent. Both documents contain a series of questions relating to the vulnerability indicators contained within the Reception Conditions Directive.

The applicant, or service provider, is required to return the questionnaire to the IPAS Resident Welfare Service by email or post. Assessment Officers from the Resident Welfare Team review all returned questionnaires to determine the applicant's vulnerability status. Whereby an assessment indicates that an applicant has one or more vulnerability the Assessment Officer may contact them to discuss their vulnerability further. In some cases, whereby an assessment indicates a high level of vulnerability, the Assessment Officer may also refer the person for further assessment with an IPAS Social Worker.

In the experience of the Irish Refugee Council, many applicants who have sought vulnerability assessments under the revised procedure have yet to be contacted by the Resident Welfare Team, despite many applicants presenting with evident and significant vulnerability. The Irish Refugee Council also remains concerned about the lack of information provided to applicants regarding the assessment. It has become apparent in our contact with clients that many individuals undergoing the vulnerability assessment are not aware of the purpose of the assessment, nor do they understand what the information acquired will be used for. In many cases, individuals undergoing vulnerability assessments have recently arrived in the State, often have limited English. The lack of available information is particularly troubling as applicants are not properly equipped to fully communicate their circumstances, meaning that they often do not receive the required supports.

Malta: AWAS is responsible for implementing government policy regarding persons with special reception needs and is in charge of these assessments that are now mainly conducted in detention. Despite some positive improvements in 2022, delays and oversights in the identification procedure remain regular with a system barely able to cope even with the decrease in arrivals.

On 21 January 2022, five children were released following a Court application. They had been detained with adults for approximately 58 days and three of them were confirmed as minors by AWAS the day before the hearing before Court of Magistrates, 57 days after their arrivals.

On 12 January 2023, following an application filed by aditus foundation, the ECtHR issued an interim measure ordering Malta to ensure that six applicants claiming to be minors are provided "with conditions that are compatible with Article 3 of the Convention and with their status as unaccompanied minors". The six minors had been detained with adults in the so-called China house since their arrival on 18 November 2022, some 50 days after their arrival and AWAS was not aware of their existence before they were referred by aditus in January 2023 and despite a disconcerting decision of the Immigration Appeals Board, dated 6 December 2022, confirming the detention of the minors but ordering the PIO to refer these applicants to AWAS.

Switzerland: The country report on Switzerland of the Istanbul Convention monitoring body, the GREVIO, was published in November 2022. For what specifically concerns the asylum field the Committee regrets the absence of a procedure for screening vulnerabilities and early detection of women victims of gender-based violence and is concerned about the persistent lack of sensitivity and understanding of gender-based violence issues among SEM staff. GREVIO furthermore notes that the protection offered to women nationals of 'safe' countries is not always sufficient: this is because allegations of violence are rejected on the grounds that the third State in question would have the capacity to protect the victim, inter alia because that State has ratified the Istanbul Convention. GREVIO requests that the Swiss authorities take measures to improve the capacity to detect cases of violence against women and to assess the capacity of countries of origin to provide effective protection. They could, in this context, refer to the existing GREVIO evaluation reports. Finally, GREVIO





strongly encourages the Swiss authorities to ensure that asylum-seeking women and girls are given optimal support in the asylum procedure, so that they have the opportunity to disclose all the grounds on which they seek international protection.

Age assessment procedures

ECRE Legal Note: In January 2023, ECRE published a legal note on the applicable European and international legal standards in age assessment procedures. The note provides a brief overview of the main challenges in age assessment in Europe and sets out the relevant legal obligations under EU law, the European Convention on Human Rights and international law.

The note identifies a wide range of safeguards under European and international law that should apply in all age assessment procedures and concludes with a set of recommendations on guarantees that states must ensure before, during and after the conclusion of an age assessment procedure.

See: ECRE Legal Note 13, Age assessment in Europe: Applying European and International legal standards at all stage of age assessments procedures, January 2023, available at: <https://ecre.org/wp-content/uploads/2023/01/Legal-Note-13-FINAL.pdf>

Austria: In 2022, 461 (2021: 428) multifactorial age assessments and 951 (2021: 1,170) wrist X-rays were conducted by the BFA. As a result of age assessments, in 233 (2021: 200) cases the age of majority was concluded while in 228 (2021: 228) cases the applicant's minority was confirmed.

Cyprus: In 2022, another decision was issued by the IPAC related to the age assessment procedure (IPAC, Case No 698/19, S.A. v Republic of Cyprus, through the Asylum Service Decision issued 07 July 2022), where the Court annulled a decision of the Asylum Service due to deficiencies identified in the age assessment procedure and failures to observe required safeguards and the best interest of the child. Specifically, the Court referred to the CJEU judgement A. and S. v Secretary of State for Security and Justice (Staatssecretaris van Veiligheid en Justitie) and explained that the date of filing the application for international protection is the one decisive in order to assess the refugee's age with regard to the application of the family reunification procedure, and the authorities should have referred to the applicant's age at the time of submitting/filing his application and not at the time of the medical examinations. Consequently, according to the minimum assessment limit of the method in question, the applicant may have been a minor at the time of the submission of his asylum application and the doubt has to be in favour of the minor, according to the refugee law.

Greece: According to GCR's findings, in practice, the age assessment of unaccompanied children is an extremely challenging process and the procedure prescribed is not followed in a significant number of cases, inter alia, due to the lack of qualified staff. According to GCR's findings, on Kos, minors were treated as adults unless their lawyer submitted a request for age assessment. It is also observed that, in case of doubt, the medical and psychosocial assessment in the scope of the RIS was skipped and the individuals were directly referred to the public hospital for X-rays. During 2022, there was no paediatrician at the Public Hospital of Kos. Also, the authenticity of children's documents proving their age was controlled by FRONTEX which always concluded that the documents were forged. On Chios, during the first semester of 2022, in case of minors lacking documents, both RIS and FRONTEX registered them as adults.

In 22 July 2022, L 4960/2022 on the National Guardianship System and Framework of Accommodation of UAMs entered into force replacing former L 4554/2018 on guardianship, which was never implemented in practice and inserted the new provisions on guardianship and accommodation in the third part of L 4939/2022 regarding Reception (provisions on guardianship were incorporated in Chapter C / Part 3 in articles 66A-66KA and provisions on accommodation in Chapter D / Part 3 in articles 66KE-66ΛΔ).





Ireland: In correspondence with the Irish Refugee Council in February 2022, it was confirmed that Tusla does not currently have a national policy or approved internal guidelines on age-assessments for use in determining the age of unaccompanied minors or separated children referred from IPO or Dublin Airport. The reason given for this was that there exists no provision in legislation for Tusla to conduct such assessments. The relevant legislation for undertaking such assessments is the International Protection Act 2015, which confers the responsibility for conducting age assessments on the Minister for Justice. Thus, according to Tusla, the conducting of such assessments is not part of its statutory function.

It was noted that consideration was given to developing guidance to support staff in the area of age assessments, however, following a deliberative process and legal advice this was not progressed into approved national policy or guidance for the agency. Tusla are currently engaged in a further deliberative process in conjunction with its operational and legal services to determine an eligibility criteria for receipt of Tusla services. This draft procedure will be published once finalised and approved by Tusla's National Policy Oversight Committee. As of January 2023, the policy had yet to be published, however, correspondence from Tusla to the Irish Refugee Council's Independent Law Centre indicated that publication of the policy was to be expected in early course.

Malta: According to NGOs, minors have a limited understanding of the possibility to appeal the age assessment decisions and do not receive any legal advice prior to the appeal stage. The short deadline to appeal makes this remedy difficult to access, especially for minors who are detained. Until 2022, AWAS generally notified the two NGOs providing free legal aid aditus and JRS of negative age assessment results since legal aid was rarely provided, the NGOs would distribute the cases according to their capacity. The NGOs lack of access to detention remained an obstacle to file appeals on time.

Aditus foundation reported that none of the 21 age assessments appeals filed between 2021 and the beginning of 2022 were successful. The NGO reported that only 11 decisions were issued, 4 were decided inadmissible since they were filed beyond the 3 days deadline and 7 were rejected on the merits. 7 appeals which had been pending for more than 6 months were put sine die as the lawyers lost contact with the client. 1 appeal was withdrawn by the appellant. The NGO indicated that the appellants were Bangladeshi (11), Ghanaians (6), Gambians (2) and Ivorians (2).

JRS reported that none of its appeals were successful with most appeals filed in 2021 still pending or put sine die in 2022.

In February 2022, aditus foundation made the difficult choice to discontinue its assistance for age assessment appeals as its lawyers refused to take part in appeals proceedings which offer no chances of success to young and vulnerable appellants. JRS continued to offer this service.

The Ministry for Home Affairs, under which the Board falls, has consistently refused to provide any data pertaining to the decisions of the Board, including through a Freedom of Information Request (FOI) filed by aditus foundation in mid-2022. NGOs could confirm that 129 appeals were lodged between the 1st of January 2021 and the 31st December 2022 (104 in 2021 and 25 in 2022). It appears that the Board has not issued any positive decision on any of these appeals, save for two cases which were won on a point of procedure after AWAS unilaterally decided to amend its previous positive decision and to decide the minors were adults.

As such, 2022 has seen some positive improvements and minors have now full access to the legal aid lawyers provided by the Ministry for Home Affairs.

With respect to the 2022 amendment, NGOs also questioned whether AWAS enjoys sufficient technical capacity in asylum matters to assist UAMs throughout the procedure.





Netherlands: In April 2022 the ACVZ presented a report on ‘the human dimension in migration policy’. . It dealt with imbalance in the possibility to present evidence – for migrants and the government respectively – useful to determine the nationality and identity (including age) in relation to the principle of ‘equality of arms’. In concrete terms, this means, according to the ACVZ, there should be some form of a balance between the parties in regarding the possibility to provide evidence.

For the moment, however, no pre-judicial questions on whether the current practice with accepting the age registration in the other Member State, disregarding indicative evidence and declarations is in line with EU law were submitted to the EU Court of Justice. In June 2022, the lower District Court of Den Bosch (MK Rb Den Bosch, 15 June 2022, NL22.6989, [ECLI:NL:RBDHA:2022:5724](#)) requested the EU Court whether in Dublin-cases the ‘duty of cooperation between the State and the asylum seeker’ as stated in Article 4 of the Qualification Directive would be in place. This Court had presented similar questions before, but they had to be withdrawn in March 2022 because the IND withdrew the contested decision in the main proceeding. (...) On 2 November 2022 the Council of State ([ECLI:NL:RVS:2022:3147](#)) ruled in favour of the Secretary of State’s policy on the choice of a specific date of birth at multiple minor and adult age registrations in other EU Member States. Based on the ‘interstate trust principle, the ‘Secretary of State can assume age registrations in other Member States to be correct if the Dutch age registration does not give an unequivocal answer as to whether the foreign national is clearly over or under the age of 18. The Council of State highlighted however that an exception should be made in the case of multiple age registrations in a member state; for such cases, the Secretary of State must research whether there are certain age registrations where identifying source documents were used. The Secretary of State may, in case of different age registrations, accept the registration of the applicant as an adult, if taken into account how the other state had come to the conclusion, providing provided the registration has taken place in a careful manner which can be subject to litigation.

The age assessment is carried out according to the 'Protocol Age Assessment' , in which the entire procedure and technique can be read. This medical examination carried out on the basis of X-rays of the clavicle, the hand and wrist. Two radiologists examine if the clavicle is closed. If that is the case, the asylum seeker is considered to be at least 20 years old according to some scientific experts. A recent literature review by the Netherlands Forensic Institute (NFI) has shown that the youngest individuals with a fully matured collarbone are all at least 18 years old, where previously it was considered to be 20 years. With a mature collarbone, a bottom age of 18 years is now assumed as of October first 2022.

Sweden: In 2022, a total of 61 persons were considered as adults following an age assessment procedure. 128 forensic opinions were issued by the National Board of Forensic Medicine or RMV (100 male, 28 female).

There have been debates around the accuracy of the model. An inquiry was set up, to publish its final findings in May 2024.

RMV published an updated methodological description on 5 September 2022, containing a more comprehensive account of uncertainties and factors affecting the model. The basis for assessment or the form of statements were not changed. In December 2022 the new Swedish government decided that the assignment to the inquiry should be discontinued.

Switzerland: In June 2022, the Swiss Society of Forensic Medicine published a report, which attempts to bring some uniformity and clarity to the way forensic examinations are conducted. The report points out in particular that some examinations (especially dental examinations) can be influenced by ethnicity: the lack of reference studies can be highlighted if necessary, depending on the applicant's origins. The Federal Administrative Court admitted for instance the lack of baseline studies on tooth maturation for the Afghan population. Rather than leading to a more limited and cautious use of forensic medical examinations as a whole, however, recent observations by the Swiss Refugee Council suggest that the main effect of the report was to give even greater weight to the results of stern-clavicular tomography.





Human trafficking victims

Portugal: In June 2022, the Group of Experts on Action on Trafficking in Human Beings (GRETA), published its third report on Portugal (...). Notably, GRETA:

- Urged the national authorities to ‘set up effective procedures on the identification of victims of trafficking among applicants for international protection and their referral to assistance’, to ‘provide systematic training and guidance to staff working at immigration detention facilities and asylum seekers accommodation centres, including social workers, medical and other staff, on the identification of victims of trafficking and the procedures to be followed’, as well as to ensure adequate legal support;
- While welcoming the adoption of the national referral mechanism for children, recommended the adoption of ‘guidance on the identification of child victims of trafficking among unaccompanied and separated asylum-seeking children’, and the provision of training to relevant actors;
- Recommended the authorities to ensure that ‘assistance is provided to presumed THB victims who are detained in detention centres for migrants, by setting up specific protocols and by providing specific training on trafficking indicators to police forces, social workers, medical and other staff working at facilities for asylum seekers and detained migrants’.

GRETA also issued a number of recommendations concerning broader issues such as the national framework on trafficking, identification of victims, access to information, non-punishment provisions, and return of victims of trafficking. The Group also highlighted the need to ensure that the reform of SEF does not impair the specialised law enforcement action in the field of trafficking in human beings.

In its Concluding Observations published in July 2022, the Committee on the Elimination of Discrimination Against Women (CEDAW), also highlighted the need for effective identification and referral of victims of trafficking in Portugal.

OTSH reported that the project ‘Improved prevention, assistance, protection and (re)integration system for victims of sexual exploitation’ (to be implemented with national and Norwegian partners) was launched in March 2022.

Absconding and the subsequent risk of human trafficking remain relevant concerns. A total of 12 out of 65 (18%) unaccompanied children accommodated by CPR absconded in 2022. CACR’s team reports cases where unaccompanied children were suspected to be victims of human trafficking to the competent authorities.

Sweden: In 2022, 515 cases of suspected human trafficking were identified at the Migration Agency, including: 221 women and 294 men. 21 were children, out of which 11 girls and 10 boys. The Migration Agency provided information to the regional coordinators at the Social services in 68 cases and to the Police in 354 cases. Moreover in 2022 a total of 85 persons accepted temporary residence permits, out of which 30 women (1 girl) and 55 men (1 boy). The large increase compared to the year 2021 is explained by suspected exploitation for work purposes, including applications for work from abroad. The most common nationalities were Thailand (173), Uganda (75), Kenya (29), Ukraine (45), Vietnam (16), Nigeria (12), Mongolia (12) and Afghanistan (12).

Legal representation of unaccompanied children

Austria: In 2022, the government has not yet presented a draft for a possible new guardianship law even though the pressure has increased following the report of the Kindeswohlkommission, an independent commission appointed by the Ministry of Justice following deportations of children in January. The opposition parties have brought forward a parliamentary motion urging the federal government to further improve the protection and legal status of child refugees and to pay special attention to the best interests of the child.





In 2022, 13,151 UAM applied for asylum but 11,629 absconded from the procedure. This represents 88,4% of all applications in 2022. UAM applicants in 2022 were mainly from Afghanistan (9,268), followed by Syria (1,809) and Pakistan (492).

Bulgaria: In 2022, the Minister of Labour and Social Policy approved a coordination mechanism for interaction between the authorities and organisations working on cases of unaccompanied migrant children separated from their families in Bulgaria, including children seeking and/or receiving international or temporary protection. However, this coordination mechanism was neither endorsed, nor signed by any other ministry or government agency - including SAR -, and it is not applied in practice.

Spain: In May 2022, the UNHCR Representative for Spain expressed concern for the situation of the more than 2,300 unaccompanied children under the guardianship of the Autonomous Community of the Canary Islands, and also on the challenges they face in accessing asylum, especially considering that many of them are fleeing conflict in their countries, such as Mali.

At the beginning of January 2022, the police dismantled a child sexual trafficking network and detained 37 persons. The victims were girls under the protection and guardianship of the Autonomous Community of Madrid and accommodated at the Hortaleza facility.

Greece: In 22 July 2022, L 4960/2022 on the National Guardianship System and Framework of Accommodation of UAMs entered into force replacing former L 4554/2018 on guardianship, which was never implemented in practice and inserted the new provisions on guardianship and accommodation in the third part of L 4939/2022 regarding Reception (provisions on guardianship were incorporated in Chapter C / Part 3 in articles 66A-66KΔ and provisions on accommodation in Chapter D / Part 3 in articles 66KE-66ΛΔ). Under the new legislative provisions on guardianship, the general competency is passed from the National Centre for Social Solidarity of the Ministry of Labour and Social Affairs to the Special Secretary for the Protection of Unaccompanied Minors (SSPUAM).

In May 2019, the European Committee on Social Rights of the Council of Europe, following a collective complaint lodged by ECRE and ICJ, with the support of GCR, adopted its Decision on Immediate Measures, and indicated to the Greek Authorities, inter alia, to immediately appoint effective guardians. Greek Authorities had not complied with said Decision by the end of February 2022.

Hungary: In 2022 there have been no significant delays in appointing guardians to unaccompanied minors. Obstacles with regard to children's effective access to their legal guardians remained a problem in 2022. Under the Child Protection Act, a guardian may be responsible for 30 children at the same time. Based on personal interviews with guardians, the HHC found that this is hardly the case, as some of them gave accounts of caring for 40-45 children at once, in 2022, significantly more than 30 at once. This means that in practice, guardians cannot always devote adequate time to all the children they represent. Not all guardians speak a sufficient level of English and even if they do, the children they are in charge of may not. TEGYESZ employs one interpreter but guardians rarely have access to his services. In 2018, the Children's Home hired an Afghan social worker who helped with translation and intercultural communication who is still present in 2022. In 2022, the Menedék Association, together with UNHCR, organised a joint training on the rights of children for civil society, legal guardians and some NDGAP case workers. It was the first such event since 2017.

Malta: Unaccompanied children need a legal guardian to submit an asylum application. (...) While delays are still reported to happen, temporary care orders are now issued during the age assessment procedure and unaccompanied minors have reportedly been able to lodge their asylum application throughout 2021 and 2022. Recent amendments to the International Protection Act and the Procedural Regulations added specific provisions on the right of unaccompanied minors to apply for asylum and NGOs observed that towards the end of 2022, unaccompanied minors were called for their asylum interview in the presence of their legal guardian.





Whilst 2022 saw some positive improvements, with some care orders issued within the appropriate time-frame following a positive decision by AWAS and some minors being called for their asylum interview towards the end of the year, the issuance of provisional care orders is still plagued by delays due to the lack of diligence on the part of the competent authorities. This is mostly due to a referral system between governmental entities which is characterised by a generalised state of apathy and neglect, with individuals regularly falling through the gaps. Minors can remain detained with adults for months before the competent authorities act, oftentimes on the request of an NGO or following a Court procedure.

Romania: Galați: There is only one legal representative appointed for all the unaccompanied children (60 unaccompanied minors in 2022) with no other person to fulfil her duties in case she is on medical leave or holidays.

Rădăuți: The procedure of appointment is no longer delayed. There is only 1 legal representative appointed for unaccompanied children and he is a legal counsellor. During his holidays the legal representative is substituted by another legal representative. According to the NGO representative, the legal representatives do not meet or discuss with the unaccompanied children before the interview. They only attend the interviews and do not draft legal submissions. Conversely, the director of the centre reported that they meet and discuss on the day of the interview. The appeal is lodged by the CNRR representative.

Reception of vulnerable applicants and specialised reception facilities

Austria: The situation of unaccompanied minors got worse during the reception crisis in fall 2022: As the provinces failed to take over asylum seekers from the federal reception centres the capacity in the centres reached its limits. This resulted up to 1,000 UAM that had to stay in inadequate reception centres for months.

Belgium: Between October and December there was a prolonged period of time during which not all unaccompanied minors received reception. In case of doubt about the self-proclaimed minor's age on the day of registration of the asylum application, no reception place was assigned as long as there was no proof of their effective minority. Initially, they were invited to undergo an age assessment (see xxx). If this test proved minority, the minor was given a reception place. If the test proved that the youngster was above 18 years old, he was not given a reception place and was invited to register on the waiting list for reception. However, between 16th of October and 13th of December the Guardianship Service responsible for conducting the age assessment no longer conducted these tests. According to the Guardianship Service, it was not justified to ask minors without access to reception to undergo an age assessment. As a result, these minors were not given access to the reception network and they could not dispute the doubt about their minority. In the second week of January 2023, Caritas International Belgium reported that 24 of these minors had gone missing.

Bulgaria: Since mid-2022, the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЦХСТ). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to wait the reunification with their parents or other family members in SAR reception centres. As a result of this positive practice, a total of 26 unaccompanied children were accommodated during the course of the year in specialized childcare centres, of whom 2 were asylum seeking children and 24 children granted international protection. Altogether ten licensed childcare centres have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare centre's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account.





Cyprus: During 2021 and 2022, a number of incidents of alleged sexual harassment were reported by individuals accommodated in Pournara, and in some cases in the Safe Zone. An extension of the 'Safe Zone' is currently under construction and expected to be completed in 2021. In June 2022, the construction of the new safe zone for vulnerable persons and unaccompanied minors at the First Reception Centre 'Pournara' was completed, increasing the centre's capacity.

30 unaccompanied children staged a protest due to the conditions in Pournara in early 2022.

In early 2023 the numbers in Pournara were reduced in comparison to 2022, however this is mostly attributed to a reduction in the numbers of arrivals during this period, which are expected to rise again in Spring. Furthermore, there were limited transfers to the Centre in Limnes and there is still over 200 UASC accommodated in Pournara.

In 2022, due to the increase in numbers of UASC and limited capacity in existing shelters and other accommodation options and the substandard conditions in Pournara, a number of UASC were transferred to hotels in Lanaraca, Paphos and Ammochostos district.

Germany: In November 2022 the Refugee Council Berlin reported alarming conditions for unaccompanied children who reside in regular reception centres. Due to the general overcrowding of reception facilities in Berlin, unaccompanied children even more suffer from the bad conditions there. According to the report of the Refugee Council Berlin, unaccompanied minors do not receive adequate assistance are badly treated by overburdened staff members, do not receive adequate food and access to schooling is postponed. Additionally, given the rise of arrivals in 2022, there are not enough legal guardians available for unaccompanied children which take care of support and assistance programmes. The rising numbers of arrivals not only caused problems to the reception of unaccompanied minors in Berlin but in all over Germany, several organisations therefore called upon the local authorities to guarantee the standards provided by the law for unaccompanied children. Federal Working Group of Psychosocial Support Centres for Refugees and Victims of Torture, Deutschlandfunk and XENION, a centre providing psychosocial assistance to refugees, also reported limited access to psychotherapy for refugees, unaccompanied children and adolescents.

The situation of LGBTQI+ persons in reception centres and other collective accommodation centres has been frequently discussed, after many reports emerged about LGBTQI+ persons being harassed and attacked by other asylum seekers. In Hamburg in 2022, civil society organisations started a petition to urge the Senate to introduce similar guidelines after several cases of harassment and re-traumatisation have been reported. Furthermore, LGBTQI+ persons together with victims of trafficking and persons who have suffered from severe violence, are listed among persons for whom 'other accommodation'(i.e. not in collective accommodation centres) can be necessary, again following an individual assessment of the situation. Some of the AnkER and functionally equivalent centres provide for separate accommodation for LGBTQI+ persons, but sometimes upon request of the individuals only.

Spain: On February 2022 the Minister of Inclusion, Social Security and Migration, together with UNHCR, started the implementation of an action protocol on gender-based violence within the reception system, with the aim of improving the prevention, risks mitigation and response for gender-based cases, in line with international and EU laws, A leaflet explaining the protocol has been also published in different languages (i.e. Spanish, English, French, Arabic, Ukrainian), together with a pocket guide for the professionals working in the asylum reception system.

In his 2022 Annual Report, the Ombudsman warned about the deficiencies of some reception facilities for women with children arriving by boat to the Canary Islands, which resulted in the lack of identification of their needs, as well as of cases of international protection, trafficking, rapes, FGM, etc.





At the beginning of January 2022, the police dismantled a child sexual trafficking network and detained 37 persons. The victims were girls under the protection and guardianship of the Autonomous Community of Madrid and accommodated at the Hortaleza facility.

Greece: Since November 2022 the waiting period for the placement of UAMs residing in island CCACs to shelters for minors was reported to be increased up to average two months (Samos, Leros, Kos). Concerns are expressed about the absence of creative activities during the day and the confinement in a non-child friendly, prison – like environment, especially in the periods when the waiting time for placement is increased.

Moreover, the National Emergency Response Mechanism launched in April 2021 with the aim to trace UAM in precarious conditions and provide them with access to necessary protection, managed during 2022 to identify and accommodate approximately 3,000 children who were living in precarious conditions or were homeless. The number may provide an indication of the ongoing level of needs, since relative data on the number of UAM estimated to be living in insecure and/or precarious conditions have stopped being issued.

The total number of referrals of unaccompanied children received by SSPUM in 2022 was 6,383, marking a 34% increase compared to the same period in 2021 (4,748). At the same time, the number of accommodation spaces, specifically designated for unaccompanied minors was further slightly increased, reaching a total of 2,511 places by the end of 2022, as opposed to 2,478 by the end of 2021.

In December 2022, the average waiting period for the placement of unaccompanied minors residing in island RICs to suitable accommodation places for UAMs was 13.77 days, marking a near 7 day increase compared to 2021 (7.4 days).

In all cases, despite the increases in average placement times, which could potentially be attributed to the increase in UAM referrals throughout 2022 (34.4%), the SSPUM's data seem to re-affirm improvements in this field if compared to previous years, which should continue to ensure that all UAM have timely access to suitable reception.

Nevertheless, challenges regarding the proper identification of UAM upon arrival, and as a consequence cases where UAM have been accommodated alongside the adult population have continued being observed in 2022, at least on the islands, amongst others due to the lack of specialised medical staff. Furthermore, as also highlighted by the aforementioned referral times, despite significant improvements following the legislative abolition of "protective custody" in 2020, UAM have continued being subjected to detention/"protective custody" in 2022 as well.

Netherlands: The COA had accommodated 3,246 unaccompanied children by the end of 2022, more than twice to the number registered at the end of 2021 (1,305).

In 2022, UAMs were especially affected by the reception crisis. In the COL location in Ter Apel there is space and guidance for 55 UAMs. Throughout the year this location hosted more than 200-300 UAMs. The Ombudsperson for children raised concern on the situation of UAMs in Ter Apel multiple times. After her visit in October 2022, she reported the following:

"During our working visit last Monday, 300 unaccompanied minors were staying in Ter Apel, while there is room for 55. We encountered a group of about thirty boys and two girls who had been staying in the waiting room of the IND for three days. There was no place for them at the centre. They wait all day in their plastic chair and sleep in another identical waiting room at night on a stone floor or on a chair with a sheet and something that passes for a blanket. They look grey with fatigue. They do not have a bed, nor are there sanitary facilities. They don't eat enough. They brush their teeth with their fingers in the toilet and there is no shower. And what is stress-increasing, there is no one who can tell them how long it will take before there is room for them."





Both Inspections of the Ministries of Justice and Security, and Healthcare and Youth set an 'urgent letter' with concerns to the Ministry on the situation of the children staying in Ter Apel and on emergency locations, stating that health damage, especially mentally, will occur if the situation will not be improved.

In June 2022, the Working Group 'Child in AZC' also published a report on the reception conditions of children in emergency locations, titled 'Emergency at the emergency locations'. The report shows that children cannot find a safe living environment in the emergency shelters or in Ter Apel, neither physically nor socially. Accessibility of health care and education is often lacking and nutrition became a problem since children are not familiar with the provided Dutch food.

The situation for children in Ter Apel had become so worrisome that Nidos decided to evacuate 150 of them, even though it was not their legal obligation to provide shelter for the children. At that point, some of the unaccompanied minors had not eaten for multiple days and felt very unsafe due to the living conditions.

In first instance at the court proceeding on the reception conditions initiated by VWN, the court ruled that COA and the government needed to make sure that no more than 55 UAMs would stay in Ter Apel within two weeks (Regional Court The Hague (civil department), [ECLI:NL:RBDHA:2022:10210](#), 6 October 2022,). Following this judgement, the Secretary of State made (another) special request to the municipalities to provide locations for the reception of UAMs. Only one municipality responded, providing a hotel that could house 60 UAMs. The municipality stated that it provided the accommodation because of the court ruling. Although confirming the seriousness of the situation of UAMs and the responsibility (and blame) of the government, the court in second instanced decided to squash the time limits that were given to the government in first instance ([ECLI:NL:GHDHA:2022:2078](#), 20 December 2022).

One of the issues that unaccompanied minors face when they are registered as an adult in another Member State, is that they will be transferred to a reception centre for adults when the immigration service changes their age based on the registration in the other Member State. On 4 November 2022, the Regional Court of Den Bosch ruled that a minor could not be transferred to an adult reception centre until the age of the applicant was properly examined (Regional Court of Den Bosch, [ECLI:NL:RBDHA:2022:11809](#), 4 November 2022).

COA provided a guide for municipalities on managing CNOs. This guide states that very vulnerable people such as pregnant women, baby's and elderly should not be placed in CNOs – however, this has often been the case in 2022.

Poland: The centre in Warsaw hosting exclusively single women or single women with children was closed in August 2021. Thus, in 2022, single women with children were accommodated in Podkowa Leśna-Dębak reception centre (in a separate, renovated for that purpose, building within the complex). Opening of a new centre for single women and women with children in Jachranka is planned by the Office for Foreigners. In 2022, there approx. 20 cases of violence (any violence, not only gender-based) discussed by the special teams. According to the Office for Foreigners, none of them concerned sexual or gender-based violence, but violations of the rules of stay in the reception centre, conflicts between adults living in the centres, domestic violence and peer violence.

Portugal: Absconding and the subsequent risk of human trafficking remain relevant concerns. A total of 12 out of 65 (18%) unaccompanied children accommodated by CPR absconded in 2022. CACR's team reports cases where unaccompanied children were suspected to be victims of human trafficking to the competent authorities.

Romania: Timișoara: Unaccompanied children are accommodated in the DGASPC Emergency Accommodation Centre for Homeless Children and have described living conditions as good; they receive 3





meals per day. There are 2 rooms with 8 places. Asylum seekers are accommodated together with Romanian children. Save the Children representatives stated that no activities are organised for them; they are not allowed to leave the centre only accompanied by the social assistants and they are able to use their phones only 2 hours per day. In October 2022 Save the Children bought a TV for them. During 2022, there were 6 unaccompanied minors accommodated at DGASPC. It was also reported that the representative of the DGASPC centre allowed 4 children (not related) to leave with a Romanian man who presented a power of attorney from Syria.

Slovenia: Various stakeholders agree that Slovenia should strengthen the individual approach towards accommodation and care for unaccompanied children and establish support measures for transition to adulthood. During 2022 the interdepartmental working group for the establishment of a systematic form of accommodation for the treatment of unaccompanied minors was activated again. A systemic solution for accommodation and care of unaccompanied children was still not established in 2022.

Sweden: a law proposal will be presented with the aim of introducing sheltered housing as a new form of placement in the Social Services Act (2001:453). However, although included in the initial proposal prepared by the inquiry, in the current remit to the Council on Legislation asylum seeking women are excluded. The City Missions in their referral highlighted that current regulations and practice whereby women at risk of violence are denied sheltered housing depending on their migration status is in violation of article 4 of the Istanbul Convention.

The Migration Agency had previously special accommodation for especially vulnerable people in the three major cities: Stockholm, Gothenburg and Malmö. However, they are all closed today and the Migration Agency have not acquired any new centres. The current solutions are a combination of both adapting the living arrangements in already existing centres and to, in some cases, providing private apartments. Which of the solutions that is preferred varies depending on the need of the vulnerable person and interim solutions will sometimes have to be made since the adaptation of the existing accommodations might take time. The Migration Agency makes an individual assessment in each case where they are supposed to consider the need of special competences, medical care and private accommodation. For people that previously been subject to discrimination they are also supposed to take into account the safety of the person and if a special safe accommodation is preferred.

In cases where LGBTQI-persons are involved, private apartments are preferred and they try to place the persons close to larger cities, specialised centres or support centres for LBTQI-persons.

In 2022, at least one centre in Västerås have special apartments for LGBTQI-persons and activities arranged with specialized organizations.

Switzerland: In its report published in November 2022, GREVIO regretted the lack of a gender-sensitive accommodation policy for all Swiss reception facilities “to identify and protect women victims of gender-based violence”.

In its report published in November 2022, GREVIO regretted that “it is difficult to gain an up-to-date picture of the situation in all cantons” as well as the “wide disparities in accommodation conditions and in strategies to protect women from violence”. According to the report, the main sour points remain the “major shortcomings in training on gender-based violence for staff working in collective accommodation centres, and a lack of practical tools to help detect cases of violence.

Accommodation for unaccompanied minors has been quite critical in 2022 given the overall strain placed on the reception and accommodation system especially in the second half of 2022. Not only are minors sometimes moved to remote locations away from the federal asylum centres but, due to lack of resources, centres are in dire need of social workers and educators to work with them during the time they are in the





centres. Also, contact with the person of trust (legal representation) is more challenging in practice when the minors are placed in different locations. These circumstances pose the risk of further alienation, discomfort, and isolation for the minors, which may in turn enhance the risk of them leaving the centres unannounced and unnoticed.

In a report published in 2016 and subsequently updated in 2018 by Asile LGBT Genève, it was highlighted that the reception and accommodation conditions were particularly worrisome for LGBTQI+ asylum seekers. . This has been confirmed by another report, again concerning LGBTQI+ asylum seekers, published in November 2022 by the Observatory for Asylum and Foreigners Law in the French-speaking Switzerland.

Asylum procedures of vulnerable applicants

Cyprus: In 2021 and 2022, the Cyprus Refugee Council received reports of interviews lacking in terms of quality, including in cases of vulnerable persons or complex cases, such as applicants with a sexual orientation or gender identity related claim. Specifically, in LGBTQI+ cases it was noted that, although the examiners applied the Difference, Stigma, Shame, and Harm (DSSH) model, they did so in a problematic way, such as using closed questions whereas the DSSH model is supposed to operate as a set of conversation ‘triggers’ ‘to enable a detailed narrative. Furthermore, there seems to be a lack of understanding regarding specific issues that might affect LGBTQI+ persons outside of Europe. As a result, applicants were found to be non-credible including in cases where they were in the process of contracting civil partnership with their partner or had arrived in the country with their partner who was granted refugee status.

Greece: In a considerable number of cases concerning UAMs, the registration of the asylum application took place before they were referred/ appointed to a child protection actor.

In the a single-parent family from Guinea, the first instance interview was conducted before the competent authority completed the evaluation of vulnerability indicators. In particular, the main applicant is a survivor of serious forms of gender-based and sexual violence (FGM, genital mutilation & sexual violence) as well as international trafficking, facts that were not taken into account in examining whether the applicant is eligible for international protection.

Additionally, in Lesvos, legal aid actors that undertook and represented the cases of survivors of the shipwreck of October 6th 2022 reported that the survivors’ asylum procedures followed were particularly fast. Namely, a Somali single woman who survived the shipwreck received a first instance negative decision on admissibility just a few days after her interview. Her vulnerability assessment had not been concluded, nor had it been explored during the interview. The shipwreck was never mentioned by the case worker, nor was it mentioned in the negative decision.

Inadequate interview conditions continued to be reported in the premises of RAO’s and AAU’s in 2022 according to GCR, i.e. registrations and interviews were conducted without consideration of potential vulnerabilities and relevant needs. Certain interviews and registrations took place simultaneously in different spaces within the same container, which does not grant proper sound insulation and is not in line with the principle of confidentiality.

Hungary: In 2022, the NDGAP processed with priority the applications of unaccompanied children and those held in asylum detention.

In 2022, the entire asylum procedure was conducted in the case of only one unaccompanied minor, and the entire process – from entry until the delivery of the decision – lasted 5 months.

Malta: Recent amendments to the International Protection Act and the Procedural Regulations added specific provisions on the right of unaccompanied minors to apply for asylum and NGOs observed that towards the





end of 2022, unaccompanied minors were called for their asylum interview in the presence of their legal guardian.

The International Protection Act provides that unaccompanied children may only be subject to the accelerated procedure where:

- (a) they come from a safe country of origin;
- (b) have introduced an admissible subsequent application; or
- (c) present a danger to national security or public order or have been forcibly expelled for public security or public order reasons.

In practice, asylum applications of unaccompanied minors were not processed until the end of 2022. AWAS confirmed that unaccompanied minors were called for their interviews and that the social worker appointed as the representative attends the interviews with them. NGOs are unaware of any decision issued by the IPA but it is likely that the IPA will apply the above provision to all unaccompanied minors coming from countries of origin listed as safe by the Act.

Netherlands: In 2022, the Ombudsperson for children also published a report on the duration of asylum procedures of UAMs following a complaint of a UAM whose asylum procedure lasted for 4 years. And recommended that the IND prioritizes asylum requests from UAMs.

Romania: Rădăuți: The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. The assessment of their application depends on the availability of a legal representative and there is only one legal representative for all asylum-seeking children. The interview is scheduled according to the availability of the legal representative.

Galați: The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. (...) The assessment of their application depends on the availability of a legal representative and interpreter. However, the director stated that the legal representative has 2 days per week allocated to unaccompanied minors from the centre. He further mentioned that applications of asylum seekers who presented risk of illegal migration were also assessed with priority. Applications made by vulnerable asylum seekers were assessed with greater caution.

Timișoara: Even though IGI-DAI takes all the necessary measures with priority – in a maximum of 3 days after the unaccompanied child has been accommodated in the centre – and the legal representative is assigned in 2-3 weeks. According to the director of the Regional Centre Timișoara, the asylum procedure of unaccompanied children may be delayed due to the bureaucratic procedures carried out by DGASPC. In 2022, the asylum claims of unaccompanied children were assessed in 2 months due to the lack of legal representative. Asylum applications of single women and families were processed in 30 days.

Giurgiu: The director of Giurgiu stated that the assessment of applications made by unaccompanied minors lasts longer because it depends on the appointment of the legal representative. However, the procedure did not exceed 30 days.

Bucharest: According to the JRS representative, the asylum applications of unaccompanied minors were not assessed with priority; their interviews were not organised with priority and the length of the procedure was the same as for an adult. Vulnerable persons are not treated with priority. Nevertheless, according to the director of Stolnicu applications made by vulnerable, especially by unaccompanied minors were assessed with priority. The procedure lasted 21 days in their case. In addition, he also stated that asylum applications made by asylum seekers coming from countries where there is no armed conflict or concerns linked to persecution, such as: Algeria, Tunisia, Morocco, Pakistan, Bangladesh and India, were analysed with priority, meaning in the accelerated procedure.

The same was also reported by the director of Timișoara centre. Asylum applications made by asylum seekers from the same countries as mentioned above were assessed with priority, in an accelerated procedure. This practice was still in place in 2022, until the order of the general inspector that envisage that all the asylum seekers from Timișoara are transferred to other centres.





CNRR stated that in 2022 asylum applications assessed in accelerated procedure and those made by vulnerable persons (with visible vulnerabilities). were analysed with priority. In the case of the latter, the priority consisted in shortening the procedure by conducting the interview swiftly.

Sweden: A quality follow-up of the processing of accompanied children in the asylum process was presented by the Migration Agency on 22 December 2022. According to the follow-up, findings show that measures taken by the authority regarding children seem to have had an effect in some aspects, but shortcomings were identified. In general, the best interests of the children are taken into account during the processing, the investigations are of a high level, the children are treated well and receive relevant questions about their reasons for asylum. The report however identified shortcomings in documentation and that some cases had not been sufficiently investigated. In the majority of the cases the outcome – i.e. if the child’s asylum claim has been approved or rejected – may according to the report be approved. The children’s individual reasons and other relevant factors are highlighted in several decisions - but not in all. The review furthermore showed that in a clear majority of the cases, the best interest of the child is not identified and the balance against opposing interests often done in an unclear manner. A majority of the decisions reveal examples of shortcomings in the application of the method – how the examination of the child’s best interests should be carried out, justified and clearly form an integral part of the assessment. The shortcomings occur regardless of whether it is an approval or rejection case.

As part of the quality follow-up, an inquiry had been sent to decision makers at asylum units. The findings from the inquiry are published in a separate report. When respondents are asked what makes it difficult to consider the best interests of the child, lack of resources, unclear legislation and /or conflict with other legal provisions seem to pose the greatest challenges. Lack of resources primarily referred to lack of time. The reasons stated for the lack of time was among other things, connected to priorities, such as production requirements, but also that the time booked for asylum interviews is not adapted to the individual case and that sufficient time is not allocated for interviews with the children in the family.

According to the Migration Agency, the findings of the reports will now be studied by the parts of the authority that are involved in the examination of asylum decisions, after which measures will be taken to remedy the shortcomings.

(...)

On 18 March 2022 the Migration Agency published a legal comment on the authority’s interpretation of the ruling by the CJEU in case C-441/19 regarding Member states duty to carry out a general and in-depth assessment of the situation of an unaccompanied minor, taking due account of the best interests of the child and to ensure that adequate reception facilities are available for the unaccompanied minor in question in the State of return, before issuing a return decision. Despite criticism from lawyers and civil society, the Migration Agency assessed that the proceedings in Sweden are in compliance with the ruling.

On 6 December 2022, the Swedish Migration Agency, in an updated legal position regarding applicants from Afghanistan, (...) considers that it is likely that women and girls in Afghanistan in general, including women and girls in families with a male family member, through the accumulation of various measures, risk being subjected to discrimination at such a level and with such severe restrictions on their fundamental rights and freedoms that, in a forward-looking assessment, this will reach persecution. This means that an asylum-seeking woman or girl from Afghanistan must be assessed to be a refugee as belonging to a particular social group, i.e. gender, according to Chapter 4. Section 1 of the Aliens Act.

Switzerland: In September 2020 the Committee for the Rights of the Child found that, by removing two minor children with their mother to Italy according to the Dublin III Regulation without properly hearing them, Switzerland had violated Article 3 and 12 of the CRC. Another decision, along the same lines, was published in March 2022 (Committee for the Rights of the Child, K.S and M.S v. Switzerland, 16 March 2022, available at: <https://bit.ly/3JjMzF>). Both decisions address a common problem in Swiss practice whereby very young minors, especially if accompanied by their families, are only seldom heard, because it is assumed that their interests coincide that of their parent. Such practice is against the CRC.





The country report on Switzerland of the Istanbul Convention monitoring body, the GREVIO, was published in November 2022. For what specifically concerns the asylum field the Committee regrets the absence of a procedure for screening vulnerabilities and early detection of women victims of gender-based violence and is concerned about the persistent lack of sensitivity and understanding of gender-based violence issues among SEM staff. GREVIO furthermore notes that the protection offered to women nationals of 'safe' countries is not always sufficient: this is because allegations of violence are rejected on the grounds that the third State in question would have the capacity to protect the victim, inter alia because that State has ratified the Istanbul Convention. GREVIO requests that the Swiss authorities take measures to improve the capacity to detect cases of violence against women and to assess the capacity of countries of origin to provide effective protection. They could, in this context, refer to the existing GREVIO evaluation reports. Finally, GREVIO strongly encourages the Swiss authorities to ensure that asylum-seeking women and girls are given optimal support in the asylum procedure, so that they have the opportunity to disclose all the grounds on which they seek international protection.

The health concept implemented by the SEM in French-speaking Switzerland prohibits direct contacts between legal representation and health professionals, both inside and outside the federal centres. In 2020, only email contacts were allowed between the infirmary of the centres. This situation has gotten even worse in 2021 – and did not improve in 2022 – as the legal representatives were forbidden to contact the infirmary, except for organisational requests such as an appointment date. Otherwise, they can only communicate through the SEM. (...) From the perspective of organisations such as the Swiss Refugee Council, direct and effective communication between medical staff and legal representation is necessary to ensure adequate care and a complete establishment of the relevant facts, especially in the context of an accelerated procedure.

Detention of vulnerable applicants

Belgium: In two decisions of March 2022, Belgium was condemned by the Committee on the Rights of the Child for having detained children in the family units of the 127bis repatriation centre. The Committee recalled that the detention of any child because of their parent's migration status contravenes the principle of the best interests of the child and that "detaining children as a measure of last resort must not be applicable in immigration proceedings". The Committee moreover reminded Belgium of its obligation to use alternatives to detention. Belgium has already been condemned before by the ECtHR for the detention of children in closed centres that provided for inhumane living conditions.

Bulgaria: In 2022, 1,510 children were detained in pre-removal detention centres. Among them, the Bulgarian Helsinki Committee identified 870 unaccompanied children, including children detained as "attached" to an adult or wrongly recorded as adults. However, another 2,848 unaccompanied children were safeguarded from detention due to the gradual improvement in implementation of the referral mechanism, regulated in the law. Thus, 74% of all unaccompanied children, who arrived in the country, were safeguarded from detention, while 24% were detained.

Spain: In February 2022, the UN Committee on the Rights of the Child asked the Government to release an Algerian 16-years-old boy detained at the CIE of Algeciras, stop his deportation and refer him to a minor protection centre. Despite that, in March he was still held in the facility.

Greece: UAM have continued being subjected to detention/"protective custody" in 2022 as well. Since the start of the implementation of the new legislation, unaccompanied children as a rule do not remain in administrative detention and they are transferred to reception facilities. However, even in 2022 a small number of unaccompanied children, as corroborated by the official statistics has been placed in detention, in most of the cases for very short periods. At the end of 2022, 14 unaccompanied children (14) were detained at the end of 2022, in most cases for very short periods and in total, 515 unaccompanied children were kept in PRDCs countrywide during 2022.





A number of cases of unaccompanied children detained as adults were identified by GCR during 2022. It is also to be mentioned that those who have been registered as adults remain detained until the fulfilment of the age assessment procedure without any consideration of the presumption of minor age that must accompany the age assessment procedure. The same occurs in cases of individuals who have been identified within the spectrum of the age of minority and they remain detained until the medical examinations are finalized.

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see Special Reception Needs). However, persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. In 2022 GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account.

Malta: Newly arrived asylum seekers are not subjected to a mandatory COVID quarantine since May 2022, but all asylum seekers, including vulnerable applicants and unaccompanied minors, rescued at sea are still automatically detained for several weeks after arrival in terms of the Prevention of Disease Ordinance. The Principal Immigration Officer (PIO) continued to implement a detention policy based on the nationality of the applicants, ordering the automatic detention of all applicants coming from countries of origin where returns are feasible. Unaccompanied minors from these countries of origin are still detained pending age assessment for several weeks or months until they are released, or their claim is rejected.

On 21 January 2022, five children were released following a Court application. They had been detained with adults for approximately 58 days and three of them were confirmed as minors by AWAS the day before the hearing before Court of Magistrates, 57 days after their arrivals.

On 12 January 2023, following an application filed by aditus foundation, the ECtHR issued an interim measure ordering Malta to ensure that six applicants claiming to be minors are provided “with conditions that are compatible with Article 3 of the Convention and with their status as unaccompanied minors”. The six minors had been detained with adults in the so-called China house since their arrival on 18 November 2022, some 50 days after their arrival and AWAS was not aware of their existence before they were referred by aditus foundation in January 2023 and despite a disconcerting decision of the Immigration Appeals Board, dated 6 December 2022, confirming the detention of the minors but ordering the PIO to refer these applicants to AWAS.

In early 2022 a specific area in Safi Barracks was designated as a space for detaining children pending their age assessments. No information is available on the layout of this space or on activities/services organised therein (if at all), as access to UNHCR and NGOs is prohibited.

Netherlands: For the cases of applicants in need of special procedural guarantees or for whom detention at the border would be disproportionately burdensome, the new IND Work Instruction 2022/15 c clarifies that vulnerability does not automatically mean that the applicant will not and cannot be detained at the border. The central issue remains whether detention results into a disproportionately burdensome situation for the asylum seeker as mentioned in Article 5.1a (3) of the Aliens Decree in view of his or her “special individual circumstances”. Whether there are such “special individual circumstances” must be assessed on a case-by-case basis and can be derived for instance from a (MediFirst) medical report or from a ‘*signalinglist*’ handed it by the aliens lawyer when there are clear signs of physical or psychological burdens. The previous IND Work Instruction provides two examples of such circumstances: where a medical situation of an asylum seeker leads to sudden hospitalisation for a longer duration, or where the asylum seeker suffers from a serious mental disorder.

From 2020 to 2022, there were less than 5 UAMs detained per year. Their average stay was 8 days in 2020, 9 days in 2021 and 14 days in 2022. Children are detained at the closed family location in Zeist. In 2020, 50





families were detained at Zeist, their average stay was 9 days. In 2021, 75 families were detained at Zeist, their average stay was 8 days. In 2022, 55 families were detained at Zeist, their average stay was 9 days. However, in 2022, there was one case of an Iranian family with a 9-year old daughter, detained for more than five weeks in Zeist.

Poland: As of 2022 detention decisions in the courts in Białą Podlaska, Lublin, Białystok still did not consider the best interest of the child or did not consider the individual situation of the child. When placing a child in a guarded centre together with parents, the courts do not mention children in a justification of the detention decision. In addition, the courts place families in guarded centres for a maximum period of time, rather than for the shortest period. Further, courts did not order any further medical or psychological examination in 2020 and did not interview children, but instead relied on the documents presented by the Border Guards. Children detention is ordered automatically, without individual assessment of their situation and needs. Furthermore, justifications of the courts' decisions were adapted from the BG application for prolonging the detention. Moreover, some courts treated detention as a form of punishment for crossing the border illegally.

Poland: In May 2022 Legal Intervention Association submit the complaint to ECtHR on behalf of the family who had been staying in guarded centres for foreigners for over 6 months. The case concerns a family from Iraq (parents with two children) who crossed the Polish-Belarusian border. The family spent a total of 21 days at the border. At that time, family was pushed 7 times by the Polish officers across the border. The stay at the border was a traumatic experience for the whole family, in particular, it had a negative impact on the physical and mental health of two children. Additionally foreigners experienced violence from the Belarusian Border Guard.

After crossing the border, the family was placed in the Guarded Centre for Foreigners in Lesznowola, where they submitted an application for international protection. After 4 months, the family was transferred to the Guarded centre for Foreigners in Kętrzyn. In total, the family was detained for over 6 months. A long stay in a guarded centre for foreigners had a negative impact on the mental state of the children and deepened their trauma related to the circumstances of crossing the Polish-Belarusian border. One of the children has been struggling with health problems since being placed in detention.

Furthermore, both the Border Guard and the national courts ignored the fact that the family had experienced violence, and therefore, according to Polish law, it should not have been placed in a guarded centre for foreigners at all. The state authorities also failed to take into account the best interests of minor children in any way. Moreover, the placement of migrants in detention was arbitrary, did not constitute a last resort and also violated the right to family life and children's rights to education. No classes were held in the Guarded Center for Foreigners in Lesznowola, and foreigners were not allowed to leave the centre (e.g. to attend school).

In August 2022 Legal Intervention Association submit another complaint to the ECtHR. The case concerns a married couple with an almost 3-year-old child who spent almost 6 months in a guarded centre for foreigners. Despite repeated references to the mother's poor mental condition and her depressive reaction to the situation, confirmed by a psychological opinion, administrative authorities and courts decided to place and extend the family's stay in a guarded centre. At no stage, the repeatedly cited arguments about the obligation to take into account the best interest of a minor child and to examine the impact of detention on the correctness of his further psychophysical development were not taken into account at any stage.

In this case, the child was measured with excessive anxiety and withdrawal as well as sleep disturbance and stomach problems. At the same time, it was constantly exposed to stress related to the stay in a penitentiary institution, constant supervision of officers, bangs and gunshots caused by the training of Border Guard officers. Alternative measures to detention have not been sufficiently considered. Both the mother and the child were not provided with permanent psychological care, even with an independent psychologist. The conditions of the family's stay in the guarded centre were very difficult for the family, including due to the prison nature of the facility, excessively limited size of the room, insufficient portions of food, limited opportunities to spend time outdoors, and lack of sufficient protection against the summer heat





There were also numerous violations of procedural rights in the case, mainly due to the failure to exercise the rights of defence and the excessive length of the proceedings.

Protection of children

Poland: In 2022, as the Office for Foreigners informed, all persons asking to enter the reception centres to work with minors there, were checked in the Sexual Offenders' Registry. None of them was identified in this registry. Also in 2022, the special phone number - for children at risk of violence and who suffered violence, as well as for their parents and officers witnessing acts of violence towards children - has started operating. However, the telephone works only for one hour a week. Moreover, in 2022, an NGO - Fundacja Dajemy dzieciom siłę - offered to asylum seeking parents (living outside of the reception centres) a possibility to attend 12 meetings concerning child upbringing without violence. They were organized in Warsaw in Polish, Russian and English.

Sweden: Sweden is currently being examined by the UN CRC (...). On 1 July 2022, 31 civil society organisations working with children's rights, including the Swedish Refugee Law Center, submitted an alternative report to the Committee as a basis for the review. The report is an appendix to the main report Hör barnens röst (Hear the Children's Voice) produced by children themselves, without adult analysis or interpretation. In the report, the children talk about experiences of racism and discrimination, about being children on the move, about violence and about other forms of vulnerability. As an appendix to the children's report, the civil society organizations presented an analysis of the main issues and areas that require improvements in order for Sweden to live up to its obligations under the Convention. Recommendations from the civil society to the Swedish government are also published separately. The Ombudsman for Children also submitted a report to the Committee.

Concerns that were raised in both reports concerned, inter alia, that there is not yet a systematic approach to the use of the Convention in the application of law in municipalities, regions and by national authorities. The Government refers to the fact that the Temporary Act expired on 20 July 2021. However, permanent legislative amendments entered into effect instead, largely based on the temporary legislation from 2016. The inquiry failed to analyse the consequences from a children's rights perspective. Despite the Committee's recommendations, there is still no legislation regarding child-specific persecution. Several investigations and reports have shown that there are major shortcomings in the child's right to be heard in asylum cases when children seek asylum together with parents or guardians, and having their claims assessed individually. The Committee will issue its recommendations and comments to Sweden during 2023.

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)

Residence permits

Belgium: In the context of the reception crisis, some applicants received international protection without having received access to the reception network and thus being homeless. In the absence of an address, it is very difficult to obtain the residence permit (A-card) at the local commune when receiving a positive decision. Without this permit, the status holder can encounter difficulties obtaining financial aid, opening a bank account and renting a place to live.

Cyprus: During 2022 delays increased due to the CRMD prioritising Temporary protection holders who receive their residence permits within 5-7 working days on average.





In 2019, CRMD ceased issuing residence permits for family members of recognised refugees and beneficiaries of subsidiary protection that did not exist prior to the entry of the refugee into Cyprus (...) leaving persons who have been living for many years in the country without status, residence permit, access to rights, and in many cases leading to loss of employment and the main income of the family.

(...) At the end of 2022 the first decision was issued by the CRMD which granted humanitarian status to the spouse and mother of BIP, according to which the “special residence permit” was valid for 12 months, granting the right to work, subject to the authorisation of the Labour Department. However, the residence permit will be issued only once and before the expiration of the 12 months, the applicant has to apply for a residence permit for employment reasons, which requires a specific employer to support the application. Furthermore, the case took over 2 years to be resolved and there are no indications of other similar cases receiving a residence permit.

Germany: In 2017 the Federal government introduced the Act to Improve Online Access to Administrative Services, following which most of the administrative services should be made available online by 2022. In the field of Migration inter alia the application for the issuance and renewal of residence permits, the application for citizenship and social benefits for beneficiaries of and applicants for international protection or subsidiary protection shall be made possible. However, the first evaluations on the implementation show that only very few of the overall administrative services have been moved online and that the online availability sometimes means that a pdf document with the application form can be downloaded but without the possibility to hand in the form and the necessary documents online. According to the evaluation the main reason for the delay are unclear responsibilities between the Federal level, the states and the municipalities.

France: Beneficiaries of international protection encountered Many difficulties in 2022 to obtain their residence permits, due to the implementation of a digital system with numerous shortcomings and severe issues in accessing prefectures for the issuance of all residence permits.

A decision of the Council of State dated 3 June 2022 (Decisions 452798, 452806, 454716 and opinions 461694, 461695, 461922 of 3 June 2022, [press release](#)) ordered the Ministry of the Interior to establish a substitute solution to the purely digitalized procedure. For example, many are unable to obtain the indispensable convocation to the administration for provide their documents in order for the residence permit to be delivered.

Greece: On 12.9.2022 a Joint Ministerial Decision was issued providing clarifications on the Procedure for granting Residence Permit to beneficiaries of international protection.

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. The mere delay in the application for renewal, without any justification, could not lead to the rejection of the application. However, until June 2022 this used to be valid only for recognized refugees, as the previous IPA abolished the said guarantee for beneficiaries of subsidiary protection. The new Asylum Code allows once again beneficiaries of international protection to submit their applications with delay without the risk of being rejected solely based on this delay. Moreover, in the case of delay in the application for renewal, a fine of EUR 100 is imposed. The authority responsible for the procedure of imposing the fine shall be determined by a joint decision of the Ministers of Immigration, Asylum and Finance. In practice, this fine has never been imposed so far.

For those granted international protection under the “old procedure” prescribed by Presidential Decree 114/2010, the renewal procedure is conducted by the Aliens Police Directorate (Διεύθυνση Αλλοδαπών). In 2022, 651 applications for renewal were submitted before the Aliens Police Directorate. Out of those, 419 were positive, 57 were rejected and 175 are still pending.





Thus the Ministry of Migration and Asylum, granted an extension of the duration of residence permits until 30/06/2022 for a) residence permits and certificates of submission (blue certificates) that expired in the first quarter of 2022 i.e. from 01/01/2022 to 31/03/2022. These include those that had already expired by 31/12/2021 and were extended until 31/03/2022.

Hungary: Menedék Association reported that in 2022, beneficiaries of international protection who returned to Hungary from other EU Member States faced difficulties in obtaining Hungarian documents, such as ID and address cards before the government offices.

Ireland: In January 2022, a new Immigration Service appointment scheduling system, which will streamline and further improve the registration process, was announced. The interim ISD Registration office Burgh Quay created a free phone number to call, so applicants resident in Dublin could book a first-time registration appointment. As of January 2023, the revised appointment and scheduling system was fully operational, however, applicants continued to experience significant delays in obtaining appointments in order to register their permission.

Additionally, a further temporary extension of immigration and international protection permissions was announced in December 2021 on account of the COVID-19 pandemic. Those whose permission to reside in the State was due to expire between 15 January 2022 and 31 May 2022 received automatic renewal of their permission to reside in the State on the same basis as the existing permission and with the same conditions attached. This was the ninth and final extension of immigration permissions implemented since the outset of the pandemic in March 2020. Persons who were entitled to receive a new Irish Residence Permit (IRP) card were allowed to continue using their current expired card to enable them to depart from and return to Ireland until 15 January 2022. Persons who planned to travel abroad beyond 15 January 2022 were advised to apply to renew their immigration permission and receive a new IRP card. Otherwise, they would be required to obtain a re-entry visa in Ireland or in an overseas visa office before travelling.

Italy: On 10 March 2022, the Civil Court of Brescia upheld the appeal lodged by the applicant, a beneficiary of subsidiary protection, clarifying how, according to the Article 23 of the Qualification Directive, national implementing authorities are not given discretion as to additional requirements, not set in law, for the issuance of a residence permit for subsidiary protection beneficiaries (Civil Court of Brescia, Decision of 10 March 2022).

An additional and more recent circular, issued by the Department of Public Security of the Ministry of the Interior on 23 November 2021, provides for the non-convertibility of the residence permit for special protection obtained through a specific request to the Police Headquarters and not within the international protection procedure. However, this interpretation - which would create an unjustified difference in treatment between those who obtain a residence permit for special protection within the procedure for international protection and those who are granted it following a specific request submitted to the Questura, risking to induce applicants to apply for international protection even in cases where they would chose instead to apply only for special protection at the Questura - does not appear to be supported in any way by the newly amended legislation, which explicitly states that the only hypothesis of non-convertibility of the special protection permit is the one related to cases in which such protection was recognized in application of the non-refoulement principle following the exclusion from international protection, and is thus likely to be challenged in Court and disapplied by Judges.

On these basis, the Administrative Court of Veneto (Administrative Tribunal of Veneto region, Decision no. 1812 of 28 November 2022, available in Italian at: <http://bit.ly/3xZhSl6>), on 28 November 2022, upheld the appeal lodged by a beneficiary of special protection obtained with a direct request to the competent Questura and whose request to convert it in a job permit to stay was declared not receivable.

Subsequently, the Questura of Trieste, pending analogous appeals filed for the same reasons, revoked the provision and granted the conversion.





In 2022, applicants and beneficiaries of international protection continued to be excluded from the exercise of rights (regarding registration) due to unlawful discriminatory practices implemented in the registry offices of many municipalities of the national territory, as denounced in December 2020 by Action Aid, ASGI, Black lives matter Roma, Caritas Roma, Centro Astalli, CIR – Consiglio Italiano per i Rifugiati, Comunità di Sant’Egidio, Focus – Casa dei diritti sociali, Intersos, Laboratorio 53, MEDU – Medici per i diritti umani, MSF – Medici senza frontiere, Médecins du Monde France – Missione ItaliaPensare Migrante.

Netherlands: Asylum seekers who are granted temporary asylum (i.e. refugee status and subsidiary protection) status during their stay at the Application Centre are registered immediately in the Persons’ Database at the so called “BRP-straat” (...)

The “BRP-straat” did not close during 2022, but the backlog in registration was still present. Due to limited capacity, priority is given to the registration of refugees with a permit, who will be entitled to a house in a municipality. Priority is also given to family members of refugees who came to the Netherlands through family reunification. No priority is given to asylum seekers who want to be registered, unless they provide a specific reason (e.g. medical reasons). The backlog in registration in 2022 was caused partly by previous issues that originated from the pandemic, but also due to limited capacity at the “BRP-straat” and logistic problems. For example the COA must transport people from the reception centres to the “BRP-straat.”, but it is not functioning well. So people cannot reach the “BRP-straat” for their appointments. (...) During the COVID-19 crisis, various delays were registered in the time needed to receive the temporary residence permit (the document itself) from the IND. This was still the case both in 2021 and 2022. The delays increased. The problems were caused by a shortage of staff at the IND and an increasing number of documents that had to be issued. There is an emergency procedure for people in need of a document for hospitalization or for keeping ones job for example. At the end of 2022 the delays decreased.

Poland: As of 1 January 2023, there were 2,228 persons holding a valid residence permit for refugees, 5,910 persons holding a valid residence permit granted to subsidiary protection beneficiaries and 1,818 persons under the humanitarian protection scheme.

The fees for residence permits (karta pobytu) and a Polish travel document for foreigners were significantly raised in 2022. The fee for a residence permit is now twice higher than in 2021 (PLN 100 instead of 50).

According to the Office for Foreigners, the obligation to collect fingerprints from an applicant is very occasionally lifted (3 times in 2022: two cases of illness and one – the lack of hand).

Portugal: In June 2022, the government amended Decree-Law 10-A/2020, determining, inter alia, that documents expired since the entry into force of the Decree-Law (or within the 15 days prior to its entry into force) were to be accepted as valid until 31 December 2022, and that, after 31 December 2022, such documents would continue to be accepted providing the holder has an appointment for its renewal. Said Decree-Law was further amended in December 2022, determining inter alia that:

- Visas and documents related to the residency of foreign nationals expired since the entry into force of the Decree-Law, or within the 15 days prior to its entry into force, are accepted as valid until 31 December 2023;
- After 31 December 2023, such documents continue to be accepted providing the holder has an appointment for its renewal;

Sweden: A temporary residence permit may be granted when the circumstances in the case are particularly (for children) or exceptionally (for adults) distressing. 817 first time applicants were granted permits for these reasons in 2022.

In 2022, the Migration Agency granted residence permits in 3,742 first time asylum applications, in comparison to 3,310 in 2021 and 4,922 in 2020.





The vast majority of beneficiaries of international protection applying for a renewal of their temporary residence permits have had it granted. In 2022, the Migration Agency received 28,312 applications and took decisions in 29,910 cases. The acceptance rate in cases tried on the merits was 97%. The vast majority of decisions on extensions of residence permits concerned Syrians (15,309 decisions, of which 14,901 were granted, or 99% of those tried on the merits), Afghans (5,056 cases, of which 4,493 were granted, or 92% of those tried on the merits), Eritreans (1,748 decisions, of which 1,613 were granted, or 99% of those tried on the merits), Stateless persons (1,544 decisions, of which 1,424 were granted, or 96% of those tried on the merits), and Iraqis (1,421 decisions, of which 1,339 were granted, or 97% of those tried on the merits). The average processing time for applications to extend residence permits based on protection status was 201 days in 2022. There is no public information available as to the grounds for rejections mentioned above.

Switzerland: In 2022, asylum status and B-permits were granted to 4,816 persons, including those afforded in cases of family asylum. On 31 December 2022, there were a total of 56,941 recognised refugees with a B-permit in Switzerland.

In 2022, 4,689 persons were granted a temporary admission as a foreigner. On 31 December 2022, there were a total of 35,829 persons with a temporary admission as a foreigner living in Switzerland. Out of these, 18,699 persons have had this status for more than seven years.

There are also persons who have a refugee status but receive only temporary admission instead of asylum (in case of exclusion grounds from asylum, as Switzerland makes the distinction between refugee status and asylum). They receive the same F-permit as other foreigners with temporary admission (with the mention “refugee”), but in addition they have the right to a refugee travel document, and all the other rights granted by the Refugee Convention. In 2022, 547 persons were granted a temporary admission as a refugee. On 31 December 2022, there were a total of 8,950 persons with a temporary admission as a refugee living in Switzerland. Out of these, 6,093 persons have had this status for more than seven years.

Civil registration

France: Delays for the issuance of civil status certificates by OFPRA (birth certificate, marriage certificate), indispensable for several procedures, notably family reunification, remained extremely long in 2022.

Hungary: Pursuant to the Act on Civil Registration Procedure, within one day from the birth of a child, parents have the obligation to register their birth at the competent Registry Office, which issues the birth certificate. Main challenges concern the establishment and registration of a new-born child’s citizenship. Hence, those children whose parents are beneficiaries of international protection are registered as unknown citizens given that Hungary does not have the competency to establish the nationality of another country. Since - parents cannot contact the embassy of their country of origin in order to register their child, the new-born remains without an established citizenship.

The aforementioned practice is based on the current Hungarian legislation, according to which children of persons with international protection do not receive Hungarian citizenship *ex lege* at birth. This is a clear violation of Article 1(2)(a)-(b) of the 1961 Convention on the Reduction of Statelessness and Article 6(2)(b) of the 1997 European Convention on Nationality. Furthermore, it is in breach of Articles 3 and 7 of the 1989 Convention on the Rights of the Child. According to the Menedék Association, the struggle of obtaining citizenship for the child leads to frustration and anxiety for parents with international protection. The problem still existed in 2022.

Italy: On 12 January 2022, the Ministry of Interior, following up on the suggestion made by the UN Agency, published a circular which introduces a new procedure, informed by the procedure described in Article 1 paragraph 2 of Legislative Decree 19 January 2017, n. 7, for the clearance for marriage for refugees: to the





request for publication of the marriage submitted to the municipality, the refugee has only to attach a substitutive declaration, pursuant to Presidential Decree no. 445 of 28 December 2000.

Sweden: Persons who are not residing in Sweden but need to have contact with Swedish authorities could be assigned a Coordination number by the Tax authority. For example, asylum seekers who are working in Sweden will need a Coordination number. Coordination numbers are assigned upon requests from other public authorities or upon request from the concerned individual. In 2022, the Swedish Government proposed changes in the registry system and to introduce three different types of coordination numbers, clarifying whether the identity has been assessed as proven, probable, or uncertain. For the highest level of coordination number, proven identity, the applicant must appear in person at the Tax authority, this may include registering fingerprints. The Parliament approved the proposed changes that will enter into force in 2023.

Long term residence

Germany: Beneficiaries of international protection are eligible for a permanent residence permit after five years (three years if they have a good command of the German language).

Poland: In practice, in 2022, on average, the proceedings as regards the EU long-term residence permit lasted 205 days, and the proceedings concerning permanent residence permit – 176 days. Importantly, in reaction to the war in Ukraine and the large influx of persons seeking temporary protection in Poland, all the time limits in the cases already considered by Voivodes and the Office for Foreigners were suspended until the end of the year. In new cases, the time limits did not start to run. In January 2023, this suspension was prolonged until 24 August 2023.

Sweden: The new Government announced in October 2022 its intention to completely strike out the concept of permanent residence permits.

Switzerland: A temporarily admitted person receives an F permit. After 5 years, the person can apply to the canton for a residence permit (B permit), if they are well integrated. However, the practice among the cantons varies and is in general strict. In 2022, 5,660 persons obtained a B permit in this way. Once the person has a B permit, they can again apply for a permanent residence permit (C permit) after 5-10 years similar to the process described above.

Naturalisation / nationality

Cyprus: in 2022, 27 BIPs were granted citizenship.

In 2021 and early 2022 a rise in the rejection rates regarding applications for nationality by holders of international protection - all persons living in the country for periods of well over 10 years – was noted. Such cases included young adults that were born or grew up in Cyprus, completed public school, speak fluent Greek and are studying in University; in these cases, the motivation for rejection referred to the fact that their parents had or were receiving state support, even if the applicants involved were not. Furthermore, single persons were rejected, and the justification mentioned the fact that they had no sufficient ties to the country as they had not formed families. In other cases, the applicant was found to be of non-good character, although they had submitted a clean criminal record as required and the finding of non-good character was based on reports supposedly provided by the Central Intelligence Service but with no evidence to support this and no access to such reports. Some of these cases have been appealed before Court and are currently pending.

Spain: In a decision taken in May 2022, the Provincial Court of Guipúzcoa (País Vasco) recognised for the first time the Spanish nationality to a child born during her mother's arrival to the Spanish coast. Due to the





impossibility to obtain the nationality from Cameroon and Morocco, the child had restricted access to public municipal services and could not benefit from certain social benefits. The Court's decision on granting the Spanish nationality is based on the best interest of the child, and on the necessity to avoid the negative consequences that statelessness condition would create for the minor (Audiencia Provincial de Guipúzcoa, Decision [341/2022](#), 2nd Section, 11 May 2022).

Greece: on February 2022, a circular was issued providing more details on the procedure of the exams. The procedure of the interview is described in detail in the 738/2022 Ministerial Decision.

Hungary: Those children whose parents are beneficiaries of international protection are registered as unknown citizens given that Hungary does not have the competency to establish the nationality of another country. Since - parents cannot contact the embassy of their country of origin in order to register their child, the new-born remains without an established citizenship. The aforementioned practice is based on the current Hungarian legislation, according to which children of persons with international protection do not receive Hungarian citizenship *ex lege* at birth. This is a clear violation of Article 1(2)(a)-(b) of the 1961 Convention on the Reduction of Statelessness and Article 6(2)(b) of the 1997 European Convention on Nationality. Furthermore, it is in breach of Articles 3 and 7 of the 1989 Convention on the Rights of the Child. According to the Menedék Association, the struggle of obtaining citizenship for the child leads to frustration and anxiety for parents with international protection. The problem still existed in 2022.

Refugee children and children having been granted subsidiary protection who were born in Hungary and did not obtain their parents' citizenship by birth might obtain Hungarian citizenship by declaration taken five years after their birth under the Citizenship Act provided that their parents had a Hungarian domicile at the time of their birth. As opposed to the naturalisation procedure described above, if the Government Office of Budapest rejects the declaration the applicant has the possibility to request a judicial review. One declaration submitted in 2020 was rejected a year later. The HHC represented an applicant child whose application was submitted in 2020 but was rejected in December 2022.

Ireland: From January 2022, the Department employed a scorecard approach in the assessment of identification and residence history. Applicants are now required to reach a score of 150 points in each of the years of proof of residency required according to their particular circumstances. This can be done by submitting proofs with a predetermined point value until the applicant reaches the required score of 150 for each year of residency claimed. Applicants must also accumulate a total of 150 points for establishing identity in order to meet the appropriate standard. The introduction of the scorecard approach was broadly welcomed in providing further clarification for applicants on the required documentation when submitting their applications for citizenship.

Additionally, from January 2022, new applicants for citizenship are not required to submit their original passport with their initial application. Instead, applicants can now provide a full colour copy of each page of their passport and all previous passports containing stamps which contribute towards the period of reckonable residency claimed. The colour copy must be certified by a solicitor, commissioner for oaths or notary public and submitted along with the application form.

As of February 2023, there were approximately 26,000 applications on hand at the Citizenship Unit at various stages of processing. The median processing time for applications was 19 months.

Netherlands: Since 1 January 2022, a new Civic Integration Act was introduced. The language level requested to undergo the civic integration examination was raised at a B1 level. Instead, no changes were made regarding the conditions set to evaluate 'sufficient integration', necessary to obtain Dutch nationality, so that the requisite in terms of language knowledge remains at an A2 level. No changes are foreseen for 2022, regardless of the introduction of the new Civic Integration Act. The conditions remained the same in 2022.





Poland: In years 2019-2022, the organisation of these State exams was controlled by the Supreme Audit Office. It concluded that the responsible authorities did not collect needed data that would enable assessing how efficient the system of confirming having a sufficient knowledge of the Polish language is. It noticed that the available places for exams run out after 10-15 minutes from the beginning of the registration, so the system seems to be inadequate to needs. Furthermore, trainings for examiners were incorrectly organized.

Portugal: The Nationality Act was last recast in November 2020. It had been previously recast in 2018, in an amendment that also introduced provisions that may have a positive impact for applicants and beneficiaries of international protection (in particular unaccompanied children). The corresponding Nationality Regulation was only adopted in March 2022, entering into force on 15 April 2022.

Another issue identified in the course of 2021 that persisted in 2022 despite contacts with SEF in this regard, is related to the content of the declarations issued by SEF to certify the period of legal residence. According to CPR's observation, when the renewal of the residence permit is pending, that period of time is not referred to as legal residence by SEF. This is the case despite the beneficiary of international protection holding a certificate that replaces the actual residence permit for all legal purposes (including to attest regular residency in the country).

Romania: CNRR mentioned several issues in regard to the citizenship acquisition process are still the same, as reported in 2021, even more became more severe in 2022: such as the lack of a separate procedure for beneficiaries of international protection. Given the high volume of applications, there are long delays in scheduling the interview and there are situations in which officials of the NAC request civil status documents, which would involve contacting the authorities of the country of origin by beneficiaries. The request for documents from the authorities of the country of origin may be considered as voluntarily re-availing him or herself of the protection of the country of nationality, a ground for cessation of refugee status or subsidiary protection. Furthermore, it was acknowledged that there is a lack of an adequate procedure for vulnerable persons. All applicants (regardless of their status) must go through an interview to test their knowledge of the Romanian language, Romanian History, Romanian Geography, Romanian Culture and Constitution. Although the beneficiaries did not express their dissatisfaction with the difficulty of the test, there are people who for objective reasons (illness, the elderly, those with a disability, etc.) cannot pass the interview, although they meet all the substantive conditions. For example, a person with severe Down syndrome cannot pass the interview, and there is no exception or special procedure for such cases. CNRR added that there is no separate procedure for beneficiaries of international protection who would like to obtain the Romanian citizenship, requests are being processed under the legal provision as foreigners with legal residence.

Sweden: (not limited to BIPs) In 2022, the Migration Agency registered 82,210 new applications for citizenship. A total of 89,789 first instance decisions were handed down in 2022, out of which 75,338 granted citizenship. The majority of citizenships were granted to applicants from Syria (18,245); Afghanistan 5,272); Iraq (2,901); Eritrea (7,150) and Somalia (5,398). The Migration Agency had 93,767 citizenship requests pending at the end of the year.

Slovenia: In June 2022 PIC filled several citizenship applications for stateless children born in Slovenia to beneficiaries of international protection based directly on the Convention on the Rights of the Child and the 1954 Convention on Statelessness rather than national legislation. Until the end of January 2023, 10 children were granted Slovenian citizenship on this ground by the Administrative Unit.

Cessation procedures

Austria: In 2022, 2,776 cessation and withdrawal procedures of the asylum status were initiated on the following grounds: delinquency: 1,435 total; danger to public security: 7; travel movement: 541; altered circumstances: 272; withdrawal/cessation status of reference person: 94; other reasons: 276.





Out of 2,776 decisions, nationalities most affected were Syrians (704), Russians (623), Afghans (623), Iraqis (225).

At first instance, asylum status was withdrawn in 949 cases, subsidiary protection in 135 cases. These mainly affected Russian nationals (772 asylum statuses, 15 subsidiary protection statuses), followed by Syrians (38 refugee statuses, 7 subsidiary protection) and Iraqis (28 asylum statuses, 53 subsidiary protection).

Germany: In 2022 the number of revocation procedures further decreased in comparison to the three previous years. Nevertheless, the status of 2,649 persons was revoked in 2022, mainly of persons from Syria, Iraq, Afghanistan and Iran.

Act on the Acceleration of asylum court proceedings and asylum procedures. The reform entered into force on 1 January 2023. The most important changes of the reform include complete revision of the grounds for cessation of the residence permit and substantial amendments to the grounds of revocation of the residence permit. The changes serve to relieve the administrative and judicial bodies, therefore no more routine revisions are foreseen by the amended legal framework.

The Act has been criticised by civil society organisations that the relieve relief for the authorities comes at the price of restricted legal protection for asylum seekers and refugees. Concerning grounds for cessation and revocations however, the reforms seem to extend the protection of the status, since the grounds for cessation and revocation have been restricted. Following the reforms, cessation is only possible if the refugee has acted voluntarily (Section 72(1) of the Asylum Act), ie where the beneficiary of constitutional or international protection (asylum and subsidiary protection):

- Unequivocally, voluntarily and in writing declares in front of the BAMF the renunciation of the status
- has obtained upon his application the German nationality.

According to the new Act, the authorities may only start the cessation procedure upon application or declaration of the refugee. In this case the authorities ask them to hand in the residence permit, travel documents and other documents relating to the asylum procedure. It is possible to appeal the decision at an Administrative Court and the appeal has suspensive effect.

Greece: In 2022 GCR observed a rapid increase in the number of cessation decisions concerning beneficiaries of the so-called “old procedure”. Beneficiaries whose countries of origin were included in the list of safe countries of origin by Joint Ministerial Decisions were served with decisions of a few paragraphs long without individualized assessment, citing only the Joint Ministerial Decision as reasoning. Beneficiaries have to wait months until their case is given an asylum case number before their appeal can be examined by the Appeals Authority, since until then it only had a Police Headquarters file number. They then have to wait months after their appeal has been heard to be called for an oral hearing by the Appeals Authority. Throughout this time they are in possession of the certificate of filing an appeal which does not give them access to the labour market, health care or social assistance system. In fact, it only offers them protection from detention. In this respect, this is similar to the beneficiaries of the Asylum Service, as they too receive a similar certificate of appeal, which does not allow them to enjoy the benefits of refugee status.

Italy: on 7 October 2021, UNHCR has recommended that States hosting Ivorian refugees expatriated due to political crises in their country of origin to end their refugee status as of 30 June 2022 and facilitate their voluntary repatriation, reintegration, or acquisition of permanent residency or naturalisation for those wishing to remain in host countries, highlighting that those who have ongoing international protection needs will be entitled to request an exemption from cessation. No circular was however adopted during 2022.

Netherlands: Up to September 2022, the IND revoked 270 temporary asylum statuses/permits.

Poland: In 2022, 9 persons had their refugee status ceased or withdrawn (including 6 Russian citizens, 2 Turkish citizens and 1 Afghan citizen). 33 beneficiaries had their subsidiary protection ceased or withdrawn (including 31 Russian citizens and 2 Afghan citizens). Statistical data for 2022 provided by the Office for





Foreigners did not allow to discern how many beneficiaries had their protection ceased, and how had it withdrawn.

The above-mentioned figures reveal that mostly Russian Federation citizens are deprived of international protection in Poland. Cessation is not systematically applied to them, however. Approx. 100 Russian citizens obtained international protection in Poland in 2022, 89 in 2021, 66 in 2020, 76 in 2019, 70 in 2018, 86 in 2017 and 67 in 2016.

Romania: The law does not prescribe a systematic review of the protection status and cessation has not occurred systematically in 2018-2022.

In Timisoara and Giurgiu no cessation decisions were issued in 2022. In Radauti only one decision was issued in case of a Syrian national. In Galati one decision of cessation was issued for a Syrian nation who acquired the nationality of the USA.

Withdrawal procedures

Austria: In 2022, 2,776 cessation and withdrawal procedures of the asylum status were initiated on the following grounds: delinquency: 1,435 total; danger to public security: 7; travel movement: 541; altered circumstances: 272; withdrawal/cessation status of reference person: 94; other reasons: 276.

Out of 2,776 decisions, nationalities most affected were Syrians (704), Russians (623), Afghans (623), Iraqis (225).

At first instance, asylum status was withdrawn in 949 cases, subsidiary protection in 135 cases. These mainly affected Russian nationals (772 asylum statuses, 15 subsidiary protection statuses), followed by Syrians (38 refugee statuses, 7 subsidiary protection) and Iraqis (28 asylum statuses, 53 subsidiary protection).

Cyprus: In 2022 according to statistics, refugee status was withdrawn in 2 cases, concerning 5 persons and subsidiary protection was withdrawn in 15 cases, concerning 28 persons.

Germany: The total number of revocation or withdrawal decisions affected a total of 2,649 persons in 2022. 114,632 revocation procedures were still pending at the end of 2022. Nationalities with a comparatively high number of revocations in 2022 include Syria, Iraq and Afghanistan.

With the Act on the Acceleration of asylum court proceedings and asylum procedures, the grounds and the procedure for revocations (Widerruf) have been changed drastically. Since the aim of the reforms was to relieve the workload of the authorities, the routine revision of the status under the former Section 73 (2a) Asylum Act has been abandoned completely. Prior to the reforms a revision of the status was initiated automatically by the BAMF three years after the first final decision on the status. Additionally, the grounds for revocation (Widerruf) shall be bound more closely to the concrete events.

More importantly, the Asylum Act also contains a 'ceased circumstances' clause in Section 73(1), and the procedure for the respective loss of status is called revocation (Widerruf) in German. Responsibility for the revocation procedure lies with Department for revocations and cessation at the BAMF. The law distinguishes between revocation grounds for refugees in Section 73 (1) Asylum Act, for beneficiaries of subsidiary protection in Section 73 (2) Asylum Act and revocation grounds for family members of beneficiaries of international protection in Section 73a Asylum Act. The procedure for revocations and cessations is now regulated in Section 75b Asylum Act.

Greece: On 12 April 2021 the Asylum Service issued a new circular providing clarifications on the procedure regarding the provision of an opinion on the grounds of exclusion and revocation of the status of international protection prescribed by article 91 IPA, as well as the renewal of residence permits (art. 2 IPA). Moreover, on 14 February 2022 the Asylum Service issued a new circular providing clarification on the commission of a serious crime and its consequences for granting and withdrawal of international protection status.





According to a document presented by the Ministry of Asylum and Migration during parliamentary control on 17 February 2022, the Asylum Service revoked 19 international protection statuses in 2021, out of which 17 concerned refugee status and 2 were subsidiary protection statuses. In 14 out of 19 cases, the international protection status was revoked due to public security reasons. In addition to this, 6 revocation decisions were issued by the Headquarters of the Hellenic Police (“old procedure”).

Hungary: As of 1 January 2022, the grounds for exclusion from subsidiary protection were complemented by an additional case. Accordingly, a foreigner shall not be granted subsidiary protection if there are reasonable grounds for believing that, prior to their admission by Hungary, they have committed an offence in their country of origin punishable in Hungary by a term of imprisonment of up to three years or more and there are reasonable grounds for believing that the applicant left their country of origin only in order to avoid the penalty for the offence. This ground serves as a basis for the withdrawal of subsidiary protection status, as well.

The HHC is aware of the case of a Pakistani man whose status review procedure was initiated for the fourth time in four years. The applicant has been living in Hungary since 2013 as a beneficiary of subsidiary protection. He had a successful status review procedure in 2018 and 2019. In 2020, however, a new one was initiated resulting in status withdrawal with reference to classified data. This decision was successfully challenged before the court and the NDGAP eventually had to leave the applicant’s status intact. In 2021, a new status review procedure was initiated against him. As a result, the authority withdrew his status again with reference to classified data and the credibility of the applicant, but the decision was challenged before the court. In its judgment of May 2022, the court, having looked into the classified data files, found that the applicant was credible and quashed the asylum authority’s withdrawing decision accordingly. It is worth noting that the applicant won a case against Hungary in front of the ECtHR, regarding his unlawful detention during his asylum procedure.

Malta: Act XIX of December 2022 amended the International Protection Act and reduced the deadlines to appeal to 1 week. Accordingly, beneficiaries of international protection in whose regard the IPA has revoked, ended or refused to renew their refugee status or subsidiary protection status are entitled to appeal against this decision before the IPAT within one (1) week from when the notification of the decision has been served to them and the appeal will be heard according to the regular procedure.

Poland: In 2022, 9 persons had their refugee status ceased or withdrawn (including 6 Russian citizens, 2 Turkish citizens and 1 Afghan citizen). 33 beneficiaries had their subsidiary protection ceased or withdrawn (including 31 Russian citizens and 2 Afghan citizens). Statistical data for 2022 provided by the Office for Foreigners did not allow to discern how many beneficiaries had their protection ceased, and how had it withdrawn.

The above-mentioned figures reveal that mostly Russian Federation citizens are deprived of international protection in Poland. Cessation is not systematically applied to them, however. Approx. 100 Russian citizens obtained international protection in Poland in 2022, 89 in 2021, 66 in 2020, 76 in 2019, 70 in 2018, 86 in 2017 and 67 in 2016.

Romania: were 2-3 revocation cases in Bucharest, 2 in Timisoara, of which in one case the court maintained the form of protection and in one the protection was revoked. 2 in Galați and in both cases the international protection was maintained.

Family reunification

ECRE/AIDA – Family Reunification: In February 2023, ECRE published a comparative report providing an overview of current state legislation and practice regarding family reunification for beneficiaries of international protection in 23 European countries based on ECRE’s Asylum Information Database (AIDA). It





focuses on both good practices and the worrying trends at the national level which threaten the effectiveness of the right to family reunification for beneficiaries of international protection.

See ECRE/AIDA, Not there yet: Family reunification for beneficiaries of international protection, February 2023, available at: <https://asylumineurope.org/wp-content/uploads/2023/02/Family-Reunification.pdf>

Austria: In 2022, the Austrian Red Cross assisted 3,019 new families representing 13,103 family members in reunification processes. 87% of all cases concerned Syrian nationals, 5% Afghan and 3% Somalian nationals. At the end of January 2023, 6,785 cases are pending. In 2022, 133 families representing 604 family members could be reunited successfully.

In 2022, 5,830 applications for an entry visa via family reunification were lodged of which 4,871 came from Syrian nationals, 490 from Afghan nationals and 254 from Somalian nationals. In 3,335 cases of Syrian nationals the forecast decision taken by the BFA was positive, in 169 cases were negative.

NGOs have expressed concerns in relation to the time limit for applying for family reunification, given that applications must be submitted personally to an Austrian embassy. However, waiting times for submitting an application at currently exceeding 3 months. In practice, applications submitted in writing are thus very lengthy. This situation deteriorated in 2021 due to the takeover of the Taliban in Afghanistan: The responsible embassy in Islamabad, Pakistan, scheduled appointments with several months of waiting time. The situation has worsened in 2022: Due to the high number of applications and lack of resources at the Austrian Embassy in Syria, which is located in Beirut, the waiting time for the registration appointment at the Embassy is more than 12 months, increasing the length of procedure to at least 2 to 3 years according to reports from the Austrian Red Cross.

Bulgaria: In 2022, a total of 839 family reunification applications were submitted to the SAR, out of which 802 were approved and 37 rejected.

Cyprus: In 2022 attempts were made by the CRMD to clear the backlog of pending requests for family reunification as well as speed up the examination of new applications. However, at the end of 2022 and continuing in 2023 the procedure remained slow exceeding 9 months and no other decisions had been issued.

According to the Law, once the Director approves a family reunification request, they immediately authorise entry for members of the refugee's family into the areas under the control of the Republic and notify the relevant consular authorities of the Republic so they may facilitate any necessary visas. However, there have been cases where a positive decision has been issued by the CRMD but the Ministry of Foreign Affairs via the consular authorities have refused to facilitate the issuance of visas. A relevant case is currently pending before the IPAC since 2019. In 2022 another case was identified where the CRMD approved the request for family reunification but the consular authority did not facilitate the necessary visas for two young children citing issues with the authenticity of the birth certificates, although the family relation with the mother was not disputed.

In 2022 the IPAC issued a positive decision (YT v. RoC via CRMD, ΔΔΠ 500/2019, decision date 10/11/2022) with regards to family reunification in a case of a recognised refugee who had applied for family reunification with their spouse and 4 underage children. As the applicant had applied 3 months after status was granted their application was subject to material conditions. The application was rejected on the basis of financial criteria, although the applicant was employed it was deemed that the income was insufficient to support the family. The IPAC annulled the decision on the basis of a non-sufficient research of the material facts by the CRMD and provided clear guidance on the examination of family reunification applications of refugees, emphasising the need for the CRMD to take into consideration the special circumstances of refugees and the best interest of the child principle. The case has been returned to the CRMD for examination.





In 2019, CRMD ceased issuing residence permits for family members of recognised refugees and beneficiaries of subsidiary protection that did not exist prior to the entry of the refugee into Cyprus (...) leaving persons who have been living for many years in the country without status, residence permit, access to rights, and in many cases leading to loss of employment and the main income of the family.

(...) At the end of 2022 the first decision was issued by the CRMD which granted humanitarian status to the spouse and mother of BIP, according to which the “special residence permit” was valid for 12 months, granting the right to work, subject to the authorisation of the Labour Department. However, the residence permit will be issued only once and before the expiration of the 12 months, the applicant has to apply for a residence permit for employment reasons, which requires a specific employer to support the application. Furthermore, the case took over 2 years to be resolved and there are no indications of other similar cases receiving a residence permit.

Furthermore, according to a practice implemented in 2022, family members may request examination of their protection needs by the Asylum Service and in two cases it was reported that the Asylum Service proceeded to issue a decision acknowledging that they have the same protection needs as the sponsor and therefore granting them status and rights.

Germany: Federal Administrative Court, Voraussetzungen für den Familiennachzug zu subsidiär Schutzberechtigten, press release [Nr. 78/2022](#), 8 December 2022 (decision not yet published). In December 2022 the Federal Administrative Court ruled that a distinction between refugees and beneficiaries of subsidiary protection concerning the right to family reunification does not violate the Constitution.

Another discussion arose in 2022 on the additional criteria for family reunification in cases where minor children are the sponsors and want to reunite their parents. Parents of unaccompanied minors may only be granted a visa if the family already existed in the country of origin. In the case discussed, the child was born in Germany, so it was argued that the ‘family’ did not exist yet at the time the parents were in the country of origin. However, the Higher Administrative Court (Higher Court of Rhineland-Palatinate, Decision [13 A 11241/21.OVG](#), 25 June 2022) decided that the criterion of the ‘already existing family’ does not necessarily require identical persons but that the family already exists as family tribe.

In the first half of 2022 a total of 8,183 visas for family reunification were issued to beneficiaries of international protection, out of which 4,527 for beneficiaries of refugee protection and 3,656 for beneficiaries of subsidiary protection.

Covid-19 related impacts on family reunification procedure in embassies continue to apply in the first half of 2022.

In 2021 and 2022, several Federal States (Berlin, Bremen, Hessen, Schleswig-Holstein and Thuringia) decided to put regional family reunification programmes in place for family members of Afghan refugees. The Federal government approved these programmes. Criticism has been raised by the party The Left as to the fact that the visa procedure for family reunification from Afghanistan is extremely lengthy. Accordingly, despite the discretion of the local authorities to shorten the procedure in cases of concrete danger, the procedure continues to take over one year. The Left further criticises that because applications for the special reunification programmes may only be filed in Afghanistan and embassies in Pakistan and India are overburdened with applications, many family members in practice do not have access to family reunification. For Syrian refugees, some regional programmes for family reunification are still in place. These programmes are reserved for first- and second-degree relatives of persons living in Germany with refugee status or another legal residential status. In contrast to the ‘normal’ family reunification procedures, the family members living in Germany have to act as sponsors by declaring that they will cover the cost of living of their relatives (either from their own resources or with the help of external sponsors). In 2020 and 2021 such programmes were in place in the Federal States of Berlin (prolonged until end of 2024), Brandenburg (prolonged until end of 2023),





Bremen (until end of September 2021), Hamburg (until end of November 2023), Schleswig-Holstein (until end of 2023) and Thuringia (until end of December 2024) . The programme in the Federal State of Berlin is also available to family members of Iraqi refugees.

Spain: The OAR received 410 applications for family extension with a beneficiary of international protection in 2021, and 762 in 2022.

Greece: There is no legal provision for the family reunification where the refugee family members cannot issue travel documents, since the Greek Authorities continue to deny the issuance of laissez-passer for family reunifications and the Greek Ministry of Foreign affairs has stated since January 2021 that it is not competent to issue one- way- travel documents. In 2022 the ICRC has issued commitment letters for the issuance of this emergency travel document in two family reunification cases concerning refugee family members that were stateless persons and asylum seekers in third countries. Unfortunately, these letters had no effect in the outcome of those cases that remain frozen for almost 4 years.

GCR has represented for several years a strategic litigation case of a refugee that has spent 12 years (since 2011) trying to bring his family in Greece through family reunification The first rejection was based on the lack of certified copies of official documents proving the family link (...) as well as the lack of travel documents. The Administrative First Instance Court of Athens annulled the first decision (ΔΠΑ 59/2018). The Greek Administration (...) in 2019 rejected once again his application for family reunification on the grounds of lack of travel documents and the fact that, according to the Greek Administration, there is no legal basis for the issuance of travel documents. On 20.06.2022, the Court annulled the aforementioned decision and referred again the case back to the competent administrative authority in order to take a new legal decision. (...) The travel documents were finally issued in February 2023. However, a decision is yet to be issued since copies of the travel documents must be certified by a Greek Diplomatic Authority.

In December 2022 with GCR's assistance one of the oldest and most difficult family reunification cases in Greece was completed after six years: A positive family reunification decision had been issued since 2016 for a refugee suffering from kidney failure and undergoing dialysis. (...) In February 2020, after the health condition of the refugee deteriorated, the refugee's wife entered Greece with a tourist visa, applied for asylum and got recognized as refugee in November 2022. In April 2022, the three-member- Magistrate Court of Athens finally declared the refugee innocent for forgery. In July 2022 GCR filed a complaint at the Greek Ombudsman for the obstructiveness of the Greek Consulate. Afterwards, the Greek Consulate replied to the Ombudsman stating that appointments for the issuance of visas cannot be asked by lawyers. In an attempt to make the procedure even harder, the Greek Consulate conducted several interviews with the family members that lasted almost a working day at a time. The family reunification visas were finally issued in December 2022 and the family members arrived to Greece.

Hungary: In 2022, 5 families of international protection beneficiaries (3 refugee sponsor, 1 beneficiary of subsidiary protection sponsor, 1 already Hungarian citizen sponsor who was a beneficiary of international protection earlier) could reunite with the assistance of the HHC despite the difficulties detailed above. This trend is promising regarding respect of the rights to family life and to family reunification. However, the uncertainty of the expected financial means and the discretionary right of the NDGAP to decide case-by-case about the sufficiency of these financial means remain.

Ireland: A total of 142 join family visas and 104 family reunification applications were approved for Afghans. From January 2022 to October 2022, the Family Reunification Unit received a total of 1,954 family reunification applications, while 1,414 applications were decided during the same period.

Italy: On 10 June 2022, the Civil Court of Rome accepted the appeal presented by a Somali citizen, beneficiary of international protection against the refusal of a family visa for his wife based on the absence of sufficient





documentation certifying the marriage bond. The applicant was not present at the time of marriage registration and his signature had been affixed by a third person. The court highlighted the limits in which a holder of international protection incurs in producing the required documentation and insisted on the need to highlight further elements for the purpose of verifying the genuineness of the link, in the present case the declarations, judged credible, issued at the examination of the asylum application before the Territorial Commission (Civil Court of Rome, decision of 10 June 2022.).

Netherlands: In its judgment of 26 January 2022 ([202006519/1/V1](#)), the Council of State set out a new integral assessment framework for proving identity and family ties in family reunification cases. (...) In its judgment of 26 January 2022 he Council of State set out a new assessment framework, entailing the following.

The Secretary of State can no longer differentiate between official and unofficial documents. All documents, regardless of their nature or status, must be included in the assessment. However, the Secretary of State may, with motivated reasons, assign a different probative value to the documents submitted and attach different importance to explanations given for the lack of documents. The Secretary of State has to make an integral assessment of all the documents submitted and statements made, and other relevant elements of the case like for example the age and gender of the family member and the administrative practice in the country of origin. The requirements set by the INS for the evidence provided, must be proportional to those elements. Unlike before, the INS has to make a motivated assessment whether there is reason to give the sponsor the benefit of the doubt. Like for example in a situation where there is only a beginning of evidence, but there are no contra-indications (like a false document) and other relevant elements are in favour of the sponsor. The interests of minor children play an important role in this. This means that unlike before, there is not only a right to further investigation if the applicant presents substantial indicative evidence or plausible explanations about the lack of documents. Additional research can also be offered if the benefit of the doubt principle gives rise to this. National policy was adapted to this judgement, and a new Work instruction has been published.

There are still issues in cases where the documents submitted are considered as most likely not real, not originally issued, not authentic, false or falsified. Documents are examined by the office of the immigration service specialised in document research, the Identity and Document Investigation Unit (“Bureau Documenten”).

In line with the new integral assessment, the negative outcome of document examination is taken into account as a contra-indication in the assessment of all elements. How much weight is given to this contra-indication depends upon, inter alia, the gradation of the conclusion of the Identity and Document Investigation Unit and the administrative practice in the country of origin. In principle, a false or falsified document heavily weights in detriment of the sponsor.

In Work instruction 2022/7 from 2 May 2022 is now included that proving family and identity ties is similar for the regular procedure when the sponsor holds an asylum residence permit. In Work instruction 2021/7 from 15 June 2022 is included that if beneficiaries of international protection submit a regular application for family reunification within the three-month time limit, they have to be exempted from the income requirement.

On 26 August 2022 the Secretary of State announced several measures in response to the reception crisis. (...) One of the temporary measures announced concerns family reunification, whose details have been included in the Information message 2022/90. The measure took effect on 3 October 2022. It entails that the INS will assess applications for family reunifications as usual and if all conditions are met, the application will be granted. If housing is available for family members, the decision will state that family members can make an appointment at the embassy to obtain their visa. If however, housing is not available, the INS will inform the sponsor of the decision that their family members will only be able to obtain their visa once housing will be available, or at the latest after six months of the date of the decision. The maximum waiting time from the



date of the application to actually issuing the visas is set at 15 months. The Secretary of State assumes an average processing time of nine months for the application (even though the legal decision period is of a maximum of six months) and a maximum of six months for issuing the visa after the positive decision. If in individual cases the 15-month time period elapses without suitable housing becoming available, the visa will be issued. The measure will apply until 31 December 2023 at the latest. After announcing this measure, several organisations pointed out that it was in violation of the Aliens Act, the Family Reunification Directive and the EU Charter of fundamental human rights. According to officials of the Ministry of Justice and Security, the legal tenability of the measure was not certain. On 5 December 2022, in a provisional ruling the Court in Haarlem established that the measure was incompatible with the Aliens Act and the Family Reunification Directive. On 22 and 23 December, in five cases different courts ruled that the measure was unlawful (Regional Court Haarlem, 22 December 2022, [ECLI:NL:RBDHA:2022:14102](#); Regional Court Middelburg, 22 December 2022, [ECLI:NL:RBDHA:2022:13902](#); Regional Court Haarlem, 22 December 2022, [ECLI:NL:RBDHA:2022:14104](#); Regional Court Arnhem, 23 December 2022, [NL22.20578](#); Regional Court Amsterdam, 23 December 2022, [ECLI:NL:RBDHA:2022:14097](#)). The Secretary of State appealed against two of these rulings. The Secretary of State asked the preliminary relief judge of the Council of State to suspend the judgments of the courts pending the final judgment on the family reunification measure, but said request was rejected. In both cases, the Court in the provisional proceedings found that the interest of the family members outweighs the interest of the Secretary of State not to implement the court rulings (Council of State, 29 December 2022, [ECLI:NL:RVS:2022:4004](#); Council of State, 29 December 2022, [ECLI:NL:RVS:2022:4003](#)). The rulings of the preliminary relief judge mean that the family members of the two sponsors in these cases can immediately obtain permission to enter the Netherlands for family reunification. In these provisional rulings, the Council of State has not yet issued a substantive, legal opinion on the family reunification measure.

In 2021, there were very long waiting periods to access consular services. Especially at the embassy in Beirut, where the waiting period for an appointment to collect a visa was around nine months. At the beginning of 2022, waiting periods were reduced considerably by the embassy, and similar issues were not registered for the rest of the year. Previously, interviews in Beirut could be conducted with family members that were registered in Lebanon before 2015. From autumn 2022 however, IOM started to conduct interviews also with family members that are not registered in Lebanon.

Poland: In 2022, there were 155 applications for family reunification and the positive decision was issued in 102 cases.

Portugal: In recent years, significant waiting times for appointments at SEF for the purposes of family reunification has been registered by CPR. Difficulties in this regard continued to be observed in 2022.

Romania: In Giurgiu, according to the director of the centre 10 applications were made and all were admitted. Timisoara: According to the director of Regional Centre Timisoara, there were 7 cases of family reunification in 2022 and they were admitted. In Galați around 50 applications were made, of which 40 were admitted and 4 rejected. One application was made by an unaccompanied minor. Rădăuți: 60 requests were lodged, of which 52 were admitted and 8 rejected. Șomcuta Mare: according to LADO/ASSOC, 9 requests for family reunification were submitted in 2022, of which 6 requests were admitted. It was also reported IGI-DAI does not request original documents, furthermore the family reunification form to be filled contains the following wording: “copies of personal documents”.

In Galați, it was reported that applications made by an unaccompanied are assessed slowly. There was a case of a child who applied for family reunification in July 2022 and until February 2023 she did not receive a decision. According to the director the procedure is initiated by the legal representative jointly with the NGO representative. In Rădăuți, the reunification procedure is triggered by the NGOs. In 2022, there were 6 applications made by unaccompanied minors, according to the director.



In Șomcuta Mare in 2021 the procedure was initiated by the unaccompanied minors, with the assistance of the legal representative, while in 2022 the procedure was initiated by the legal representative, according to LADO/ASSOC. Timisoara: the director of the centre reported that in 2022 there was a single unaccompanied minor and the request was filled by the legal representative.

Șomcuta Mare: According to LADO/ASSOC the average duration of the family reunification procedure is 90 days, and some family members arrive in 3 months other in 6 months later, depending on the country of origin and diplomatic relations between the countries. Rădăuți: according to the director the average duration of the family reunification procedure was 6 months. According to the legal counsellor the procedure was swift, maximum 1 month. Giurgiu: The procedure takes between 7-8 months until a decision is given, according to the director. Galați: In general, the procedure takes around 6-9 months and it depends on the case officers' workload. For unaccompanied minor the procedure lasts the same amount of time. According to the director of the centre the average duration of the procedure is 6 months. Family members may arrive in Romania between 2 months and 1 year, depending on the country of origin.

Sweden: In 2022, a total of 39,286 applications for residence permits based on family ties were lodged (of which 30,098 were first time applications). The Migration Agency issued a total of 34,589 decisions (of which 27,048 were first time applications), out of which 50% of the first-time applications and 89% of the subsequent applications were approved. By the end of the year, a total of 38,102 family reunification applications were pending (of which 32,526 were first time applications). Across all instances, a total of 2,143 residence permits were granted in family reunification cases where the person in Sweden was a former asylum seeker.

Sweden: In a precedent ruling, a case litigated by the Swedish Refugee Law Center, the Migration Court of Appeal found that when determining the age of the sponsor the relevant time should be the time of application of family reunification if the reference person is under 18 years when the application for family reunification is lodged., there shall be no condition that the application must be lodged within three months from the decision of residence permit for the reference person if the reference person is under 18 years at the time of application (the Migration Court of Appeal referred to the CJEU case C 133-19). Migration Court of Appeal, Decision MIG 2022:11, 8 December 2022, available in Swedish at: <https://bit.ly/3WAhx2c>

In addition to the precedent ruling mentioned above, it can be noted that the SMA issued a legal position in 2022 regarding the relevant time for determining the age of the applicant or the sponsor. According to the legal position, for a child who apply to a reunite with a parent in Sweden the relevant time is the time of application for family reunification, or, in cases when the application for family reunification is made within three months from when the parent was granted residence permit and protection status the relevant time is when the parent applied for asylum. For a parent who applies to reunite with a child in Sweden the relevant time for determining the age of the child/reference person is the time of application for family reunification, or, in cases when the child was under 18 years when applying for asylum but has turned 18 years at the time of application for family reunification, that child is still considered as a child if the application for family reunification was lodged within three months from the date the child was granted residence permit.

In a decision in December 2022, the Swedish Parliamentary Ombudsman criticised the SMA for long delays in the handling of a number of cases.

Switzerland: In November 2022, the Federal Administrative Court decided in a leading judgment, that for persons with a temporary admission, the statutory waiting period of three years is no longer strictly and automatically applicable. Applications for family reunification must already be examined after one and a half years if further waiting is disproportionate in individual cases. The judgment has immediate effect. The Federal Administrative Court adapted its case law to a ruling of the ECtHR. According to the ECtHR ruling, if the waiting period exceeds two years, the national authorities must assess each individual case to determine





whether a further delay in family reunification violates the right to respect for family life. In doing so, they must take into account in particular the intensity of the family relationship, the degree of integration already achieved in the host country, the existence of insurmountable obstacles to the family's life in the country of origin and the best interests of the child.

Travel documents

Germany: [Federal Administrative Court, Decision BVerwG 1 C 9.21, 11 October 2022](#). In October 2022 the Federal Administrative Court ruled that beneficiaries of subsidiary protection may not be required to sign a 'repentance statement' at the embassies of the country of origin in order to obtain a passport. If such a practice is adopted by the country of origin, the beneficiary cannot be reasonably expected to obtain a passport of the country of origin.

Poland: Beneficiaries of subsidiary protection are can apply for a Polish travel document for foreigners. The application for the document should be submitted to a Voivode having jurisdiction over the current place of stay of a foreigner and requires a fee of 350 PLN / 75 € (the amount has been significantly raised since 29 July 2022 from PLN 100). If a person concerned lost his/her Polish travel document or destroys it (and it is a culpable loss or destruction), he/she must pay PLN 700 (EUR 149) for a new one. If it happens again, he/she must pay PLN 1050 (EUR 223).

1,308 travel documents were issued to refugees; 304 travel documents were issued to beneficiaries of subsidiary protection.

Portugal: The refugee travel document consists of an electronic travel document, following the Refugee Convention format, which, since 2022, is valid for five years and renewable. In 2022, the issuance of the refugee travel document had a cost of €21.93.

Switzerland: Recognised refugees cannot travel to their home country or they might lose their refugee status. Since 1 April 2020, the Foreign Nationals and Integration Act (FNIA) also includes a provision prohibiting them to travel to neighbouring countries of their country of origin, when there is a justified suspicion that the ban on travel to the home country will be disregarded. This provision has entered in force but was still not implemented in January 2023. It allows the SEM to pronounce collective travel bans to certain neighbouring countries for all refugees coming from one specific country.

Housing

Austria: Number of beneficiaries receiving basic care as of December 2022: 11,655

Bulgaria: At the end of 2022, the number of beneficiaries staying in reception centres was 298.

Germany: Tense housing market for beneficiaries of international protection. In 2022 it became even more difficult to find apartments. The reasons are numerous. The general housing situation in Germany is very tense; according to a study, Germany will be lacking more than 700,000 apartments in 2023. According to the Heinrich Boeckler Foundation, the lack of low-cost units is even higher. Additionally, beneficiaries of international protection face discrimination on the regular job market or scepticism if the landlords hear that the rent is paid by the Social Welfare Office. Infomigrants has collected a series of reports on the current situation of housing for beneficiaries of international protection. As a consequence, it has been reported that many beneficiaries stay in collective accommodation centres for long periods. This can pose a problem for municipalities since it is not clear on which legal basis they are staying in those centres and which institution has to cover the costs.





Federal State of Bavaria: In 2022, 20.2% of persons living in collective accommodation centres in March 2022 were considered to be ‘false occupants’ (Fehlbeleger), which is the bureaucratic term for persons who are allowed to leave the centres, but have not found an apartment yet. Out of the 36,835 persons living in decentralised accommodation, 25.6 % are ‘false occupants’ (i.e. 9,429 persons).

Spain: The lack of social housing alternatives, the insufficient financial support allocated for rent expenses, high requirements and criteria in rental contracts and discrimination exposes many beneficiaries of protection to economic vulnerability and in some cases leads to destitution. Such challenges continue also in 2022. A report launched by the NGOs Provivienda and Andalucía Acoge underlines the obstacles and the discrimination that racialised persons face in accessing housing. It also indicates that access to housing in Spain is the field in which persons face more racial discrimination.

In March 2021, the Autonomous Community of Valencia created the Commission of Migration and Housing, with the aim of studying the problems faced by persons in situation of vulnerability, especially migrant and racialized population, to access housing in the Comunitat Valenciana. A report published in November 2022 by the same Commission, together with the organisation València Acull and the Observatorio del Hábitat y la Segregación Urbana (OHSU) underlines that the 86% of migrants in the Autonomous Community of Valencia faces problems in accessing a decent house, mainly due to rent prices and problems in the registration of the residency.

Hungary: In 2022, accessing the available solutions became even more difficult for the system being overburdened by the Ukrainian refugee flow.

Ireland: in practice, a significant number of individuals who have been granted status have been unable to move out of Direct Provision owing to a lack of available and affordable housing. The housing crisis in Ireland continues to exacerbate the situation. According to latest available figures, as of October 2022, approximately 4,625 people, with status remain in Direct Provision accommodation.

In January 2023, persons living at particular Direct Provision Centres, whereby points or vouchers are issued to residents to cover the cost associated with purchasing groceries, were advised by IPAS that any resident who had obtained international protection status or permission to remain in Ireland and remained living in IPAS accommodation for a period of 8 weeks or more, would have their points or vouchers revoked. Residents were advised that this new policy would be rolled out on a phased basis and persons affected would be provided with 8 weeks’ notice prior to their points being removed.

Italy: In contrast to the large-scale buildings provided in Governmental centres CPSA (former CARA and CDA) and CAS, according to official data from the SAI network, as of April 2022, SAI comprised of a total of 848 smaller-scale decentralised projects. The projects funded a total of 35,898 accommodation places.

in October 2022, against over 44,000 funded places within the SAI system, only 35,000 of them were available and even fewer, 33,000, were actually used.

Netherlands: In 2022, as in 2021, one third of the people entitled to receive reception by COA were beneficiaries of international protection (16,160).

At the end of 2022, the number of BIPs in reception centres decreased a little to and 16,160, this might be due to the measurements taken by the government to try to convince municipalities to keep up with their task to house BIPs. The government predicted that 13,500 BIPs needed to be housed in the second half of 2022. This was too low, which means that the number of BIPs that need to be housed in the first half of 2023 will be much higher. Moreover, the municipalities have a backlog of about 1,800 BIPs that need to be housed. Therefore, the government decided in August 2022 to urge municipalities to already start housing more BIPs, in order to ‘free up space’ in the reception centres (see for more information on the Housing system: Content





of International Protection; Housing) at the end of 2022. However, with the backlog of decision-making at the IND it could also be that there have been less decisions and therefore less BIPs in the reception centres.

Portugal: While CPR is not aware of systematic instances of homelessness among beneficiaries of international protection, housing continues to be an enormous challenge to the integration of both applicants and beneficiaries of international protection, namely due to high housing prices in the private market, and contractual demands such as high deposits, need of guarantors and proof of income. While these challenges tended to be more pressing in cities such as Lisbon, the problems have been expanding through the territory. Given the impact of the matter, in 2022, the SOG decided to include it in the agenda of all its extended line-up meetings. Throughout the year, this topic continued to be discussed in the extended line up of the group, and the creation of a specific sub-group to deal with housing is being considered.

The average length of stay in the centre has increased in recent years (no less than 8 months in 2022, compared to 4.5 months in 2019), namely due to challenges in accessing housing in the private market. These difficulties have also been compounded by rent increases and evictions of families that had already left the reception centre.

Romania: In Giurgiu, the director mentioned that during 2022, 5 beneficiaries of international protection were accommodated in the centre. Rent: summer, RON 248 / EUR 50; winter RON 387 / EUR 79
In Timisoara, the director of the regional centre reported that in 2022 only 6 (3 men and 3 women) beneficiaries were accommodated in the centre. Rent: summer RON 220 / EUR 44, winter RON 310 / EUR 63.
In Radauti, 174 beneficiaries were accommodated during 2022, rent summer RON 238 / EUR 49, winter RON 295 / EUR 60
In Galati, 154 beneficiaries were accommodated during 2022, rent in summer RON 330 / EUR 67, winter RON 480 / EUR 98.

Sweden: In 2022, a total of 11,529 persons were assigned to be received in municipalities throughout Sweden after receiving a residence permit, including 4,993 who were resettled, 2,017 who had been staying in reception centres, 2,145 who had been residing in accommodation that they had arranged themselves and 1,647 relatives and 727 “other”.

The average time between the granting of a permit and being settled in a municipality was 62 days in 2022, up from 56 days in 2021, and just above the two-month deadline for leaving Migration Agency accommodation. A total of 1,587 beneficiaries with residence permits were living in Migration Agency accommodation at the end of 2022, up from 415 in 2021. This significant increase in the number of beneficiaries staying in Migration Agency accommodation is most likely due to the increase in number of persons being granted residence permits in asylum cases.

Access to the labour market

Austria: A total of 327,308 persons were listed as unemployed or in training by the end of April 2022, which is 106,135 fewer than at the same time in 2021 or 24.5% fewer people.

Cyprus: Employers are not adequately familiarized with BIPs rights of full access to the labour market, which places an additional obstacle for beneficiaries to find a job. In order to address this gap, the Cyprus Refugee Council in collaboration with the UNHCR Representation in Cyprus has launched an online digital platform ‘HelpRefugeesWork’ that connects employers and training providers with beneficiaries and acts as an advocacy tool to familiarize employers with BIPs’ rights of full access to the labour market. Between 2018 and 2022, more than 900 International Protection Holders registered in the platform applied for jobs and received employment-related guidance and support, whereas more than 50 well-known businesses covering a wide spectrum of employment sectors have posted their positions.





In September 2020, the Department of Transportation issued a Circular/Guidance Note concerning the criteria and the procedures for obtaining or renewing a driving license in Cyprus. The circular established additional requirements for non-Cypriot citizens including BIPs, preventing their access to issuing or renewing driving licenses and as a result to accessing professions that require them. Also, the requirement of holding a valid residence permit excluded BIP who had their residence permit under issuance or renewal, a process which typically requires many months of waiting. (...) In May 2021, a new circular was issued, but it did not address the barriers for BIPs. (...) Throughout 2022 the issue remained unresolved.

Malta: As for 2022, JobsPlus indicated that it issued 248 employment licences for refugees and 963 for subsidiary protection holders.

Romania: Şomcuta Mare: LADO/ASSOC mentioned that there were no obstacles to finding a job as a beneficiary. but for many of them the language barrier is and remains a problem.

Galati: It was reported that several beneficiaries transferred their integration programme to Bucharest where there is a foreign community and a better job offer than in Galati. 50% of the beneficiaries leave Galati and head to Cluj, Bucharest and other cities and even to other countries. (...) They may face hurdles in finding a job because of lack of diplomas and knowledge of Romanian language; age was also an impediment for some beneficiaries. A beneficiary failed to obtain recognition of his diploma because the respective job does not exist in Romania. According to the director of the centre 14 beneficiaries were employed during 2022.

Giurgiu: According to the AIDRom representative, there are available jobs for beneficiaries. Moreover, they received support from AIDRom in finding a job. 7 beneficiaries were legally employed in 2022.

Galati: the JRS representative mentioned that requests for recognition of diplomas were submitted in 2022. All were solved positively, except the case where the job provided by the diploma does not exist in Romania. The average duration of the procedure is 45-120 days.

Switzerland: On 31 December 2022, 41% of refugees with asylum who were able to work were employed (compared to 40% in 2021). (...) On 31 December 2022, 47% of temporarily admitted persons able to work were employed in 2021).

Access to education

Austria: As of January 2023, all minors, including refugees and beneficiaries of subsidiary protection, are under the duty to attend either a higher school, to do an apprenticeship or to prepare for an apprenticeship through other courses (Ausbildungspflicht). The violation of the mandatory training is punishable since 18 January, 2023 with a fine ranging from 100 to 1,000 euros in repeated cases.

Cyprus: vocational training, In 2022 classes resumed with physical presence, but the participation of BIPs remains low for the above-mentioned reasons.

Spain: The recognition of diplomas and degrees in Spain has always been a challenge for migrants and refugees due to bureaucratic burdens, with waiting times ranging from 9 months to 2 years. A new law has been approved in October 2022, establishing the deadline of 6 months for the administration to decide on diploma recognition.

Greece: Moreover, L. 4957/2022 establishes the National Register of Recognized Higher Education Institutions of Foreign Countries and the National Register of Types of Degrees of Recognized Higher Education Institutions of Foreign Countries which includes extremely difficult conditions to be met by the refugees for the inclusion of their universities in it. These requirements are impossible to be met by the vast





majority of beneficiaries of international protection. Thus, most of them cannot continue their education in their field of studies.

Malta: Additionally, the Human Rights Directorate entered into an agreement with the Directorate for Research, Lifelong Learning and Employability to provide literacy courses in the Maltese and English languages from January to June 2022. The completion of these courses was intended to facilitate students' admission into the Stage 1 I Belong Programme.

Jobsplus, the Maltese Public Employment Service, administers an AMIF-funded project Employment Support Services for Migrants. The project aims to improve employment services for migrants by providing courses in basic Maltese, business English, cultural awareness, life skills and work ethics. An addendum was approved for a new initiative aimed at increasing participation in training activities. Thus, in the first quarter of 2022, a training grant of € 4.50 per hour was provided as an incentive to attract more participants for training.

Romania: in 2022, children were enrolled at school by the Romanian teacher of the organisation. Conversely the director of the centre reported that none of the children attended.

Galați: Children are enrolled at school from the moment they become asylum seekers. It was mentioned that the quality of the schooling exercise falls below standards because it does not consider the crucial steps of integration of beneficiaries in class cohorts. Some of the children complained that they were bullied by their peers. In one instance a 17-year-old was enrolled in first grade based on the fact that he had no Romanian language skills. In 2022 46 children beneficiaries of international protection were enrolled at school, according to the director of the centre.

Timișoara: The director of Timișoara centre reported that no children were enrolled at school in 2022.

Rădăuți: Children are enrolled at school during the asylum procedure. The legal counsellor reported that children were enrolled during the year, some of them attended the classes and refused to continue because they did not understand anything in class, and some did not attend because they did not want to or they left the country. According to the director of the centre 63 beneficiaries were enrolled at school in 2022.

Șomcuta Mare: LADO/ASSOC reported that in general there are no issues with the enrolment of children beneficiaries who are accommodated in the centre. However, for beneficiaries who live in Baia Mare or other similar localities, there are problems when enrolling at schools, due to the limited places in classes, especially due to the high number of Ukrainian minors (many of whom speak Romanian), who had priority. 5 children were enrolled at school in 2022.

Healthcare

Spain: In May 2022, the organisation CEAR and the Fundación Sanitas signed an agreement to provide comprehensive health assistance to refugees. Concretely, more than 75 refugees will be provided with mental healthcare, dental assistance and support for their emotional well-being.

Greece: Lastly a new Ministerial Decision that came into effect on 16 March 2022 provides that the prescription of medicines, therapeutic operations and diagnostic examinations for patients without health insurance will be possible, only by doctors of public hospitals and Primary Health Care structures. This Ministerial Decision will affect the vast majority of beneficiaries of international protection, since most of them do not have health insurance and will therefore no longer be able to visit private doctors .

Malta: Incidents of neglect have been reported to happen, including in 2022.

Portugal: According to CPR's experience within the provision of support to resettled refugees, access to healthcare by beneficiaries of international protection worsened within the context of the pandemic given the overburdening of healthcare services. These challenges continued to be registered in 2022. According to





the publicly available information, such difficulties are common to the whole population and not particular to refugees.

Social welfare

Cyprus: BIPs have a right to apply for financial aid through the national Guaranteed Minimum Income (GMI) scheme, which may include a rent allowance. However, in order to apply for the rent allowance a specific property must already have been contracted. In addition, rent deposits are not covered through the GMI scheme. Furthermore, throughout 2021 and in 2022 examination of GMI applications including the rental allowance reached or passed 12 months; even in cases of vulnerable persons or homeless persons it is rare the application is examined faster. During the examination period, an emergency allowance is provided which varies from district to district and is extremely low, at about €100-150 for one person per month and approximately €150-280 for a family per month. The amount cannot be determined in advance and depends on the amount that is provided to the Welfare Office every month by the Ministry of Labour, Welfare and Social Insurance. Furthermore, the examination of the emergency application takes approximately one to two weeks and is subject to the approval of the supervisor of the welfare office. The application is valid only for one month and must be submitted every month, until the decision for the GMI is issued. The delays in examination of GMI applications have a serious negative impact on living standards and integration efforts and in some instances lead to homelessness.

During 2022, complaints concerning the ability of BIPs to open/maintain an account, and as a result receiving GMI benefits, persisted, although at a lower rate compared to previous years. The main issues identified involve documents required by banks, (utility bills in the name of the applicant, rent contract signed by two Cypriot citizens, police record from country of origin, passport), significant delays in concluding the procedures, discrepancies in bank account opening policy between branches/officers, and the requirement for the applicant to speak good Greek/English.

Germany: Change in social welfare system: The legal framework on social benefits for German nationals as well as for beneficiaries of international protection was revised completely, with the new rules entering into force on 1 January 2023. By way of example, the amount of financial benefits has been lifted from 449 € to 502€ for single adults, 451€ for spouses, children between 14 and 17 years 420€ and children between six and thirteen 348€ and children under six years 318€. Additionally, grounds for penalties upon non-compliance with obligations to cooperate have been reduced and the amount of financial reserves and extra income next to the unemployment benefits has been raised.

In order to meet the late effects of the Covid-19 pandemic and inflation the Federal government further introduced several ad hoc measures. Children receive a monthly support of 20€ to facilitate social and financial participation, adults who received unemployment benefits in June 2022 received an additional sum of 200€ for July 2022.

Greece: Disability benefits: Beneficiaries of international protection with disabilities also face great difficulties in their efforts to access welfare benefits. First, they have to be examined by the Disability Accreditation Centre to assess whether their disability is at a level above 67%, in order to be eligible for the Severe Disability Allowance. Even if this is successfully done, there are often significant delays in the procedure. In January 2022, a technical error in the system did not allow the residence permit of beneficiaries of international protection to be examined by the Disability Accreditation Centre. However the problem was resolved at the end of 2022.

Ireland: The Pandemic Unemployment Payment initially closed to new applicants in July 2021. However, following the reintroduction of COVID-19 related public health restrictions, the payment reopened for a limited time in respect of persons who lost their job after 7 December 2021. Whereby an individual earned more than €400 per week, the rate payable under PUP is €350. Where an individual earned between €300





and €399.99, the rate payable is €300.00, where an individual earned between €200 and €299.99, the rate payable is €250, where an individual earned between €151.51 and €199.99, the rate payable is €208 per week and finally, where an individual earned less than €151.50 per week, the rate payable is €150. From January 2022, the welfare measure closed for the second time to new applicants.

Netherlands: Since 1 January 2022, a new Civic Integration Act entered into force. Part of this new system entails that beneficiaries of international protection will no longer be entitled to the social benefit during the first six months of their legal stay in a Dutch municipality. Instead, the municipality will pay their costs for housing, the energy bills and the healthcare insurance, as far as the social benefits reaches. The beneficiaries will receive the rest of the amount as an allowance, besides the additional benefits, provided by the Tax Office and the Social Security Bank. The goal of this system is to support refugees by their start in the Netherlands so they can focus more on their integration in Dutch society. Municipalities are encouraged to provide trainings about Dutch financial systems and budget coaching so beneficiaries become more financially self-sufficient during the six months.

Portugal: The Statistical Report of Asylum 2022 estimates that 49.6% of the beneficiaries of international protection in Portugal were autonomous from social (financial) support by the end of 2021.

Freedom of movement

Germany: In 2022 the legal framework for the obligatory place of residence has been slightly changed. New exception grounds for the obligation to take up a specific place of residence have been introduced. Accordingly, beneficiaries of international protection may be exempted from the obligation if their participation in an integration course or other qualification measures requires them to move somewhere else. Additionally, for the lifting of the obligation it is now sufficient that the beneficiaries are able to cover the 'overwhelming part' of the cost of living, whereas before beneficiaries had to cover all the living costs.

A brief analysis of the impact of the residence rule was published in January 2020. The main findings of this analysis are:

- Refugees who are subject to the residence rule are less likely to be employed;
- Refugees who are subject to the residence rule are less likely to live in private accommodation (as opposed to collective accommodation);
- It could not be ascertained whether the residence rule had a positive or negative impact on refugees' German language skills or on their (successful) participation in integration courses.

An independent study from 'Paritaetischer Gesamtverband' from 2022 confirmed these findings. In the study, the obligation has been highly criticised as standing in contrast to the aim of facilitating integration. E.g. access to the job market, access to regular housing and protection for victims of violence is heavily impeded by the obligation.

Ireland: In July 2022, the State suspended for a period of 12 months visa-free entry for individuals with refugee status traveling on Convention Travel Documents from 20 so-called 'safe' European countries. Previously, pursuant to the European Agreement on the Abolition of Visas for Refugees, those with refugee status could travel to and within Ireland for up to 90 days without requiring a visa or prior clearance. Following the suspension, those seeking to travel to Ireland are now required to apply for a visa in order to enter Ireland, facing processing times of approximately 8-14 weeks. The measure has been implemented with a view to protecting the 'integrity' of the immigration system, according to the government, who cited an increase in those who had already received refugee status in another European country travelling to Ireland applying for asylum. According to statistics released by the Department of Justice, 479 such applications were made, representing 7% of the overall applications for international protection during that period.





Integration

Austria: The integration sector in 2022 was marked by a sharp increase in the number of asylum seekers and beneficiaries of subsidiary protection, as well as a large number of Ukrainian displaced persons seeking protection in Austria: the Austrian Integration Fund (ÖIF) responded to the changed framework conditions with appropriate offers. In 2022, the ÖIF's integration centres reported over 250,000 counselling contacts throughout Austria, with around 11,200 individuals taking part in the values and orientation courses. Furthermore, in 2022, more than 66,000 German course spots were available throughout Austria.

According to current evaluations, the level of literacy among asylum and subsidiary protection beneficiaries continues to decline: 7 out of 10 people who received asylum or subsidiary protection in Austria in 2022 and took a German course under the Integration Act had a literacy need: roughly half of them (52%), and the other half (48%) had not learned to read and write in their native language. Literacy needs remained at 48% in 2019. The ÖIF responded by increasing literacy course seats (+79% over 2021) and implementing a package of actions to encourage the supply of appropriate courses.

However, there has been some public debate on the definition of literacy. Experts believe that 7 out of 10 is an exaggerated number and the challenge is being unintentionally "inflated". Second language learners are not illiterate as they come to Austria. They are only supposed to learn a new and different writing system, which is not their native.

Bulgaria: Since 2013 and up to 2022, Bulgaria followed a "zero integration policy". The first National Programme for the Integration of Refugees (NPIR) was adopted and applied until the end of 2013, but since then all beneficiaries of international protection have been left without any integration support. This resulted in extremely limited access or ability by these individuals to enjoy even the most basic social, labour and health rights, while their willingness to permanently settle in Bulgaria was reported to have decreased to a minimum. In 2022, 45% of asylum applicants abandoned their status determination procedures in Bulgaria, which were thus subsequently terminated. In comparison, this percentage was 25% in 2021, 39% in 2020, 86% in 2019, and 79% in 2018.

Belgium: In Belgium, a civic integration trajectory is in place for newcomers. Recently, a new Flemish decree altering the 2013 decree on Flemish integration and civic integration policy was announced and partly implemented. All persons belonging to the civic integration target group are entitled to the programme, but for some – such as recognised refugees and persons having received subsidiary protection – it is mandatory. The new decree stipulates that from 1 January 2022, applicants for international protection will not be able to follow the trajectory until they are officially recognized a protection status.

With the new decree, a third pillar (employment services) has been added to the first (social orientation) and second (Dutch language courses). A fourth pillar was added through the new decree, namely: the participation in a network trajectory of 40 hours. This pillar aims at extending the newcomer's social network, as to increase their chances of integration in the local society. This fourth pillar has not been implemented so far, and will be in a testing phase until 30 June 2022.

Spain: Asylum seekers, refugees and migrants in Spain continue to suffer from financial exclusion and discrimination, because of the challenges often faced while trying to open bank accounts. In February 2022, different organisations urged the Government and the Bank of Spain (Banco de España) to adopt urgent measures to make banking institutions comply with the law and to end a practice that impede the financial and social inclusion of asylum seekers, refugees and migrants.

In 2022, within the project 'Don't call out, claim' (No clames, reclama!), the Federation of Consumers and Users (Federación de Consumidores y Usuarios – CECU) published a practical guide for vulnerable users (including asylum seekers) on their rights regarding the opening of a bank account. The document is available in Spanish, English, French and Arabic.





France: In 2022, a call for proposals was launched by the authorities to establish in many part of the country a program called AGIR, allowing global and individualized support for refugees during 24 months. These schemes, which are inspired by already existing schemes (such as the Accelair program of Refugee Forum) are not yet implemented at the start of 2023. More information : <https://www.immigration.interieur.gouv.fr/Integration-et-Acces-a-la-nationalite/AGIR-pour-l-emploi-et-le-logement-des-personnes-refugiees>

Croatia: A new Integration Action Plan was not adopted in 2022, even if the previous Integration Action Plan expired at the end of 2019.

Romania: In 2022, 74 beneficiaries were enrolled in the integration programme in Timisoara and 22 were excluded, according to the director and 34 continued the programme from the year before. In Giurgiu, 28 beneficiaries were enrolled and 34 excluded, while 41 continued their integration programme from 2021. Only 15 beneficiaries finalised the 1-year integration programme in 2022. In Galati 66 beneficiaries were included in the integration programme, one continued the programme from 2020 and 98 were excluded. In Radauti 107 were enrolled and 83 continued the integration programme from 2021.

13. Return of former applicants for international protection

ECRE Policy Note: In December 2022, ECRE published a Policy Note assessing current return monitoring initiatives. It finds that the current monitoring of return processes in the EU is not adequate, and is scattered across different institutions and stakeholders. There is no specific, independent monitoring framework to report on fundamental rights compliance by Member States that covers pre-return, the return process as well as follow-up in and with the country of return.

See: ECRE, Policy Note 42, ECRE Policy Note: Monitoring the implementation of returns: a complex puzzle with missing pieces, December 2022, available at: <https://ecre.org/wp-content/uploads/2022/12/Policy-Note-42.pdf>

Austria: In 2022, return decisions have been issued in single cases but no deportations to Afghanistan have taken place or have been planned.

Belgium: The previous Secretary of State declared, in its general policy note in November 2021, the intention to create more places in the return houses. The plan to double places in return houses was then repeated on a blog post of the current Secretary of State in December 2022. Until now, no independent evaluation of the conditions of such facilities has been carried out, although NGOs have urged for it.

Cyprus: Since November 2020 decisions on asylum applications include a decision of return. However, in 2020 and 2021, limited actions/practical measures were taken to implement and/or enforce the return decisions. In 2021, 12,544 new applications were submitted, 14,868 negative decisions issued at first instance and, according to the Police, just over 2,000 persons were returned to their countries of origin. In 2022, 20,593 applications were submitted, 8,178 negative decisions issued at first instance and according to media reports app. 7000 persons were returned, mostly voluntarily.

Germany: As of March 2022, the Federal Government declared that it currently sees no possibilities for removals to Syria and that no such removals were taking place.

Greece: Although the number of persons detained during the past few years has significantly increased in proportion to the number of the arrivals, this has not been mirrored by a corresponding increase in the number of forced returns. 24,058 detention orders were issued in 2022 compared to 20,219 in 2021. The





number of forced returns decreased to 2,763 on 2022 from 3,276 in 2021. It is also to be mentioned that out of the 2,763 detainees who were forcibly returned, 2,022 were Albanian nationals. These findings corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to return.

Hungary: Gov. decree 570/2020. (XII. 9.) whose Section 5 removed the possibility to ask for interim measures in order to prevent expulsion in case of violation of epidemic rules or when expulsion is ordered based on the risk to national security or public order is no longer in force since June 2022. This provision had serious consequences for people who had been expelled prior to submitting their asylum application, as in case their asylum application was rejected in an accelerated procedure or admissibility procedure, the appeal did not have a suspensive effect and even if it was requested, it did not suspend the expulsion that was ordered prior to the asylum procedure.

Ireland: In July 2022, the Department of Justice confirmed that deportations would resume following the lifting of public health restrictions associated with the pandemic and the resumption of international travel. The total number of deportations effected throughout 2022 by the Department of Justice in respect of unsuccessful international protection applicants was 54 , while 174 deportation orders were issued by the Department in 2022 up to the 21st of October 2022.

Netherlands: Unaccompanied minors: In the case of TQ (C-441/19) of 14 January 2021, the CJEU ruled that a Member State must ascertain - before adopting a return decision - that an unaccompanied minor will have access to adequate reception facilities upon return.

(...) The Council of State published its ruling on this onward appeal on 8 June 2022 (Council of State, [ECLI:NL:RVS:2022:1530](#), 8 June 2022). The Council of State established that there are three possible situations for unaccompanied minors who do not qualify for an asylum permit:

1. There is adequate reception in the country of return. A return decision is issued.
2. There is no adequate reception. The unaccompanied minor must be granted a residence permit on national grounds.
3. Further research is needed. The unaccompanied minor will receive a rejection on the merit of the asylum claim; the decision also includes an explanation as to why extra time is needed to investigate adequate reception and how long the investigation will take. The asylum decision and the return decision are therefore separated. In this situation, the unaccompanied minor retains lawful residence on the basis of Article 8, preamble and under f, Aliens Act. The investigation can lead to two conclusions: either there is adequate reception, so that a return decision can be issued, or there is no adequate reception and the unaccompanied minor receives a residence permit on national grounds. The unaccompanied minor can appeal the decision stating that further research is needed. The Council of State further rules that the fact that the applicant is not a minor anymore does not mean that the Secretary of State can refrain from investigating whether they should have been granted a permit based on national grounds.

Netherlands: On 14 November 2022, the Council of State ruled that there is a reasonable prospect of removal to Morocco, after having been ruled out since 2 April 2021 (Action Plan Netherlands-Morocco, 8 July 2021, available in Dutch at: <https://bit.ly/3v1WfV>). The Council of State considered that a reasonable prospect of removal can be envisioned due to a political process between the Netherlands and Morocco that was expressed in an Action Plan made public on 29 November 2022. One of the agreed statements is as followed: 'Both countries are bound to respect each other's sovereignty and institutions and not to interfere in internal affairs.' According to Moroccan experts interviewed by the newspaper NRC, the Action Plan shows that the Netherlands will no longer openly criticize the human rights situation in Morocco in exchange for being able to deport and detain Moroccan nationals.

According to the Court, there is instead still no reasonable prospect of removal towards Algeria (ECLI:NL:RVS:2022:1276, 4 May 2022).





Sweden: The new Swedish government, following the general election in September 2022, has proposed that employees that come in contact with persons that live in Sweden with an expulsion order that has gained legal force should report these persons to the police or the Migration Agency. Critics point out that this is not in accordance with the health care ethics and could risk that persons in need of health care wait even longer before contacting a health care provider and could by that be even sicker when getting the medical examination.

According to the December 2022 legal position, if a woman or a girl has received an expulsion decision, the situation in Afghanistan mentioned above is to be considered a new circumstance according to the rules regarding impediments to enforced return. If it is not deemed possible to grant a residence permit in accordance with Chapter 12, Section 18 of the Aliens Act, the case shall be re-examined in accordance with Chapter 12, Section 19 of the Aliens Act since it can be assumed that the Taliban regime's approach to women and girls and the generally worsening situation constitute such permanent obstacles to enforcement as referred to in Chapter 12, Sections 1-3 of the Aliens Act.

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

Bulgaria: As regards resettlement, the government decided to resettle 100 Syrians from Türkiye on 29 March 2017, based on the arrangements outlined in the 2016 EU-Türkiye deal. Up until 31 December 2022, Bulgaria has resettled a total of 85 Syrian nationals from Türkiye with no new resettlements implemented in 2022.

Germany: Whereas in previous years, all resettlement refugees were first housed in the reception centre of Friedland (Lower Saxony), the resettlement guidelines for 2022 foresee housing in Friedland as well as Doberlug-Kirchhain (Brandenburg) or other facilities made available by Federal States.

Spain: In May 2022, 201 Syrian refugees were transferred to Spain from Lebanon, of which 95 were women, 21 men and 85 children.

Netherlands: In 2022, 717 refugees were resettled in the Netherlands, of which 437 came from Syria. After arriving in the Netherlands, resettled refugees formally lodge an asylum application at the application centre at Schiphol Airport. They will go through a three-day registration procedure and will be granted a temporary asylum residence permit.

On 9 December 2021, 15 EU Member States pledged 40,000 resettlement places for Afghan nationals by the end of 2022. Out of this number, the Dutch government agreed to resettle 3,159 Afghans. At the moment of writing, it is unclear whether evacuees will be considered as part of the number of Afghan nationals resettled or not.

On 26 August 2022, the Secretary of State announced several measures to address the reception crisis, often referred to as the 'asylum deal'. The most important measures are (...) temporary cancellation of resettlement of refugees under the EU-Türkiye deal (...)

Portugal: In 2022, CAR 2 accommodated a total of 173 persons, the majority of whom resettled refugees and Afghan asylum seekers evacuated to Portugal. The facility was also part of CPR's response to spontaneous asylum seekers in case of emergency, beneficiaries of temporary protection and ad hoc relocation (rescue operations in the Mediterranean).





Romania: According to Government Decision no. 1596/2008 on the resettlement of refugees in Romania, the resettlement quota set for the period 2022-2023 is 200 refugees in need of resettlement.

Sweden: The Migration Agency resettled 3,744 refugees in 2022, in comparison to 6,411 refugees in 2021, and 3,599 refugees in 2020. The Swedish Government has decided to reduce the number of resettled refugees to 900 for the year 2023.

Switzerland: On 19 May 2021, the Federal Council approved the admission of up to 1,600 particularly vulnerable refugees for 2022/23. In December 2022, the Swiss government has announced a temporary halt to the resettlement program. The government claimed that there were no more capacities to take more people in.

Concerning resettlement, the Federal Council decided to resettle 1,600 particularly vulnerable recognised refugees for the years 2020-2021, mainly victims of the Syrian conflict. In 2022, 436 refugees from Syria were resettled to Switzerland (compared to 1,009 in 2019, 512 in 2020 and 434 in 2021).

Humanitarian Admission Programmes

Germany: 2021 evacuations and admission scheme for local staff. As of 17 October 2022, according to the Federal Government 38,100 persons had been issued a permission for admission to Germany (out of which 24,500 were former employees and eligible family members, and 13,600 were especially vulnerable persons and their eligible family members). Around 26,000 of these (68.2 %) persons had entered Germany up until that time. The admission scheme for local staff will continue in parallel to the new humanitarian admission scheme announced on 17 October 2022.

Humanitarian admission programme for Afghan nationals: On 17 October 2022, the Federal Government launched an additional federal admissions programme, (...) geared towards persons who 'have exposed themselves to particular risk through their commitment to women's and human rights or their work in the spheres of justice, politics, the media, education, culture, sport or academia and are thus vulnerable' or 'due to the special circumstances of their individual cases have experienced or are experiencing violence or persecution based on their gender, sexual orientation or gender identity or religion and are therefore at concrete and personal risk. In particular, these are victims of serious individual women's rights violations, homo- or transphobic human rights violations or vulnerable representatives of religious groups/communities.' The admission programme includes family members of those persons, which includes spouses or same sex partners, minor children and other family members who can prove a relation of dependency (beyond economic dependency) with the main person and find themselves in a situation of concrete and lasting danger due to the work or vulnerability of the main person. The German government appoints agencies (including civil society organisations) who can put forward names of suitable persons, who must still be living in Afghanistan, via an IT application containing a questionnaire of a total of 41 pages. The names of these organisations are not made public by the government, but according to a press report, PRO ASYL, Reporters without Borders, Mission Lifeline and Luftbrücke Kabul are taking part in the programme as of 20 December 2022.

The Government then takes the admission decision based on selection criteria that include vulnerability (in line with the UNHCR catalogue of criteria), relation to Germany e. g. through language skills, family ties, previous stays or work for German authorities or projects, level of personal exposure of the person e. g. through a visible / exposed position or public statements, and a special political interest on the side of Germany to admit a person. As with the previous admission programme, selected persons first receive assistance to leave Afghanistan and enter a neighbouring country and are then issued a visa and travel assistance by the German embassy in that country. Persons who enter Germany under the programme receive a residence permit for three years. The Federal State responsible for reception of the persons is to be





determined according to the quota system for the distribution of asylum seekers (see Registration of the asylum application), although family ties and other ‘criteria supporting integration’ are to be taken into account.

When announcing the programme, the Federal Government declared that ‘the new programme is now to be implemented quickly’ and that it planned to approve around 1,000 requests per month, which is about the amount of permissions granted in the months preceding the announcement. The programme is planned to run until the end of the current government’s term in 2025. As of January 2023, no information was available as to the number of persons selected for admission or admitted. The first round of selection was reported to have taken place just before Christmas in 2022. According to a press report, the NGOs Mission Lifeline and Luftbrücke Kabul alone have received around 32,000 requests as of early November 2022.

The Left party and NGOs such as PRO ASYL welcomed the launch of the programme but criticised that 1,000 admissions per month was too low given the ‘real pressure of persecution’ for ‘people who have fought for democracy and human rights’. PRO ASYL further criticised that the relatively abstract selection criteria could lead to an ‘ethically highly ambivalent protection lottery’ especially in connection with the fact that only authorised agencies could put forward people and that the application is through an algorithm-based IT application with little room to put forward specific individual circumstances. The NGO Kabul Luftbrücke reported problems with the IT application in October and November, leading to delays in sending the online forms to authorities. A further point of critique is that the programme does not extend to persons who have managed to flee Afghanistan. Several NGOs also voiced concerns over the practical implementation, demanding a better staffing of the counselling and coordination centres for the programme and questioning the ‘organization and content’ of the procedure, especially given that it is required to have a passport in order to leave the country while obtaining one is made extremely difficult by the Taliban government.

In addition to the Federal Government, several Federal States have announced plans for admission programmes based on family ties to Afghans living in the respective Federal States (for more information see Family reunification).

In 2019, the German government introduced an additional private sponsorship programme in the form of a pilot scheme with 500 additional places. In the programme called “Neustart im Team (NeST)” groups of at least four persons commit to accompany and support resettled refugees for at least one year and to pay for their rent during two years. This was lowered to one year on 1 July 2022. The Federal government decided to make the programme permanent from 1 January 2023, with 200 places available per year. The conditions were slightly changed: groups of four people can apply to be sponsors; and in contrast to the pilot phase, they only need to pay rent (without electricity, water and heating) for one year.

Ireland: as of the 28th of November 2022, the Irish government had provided visa waivers to approximately 600 persons fleeing Afghanistan, with the first group of evacuated refugees arriving in August 2021. A total of 142 join family visas and 104 family reunification applications were also approved.

In September 2021, the Irish Government also approved the introduction of the Afghan Admissions Programme. While welcoming the introduction of the programme, the Irish Refugee Council, along with several other migrant rights organisations, highlighted various points of concern, including the limited number of places available and the restrictive eligibility criteria. The programme opened for applications on the 16th of December 2021 and closed on the 11th of March 2022. There was a total of 528 applications and as of 28th of November 2022, just 22 applications had been approved, despite the deteriorating security situation in Afghanistan.

Throughout 2022, the Irish Refugee Council engaged with 14 community sponsorship groups, providing training on best practices for community sponsorship. A further 7 workshops were organised for refugee-hosting communities in order to share information and resources. A total of 38 refugees were welcomed by 8 community sponsorship groups across the country.





Italy: In consideration of specific humanitarian crisis, such as the one existing in Afghanistan in 2021, the Italian Government implemented the so called “humanitarian corridors”, subscribing agreements both with international organisations such as UNHCR and IOM and NGOs, in order to consent to allow a certain amount of people in need of protection to legally access to the country.

Such measure is however is not regulated by law, but only by Protocols created between the Minister of Interior, the Ministry of Foreigners affair and selected organizations, to which the Ministry delegates operations and the power to select the applicants that will be admitted.

No official procedure for applicants to follow in order to be selected for the corridors is established, nor is there a procedure to challenge the non-admission to the list.

For what concern Afghanistan, the protocol signed in November 2021, destined to the admission of 1,200 people, was not yet implemented in spring 2022.

On 23 April 2021 a similar protocol was signed with the Community of Sant’Egidio, the Waldensian table and the Federation of Evangelical Churches for the arrival of 500 people from Libya. As of March 2022, 99 persons arrived in Italy through this procedure, and 93 more arrived by November 2021.

In 2021 humanitarian corridors to admit 1,000 refugees hosted in Lebanon were renewed.

The ones from Jordan, Niger and Ethiopia will be concluded as of May 2022. According to information collected by Asgi, at the time of writing, of the 600 people admitted to access the corridors, 530 were actually included in the programme and arrived in Italy.

Evacuations from Afghanistan

Spain: In August 2022, Spain evacuated almost 300 Afghans who had collaborated with the Ministries of Defence and of Foreign Affairs. Between August 2021 and 2022, the Government evacuated 3,900 former Afghan collaborators, and the Minister of Foreign Affairs announced more evacuation operations to come. According to available information, one third of the Afghans who reached Spain were out of the asylum reception system after one year, and around 700 Afghans evacuated to Spain moved to other EU countries (mainly Germany) to reach their family or friends.

At the end of 2022, a group of 27 Afghan female public prosecutors’ arrived to Spain from Pakistan together with their families, in an action coordinated by the Spanish Minister of External Affairs and thanks to the initiative of a group of Spanish judges and public prosecutors.

Netherlands: (...) On 20 January 2022, with Pakistan’s support, 35 people were made to cross the land border and will receive a visa and plane ticket for the Netherlands at the Dutch embassy in Pakistan, but this was a rare exception.

The most recent evacuation flight destined to for the Netherlands was on 3 December 2021. On 12 December 2021, a message appeared that the Taliban suspended cooperation on evacuation flights. Regardless, on 27 January 2022 evacuation flights to Qatar were resumed. From 26 Augustus 2021 to 6 December 2022, a total of 2,591 people were evacuated from Afghanistan to the Netherlands. 156 persons were still considered for evacuation to the Netherlands, but this is their transfer was deemed exceedingly- very difficult due to (most of) them not possessing a valid travel document.

15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

Cyprus: In 2022, relocation initiatives were announced by Germany and France by utilizing the new EU temporary solidarity mechanism. Germany has announced that 500 refugees will be relocated from Cyprus and in December 2022, the first relocations of 48 Syrian and Afghan refugees from Cyprus to Germany took place.





Germany: In 2022, admissions for persons rescued at sea continue on a case-by-case basis. As of May 2022, a total of 936 persons were admitted since the summer of 2018. In August 2022, Germany pledged to admit 3,500 persons from Italy under the new EU Solidarity mechanism initiated by the French Council presidency. No information is available as to how many persons were admitted to Germany through this mechanism in 2022.

Malta: On 22 June 2022, Member States agreed to start implementing a voluntary solidarity mechanism by offering relocations, financial contributions and other measures of support to Member States in need however it is unknown if it affected Malta in any way. (...) In 2022, IOM facilitated the relocation of 14 asylum-seekers as part of a project financed by the EU Commission and Malta.

16. National jurisprudence on international protection in 2021 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

General

The **European Database of Asylum Law (EDAL)** is an online database, managed by the European Council on Refugees and Exiles (ECRE) and containing case law from 22 European states interpreting refugee and asylum law as well as from the CJEU and ECtHR. EDAL summarises relevant case law in English and the Member State's national language and provides a link to, and/or pdf. of the full text of the original judgment where available.

EDAL is searchable in English and the original language of the decision. The website interface is available in English only. The case summaries are searchable by a free text / full text search, as well as by keyword, applicable legal provisions, country of decision, country of applicant and date.

- EDAL is available at: <https://www.asylumlawdatabase.eu/en>

Moreover, the **ELENA Weekly Legal Update (WLU)** provides information about important recent developments in international and European asylum law. The update covers the asylum-related judgments of the European Courts and domestic case law as well as asylum legal news from across Europe.

- EWLW is available at: <https://www.ecre.org/our-work/elena/weekly-legal-updates/>

Thus, the national jurisprudence which is provided below is strictly limited to selected cases documented through AIDA. For a more comprehensive, detailed and up-to date overview of national jurisprudence on international protection in 2022, **EDAL and the EWLW should be consulted.**

Access to territory

Austria: In July 2021 the Regional Administrative Court of Styria issued a landmark decision concerning a case of a Moroccan national living in Bosnia. (...) The Court concluded that the policemen "overheard" the asylum application, i.e. they did not carry out a proper interview; the body search resulted in inhuman treatment and the rejection to Slovenia was unlawful. In the statement of facts, the Court stated that push-backs are "partly applied as a method in Austria." (...) In July 2021, a Somali minor was also unlawfully returned to Slovenia on the basis of that readmission agreement, despite the fact that he had articulated the words "asylum" various times when talking to police officers. In February 2022, the Regional Administrative Court of Styria decided that the police measures taken were unlawful and resulted in an illegal push back.

In both cases, the revision by the Regional Police Directorate Styria to the High Administrative Court were rejected in May 2022 (VwGH Ra 2021/21/0274-6, 5 May 2022; VwGH Ra 2022/21/0074-6, 19 May 2022 available in German at: <https://bit.ly/3miz1nc>).





Poland: As a result of litigation before domestic courts, two controversial legal amendments from 2021, legalizing push backs were put into question.

The Voivodeship Administrative Court in Warsaw, in four judgments, revoked orders to leave Poland issued by the Border Guard Commander on the basis of the amendments of the Law on Foreigners, which entered into force on 26 October 2021. In all four cases, the foreigners were intercepted shortly after crossing the border from Belarus. The court assessed that because of improperly collected evidence, it was impossible to determine whether the foreigners expressed a wish to apply for international protection in Poland. The court pointed out that only properly conducted proceedings can guarantee compliance with the principle of non-refoulement and obligations under the UN Refugee Convention, the EU asylum acquis, and the European Convention on Human Rights (Judgment of the Provincial Administrative Court in Warsaw no IV SA/Wa 420/22 of 26 April 2022, judgement no IV SA/Wa 471/22 of 27 April 2022, judgment no. IV SA/Wa 615/22 of 20 May 2022; judgment no IV SA/Wa 772/22 of 27 May 2022, see: <https://hfhr.pl/upload/2022/12/hfhr-legal-brief-on-push-back-judgements-eng.pdf>).

In another three cases, the Provincial Administrative Court in Bialystok held that the Border Guard's action of escorting foreigners to the border with Belarus under the provisions of the Ministry of Interior's Regulation adopted in August 2021 was ineffective. As the Court pointed out, after the Border Guard officers discovered the illegal crossing of the Polish border (which is also the external border of the EU), they should have - depending on the situation - either initiated proceedings to oblige the applicant to return or allowed the applicants to formally apply for international protection as soon as possible. At the same time, the Court, in its judgments, held that the Regulation was issued in excess of statutory authority and, as such, should not be applied. This is because the Minister can only restrict or suspend traffic at border crossings but does not have the authority to regulate the situation of people who have crossed the borders outside the territorial scope of a border crossing. (Judgments of the Provincial Administrative Court in Bialystok no II SA/Bk 492/22, 493/22 and 494/22, all from 15 September 2022, see: <https://hfhr.pl/upload/2022/12/hfhr-legal-brief-on-push-back-judgements-eng.pdf>).

In another judgment, delivered as a result of a complaint filed by the Polish Ombudsman, the Voivodeship Administrative Court in Bialystok overturned the appealed decision to leave the Republic of Poland, which resulted in the return of an unaccompanied minor of Syrian citizenship from Poland to Belarus. According to the Court, it did not appear from the apprehension protocol of the minor foreigner and the accompanying foreign adult that they were informed of the possibility of filing an application for international protection, as would be required by respect for the principle of non-refoulement. The case file also does not show that the foreigners were heard before being returned to Belarus. In the Court's view, the case was not properly investigated, and, moreover, the appropriate procedures related to the appointment of a guardian and other guarantees enjoyed by unaccompanied minors were not applied. The Court found that the case involved a collective expulsion in violation of Article 4 of Protocol 4 of the European Convention on Human Rights (Judgement of the Voivodeship Administrative Court in Bialystok, no II SA/Bk 558/22 of 27 October 2022).

Poland (ECRE Fact-finding visit): On 28 March 2022, the district court in Hajnówka in Poland [ruled](#), at first instance, that the detention upon apprehension at the border of three Afghani nationals by the Border Guard was unlawful and unjustified; for these cases, the Court further established that the appellants were returned to Belarus without a proper assessment of their protection needs.

On 15 September 2022, the Voivodeship Administrative Court in Białystok issued a judgment – reiterated in two subsequent decisions - establishing that, in the individual cases examined, there had been a violation of the Polish Constitution, of Protocol IV to the ECHR, and the Geneva Convention in implementing the Regulation that allows the Border Guard to turn people back without examining their protection needs if apprehended while irregularly trying to cross the borders. Additionally, the Court affirmed that the Regulation is not compliant with the Foreigners Act. The Ombudsman has filed complaints in all three cases. Further similar judgements were issued in recent months. [...]The Court stated that the Border Guard





should present more detailed reasoning on individuals' lack of protection needs and should better present the assessment of the lack of risk of refoulement. (Voivodship Administrative Court in Białystok, II SA/Bk 492/22 - Wyrok WSA w Białymstoku, 15 September 2022, available at: <http://bit.ly/3XWvybq>; II SA/Bk 493/22 - Wyrok WSA w Białymstoku, 15 September 2022, available at: <http://bit.ly/3Wzt2XC>; I SA/Bk 494/22 - Wyrok WSA w Białymstoku, 15 September 2022, available at: <http://bit.ly/3H8XsKw>).

Dublin procedure

Austria: The High Administrative Court ruled in December 2022 concerning the responsibility of a state for family member. Article 9 of the Dublin III Regulation, Chapter III contains a special jurisdiction for family members who are beneficiaries of international protection. If the applicant has a family member - regardless of whether the family already existed in the country of origin - who is a beneficiary of international protection and has the right to reside in a Member State, that Member State is responsible for examining the application for international protection, provided that the persons concerned express this wish in writing. This regulation not only allows the persons concerned (the applicant and the beneficiaries of international protection) to have a say, but gives them the power to decide whether they want to be reunited. This rules out the possibility that people are brought together against their will. The applicant must be informed of the requirement for such declarations within the framework of his right to information (cf. Art. 4 Para. 1 lit. b and c Dublin III Regulation) and, in the event of such a request by the applicant, the beneficiaries of the international protection to verify that they agree to a reunification. (VwGH Decision, 15.12.2022, [Ra 2022/18/0182](#)).

Cyprus: Regarding the criteria concerned for outgoing take charge cases, 381 requests sent (90 regular humanitarian cases, 291 relocations) and 299 requests accepted (27 regular humanitarian cases, 272 relocations) concerned the take charge humanitarian clause of article 17(2).

Germany: [Administrative Court Düsseldorf, Decision of 12 July 2022, 12 L 1284/22.A](#). In July 2022, the administrative court of Düsseldorf clarified that if the BAMF fails to issue a 'take charge' request within 3 months of the registration (2 months in case of a Eurodac hit), it becomes responsible for processing the asylum application.

Suspension of Dublin transfers

Austria: In 2022, the Constitutional Court disagreed with a decision by BVwGn in the second instance court found a planned transfer of a Syrian national to Malta admissible. The Syrian national claimed that he would be put in detention upon return to Malta and that the conditions in detention in Malta would violate his rights guaranteed by Art 2, 3 ECHR. The BVwG did not assess the situation in detention in Malta and ignored the deterioration following the Covid-19 situation in Malta. VfGH, Decision [E622/2022](#), 20 September 2022.

Germany: [Federal Administrative Court, 1 B 66.21, 27 January 2022](#). In 2021, the BAMF sought to appeal a decision of the Higher Administrative Court of North Rhine Westphalia in July 2021, halting the transfer of a single man to Italy ruled unlawful due to the lack of accommodation in Italy, based on an alleged lack of sufficient consideration of the facts on the ground. The Federal Administrative Court however confirmed the decision on 27 January 2022.

France: [CAA de LYON, 7ème chambre, 06/01/2022, 21LY03266](#) (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 he asked for asylum in France a second time. The Court considers that he triggered a new procedure and therefore new deadlines.

[Conseil d'État \(conseil-etat.fr\) 27/10/2022](#), Decision 465885 (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.

Italy: Moreover, on 20 October 2022, the Civil Court of Venice ruled that the practice, based on a note spread by the Dublin Unit, to impede Dublin asylum seekers to apply for national protection (protezione speciale) was to be considered in contrast with national law. (Civil Court of Venice, Decision of 20 October 2022, available at: <https://www.bit.ly/3Z3ZTG5>).

In 2022, the Civil Court of Catanzaro, annulled the decision taken by the Italian Dublin Unit to transfer an asylum seeker to the UK as the court considered that the Dublin Regulation would no longer apply to the country, even if it had recognised its responsibility (Civil Court of Catanzaro, Decision of 10 December 2022).

The appeal brought before the Court of Cassation has no suspensive effect and the law does not expressly provide for the possibility of requesting such a suspension. On 2 September 2022, the Civil Court of Rome (Civil Court of Rome, Decision of 2 September 2022, available at: <http://bit.ly/3KHOCMa>) accepted the urgent appeal submitted by an asylum seeker whose appeal against the Dublin transfer to Austria had been accepted in 2021 and who, after one year and half, was still waiting for Italy's declaration on having competence to examine his asylum request. The Civil Court rejected the arguments presented by the Dublin Unit, according to which the submission of an appeal before the Court of Cassation in the Dublin procedure would entail the automatic suspension of the procedure itself.

In October 2022, the Civil Court of Rome annulled an applicant's transfer to Romania according to Article 3(2) of the Dublin Regulation and to Article 4 of the EU Charter of Fundamental Rights of the European Union, considering the systemic deficiencies existing in that country. The Court observed that the country was already unprepared to accommodate asylum seekers before the Ukrainian crisis and that with the arrival of thousands of people from Ukraine the situation has reached an extremely critical level. (Civil Court of Rome, Decision of 13 October 2022)

On 12 January 2023, the Civil Court of Rome confirmed its previous orientation, annulling the transfer to Romania (Civil Court of Rome, Decision of 12 January 2023, available at: <http://bit.ly/3lyzWaH>).

On 3 November 2022, the Civil Court of Bologna cancelled a transfer to Germany on the basis of Article 3(2) of the Dublin Regulation and Article 4 of the Charter, considering the transfer unsafe for the individual risk of the applicant, vulnerable as disabled and as possible victim of trafficking for begging (Civil Court of Bologna, Decision of 3 November 2022, available at: <http://bit.ly/3m80szY>).

Malta: On 7 April 2022, The Tribunal of Rome annulled a Dublin transfer to Malta for a Bangladeshi applicant. The applicant claimed that during his stay in Malta, he was detained for 16 months and, due to inhumane and degrading conditions of the detention centre, he fell ill and spent two months in hospital. The Tribunal of Rome noted that the risk of inhumane and degrading treatment upon transfer to Malta is well-founded, taking into consideration reports from the European Council for Refugees and Exiles (ECRE), Amnesty International, the US Department of State, and UNHCR. The Tribunal noted that the transfer was in violation of Articles 3.2, 4, 5 and 17 of the Dublin III Regulation and ruled to annul the decision. Italy, Civil Court [Tribunali], Applicant v Dublin Unit of the Ministry of the Interior (Unita di Dublino, Ministero dell'Interno), R.G. 4597/2022, 07 April 2022, available at <https://bit.ly/3kKXOzy>.

Netherlands: On 13 April 2022, the Council of State ruled that the Secretary of State must conduct further research on the situation of asylum seekers being transferred to Croatia under the Dublin Regulation (Council of State, [ECLI:NL:RVS:2022:1042](https://eur-lex.europa.eu/eli/nl/rvs/2022/1042) and [ECLI:NL:RVS:2022:1043](https://eur-lex.europa.eu/eli/nl/rvs/2022/1043), 13 April 2022). This is due to reports of frequent pushbacks (including of asylum seekers who have already reached Croatian territory), which may result in a violation of the principle of nonrefoulement. On 30 May 2022, the Secretary of State announced that, until this research is concluded, no Dublin transfers to Croatia will be carried out. On 20 January 2023, the Secretary



of State announced that Dublin transfers to Croatia would be resumed. The Croatian authorities had responded to answers put forward by the Dutch authorities and had assured that they will act in line with international obligations, according to the Secretary of State.

(Council of State, [ECLI:NL:ABRVS:2022:1862](#); ECLI:NL:ABRVS:2022:1863 and [ECLI:NL:ABRVS:2022:1864](#), 6 July 2022) On 6 July 2022, the Council of State issued three judgments on indirect refoulement in Dublin cases in the event of differences in protection policies between Member States. Two of these cases concerned Syrian nationals who argued that would be at risk of refoulement in case of being returned to Denmark, as in the country the province of Damascus is considered safe enough to return to. The Council ruled that a difference in protection policy may be a reason to suspend the Dublin transfer. To this end, the applicant must demonstrate: 1) that there is a fundamental difference in protection policy between the Netherlands and the other Member State (whereby it is established that he would receive protection in the Netherlands and not in the other Member State), 2) that the highest national court in the other Member State does not disapprove of the policy applicable there. In the opinion of the Council of State, the applicants had fulfilled their burden of proof with regard to the Danish policy on Damascus and the level of judicial protection in Denmark.

Switzerland: Federal Administrative Court, [Decision D-4235/2021](#), 19 April 2022. In December 2019, taking into account the changes in the Italian legislation introduced by the Salvini Decree (Decree 132/2018), the Court extended the need to obtain individual guarantees from Italian authorities to the cases of applicants with serious health problems: such guarantees include both adequate accommodation and immediate access to medical care. (...) In 2022, this obligation was lifted again regarding take-charge procedures. For take-back procedures, guarantees are still required. The Court reasoned this with the risk of being excluded from accommodation in take-back cases.

Transfers of BIPs

Austria: However, in at least one case a person who has received beneficiary of subsidiary protection in Greece and whose application was rejected in Austria, was deported to Greece in 2022.

In a project by asylkoordination called TETRAA, Diakonie Flüchtlingsdienst and a lawyer practising in Vienna, Christian Schmaus, supported cases of strategic litigation concerning persons that had received status of protection in Greece but found themselves homeless and without basic care there. The Constitutional Court (VfGH Decision [E599/2021](#), 24 September 2021) and High Administrative Court (VwGH [Ra 2021/18/0085](#), 25 January 2022) both ruled that the situation of beneficiaries of international protection in Greece has to be assessed closely, especially the access to social services.

Germany: Jurisprudence regarding transfers to Italy has remained inconsistent as of 2022. Notably, the Higher Administrative Court of Lower Saxony found in June 2022 ([Higher Administrative Court of Lower Saxony, 10 LA 77/22, 10 June 2022](#)) that access to illegal forms of work in Italy can be taken into account when state authorities are not enforcing the law against such forms of work. Two administrative court decisions issued after the new right-wing government in Italy took office point to different assessments of the impact of the change in government on conditions for asylum seekers: while the administrative court of Greifswald ([Administrative Court of Greifswald, 3 A 1301/22 HGW, 17 November 2022](#)) does not expect the situation to change, the administrative court of Braunschweig ([Administrative Court of Braunschweig, 2 B 278/22, 1 December 2022](#)) expects the situation to worsen.

Decisions of the Higher Administrative Courts of Baden-Württemberg and Saxony in 2022 (Higher Administrative Court of Baden-Württemberg, [A 4 S 2443/21](#), 27 January 2022, Higher Administrative Court of Saxony, [5 A 492/21.A](#), 27 April 2022) confirmed that beneficiaries of international protection cannot be sent back to Greece, and that their applications cannot be deemed inadmissible for the reason that protection has been granted in another Member State.

For Hungary, in 2022, a number of administrative courts have found that the situation of beneficiaries of international protection in Hungary bears the danger of violating Art. 3 ECHR or Art. 4 CFR as beneficiaries



are likely not able to ensure a minimum of existence (Administrative Court of Bremen, 3 K 491/18, 6 April 2022; Administrative Court of Aachen, [5 K 3571/18.A](#); Administrative Court of Munich, [M 6 K 18.33184](#), 10 May 2022)

For Poland, jurisprudence is unclear as of January 2023, with the administrative court of Hannover (Administrative Court of Hannover, [15 B 371/22.A](#), 27 June 2022) deciding against removal in June 2022 on the basis that capacities in Poland are overstretched due to the reception of Ukrainian refugees, while the administrative court of Würzburg (VG Würzburg, [W 1 K 22.30178](#), 6 April 2022) found no indication of inhuman or degrading treatment for beneficiaries of international protection in April 2022.

A transfers of beneficiaries of international protection to Romania was halted by the Federal Constitutional Court in July 2022 (Federal Constitutional Court (BVerfG), [2 BvR 961/22](#), 19 July 2022), which held that the competent administrative court had not properly assessed the situation on the ground in light of the changed situation after the outbreak of the war in Ukraine. The Higher Administrative Court of North Rhine Westphalia (Higher Administrative Court of North Rhine Westphalia, Decision [11 A 861/20.A](#), 25 August 2022) asked the Swiss Refugee Council to assess the situation in April 2022, and found in a judgement of 25 August 2022 that no danger of inhuman or degrading treatment exists.

Subsequent applications

Cyprus: In 2022, a decision by the Supreme Court set the precedent, by reaffirming the decision of the Administrative Court that the submission of a subsequent asylum application begins with the fact that the applicant is not an asylum seeker. It therefore starts with the status that the applicant had, after the rejection of the first asylum application became final. If the applicant submits an interim application of the right to stay, the submission of such an application does not on its own suspend the removal decision. (Appeal against the decision of the Administrative Court No. 8/2022, *Sohel Madber v. Republic of Cyprus*, 17 November 2022, available at <https://rb.gy/xrdoyv>)

Germany: [Administrative Court Minden, judgement of 6 April 2022, 10 K 3200/20.A](#) ; [VG Berlin, 22 October 2022, 38 L 340/22 A](#). On the necessity of a personal interview during the subsequent application procedure, the Administrative Court of Minden (North Rhine Westphalia) found that a personal interview needs to take place in principle and that the BAMF has to provide a reasoning when it decided not to, while the Administrative Court of Berlin found that the BAMF has full discretion, but there has to be evidence that it actually exercised discretion by considering reasons for or against conducting an interview.

Netherlands: On 15 September 2022, the Council of State (Council of State, Decision No [202006762/1](#), 15 September 2022) ruled that the practice after the ruling in LH had been incorrect. Article 40(3) of the APD stipulates that Member States can examine subsequent applications where the nova add significantly to the likelihood of the applicant qualifying as a beneficiary of international protection. However, this provision has not been transposed into Dutch law, which means that determining whether subsequent applications are deemed admissible should not be based on article 40(3) of the APD, but Article 30a(1)(d) of the Aliens Act, which only stipulates that nova must be relevant in order for the subsequent application to be considered. In accordance with this judgement, the IND changed their policy, and only determines whether new documents or elements are relevant for examining the subsequent application. The IND is examining whether it is necessary to change national laws to better reflect the rules laid down in the APD.

(Council of State, Decision [No 202104524/1](#), 26 January 2022) The Council of State (...) ruled that its established case law on the assessment of new elements and findings, in particular concerning documents of which the authenticity cannot be established, had to be revised. The Council of State also ruled that, in order to ascertain whether the new elements and findings add significantly to the likelihood of the applicant qualifying for international protection (first stage, second step), a more substantive research is required. In accordance with Article 4(1) and (2) the Secretary of State could, for example, examine new documents in relation to previous statements of the applicant or country of origin information.





In the same judgement however, the Council of State established that, according to Article 42 (2) (b) of the APD, the Secretary of State does not automatically have to interview each asylum seeker lodging a subsequent application, provided that the decision includes a justification for the exclusion of the subsequent applicant from the personal interview.

The Secretary of State responded to the judgment of the CJEU and stated that it did not have strong implications regarding the assessment of a subsequent application. In the Dutch Council for Refugees' opinion, Dutch policy has only partially been adjusted to the Judgment of the CJEU, specifically regarding cases of exemption from an interview regarding subsequent applications. On 1 July 2022, the IND published a new Work Instruction 2022/13 outlining their policy regarding subsequent applications, including the situations in which an interview will not be conducted.

On 15 September 2022 ([202006762/1](#)), the Council of State ruled in accordance with the CJEU, stipulating that the Secretary of State could not declare a subsequent application non-admissible if new elements and findings could have been submitted in a previous application. In the Information Message published in response to this ruling, the IND did not mention the considerations by the Council of State regarding the culpability test.

Access to reception

Belgium: On 18 November 2021, several organisations (Vluchtelingenwerk Vlaanderen, CIRÉ, Médecins sans Frontières, Médecins du Monde, NANSEN vzw, ADDE, Ligue des Droits Humains, SAAMO and the Order of French and German speaking bar associations (OBFG)) declared the Belgian State and Fedasil in default at the Brussels court of first instance. In a [judgment of 19 January 2022](#), the court condemned the Belgian State and Fedasil for not ensuring access to the asylum procedure and to reception conditions and ordered both parties to ensure the respect of these fundamental rights, imposing a €5000 penalty payment for the respective parties for each day during the following 6 months on which at least one person did not receive access to the asylum procedure (penalty for the Belgian State) or to the reception system (penalty for Fedasil). Although the situation had improved slightly since the opening of new places in December 2021 and the opening of an emergency night shelter in January 2022, the court deemed the state of the reception system too unstable to guarantee access to the asylum procedure and to reception conditions for all applicants in the near future. The court also explicitly stated that the waiting list used by Fedasil is unlawful.

The group of 10 NGOs filed a new appeal at the court of first instance, requesting an increase of the penalty payment from €5,000 to €10,000 for each day that the judgement would not be respected. In a judgement of [25 March 2022](#), the Court condemned Fedasil again, thereby increasing the penalty payment to €10,000. The court repeated that Fedasil is bound by the EU Reception Directive to provide accommodation to all first-time applicants for international protection, regardless of external factors influencing the availability of places. It specifically stated that it is unlawful to automatically exclude applicants for international protection with a Eurodac hit or with a protection status in another EU member state. Fedasil introduced an appeal against this judgement of 25 March at the Court of Appeal. This led to a new judgement on 13 October 2022. The Court of Appeal discarded Fedasil's arguments, and upheld the judgement of the 25th of March. It also lifted the period of 6 months during which the penalty fees could be claimed. It argued that Fedasil did not provide a concrete action plan to solve the reception crisis. The court went further and stated that Fedasil 'deliberately and manifestly disregards the judgement of the 19th of January 2022'. Therefore, the penalty fees can be claimed for every working day that Fedasil does not respect the judgment of 24 January 2022, until the Court of First instance has delivered a judgement on the merits of the case. This is to be expected in the course of 2023. Legal procedures on the payment of these penalties are currently pending.

Since 24 January 2022, applicants for whom, at the moment of registering their asylum application, a EURODAC hit indicates they have already applied for or received international protection in another country, are being denied access to the reception network and told to send an e-mail to Fedasil in order to be put on a waiting list. Since they do not receive a formal decision of refusal of reception, these applicants cannot



automatically challenge this decision before the labour court. Lawyers thus have to first send an e-mail to Fedasil to notify their client's individual application for reception and give Fedasil a 24h delay to reply, before being able to file a unilateral request. Labour court presidents have accorded the right to reception to the applicants in these cases, condemning Fedasil to give them immediate access to a reception place. The Secretary of State announced he would appeal. Some of these appeals are currently pending.

Over the course of the whole reception crisis, these legal proceedings have led to 6000 convictions of federal reception agency (Fedasil) on the national level and 800 interim measures against the Belgian state granted by the European Court of Human Rights (Rule 39). Even after having received a positive court injunction, applicants wait for several months before receiving an invitation for access to the reception network.

Sweden: Another situation where a person in need of protection may be exempted from the benefits of the reception system is the situation where the applicant already has a residence permit in Sweden but wants to be granted protection status. The Supreme Administrative Court have found that in such situations the persons do not fall within the scope of LMA and thus cannot claim assistance for accommodation and allowances for asylum applicants. (HFD 2022 ref. 40, <https://www.domstol.se/globalassets/filer/domstol/hogstaforvaltningsdomstolen/2022/domar-och-beslut/1179--1180-22.pdf/>)

Reception conditions

Germany: [VGH Baden-Wuerttemberg, Decision 12 S 4089/20, 2 February 2022](#). In February 2022 the Higher Court of Baden-Wuerttemberg ruled that private rooms in mass accommodation centres are protected under the German Constitution, article 13(1) and that consequently any entry and raids by security personnel must be regulated by law and justified in the individual case, which is not the case if house rules generally allow for security personnel to enter private rooms.

Netherlands: After almost a year of witnessing said conditions, the Dutch Council for Refugees (VWN) formally announced that it holds the State and COA responsible for the current circumstances which violate the Receptions Conditions Directive, and that if the situation would not improve, within a month, it would take the matter to court in a tort procedure. The situation did not change, therefore VWN summoned the State and COA in front of the Regional Court of the Hague on 17 August 2022. On 6 October 2022, the court in first instance confirmed that the State has an obligation of result to take appropriate measures to guarantee dignified reception facilities for asylum seekers ([ECLI:NL:RBDHA:2022:10210](#)). In fulfilling these obligations, the State must take into account the EUAA reception guidelines, as they are widely supported scientific insights and internationally accepted standards. Furthermore, the court decided that COA and the State needed to improve reception conditions quickly: (in order of the imposed term)

- In Ter Apel, every asylum seeker who wants to register must immediately be offered a safe covered sleeping place, food, water and access to hygienic sanitary facilities.
- All asylum seekers must be given immediate access to any form of necessary health care.
- The vulnerable asylum seekers mentioned in the Crisis Emergency Locations Guide (including babies and their families and heavily pregnant women) may no longer be placed in crisis emergency shelters with immediate effect.
- All asylum seekers must be medically screened before being placed in a crisis emergency location within two weeks.
- Additional reception for unaccompanied minors must be realized within two weeks, in particular for the unaccompanied minors currently residing in Ter Apel.
- A maximum of 55 unaccompanied minors may stay in Ter Apel for a maximum of five days, within two weeks.
- Minor asylum seekers must be given access to play facilities and education within four weeks.

- All asylum seekers residing in (crisis) emergency reception locations must receive a financial allowance, within four weeks.
- Vulnerable asylum seekers may no longer be placed in an emergency reception location in four weeks' time, unless their specific special reception needs are met in that location.

The overall situation had to be improved within nine months. The State and COA appealed the court decision and asked for the judgment to be suspended. This request was not allowed, meaning that the State and COA needed to fulfil the obligations that were imposed within a short time period. On 20 December 2022, the Hague Court of Appeal ([ECLI:NL:GHDHA:2022:2078](#)) upheld the merit of the earlier ruling: the reception conditions in which thousands of asylum seekers are forced to live and do not meet minimum legal requirements. The 'reception crisis' is a self-made crisis caused by the government's policies. Therefore, the State and COA could not invoke the force majeure situation of article 18(9) Reception Conditions Directive. However, although the Court expects the State and COA to fulfil their legal obligations as soon as possible, the deadline given to the State to improve all reception conditions was revoked. The State and COA still need to provide with immediate effect that:

- Asylum seekers are no longer left in the streets or sleeping outdoors in Ter Apel.
- Vulnerable asylum seekers should not be placed in (crisis) emergency locations unless their special needs are met there.
- The State and COA must make every effort to screen asylum seekers medically before they are transferred from Ter Apel to another reception centre – especially if that other facility is an (crisis)emergency location; if the screening could not take place immediately, it should take place as soon as possible thereafter.
- Access to basic health care is to be provided.
- Asylum seekers in crisis emergency locations must be provided with a weekly financial allowance in accordance with Article 14 Rva 2005.
- Children in (crisis) emergency locations should have access to playing facilities and education. An exception can only be made if there is no way to meet this condition immediately due to a shortage of teachers, and then only as long as the State continues its efforts to make education accessible to minor asylum seekers.

Moreover, the Court ruled that the State treats displaced persons from Ukraine and asylum seekers from other countries unequally. The Court rejected VWN's request to order the State and COA to treat all asylum seekers equally, based on the fact that the goal of ensuring that reception conditions meet the State's minimum legal obligations, was deemed impossible to achieve within a short period of time. The Court also does not consider it their role to instruct the State on how to ensure that the State ensures equal treatment of all asylum seekers. None of the parties appealed this decision, so the judgement is final.

Financial allowances

Germany: [Federal Constitutional Court, Decision 1 BvL 3/21, 19. October 2022](#). Following a decision by the Federal Constitutional Court, single adults who live in mass accommodation centres and those who live in private housing shall now receive the same amount of financial social benefits. Prior to the judgement it was assumed by the authorities that those who live in mass accommodations economise together and therefore require less financial benefits. The Federal Constitutional Court ruled that there is no evidence which proves that single adults in accommodation centres economize together. Consequently, they cannot be compared to people who share a household and should therefore be treated equally to single adults staying outside of accommodation centres. The Court maintained its earlier rulings regarding the question whether asylum seekers may generally receive less social benefits and on the question of whether sanctions are possible.

Reduction and withdrawal of material reception conditions



Access to healthcare

Netherlands: The Hague Court of Appeal judgement of 20 December 2022 states that medical screening always needs to be offered and that special needs of vulnerable groups need to be provided. (The Hague Court of Appeal (civil department), [ECLI:NL:GHDHA:2022:2078](#), 20 December 2022)

Detention

Cyprus: In November 2022 (Supreme Court, Appeal, Application 15/22, 17 November 2022, available in Greek at <https://bit.ly/41U0jk4>), the Supreme Court decision ordered the release of a Syrian asylum seeker who was detained for reasons of ‘national security or public order’ when the police discovered photos he had posted on his Facebook account showing himself holding a gun and wearing the uniform of terrorist organisations. The Asylum Service found that he met the criteria to be recognised as a refugee since his return to Syria entailed risks of persecution; he was nevertheless deemed ineligible for an international protection status because of his involvement in extremist armed groups; his asylum application was rejected. The applicant appealed against the rejection and, through a separate application, challenged his detention through an application for habeas corpus. In the application, he requested disclosure of the documents and information which the authorities had in their possession, which according to the authorities, justified his continued detention. The trial court rejected his application for habeas corpus, stating that the applicant already knew the reasons for his detention, namely his social media posts implicating him with terrorist organisations. He appealed the first instance rejection of his habeas corpus application arguing that the failure of the authorities to disclose the information on the basis of which they detained him infringed the principle of equality of arms and his right to a fair trial, in violation of the EU Charter for Fundamental Rights and the ECHR. The Appeal Court set aside the trial court decisions that rejected the habeas corpus application and ordered the applicant’s release from detention, on the ground that the authorities failed to adequately and accurately justify why the applicant was seen as a risk to national security. As a result of the authorities’ failure to justify why the applicant’s detention for 14 months was necessary, his detention was rendered unlawful and the habeas corpus order was issued.

In early 2022 (Mondeke v. RoC (MONDEKE v. ΚΥΠΡΙΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ, ΑΝ.ΔΙΕΥΘΥΝΤΗ ΤΜΗΜΑΤΟΣ ΑΡΧΕΙΟΥ ΠΛΗΘΥΣΜΟΥ ΚΑΙ ΜΕΤΑΝΑΣΤΕΥΣΗΣ, Έφεση κατά απόφασης Διοικητικού Δικαστηρίου Διεθνούς Προστασίας αρ.43/2021, 20/1/2022) available at <https://bit.ly/3vVudHe>), the Supreme Court rejected an appeal against a negative IPAC decision on detention on the basis of article 9F(2)(d) of the Refugee Law. In the specific case, the asylum seeker had entered RoC and attempted to travel towards another EU country with fake documents. He was arrested and convicted. After serving his prison sentence, he was subject to deportation as a “prohibited migrant”, and he lodged an application for asylum shortly thereafter. The authorities issued a detention order under article 9F(2)(d) and the IPAC deemed the detention order to be legal because, inter alia, the asylum seeker behaviour justified the conclusion that his asylum application was not ‘authentic’ and was lodged with the sole purpose of obstructing his return to DRC. The Supreme Court agreed with the IPAC and found its judgment to be ‘reasonable and desirable’. The Supreme Court did not find that the fact that the applicant’s country was not listed as safe created any presumption of an ‘authentic asylum application’ and considered that the examination of alternative measure to detention conducted by the first-instance court was sufficient and correct.

Malta: This remedy also allows a detainee to challenge the lawfulness of on-going detention before the Court of Magistrates (Criminal Jurisdiction) and is based on an assessment of the legality of the person’s detention. Several successful applications were brought before the Courts since 2019, resulting in the immediate release of the applicants. All the cases challenging the de facto detention of applicants under the Prevention of Disease Ordinance filed before the Court of Magistrates were successful except for one case decided in January 2022.





In this case, A.D. v. the Superintendent for Public Health decided on 21 January 2022, the Court rejected the petition by finding that he was not actually being detained. The Court decided that “it cannot be said that any public authority ordered the applicant’s detention (...) because he is presently not under any detention order but limitedly under an order that restricts his movement in relation to which Article 409A of the Criminal Code does not apply.” aditus foundation reacted to the judgement by pointing out that it was incongruent to hear that the teenager was not being detained when he was actually accommodated in a place described by Maltese law as “a place of detention for the purposes of the Immigration Act”, a structure administered by a public entity called ‘Detention Services’, with the impossibility to leave the centre, limited communication with the outside world, and being under the constant supervision of a Government entity. Court of Magistrates of Malta, A.D. v. the Superintendent for Public Health, 21 January 2022, summary available at <https://bit.ly/3yxemyN>. The decision of the Court of Magistrate will be scrutinized by the ECtHR in A.D. v. Malta, filed in February 2022.

Switzerland: Federal Supreme Court, Decision [2C-27/2022](#), 9 May 2022 on the Regional prison of Bern and Moutier; Decision [2C_765/2022](#), 13 October 2022 on the Regional prison of Moutier; Decision [2C-662/2022](#) on the penitentiary of Realta; Decision [2C_781/2022](#) on the prison of St. Gallen.

In 2022, the Federal Supreme Court has judged the conditions of detention inadmissible in a number of cases concerning the Regional prison of Bern, the Regional prison of Moutier, the penitentiary of Realta and the prison of St. Gallen. A cantonal court has also considered the detention conditions in the prison of Gmünden (canton Appenzell Ausserrhoden) inadmissible.

First instance procedure

Netherlands: on 30 November 2022 the Council of State ruled, in two separate cases, that the Temporary Act was partially not in accordance with European Law. Regarding the judicial penalty (rechterlijke dwangsom) (Council of State, case number [202203068/1](#), 30 November 2022), the Council of State judged that by suspending the ability of receiving judicial penalties, asylum seekers did not have an effective way of forcing the IND to take a decision regarding their asylum application. Therefore, the Temporary Act was deemed incompatible with the right to an effective remedy stemming from article 47 of the Charter of Fundamental Rights of the European Union, preventing asylum seekers from being able to effectuate their rights. Following this judgment, the IND published a new Information Message outlining the new policy that for any ongoing and future cases, judicial penalties would be forfeited.

Regarding the administrative penalty (bestuurlijke dwangsom) (Council of State, case number [202203066/1](#), 30 November 2022), which is automatically forfeited after two weeks from the submission of the notion of default, the Council of State evaluated that its abolition under the Temporary Act conformed to the existing legal framework. The main reasoning for this is the administrative penalty is a measure that goes beyond the minimal rules dictated by the recast Asylum Procedures Directive. Considering that asylum seekers would still be able to enjoy their rights by receiving only the corresponding amount from a judicial penalty, abolishing the administrative penalty in asylum cases was deemed possible. As a result, in ongoing and future asylum cases, no administrative penalties will be forfeited.

Extension of the time limit for deciding: On 23 November 2022, the Regional Court of Den Bosch (Regional Court of Den Bosch, Decision No. [NL22.21366](#), 23 November 2022) ruled in favour of the general extension of the time limit for deciding. On the contrary, on 6 January 2023, the Regional Court of Amsterdam (Regional Court of Amsterdam, Decision No. [NL22.21969](#), 6 January 2023) issued a judgement declaring the time limit extension unlawful. The IND argued that, due to the numerous new arrivals – especially regarding Afghan and Ukrainian nationals, but also many individuals later channelled into the Dublin procedure - it was impossible to manage the existing caseload. Despite this, the Court maintained that, even though there was an increase in the amount of asylum applications, it was not of such magnitude that the threshold included in art. 42(4)(b) Aliens Act was reached. As such, it is to be seen in coming months what the effect of this and other cases will





be on the extension of the time limit for deciding. The Secretary of State has decided to submit an onward appeal with regards to the judgment of the Regional Court of Amsterdam.

Legal assistance

Netherlands: It should be noted that asylum seekers receive a brochure from the IND at the start of the registration procedure; however, the brochure just provides general information about the asylum procedure in the Netherlands, and cannot be considered as a substitute for individualised assistance. On 25 February 2022, the Regional Court of Zwolle agreed with the asylum seeker that due to their explicit request for legal assistance at the start of the application procedure not being addressed, the Secretary of State had violated the principle of due care. (Regional Court of Zwolle, Decision [No NL21.19915](#), 25 February 2022.)

Safe country concepts

Netherlands: In 2022, just one case of application of the first country of asylum (concerning Costa Rica) was brought in front of a court. The Regional Court of Middelburg decided that when the ‘first country of asylum’ concept is used, the IND should investigate whether this country is ‘safe’ using the same sources as with the investigation of ‘safe third countries’ (Regional Court Middelburg, ECLI:NL:RBDHA:2022:10443, 6 October 2022.).

Moreover, the IND has used the ‘first country of asylum’ concept inconsistently in a few cases concerning BIPs from Denmark. The regional court of Rotterdam decided that the IND should have motivated why it inconsistently used this ground for inadmissibility and not the ‘EU Member States’-ground (Regional Court Rotterdam, Decision Number [NL22.1573](#), 8 November 2022).

Differential treatment of nationalities in asylum procedures

Germany: [Federal Administrative Court, Case 1 C 1.22, 19 January 2023](#) (24 cases the same day). Following a 2021 decision by the CJEU according to which there is a ‘strong presumption’ that refusal to perform military service in the context of the Syrian civil war relates to one of the reasons to be granted refugee status, the Federal Administrative Court ruled in January 2023 that the risk of persecution still has to be established in each individual case, based on a connection between the ground for persecution and the type of persecution to be feared

Age assessment procedures

Cyprus: In 2022, another decision was issued by the IPAC related to the age assessment procedure (IPAC, Case No 698/19, S.A. v Republic of Cyprus, through the Asylum Service Decision issued 07 July 2022), where the Court annulled a decision of the Asylum Service due to deficiencies identified in the age assessment procedure and failures to observe required safeguards and the best interest of the child. Specifically, the Court referred to the CJEU judgement A. and S. v Secretary of State for Security and Justice (Staatssecretaris van Veiligheid en Justitie) and explained that the date of filing the application for international protection is the one decisive in order to assess the refugee's age with regard to the application of the family reunification procedure, and the authorities should have referred to the applicant's age at the time of submitting/filing his application and not at the time of the medical examinations. Consequently, according to the minimum assessment limit of the method in question, the applicant may have been a minor at the time of the submission of his asylum application and the doubt has to be in favour of the minor, according to the refugee law. Based on these considerations and the deficiencies identified, the Court annulled the contested decision of the Asylum Service.

Malta: In M. A. R. (Lebanon) vs. the PIO decided on 3 November 2022, the Board considered that the minority claim of the appellant was not manifestly unfounded despite the fact that he declared being an adult upon



arrival. The Board ordered the release of the appellant in the care of AWAS and instructed the Agency to carry out an age assessment as soon as possible and to appoint a legal guardian and ensure that the appellant is kept in appropriate accommodation given his declaration of minority. The appellant was then declared to be a minor by AWAS on 15 November 2022. Immigration Appeals Board (Division II), M. A. R. (Lebanon) vs. the PIO, (DO/134/22), 3 November 2022; See also IAB, Div. II, R.M. (Bangladesh) v. The PIO, (DO/35/2022), 24 March 2022, available at <http://bit.ly/3V5vPHU>; IAB, Div. II, F.B. (Ghana) v. The PIO (DO/2021), 4 October 2021 available at <http://bit.ly/3gzB83w>; IAB, Div. II, W.K.A. (Ghana) vs. The PIO (DO/2021), 4 October 2021, available at <http://bit.ly/3gzB83w>.

Netherlands: For the moment, however, no pre-judicial questions on whether the current practice with accepting the age registration in the other Member State, disregarding indicative evidence and declarations is in line with EU law were submitted to the EU Court of Justice. In June 2022, the lower District Court of Den Bosch (MK Rb Den Bosch, 15 June 2022, NL22.6989, [ECLI:NL:RBDHA:2022:5724](https://eur-lex.europa.eu/eli/nl/rbdha/2022/5724)) requested the EU Court whether in Dublin-cases the 'duty of cooperation between the State and the asylum seeker' as stated in Article 4 of the Qualification Directive would be in place. This Court had presented similar questions before, but they had to be withdrawn in March 2022 because the IND withdrew the contested decision in the main proceeding. (...)

On 2 November 2022 the Council of State ([ECLI:NL:RVS:2022:3147](https://eur-lex.europa.eu/eli/nl/rvs/2022/3147)) ruled in favour of the Secretary of State's policy on the choice of a specific date of birth at multiple minor and adult age registrations in other EU Member States. Based on the 'interstate trust principle, the 'Secretary of State can assume age registrations in other Member States to be correct if the Dutch age registration does not give an unequivocal answer as to whether the foreign national is clearly over or under the age of 18. The Council of State highlighted however that an exception should be made in the case of multiple age registrations in a member state; for such cases, the Secretary of State must research whether there are certain age registrations where identifying source documents were used. The Secretary of State may, in case of different age registrations, accept the registration of the applicant as an adult, if taken into account how the other state had come to the conclusion, providing provided the registration has taken place in a careful manner which can be subject to litigation.

Use of medical reports

Netherlands: On December 7th 2022, the Council of State ([ECLI:NL:RVS:2022:3615](https://eur-lex.europa.eu/eli/nl/rvs/2022/3615)) ruled in its judgment that the so called 'component requirement' was no longer tenable. The 'component requirement' means that if in a forensic medico-legal report the examiner (for instance iMMO) has come to the conclusion that the physical and psychological situation of the asylum seeker might have affected (heavily) their ability to tell his/her asylum story in a complete, consistent and coherent manner during the interviews with the IND, the examiner should be able to pinpoint directly on which components of the asylum story the assumed limited ability had its effect. The component rule has been laid down by the Council of State in its landmark ruling from 27 June 2018, as mentioned earlier. Since, both the IND and many lower courts did not accept the view from iMMO that from a medical scientific point of view the component requirement could not be met in a way satisfactory for the IND and the legal courts. Since 2020, you've seen a tipping point in case law. More and more courts adopted the view expressed by iMMO, leading to the December 7th 2022 judgment in which the council of State abandoned the adopted view in 2018. This judgment is an important one, strengthening the position and value of medico-legal reports in the Dutch asylum procedure. it is our assumption that in 2023 many decisions by the Secretary of State and lower courts will be overturned due to this December 7 2022 ruling.

Residence permits

France: Beneficiaries of international protection encountered Many difficulties in 2022 to obtain their residence permits, due to the implementation of a digital system with numerous shortcomings and severe issues in accessing prefectures for the issuance of all residence permits.



A decision of the Council of State dated 3 June 2022 (Decisions 452798, 452806, 454716 and opinions 461694, 461695, 461922 of 3 June 2022, [press release](#)) ordered the Ministry of the Interior to establish a substitute solution to the purely digitalized procedure. For example, many are unable to obtain the indispensable convocation to the administration for provide their documents in order for the residence permit to be delivered.

Italy: On 10 March 2022, the Civil Court of Brescia upheld the appeal lodged by the applicant, a beneficiary of subsidiary protection, clarifying how, according to the Article 23 of the Qualification Directive, national implementing authorities are not given discretion as to additional requirements, not set in law, for the issuance of a residence permit for subsidiary protection beneficiaries (Civil Court of Brescia, Decision of 10 March 2022).

An additional and more recent circular, issued by the Department of Public Security of the Ministry of the Interior on 23 November 2021, provides for the non-convertibility of the residence permit for special protection obtained through a specific request to the Police Headquarters and not within the international protection procedure. However, this interpretation - which would create an unjustified difference in treatment between those who obtain a residence permit for special protection within the procedure for international protection and those who are granted it following a specific request submitted to the Questura, risking to induce applicants to apply for international protection even in cases where they would chose instead to apply only for special protection at the Questura - does not appear to be supported in any way by the newly amended legislation, which explicitly states that the only hypothesis of non-convertibility of the special protection permit is the one related to cases in which such protection was recognized in application of the non-refoulement principle following the exclusion from international protection, and is thus likely to be challenged in Court and disapplied by Judges.

On these basis, the Administrative Court of Veneto (Administrative Tribunal of Veneto region, Decision no. 1812 of 28 November 2022, available in Italian at: <http://bit.ly/3xZhSI6>), on 28 November 2022, upheld the appeal lodged by a beneficiary of special protection obtained with a direct request to the competent Questura and whose request to convert it in a job permit to stay was declared not receivable.

Subsequently, the Questura of Trieste, pending analogous appeals filed for the same reasons, revoked the provision and granted the conversion.

Cessation and withdrawal

Poland: In 2022, the Supreme Administrative Court delivered a judgment concerning a cessation of subsidiary protection of a Russian national. The reasons for cessation were twofold: the beneficiary obtained a Russian passport, travelled to Russia 5 times, and the situation in Chechnya has significantly changed since his arrival to Poland in 2005. The cassation appeal submitted by the Russian national was dismissed by the Supreme Administrative Court. In particular, the court found that the statements of the complainant that he got a passport by intermediary were not credible, as the passport was biometric; thus, it required personal contact with Russian authorities to give fingerprints. Moreover, the complainant did not manage convince the court that he will be individually at risk of harm upon return to Chechnya. (Supreme Administrative Court, Judgment of 5 July 2022, no. II OSK 1868/21, available here in Polish: <https://orzeczenia.nsa.gov.pl/doc/4342B5A13F>)

In a similar case, concerning a Russian family of five, having subsidiary protection since 2008, the Supreme Administrative Court accepted that they should be deprived of their protection because they obtained a passport from Russian authorities. The court did not find problematic that the decision of the Head of the Office for Foreigners was issued in 2019 and was based solely on the travels from Poland in Eastern direction in 2011-2012 and the issuance of the Russian passport in 2012. The beneficiaries' explanations that they stayed in Belarus and obtained a passport though intermediary were not found credible. (Supreme Administrative Court, Judgment of 11 January 2022, no. II OSK 1754/21, available here in Polish:



<https://orzeczenia.nsa.gov.pl/doc/A3B892E002>; Supreme Administrative Court, Judgment of 11 January 2022, no. II OSK 1177/21, available here in Polish: <https://orzeczenia.nsa.gov.pl/doc/2EC1599B18>).

Family reunification

Cyprus: In 2022 the IPAC issued a positive decision (YT v. RoC via CRMD, ΔΔΠ 500/2019, decision date 10/11/2022) with regards to family reunification in a case of a recognised refugee who had applied for family reunification with their spouse and 4 underage children. As the applicant had applied 3 months after status was granted their application was subject to material conditions. The application was rejected on the basis of financial criteria, although the applicant was employed it was deemed that the income was insufficient to support the family. The IPAC annulled the decision on the basis of a non-sufficient research of the material facts by the CRMD and provided clear guidance on the examination of family reunification applications of refugees, emphasising the need for the CRMD to take into consideration the special circumstances of refugees and the best interest of the child principle. The case has been returned to the CRMD for examination.

Germany: [Federal Administrative Court, Voraussetzungen für den Familiennachzug zu subsidiär Schutzberechtigten, press release Nr. 78/2022, 8 December 2022](#) (decision not yet published). In December 2022 the Federal Administrative Court ruled that a distinction between refugees and beneficiaries of subsidiary protection concerning the right to family reunification does not violate the Constitution.

Italy: On 10 June 2022, the Civil Court of Rome accepted the appeal presented by a Somali citizen, beneficiary of international protection against the refusal of a family visa for his wife based on the absence of sufficient documentation certifying the marriage bond. The applicant was not present at the time of marriage registration and his signature had been affixed by a third person. The court highlighted the limits in which a holder of international protection incurs in producing the required documentation and insisted on the need to highlight further elements for the purpose of verifying the genuineness of the link, in the present case the declarations, judged credible, issued at the examination of the asylum application before the Territorial Commission (Civil Court of Rome, decision of 10 June 2022.).

Netherlands: In its judgment of 26 January 2022 ([202006519/1/V1](#)), the Council of State set out a new integral assessment framework for proving identity and family ties in family reunification cases. The Secretary of State can no longer differentiate between official and unofficial documents. All documents, regardless of their nature or status, must be included in the assessment. However, the Secretary of State may, with motivated reasons, assign a different probative value to the documents submitted and attach different importance to explanations given for the lack of documents. The Secretary of State has to make an integral assessment of all the documents submitted and statements made, and other relevant elements of the case like for example the age and gender of the family member and the administrative practice in the country of origin. The requirements set by the INS for the evidence provided, must be proportional to those elements. Unlike before, the INS has to make a motivated assessment whether there is reason to give the sponsor the benefit of the doubt. Like for example in a situation where there is only a beginning of evidence, but there are no contra-indications (like a false document) and other relevant elements are in favour of the sponsor. The interests of minor children play an important role in this. This means that unlike before, there is not only a right to further investigation if the applicant presents substantial indicative evidence or plausible explanations about the lack of documents. Additional research can also be offered if the benefit of the doubt principle gives rise to this.

On 26 August 2022 the Secretary of State announced several measures in response to the reception crisis. (...) one of the temporary measures announced concerns family reunification (...) On 5 December 2022, in a provisional ruling the Court in Haarlem established that the measure was incompatible with the Aliens Act and the Family Reunification Directive. On 22 and 23 December, in five cases different courts ruled that the measure was unlawful (Regional Court Haarlem, 22 December 2022, [ECLI:NL:RBDHA:2022:14102](#); Regional

Court Middelburg, 22 December 2022, [ECLI:NL:RBDHA:2022:13902](#); Regional Court Haarlem, 22 December 2022, [ECLI:NL:RBDHA:2022:14104](#); Regional Court Arnhem, 23 December 2022, [NL22.20578](#); Regional Court Amsterdam, 23 December 2022, [ECLI:NL:RBDHA:2022:14097](#)). The Secretary of State appealed against two of these rulings. The Secretary of State asked the preliminary relief judge of the Council of State to suspend the judgments of the courts pending the final judgment on the family reunification measure, but said request was rejected. In both cases, the Court in the provisional proceedings found that the interest of the family members outweighs the interest of the Secretary of State not to implement the court rulings (Council of State, 29 December 2022, [ECLI:NL:RVS:2022:4004](#); Council of State, 29 December 2022, [ECLI:NL:RVS:2022:4003](#)). The rulings of the preliminary relief judge mean that the family members of the two sponsors in these cases can immediately obtain permission to enter the Netherlands for family reunification. In these provisional rulings, the Council of State has not yet issued a substantive, legal opinion on the family reunification measure.

Sweden: In a precedent ruling, a case litigated by the Swedish Refugee Law Center, the Migration Court of Appeal found that when determining the age of the sponsor the relevant time should be the time of application of family reunification if the reference person is under 18 years when the application for family reunification is lodged., there shall be no condition that the application must be lodged within three months from the decision of residence permit for the reference person if the reference person is under 18 years at the time of application (the Migration Court of Appeal referred to the CJEU case C 133-19). Migration Court of Appeal, Decision MIG 2022:11, 8 December 2022, available in Swedish at: <https://bit.ly/3WAhx2c>

Access to a travel document

Germany: [Federal Administrative Court, Decision BVerwG 1 C 9.21, 11 October 2022](#). In October 2022 the Federal Administrative Court ruled that beneficiaries of subsidiary protection may not be required to sign a 'repentance statement' at the embassies of the country of origin in order to obtain a passport. If such a practice is adopted by the country of origin, the beneficiary cannot be reasonably expected to obtain a passport of the country of origin

Nationality

Spain: In a decision taken in May 2022, the Provincial Court of Guipúzcoa (País Vasco) recognised for the first time the Spanish nationality to a child born during her mother's arrival to the Spanish coast. Due to the impossibility to obtain the nationality from Cameroon and Morocco, the child had restricted access to public municipal services and could not benefit from certain social benefits. The Court's decision on granting the Spanish nationality is based on the best interest of the child, and on the necessity to avoid the negative consequences that statelessness condition would create for the minor (Audiencia Provincial de Guipúzcoa, Decision [341/2022](#), 2nd Section, 11 May 2022).

Returns

Netherlands: On 14 November 2022, the Council of State ruled that there is a reasonable prospect of removal to Morocco, after having been ruled out since 2 April 2021 (Action Plan Netherlands-Morocco, 8 July 2021, available in Dutch at: <https://bit.ly/3vv1WFV>). The Council of State considered that a reasonable prospect of removal can be envisioned due to a political process between the Netherlands and Morocco that was expressed in an Action Plan made public on 29 November 2022. One of the agreed statements is as followed: 'Both countries are bound to respect each other's sovereignty and institutions and not to interfere in internal affairs.' According to Moroccan experts interviewed by the newspaper NRC, the Action Plan shows that the Netherlands will no longer openly criticize the human rights situation in Morocco in exchange for being able to deport and detain Moroccan nationals.



According to the Court, there is instead still no reasonable prospect of removal towards Algeria (ECLI:NL:RVS:2022:1276, 4 May 2022).

Unaccompanied minors: The Council of State published its ruling on this onward appeal on 8 June 2022 (Council of State, [ECLI:NL:RVS:2022:1530](#), 8 June 2022). The Council of State established that there are three possible situations for unaccompanied minors who do not qualify for an asylum permit:

1. There is adequate reception in the country of return. A return decision is issued.
2. There is no adequate reception. The UM must be granted a residence permit on national grounds.
3. Further research is needed. The unaccompanied minor will receive a rejection on the merit of the asylum claim (...). The asylum decision and the return decision are therefore separated. In this situation, the unaccompanied minor retains lawful residence on the basis of Article 8, preamble and under f, Aliens Act. The investigation can lead to two conclusions: either there is adequate reception, so that a return decision can be issued, or there is no adequate reception and the unaccompanied minor receives a residence permit on national grounds. The unaccompanied minor can appeal the decision stating that further research is needed. The Council of State further rules that the fact that the applicant is not a minor anymore does not mean that the Secretary of State can refrain from investigating whether they should have been granted a permit based on national grounds.

17. Other important developments in 2021

Regularisation

Germany: Right to stay for persons with a long-term tolerated status (Chancenaufenthaltsrecht). A reform which entered into force on 31 December 2022 introduced a new way for persons with a tolerated status ('Duldung') to legalise their stay in Germany and relaxes some conditions for existing pathways to legal residence. A tolerated status applies to persons who are obliged to leave Germany, e. g. because their application for asylum was rejected, but whose removal is suspended for either legal reasons (e. g. because of the situation in the country of origin) or practical reasons (e. g. when removals cannot be enforced due to an illness or the lack of travel documents). The newly introduced provision applies to all persons who have been staying in Germany for five years on 1 October 2022. They can apply to receive a residence permit for a period of 18 months without fulfilling the usual criteria to legalise their stay (such as the ability to secure their own subsistence, valid identity documents, and German language skills), and then have to meet these criteria within the 18 months in order to secure their legal stay. The provision is set to expire after three years. The reform also relaxed conditions for existing ways to legalise stay in Germany. These include the residence permit for young persons (Section 25a Residence Act) and for persons proving 'sustainable integration' (Section 25b Residence Act). For the first group, the age until when young people can apply to obtain the residence permit was increased to 27 (from 21). For the second group, the length of previous stay was lowered from eight to five years. However, they have to have had a tolerated stay (and not e. g. the legal status of an asylum seeker) for the 12 months preceding the application.

Spain: A report published in December 2021 by the Federation Red Acoge highlights that Spanish Immigration Law makes citizenship conditional to a set of criteria very difficult to meet for migrants, thus leaving many of them in a situation of social exclusion. With the aim of promoting a people's legislative initiative to regularise 500,000 persons by collecting 500,000 signatures, a group of organisations (including a political party) joined to form the platform "ESencialES". On December 2022, the campaign reached 700,000 signatures, that were submitted to the Office for the Electoral Roll, in order to start the Parliamentary procedure. A gathering in front of the Congress was also organised by the Platform ESencialES, with the aim of celebrating the great support received for this Popular Legislative Initiative. The parliamentary procedure foresees a maximum of 6 months to analyse the popular initiative and to submit it, if the case, to the Congress for its consideration.





Ireland: On 3 December 2021, the Minister for Justice announced the establishment of a scheme to regularise long-term undocumented migrants which opened for applications on 31 January 2022. The scheme enables applicants and their eligible dependants to remain and reside in Ireland and to regularise their residence status whereby the applicant has a period of 4 years residence in the State without an immigration permission, or 3 years for applicants with minor children, immediately prior to the date on which the scheme opens for applications. Those with an existing Deportation Order were also permitted to apply whereby they met the minimum undocumented residence requirement. Additionally, international protection applicants who had an outstanding application for international protection and had been in the asylum process for a minimum of 2 years were also permitted to apply pursuant to a separate application process. Applications for those in the International Protection strand opened on 7 February 2022. According to data released by the Department of Justice, 6,548 applications in respect of 8,311 people were submitted under the Long-Term Undocumented strand of the scheme, including 1,108 applications in respect of minors, submitted as a part of family applications. As of the 12 December 2022, 4,857 decisions had been issued to applicants and of these 4,796 (97 %) were positive decisions and 94 (2%) were negative decisions, while 47 (1%) applications had been withdrawn by applicants for various reasons.

Under the International Protection strand of the scheme, 3,198 applications were received. 1,434 grant decisions had been issued, while a further 1,020 applications were accepted but applicants were granted an alternative immigration permission such as refugee or subsidiary protection status or permission to remain. The establishment of the regularisation scheme has been hugely welcomed by NGOs, stakeholders, and perhaps most significantly, the undocumented community in Ireland, many of whom have resolutely campaigned for over a decade to achieve the realisation of such a scheme. However, NGOs have noted a number of gaps in the scheme. For instance, in circumstances where a person has spent time in the protection process and subsequently received a negative decision, the time spent in the protection process does not count towards time spent 'undocumented' for the purposes of the mainstream regularisation scheme. Similarly, persons who were previously undocumented and are now in the protection process cumulatively may have been in Ireland for more than two years but do not qualify for either the undocumented strand or the international protection strand of the scheme.

Netherlands: (Unaccompanied minors) The Council of State published its ruling on this onward appeal on 8 June 2022 (Council of State, [ECLI:NL:RVS:2022:1530](#), 8 June 2022). The Council of State established that there are three possible situations for unaccompanied minors who do not qualify for an asylum permit:

1. There is adequate reception in the country of return. A return decision is issued.
2. There is no adequate reception. The unaccompanied minor must be granted a residence permit on national grounds.
3. Further research is needed. (...) In this situation, the unaccompanied minor retains lawful residence on the basis of Article 8, preamble and under f, Aliens Act. The investigation can lead to two conclusions: either there is adequate reception, so that a return decision can be issued, or there is no adequate reception and the unaccompanied minor receives a residence permit on national grounds. The unaccompanied minor can appeal the decision stating that further research is needed. The Council of State further rules that the fact that the applicant is not a minor anymore does not mean that the Secretary of State can refrain from investigating whether they should have been granted a permit based on national grounds.

Transfers of BIPs

Austria: In a project by Asylkoordination called TETRAA, Diakonie Flüchtlingsdienst and a lawyer practising in Vienna, Christian Schmaus, supported cases of strategic litigation concerning persons that had received status of protection in Greece but found themselves homeless and without basic care there. The Constitutional Court (VfGH Decision [E599/2021](#), 24 September 2021) and High Administrative Court (VwGH [Ra 2021/18/0085](#), 25 January 2022) both ruled that the situation of beneficiaries of international protection in Greece has to be assessed closely, especially the access to social services.





Germany: Jurisprudence regarding transfers to Italy has remained inconsistent as of 2022. The Higher Administrative Court of Lower Saxony found in June 2022 that access to illegal forms of work in Italy can be taken into account when state authorities are not enforcing the law against such forms of work. Two administrative court decisions issued after the new right-wing government in Italy took office point to different assessments of the impact of the change in government on conditions for asylum seekers: while the administrative court of Greifswald does not expect the situation to change, the administrative court of Braunschweig expects the situation to worsen.

Transfers to Bulgaria: The Federal State government of Lower Saxony issued guidance on 21 February 2022 according to which transfers are only admissible for healthy persons who are fit to work, and not for single parents, families with minor children and persons unable to work.

For Hungary, in 2022, a number of administrative courts have found that the situation of beneficiaries of international protection in Hungary bears the danger of violating Art. 3 ECHR or Art. 4 CFR as beneficiaries are likely not able to ensure a minimum of existence (Administrative Court of Bremen, 3 K 491/18, 6 April 2022; Administrative Court of Aachen, [5 K 3571/18.A](#); Administrative Court of Munich, [M 6 K 18.33184](#), 10 May 2022)

Decisions of the Higher Administrative Courts of Baden-Württemberg and Saxony in 2022 ([Higher Administrative Court of Baden-Württemberg, A 4 S 2443/21, 27 January 2022](#), [Higher Administrative Court of Saxony, 5 A 492/21.A, 27 April 2022](#)) confirmed that beneficiaries cannot be sent back to Greece, and that their applications cannot be deemed inadmissible for the reason that protection has been granted in another Member State.

For Poland, jurisprudence is unclear as of January 2023, with the administrative court of Hannover (Administrative Court of Hannover, [15 B 371/22.A](#), 27 June 2022) deciding against removal in June 2022 on the basis that capacities in Poland are overstretched due to the reception of Ukrainian refugees, while the administrative court of Würzburg (VG Würzburg, [W 1 K 22.30178](#), 6 April 2022) found no indication of inhuman or degrading treatment for beneficiaries of international protection in April 2022.

A transfers of beneficiaries of international protection to Romania was halted by the Federal Constitutional Court in July 2022 (Federal Constitutional Court (BVerfG), [2 BvR 961/22](#), 19 July 2022), which held that the competent administrative court had not properly assessed the situation on the ground in light of the changed situation after the outbreak of the war in Ukraine. The Higher Administrative Court of North Rhine Westphalia (Higher Administrative Court of North Rhine Westphalia, Decision [11 A 861/20.A](#), 25 August 2022) asked the Swiss Refugee Council to assess the situation in April 2022, and found in a judgement of 25 August 2022 that no danger of inhuman or degrading treatment exists.

Greece: According to statistics published RSA on 13 October 2022, close to 100 refugees have been deported to Greece by European states in the first half of 2022 despite the evident risks they face upon return. The situation of beneficiaries of international protection in Greece raises critical questions regarding European countries' compliance with their human rights obligations. In spring 2022, Germany [decided](#) to refrain from returning recognised refugees to Greece and to process their claims on the merits, apart from exceptional cases. The Netherlands recently [followed suit](#) with a similar policy in September 2022.

Netherlands: Beneficiaries of international protection from Greece: The Ministry of Foreign affairs investigated the situation of BIPs in Greece. The report was published on 24 June 2022. On 7 November 2022, the Secretary of State declared that, following the report, BIPs from Greece could no longer be sent back to the country. However, as the situation in Greece is changing rapidly, cases will still only be decided upon after the prolonged decision period has ended (using the general prolonging of decisions from WBV 2022/22). This means that BIPs from Greece applying for asylum in the Netherlands will have to wait 15 months before their asylum procedure starts. If the asylum procedure starts, the IND will not take in consideration that the person has already been recognized as a beneficiary of international protection in Greece.

Most EU-status holders that apply for asylum in the Netherlands come from Greece. On 7 November 2022, the Secretary of State wrote that communicated there were 1,000 cases pending at the IND.





On 28 July 2021, the Council of State ruled that protection beneficiaries from Greece cannot be sent back without the Secretary of State motivating better that there is no breach of Article 3 ECHR upon their return. In response, the Secretary of State announced that it would start an investigation into the situation of beneficiaries of international protection in Greece (...)

The announced investigation was carried out by the Ministry of Foreign Affairs. The report was published on 24 June 2022. Then on 14 September 2022, the Secretary of State announced that it needed more time to study the report, which meant that decision-making in cases of BIPs from Greece would still be suspended. Finally, on 7 November 2022 the Secretary of State said that following the report, BIPs from Greece could no longer be sent back to the country. However, as the situation in Greece is changing rapidly, cases will still only be decided upon after the prolonged decision period has ended (using the general prolonging of decision from WBV 2022/22). This means that BIPs from Greece asking applying for asylum in the Netherlands will have to wait 15 months before their asylum procedure starts. However, one exception has been made. The asylum requests of BIPs who can be regarded as 'self-reliant' because they have received the social security numbers needed for work and have access to accommodation they could return to in Greece, will be declared inadmissible. The few cases that were (about to be) declared inadmissible based on the 'self-reliance' were all cancelled or dismissed in court (Regional Court Haarlem, Decision Number NL22.20556, 11 November 2022. VluchtelingenWerk knows of two other cases in which the IND intended to declare the asylum request inadmissible but decided not after the view of the asylum lawyer), with just one exception (Regional Court Roermond, [ECLI:NL:RBDHA:2022:3491](#), 12 April 2022).

For a short period of time during 2022, the IND also exempted unaccompanied minors with a status in Greece from the suspension of decision-making. In a few cases, the IND asked the Greek authorities for individual guarantees on reception of the minor. Some of these cases are still pending, but individual guarantees are no longer requested.

Whether the IND is allowed to treat asylum seekers who are BIPs from Greece (but cannot be sent back to Greece) as if they were any other first-time applicants asylum seeker without previous protection, is still up for discussion. There are three cases pending at the Council of State on this matter, relating to the question on the importance and weight of the recognition as beneficial of international protection by Greece.

Switzerland: According to SEM statistics, there were no transfers to Hungary under Dublin in 2022, just as in 2021, 2020, 2019 and 2018. On the other hand, in 2022 there were 6 transfers under the bilateral readmission agreement between Switzerland and Hungary which applies to persons having received international protection in Hungary, compared to 4 in 2021.

Under the bilateral readmission agreement between Switzerland and Italy, 51 transfers to place in 2022, compared to 53 in 2021.

Under the bilateral readmission agreement between Switzerland and Bulgaria, 2 transfers to place in 2022, compared to 1 in 2021.

(concerning Malta) No transfer took place under the readmission agreement in 2022, compared to 1 in 2021.

In 2022, nobody was transferred to Croatia under the bilateral readmission agreement, compared to 1 person in 2021.

Digitalisation of asylum procedures

ECRE/AIDA - Digitalisation of asylum procedures: In January 2022, ECRE published a comparative report providing an overview of the use of digital tools and remote working methods in 23 European countries based





on ECRE's Asylum Information Database (AIDA). It questions the risks and benefits of the use of digital tools in asylum processes and highlights several fundamental guarantees and procedural safeguards which must continue to apply to ensure that they do not infringe the existing European Union asylum acquis.

See ECRE/AIDA, Digitalisation of asylum procedures: risks and benefits, January 2022, available at: <https://asylumineurope.org/wp-content/uploads/2022/01/Digitalisation-of-asylum-procedures.pdf>

Austria: For 2022, the Ministry of Interior reported that there are no statistics in how many interviews videoconferencing tools were applied but informed that more technical hardware tools for videoconferencing was purchased.

Belgium: As of 1 March 2022, the appeal petition can no longer only be introduced by registered letter but also digitally through the digital application 'J-BOX'. The Royal Decree of 21 November 2021, introducing this digital communication system in the procedures before the CALL, makes it possible for parties to send all procedural documents (petition, note with remarks, synthesis memoire, additional notes...) both digitally and by registered letter. In accelerated and suspension procedures in cases of 'extremely urgent necessity', procedural documents can, as of 1 March, only be directed to the CALL through either the digital system or by depositing the documents physically at the clerk service of the CALL against receipt, excluding the previously habitual possibility of sending these documents by fax. For applicants in detention, the introduction of the petition remains possible in the hands of the director of the detention facility. Finally, the Royal Decree allows the CALL to send procedural documents (such as invitations for hearings, judgements, ...) to the parties through J-BOX. The CALL has communicated on its website that when the applicant is assisted by a lawyer who has a J-BOX account, it will preferably send all procedural documents digitally through J-BOX.

Germany: the Asylum Act through Act on the acceleration of asylum court proceedings and asylum procedures which entered into force on 1 January 2023 introduced the possibility to conduct video interviews, including for Dublin interviews (see Personal interview). Even before, this possibility had been introduced for Dublin interviews as of July 2021.

France: In 2022, CNDA organised for the first-time teleconferenced hearings with the Administrative Court of Lyon. This practice continued with the Administrative Court of Nancy and with overseas territories. Out of 6,775 hearings, 267 were video-hearings, including 200 from overseas territories.

Greece: Different practices were adopted by the various RAOs in the different islands in 2022 as regards the conduct of asylum interviews. In Kos the asylum interviews were conducted with the physical presence of the caseworkers and usually the interpreter is also present. However, in certain cases the interpreter is only present through teleconference. In Lesvos were carried out both in person and through videoconferencing. Moreover, in view of the EUAA significant reduction of staff during 2022, EUAA case workers were under pressure to conduct at least 2 interviews per day and deliver 3 opinions per day or 4 admissibility interviews per day.

Hungary: In 2022, the HHC's lawyers reported only about one occasion, when there were serious difficulties in setting up the system between NDGAP and the Hungarian Embassy in Belgrade, for an interview conducted as a part of the embassy procedure.

Ireland: All appeals deemed suitable proceeded before the IPAT on a remote basis via audio-video link throughout 2022. In circumstances where an appeal was deemed unsuitable to proceed remotely, the appeal proceeded by way of an on-site oral hearing. This usually occurred in situations whereby to proceed with the appeal remotely would be contrary to the interests of justice. As of January 2023, the vast majority of appeals continued by way of remote hearing, save at the request of the applicant or whereby to conduct the appeal remotely would be contrary to the interests of justice.





Italy: (second instance) The provisions allowing for written or remote hearings have been extended until the end of 2022. It is up to the judge in charge of the case to decide how to run the hearing, so different practices are observed even in the same Court. In any case, it is possible for the lawyer to require for the hearing to be held in presence, justifying the reasons for such a request.

Poland: Beyond detention context, in 2020 and 2021 videoconferencing was applied on a larger scale because of the pandemic, but the applicants still had to come to the Office for Foreigners. Interviewee and interviewer were sitting in separate rooms and upon the termination of the interview, the interviewee still had to sign the protocol of the interview. This practice was continued in 2021 and allowed for less delays in the duration of proceedings. According to the Office for Foreigners, protocols are mainly prepared on the computer, not handwritten. In 2022 the Office for Foreigners declared that “not all” interviews were conducted remotely.

Romania: (detention appeal) According to the Courts of Appeal of Timișoara, in 2022, the court hearings were held through videoconferences in 54 cases.

Discrimination and hate crimes

Spain: Several developments relating to discrimination and hate crime were reported throughout 2022 and at the beginning of 2023. In its 2022 annual report, the General Public Prosecutor denounced that hate crimes increased in 2021, with an increase of indictments up to 44%, identifying political polarisation as one of the main causes of said increase. The report found that main motivations of hate crimes are racism and xenophobia (34,8%), and sexual orientation and gender identity (34,3%).

Asylum seekers, refugees and migrants in Spain continue to suffer from financial exclusion and discrimination, because of the challenges often faced while trying to open bank accounts. In February 2022, different organisations urged the Government and the Bank of Spain (Banco de España) to adopt urgent measures to make banking institutions comply with the law and to end a practice that impede the financial and social inclusion of asylum seekers, refugees and migrants.

In 2022, within the project ‘Don’t call out, claim’ (No clames, reclama!), the Federation of Consumers and Users (Federación de Consumidores y Usuarios – CECU) published a practical guide for vulnerable users (including asylum seekers) on their rights regarding the opening of a bank account. The document is available in Spanish, English, French and Arabic.

Evacuations from Afghanistan

Netherlands: (...) On 20 January 2022, with Pakistan’s support, 35 people were made to cross the land border and will receive a visa and plane ticket for the Netherlands at the Dutch embassy in Pakistan, but this was a rare exception.

The most recent evacuation flight destined to for the Netherlands was on 3 December 2021. On 12 December 2021, a message appeared that the Taliban suspended cooperation on evacuation flights. Regardless, on 27 January 2022 evacuation flights to Qatar were resumed. From 26 Augustus 2021 to 6 December 2022, a total of 2,591 people were evacuated from Afghanistan to the Netherlands. 156 persons were still considered for evacuation to the Netherlands, but this is their transfer was deemed exceedingly- very difficult due to (most of) them not possessing a valid travel document.

Use of medical reports

Netherlands: Dutch law and policy provides that a forensic medical examination has to be done but only if the IND finds this relevant for the outcome of the examination of the asylum application. (...) In 2022 it became clear, some journalist investigations brought to light the fact that only a handful of such medico legal reports were written annually. That leads us to the conclusion that the Dutch government is not fulfilling its obligation wholeheartedly under article 18(1) of the recast Asylum Procedures Directive.





In 2022, the DCR has analysed around 100 new public decisions by lower courts and the Council of State dealing with medical support evidence, iMMO and MediFirst. (...) In around 60 out of 90 decisions by lower courts, the foreign national successfully appealed the negative decision from the IND. The success rate to appeal a negative IND decision had been higher in 2022 compared to previous years. Whether or not it is the question if the state should have initiated its own forensic medical report or not, whether the vulnerable asylum seeker were given the proper care or whether an iMMO report should have been taken into account when dealing with the credibility issues, more and more court decisions appear to be critical towards the policy and practises of the Secretary of State in this domain.

On December 7th 2022, the Council of State ([ECLI:NL:RVS:2022:3615](#)) ruled in its judgment that the so called 'component requirement' was no longer tenable. The 'component requirement' means that if in a forensic medico-legal report the examiner (for instance iMMO) has come to the conclusion that the physical and psychological situation of the asylum seeker might have affected (heavily) their ability to tell his/her asylum story in a complete, consistent and coherent manner during the interviews with the IND, the examiner should be able to pinpoint directly on which components of the asylum story the assumed limited ability had its effect. The component rule has been laid down by the Council of State in its landmark ruling from 27 June 2018, as mentioned earlier. Since, both the IND and many lower courts did not accept the view from iMMO that from a medical scientific point of view the component requirement could not be met in a way satisfactory for the IND and the legal courts. Since 2020, you've seen a tipping point in case law. More and more courts adopted the view expressed by iMMO, leading to the December 7th 2022 judgment in which the council of State abandoned the adopted view in 2018. This judgment is an important one, strengthening the position and value of medico-legal reports in the Dutch asylum procedure. It is our assumption that in 2023 many decisions by the Secretary of State and lower courts will be overturned due to this December 7 2022 ruling.

Sweden: The Aliens Act does not contain any guidelines for medical examinations. The Swedish asylum procedure operates on the principle that any evidence can be admitted in support of an asylum claim. Therefore, the law does not expressly refer to the possibility of a medical certificate in support of the applicant's statement regarding past persecution or serious harm. However, as a result of the R.C. v. Sweden ruling of the European Court of Human Rights (ECtHR), Sweden has been reminded of the obligation on its authorities to carry out a medical examination if there is an indication on an initial non-expert medical report that the applicant could have been a victim of torture.[1] Following the ruling by the ECtHR, the Migration Court of Appeal has in several rulings specified the investigative duty of the migration authorities and confirmed the principles of R.C. v. Sweden.[2]

References and sources

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

ECRE Policy Notes

- ECRE, Policy Note 40: [A Step Too Far: Introducing "Instrumentalisation" in EU Law](#), March 2022
- ECRE, Policy Note 41: [Schengen Borders Code Amendments: More Hostile Borders; Less Space for Human Rights](#), March 2022
- ECRE/PICUM Policy Note: [Displacement from Ukraine: the EU's Financial Response](#), October 2022
- ECRE Policy Note 42: [Monitoring the Implementation of Returns: A Complex Puzzle with Missing Pieces](#), December 2022





- ECRE Policy Note 43: [Movement To and From Ukraine under the Temporary Protection Directive](#), January 2023

ECRE Policy Papers

- ECRE, Policy Paper 8: [Quo Vadis EU Asylum Reform? Stuck between Gradual Approach, \(Mini\)-Package Deals and “Instrumentalisation”](#), September 2022
- ECRE Policy Paper 9: [Solidarity: the Eternal Problem – Recent Developments on Solidarity in EU Asylum Policies](#), January 2023

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- ECRE Legal Note 12: [Effective Remedies in National Security-Related Asylum Cases, with a Particular Focus on Access to Classified Information](#), May 2022
- ECRE Legal Note 13: [Age Assessment in Europe: Applying European and International Legal Standards at all Stages of Age Assessment Procedures](#), January 2023
- ECRE intervened in following cases:
 - [R.A. v. Poland](#), Application No. 42120/21, March 2022
 - [Hasani v. Sweden](#), Application No. 35950/20, March 2022
 - [L.H.M. v. Greece](#), Application No. 30520/17, April 2022
 - AIRE Centre/ECRE, [Communication to the Committee of Ministers on M.K. and others v. Poland execution](#), Applications Nos 40503/17, 42902/17 and 43643/17, April 2022
 - A.H. v. Serbia and North Macedonia, Applications Nos 60417/16 and 79749/16, May 2022 (not publicly available yet)
 - [S.S. v. Greece](#), Application No 30221/21, May 2022
 - [F.M. and others v. Greece](#), Application No. 17622/21, May 2022
 - N.S. v. Greece, Application No. 15913/20, July 2022 (not publicly available yet)
 - [A.D. and A.E. v. Greece](#), Applications Nos 4034/21 and 15783/21, July 2022
 - [G.R.J. and others v. Greece](#), Applications Nos 15067/21 and 24982/21, July 2022
 - [A.D. v. Malta](#), Application No. 12427/22, October 2022

ECRE Comments Papers

- ECRE Comment Paper: [ECRE Comments on the Commission Proposal for a Regulation of the European Parliament and of the Council Addressing Situations of Instrumentalisation in the Field of Migration and Asylum, COM\(2021\) 890](#), January 2022
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- ECRE Working paper: [La Stratégie de Gestion des Migrations de l’Union Européenne envers les Pays Africains Analysee depuis le Sénégal et l’Afrique de l’Ouest](#), May 2022
- ECRE Working paper: [Higher Education in Europe: A Pathway to Protection for Afghans?](#), December 2022

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- ECRE Statement: [EU response to displacement from and within Ukraine](#), March 2022



- Joint Statement: [Mounting global needs call for renewed European leadership on resettlement](#), June 2022
- Joint Statement: [NGOs call on Member States: Agreeing on the Instrumentalisation Regulation will be the Final Blow to a COMMON European Asylum System \(CEAS\) in Europe](#), September 2022
- Joint Statement: [One year after the country's takeover by the Taliban – How did Europe welcome Afghans in need of protection?](#), September 2022
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- ECRE Information Sheet: [Measures in response to the arrival of displaced people fleeing the war in Ukraine](#), May 2022;
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- ECRE Information Sheet: [Measures in response to the arrival of displaced persons fleeing the war in Ukraine](#) (Update), November 2022
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- AIDA Comparative Report: [Not there yet: Family reunification for beneficiaries of international protection](#), February 2023
- *AIDA Report on Fact-finding Visit to Poland, to be published in March 2023*

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

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