**Input by civil society to the**

**2021 EASO Asylum Report**

Dear Colleagues,

easo.sharepoint.com/:w:/r/sites/sa/\_layouts/15/Doc.aspx?sourcedoc=%7B8B1628CA-ED5D-42B8-BB1B-E090D5FB22E1%7D&file=Norwegian%20Organisation%20for%20Asylum%20Seekers%20-NOAS.docx&action=default&mobileredirect=true
The production of the *EASO Asylum Report 2021* is currently underway. The annual [Asylum Report series](https://www.easo.europa.eu/asylum-report) 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 2020 (and early 2021) by topic as presented in the online survey.

Please note that the EASO 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, 2021 contributions will be published on the EASO webpage. Contributions to the 2020 EASO Asylum Report by civil society organisations can be accessed [here](https://easo.europa.eu/asylum-report-2020), 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 EASO Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EASO’s work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

**Nina Gregori** -*EASO Executive Director*

 **\***Please complete the online survey and submit your contribution to the 2021 EASO Asylum Report by **Thursday, 25 February 2021.\***

# 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 2020 and new or remaining challenges; and
* Changes in policies or practices, transposition of legislation or institutional changes during 2020.

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)**

In November 2015, Norway formally adopted new border practices at its border with Russia that have effectively abolished the institute of asylum at that particular border. These practices are still in force today and their effectiveness entirely depends on the willingness of the Russian border guards to cooperate.

The practices of the Norwegian border guards are based on [an instruction](https://www.regjeringen.no/no/dokumenter/instruks---rutiner-for-rask-handtering-av-personer-som-ankommer-over-norskrussisk-landegrense-storskog-uten-gyldig-visum-eller-annen-gyldig-innreisetillatelse-til-norge/id2474019/) issued on 24.11.2015 by the Ministry of Justice and Public Security to the Police Directorate. According to the instruction, which is still in force, the police on the Norwegian side of the border must consistently notify the Russian border guards that any person without an entry permit to Norway will be sent back to the Russian side. According to the instruction, the Russian border guards must be requested to not let such individuals pass through the Russian checkpoint.

Specifically, the instruction states *inter alia* the following: “When handing over the travel documents back to the Russian border guard, a written note in Russian must be handed over at the same time, addressed to the Russian authorities, stating that the holders of the specified travel documents do not have a valid visa to Norway and that entry for these persons is to be considered illegal entry according to Article 10(4) of the readmission agreement. Russian authorities are therefore to be requested to not let these persons through the Russian side. Furthermore, the note must state that persons who do not have a valid entry permit to Norway will be rejected and returned to Russia and that this will as a main rule also apply to persons who apply for asylum in Norway.”

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

Information: According to the Immigration Regulation, asylum seekers are entitled to individual guidance from an independent organization when claiming asylum in Norway. The Norwegian Organization for Asylum Seekers (NOAS) offer information and guidance to asylum seekers at the National Arrival Centre. As of November 2020, all asylum applications are to be registered at the NAC, which may contribute towards the effective provision of information and guidance to all. There are however challenges in ensuring the offer to asylum seekers that are being detained shortly after registration, inmates in prisons seeking asylum and to some who chose to stay at private residences after registration.

Legal assistance: The number of hours of free legal aid provided in asylum cases in Norway, are not sufficient to ensure the rights of asylum seekers. Only 5 hours are provided in a regular asylum case, after a case is rejected in the first instance (by the Norwegian Directorate of Immigration). The report from [a public enquiry](https://www.regjeringen.no/no/dokumenter/nou-2020-5/id2700210/?fbclid=IwAR2b1SAyaT3sJ3MtqPCV5Fx0PglndErea7MngGLDxPWTH56oaJMtggEmDbo) published in April 2020, recommends that the number of hours of free legal aid is increased from 5 to 8. The inquiry also recommends that 4 million NOK is provided to ensure that principal matters in immigration cases are tried in court.

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

By introducing a ‘safe third country’ rule that falls short of the requirements of Article 3(3) of the Dublin III Regulation and Article 38(1)(e) of the EU Procedures Directive (APD), [Norway created a strong incentive for secondary movement](https://www.noas.no/wp-content/uploads/2019/07/Storskog-rapport-februar-2019.pdf) from Norway to other member states for asylum seekers that fall under Norway’s amended safe third country provision.[[1]](#footnote-1) According to **section 32(1)(d)** of the Norwegian Immigration Act: “An application for a residence permit under section 28 [asylum] may be refused examination on its merits if […] (d) the applicant has travelled to the realm after having stayed in a state or an area where the foreign national was not persecuted.” The wording that originally followed: “, and where the foreign national’s application for protection will be examined” was removed from the provision in an expedited legislative procedure on 20 November 2015. As a direct result of this legislative amendment, some 1 000 asylum-seekers who had arrived at Storskog border-crossing (via Russia) in 2015 have subsequently left Norway and applied for asylum in other Member States.[[2]](#footnote-2)

A separate development concerns [legislative introduction of a new procedure](https://www.noas.no/wp-content/uploads/2019/07/Storskog-rapport-februar-2019.pdf) that, if activated, may prevent asylum seekers from accessing Norway’s territory from a neighbouring Nordic state.[[3]](#footnote-3) Passed in 2016, a new section 32(5) of the Immigration Act opens for immediate rejection by police officers of asylum-seekers at Norway’s borders with neighbouring Nordic countries “in a crisis situation with an extraordinarily high number of arriving asylum seekers.” Application of this provision requires prior activation by the King in Council, which in practice means by the government. The preparatory works explicitly presume that, if activated, Norway will cease to abide by the Dublin III regulation as a response to a collapse of the Dublin system when other states stop registering a large number of asylum-seekers transiting through their territory.

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

As mentioned above, one of the main concerns remains Norway’s safe third country provision, namely **section 32(1)(d)** of the Norwegian Immigration Act, which [falls short of](https://www.noas.no/wp-content/uploads/2019/07/Storskog-rapport-februar-2019.pdf) the requirements of Article 3(3) of the Dublin III Regulation and Article 38(1)(e) of the EU Procedures Directive (APD). According to the Norwegian safe third country provision, asylum applications may be declared inadmissible where “the applicant has travelled to the realm after having stayed in a state or an area where the foreign national was not persecuted”. Introduced on 20 November 2015 as a response to an influx of asylum seekers entering Norway’s territory from Russia, it has since been applied also in respect to other third countries, including Brazil, Ukraine and United Arab Emirates – the last of which has not even signed the Refugee Convention and has no corresponding protection regime. It has also been applied in respect to member states, including Malta, Hungary, Romania, Italy and Greece, prompting disapproval on the part of Greek authorities.[[4]](#footnote-4)

1. **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)**

Unaccompanied minors:

It is still the Norwegian Directorate of Immigration that is responsible for the care of unaccompanied asylum seeking children between the ages of 15 and 18.

A [report](https://www.nhri.no/2017/temarapport-2016-omsorg-enslige-mindrearige-asylsokere/) by the Norwegian National Human Rights Institution (NHRI) shows significant differences in the care provided in reception centres for unaccompanied asylum seekers between the age of 15 and 18 as compared to the care provided for unaccompanied minors under the age of 15 and to other children under the responsibility of the Child Welfare Services. NHRI has concluded that the differential treatment of the children between the ages of 15 and 18, is in breach of the UN Convention on the Rights of the Child.

The UN Committee Against Torture, The UN Committee on the Elimination of Racial Discrimination, The UN Committee on the Rights of the Child, The Human Rights Committee and the UN Human Rights Council has recommended that the protection and care for these children are provided by the Child Welfare Services.

As a follow up of a [decision](https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=68565) in the Norwegian parliament in 2017, the government [submitted a bill](https://www.regjeringen.no/no/dokumenter/prop.-82-l-20202021/id2833731/) to the parliament in February 2021 regarding the care of unaccompanied minor asylum seekers. What the government suggests is however that the current system and level of care provided is regulated, without suggesting to improve the actual care given.

Access to the labour market:

Most asylum seekers are still not allowed to take paid work while waiting for their asylum case to be processed. The requirements to get a [temporary work permit](https://www.udi.no/en/have-applied/protection-asylum/can-you-work/#link-8814), are normally that the asylum interview has been completed and that the asylum seeker has a valid passport. Exceptions can be made from the asylum interview requirement in cases where there is a statistically high likelihood that the person will be granted protection in Norway (currently applicable to Syrian and Turkish nationals only). Asylum seekers living in so called [integration receptions centres](https://www.udi.no/asylmottak/bor-eller-onsker-a-bo-i-et-asylmottak/integreringsmottak/) can be exempted from the passport requirement, but only a small percentage of asylum seekers live in integration reception centres.

1. **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)**

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1. **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)**

The National Immigration Police (NPIS) and the Norwegian Directorate of Immigration (UDI), responsible for the registration and processing of asylum applications respectively, have cooperated in developing new methods for improving identification and case information at the earliest possible stage and where possible, deciding asylum applications within three weeks. An important development in 2020 has been the integration of the NPIS and the asylum unit of the UDI at the National Arrival Centre, located appox. 70 km. outside Oslo. As of November 2020, asylum seekers may stay for up to three weeks at the Arrival Centre, while their applications are being processed. It is estimated that by autumn 2021, 70 % of cases may be decided in the first instance within three weeks of registration.

Applicants whose cases cannot be decided within three weeks, will move to a transitory – or ordinary reception center pending the process, that is then likely to take substantially longer, depending also on any backlogs of the respective country unit of the UDI.

The corona pandemic has contributed to prolonged case processing times for asylum seekers in ordinary reception centers in 2020, despite very low arrivals to Norway. The UDI were conducting asylum interviews on Skype in order to avoid travel and risk of exposure to corona for applicants, interpreters and case workers for most of 2020, but with reduced capacity compared to regular interviewing.

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

NOAS is concerned about the processing of asylum cases in the Immigration Appeals Board (UNE).

Concerns related to the case management in UNE is highlighted in several reports, including in [a public inquiry](https://www.regjeringen.no/no/dokumenter/nou-2017-8/id2542284/) from 2017. Our concerns are in particular related to lack of contradiction and lack of oral hearings.

In some asylum cases, UNE is assessing different issues than the Directorate of Immigration (the first instance), without giving the asylum seeker the possibility to contradict these assessments. As well, very few asylum seekers are given the possibility to participate in an oral hearing in UNE. Only 8 % of the asylum seekers were given the possibility to participate in an oral hearing in 2019 (the number for 2020 is not yet made public according to our knowledge).

Although [the government’s political platform](https://www.regjeringen.no/no/dokumenter/politisk-plattform/id2626036/) from January 2019 promises a revision of the second instance in immigration cases, the necessary measures have still not been taken.

In June 2020, the Parliament decided on a [new system for recruiting members](https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=79200) to the Immigration Appeals Board. The system does not however provide any real change of the current system, and only contains “technical” changes without impact on effectivity or the rights of the asylum seekers. When the suggestion for these changes were on public hearing, the government announced that other suggestions for changes in the Appeals Board would come on public hearing by the end of 2019. These suggestions have still not come.

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

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1. **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)**

Norway still has not put in place an identification mechanism for detecting vulnerabilities among asylum seekers upon arrival. Most asylum seekers undergo an obligatory test against tuberculosis (and those arriving from abroad are currently obliged to test for corona and remain in quarantine for ten days). At the National Arrival Centre, a clinic for general health services is open to residents on the weekdays. Applicants with vulnerabilities that are not apparent may have to inform on any needs themselves, in order to get assistance and/or a facilitated process or accommodation.

1. **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)**

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1. **Return of former applicants for international protection**

The number of returns, both forced and assisted, has been [low in 2020 due to Covid-19](https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/uttransporteringer/engelsk/2020/december-2020---forced-returns-from-norway.pdf).

Monitoring of forced returns:

Even if Norway since 2010 has been obliged, according to the [EUs Return Directive](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0115&from=DA), to have a system for independent monitoring of forced returns – such a system has not yet been implemented.

In September 2019, the government sent a [suggestion for regulation](https://www.regjeringen.no/no/dokumenter/horing---ny-forskrift-om-tilsynsradet/id2669680/) of monitoring of returns on public hearing. We are however concerned that the system for monitoring suggested is not sufficiently independent. It is suggested that the Ministry of Justice and Public Security, who is responsible for the police and forced returns, should appoint members of the board responsible for the monitoring. It would also impact the independence of the board that it has no secretary, but is served by employees in the police. The board’s financial means are administered by the police, and participation during forced returns are organised by the police.

As to NOAS’ knowledge, the Ministry has still not finalised the case.

1. **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)**

The Norwegian Parliament decided that 3000 refugees should be resettled in 2020. However, [due to Covid-19](https://www.udi.no/aktuelt/intervjuer-flyktninger-i-libya-via-teams/), only about [half of this number of resettled refugees](https://www.udi.no/statistikk-og-analyse/statistikk/overforingsflyktninger-etter-statsborgerskap-innvilgelser-og-ankomster-2020/) arrived in Norway last year.

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

Norway has in 2020 not relocated any asylum seekers. After the fire in the Moria refugee camp in Greece, the government [decided to relocate 50 asylum seekers from Greece](https://www.regjeringen.no/no/aktuelt/norge-starter-prosessen-med-relokalisering-fra-hellas/id2740826/). It was decided that the asylum seekers should be vulnerable families from Syria. The actual relocation of the families has however been delayed, and is not expected [before March](https://www.udi.no/aktuelt/udi-henter-asylsokere-fra-hellas/) 2021.

1. **National jurisprudence on international protection in 2020 (please include a link to the relevant case law and/or submit cases to the** [**EASO Case Law Database**](https://caselaw.easo.europa.eu/Pages/default.aspx)**)**

The Norwegian Supreme Court [has ruled](https://www.domstol.no/Enkelt-domstol/hoyesterett/avgjorelser/2020/hoyesterett-sivil/hr-2020-2408-a/) that citizenship should, as a main rule, be used as a basis for determining which country that is an applicant’s country of nationality. There is however a possible exception in cases where an applicant’s change of citizenship may be considered as an abuse of the asylum system.

[In another ruling](https://www.domstol.no/Enkelt-domstol/hoyesterett/avgjorelser/2020/hoyesterett-sivil/hr-2020-1799-a/), the Supreme Court concluded that neither the 1951 Refugee Convention nor the Norwegian Immigration Act provide basis for considering (a possible) forced return as a relevant factor in the assessment on whether asylum should be granted.

1. **Other important developments in 2020**

Further [restrictions in asylum policy where decided](https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=82467) in December 2020, without the normal process of parliament committee assessment and hearing:

In the state budget agreement between the government and the Progress Party, it was agreed that the requirement for the number of years living in Norway before qualifying for permanent residency should be raised from 3 to 5 years.

The following four restrictions where decided by the parliament after proposal from the Labour Party:

* Introduction of subsidiary protection, with restrictions in the right to family reunification and more use of temporary permissions.
* Developing a plan for Norway’s contribution to more effective fight against irregular migration, including making sure that today’s possibility to refer asylum seekers to safe third countries outside the EU is used actively.
* Introduce the same requirements related to identity for permanent residency and family establishment as for citizenship.
* Increasing the income requirement and assessing a possible restriction in the attachment criteria in family establishment cases.

References and sources

1. **Please provide links to references and sources and/or upload the related material in PDF format**
2. **Feedback or suggestions about the process or format for submissions to the EASO Asylum Report**

# Contact details

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[x]  **I accept the provisions of the EASO** [**Legal and Privacy Statements**](https://www.easo.europa.eu/legal)

1. Norwegian Organisation for Asylum Seekers (NOAS), *Norway’s Asylum Freeze: A report on Norway’s response to increased asylum arrivals at the Storskog border crossing with Russia in 2015 and subsequent legal developments*, 2019, p. 25, available at: <https://www.noas.no/wp-content/uploads/2019/07/Storskog-rapport-februar-2019.pdf> [↑](#footnote-ref-1)
2. Ibid. p. 21-25. [↑](#footnote-ref-2)
3. Ibid., p. 52. [↑](#footnote-ref-3)
4. Ibid., p. 50. [↑](#footnote-ref-4)