



Input by civil society organisations to the Asylum Report 2024

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)

Crossborder Forum: NANSEN takes part in the Crossborder Forum, a forum of organisations and activists working in the UK-FR-BE crossborder space (see [here](#)). We observe that we are moving towards a militarisation of the border with the UK.

Le Touquet Treaty – 20 years later: This Treaty between France and Britain on migration controls was signed on 4th February 2003 and provided that each country would set up immigration control points at the borders of the other.

20 years later, this Treaty is still one of the founding legal acts of the inhospitable migration policy implemented on the Channel and North Sea coast. Since the signing of this Treaty, almost 300 people have died at the border. Many others have disappeared, and thousands have been maimed and injured.

On the 1st February 2023, 60 associations (including NANSEN) have published a [joint manifesto](#) calling for an alternative border policy that respects human rights.





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

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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)

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

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

Temporary protection - Ukraine: [1 year of war in Ukraine](#): A total of 64,920 people were registered in Belgium between the beginning of March 2022 and the end of January 2023 with a temporary protection certificate (98% Ukrainians). NANSEN rarely deals with Ukrainian cases thus we will not develop further on this topic.

Asylum seekers at the border – accelerated procedure: The CALL (Frenchspeaking chambers) keeps annulling decisions of the CGRS because of incorrect application of the accelerated procedure (CCE 27 octobre 2022 n° 279.632; CCE 10 février 2023 n° 284.595 ; CCE 8 mars 2023 n° 285.842; CCE 4 avril 2023, n° 287.226; CCE 20 juin 2023, n° 290.652; CCE 24 mai 2023 n° 289.269; CCE 10 août 2023, n° 292 804).

Subsequent applications for international protection: [NANSEN Tool: Volgende verzoeken om internationale bescherming](#) (NL): This is a NANSEN publication, that focuses on investigating and deciding on new elements and findings underlying subsequent applications for international protection. The duty of cooperation incumbent on asylum authorities as well as their duty to investigate when applicants demonstrate a defensible grievance with their new elements and findings are scrutinised here. The Tool describes and analyses the relevant case law of the European Court of Justice and European Court of Human Rights.

This NANSEN Tool is based on a case that NANSEN handled, concerning an Afghan man who had already made several applications for international protection. The decisions in this case clearly showed that the Belgian authorities do not comply with the duty of cooperation and the duty to investigate in case of a defensible grievance. This is the reason why NANSEN wrote this publication. In the final part of this Tool, NANSEN therefore shows how ECtHR and ECJ case law can be used in individual cases.

Palestine – CGRS position : In the context of the ongoing conflict, the CGRS has decided to suspend the decisions granting or refusing subsidiary protection status but it continues to process individual cases and grant refugee status (see [here](#)). This is the regular course of action of the asylum authorities when a conflict happens or worsens (last e.g., when the





Taliban overtook Afghanistan, the files were frozen for seven months, while the Belgian authorities were collecting evidence on the situation in the country).

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)

Reception crisis: Since October 2021, Belgium has been facing a reception crisis. Since then, thousands of people fleeing, including families with children, have already slept on the streets. Despite thousands of court decisions requiring Fedasil (federal agency for the reception of asylum seekers) to provide reception, people were not immediately allocated a place. They had to live on the streets for weeks to months or find a solution themselves. The government also refused to pay the court-imposed fines on Fedasil for each day it failed to comply with these decisions. Belgium has thus persistently violated the human rights of asylum seekers.

Even in 2023, and still today, this reception crisis continues. These are the main developments for 2023:

- 29th of June 2023: [Tribunal of First Instance of Brussels](#) states a triple fault (1) by the Belgian State only (concerning the submission of applications for international protection and the fact that on certain days applicants are unable to submit this application), and by Fedasil and the Belgian State ((2) failure to comply with asylum obligations and (3) failure to comply with court decisions).
- 18th of July 2023: [Case ECtHR Camara v. Belgium n°49255/22](#) (in French): On 15 July 2022, Abdoulaya Camara applied for international protection in Belgium. Although under Belgian law he was immediately entitled to reception, he was not assigned a reception place until 4 November 2022. This despite the fact that he had already gone to the labour court. This court had ordered the Belgian state in July 2022 - under penalty of a fine - to provide reception, be it in a reception centre, be it in hotel or some other alternative. All this time, Mr Camara was on his own, including spending the night in Brussels train stations.

The ECtHR recognises the difficult situation in which the Belgian State finds itself and the efforts it has already made. But it states that the principle of legal certainty is a foundation of the rule of law. This requires, among other things, that the State must act on a final judicial decision. In doing so, it stresses that Mr Camara's situation is not an isolated case: according to the ECtHR, it involves a systemic failure of the Belgian authorities to implement final judicial decisions on the reception of applicants for international protection.

The ECtHR considers that the long time taken by the Belgian authorities to implement a judicial decision aimed at protecting human dignity was not reasonable. In doing so, it also stresses that this systemic failure placed a heavy burden on the functioning of national courts and on the ECtHR itself.





The ECtHR considers that the Belgian authorities did not "merely procrastinate" but rather manifestly refused to comply with the orders of the national courts, thereby undermining the very core of the right to a fair trial protected by Article 6 ECHR.

- 29th of August 2023: [The Secretary of State for Asylum and Migration took the decision to temporarily stop accommodating single men in the Fedasil reception network](#), as the reception network for asylum seekers remains under pressure. After a waiting period of at least four months, they were given access to the network. It had been standard policy for months not to give single men a place to stay on the day of their asylum application. Even that perspective has, by this official decision, completely disappeared.
 - 13th of September 2023: [The Council of State suspended the implementation of the decision by the Secretary of State for Asylum and Migration to no longer accommodate single men who have applied for asylum](#). The Council of State considers that this decision does not comply with current legislation, which provides all asylum seekers with a right to reception. The Secretary of State reacted immediately, accepting the continuation of the policy deemed illegal by the Council of State, stating "I will therefore continue the policy of temporarily not receiving single men". The Federal Government is thus persisting in violating one of the most elementary democratic principles, namely respect for court decisions, the hard core of the rule of law.
 - [3rd of October 2023](#): first meeting of the Federal Taskforce on reception of asylum seekers established to find at least 2000 temporary places for the winter of 2023-2024
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)

[Monitoring report of JRS Belgium on administrative detention centres](#): This report looks back at the past year in the centres. It consists of two parts: the first is an overall analysis of administrative detention in 2022. The second deals with the figures and remarkable facts that took place in the centres visited by JRS. The report once again points out that the effectiveness of detention policy is questionable. Removals from centres are between 62% and 70%. This means that 30% to 38% of people are not removed even though this is the sole reason for their detention. The return figures are further inflated by refoulements and most repatriations are made to countries whose nationals do not need visas to travel to Belgium (Albania, Romania, Moldova, etc.). Highlighting the ineffectiveness of these policies, JRS argues for humane alternatives to detention. The report also shows that detention of certain categories of people was a problem in 2022. Now that Covid is behind us, the capacity of detention centres is increasing again and vulnerable people (pregnant women, people with limited mobility or serious mental health problems, LGBTQIA+ people) are being detained again. The systematic detention of Ukrainians at the border or Moroccans whose repatriation proves difficult are also examples of this.





The Ligue des Droits Humains and the MOVE coalition have joined forces to create **two Vade Mecum** for anyone involved in the legal defence of foreign nationals held in [prisons](#) (FR) and in [detention centres](#) (FR).

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)

Annual reports:

- Immigration Office annual report of 2022 (published in 2023) (see [here](#))
- CGRS annual report of 2022 (published in October 2023) (see [here](#)): “In 2022, the number of applications for international protection was 42% higher than the previous year. This created a huge pressure on the entire asylum chain, including the CGRS. Despite taking more decisions than the previous year, there was an increase in our workload in 2022. Moreover, with a protection rate of 43%, it appears that there are still many people in need of international protection.”

Pilot project ‘Tabula Rasa’ (at CGRS level) (test phase: September 2023 – January 2024): Given the high workload facing the CGRS and the current asylum context, the existing working procedures were reviewed. Several months ago, the Tabula Rasa pilot project was launched. Three groups, consisting of supervisors and protection officers from various geographical sections, met on a regular basis to brainstorm from scratch on measures to maximize the number of decisions. A number of new working methods is now being tested. One of the measures in this project is to ask certain applicants for international protection to provide a written statement of their reasons for seeking protection before their personal interview. As the first questionnaires were sent out during the summer, it is still too early to examine the results of the project and draw lessons from them. There are several grounds for concern regarding this pilot project and the written statement (see [here](#)).

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

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

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

UNHCR – Palestine: The UNHCR published an [analysis](#) on the assessment of the international protection needs of asylum-seekers of Palestinian origin in Belgium. This analysis examines a selection of rulings issued in Belgium over the course of 2018-2021 concerning applications for international protection made by persons of Palestinian origin. In this analysis,





UNHCR focuses on (A.) the applicability of Article 1D of the 1951 Convention Relating to the Status of Refugees ("the 1951 Convention") to Palestinian refugees; (B.) the question of whether UNRWA's protection or assistance has ceased "for any reason"; (C.) the specific situation of Palestinian refugees from Gaza, and (D.) the assessment, under Article 1A(2) of the 1951 Convention, of a well-founded fear of persecution in asylum cases concerning stateless persons who are unable to return to their place of former habitual residence.

Reform on the Code of Belgian nationality: On 31 December 2022, some changes were made to the Code of Belgian nationality. A Central Authority for nationality has been constituted within the Federal Public Service (FPS) Justice: if a local officer of a municipality has doubts about the application of the Code of Belgian nationality, it can ask for a non-binding advice of this Central Authority, that gives advice within 6 months (delay which can be prolonged with another 6 months). The reform also includes a new formulation of article 10 which is modified in the sense that a child born in Belgium who does not have another nationality, automatically has the Belgian nationality without first having to be recognised as stateless. If a local officer of a municipality has doubts about the child's absence of nationality under article 10, it has the option of seeking advice from the public prosecutor (see more on the reform [here](#)).

This new provision entails the risk of statelessness for children of Palestinian parents (see more [here](#)). NANSEN has recently received several complaints from lawyers concerning refusals to grant Belgian nationality to those children by certain local authorities. NANSEN will soon publish a note on the application of article 10 of the Code of Belgian nationality for children of Palestinian origin born in Belgium (in French) containing elements of reflection and analysis to argue the non-existence of a Palestinian nationality, which therefore prevents the conclusion that Belgian nationality should be denied to children born of Palestinian parents.

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)

Gender: NANSEN sometimes receives files related to gender in which stereotypical reasoning can be noticed. Lore Roels and Liselot Casteleyn (Ghent University) have (in collaboration with NANSEN) published a [Practical Guide: Gender-Related International Protection Procedures](#) (available in French and in Dutch), which focuses on the meaning and implications of a 'gender-sensitive' international protection procedure. It explains myth-based ways of thinking that appear to be at play in Belgian proceedings of persons fleeing: sexual and gender-based violence and persecution because of sexual orientation and gender identity. NANSEN has accompanied this Guide with a bibliography in English dedicated to the theme of gender in refugee law and human rights law: [NANSEN Tool: Applications for International Protection and Gender - A Bibliography](#). It contains relevant legal, academic and policy tools that can be used in gender-related application procedures for international protection.

Congolese women victims of sexual violence (DRC): [NANSEN published a profile](#) in which it analyses two individual situations concerning Congolese women, victims of sexual violence constituting torture in their country of origin. In both cases, psychological reports were filed, attesting to the claimants' vulnerable situation. However, the context in which the sexual





violence was inflicted varied (intra-family sexual violence or violence inflicted by unidentified armed men). Several aspects of the situation of these women are addressed here: gender-based violence constituting persecution, sexual violence constituting torture, special procedural needs of victims of sexual violence, past persecution, reversal of the burden of proof, ongoing persecution, and exacerbated fear in the event of return.

13. Content of protection (including access to social security, social assistance, health care, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

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14. Return of former applicants for international protection

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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)

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

04.10.2023 – Hearing in the judgment against the Belgian state: The Ligue des Droits Humains is holding the Belgian government responsible for crimes against humanity for failing to comply with the relocation quotas imposed on it by the European Union since 2015, which has contributed to the deterioration of the living conditions of people seeking international protection in Greek and Italian camps (see more [here](#)).

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)

See [here](#) the most relevant, comprehensive and up to date databank available (search engine on keywords in Dutch : asiel, subsidiaire bescherming, toekenning, erkenning, weigering, opheffing, vervolging, actor van bescherming, uitwijzing, refoulement, grensprocedure, terugkeer etc).

Iranian Christian convert: The CALL in an important decision ([RvV 3 octobre 2023, n°294.939](#)) judges the lack of credibility of an Iranian convert to Christianity in Belgium despite the attestation of the auxiliary bishop of Wallonia-Brussels and the CJEU ruling in Fathi (4 Octobre 2018 nr. C-56/17).

Palestine and Gaza Strip: The CALL took a decision ([CCE 25 avril 2023, n°288.029](#)) in which, while it recognises the precarious humanitarian situation in the Gaza Strip, it concluded that not all inhabitants of the Gaza Strip are in a situation of serious personal insecurity due





to the general humanitarian situation or living conditions. This means that not all Palestinians in the Gaza Strip are living in conditions where they cannot meet their basic needs. Consequently, there is no collective persecution that affects all Palestinians in the Gaza Strip indiscriminately. To reach this conclusion on the precarious humanitarian situation, the CALL referred to [NANSEN's note on the need of protection for Palestinians in Gaza](#) (in Dutch - 2022).

18. Other important developments in 2023

Mixed Migration Centre: [Research Report – Northern France and Belgium: Mixed Migration Trends and Dynamics](#): This report presents the findings of a study into mixed migration dynamics in northern France and Belgium, including considerations regarding onwards movement to the UK. Through a literature review, 42 key informant interviews and 29 interviews with refugees and migrants (1 woman and 28 men of 8 different nationalities) conducted in four locations in Belgium and northern France, it provides detailed insights into the interactions between policy and route dynamics and decision-making, current conditions in Belgium and northern France, and the serious protection issues faced in the region. NANSEN has been interviewed for this report.

Immigration law reform package: The Belgian federal government aims to pass a series of draft legislations concerning immigration law in Belgium. NANSEN has already had the opportunity to give its [opinion on several of the measures concerned](#) in the context of discussions on a Belgian Migration Code (which is still being drafted by the government).

Here are the draft legislations concerned:

- **On statelessness:** Draft legislation of 29.09.2023 amending the Act of 15 December 1980 regarding access to the territory, residence, settlement and the removal of foreigners, concerning requests for residence on the grounds of statelessness (see [here](#)).
- **On reception of asylum seekers:** Draft legislation of 29.09.2023 amending the law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreign nationals and the organic law of 8 July 1976 on public social action centres (see [here](#)).
- **On family reunification:** Draft legislation of 29.09.2023 amending the law of 15 December 1980 on access to the territory, residence, establishment and removal of foreign nationals with regard to the right to family reunification (see [here](#)).
- **On proactive return policy:** Draft legislation of 29.09.2023 amending the law of 15 December 1980 on access to the territory, residence, establishment and removal of foreign nationals and the law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreign nationals on proactive return policy (see [here](#)).





Part B: Publications

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

Publications produced by our organisation in 2023:

- January 2023: Opvangcrisis: [een trieste verjaardag](#) (in Dutch)
 - *Eleven associations, including NANSSEN are speaking out on the reception crisis, marking the "one-year anniversary" of the Belgian State's first conviction for failing to meet its national and international obligations towards people seeking asylum.*
- June 2023: [NANSSEN Note: Iraanse dossiers – De beoordeling van de geloofwaardigheid van een bekering](#) (in Dutch)
 - *This NANSSEN Note discusses the assessment framework used by the CGRS and the CALL for assessing the credibility of a religious belief and how this assessment framework is implemented in practice in Iranian cases.*
- September 2023: [NANSSEN Tool: Applications for International Protection and Gender – A Bibliography](#) (in English)
 - *Addition to 'Praktijkgids: Gendergerelateerde Procedures om Internationale Bescherming' / 'Guide Pratique: Procédures de Protection Internationale Liées au Genre' – Lore Roels & Liselot Casteleyn*
- September 2023: [NANSSEN Tool: Volgende verzoeken om internationale bescherming](#) (in Dutch)
 - *This NANSSEN Tool focuses on investigating and deciding on new elements and findings underlying subsequent applications for international protection.*
- November 2023: [NANSSEN note 2023/3 – Effective protection against refoulement for people fleeing Afghanistan](#)
 - *In this Note, NANSSEN analyses how asylum authorities deal with risk of violation of Art. 3 ECHR in case of return of applicants who have exhausted all legal remedies (in English)*
- November 2023: [NANSSEN profiel 2023/1 – Beoordeling van de nood aan internationale bescherming van lesbische vrouwen uit Afrika](#)
 - *This NANSSEN profile focuses on the assessment of the need for international protection of lesbian women from Africa (in Dutch)*

Publications coming soon:

- NANSSEN Note on medico-legal reports drawn up in accordance with the guidelines of the Istanbul Protocol and their use in the asylum procedure (in French)
- NANSSEN Profile on the protection needs of Palestinian children in Gaza (in Dutch)
- Article in European Journal of Migration and Law – Special issue: The use of Medico-legal Reports in Asylum Processes in Belgium (in English)
- NANSSEN Note on the application of article 10 of the Code of Belgian nationality for children of Palestinian origin born in Belgium (in French)





2. If not available online, please share your publications with us at:
Asylum.Report@euaa.europa.eu

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 | Date |
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