

Input by civil society organisations to the Asylum Report 2024

Fields marked with * are mandatory.

Dear Colleagues,

The production of the Asylum Report 2024 is currently underway. The [annual Asylum Report series](#) presents a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, researchers and UNHCR. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policies or practices in 2023 by topic as presented in the online survey (**'Part A' of the form**).

We also invite you to share with us any publications your organisation has produced throughout 2023 on issues related to asylum in EU+ countries. These may be reports, articles, recommendations to national authorities or EU institutions, open letters and analytical outputs (**'Part B' of the form**).

Your input can cover information for a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

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.

All submissions are publicly accessible. For transparency, contributions will be published on the EUAA webpage. For reference, contributions to the 2023 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

Please submit your contribution to the Asylum Report 2024 by Thursday, 30 November 2023.

Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

Part A:

- New developments and improvements in 2023 and new or remaining challenges;
- Changes in policies or practices, transposition of legislation or institutional changes during 2023;
- Across the different thematic sections feel free to make reference to issues related to the implementation of the Temporary Protection Directive at national level.

Part B:

- New publications your organisation produced in 2023

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.

PART A: Contributions by topic

1. Access to territory and access to the asylum procedure (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

With reference to access to Italian territory, we note the legislative decree n. 1/2023 converted with law. 15 /2023 with which the Italian Government led by the leader of Fratelli di Italia, who took office on 22 October 2022, immediately characterized itself by considerable propaganda regarding the desire to block what it defines as "illegal immigration", especially coming by sea from North Africa, hindering in particular the activities of SAR NGOs carrying out search and rescue activities in the Mediterranean Sea.

For an analysis of the provisions contained in the legislative decree n. 1/2023, converted with law. n. 15 /2023, please refer to the document published by ASGI on its institutional website (see: (<https://www.asgi.it/asilo-e-protezione-internazionale/decreto-legge-1-2023/>).

With reference to access to the procedure for recognizing international protection, 2023 was very critical in terms of the registration of asylum applications due to an almost substantial paralysis of this activity on the part of the police services (questure), which in almost all Italian cities have allowed entry (and thus registration) to a number of people much lower than the large number of requests (i.e. in Milan in the first months of 2023, the police set the number of weekly entries at 120 (= 24 per day for 5 days a week).

This situation has forced asylum seekers, even for months, to "stay" in inhuman conditions and exposed to the elements in front of the Italian police services (questure) without any guarantee of access. The press and television have also begun to cover this situation. Numerous cases have been brought by Italian lawyers

to have the Court recognize the right of access of migrants to asylum procedures. (see for more information: https://asylumineurope.org/wp-content/uploads/2023/05/AIDA-IT_2022-Update.pdf).

The Supreme Court with the order of. 13.7.2023 n. 20028, n. 20070 (see: <https://www.dirittoassociazionecittadinanza.it/allegati/fascicolo-n-3-2023/trattamento/1250-all-2-cass-2023-20028/file>)

once again intervened on the timing of the registration of the asylum application stating that in compliance with the provisions of the art. 6, of Directive 2013/32/EU, the application for international protection must be registered within the terms established therein (three or six days depending on the office) and the ten-day extension of the term, provided for by national legislation (last period of 'art. 26, paragraph 2-bis, Legislative Decree 25/2008, introduced by the national legislator with Legislative Decree 142/2015) must be applied only in the case of a high and proven number of applications following consistent and close arrivals.

Due to the problems of registering the asylum application in Milan, ASGI sent a letter to UNHCR (see: https://naga.it/wp-content/uploads/2023/03/Lettera-a-UNHCR-03.03.23_SITO_Redacted.pdf).

Similarly, the serious flows affecting the Questura of Turin, including with regard to the impossibility to formalize the asylum applications, lead ASGI to address the Police with a formal letter, which was then followed by a very participated public protest. Several months after the demonstration, no substantive change in the rules for submitting asylum applications has been registered.

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

Asylum seekers do not have widespread and equal access to legal assistance during the first phase of the asylum application, as legal support depends on the services provided by reception centres. Moreover, two main reform introduced in 2023 by D.L. 20/2023 converted into L. 50/2023 will further impact the access of asylum seekers to legal assistance.

On the one hand, asylum seekers are excluded from those reception centres (SAI centres) which normally offer a higher quality of services (including legal assistance). On the other hand, legal assistance has been excluded from the services offered by extraordinary reception centres (CAS) where asylum seekers are mainly accommodated. Therefore, the governmental reception system does not offer any more widespread legal assistance.

With regard to the right of information, the Court of Cassation recently ruled that the Administration has a duty to provide "complete and effective" information on the right to apply for asylum, in order to ensure that identification procedures are rightly carried out. The Court also stated that the Administration has an obligation to state how the information was provided, i.e. in which language the information were given, if orally or in written and if an interpreter was present.

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 services are particularly problematic in hotspots and first assistance centres. For instance, ASGI reported that in the Lampedusa hotspot the information and interpretation services, that should be offered by the administration, are completely subcontracted to UNHCR. Those deficiencies have been worsened by the reduction of personnel temporary working at Questure.

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

The detention of the foreign citizen subjected to the Dublin procedure was provided for by the Legislative Decree. 20/23, with the modification of the art. 6-ter, Legislative Decree 142/15, this form of restriction was not previously foreseen in Italy. So far this provision had not been implemented. The new law introduces the detention of asylum seekers subject to the Dublin procedure. The measure is expected only "while awaiting transfer" to the Member State of the European Union competent to decide on the application, which presupposes the identification of that country, and is applicable exclusively if no alternative measures can be put in place (delivery of the passport, obligation to stay, obligation to report to the police). The detention, limited to the "time strictly necessary for the execution of the transfer", is ordered by the Police Commissioner and validated by the judicial authority following a hearing in which the foreigner participates via audiovisual connection. Validation involves staying in the center for 6 weeks, which can be extended, in the event of serious difficulties in carrying out the transfer, "for a further thirty days, up to a maximum of a further six weeks", symbol of lack of clarity on the part of the legislator when it comes to the deprivation of personal liberty of foreigners.

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

Decree no. 20/2023, converted by Law no. 50/2023, at art. 7-bis intervenes, inter alia, on the accelerated border procedures and in particular on the conditions and terms for their application, by amending art. 28-bis, par. 2, legislative decree no. 25/2008. 25/2008, which now provides for two hypotheses of accelerated procedures, which can be carried out directly at the border or in transit zones: that of an application for international protection submitted by an applicant directly at the border or in transit zones after having been apprehended for evading or attempting to evade the relevant controls (lett. b), and that of an application for international protection submitted directly at the border or in the transit zones by an applicant coming from a designated safe country of origin (lett. b-bis). In these cases, the Territorial Commission decides within seven days from the receipt of the application. In cases of the accelerated border procedure, the time limit for the decision by the Board is reduced to only seven days from the receipt of the application. In such cases, an appeal is admissible within fourteen days of notification of the decision.

With reference to border and/or accelerated procedures for nationals from safe countries of origin, in Italy these are set out in the Interministerial Decree of 4/10/2019, updated by the Interministerial Decree of the Minister of Foreign Affairs and International Cooperation in agreement with the Minister of the Interior and the Minister of Justice of 17 March 2023, which expanded the list of safe countries, Italy currently considers Albania, Algeria, Bosnia and Herzegovina, Cape Verde, Côte d'Ivoire, Gambia, Georgia, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Nigeria, Senegal, Serbia and Tunisia as safe countries of origin. In the recent period, there has been a debate in Italy on the appropriateness of keeping Tunisia on the list of safe countries given the current socio-political situation in the country, which is unable to guarantee its own citizens fundamental rights and the effective exercise of democratic freedoms.

Because of the current situation in Tunisia, some Italian courts have decided on cases of some Tunisian citizens, disapplying the Ministerial Decrees 2019 and 2023, considering Tunisia an unsafe country. Please refer to the decisions of the Courts of Florence and Catania on this matter.

On this issue, please refer to the Joint Statement of several civil society organisations, including ASGI to challenge the maintenance of Tunisia on the list of safe countries (see: <https://www.asgi.it/notizie/la-tunisia-non-e-ne-un-paese-di-origine-sicuro-ne-un-luogo-sicuro-di-sbarco-per-le-persone-soccorse-in-mare/>).

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)

With reference to the reception system of asylum seekers in Italy, with Law no. 50 of 5/05/2023, there has been a strong deterioration in several aspects.

Decree-Law No. 20/2023, converted by Law No. 50/2023, excludes asylum seekers from reception in SAI, with the exception of vulnerable persons or asylum seekers arrived through humanitarian corridors.

Moreover, the decree broadened the hypotheses of the reduction of reception; in Article 6b, it provided that asylum seekers are no longer granted health care, social and psychological assistance, linguistic-cultural mediation, Italian language courses and legal and territorial orientation services, but only "health care, social assistance and linguistic-cultural mediation", therefore, the Italian state no longer offers asylum seekers psychological assistance, legal orientation and Italian language teaching.

On 7 August 2023, the Ministry of the Interior issued a circular instructing the prefectures to order the immediate termination of reception measures for those recognised as holders of international and special protection, without waiting for their residence permit to be issued and without providing for their transfer to the SAI. In essence, thousands of holders of international or special protection are about to be expelled from the CAS and sent to the streets: the prefectures are moving in this direction.

ASGI together with other associations has launched an appeal to oppose the policy of the national reception system, to which we refer: <https://www.asgi.it/asilo-e-protezione-internazionale/fermare-subito-la-deriva-del-sistema-nazionale-di-accoglienza/>.

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)

7.1. New norms on asylum seekers detention (D.L. 20/2023). New grounds for detention of asylum applicants were introduced in 2023: a) detention in the context of the border procedure; b) detention to determine the identity or nationality of an applicant, when there is a risk of absconding (please note that the definition of the risk has been extended); c) detention of so-called Dublin applicants (see above question n. 4).

As for the detention at the border, the law provided that asylum seekers coming from a safe country of origin, or who evaded or attempted to evade border controls, could be detained "in order to rule on their right to access the territory" (art. 6 bis, Legislative Decree 142/2015). The article further specified that detention occurs unless the person submits a valid passport or a financial guarantee. Those provisions were implemented starting from September 2023, when a decree specified that the amount of the guarantee is 4,938.00 € and it can only be presented through a bank guarantee or an insurance policy, and solely by the asylum seekers themselves, not by third parties.

The judges called upon deciding on the border detention measure between September and October ruled that the norm, and the way it was implemented by the police, were unlawful because they were in contrast with art. 43 Procedure Directive and with 8 and 9 of the Reception Directive.

7.2. ECtHR case law on detention in hotspots. The cases decided in 2023 are: J.A. v. Italy (30.3.2023); A.B. v. Italy; A.M. v. Italy and A.S. v. Italy (19.10.2023). The cases regarded the detention of newcomer migrants (before they were able to submit an asylum application) in the Lampedusa hotspot. In all the cases the Court ruled that art. 5 (right to liberty) and art. 3 (prohibition of ill-treatment) were breached. In A.B. v. Italy and A. M. v. Italy, the Court also condemned Italy because the authorities did not provide clear and accessible information during the screening, they filled in the "foglio notizie" in a rough and approximate way, and they created obstacles in accessing the asylum procedure. In all the cases, the Court ruled that the accommodation conditions in the Lampedusa hotspot were lacking of basic hygiene and health requirements, resulting in degrading treatments,

See ASGI statements here: <https://www.asgi.it/notizie/lampedusa-hotspot-sentenza-cedu-definitiva/>; and here: <https://www.asgi.it/asilo-e-protezione-internazionale/cedu-italia-condannata-per-detenzioni-illegittime-a-lampedusa/>.

7.3. New norms of irregular migrant detention (D.L. 133/2023). The maximum detention period for pre-removal detention was brought to 18 months, even though the legislator did not present any concrete evidence to justify that the increase in the detention period could lead to more effective returns. In turn, according to the data published by a recent Action Aid research, there is a correlation between return and a longer period of detention.

Moreover, the new law transferred the competence over the establishment of detention centres from the Ministry of Interior to the Ministry of defence, identified both reception and detention centres as “facilities of interest for the defence apparatus”, and allowed for the establishment of such centres under procedures that create exceptions to public procurement law (leading to reduced transparency and accessibility).

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decisionmaking, timeframes, case management - including backlog management)

Some important developments occurred in the last two years regard the composition of national authorities which decide on asylum on first instance procedures. While until 2021 UNHCR was involved in the decision-making process, being one of the members of the territorial Commissions, in the last two years UNHCR members have been replaced by “experts on human rights and international protection”, appointed by UNHCR and paid by the Ministry of Interior (through an attendance fee).

Such experts come from different backgrounds and have different expertise (academics, lawyers, social workers) and their roles may vary from one Commission to another. They are part of the decision-making process of the Commission, as they are called to agree or disagree on the proposal made by the officer who instructed the case. No assessment of their role in the process of adopting a decision on the asylum application has been made so far.

Moreover, it can be underlined that the number of specialized officers in the Commissions (appointed by the Ministry of Interior) has decreased since 2018, and many Commissions are at the moment in a situation of staff shortage (see for instance: <https://www.ilpost.it/2023/11/05/commissioni-territoriali-audizioni-richieste-asilo-protezioni-internazionali/>)

Finally, the Law Decree n. 20/2023 introduced the possibility, in case of staff shortage, that specialized officers could be supported, or that their work can be took over, by other officers of the local Prefecture. The provision is highly critical because the substitutes have no specific expertise of training on the issue of international protection.

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management -including backlog management)

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

11. Issues of statelessness in the context of asylum (including identification and registration)

12. 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)

Recent legislation has brought about two major changes with regard to vulnerable applicants. On the one hand, all women have been included in the list of vulnerable applicants in terms of reception needs. On the other hand, problematic changes have been made to the provisions on reception and age assessment of unaccompanied minors.

Previously, the law clearly prohibited the detention and placement of minors in centres together with adults. Furthermore, the provisions on age assessment, which were reformed and systematised in 2017, established that only the judicial authority was competent to initiate an age assessment procedure and that the assessments had to be carried out by a multidisciplinary team in an appropriate environment.

Legislative Decree no. 133/2023 (which has yet to be transposed into law and may be subject to further amendments) established that: a) minors over the age of 16 may be accommodated together with adults in first reception centres for a maximum of 90 days; b) a derogatory age assessment procedure may be applied in the case of persistent and frequent arrivals. According to the new provisions, the minor's age can be determined by the police authority at the time of initial identification through medical examinations, including an x-ray of the wrist, and this assessment must be communicated to the public prosecutor at the juvenile court, who can later ratify the age. A written report on how the assessment was carried out must be sent to the same prosecutor and can be appealed within 5 days.

Both provisions seem particularly problematic in terms of the best interests of the minor and represent a serious step backwards compared to the current rules for unaccompanied minors. Moreover, they could legitimise practices that have been condemned by the ECtHR in recent years (see cases: Darboe and Camara; M.A. and Trawally, decided in 2023).

13. 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)

14. Return of former applicants for international protection

15. 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)

16. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

17. National jurisprudence on international protection in 2023 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))

<https://www.dirittoimmigrazione cittadinanza.it/>

18. Other important developments in 2023

With reference to the externalisation of asylum procedures and access to the territory, it is also worth mentioning the Italy-Albania memorandum of November 2023, by which Albania will give Italy the possibility to use some areas in Albanian territory in which Italy intend build, at its own expense, under its jurisdiction, two centres for the management of migrants arrived by sea. These facilities will initially be able to accommodate up to three thousand people, who will remain in these centres for the time necessary to be able to carry out the procedures for the processing of asylum applications and possibly for repatriation. The agreement signed with the Albanian government, in violation of our country's constitutional and international obligations, aims, like the one with Tunisia, to externalise borders and the right to asylum. In fact, the Italy-Albania agreement, as outlined, entails the risk of serious human rights violations. The text of the agreement does not make it clear whether the centres to be set up in Albania will be used for the examination of applications for international protection and in particular for border procedures or for repatriation, but people taken to the centres would be prevented from leaving, suffering de facto an

automatic and prolonged detention regime without a clear legal basis. The possibility of judicial review also seems compromised, as well as the right of defence and to an effective remedy. In fact, the agreement does not clarify the competence to validate the detention of persons, nor what will happen to persons who have requested international protection and who do not receive a response within the 28 days provided for by the accelerated procedure.

After the intervention of 'Tavolo Asilo e Immigrazione' and ASGI, the government declared that it would ask Parliament to ratify the agreement. 'Tavolo Asilo e Immigrazione' demands that the Italy-Albania Protocol be revoked by the government and has called on Parliament to vote against the ratification bill.

PART B: Publications

1. If available online, please provide links to relevant publications produced by your organisation in 2023

2. If not available online, please share your publications with us at: Asylum.Report@euaa.europa.eu or upload your file using the functionality below (max. file size 1MB).

Please upload your file

The maximum file size is 1 MB

3. For publications that due to copyright issues cannot be easily shared, please provide references using the table below.

	Title of publication	Name of author	Publisher/Organisation	Date
1				
2				
3				
4				
5				

Contact details

* Name of Organisation

ASGI

Name and title of contact person

AVVOCATO ANNA MORETTI

* Email

annamoretti1976@gmail.com

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

Useful links

[EUAA Asylum Report 2023 \(https://euaa.europa.eu/asylum-report-2023\)](https://euaa.europa.eu/asylum-report-2023)

[Executive Summary -Asylum Report 2023 \(https://euaa.europa.eu/asylum-report-2023/executive-summary\)](https://euaa.europa.eu/asylum-report-2023/executive-summary)

[Sources on Asylum 2023 \(https://euaa.europa.eu/publications/sources-asylum-2023\)](https://euaa.europa.eu/publications/sources-asylum-2023)

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

[Asylum in Europe in 2022: A Year in Review \(https://euaa.europa.eu/asylum-europe-2022-year-review\)](https://euaa.europa.eu/asylum-europe-2022-year-review)

Background Documents

[Word template to submit input](#)

Contact

[Contact Form](#)

