

# Asylum Report 2022





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# **Asylum Report 2022**

## **Annual Report on the Situation of Asylum in the European Union**



## Foreword

Political developments in 2021 and early 2022 had a direct impact on international protection needs, spurring waves of displacement towards EU+ countries. The Taliban surge to power in Afghanistan and the Russian invasion of Ukraine created new protection needs and contributed to the rising number of asylum applicants in Europe. In addition, the post-COVID-19 situation with the rise in the numbers of asylum seekers presented new challenges which called for dynamic solutions to maintain the integrity of the world's only multinational asylum system – the Common European Asylum System (CEAS). These events serve as a stark reminder of how quickly patterns in migration and asylum can change.

Against this backdrop, the Asylum Report 2022 highlights how the preparedness and flexibility of national asylum and reception systems were tested to continue to provide protection to those in need. Many administrations faced tremendous pressure with high influxes of arrivals, while continuing to circumnavigate ongoing COVID-19 restrictions. The report shows where there is convergence in implementing the CEAS, but it does not shy away from mentioning the divergences that continue and where further improvements can be made.



The resilience of asylum systems can only grow as progress is made toward adopting the legal instruments of the European Commission's Pact on Migration and Asylum. In addition, with a reinforced mandate since January 2022, the European Union Agency for Asylum (EUAA) plays a key role in further calibrating CEAS and actively supporting Member States. But it is important to listen to the voices from the field as well. This is where the Asylum Report serves as a valuable resource which cites over 1,500 reliable sources, including national authorities, international organisations, academia and civil society organisations, and provides the most comprehensive situational update in the field of asylum in Europe.

As the centre of expertise on asylum in Europe and since its foundation 11 years ago, the Agency has united EU+ countries in exchanging information, sharing best practices, improving quality and harmonising processes. It is certain that the demand for the Agency's support will keep growing and we stand ready to continue working with our partners and fulfil our reinforced mandate in the years to come.

Nina Gregori  
Executive Director  
European Union Agency for Asylum



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We are grateful to the European Commission for its continued support and feedback during the drafting process. Experts from the United Nations High Commissioner for Refugees (UNHCR) also provided valuable input.

Through various channels, civil society organisations, academia and research institutions provided the EUAA with research findings and information from the ground. To present the full picture of asylum in 2021 and take account of all perspectives, contributions from these institutions and organisations were included in this report. To this end, the EUAA would like to acknowledge the following contributors:

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## Acronyms and abbreviations

AIDA	Asylum Information Database
AMIF	Asylum, Migration and Integration Fund
ARC	Asylum Research Centre
AWAS	Agency for the Welfare of Asylum Seekers
BAMF	Federal Office for Migration and Refugees (Germany)
BBU	Federal Agency for Reception and Support Services (Austria)
CALL	Council for Alien Law Litigation (Belgium)
CARE	Cohesion's Action for Refugees in Europe
CCAC	Closed Controlled Access Centres (Greece)
CDCJ	Council of Europe's Committee on Legal Co-operation
CEAS	Common European Asylum System
CGRS	Office of the Commissioner General for Refugees and Stateless Persons (Belgium)
CJEU	Court of Justice of the EU
CNDA	National Court of Asylum (France)
COA	Central Agency for the Reception of Asylum Seekers ( <i>Centraal Orgaan opvang asielzoekers</i> ) (Netherlands)
COI	Country of origin information
CPT	Council of Europe's Committee for the Prevention of Torture
EASO	European Asylum Support Office
ECDC	European Centre for Disease Prevention and Control
ECRE	European Council on Refugees and Exiles
ECHR	European Charter of Human Rights
ECtHR	European Court of Human Rights
EMAS	AMIF Emergency Assistance grant scheme
EMN	European Migration Network
ENNHRI	European Network of National Human Rights Institutions
ENS	European Network on Statelessness
EPS	EUAA's Early Warning and Preparedness System
EU+	European Union Member States, Iceland, Liechtenstein, Norway and Switzerland
EUAA	European Union Agency for Asylum
eu-LISA	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
FAC	Federal Administrative Court (Switzerland)
FAR	Frontex Application for Return
FGM/C	Female genital mutilation/cutting
FRA	European Union Agency for Fundamental Rights
FRAC	Finnish Refugee Advice Centre
Frontex	European Border and Coast Guard Agency
FSWG	Frontex Scrutiny Working Group
GDP	Gross domestic product
GRETA	Council of Europe's Group of Experts on Action against Trafficking in Human Beings
ICMPD	International Centre for Migration Policy Development
IDS	Information and Documentation System
IGAD	Intergovernmental Authority on Development
IND	Immigration and Naturalisation Service (Netherlands)





IOM	International Organization for Migration
IPA	International Protection Agency (Malta)
JHA	Justice and Home Affairs
LGBTIQ	Lesbian, gay, bisexual, trans-gender, intersex and queer
LIBE	Committee on Civil Liberties, Justice and Home Affairs
MFF	Multiannual Financial Framework
MIRPS	Comprehensive Regional Framework for Protection and Solutions
NGO	Non-governmental organisation
OAU	Organization of African Unity
OFII	Office for Immigration and Integration ( <i>Office Français de l'Immigration et de l'Intégration</i> ) (France)
OFPRA	Office for the Protection of Refugees and Stateless Persons ( <i>Office Français de Protection des Réfugiés et Apatrides</i> ) (France)
OLAF	European Anti-Fraud Office
OPU	Organization for Aid to Refugees (Czechia)
RIC	Reception and Identification Centre (Greece)
RIS	Reception and Identification Service (Greece)
SAI	System for Reception and Integration (Italy)
SOGICA	Sexual Orientation and Gender Identity Claims of Asylum project
SOGIESC	Sexual orientation, gender identity or expression, and sex characteristics
SSAR	Support Platform for the Solutions Strategy for Afghan Refugees
TRIPS	Identification of Trafficked International Protection Beneficiaries' Special Needs project
UDI	Directorate for Immigration (Norway)
UN CAT	UN Committee Against Torture
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
WHO	World Health Organization





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## Introduction



*As the go-to source of information on international protection in Europe, the annual Asylum Report provides a comprehensive overview of key developments in asylum in Member States of the European Union, Iceland, Liechtenstein, Norway and Switzerland (EU+ countries). All aspects of the Common European Asylum System (CEAS) are covered by summarising changes to legislation, policy and practices at the European and national levels. The report presents selected case law which has shaped the interpretation of European and national laws, as well as key statistical indicators for the 2021 reference year, which highlight emerging trends and the effectiveness of asylum systems.*

Pressure on the EU's external borders intensified in 2021 with the number of arrivals resuming to pre-pandemic levels, even amidst continued COVID-19 measures. The political landscape prompted a spike in arrivals from Afghanistan, Belarus and Ukraine. In response, EU+ countries quickly adapted to the waves of arrivals by facilitating the lodging process for an asylum application, rearranging reception places and resorting to arrival centres for various steps of the asylum procedure.

To set the scene, Section 1 presents an overview of forced displacement globally and addresses the international community's response to large refugee movements. In 2021, the focus shifted from reactionary measures during a global pandemic to adapting practices more permanently and capitalising on gains made in digital innovations. The section zooms in on key topics which were discussed at the global level: scaling up sustainable protection solutions, climate-induced displacement, the impact of gender on displacement, and developments for stateless populations.

Section 2 narrows in on the context in the European Union, presenting the latest legislative and policy developments in the evolution of the Common European Asylum System (CEAS). It addresses key developments which spurred displacement in 2021 and early 2022, such as the Taliban takeover in Afghanistan, the instrumentalisation of migrants by the Belarusian government and the Russian invasion of Ukraine. Cases addressed by the Court of Justice of the EU area also summarised to clarify the interpretation of law in often complex situations.

Transitioning from EASO to the European Union Agency for Asylum (EUAA), the Agency was mandated with additional roles related to the operational and technical implementation of CEAS. Section 3 outlines the new tasks of the agency and presents an evaluation of its operational support to Member States in 2021.

Section 4 begins with supplementary overviews which summarise the digitalisation of the asylum procedure, the continued impacts of COVID-19 measures on asylum and reception systems, and national responses to the protection needs of Afghan citizens. The section then analyses developments at each stage of the asylum procedure, including procedures for first and second applications, special procedures, the Dublin procedure, reception conditions, detention during the asylum procedure, access to the asylum procedure and to information, legal assistance, interpretation services, country of origin information, the content of protection, the return of former applicants and resettlement. The key indicators which are presented help to identify and monitor trends in countries receiving asylum applicants and countries of origin.





The situation of children and applicants with special needs are described in Sections 5. The section combines quantitative, qualitative and legal information to provide an overview of the situation for minors, women, victims of violence and human trafficking, and lesbian, gay, bisexual, trans-gender, intersex and queer (LGBTIQ) asylum applicants. The section focuses in particular on unaccompanied minors, reviewing changes to legal representation, age assessments and reception conditions.

To include diverse perspectives, observations by civil society organisations and other stakeholders are presented throughout the report by topic. In 2021, concerns often centred around access to the asylum procedure, reception conditions and applicants with special needs.

The report serves as a main reference for developments in asylum in EU+ countries. It collates a wide range of sources to provide accurate information to policymakers, national asylum authorities, researchers and practitioners involved in the field of asylum.



## Section 1. Global developments in the field of asylum in 2021



*Section 1 presents an overview of forced displacement at the global level and the need for protection worldwide. The section covers recent events and key trends and discusses the international community's response to large refugee movements. It also presents topics which continued to gain attention in 2021. A glimpse at the broader landscape helps to set the scene for trends in asylum in the EU which unfolded in 2021.*

Events in 2021 and early 2022 triggered the displacement of millions of people, having a compounding effect on existing needs for protection solutions worldwide. The Taliban surge to power in Afghanistan gave thrust to new cycles of displacement within the country and across borders, in a region where displacement had already been a common occurrence. The Russian invasion of Ukraine forced millions of people to leave their homes and seek refuge in neighbouring countries. And people continued to flee existing hotspots of displacement in the Democratic Republic of the Congo, Ethiopia, Mozambique, Myanmar, South Sudan, Syria, the Sahel region, Venezuela and Yemen.

Over the past 2 years, the COVID-19 pandemic has had a complex impact on protection needs worldwide by impeding access to safety and complicating international efforts to provide effective solutions. The pandemic and public health measures aimed to curb infections highlighted the need to transition from responding reactively to adapting practices for the long term and capitalising on digital innovations and new methodologies.

The public discourse on international protection in 2021 centred around the need to scale up work in providing sustainable, durable protection solutions, including resettlement; climate-induced displacement; the gender dimension and LGBTIQ persons in situations of forced displacement; issues surrounding statelessness in the context of asylum; and questions of overall asylum governance and migration at the global level.

### 1.1. Overview of trends in displacement and protection responses



Forced displacement is a reality for millions of people worldwide as a result of violent conflict, persecution, human rights violations, natural disasters and degrading ecosystems. Recurring cycles of displacement are often linked to a complex interplay of more than one underlying cause. Displaced persons may seek refuge for themselves and their families within their home country (internally displaced persons) or by crossing international borders (refugees).

In the aftermath of displacement and experiencing traumatic events, both refugees and IDPs may find themselves in an environment where the social fabric has been damaged; economic activity is disrupted; access is not available to social, health and educational services; legal uncertainty prevails; and the overall prospects for human development are severely limited. In this state of precarity, many of them may be subjected to violence, abuse and exploitation.<sup>1</sup> Facing such challenges, forcefully displaced persons are in need of substantial psychosocial and material support, including shelter, food, safe water, health care and access to education and employment. When original sources of displacement persist, which is very often the case,



voluntary repatriation may not be an option. Emergency responses and medium-term arrangements may provide initial relief, but in the long term, effective integration into the host society or resettlement in other parts of the world are critical to living a new life in a sustainable way.



### Box 1.1. Definitions of displaced persons

**Refugee:** An individual who has fled a country due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.<sup>2</sup>

**Internally displaced persons (IDPs):** Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally-recognised state border.<sup>3</sup>

According to estimations by the United Nations High Commissioner for Refugees (UNHCR),<sup>i</sup> there were more than 84 million forcibly displaced people worldwide as of June 2021. The figure includes 26.6 million refugees under UNHCR's mandate, 4.4 million asylum seekers, 48 million IDPs<sup>ii</sup> and 3.9 million Venezuelans displaced abroad.<sup>4, iii</sup> Approximately seven out of ten people who were displaced across international borders came from just five countries of origin: Syria, Venezuela, Afghanistan, South Sudan and Myanmar (in descending order). The vast majority of internationally displaced people are hosted in countries neighbouring the centre of a crisis, which are typically the first in line to accommodate them. This places a strain on the resources of host countries, especially since mostly lower-income countries continue to receive a disproportionately high number of internationally displaced populations.<sup>5</sup>

In a year that marked the 70<sup>th</sup> anniversary of the 1951 Convention Relating to the Status of Refugees, a fundamental component of human rights law,<sup>6</sup> the international community continued its efforts in developing solutions for people in need of protection worldwide. Multi-stakeholder cooperation has been crucial in this area, as complex challenges require equally complex, integrated responses that go beyond ad hoc interventions to ensure that both refugees and host communities have adequate and sustainable support.

To this end, the Global Compact on Refugees, led by a diverse group of stakeholders, has provided a framework for action through international cooperation to find sustainable

<sup>i</sup> Data on forced displacement at a global level are reported by UNHCR twice a year. Annual data are reported in June in the [Global Trends in Forced Displacement](#) report. Data for the first half of a year are reported in November in the [Mid-Year Trends](#) report. The methodology for UNHCR data collection and reporting is available [here](#).

<sup>ii</sup> Original source: [Internal Displacement Monitoring Centre](#)

<sup>iii</sup> UNHCR uses the term 'refugee' to refer, not only to people who have been formally granted refugee status, but to all people under the UNHCR mandate and of concern to UNHCR, including people who have fled war, violence, conflict or persecution and have crossed an international border to find safety in another country (as defined in the 1951 Convention on the Status of Refugees and other legal acts, such as the 1969 Organization of African Unity (OAU) Refugee Convention in Africa and the 1984 Cartagena Declaration in Latin America). This notion differs from the Eurostat definition which estimates the number of refugees based on individuals who have been formally granted international protection.





solutions to the situation of refugees. It works to operationalise responsibility-sharing in protecting and assisting refugees and host communities. The main objectives of the Global Compact are to: i) ease the pressure on host countries; ii) enhance refugee self-reliance; iii) expand access to third country solutions; and iv) support conditions in countries of origin for safe and dignified returns of applicants who are denied protection.<sup>7</sup>

The diverse portfolio under the Global Compact includes initiatives geared toward fostering multi-stakeholder engagement, expertise-sharing and synergies to enhance preparedness and contingency planning; developing swift protection responses during crises; and addressing the needs of refugees and host communities, including in the areas of education, work and livelihoods, health, energy and natural resource management, food security and nutrition. A special focus has been placed on providing long-term solutions by supporting countries of origin in creating environments that are conducive to voluntary repatriation; arranging for resettlement and complementary pathways to protection in third countries; and facilitating local integration.<sup>8</sup>

The first [Global Refugee Forum](#), which took place in December 2019, brought the international community together and catalysed strategic action toward the directives set in the Global Compact. Two years later, in December 2021, a High-Level Officials Meeting evaluated the progress made on the four key objectives of the Global Compact and planned future initiatives. The discussions were based on the [2021 Global Compact on Refugees Indicator Report](#), which details accomplishments and areas in need of further action.<sup>9</sup>

The report highlights that over the past 2 years there has been tangible progress toward all four key objectives of the Global Compact in developing comprehensive protection responses; enhancing legal access to decent work and education; supporting developing economies; increasing financing to address refugees in countries with lower-income economies; and implementing policy measures to mitigate poverty and the impact of the COVID-19 pandemic on refugees and host communities. The report also identified a number of areas where more work is needed to achieve sustainable progress in providing protection solutions, including more effort to:

- Enhance resettlement and complementary pathways to protection; increase refugee self-reliance and resilience;
- Further facilitate access to education by addressing existing practical barriers, most notably costs;
- Provide more targeted support to address refugee poverty, including through institutional responses to safeguard the right to work and property rights;
- Ensure access to health, including mental health; and
- Increase and better coordinate initiatives meant to address root causes of displacement, remove obstacles for return and create conditions for voluntary repatriation.<sup>10</sup>

At the regional level, three support platforms work toward achieving the goals of the Global Compact on Refugees: the Comprehensive Regional Framework for Protection and Solutions ([MIRPS](#)) in Central America and Mexico; the Nairobi process in East Africa and the Horn of Africa facilitated by the Intergovernmental Authority on Development ([IGAD](#)); and the Support Platform for the Solutions Strategy for Afghan Refugees ([SSAR](#)). In collaboration with regional and sub-regional mechanisms, international organisations, international financial institutions, non-governmental organisations (NGOs) and the private sector, the platforms aim to:

i) galvanise political commitment for prevention, protection, response and solutions;





ii) mobilise financial, material and technical assistance and enhance legal pathways to safety; and iii) facilitate coherent responses to refugee situations.<sup>11</sup> The EU has contributed to these initiatives through financial, strategic and political support.<sup>12</sup> (*Read more about EU support to protection solutions worldwide in Section 2.*)

As the international community continues its efforts to address complex aspects of displacement on a constantly-changing stage, the discourse and work on international protection continue to evolve to accommodate emerging needs and deliberate on pressing topics of relevance. Key issues that remained at the centre of attention in the area of asylum in the past year are detailed in the following sub-sections.

## 1.2. Shifting from reactive measures to new sustainable working methods



The COVID-19 pandemic has had an unprecedented and multifaceted impact on people in need of protection. Restrictions in movement made it difficult for people to flee persecution and increased the risk of resorting to smuggling networks or following more dangerous routes to seek safety.<sup>13</sup> Lockdowns created additional barriers for displaced populations to access education, health services and socio-psychological support. In addition, disruptions in economic activity meant that displaced persons had even fewer possibilities to generate their own income.<sup>14</sup>

To address the new challenges and ensure a continuity in services, actors involved in the provision of protection adapted their methodologies and turned to digital solutions. Throughout 2021, innovations which were introduced as an immediate response to the pandemic, such as online, remote registration and processing of applications, became an integral part of the standard working methods (*see Section 4*).

To facilitate the return to normality, vaccination campaigns were also targeted at applicants and beneficiaries of international protection in many countries to increase immunisation and alleviate pressure on the medical infrastructure.<sup>15</sup> Studies show that a significant gap exists between higher-income and lower-income countries in terms of immunisation.<sup>16</sup> Many of the world's displaced people, hosted by lower-income countries, faced barriers in accessing vaccines, testing, treatment and even reliable information, despite the campaigns.<sup>17</sup> Substantial efforts are needed to ensure vaccine equity across countries and sharing knowledge and expertise.<sup>18</sup> Stepping up financial, political and technical support to these countries and communities will help to ensure that COVID-19-related challenges become part of a broader health strategy to catalyse the improvement of and access to health care.<sup>19</sup>

These developments in 2021 have signalled a desire for a transition from reactive responses to the pandemic toward an acknowledgement that COVID-19 is an established reality and new working methods must be sustainable in the long term to provide effective protection solutions.





### 1.3. Scaling up sustainable, long-term protection solutions



displacement.<sup>21</sup>

The ultimate goal of an effective international protection system is the provision of durable solutions to those in need.<sup>20</sup> Durable solutions comprise voluntary repatriation, local integration in the host community, and resettlement and complementary pathways to protection. To facilitate voluntary repatriation, the international community works towards improving conditions in the country of origin, including addressing the root causes of

Local integration involves efforts to boost the self-reliance of recognised refugees and facilitate personal and social development, including access to education; increasing skills, employability and entrepreneurship; being aware of rights and services that are available to refugees; and fostering meaningful interactions between refugees and local communities, so that refugees become an organic part of the social fabric in the country where they live. For displaced persons who cannot return to their country of origin, resettlement or other alternative pathways to protection, such as humanitarian visas, community sponsorship, study programmes or channels used for labour migration, may provide a viable way ahead. Alternative pathways to protection are not only an expression of solidarity with countries that host large numbers of refugees, but they also provide legal and safe ways for displaced persons to live safely when otherwise they could resort to perilous onward movements.

Durable solutions are clearly complex processes that require time and cooperation across multiple stakeholders; their complexity makes them difficult to operationalise and attain. UNHCR reported that since 2016 the number of refugees accessing durable solutions has gradually declined.<sup>22</sup> The COVID-19 pandemic significantly impacted the pursuit of durable solutions<sup>23</sup> by severely limiting access to relevant services. The number of voluntary repatriations remains low, mostly due to protracted conflicts in countries of origin. Resettlement processes have gradually resumed, yet the number of places offered do not suffice to cover existing needs. And prospects for local integration have narrowed with growing barriers for refugees to access education, employment, social services and psychosocial support, in addition to an increase in stigmatisation and xenophobia against refugees during the pandemic.<sup>24</sup>

As a result of measures put in place by countries to address the challenges (see *In focus 2*), resettlement processes started to climb compared to a near standstill in 2020. As a result, the number of persons resettled increased from 22,800 in 2020 to approximately 40,000 in 2021.<sup>25</sup> Still, this figure is lower than the number of resettled refugees prior to the pandemic (approximately 64,000 in 2019).<sup>26</sup> Practical impediments to access flights, the additional cost of adapted arrangements and complex travel requirements still make it challenging to fully reactivate relevant programmes.<sup>27</sup> These numbers cover the needs of only a fraction of the total population in need of resettlement, which UNHCR estimates at more than 1.4 million for 2022.<sup>28</sup> (For information on resettlement efforts by EU+ countries in 2021, see Section 4.16. The section also includes information on evacuations and humanitarian admissions of Afghan nationals following the Taliban surge to power.)

As witnessed in 2021, areas which continue to need sustainable solutions for people in need of protection include:

- More efforts are needed to address underlying causes and conditions of displacement, including through development initiatives, to create an environment that facilitate the voluntary repatriation of refugees.





- Additional support is needed for local integration by fostering self-reliance in refugees and assisting host communities.<sup>29</sup> The majority of refugees live in protracted displacement which means that local integration is the most accessible durable solution. Other measures to foster sustainable living and decrease dependence on humanitarian aid include working with local authorities to include refugees in public services rather than sustaining a parallel humanitarian system; supporting localised responses that cater to the needs not only of the refugees but also of the host communities; and empowering refugees to sustain themselves and contribute to the social and economic development of their new societies.<sup>30</sup>
- Governments need to scale up resettlement efforts to provide safe routes to protection to as many people in need as possible.<sup>31</sup> Closer operational coordination across resettlement states would increase efficiency at all stages of the process.<sup>32</sup> Access to complementary pathways could be increased through scaling up community sponsorship, family reunification, and labour market and study opportunities.<sup>33</sup> This could be attained by diversifying the actors involved in the provision of safe and legal pathways to protection to include local authorities and communities, employers, educational institutions, civil associations and faith-based groups.<sup>34, 35</sup> Multiplying the involvement of more stakeholders can also catalyse better integration into resettlement countries. In addition, including previously-resettled refugees in the design and implementation of resettlement activities may be beneficial, both in ensuring that the processes cater effectively to the needs of the people they target and in increasing integration prospects.<sup>36</sup>

## 1.4. Climate-induced displacement



Climate change is increasingly reported to have a growing and disproportionate impact on the most vulnerable communities, with climate-induced displacement being one of the direst consequences. In addition, climate change may exacerbate living conditions for populations that have been already displaced, as many of them live in 'climate hotspots' and commonly lack the resources to adapt to an increasingly adverse environment.<sup>37</sup> This type of displacement commonly takes place within countries, but in some cases displaced populations cross borders in pursuit of a liveable environment, placing the issue of protection into an international context.

A fundamental challenge in identifying specific solutions is that no legal definition exists for persons displaced due to environmental reasons and, derivatively, what the criteria are for one to qualify. To guide interpretation and inform international discussions on the topic, in 2020 UNHCR issued a set of legal considerations on claims for international protection made in the context of the adverse effects of climate change and disasters.<sup>38</sup>

International efforts to improve protection for people displaced across borders, albeit not new, have intensified over the past years. The Platform on Disaster Displacement brings together a number of national governments and international organisations to offer better protection for people who are displaced into another country in the context of disasters and climate change. Through the platform, policymakers, researchers and practitioners have built partnerships to discuss developments, share information and create policies and toolboxes to prevent and respond to situations of climate-induced displacement.<sup>39</sup>



UNHCR has been coordinating efforts to develop effective responses to the growing climate emergency. To this end, the Strategic Framework for Climate Action provides a roadmap for action, in collaboration with affected communities, host governments, UN country teams, NGOs, international organisations, international and regional financial institutions, the private sector and academia. Under the framework, work is carried out on guiding the interpretation and application of legal and policy frameworks, developing relevant guidance; preserving and rehabilitating the natural environment, enhancing the resilience of displaced populations and host communities in the face of climate-related risks, strengthening preparedness and responses, and improving the environmental sustainability of UNHCR's operations.<sup>40</sup>

In October-November 2021, the 26<sup>th</sup> UN Climate Change Conference of the Parties (COP26) took place to accelerate action towards the goals of the Paris Agreement and the UN Framework Convention on Climate Change. In light of the conference, UNHCR called participating leaders to step up support to people forced to flee due to climate-related emergencies, as well as their host communities to avert and mitigate damage on the most vulnerable regions.<sup>41</sup> Suggested actions included increasing financial, technological and capacity support to address climate-induced displacement, reducing greenhouse emissions, providing support to displaced populations and host communities by scaling up prevention and preparedness measures, and including displaced voices in climate research, adaptation and mitigation efforts.<sup>42</sup>

## 1.5. A gender lens on forced displacement<sup>iv</sup>



Sexual orientation, gender identity or expression, and sex characteristics (SOGIESC) may affect the safety of some people in the world and their path to seeking international protection. These factors might have a direct impact on a person's experience in the country of origin, may constitute the key reason for having to flee a country (i.e. gender-related persecution) and may impact the journey through transit countries in the pursuit of safety. These

aspects can also have an impact on an asylum applicant's experience in the destination country, and the need to receive effective protection in a manner suitable for the specific context and in full respect of their fundamental rights and human dignity is clear.

Women, girls and LGBTIQ persons throughout the world may be subjected to intense forms of cultural, structural and direct violence. Gender-based violence may include – but is by no means limited to – sexual abuse and exploitation, rape, female genital mutilation/cutting (FGM/C), human trafficking, harassment and domestic violence, as well as social stigmatisation and marginalisation, and related psychosocial consequences. Such traumatic experiences need to be taken into consideration while trying to understand and assess a person's need for protection. Likewise, these realities need to be included in the development of protection solutions to properly cater to the needs of survivors of gender-based violence. It is fundamental that gender considerations are integrated into the asylum procedure, even when a specific asylum claim is not clearly gender-related per se.

A number of international and regional legal instruments are in place to safeguard the rights of women and girls, and prohibit traditions, cultural practices and religious customs that may be harmful to them.<sup>43</sup> For LGBTIQ persons, no specialised, legal, international human rights

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<sup>iv</sup> While gender-related issues in the context of asylum are clustered under the same discussion in this section, identity intersectionality may shape the form, intensity and degree of individual experiences. The intention is to highlight a number of similar issues these groups may face.



instrument exists, but their rights are protected under other international human rights law. Nonetheless, recent legal interpretations have become increasingly protective of the rights of LGBTIQ persons.<sup>44</sup> In the past, legislation related to international protection has not explicitly addressed the gender dimension of forced displacement, but it has evolved over the past two decades to recognise forms of gender-related persecution, and thus acknowledging that gender may be an essential element in asylum claims.<sup>45, v</sup>

To support this evolution, research, legal analysis, jurisprudence and policy discussions have focused on better understanding the gender dimension in the provision of protection solutions, and key recommendations and guidance have stressed the importance of including a gender perspective in asylum procedures. European Parliament Resolutions,<sup>46, 47</sup> guidance produced by UNHCR<sup>48, 49, 50</sup> and the Council of Europe,<sup>51</sup> and frameworks such as the [Yogyakarta Principles](#), in addition to relevant jurisprudence,<sup>52</sup> reflect well-established principles of international human rights law and have catalysed the interpretation and application of legal concepts in ways that increase protection in gender and SOGIESC-related asylum cases.

Clearly, the discussion on gender and SOGIESC considerations in the context of asylum is by no means new. While positive steps have been taken in expanding legal protection and mainstreaming gender-related considerations in the field of asylum, this aspect still needs greater attention today. According to UNHCR, one in five displaced women have faced sexual violence and, given the human rights and socio-economic impact of the COVID-19 pandemic, the situation has deteriorated.<sup>53</sup> UNHCR has reported a global surge in domestic violence, child marriages, human trafficking, sexual exploitation and abuse suffered by displaced women and girls.<sup>54</sup> Displaced LGBTIQ persons still experience homophobic, bi-phobic and transphobic violence, both from people in host communities and from other displaced people; they may be subjected to abuse by or lack protection from security forces, face arbitrary detention, *refoulement* or exclusion from essential basic services<sup>55</sup> and traditional support networks.<sup>56</sup>

A number of initiatives in 2021 addressed gender- and SOGIESC-related issues in the context of asylum and provided recommendations to better sensitise protection responses. In June 2021, UNHCR and the Mandate of the UN Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity (IE SOGI) co-convened the 2021 Global Roundtable on Protection and Solutions for LGBTIQ+ People in Forced Displacement.<sup>57</sup> The month-long roundtable included participants from national authorities, civil society organisations, the private sector and LGBTIQ persons who have experienced displacement. Discussions centred around specific practices that are salient to the experiences of forcibly-displaced and stateless LGBTIQ persons.<sup>58</sup> The roundtable culminated in a set of recommendations to all actors working in asylum, including developing and implementing regular training on SOGIESC, taking issues of identity intersectionality into account, ensuring and facilitating legal gender recognition to respect the fundamental right of self-determination, and increasing support and funding for LGBTIQ organisations on the ground.<sup>59</sup>

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<sup>v</sup> For example, the recast Qualification Directive (2011/95/EU) and the recast Asylum Procedures Directive (2013/32/EU) include provisions to consider issues arising from an applicant's gender, including gender identity and sexual orientation, when assessing the risk of persecution and when processing applications for protection, including providing special procedural guarantees.





In 2021, UNHCR released an updated version of the Guidelines on Working with Lesbian, Gay, Bisexual, Transgender, Intersex and Queer Persons in Forced Displacement,<sup>60</sup> which contains guidance to professionals working with displaced LGBTIQ persons. The guidelines highlight shared protection needs among displaced LGBTIQ persons; identify distinct protection challenges; provide a set of key principles to guide the work of professionals; offer recommendations to address operational protection risks; and provide examples of cross-cutting actions to promote respect for diversity, creating safe spaces for self-disclosure, ensuring inclusiveness in accountability mechanisms and building partnerships with LGBTIQ-focused civil society organisations.

Regional initiatives have also gained ground over the past years. In the context of Europe, the AMIF-funded project “Identification of Trafficked International Protection Beneficiaries’ Special Needs (TRIPS)”, is a 2-year initiative which aims to identify and address specific integration needs of trafficked beneficiaries of international protection, both at the EU and national levels.<sup>61</sup> The gender component of human trafficking cannot be overlooked as the majority of identified victims are women and young girls, most often victims of sexual exploitation.<sup>62</sup> Accordingly, addressing trafficking requires gender-specific responses. As part of the project, a toolbox was produced to provide practitioners with guidance on dealing with the consequences of human trafficking within the wider international protection and integration context.<sup>63</sup>

The Mediterranean Institute of Gender Studies launched the COALESCE Project in January 2021 to provide support to female migrant survivors of trafficking in human beings for sexual exploitation in Europe. The project focuses on providing gender-specific psychosocial, legal and economic support to women, developing synergies, and improving transnational cooperation among frontline professionals and practitioners.<sup>64</sup> In addition, the Trans Refugee Network highlighted issues surrounding trans refugees in Europe, with the purpose of creating a community to share good practices among practitioners.<sup>65</sup>

Through systematic, multifaceted research, the SOGICA project, which was funded by the European Research Council, explored the social and legal experiences of asylum seekers across Europe who claimed international protection on the basis of their SOGI.<sup>66</sup> SOGICA research also culminated in recommendations to effectively address SOGI-related issues in European asylum law, policy and practice (see *Section 5.4.*)

In the Central American region, in autumn 2021 Refugees International and the Institute for LGBTIQ Migrants and Refugees in Central America (IRCA CASABIERTA), a Costa Rica-based NGO that is led by and provides services to LGBTIQ asylum seekers and refugees, held 15 consultation meetings with NGOs in seven Central American countries to discuss challenges that LGBTIQ-led organisations faced in their respective countries in providing services, including to LGBTIQ persons in displacement. Based on the consultations, a report was published with an analysis of the challenges and a set of recommendations on how authorities, NGOs and international organisations can support LGBTIQ-led organisations in their work.

In 2021, the Migration Council Australia (MCA) and the Forcibly Displaced People Network (FDPN) produced a report, in which they examined literature in the context of Australia, the United States and Canada to explore specific needs of LGBTIQ refugees beyond the broader refugee population. The report highlights multiple levels of disadvantages faced by LGBTIQ refugees, in addition to the experiences of persecution and discrimination, including the absence of social support. It also offers perspectives on more culturally-responsive and gender-inclusive approaches to support refugees in Australia.<sup>67</sup>





A strong message that comes out of these initiatives is that the focus is not on affording 'special' or 'new rights' to women, girls and LGBTIQ persons in the context of displacement, but rather on ensuring that they can access and exercise their rights on an equal basis with other asylum seekers.<sup>68, 69</sup> What also becomes clear is that addressing gender-related issues in the context of displacement requires concerted responses which involve authorities, civil society partners, humanitarian organisations, academics and practitioners and, importantly, persons with lived experience of forced displacement.

## 1.6. Global developments surrounding statelessness



In a year that marked the 60<sup>th</sup> anniversary of the 1961 Convention on the Reduction of Statelessness,<sup>70</sup> issues surrounding these occurrences, including in the context of asylum, persisted. A stateless person is someone “who is not considered as a national by any state under operation of its law”.<sup>71</sup> Whether born stateless or having become stateless later in life, a stateless person does not have the nationality of any country.

Data by UNHCR reported for 94 countries indicate a total of more than 4 million stateless people around the world.<sup>72</sup> The figure is likely much higher, as most countries in the world report partial or no statistics on statelessness.<sup>73</sup>

In 2021, a number of issues related to statelessness continued to gain attention of the international community. In its background note on gender equality, nationality laws and statelessness, UNHCR noted that many countries still have not attained equality between men and women relating to the conferral of nationality on their children, which can create stateless children who cannot acquire nationality from their fathers.<sup>74</sup>

In the context of the COVID-19 pandemic, stateless people often found themselves with no access to testing, treatment and vaccinations due to the lack of a legal status.<sup>75, 76</sup> Despite the fact that the pandemic had a severe socio-economic impact on them, they were still unable to access social services that would mitigate the adverse effects of the pandemic.<sup>77, 78, 79</sup> Some may also fear to register for the vaccination or come forward for testing and treatment due to the risk of detention or deportation that their absence of a legal status entails.<sup>80</sup>

Acknowledging the disproportionate impact of the pandemic on stateless people, a number of stakeholders highlighted the importance of including them in national plans to contain and address the effects of COVID-19.<sup>81, 82</sup>

Coordinated by UNHCR and with the participation of other UN and international agencies, regional organisations, civil society organisations and stateless people themselves, the [Global Action Plan to End Statelessness](#) was set up in 2014 with a framework to resolve existing situations of statelessness, prevent the emergence of new case and enhance the identification and protection of stateless people.<sup>83</sup> As of August 2021, 77 states had joined the 1961 Convention on the Reduction of Statelessness. Accessions have increased since 2010, with 40 States having formalised their commitment to reduce statelessness by becoming parties. According to UNHCR, during the same period, more than 800,000 stateless persons are known to have had their nationality confirmed.<sup>84</sup>

Acknowledging that different aspects of a stateless person’s identity may impact on their experience in the context of displacement, in June 2021 UNHCR released a discussion paper on LGBTIQ persons in forced displacement and statelessness, shedding light on the fundamental issues they face and offering a set of possible protection solutions.<sup>85</sup>





In December 2020, the European Union Agency for Fundamental Rights (FRA) and the European Court of Human Rights (ECtHR) released an updated edition of the [Handbook on European Law relating to Asylum, Borders and Immigration](#). With an expanded section on issues of statelessness, the handbook is intended for lawyers, judges, prosecutors, border guards, immigration officials and others working with national authorities, as well as national human rights institutions, NGOs and other bodies that may deal with legal questions related to asylum and migration.<sup>86</sup>

In addition, the European Network on Statelessness (ENS) launched in 2021 its [Statelessness Case Law Database](#), which provides a collection of cases to illustrate how European courts have addressed the issue in a variety of contexts. Over the past years, the ENS has conducted systematic research on issues of statelessness in Europe and supported legal and policy development, awareness-raising and capacity-building in addressing statelessness.





## Section 2. Major developments in asylum in the European Union in 2021



*Section 2 presents an overview of the Common European Asylum System (CEAS) and the latest legislative and policy developments in its evolution at the EU level, set against the backdrop of key developments in 2021 and early 2022. The Taliban takeover in Afghanistan created renewed waves of displacement in the region, state-sponsored smuggling of migrants by the Belarusian regime presented new challenges at the EU's external borders, the Russian invasion of Ukraine resulted in millions of people seeking protection in EU+ countries. These developments, standing as testaments to a constantly-evolving migratory landscape, highlighted the imperative of having a comprehensive European toolbox of legislative, policy and practical measures to respond effectively to new migration challenges and provide protection solutions.*

Progress was made and important steps were taken toward the implementation of the Pact on Migration and Asylum at the technical and political levels, while further political agreement on some key elements of the pact is still to be achieved.

This section also provides an overview of jurisprudence by the Court of Justice of the EU (CJEU), which in 2021 issued a record number of judgments in the area of international protection and related topics.

### 2.1. Reform of the Common European Asylum System: An ongoing process

#### 2.1.1. Background



CEAS is a legal and policy framework developed to guarantee harmonised and uniform standards for people seeking international protection in the EU. Based on an understanding that the EU needs to have a common approach in implementing transparent, effective and efficient procedures,<sup>87</sup> CEAS emphasises a shared responsibility to process applications for international protection in a dignified manner and with fair treatment.<sup>88</sup>

In the first phase of CEAS (1999-2005), key legislative instruments were created to establish minimum standards for the asylum procedure across EU countries. During this period, EU countries had varied experiences with asylum flows, while protection standards were deemed not to be strong enough. To improve the functioning of CEAS, substantive amendments were introduced to key legal instruments that govern the standards of the European asylum system in the second phase of CEAS.<sup>89, 90</sup>

The increasing – and often uneven – pressure that national asylum and reception systems in EU+ countries faced since 2015 underlined the importance of having an EU-wide framework



to manage mixed migration flows.<sup>vi</sup> In 2016 the EU Commission presented reform proposals for core components of CEAS, including a reform of the Dublin system;<sup>91</sup> reinforcing of the Eurodac Regulation;<sup>92</sup> enhancing the mandate of the European Asylum Support Office (EASO) toward a fully-fledged agency for asylum;<sup>93</sup> replacing the Asylum Procedures Directive with a regulation directly applicable in national asylum systems to harmonise procedures across EU+ countries;<sup>94</sup> replacing the Qualification Directive with a regulation directly applicable in national asylum systems to further harmonise protection standards and rights;<sup>95</sup> reform of the Reception Conditions Directive to ensure harmonised and dignified reception standards;<sup>96</sup> and the establishment of a permanent Union Resettlement Framework to provide legal and safe pathways to the EU.<sup>vii, 97</sup>

Progress toward the adoption of the proposals was uneven. While practical cooperation continued among Member States during 2016-2019, the negotiations for the reform package seemed to have reached an impasse.

## 2.1.2. The Pact on Migration and Asylum



Building on previous progress, in September 2020 the European Commission presented a [Pact on Migration and Asylum](#), based on in-depth consultations with the European Parliament, Member States, civil society organisations, social partners and the business sector.<sup>98</sup> The Pact on Migration and Asylum aims to set the framework for:

- Robust and fair management of external borders;
- Fair and efficient asylum rules;
- A new solidarity mechanism for situations of search and rescue, pressure and crisis;
- Stronger foresight, crisis preparedness and response;
- An effective return policy and an EU-coordinated approach to the return of rejected applicants;
- Comprehensive asylum and migration governance at the EU level;
- Mutually beneficial partnerships with third countries;
- Sustainable legal pathways for those in need of protection and to attract talent to the EU; and
- Effective integration policies.<sup>99</sup>

To achieve these goals, the European Commission maintained its proposals and supported the provisional agreements already reached on the Qualification Regulation, the Reception Conditions Directive, the Union Resettlement Framework Regulation, and the EU Agency for Asylum. It also called for the swift conclusion of the negotiations on the recast Return Directive. The Commission withdrew the 2016 proposal for an amended Dublin Regulation and put forth a new proposal for an Asylum and Migration Management Regulation. In conjunction with the five proposals from 2016 and 2018 which were maintained, the pact comprised a package of nine additional instruments.<sup>100</sup> In 2021, negotiations were ongoing at

<sup>vi</sup> “Complex migratory population movement including refugees, asylum seekers, economic migrants and other types of migrants as opposed to migratory population movements that consist entirely of one category of migrants.” Definition provided in the EMN Glossary: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/mixed-migration-flow\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/mixed-migration-flow_en)

<sup>vii</sup> For a detailed description of the proposals, see [EASO Annual Report on the Situation of Asylum 2017](#).



the Council and the European Parliament.<sup>101</sup> The nine additional proposals of the pact include:<sup>viii</sup>

- 1) A [proposal](#) for a Screening Regulation introduces uniform rules on the procedures to be followed at the pre-entry stage (identification, registration, security and health checks). At the end of the screening, all people will be directed to the relevant procedure: asylum or return, at the border or not.<sup>102</sup>
- 2) An [amended proposal](#) aims to revise the Asylum Procedure Regulation,<sup>ix</sup> which already aimed to streamline the asylum procedure with swifter actions to identify those who are in need of protection and those who are not. In conjunction with the proposal for a new Screening Regulation, the revised Asylum Procedures Regulation aims to establish an asylum and return border procedure before entry in the EU (pre-entry phase) and a seamless link between all stages of the asylum procedure, from arrival to the processing of asylum requests and, where applicable, returns.<sup>103</sup>
- 3) An amended [proposal](#) revising the Eurodac Regulation aims to gather more data which are needed for the new EU Asylum and Migration Management Regulation. The new Eurodac database will be interoperable with border management databases and build towards an all-encompassing and integrated migration and border management system. Once in place, the proposal will contribute significantly to effective border management. For example, it will facilitate the identification of irregular migration and unauthorised movements within the EU and will increase efficiency in returns.<sup>104</sup>
- 4) A [proposal](#) for a new Asylum and Migration Management Regulation is based on the premise that the effective management of irregular arrivals is not a challenge to be addressed by individual Member States, but a common effort that should be founded on a comprehensive approach through integrated policymaking.<sup>105</sup>
- 5) A [proposal](#) for a Crisis and Force Majeure Regulation aims to provide adaptations to the asylum and return procedures, as well as the solidarity mechanism, so that Member States can respond effectively to situations of crisis and force majeure.<sup>106</sup>
- 6) A [proposal](#) for a Migration Preparedness and Crisis Blueprint aims to consolidate operational cooperation in the area of migration and monitor the migration situation regularly so that policy decisions are based on a complete situational picture.<sup>107</sup> A Blueprint Network, including the European Commission, Member States, relevant EU agencies including the EUAA, and the External Action Service, will facilitate swift and coordinated action, information exchange both within the EU and with non-EU partners, informed decisions, and the monitoring of the implementation of decisions.<sup>108</sup>
- 7) A [recommendation](#) on Resettlement and Complementary Pathways aims to bridge the transition from previous resettlement schemes to the Union Resettlement Framework.<sup>109</sup> While the provisional agreement on the Union Resettlement Framework reached between the European Parliament and the Council in 2018 was not followed up with

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<sup>viii</sup> For a detailed description of the proposed instruments, see EASO Asylum Report 2021, [Section 2. Major developments in asylum in the European Union in 2020](#).

<sup>ix</sup> The 2016 proposal called for a simpler asylum procedure; reinforced guarantees for asylum applicants with special needs and unaccompanied children; defined clearer obligations for applicants to cooperate with authorities and stricter rules to prevent abuse; and streamlined and harmonised rules related to safe countries of origin and safe third countries.



subsequent legislative developments, resettlement has been a key theme in policy discussions in 2021. In July 2021, Commissioner Johansson convened the first High-Level Resettlement Forum as a demonstration of the EU's determination to strengthen European and global resettlement efforts. The Commissioner also announced financial support to Member States for the purposes of resettlement and urged them to make ambitious pledges for next year.<sup>110</sup>

- 8) A [recommendation](#) on Search and Rescue Operations by Private Vessels sets out a framework for cooperation and information exchange among different actors in search and rescue operations, in particular NGOs which engage predominantly in these operations.<sup>111</sup>
- 9) New [Guidance](#) on the Facilitators Directive provides clarification on the interpretation of the Facilitators Package<sup>112</sup> in the context of search and rescue activities by non-state actors. It therefore clarifies that the Facilitation Directive should not be interpreted as criminalising humanitarian activities in the form of search and rescues and explains that the criminalisation of such activities and actors is in breach of international law and cannot be permitted under EU law.<sup>113</sup>

Following political agreement between the Council Presidency and the European Parliament in June 2021, the Parliament's positive position in November 2021 and adoption by the Council in December 2021, Regulation (EU) 2021/2303 entered into force in January 2022 to establish the EUAA. The regulation transformed EASO into a full-fledged agency with a broadened and enhanced mandate,<sup>114, 115</sup> which can:

- i) contribute more to Member States through operational and technical support;
- ii) set common operational standards, indicators and guidelines for the implementation of CEAS;
- iii) better monitor national asylum and reception systems of Member States to foster convergence in practices; and
- iv) introduce additional guarantees to ensure compliance with fundamental rights<sup>116</sup> (see *Section 3*).

Regarding the recast of the Reception Conditions Directive and the Qualifications Regulation, while provisional agreement was reached in June 2018, no significant progress has been made at the legislative level. Pending further legislative progress on the proposed Return Directive,<sup>117</sup> the Commission adopted in April 2021 the first EU Strategy on Voluntary Return and Reintegration.<sup>118</sup> The strategy promotes voluntary returns and reintegration as integral components of a common EU system for the return of third-country nationals. It sets out practical measures to enhance the legal and operational frameworks for returns; improve the quality of returns and reintegration programmes; establish better links between voluntary returns, reintegration and developments initiatives; and strengthen cooperation with third countries.<sup>119</sup>

Progress was also achieved in 2021 in the broader area of migration related to asylum. In June 2021, the European Commission presented the Schengen Strategy<sup>120</sup> with a four-fold aim to: i) ensure the effective management of the EU's external borders; ii) reinforce the Schengen area internally; iii) improve preparedness and governance; and iv) enlarge the Schengen area by expanding to those EU Member States that are not part of it yet.<sup>121</sup> Bringing together a number of ongoing processes, including the interoperability of information systems



and the ongoing roll out of the European Border and Coast Guard standing corps, the Schengen Strategy will further calibrate common migration management.

In 2021, efforts continued towards the interoperability of large-scale IT systems in the area of freedom, security and justice, which are used by national authorities across the EU to share information, for example for the purpose of managing migration, including Dublin transfers. The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) focussed on developing three new, large-scale IT systems (EES, ETIAS and ECRIS-TCN), while continuing to manage and update the three existing ones (Eurodac, SIS and VIS) and work on the interoperability between all these systems.<sup>122</sup> EU-LISA confirmed that the timeline for implementing the new interoperability architecture by the end of 2023 remained unchanged.<sup>123</sup>

In light of upcoming changes, ECRE analysed Eurodac's current rules, its place in the EU-wide information systems in the area of freedom, security and justice, and the proposed changes from 2016 and 2020. It made policy recommendations to establish a system with additional safeguards for fundamental rights.<sup>124</sup>

With integration being an essential element of an effective migration management system, the implementation of the Action Plan on Integration and Inclusion started in 2021.<sup>125</sup> The Plan includes approximately 60 actions in the fields of education, employment and skills, health, and housing, bringing together diverse stakeholders to foster integration and inclusion.<sup>126</sup>

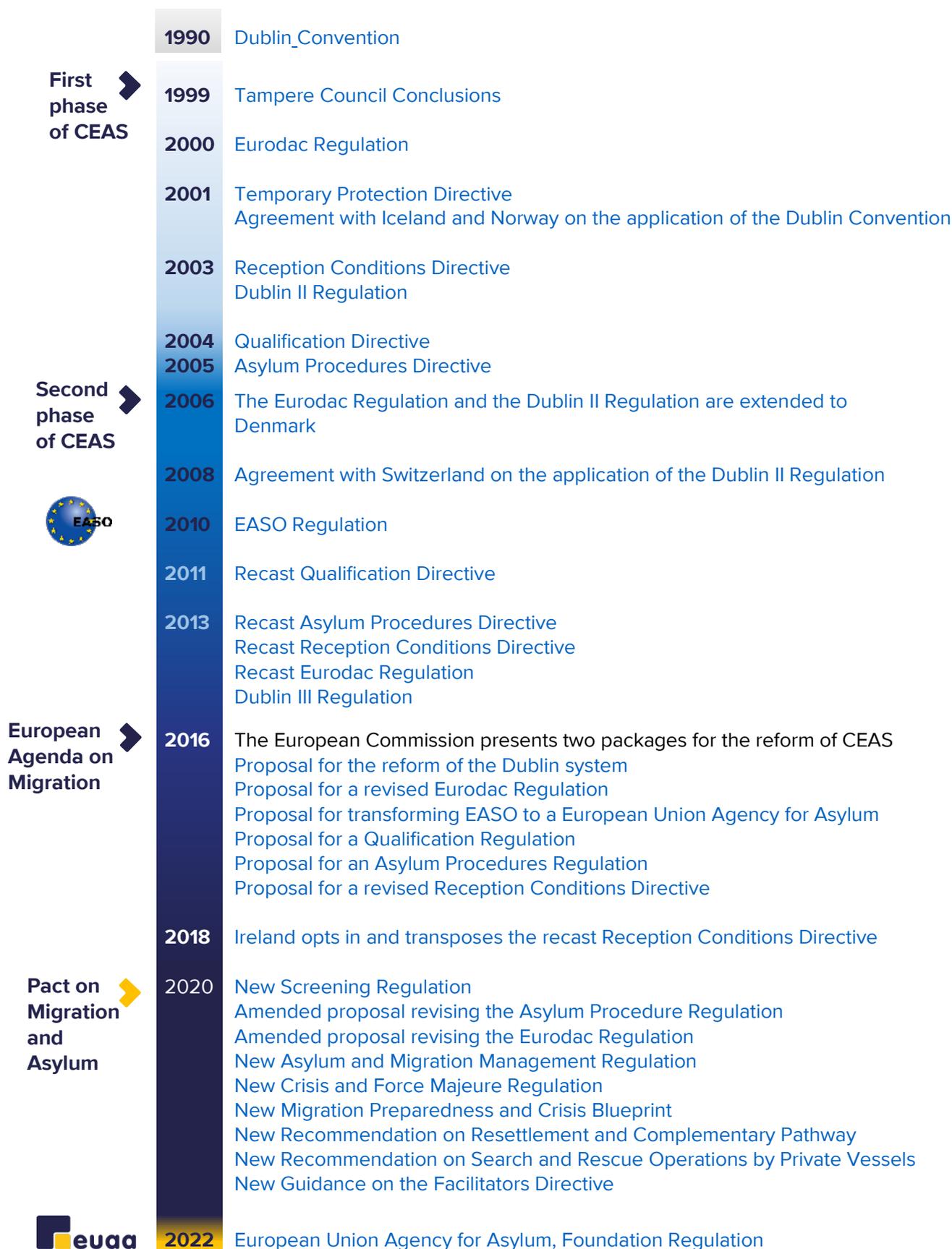
In response to unfolding developments at the EU external borders, the European Commission put forth a number of proposals at the end of 2021 on the instrumentalisation of migration and emergency situations at the EU's external borders (see *Section 2.2.2*).

After the presentation of the Pact on Migration and Asylum in September 2020 and throughout 2021, a number of actors, including civil society organisations and research institutions, offered their reactions to the proposals set forth by the European Commission. The commentaries, articles and policy and legal notes drew attention to areas which needed further clarification or where more could be achieved, including: the need to overhaul the criteria for sharing responsibility and leave a narrower margin of discretion for Member States to implement the solidarity measures;<sup>127, 128</sup> ensuring adequate procedural guarantees for the protection of fundamental rights at the pre-entry screening and the border procedure;<sup>129</sup> concerns about the possibility for a broader application of the accelerated border procedure in situations of crisis and force majeure;<sup>130</sup> securing sufficient time for rejected applicants to appeal negative decisions;<sup>131</sup> providing adequate law and policy responses for the protection of the rights of stateless people;<sup>132</sup> and ensuring that the overall cooperation with third countries does not lead to an overemphasis on return or externalisation of EU migration management.<sup>133,134</sup>





## The evolution of the Common European Asylum System (CEAS)





## 2.2. Key developments in policies and practices at the EU level



The COVID-19 pandemic continued to have a significant impact on the functioning of national asylum systems in 2021. The Commission provided guidance and practical support to Member States to minimise the impact of the pandemic. Equipped with the experience of the previous year and the use of digital innovations introduced in 2020, Member States managed to ensure continuity in other areas of the asylum procedure. Overall, the COVID-19 experience highlighted the need for modern coherent approaches in migration management.<sup>135</sup>

Throughout 2021, questions linked to the area of migration and asylum remained high on the EU's policy agenda. Presenting the EU legislative priorities for 2021 and the Joint Conclusions on Policy Objectives and Priorities for 2020-2024, in December 2020, the Council of the EU, the European Commission and the European Parliament declared their determination to work toward achieving agreement on the Pact on Migration and Asylum, to ensure migration is addressed in a comprehensive way and external borders are effectively controlled.<sup>136</sup> In July 2021, the Parliament and the Council reached a political agreement over the budgetary priorities of the EU's asylum, migration and integration policies for the next 7 years.

It was agreed that the new Asylum, Migration and Integration Fund (AMIF) will be allocated to strengthen common asylum policy; develop legal migration in line with the economic and social needs of Member States; support third-country nationals to effectively integrate and be socially included; support the fight against irregular migration; and ensure that those without a right to stay in the EU are returned and readmitted in an effective, safe and dignified way. The co-legislators agreed that most of the funds (63.5%) should be allocated to programmes that are jointly managed by the EU and Member States, while the remaining 36.5% will be directly managed by the EU. The latter will be dedicated to emergency assistance, resettlement and humanitarian admissions from non-EU countries and the relocation of asylum seekers and refugees to other EU Member States “as part of solidarity efforts”.<sup>137</sup>

In her State of the Union address in September 2021, the President of the European Commission Ursula Von Der Leyen presented the key initiatives that the Commission intends to undertake in the coming year. Making reference to the situation at the EU's borders with Belarus, she underlined that it is important to establish new ways to respond to such challenges through a common migration management system. She emphasised that every country has a stake in building a European migration system and she expressed her conviction that, despite the slow pace of progress in adopting the Pact on Migration and Asylum, common ground is not so far away.<sup>138</sup>

### 2.2.1. Presidencies of the Council of the European Union



Both Presidencies of the Council of the European Union included priorities related to migration and asylum in their programmes during 2021.

The Programme of the Portuguese Presidency of the first semester of 2021 focused on strengthening Europe's resilience and its citizens' confidence in the European social model, as well as on promoting a European Union based on shared values of solidarity, convergence and cohesion. The three major priorities of the Portuguese Presidency were to promote Europe's recovery leveraged by climate and digital



transitions; implement the Social Pillar of the EU as a key element for a fair and inclusive climate and digital transition; and strengthen Europe's strategic autonomy keeping it open to the world. A goal after the first priority was to continue the negotiation of the Pact on Migration and Asylum as a comprehensive, integrated, Europe-wide approach to strike a balance between the prevention of irregular migration, the promotion of sustainable channels for legal migration and the integration of migrants geared to safeguarding human rights.<sup>139</sup>

In the second semester of 2021, the Slovenian Presidency of the Council focused on four priorities with the intention to facilitate the EU's recovery and reinforce its resilience, reflect on the future of Europe, strengthen the rule of law and European values, and increase security and stability in the European neighbourhood. In the area of migration and asylum, the Presidency aimed to work toward a more effective approach to dealing with illegal migration at its source; more effective protection of the EU's external borders; a functioning asylum system; a more consistent policy of returning persons who have not been granted international protection to their country of origin; and close cooperation both with countries of origin and transit countries. The Presidency placed emphasis on working for the further harmonisation of national asylum systems and actively seeking a political consensus for the implementation of the concepts of responsibility and solidarity.<sup>140</sup>

In January 2021, UNHCR offered its recommendations to the two Presidencies of the year (Portugal and Slovenia), encouraging them to adopt an evidence-based, coherent and pragmatic approach in carrying forward discussions on the pact. UNHCR called the two Presidencies to: ensure access to the territory and fair and fast procedures; address fundamental rights violations at the borders; enhance intra-EU solidarity and responsibility-sharing; increase access to family reunification, resettlement and complementary pathways; promote effective integration; ensure effective monitoring and contingency planning; and develop an efficient, humane and sustainable system for the return of those who are found not in need of international protection. UNHCR also encouraged the Presidencies to work toward providing more support to countries and regions which are home to the highest number of forcibly-displaced people.<sup>141</sup> UNHCR continued with its series of recommendations to the Presidencies in 2022 as well (France and Czechia).<sup>142</sup>

## 2.2.2. EU's external borders and migration routes: Support to frontline Member States in response to the instrumentalisation of migration



In 2021, the EU's external borders experienced increased pressure, with arrivals rising over pre-pandemic levels. The number of detected illegal border-crossings in 2021 was just below 200,000, according to preliminary data collected by the European Border and Coast Guard Agency (Frontex).<sup>143</sup> This was the highest number since 2017. Based on Frontex reporting, fluctuations in the number of crossings were noted across different migration routes, with some experiencing significant increases while in others the situation remained relatively stable compared to 2020.<sup>144</sup>

The **Central Mediterranean route** continued being the most-used migratory route to Europe, accounting for one-third of all reported illegal border-crossings.

The number of illegal border crossings on the **Eastern Mediterranean route** was similar to 2020, accounting for approximately one-tenth of all detected irregular crossings at the EU's



external borders. But the pattern with entry routes changed: there was a sharp increase in arrivals in Cyprus, while the number of detections in Greece dropped.

The number of detections on the **Western Mediterranean route** and **Western African route** was also similar to 2020, with approximately 18,000 arrivals and 22,500 arrivals, respectively, reported in 2021.

A significant increase in detections was reported in the **Western Balkan route**, with a 124% rise over 2020 levels. Most illegal border crossings seemed linked to people who had been in the region for some time and repeatedly tried to reach their target country in the EU.

On the **Eastern land borders**, detections of illegal border-crossings increased more than tenfold, with approximately 8,000 illegal border crossings recorded for 2021.<sup>145</sup> This was linked to internal political upheaval in Belarus and international reactions to a forced landing of a passenger aircraft in Minsk in June 2021 which carried a Belarusian opposition journalist. In reaction, Belarus organised state-sponsored smuggling of migrants. This took place through flights and internal travel arrangements to facilitate the transit of migrants – mostly Iraqi nationals – into the EU initially to Lithuania and then to Latvia and Poland.<sup>146</sup>

Irregular border crossings from Belarus posed considerable pressure on these three Member States, with the EU swiftly providing a combination of financial, operational and diplomatic support to address the crisis at the external borders. Frontex launched a Rapid Border Intervention at the border between Belarus and Lithuania, which enabled a quick deployment of the standing corps, and provided support to Latvia and Poland. The EUAA provided operational support to Latvia and Lithuania to enhance capacity in registration and processing of asylum applications and for the reception of applicants.<sup>147, 148</sup>

In August 2021, the European Commission approved EUR 36.7 million for emergency assistance to Lithuania under AMIF funding to increase reception capacity, deliver shelter, food and clothing, provide first aid, medical care and hygiene kits, create COVID-19 isolation facilities and supply vaccines.<sup>149</sup> The European Commission and Frontex continue to work with Lithuanian authorities to carry out returns of third-country nationals who do not qualify for protection, while cooperation with key countries of origin and transit has intensified. In total, 19 Member States and Norway have provided their support through the Union Civil Protection Mechanism.<sup>150</sup> Poland also cooperated closely with Frontex and the European Commission in the field of identification of foreigners and the organisation of forced returns. The European Commission has been in on-going dialogue with Latvia, Lithuania and Poland about financial and operational needs and is making a further EUR 200 million available for border management.<sup>151</sup>

In response to the situation with the eastern land borders, the EU undertook a number of initiatives to address the instrumentalisation of migrants for political purposes and assist Member States under extreme pressure. In November 2021, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy issued a joint communication which provided an overview of actions taken in response to the situation at the eastern borders and addressed how the current migration framework could be adapted to provide a more permanent toolbox for addressing attempts to destabilise the EU through state-sponsored instrumentalisation of migrants.<sup>152</sup>

The toolbox comprises a combination of actions, both outside the EU and inside the EU and at the borders. Outside the EU, actions may include the introduction of restrictive measures or sanctions (with the possibility of suspending visa facilitation agreements in a targeted way);





concerted diplomatic efforts; campaigns to address disinformation; humanitarian support to migrants who have been targeted by instrumentalisation; and facilitation of assisted voluntary returns from places where migrants have been stranded. Actions at the border or inside the EU may include the provision of operational and financial support for border management, asylum and return to Member States most affected; and intensive efforts to tackle migrant smuggling. In relation to the last point, the renewed EU Action Plan against Migrant Smuggling (2021-2025), communicated by the European Commission in September 2021, provides a comprehensive approach for combatting migrant smuggling inside and outside the EU.<sup>153</sup>

As part of this comprehensive effort, the European Commission proposed a new legal framework allowing the EU to adopt measures to prevent and restrict the activities of transport operators who are involved in or facilitate smuggling or trafficking of people into the EU.<sup>154</sup> Measures will be proportionate and assessed on an individual basis, and could include the limitation of operations in the EU market; the suspension of licenses or authorisations; the suspension of the rights to refuel or carry out maintenance within the EU; and the prohibition to transit or fly over the EU, make technical stops or call into EU ports.<sup>155</sup> The EU has also mobilised political and diplomatic capital to build a global coalition against the instrumentalisation of migrants for political purposes. This effort has yielded results, with several countries of origin and transit suspending flights to Belarus and introducing stricter screening of passengers at airports.<sup>156</sup>

To offer an extra level of needed flexibility to the countries most affected by this crisis, in December 2021 the European Commission put forward a proposal for a Council decision on provisional emergency measures for the modification of the asylum, return and reception rules at the EU's borders with Belarus for a period of 6 months.<sup>157</sup> However, the proposal was not adopted.

On 14 December 2021, the European Commission published a proposal for updated rules to reinforce the governance of the Schengen area.<sup>158</sup> The proposed rules are meant to equip Member States to deal effectively with emerging challenges, both at the external borders and internal borders within the Schengen area. Building on developments in 2021, the proposed rules introduce common tools to address public health crises and the instrumentalisation of migrants.<sup>159</sup> As part of the Schengen reform package, on the same day, the European Commission proposed a regulation to address in a stable framework future situations of instrumentalisation in the field of migration and asylum at the EU's external borders.<sup>160</sup> The proposal includes measures similar to those proposed in the temporary legislation to manage the situation in Latvia, Lithuania and Poland.

The EU continued to provide its support to other frontline Member States as well. Since the migratory crisis of 2015, EU funding for operational and financial support in relation to Greece has amounted to more than EUR 3.3 billion toward improving reception capacity, living conditions and medical care for refugees and migrants; accelerating asylum procedures; increasing returns; and improving border protection.<sup>161</sup> After the catastrophic fires of September 2020 that destroyed the Moria Reception and Identification Centre in Lesvos, the European Commission took swift action to provide support and increase protection by funding the immediate transfer of over 8,400 persons from Lesvos to the mainland. A dedicated task force was created to work closely with the Greek authorities and EU agencies to set up new Reception and Identification Centres on five Greek islands, including a new, suitable facility in Lesvos.<sup>162</sup>





The European Commission and Greek authorities worked together to develop an independent monitoring mechanism to help prevent fundamental rights violations and set procedures in place for reporting and investigating such violations when they occur,<sup>163</sup> and the Greek government has designated the National Transparency Authority to perform the functions of such a mechanism.<sup>164</sup> Apart from their bilateral contributions, European countries showed their solidarity to Greece by providing assistance through the Union Civil Protection Mechanism.<sup>165</sup>

To address the needs emerging from the high number of people arriving irregularly on the Canary Islands, in December 2020 the European Commission announced new funding of EUR 43.2 million to Spain. The funding has been used to expand temporary shelters and improve reception conditions overall, including providing access to health, food and sanitation. First launched in July 2019, the total EU support to Spain up to September 2021 has amounted to over EUR 49.6 million.<sup>166</sup>

The European Commission has played a key role in facilitating and coordinating voluntary relocations from frontline Member States following search and rescue operations for people who found themselves at distress in the sea. In March 2021, Commissioner Johansson opened the new European Contact Group on Search and Rescue, which is a key platform for cooperation, information-exchange and sharing of good practices among actors involved in search and rescue operations. Apart from Member States, the group includes EU agencies, international organisations and private entities, such as non-governmental organisations and merchant vessel associations.<sup>167</sup> Through the coordination of the European Commission and support by the EUAA, over 2,100 applicants for international protection were relocated from Italy and Malta between 2019 and September 2021.<sup>168</sup> Between March 2020 and September 2021, more than 4,300 persons, including approximately 1,000 unaccompanied minors, were relocated from Greece to other Member States.<sup>169</sup>

The implementation of the European Border and Coast Guard Regulation,<sup>170</sup> which entered into force in December 2019, has been a major step toward increasing effective management of external borders. In 2021, the first teams of the Frontex standing corps were deployed, and it is foreseen that by 2027, Frontex should be able to mobilise 10,000 operational staff from the standing corps to provide effective support to Member States.<sup>171</sup> In the frames of ongoing operational activities, to date large numbers of border and coast guards, experts and equipment are deployed in Bulgaria, Greece, Italy, Lithuania, Romania, Spain and Western Balkan countries.<sup>172</sup> Recent events at external borders have further highlighted the important role of Frontex, under its new mandate, can play in promoting, coordinating and actively contributing to the development of an EU-integrated border management.<sup>173</sup> The extended Frontex mandate, the regulation on the interoperability of IT systems<sup>174</sup> and the proposed revised Eurodac regulation<sup>175</sup> will constitute key building blocks in this area.

Effective border management is also meant to allow for effective access to territory and the asylum procedure for those in need of protection, with full respect for fundamental rights and the principle of *non-refoulement*. Still, throughout 2021, actual or proposed legislative changes were made in some EU+ countries, which would practically result in restricting effective access to the territory and procedure.<sup>176, 177, 178</sup> or could potentially lead to the





externalisation of international protection.<sup>179,x</sup> European institutions and agencies, UNHCR, international and civil society organisations, and national human rights bodies often scrutinised policies and practices in European countries and called both national governments and the European Commission to ensure the protection of rights and reinforce adherence to the principle of *non-refoulement*.<sup>180, 181, 182, 183, 184, 185, 186, 187</sup> To help ensure a dignified stay for third-country nationals who are apprehended or intercepted at the external borders, in March 2021, FRA issued a note comprising 12 points for protection-sensitive and fundamental rights-compliant planning and design of initial-reception facilities (see *Section 4.1*).<sup>188</sup>

### 2.2.3. Developments in Ukraine



After months of military build-up of Russian forces near Ukraine, in February 2022 Russia recognised the breakaway regions of Donetsk and Luhansk as independent and on 24 February, Russian forces invaded Ukraine.<sup>189</sup> The European Council condemned Russia's unprovoked and unjustified military aggression against Ukraine in the strongest possible terms. The Council underlined Russia's gross violation of international law and the principles of the UN Charter, called Russia to immediately cease its military actions and reiterated its unwavering support for the independence, sovereignty and territorial integrity of Ukraine within its internationally-recognised borders. The European Council also called for taking forward the work on preparedness at all levels and invited the European Commission to put forward contingency measures to respond effectively to the situation.<sup>190</sup>

Within weeks, millions of displaced persons arrived in the EU through Hungary, Poland, Romania and Slovakia, which showed a remarkably quick response, opening their borders and allowing people to enter.<sup>191</sup> As of 1 May 2022, approximately 5.6 million people had fled the country, with the majority seeking refuge in neighbouring EU+ countries.<sup>192</sup> To respond effectively to the high influx of persons fleeing Ukraine, EU+ countries, especially countries at the external border, took a number of measures at the immediate aftermath of the invasion: they activated emergency situation protocols and preparedness plans; simplified entry procedures; established task forces and coordination mechanisms to provide emergency accommodation and aid; introduced temporary protection arrangements; provided tailored information through information points, dedicated phone lines, leaflets and websites; provided specialised psychological counselling and support; extended the period of legal stay/visas for special reasons; paused the processing of applications for international protection by Ukrainian nationals and suspended returns; and, when applicable, removed Ukraine from the list of safe countries of origin.<sup>193, 194, 195, 196, 197</sup>

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<sup>x</sup> UNHCR defines externalisation of international protection as “measures taken by States— unilaterally or in cooperation with other States—which are implemented or have effects outside their own territories, and which directly or indirectly prevent asylum-seekers and refugees from reaching a particular ‘destination’ country or region, and/or from being able to claim or enjoy protection there. Such measures constitute externalization where they involve inadequate safeguards to guarantee international protection as well as shifting responsibility for identifying or meeting international protection needs to another State or leaving such needs unmet”. United Nations High Commissioner for Refugees. (2021, May 28). *UNHCR Note on the “Externalization” of International Protection*. <https://www.refworld.org/docid/60b115604.html>





To facilitate access to safety for people fleeing Ukraine through the EU-Ukrainian borders, on 2 March 2022, the Council of the European Union issued a set of operational guidelines. The guidelines provided a comprehensive overview of facilitation measures concerning border controls which are available under the Schengen rules and included:

- A simplification of border controls for certain categories of persons, including vulnerable persons, such as children, and other categories, such as transport workers who were in Ukraine while carrying out their services;
- The possibility to organise border controls outside of border crossing points;
- Special arrangements for crossing the borders by rescue services, police, fire brigades, border guards and seafarers regardless of their nationality;
- The establishment of emergency support lanes in order to ensure access;
- The return of organisations providing humanitarian aid to people in Ukraine; and
- Outside the scope of the Schengen rules, the waiving of customs duties and measures to facilitate the entry of pet animals travelling with their owners from Ukraine.<sup>198</sup>

As part of the orchestrated effort to provide a comprehensive and uniform response to the protection needs of persons fleeing Ukraine, the European Commission put forth a proposal for a Council Implementing Decision<sup>199</sup> to activate the Temporary Protection Directive.<sup>200</sup> The directive was put in place in 2001 to provide a concrete response to situations of mass influxes of displaced persons and address the need for having dedicated, special procedures to that end. Temporary protection is an exceptional measure to provide immediate protection to displaced persons from non-EU countries, without the need for an individual examination, and applies when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx risking a negative impact on the processing of claims. The directive, which has never been activated in the past, defines the decision-making procedure needed to trigger, extend or end temporary protection and foresees harmonised rights for the beneficiaries of temporary protection.<sup>201</sup>

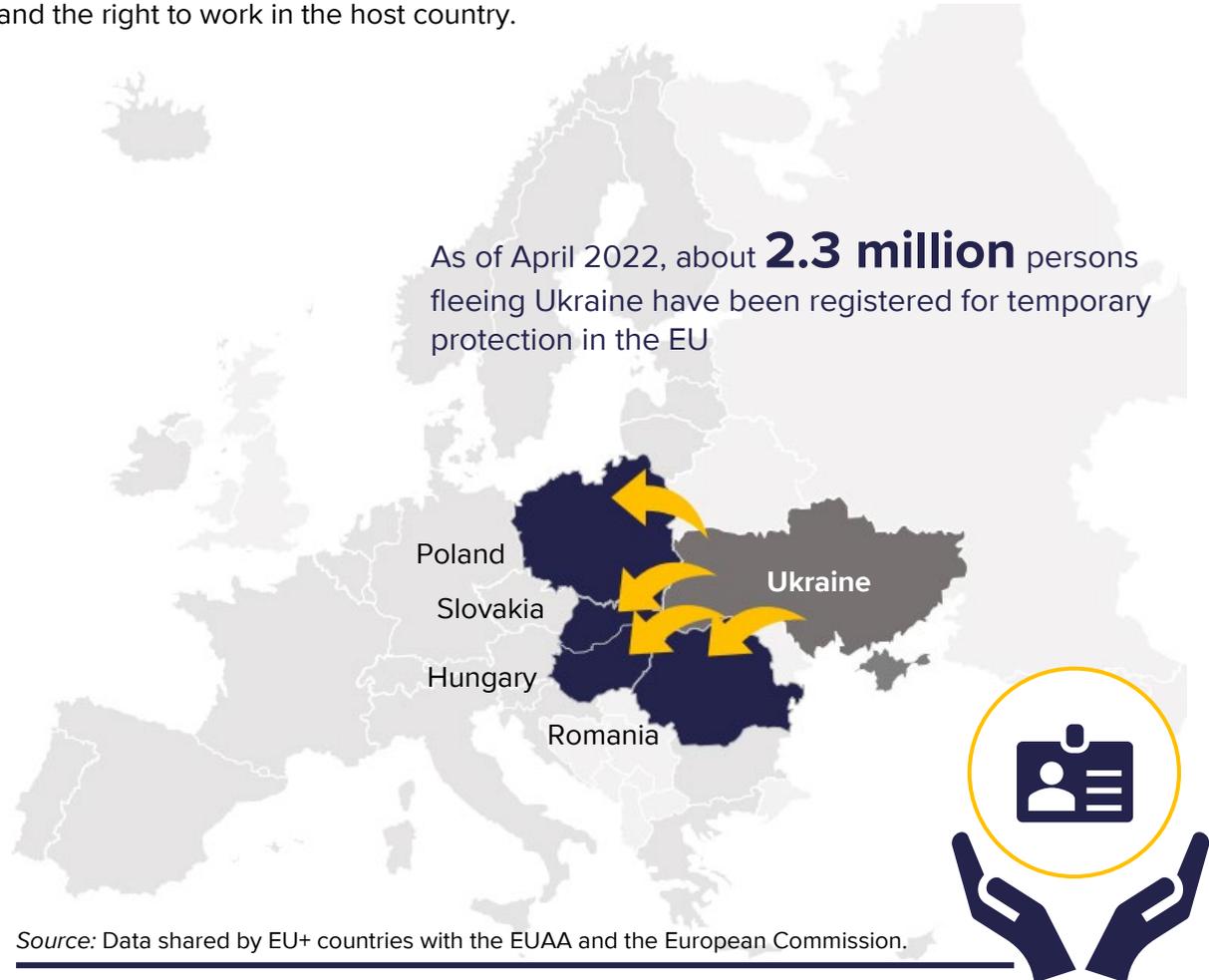
Reflecting the EU's commitment to show full solidarity with Ukraine, on 4 March 2022, the Justice and Home Affairs (JHA) Council acted on the European Commission's proposal and adopted unanimously an implementing decision to introduce a temporary protection mechanism in response to the influx of displaced people.<sup>202</sup> According to the decision, the temporary protection applies to persons displaced from Ukraine on or after 24 February 2022 as a result of the military invasion by Russian armed forces that began on that date. These persons include:

- i) Ukrainian nationals residing in Ukraine before 24 February 2022;
- ii) Stateless persons and nationals of third countries other than Ukraine who have received international protection or an equivalent national protection in Ukraine before 24 February 2022; and
- iii) Family members of persons included in the first two categories.



## Temporary protection for displaced persons from Ukraine

Following the Russian invasion of Ukraine on 24 February 2022, the **Temporary Protection Directive** was activated for the first time. Through the mechanism, people fleeing Ukraine can receive a residence permit and the right to work in the host country.



The European Commission has issued guidelines and provided financial assistance to Member States to address the needs of arriving people.



The EUAA is providing operational support on the ground.



For more information, please see the EUAA dedicated [web page](#) on displaced persons from Ukraine.

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<https://euaa.europa.eu/asylum-report-2022>



According to the decision, “Member States should apply either this decision or adequate protection under their national law, in respect of stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin”.<sup>203</sup>

The decision further indicated that “Member States might also apply this decision to other persons, including to stateless persons and to nationals of third countries other than Ukraine, who were residing legally in Ukraine and who are unable to return in safe and durable conditions to their country or region of origin”.<sup>204</sup>

Under the Temporary Protection Directive, the duration of temporary protection is for an initial period of 1 year, with the possibility to be extended automatically by 6-month periods for a maximum of 1 year, if not terminated by a Council decision. It was also noted that Member States agreed that they would not apply Article 11 of the Temporary Protection Directive, which obliges Member States to take back persons having received protection on their territory, if these persons remain on or seek to enter without authorisation onto the territory of another Member State.

The implementing decision also provided for the development of a Solidarity Platform, under the coordination of the European Commission, whereby Member States exchange information on their reception capacities and the number of persons receiving temporary protection in their territories. Several EU+ countries made pledges to transfer displaced persons from Moldova in the context of the platform. The first states to conduct transfers of displaced persons from Moldova were Austria, Germany, Lithuania and Latvia. The EU Migration Preparedness and Crisis Management Network<sup>205</sup> was identified as the most appropriate network for the administrative cooperation among Member States. In addition, the Union Civil Protection Mechanism<sup>206</sup> was activated, through which Member States can request items to attend to the needs of the displaced persons from Ukraine and receive co-financing for delivering such assistance. According to the decision, EU agencies, including Frontex, the EUAA and Europol, should provide operational support to Member States that have requested assistance.

Following the implementing decision, the European Commission issued operational guidelines to support Member States in applying the Temporary Protection Directive.<sup>207</sup> The European Commission also took quick action to mobilise financial support to Member States hosting displaced persons from Ukraine. As of 29 April 2022, the European Commission had paid more than EUR 3.5 billion in advance payments to Member States, under the EU's [Cohesion's Action for Refugees in Europe \(CARE\)](#), to help them manage the arrival of people from Ukraine on their territory.<sup>208</sup> To further promote a coordinated European response to the situation, on 28 March 2022, the European Commission in coordination with the French Presidency of the Council presented a “10-point plan for stronger European coordination on welcoming people fleeing the war from Ukraine”.<sup>209</sup> The EU has also helped Member States meet the needs of those fleeing the war in Ukraine by supporting special protection for children and access to education, health care, the labour market and housing.<sup>210</sup>

Based on data shared by EU+ countries with the EUAA and the European Commission, about 2.3 million persons fleeing Ukraine have been registered for temporary protection since the beginning of the war to 24 April 2022.<sup>211</sup>



UNHCR welcomed the Council's implementing decision and the overall orchestrated effort by European countries and EU institutions and expressed its readiness to support governments and other stakeholders in providing protection and humanitarian assistance to those in need.<sup>212</sup> Due to the volatile situation in the country, UNHCR issued advice to countries to suspend the forcible return of nationals and former habitual residents of Ukraine, including those who have had their asylum claims rejected.<sup>213</sup>

Following the invasion in Ukraine, the UN launched a Humanitarian Flash Appeal to call for immediate funding to help people inside Ukraine – including those internally displaced – as well as those seeking shelter beyond its borders.<sup>214</sup> A Regional Refugee Response Plan was also launched to bring together the UN, NGOs and other relevant partners with the primary aim of supporting host country governments to ensure safe access to territory for refugees and third-country nationals fleeing from Ukraine.<sup>215</sup>

### 2.3. External dimension of the EU's asylum policy



In addition to effective legislation, policies and practices within the EU, a well-functioning asylum management system requires systematic cooperation with external partners through comprehensive and mutually-beneficial partnerships. This collaboration centres around promoting solutions in other parts of the world. As such, the aims of activities implemented under the external dimension of the EU migration and asylum policy include addressing the root causes of irregular migration; combating smuggling networks; enhancing cooperation with third countries on returns and readmissions; working with partner countries toward border management; and providing support for protection solutions in other parts of the world. A number of financial instruments facilitate the implementation of the external dimension of the EU policy in the areas of asylum and migration, including:

- The [Multiannual Financial Framework](#), which includes a stream of funding –under ‘Heading 4’ – entirely dedicated to migration and border management;
- The [Neighbourhood, Development and International Cooperation Instrument – Global Europe](#), which as of 2021 merged former EU external financing instruments, including the [European Development Fund](#) and the [European Neighbourhood Instrument](#). NDCI-Global Europe supports countries most in need to overcome long-term developmental challenges. Its geographic component allows for the possibility to finance migration-related programmes for any third country or region. In addition, the NDICI's thematic component features migration and forced displacement as one of the global challenges to address;<sup>216</sup>
- The [Instrument for Pre-Accession Assistance](#), which supports reforms in the enlargement region with financial and technical assistance, among others in the area of enhancing beneficiary countries' capacity for migration management;
- The [EU Humanitarian Aid Instrument](#), which provides assistance, relief and protection to people affected by natural or manmade disasters and similar emergencies;
- The [EU Facility for Refugees in Turkey](#), which provides for a joint coordination mechanism, designed to ensure that the needs of refugees and host communities in Turkey are addressed in a comprehensive and coordinated manner;



- The [EU Regional Trust Fund in Response to the Syrian crisis](#), which provides support to Syrian refugees and Syria's neighbouring countries;
- The [EU Emergency Trust Fund for Africa](#), created to address the root causes of instability, forced displacement and irregular migration and to contribute to better migration management;
- The [Trust Fund for Peace in Colombia](#), aimed to foster a stable and lasting peace in Colombia;
- The [Bêkou Trust Fund](#), which addresses existing needs in the Central African Republic in close cooperation with the national authorities;
- The [EU External Investment Plan](#), which focuses on EU neighbouring and African countries and aims at generating more investment and development;
- Efforts also include international donor conferences to provide assistance to specific countries experiencing humanitarian crises; and

AMIF for the period 2021-2027 covers among its specific objectives the strengthening and development of all aspects of CEAS, including its external dimension.

Cooperation with international partners in the area of asylum and migration management is multilateral and comprises a number of focus areas, including:

#### ***Addressing root causes of irregular migration***



Preventing irregular migration requires orchestrated action to address its root causes, including efforts to prevent conflicts, promote respect for fundamental rights, foster economic and social development, and take proactive action towards climate change. EU initiatives in this area have focused on creating economic and employment opportunities, increasing the resilience of communities, enhancing local governance and improving overall capacity to manage migration effectively.<sup>217</sup>

#### ***Combating smuggling networks***



Working in cooperation with international partners, the EU has systematically worked over the past years to tackle migrant smuggling and safeguard the fundamental rights of migrants. Initiatives in this area include the establishment and implementation of solid legal frameworks; operational partnerships against smuggling and trafficking; capacity-building for law enforcement and judicial authorities in partner countries; joint investigation teams; information-sharing mechanisms, such as the Africa-Frontex Intelligence Community; information and awareness-raising campaigns to promote informed decision-making on migration; and coordinated engagement with countries of origin and transit impacted by state-led instrumentalisation of migration.

The renewed Action Plan against Migrant Smuggling, presented by the European Commission in September 2021, sets out the key pillars and concrete actions needed to counter and prevent smuggling,<sup>218</sup> and to ensure that the fundamental rights of migrants are fully protected. It aims to prevent loss of life, reduce unsafe and irregular migration and facilitate orderly migration management. EU agencies, in particular Europol, Frontex and Eurojust, play a key role in this area, as they can offer assistance in line with their mandates, including



through facilitating the exchange of information, providing technical support, capacity-building and training, and deploying liaison officers. Europol's [European Migrant Smuggling Centre](#) has served as a key hub for coordinating such action against migrant smuggling.<sup>219</sup>

### **Facilitating returns, readmission and reintegration**



Apart from providing protection to those in need and addressing irregular migration, an integral component of a well-functioning migration and asylum system is the effective return, readmission and reintegration of persons who are not in need of protection. Throughout 2021, EU policymakers continued to highlight the importance of developing and further enhancing cooperation in the area of return and reintegration between countries of origin, transit and destination in a comprehensive and mutually-beneficial manner.<sup>220, 221</sup> Key instruments in this area are the readmission agreements and arrangements between the EU and partner countries.

To improve the effectiveness, coordination and impact of EU and national efforts, the European Commission adopted in April 2021 the EU Strategy on Voluntary Return and Reintegration.<sup>222</sup> The strategy comprises practical measures to enhance the legal and operational framework for voluntary returns; increase the quality of returns and the sustainability of reintegration programmes; establish better links with development initiatives; and strengthen cooperation with partner countries in this area.<sup>223</sup> The focus is not only on returns from EU to third countries but also on supporting returns from transit countries to countries of origin.<sup>224</sup>

In the strategy, it is reiterated that the EU will support the ownership of reintegration processes in partner countries with capacity-building, providing staff with the necessary skills, and supporting governance structures to cater to the specific economic, social and psychosocial needs of returnees.<sup>225</sup> The establishment of a dedicated returns division in Frontex is meant to ensure an efficient and sustainable implementation of returns within the framework of the EU policy. The EU Return Coordinator, supported by a High-Level Network, will promote coordination and coherence in national practices on returns.<sup>226</sup>

### **Working with partner countries toward migration and border management**



EU migration and asylum policy has long been based on the premise that multilateralism and international engagement are key to responding effectively to a complex migratory reality. In 2021, these efforts focused on jointly-defined priorities of the EU and its partners, which were developed through bilateral dialogues and regional fora.<sup>227, 228, 229</sup> Setting common goals, delivering capacity-building activities, and the provision of financial and operational support have had a positive impact in developing comprehensive migration governance. Support by the EU and its agencies – including the EUAA – has allowed partner countries to strengthen their asylum and reception systems and develop protection-oriented migration management.

A key stream of work in this area is also assisting partner countries in improving border management. EU status agreements have facilitated work to this end and enabled Frontex to provide operational and technical support, also by carrying out joint operations and deploying teams in partner countries. Status agreements are in different stages of development with Albania (the first joint operation of Frontex on non-EU territory), Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia. In addition, Frontex has concluded working arrangements for operational cooperation with 18 countries.<sup>230</sup>



## **EU support for protection worldwide**



The very core of a functional asylum system is to provide effective protection to those in need. Supporting protection solutions in other parts of the world has been a key theme in the EU's external migration policy, with the EU and Member States being leading providers of humanitarian support to refugees, asylum seekers, internally displaced persons and host communities around the world.<sup>231</sup>

To alleviate human suffering caused by the Syrian crisis, the EU and Member States have mobilised approximately EUR 25 billion since 2011. In June 2021, the European Council agreed to continue to support Syrian refugees and host communities, and the European Commission announced a 4-year package of over EUR 5.7 billion which will be channelled to refugees in Iraq, Jordan, Lebanon, Syria and Turkey.<sup>232</sup>

The EU continued the delivery of a multi-million humanitarian aid package to Rohingya refugees in Bangladesh and Myanmar, while humanitarian aid across African countries supports persons affected by conflicts, epidemics and natural disasters and their host communities.<sup>233</sup> Assistance also continued for displaced Venezuelans who comprise the largest displaced population in the history of the Americas.<sup>234</sup>

The EU Facility for Refugees in Turkey, for which a total of EUR 6 billion has been allocated, offers a joint coordination mechanism to ensure that the needs of refugees and host communities in the country are addressed in a comprehensive way. Initiatives implemented through the facility focus on humanitarian assistance, education, migration management, health, municipal infrastructure and socio-economic support.<sup>235</sup> Up to November 2021, more than 2 million people had benefited from the projects.<sup>236</sup> A mid-term evaluation report on the Facility, published in 2021, concluded that it had provided assistance at an unprecedented scale and reach and had made a significant contribution to the welfare of Syrians and other refugees fleeing the conflict in the region. The findings also indicated that the EU needs to do more to mitigate social tensions for refugees, including developing a social cohesion strategy.<sup>237</sup>

In 2021 major developments took place in Afghanistan, where the withdrawal of the United States and coalition forces – and the subsequent Taliban takeover of the country – instigated large waves of displacement, adding to the already-extensive displacement that existed in the country. Ongoing conflict, insecurity and a severe drought that occurred in spring 2021 caused large-scale suffering and displacement both within the country and in the region in general.<sup>238</sup> As of December 2021, an estimated 3.4 million people were internally displaced<sup>239</sup> and close to 6.5 million Afghans still lived as refugees in neighbouring Iran and Pakistan, many of them without being registered or having a legal status.<sup>240</sup>

Afghanistan was already a priority for the EU in providing support. The EU has made a long-term commitment to support people in Afghanistan toward increasing prospects of peace, security and prosperity. Since 2002, the EU has provided more than EUR 4 billion in development aid to Afghanistan, which makes Afghanistan the largest beneficiary of EU development assistance in the world.<sup>241</sup>

Following the conflict escalation in 2021, the EU worked toward developing a uniform response to the crisis,<sup>242</sup> while civil society organisations issued a joint statement offering recommendations to the EU and European countries for urgent actions along five areas:

- i) Evacuation, resettlement and other safe routes to protection for Afghans;
- ii) Provision of humanitarian assistance;





- iii) Re-establishing security for the people of Afghanistan;
- iv) Ensuring rapid access to fair asylum procedure; and
- v) Suspending deportations to Afghanistan.<sup>243</sup>

In August 2021, EU Home Affairs Ministers, together with representatives of the European Commission, European External Action Service, Frontex, Europol, the EUAA and the EU Counter-Terrorism Coordinator, adopted a joint statement on the EU's response to the situation. The statement highlighted that the evacuation of EU citizens and, to the extent possible, Afghan nationals who had cooperated with the EU and its Member States and their families was a matter of priority. The EU reiterated its commitment to continue to coordinate with international partners, in particular the UN and its agencies, on the stabilisation of the region and to ensure that humanitarian aid reaches vulnerable populations. The EU committed to strengthen its support to third countries, in particular neighbouring and transit countries, which host large numbers of migrants and refugees.<sup>244</sup>

In September 2021, the European Council adopted a set of conclusions on Afghanistan defining the EU's line of action for the near future. Regarding the EU's engagement with the Taliban-appointed caretaker cabinet, the Council agreed on five benchmarks that would serve as guiding principles for future engagement:

- i) Allowing the safe, secure and orderly departure of all foreign nationals and Afghans who wished to leave the country in line with UN Security Council Resolution 2593 (2021).
- ii) Promoting, protecting and respecting all human rights and, in particular, full enjoyment of the rights of women and girls, children and people belonging to minorities, and respecting the rule of law and the freedom of speech;
- iii) Allowing the implementation of humanitarian operations in Afghanistan in line with the humanitarian principles of humanity, neutrality, impartiality and independence and full respect of International Humanitarian Law;
- iv) Preventing Afghanistan from serving as a base for hosting, financing or exporting terrorism to other countries; and
- v) Establishing an inclusive and representative government through negotiations.<sup>245</sup>

An up to EUR 1 billion Afghan Support Package was announced in October 2021 by the President of the European Commission, Ursula von der Leyen, to address urgent needs in the country and the region. The package combines EU humanitarian aid with the delivery of targeted support for the basic needs of the Afghan people, channelled to international organisations on the ground and neighbouring countries.<sup>246</sup> The overall package includes EUR 227 million humanitarian funding for life-saving and life-sustaining emergency assistance in the following sectors: food and nutrition, shelter, water and hygiene-related activities, medical care, education and protection.<sup>247</sup>

As of January 2022, the EU had launched projects totalling EUR 268.3 million, focusing on maintaining education, sustaining livelihoods and protecting public health, including for refugees, migrants and internally displaced people in Afghanistan, as well as in Iran, Pakistan and Central Asia. The funds are channelled through UN agencies working in Afghanistan and neighbouring countries (UNICEF, WFP, UNDP, UNHCR, WHO and the IOM), as well as through the Norwegian Refugee Council.<sup>248</sup>





The EU involvement in Afghanistan also included acting as the chair of the Core Group of the [Solution Strategy for Afghan Refugees' Support Platform](#), strengthening the international response to the situation in Afghanistan and stimulating political, financial and material commitments.<sup>249</sup> Taking a holistic approach, the focus of the EU strategy has been not only on Afghanistan, but also on addressing migration- and protection-related challenges along the route. It includes assisting countries in Afghanistan's neighbourhood, as well as transit countries, supporting protection systems, addressing needs of the host communities and reinforcing programmes of law enforcement cooperation to tackle migrant smuggling and trafficking networks.<sup>250</sup> The EU also worked toward assisting with the evacuation of Afghan nationals and offering safe and legal pathways to protection (see *In focus 3*).

### **Developing legal pathways to Europe: A focus on Afghanistan**



Providing safe and legal pathways to persons in need of protection is a key priority for the EU, enabling the most vulnerable refugees to reach Europe without becoming victims to smuggling networks or undertaking dangerous journeys. Between January 2020 and June 2021, amidst disruptions caused by the COVID-19 pandemic, approximately 13,500 persons were resettled by EU Member States.<sup>251</sup>

In July 2021, the High-Level Forum on Resettlement, Humanitarian Admission and Complementary Pathways, convened by the Commissioner for Home Affairs, Ylva Johansson, and organised for the first time with the ministerial participation of Canada and the United States, marked the beginning of a new reinforced cooperation between the EU and key players on the global scene in addressing growing resettlement needs identified by UNHCR.<sup>252, 253</sup> Ahead of the resettlement forum, a number of NGOs issued a joint statement appealing to EU institutions and Member States to use this opportunity to “demonstrate global leadership on refugee protection and chart the way forward as the international community recovers and rebuilds from COVID-19”.<sup>254</sup> With the global health situation improving gradually, participants in the forum indeed expressed their determination to work together and coordinate efforts in providing solutions for refugees around the world.<sup>255</sup> In the forum, the Commission invited Member States to step up their efforts and make increased resettlement pledges for 2022.

By December 2021, 15 Member States had agreed to assist 60,000 refugees through resettlement and humanitarian admissions, including 40,000 people from Afghanistan,<sup>256</sup> which was naturally a major area of focus in 2021 and will continue to be in 2022. Part of the EU response to the situation in the country was to offer pathways to safety for those who needed it the most. Following an extraordinary meeting of Home Affairs Ministers in August 2021, Commissioner Johansson called on Member States to increase resettlement quotas to help those in need of international protection and to offer complementary legal pathways.<sup>257</sup>

In August 2021, Member States conducted evacuations from Afghanistan to bring into safety not only their nationals but also Afghan nationals who had cooperated with international political and military actors (for example interpreters) and civil society workers, human rights activists and journalists. Receiving countries adopted different practices in the type of stays which were issued to evacuated Afghan nationals, ranging from offering a protection status as resettled refugees to channelling them through the asylum process (typically a fast-track mode) or offering residence permits outside of protection status.<sup>258</sup> To support evacuation efforts in Afghanistan, the EU put in place a dedicated crisis cell between 15-30 August 2021. The crisis cell consisted of 100 staff from EU institutions and a support team in Kabul. During this period, the cell assisted with the evacuation of more than 17,500 people from Kabul,



including an estimated 4,100 EU nationals and 13,400 Afghan nationals, while EU Member States together evacuated a total of 22,000 Afghans.<sup>259</sup> Direct evacuations from Afghanistan ceased on 31 August 2021, but indirect evacuations continued through Iran or Pakistan or through Qatar.<sup>260</sup>

The Justice and Home Affairs Council of 31 August 2021 concluded that EU Member States could provide support in the form of resettlement, while a September 2021 resolution of the European Parliament called on the EU and its Member States to cooperate with the evacuation of persons at risk and establish humanitarian corridors for Afghan refugees seeking protection in neighbouring countries.<sup>261</sup>

To highlight the importance of offering safe pathways to Afghan nationals and strategise on a future course of action, in October 2021, Commission Vice-President Borrell and Commissioner Johansson convened a high-level forum focusing on providing protection to Afghans. The forum brought together Ministers of Foreign Affairs and Ministers of the Interior of EU+ countries, representatives of the European Parliament, the UN High Commissioner for Refugees, Filippo Grandi, and the Director-General of the International Organization for Migration, António Vitorino, to discuss the situation in Afghanistan and in neighbouring countries, as well as options for mobilising further support for Afghans at risk. Participants discussed planning for safe and legal pathways for Afghan nationals considered most at risk, as well as reception and integration measures for Afghan evacuees.<sup>262, 263</sup> During the forum, the UN High Commissioner for Refugees asked EU governments to resettle 42,500 Afghans in need of protection over the next 5 years. Commissioner Johansson suggested that this could be an attainable target. She added that the range of possible solutions could include broader ways of protecting Afghan people, beyond resettlement, and proposed to put in place a multi-annual support scheme for Afghans at risk.<sup>264</sup>

Commenting on the external dimension of the EU policy on migration and asylum, ECRE expressed the opinion that increasing emphasis seems to be placed on what third countries can do to address migratory flows. For ECRE, this may lead to an imbalance in protection responsibilities between the EU and developing countries which host displaced persons.<sup>265</sup> ECRE also expressed concerns on the use of visa facilitation or restriction as leverage toward third countries to elicit their cooperation on returns and readmissions,<sup>266</sup> while it also warned against linking asylum and return procedures too closely.<sup>267</sup>

## 2.4. Jurisprudence of the Court of Justice of the EU



*As the guardian of EU law, the Court of Justice (CJEU) ensures that “in the interpretation and application of the Treaties, the law is observed” (Treaty on European Union, Article 19(1)). As part of its mission, the CJEU ensures the correct interpretation and application of primary and secondary EU laws; reviews the legality of acts of EU institutions; and decides whether Member States have fulfilled their obligations under primary and secondary laws. The CJEU also provides interpretations of EU law when requested by national judges. The court, thus, constitutes the judicial authority of the EU and, in cooperation with the courts and tribunals of Member States, ensures the uniform application and interpretation of EU law.<sup>268</sup>*

In 2021, the CJEU issued more than **20 judgments** (see [Sources on Asylum 2022](#)) and orders, interpreting various provisions of CEAS. The judgments covered topics related to:

- effective access to the asylum procedure;
- the Dublin procedure;



- subsequent applications;
- the interpretation of the concept of state protection;
- the assessment of protection provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA);
- the interpretation of the concept of indiscriminate violence for the purpose of providing subsidiary protection;
- the use of detention;
- the extension of protection status as a derived right (based on the protection status of another beneficiary);
- the principle of equal treatment; and
- the return of rejected asylum applicants.

### 2.4.1. Effective access to the asylum procedure



In *European Commission v Hungary* (C-821/19), the Grand Chamber of the CJEU held that Hungary failed to fulfil its obligations under the recast Asylum Procedures Directive, Articles 8(2), 12(1)(c), 22(1) and 33(2) and the recast Reception Conditions Directive, Article 10(4). In 2018, Hungary had introduced a new ground of inadmissibility for an application for international protection for people who arrived in Hungary after transiting a state in which they were not exposed to persecution or to a risk of serious harm, or in which a sufficient degree of protection was guaranteed.

In its deliberations, the CJEU confirmed its 2020 judgment, *LH v Bevándorlási és Menekültügyi Hivatal* (C-564/18), that transiting through a third country cannot alone be a valid reason to consider that the applicant could reasonably return to that country. Moreover, Hungary had criminalised activities that facilitated the lodging of an asylum application by people who were not entitled to asylum under Hungarian law and restricted their freedom of movement. The CJEU considered that Hungary limited access to the asylum procedure through these legislative provisions and the restrictions could not be justified by aiming to prevent the misuse of the asylum procedure or the fight against illegal immigration. The Hungarian Helsinki Committee welcomed the judgment, as the NGO's activities could otherwise potentially be criminalised under the Hungarian law.<sup>269</sup>

### 2.4.2. Dublin procedure



The Grand Chamber of the CJEU held in *H.A. v Belgium* (C-194/19) that applicants who challenge a transfer decision must be able to rely on circumstances that occurred after the adoption of that decision, if the circumstances are decisive for the correct application of the criteria. The court underlined that it is up to each Member State to lay down the procedural arrangements for legal action intended to guarantee effective judicial protection. Such a remedy may be distinct from an action for review of the transfer decision. The results of that remedy are binding on the competent authorities, and the remedy must not depend on the person's deprivation of liberty or on the fact that the implementation of the transfer decision is imminent.

In two cases, *EV v Agence fédérale pour l'accueil des demandeurs d'asile (Fedasil)* (C-134/21) and *VW v Agence fédérale pour l'accueil des demandeurs d'asile (Fedasil)* (C-92/21), the CJEU ruled that the Dublin III Regulation, Article 27, does not preclude a Member State from taking preparatory measures for a transfer to another Member State, such as assigning the



applicant to a specialised reception facility where support is provided in preparation of the transfer. The court specified that the measure can be taken even if a person appeals the Dublin transfer.

In *K.S., M.H.K. v The International Protection Appeals Tribunal, The Minister for Justice and Equality, Ireland, The Attorney General, and R.A.T., D.S. v Minister for Justice and Equality* (C-322/19 and C-385/19), the CJEU was asked if an applicant for international protection who has received a Dublin transfer decision may access the labour market by relying on the recast Reception Conditions Directive, Article 15(1). The court ruled that the Member State's obligation to grant access to the labour market only ceases when the applicant is transferred to the requested Member State. It held that there was only one type of 'applicant' within the international protection process. The court also addressed the issue of what was meant by 'delay' on the part of an applicant in the context of the processing of their application for international protection.

### 2.4.3. Subsequent applications



In *L.R. v Bundesrepublik Deutschland* (C-8/20), the CJEU clarified that an application submitted to a third country, namely Norway, which does not apply the recast Asylum Procedures Directive but is an associate EU+ country, cannot be regarded as an application for international protection within the meaning of the recast Qualification Directive, Article 2(h) and the decision of the third country cannot qualify as final. Consequently, a requesting Member State cannot regard a further application as a subsequent application and thus inadmissible.

In *JP v General Commissioner for Refugees and Stateless persons (Commissaire général aux réfugiés et aux apatrides, CGRS)* (C-651/19), the CJEU ruled that the recast Asylum Procedures Directive, Article 46 does not preclude national legislation which provides a time limit of 10 days for proceedings challenging a decision on a subsequent asylum application as being inadmissible, even where that service is made at the head office of the national authority responsible for the examination of those applications. The referring court must determine if the national legislation meets a number of EU law requirements.

The CJEU interpreted the meaning of new elements or findings in a subsequent applicant in the recast Asylum Procedures Directive, Article 40 in two different cases. In *XY* (C-18/20), the CJEU ruled that a Member State which has not adopted specific measures for the implementation of that article cannot refuse, based on general rules governing the national administrative procedure, to examine the substance of a subsequent application, even if the new findings existed at the time of the previous proceedings and were not presented due to a fault attributable to the applicant. The examination of a subsequent application based on newly-presented elements which already existed before a final decision was taken in the first procedure may be done by reopening the first procedure if the new elements significantly increase the likelihood of the applicant qualifying as a beneficiary of international protection and the applicant was incapable of presenting them during the first procedure. The court noted, however, that a time limit may not be imposed for the lodging of a subsequent application.

In *LH v Staatssecretaris van Justitie en Veiligheid* (C-921/19), the CJEU examined the practice in the Netherlands of not considering some documents for which the authenticity cannot be proven as new elements or findings. The CJEU held that the recast Asylum Procedures Directive, Article 40(2) in conjunction with the recast Qualification Directive, Article 4(2) precludes national legislation which negates a document as a new element in a subsequent



application when its authenticity cannot be established or its source objectively verified. In addition, the CJEU held that, according to the recast Asylum Procedures Directive, Article 40 in conjunction with the recast Qualification Directive, Article 4(1) and (2), the assessment of evidence cannot vary according to whether the application is a first or subsequent application and that a Member State is required to cooperate with the applicant in assessing the relevant elements of the subsequent application if the authenticity of the documents cannot be established.

#### 2.4.4. Interpretation of the concept of state protection



In *Secretary of State for the Home Department [UK] v OA* (C-255/19), the CJEU interpreted the Qualification Directive, Article 11(1e) together with Article 7(2) on the possibility of protection in the country of origin. In determining the effectiveness of state protection, the CJEU held that aspects such as social and financial support provided by private actors (e.g. family members or a clan) falls short of what is required to be taken into consideration for the cessation of refugee status or for granting it.

#### 2.4.5. Determining protection provided by the UNRWA



In *Bundesrepublik Deutschland v XT* (C-507/19), the CJEU ruled on the interpretation of the recast Qualification Directive, Article 12(1a) in a case of a stateless person of Palestinian origin from the UNRWA refugee camp of Yarmouk. To determine the protection provided by the UNRWA, the Federal Administrative Court of Germany asked the CJEU whether the national court should consider only the UNRWA area of operations in which the person resided at the time of departure or also other fields within the area of operations. The CJEU responded that the individual assessment should take into account all the fields of the UNRWA's area of operations which the person could access and safely remain.<sup>270</sup>

#### 2.4.6. Interpretation of indiscriminate violence for the purposes of granting subsidiary protection



The CJEU interpreted the recast Qualification Directive, Article 15(c) in *CF and DN v Bundesrepublik Deutschland* (C-901/19) and clarified the criteria to assess indiscriminate violence in the country of origin for the purpose of granting subsidiary protection. The court ruled that the interpretation of national legislation which is subject to the condition that a fixed, quantitative criteria is met (for example the ratio of the number of casualties to the population) is not compatible with the recast Qualification Directive, Article 15(c). The court noted that this strays from common criteria that Member States should use to identify persons genuinely in need of international protection. Furthermore, the individual assessment should consider the intensity of the armed confrontations, the level of organisation of the armed forces involved, the duration of the conflict, the geographical scope of the situation of indiscriminate violence, the actual destination of the applicant if returned to the relevant country or region, and intentional attacks against civilians.





## 2.4.7. Use of detention



The recast Reception Conditions Directive, Article 8(3d) sets out a ground for detention with two cumulative conditions. According to this provision, the applicant is detained in order to prepare a return or carry out a removal process when the person has already had the opportunity to access the asylum procedure or there are reasonable grounds to believe, based on objective criteria, that the person made a subsequent application merely to delay or hinder the enforcement of the return decision. Within this context, the CJEU ruled that the detention of an applicant was justifiable in *JA v Republic of Slovenia (Republika Slovenija)* (C-186/21 PPU) since the applicant already had access to the asylum procedure.

In *T.H.C v Commissaire général aux réfugiés et aux apatrides (CGRS)* (Case C-755/19), the CJEU interpreted procedural safeguards for applicants in detention, as set out in the recast Asylum Procedures Directive, Article 46 in conjunction with the EU Charter, Article 47. When an applicant is detained, national legislation can set a time limit of 5 days to appeal the decision to reject a subsequent application, provided that the principle of equivalence is observed (meaning that national remedies for the enforcement of EU rights cannot be less favourable than similar actions under national law) and that genuine access to procedural safeguards is ensured within that period. The court noted that the national court must ascertain whether the national legislation meets the requirements.

Furthermore, the CJEU ruled in *M. and others v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)* (C-673/19) that administrative detention is possible when implementing a forced removal to a Member State that granted refugee status, when the host Member State instructed the person to depart but no return decision was formally issued. When the person refuses to return to the Member State or there is a threat to public order or national security, the Member State in which the person is staying illegally must issue a return decision in line with fundamental rights.

## 2.4.8. Extension of protection status as a derived right



The Federal Administrative Court of Germany asked the CJEU if national law (Asylum Act, Section 26 on asylum for families and international protection for family members) is compatible with the recast Qualification Directive when it provides recognition of refugee status as a derived right for the purpose of maintaining family unity. In the case, *LW v Bundesrepublik Deutschland* (C-91/20), the CJEU ruled that CEAS does not preclude an automatic extension of refugee status to a child born to a person who has been granted that status. The CJEU noted that the recast Qualification Directive does not provide for the extension of refugee status to a family member as a derived right, namely to a child born in the host Member State. However, the CJEU noted that the recast Qualification Directive, Article 3, allows Member States to introduce more favourable provisions compatible with the directive and that an automatic extension in this case is consistent with the rationale of international protection. The court also noted that there are limitations to Article 3, including cases that might fall under exclusion clauses and cases in which the extension would be incompatible with the personal legal status of the family member.

In another case referred by the Federal Administrative Court of Germany, *Bundesrepublik Deutschland v SE* (C-768/19), the CJEU clarified the scope of family members in the recast Qualification Directive, Article 2(j): "father, mother or another adult responsible for the





beneficiary of international protection [...], when that beneficiary is a minor and unmarried” for the purpose of deriving protection from the status of an unmarried minor. The CJEU held that the relevant date for assessing if the beneficiary of protection is a ‘minor’ is the date on which the family member lodged the application for asylum, even if only informally. The court further noted that the concept of family member does not require an effective resumption of family life between the parent and the child. In addition, the CJEU clarified that the rights enjoyed by family members as rights derived from the subsidiary protection status obtained by their child, rights provided in the recast Qualification Directive, Articles 24 to 35, are valid after the beneficiary reaches the age of majority and for the duration of the period of validity of the residence permit granted to the family members in accordance with Article 24(2).

### 2.4.9. Equal treatment



The CJEU ruled in [C-462/20](#) that it is contrary to EU law to give different rights to citizens and beneficiaries of international protection. The case concerned family discount cards in Italy that can be used to obtain reduced rates on goods and services, but the cards are not provided to beneficiaries.

### 2.4.10. Return of rejected applicants for international protection



The CJEU held in *BZ v Westerwaldkreis (Germany)* ([C-546/19](#)) that it is contrary to the Return Directive to grant an intermediate status to a third-country national without a right to stay in a Member State and who may be subject to an entry ban in the absence of a valid return decision. In this situation, the Member State must determine whether it should issue a new residence permit, or if not, issue a return decision in accordance with the Return Directive, Article 11(1). The court further noted that the principle of *non-refoulement*, which precludes the removal of third-country nationals staying illegally in a Member State, does not justify the failure to issue a return decision. It should only be applied to postpone a removal pursuant to a return decision.

Furthermore, in *VT v Centre public d'action sociale de Liège (CPAS)* ([C-641/20](#)), the CJEU ruled on the suspensive effect of an appeal lodged against a return decision and the related provisional right of residence and basic needs until an appeal decision is taken. The Return Directive, Articles 5 and 13 must be interpreted as precluding national legislation which does not confer an automatic suspensive effect on an appeal against a return decision issued following the withdrawal of refugee status and, correspondingly, a provisional right of residence and basic needs. The court noted that the national court must consider that the appeal has an automatic suspensive effect.

*M.A. v Belgium* ([Case C-112/20](#)) concerned the assessment of the best interests of the child when deciding on the return of the child’s father, who was considered a threat to public order. The CJEU held that the Return Directive, Article 5, which requires Member States to consider the best interests of the child, cannot be interpreted restrictively. Member States are required to take due account of the best interests of the child before adopting a return decision accompanied by an entry ban, even when the person is not a minor but the parent.

In *TQ v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)* ([C-441/19](#)), the CJEU examined whether the distinction made by the Netherlands between unaccompanied minors under the age of 15 when their asylum application is lodged and





unaccompanied minors aged 15 or older was compatible with the Return Directive. For the first group, an investigation on the availability of adequate reception facilities in the state of return is carried out before a decision on the application is taken, and the minors are granted an ordinary residence permit if adequate reception facilities are not available. For unaccompanied minors aged 15 years or older, which was the case of the applicant, an investigation is not carried out and the authorities wait for the person to turn 18 years to implement the return decision. In the meantime, the minor is in an irregular situation and tolerated.

The CJEU states that, before issuing a return decision for an unaccompanied minor, Member States must confirm that there are adequate reception facilities for minors in the state of return, that Member States may not distinguish between unaccompanied minors solely on the basis of their age when assessing adequate reception facilities in the return state, and finally, that a general and in-depth assessment of the situation of the minor, including the best interests of the child, must be taken into account at all the stages of the procedure. Regarding the Dutch tolerated status for unaccompanied minors who are at least 15 years old, the court noted that the Return Directive precludes Member States from refraining from removing them until the age of 18, after a return decision was adopted and reception conditions were ascertained as adequate in the state of return.





## Section 3. EASO transition to the EUAA

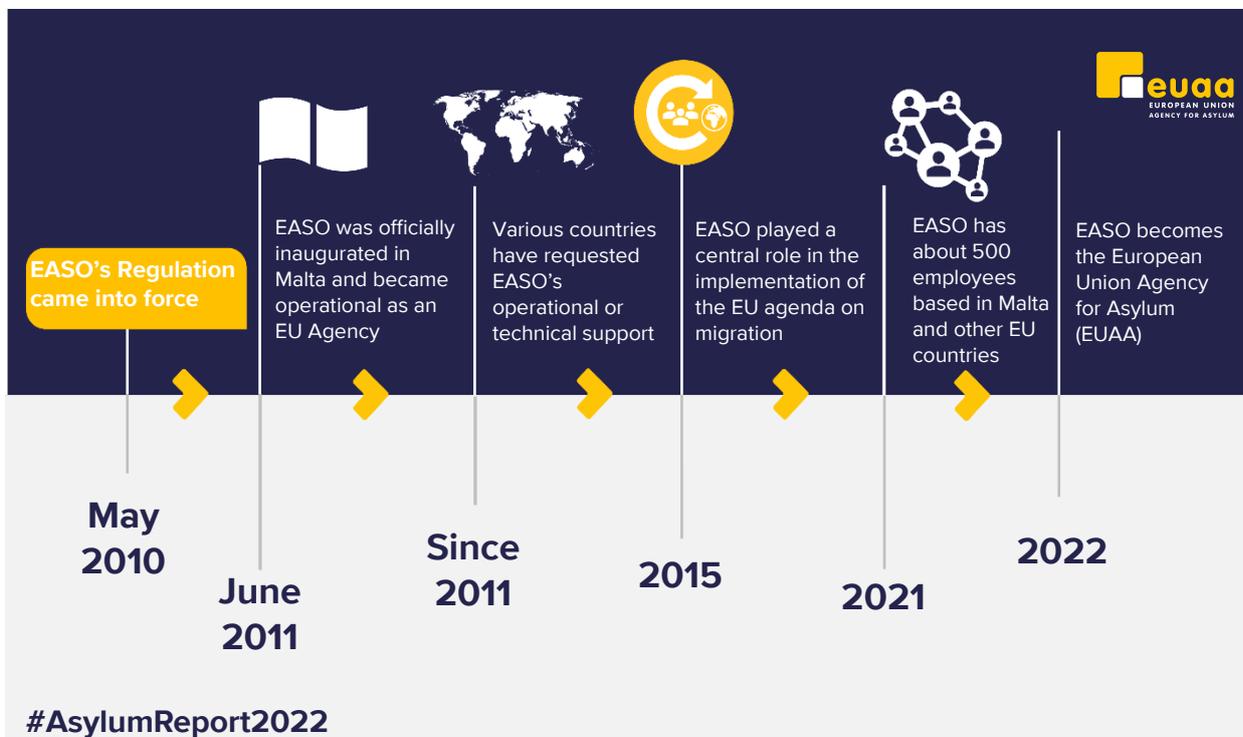
*“This Regulation establishes a European Union Agency for Asylum (the ‘Agency’). The Agency shall replace and succeed the European Asylum Support Office (EASO), established by Regulation (EU) No 439/2010...*

*...shall contribute to ensuring the efficient and uniform application of Union law on asylum in the Member States in a manner that fully respects fundamental rights...*

*...shall facilitate and support the activities of the Member States in the implementation of the Common European Asylum System (CEAS), including by enabling convergence in the assessment of applications for international protection across the Union and by coordinating and strengthening practical cooperation and information exchange...*

*...shall improve the functioning of the CEAS, including through the monitoring mechanism referred to in Article 14 and by providing operational and technical assistance to Member States, in particular where their asylum and reception systems are under disproportionate pressure...*

*...shall be a centre of expertise by virtue of its independence, the scientific and technical quality of the assistance it provides and the information it collects and disseminates, the transparency of its operating procedures and methods, its diligence in performing the tasks assigned to it, and the information technology support needed to fulfil its mandate.”*





### 3.1. From EASO to the EUAA

EASO was established in 2010 under [Regulation \(EU\) No 439/2010](#) and became operational in 2011 as a centre of expertise on asylum, contributing to the implementation of CEAS. Since its establishment, EASO played a key role in:

- Managing the exchange of information and best practices;
- Ensuring quality and convergence in the assessment of protection needs;
- Monitoring developments in the area of asylum;
- Building capacity in countries and developing material to train experts; and
- Providing operational and technical assistance to Member States where asylum and reception systems are under particular pressure.

With quickly-changing migratory patterns and following the high influx of applicants for international protection in 2015-2016, the Agency was operating at the limits of its mandate to offer support to Member States. The European Commission presented a proposal on 6 April 2016 to transform EASO into the EUAA as part of the CEAS reform.<sup>271</sup> Following political agreement between the Council Presidency and the European Parliament in June 2021, and the formal adoption in December 2021, the [Regulation \(EU\) 2021/2303 on the Establishment of a European Union Agency for Asylum](#) entered into force on 19 January 2022.<sup>272, 273</sup>

The EUAA Regulation extended the Agency's mandate to offer greater operational and technical support to foster efficiency in asylum systems; improve and accelerate the provision of assistance at the request of Member States; further develop operational standards, indicators and practical guidelines to inform uniform, high-quality decision-making in asylum cases; better monitor and report on the functioning of national asylum and reception systems; contribute to capacity-building in non-EU countries; and support EU+ countries with resettlement schemes. Key changes in the Agency's mandate include:

#### Reserve pool of national asylum experts



The regulation foresees the establishment of a reserve pool of 500 national experts in asylum to be deployed in Member States which require assistance in the event of disproportionate pressure on their asylum and reception systems.

There is an obligation for all Member States to contribute to the pool, enabling the Agency to always have a certain number of experts ready for deployment in emergency situations. The regulation also introduces more flexibility in the composition of asylum support teams, so experts who are not employed by the Agency can be included. In addition, the EUAA is now mandated to participate in Migration Management Support Teams, which cater to Member States that need support from more than one agency at the same time.

#### Fundamental rights



The regulation introduces provisions to ensure that the Agency's tasks fully adhere to fundamental rights. An independent Fundamental Rights Officer, who will answer to the Agency's Management Board, will be appointed and be responsible for the development of the Agency's Fundamental Rights Strategy. A complaints mechanism will be established to respond to claims of breaches of fundamental rights in the context of the Agency's operations. The regulation also reinforces the Agency's Consultative Forum, which will increasingly focus its work on fundamental rights related to asylum and work closely with the Fundamental Rights Officer.





## Liaison officers



The regulation introduces an obligation for the EUAA to deploy Liaison Officers in Member States, which will allow foster cooperation and coordination. A possibility is also foreseen for the deployment of Liaison Officers to third countries.

## Monitoring mechanism



Under the new mandate, the EUAA will monitor the operational and technical implementation of CEAS in Member States in order to prevent shortcomings, identify existing limitations, assess national capacity to manage pressure and assist Member States to address such issues when identified. A much-discussed element of the new mandate, the monitoring mechanism will be rolled out gradually starting at the end of 2023. A key step will be the development of a methodology and agreement on a calendar by the Agency's Management Board.

At the end of 2023, the Agency will start the monitoring process as the first part of the monitoring mechanism will enter into force and begin sharing findings with Member States. Once the existing Dublin III Regulation is replaced by the proposal for an Asylum and Migration Management Regulation, the second part of the mechanism will enter into force through which the Agency can make recommendations for specific measures to be taken by Member States to address shortcomings. The regulation also foresees the possibility for the European Commission to make proposals for Council [Implementing Acts](#), identifying specific measures and requiring Member States to cooperate with the Agency in their implementation.

Another important change was the inclusion of country guidance in the Agency's mandate. While the Agency already produces this information in cooperation with Member States on the basis of Council Conclusions, it now has a legal basis, which also requires Member States to take country guidance into account when assessing a claim for protection.

The Agency will continue to coordinate the exchange of information and produce analyses and publications on key asylum-related themes. The regulation foresees the creation of databases and web portals with quantitative and qualitative information, part of which will be publicly accessible. In addition to reporting on the situation of asylum in the EU, information collection and analysis will also focus on developments in third countries which may have an impact on the EU. The Agency is to report on its analysis to the European Parliament twice a year.

Building on existing work in the area of training, the regulation covers additional themes with a clearer focus on reception, resilience and stress management for asylum and reception staff. The regulation also foresees that the Agency should verify and, where necessary, ensure that experts who are deployed as part of the asylum support teams, including experts not employed by it, or are part of the asylum reserve pool, have received training that is relevant for their duties and necessary for their participation in the Agency's operational activities.

Finally, the regulation introduces the role of a Deputy Executive Director who is appointed by the Management Board and assists the Executive Director in the management of the Agency.





## 3.2. Operational support



A key area of work for the EUAA is to provide operational and technical assistance to Member States experiencing disproportionate pressure on their asylum and reception systems. Since its foundation as EASO, the Agency has provided direct operational assistance to 11 Member States: Belgium, Bulgaria, Cyprus, Greece, Italy, Latvia, Lithuania, Malta and Spain, in addition to Luxembourg and Sweden having received support for brief periods of time.

Upon request by a Member State, the EUAA undertakes a structured needs assessment exercise through consultations with the authorities of the Member State and other relevant stakeholders. Assistance measures are then jointly defined and detailed in a binding Operational Plan. The assistance given generally addresses immediate needs, including providing equipment and support personnel, and activities to enhance the capacities of national reception and asylum systems.

Asylum Support Teams, comprised of EUAA personnel and seconded national experts, are deployed on the ground to provide rapid and direct support, for example by assisting in asylum processes, clearing existing backlogs and training staff. The EUAA also provides assistance on the Dublin procedure, interviews, the assessment of applications, the appeal process and within the reception system in general. Furthermore, the Agency ensures that applicants are duly informed of the process and their rights, using a variety of media including in-person information provision, mobile apps, videos and leaflets in different languages.

Planning operational support can take a considerable amount of time, but the field of migration and asylum can be volatile and unpredictable. In the event of sudden surges in the influx of third-country nationals, as was the case in summer 2021 with Latvia and Lithuania, countries may request urgent support. The Agency adapted quickly to these situations by redistributing resources and using remote work modalities.

As of 2022, the Agency introduced the practice of multiannual operational plans which have allowed for more long-term programming. Currently, nine Member States receive direct support from the Agency through annual or multiannual plans: Belgium, Cyprus, Greece, Italy, Latvia, Lithuania, Malta, Romania and Spain. Discussions are also ongoing with countries neighbouring Ukraine in light of the Russian invasion of the country, which has led to the displacement of more than 4.2 million people.

Across most countries receiving operational support, a key pillar of assistance has focused on capacity-building through EUAA training modules on topics catered to the context in the country.

*For a detailed description of the Agency's operational support activities in 2021, see the [EUAA Annual General Report 2021](#).*




**Table 3.1. List of operating plans between the EUAA and Member States, 2022**

	<b>Belgium</b>	Operating Plan 2022, agreed by EASO and Belgium
	<b>Cyprus</b>	Operating Plan 2022-2024, agreed by EASO and the Republic of Cyprus
	<b>Greece</b>	Operating Plan 2022-2024, agreed by EASO and Greece
	<b>Italy</b>	Operating Plan 2022-2024, agreed by EASO and Italy:
	<b>Latvia</b>	Operating Plan 2022, agreed by EASO and Latvia
	<b>Lithuania</b>	Operating Plan 2022, agreed by EASO and Lithuania
	<b>Malta</b>	Operating Plan 2022-2024, agreed by EASO and Malta
	<b>Romania</b>	Operational Plan 2022, agreed by the EUAA and Romania
	<b>Spain</b>	Operating Plan 2022-2023, agreed by EASO and Spain

### Assessment of the Agency's operational support in 2021



The Agency provided operational support to eight Member States in 2021, the scope of which was defined in the operating plans signed with the respective authorities of Belgium, Cyprus, Greece, Italy, Latvia, Lithuania, Malta and Spain. A cross-cutting external ex post evaluation was conducted at the beginning of 2022 to assess the implementation of the Agency's operational support to inform decision-making and to enhance the overall operational support framework. Operations in Belgium, Latvia and Lithuania were excluded, as the operating plans for these countries extended beyond the end of 2021.

Operational support to national asylum and reception systems covered a range of actions which were tailored to the specific context and needs in each country. For example, operations in Spain focused on reception, while support in Cyprus, Greece, Italy and Malta covered both asylum and reception. In Cyprus, actions focused on the quality of first instance asylum registration and processing, reception management and the processing of second instance appeals. Two specific measures in the area of relocations were implemented in Greece. Operations in Italy covered a wider scope, including access to the asylum procedure, the quality and standardisation of the Dublin procedure, and the management of judicial backlogs.

Through the Agency's assistance in the registration and processing of applications for international protection at first instance, more than 28,000 applicants in Cyprus, Greece, Italy and Malta were registered. Using a fit-for-purpose approach, support focused on the specific needs in each country. As such, 59% of registrations in Cyprus and Malta were carried out by the Agency, compared with 14% and 39% in Italy and Greece, respectively. In the case of Italy,





43 of the registrations took place following search and rescue disembarkations, in response to specific needs in that area.

The COVID-19 pandemic presented a common challenge across operations, with delays being encountered, for example, in Malta, where the time between entry and registration increased from a median of 84 days in 2020 to 124 in 2021, and in Cyprus, where outbreaks interrupted activities. Human resource constraints were encountered in Cyprus and Italy, where national legislations restricted the contract duration of temporary workers who were engaged to provide assistance.

Support for the management of backlogs at first instance was provided to varying degrees of effectiveness in Cyprus, Greece and Malta. Malta significantly decreased its first instance backlog from 5,100 pending cases at the end of 2020 to 3,265 cases at the end of 2021. In Greece, support from the islands shifted to the mainland due to the successful clearance of the backlog and the reduction in the number of arrivals. However, the backlog in Cyprus remained high with 18,805 pending cases at the end of 2021. This was due to external factors, including a high inflow of applicants.

The five Member States also received assistance in the area of reception. In Spain, support was focused solely on this area, leading to tangible results such as progress on the development of a draft reception model, delivery of professional development activities and training, and site assessments. In comparison, 408 and 580 information sessions were delivered in Cyprus and Malta, respectively, and 1,021 counselling sessions were provided in Cyprus. Reception assistance in Greece and Italy was more strategically focused on capacity-building and the development of tools.

Support at second instance was provided in Cyprus, Greece and Italy. Significant assistance was delivered to Italy to support judicial hearings, judicial research and research on country of origin information (COI). On the other hand, support at second instance was provided to a lesser extent in Cyprus and Greece. Activities in Cyprus focused on file preparation, COI research and data management capacity, whereas in Greece there was a shift towards capacity-building, with most support being centred on professional development and training.

Training was a common element of operating plans that benefitted 2,473 individuals in the five Member States in 2021. Operational support in Spain, which included a measure entirely dedicated to training, meant that a higher number of individuals were trained than in Cyprus, Italy or Malta, despite the smaller scale of operations. This was due to the focus of the operational support and the local context, with most training participants in Spain coming from civil society organisations given the central role they have within the reception system. This differed from the context, for example, in Cyprus, where most training was delivered to the Agency's personnel working on first instance processing.

Significant achievements were made in producing tools and guidance in 2021. The tools covered different steps within the asylum and reception systems, in line with the nature of the support provided in each Member State. In the area of reception, for example, a tool for the assessment of reception conditions was launched in Greece, where it was piloted and rolled out in four reception facilities. This marked a critical milestone in facilitating an operational national reception monitoring framework. Efforts are ongoing to roll out this tool in other operational settings. In Spain, the tool was tested in two sites in 2021. Other accomplishments in this area included tools on the quality of asylum processes, vulnerability identification, assessments and referrals, remote working and data collection.





Overall, the external evaluation concluded that the Agency's operational support during 2021 was highly relevant for the needs of Member States, including the notable flexibility to adapt to rapidly-changing contexts. While the effectiveness of the support was satisfactory throughout the year and across operations, albeit to varying levels, certain external factors posed a challenge. The COVID-19 pandemic had a negative impact on existing external obstacles, such as challenges in human resources for the Agency and national counterparts.

The external evaluation recognised the extensive experience that the Agency has in providing operational support and training and sharing asylum knowledge and expertise, offering a clear added value. The long-term impact and sustainability of operational support depends on the context in which it is being provided. A gradual transition from operational to strategic activities in countries such as Greece, where support has been long-standing, will contribute to the sustainability of the operations and their long-term impact.





## Section 4. Functioning of the Common European Asylum System

*This section provides an overview of developments in legislation, policy, practice and case law in EU+ countries throughout 2021. Concerns about aspects of national asylum systems are included from authorities, civil society organisations, UNHCR and other international organisations.*

*Three horizontal topics are placed in focus, providing context for the developments which are presented in the sub-sections:*

- *Digitalising asylum and reception systems;*
- *The impact of the on-going COVID-19 pandemic on asylum and reception systems; and*
- *Responses by EU+ countries to the new protection needs of Afghan nationals.*

*The sub-sections are organised by theme, following the steps of the asylum procedure:*

*4.1 Access to the asylum procedure presents developments surrounding access to territory and the first steps of the asylum procedure, including making, registering and lodging an application. The information is grouped by arrival routes and geographical areas.*

*4.2 The Dublin procedure takes an in-depth look into the system which sets out the criteria and mechanisms to determine the Member State responsible for examining an application for international protection.*

*4.3 Special procedures to assess protection needs presents new practices around border procedures, the safe country of origin concept, accelerated procedures, admissibility procedures and subsequent applications. Considerations around beneficiaries of international protection resubmitting an asylum application in another EU+ country are highlighted in a focus box.*

*4.4 Processing asylum applications at first instance addresses new approaches, measures, working methods and policies, such as prioritisation policies and changes related to the personal interview, along with legislative amendments, institutional changes, technological developments, considerations of privacy and data protection.*

*4.5 Processing asylum applications at second or higher instance presents initiatives to make the procedures at second instance more efficient and details changes on the right to an effective remedy and the processing of cases lodged by specific nationalities.*

*4.6 Pending cases discusses the number of applications still under examination, which is a key indicator reflecting the workload experienced by national authorities and the pressure on national asylum systems, including reception systems.*

*4.7 Reception of applicants for international protection shows how Member States reacted to trends in international protection in terms of reception capacities and policies.*

*4.8 Detention provides an overview of changes in detention capacity, conditions, duration and alternatives to detention.*





*4.9 Access to information details new initiatives in information provision throughout the different stages of the asylum process, including on the COVID-19 pandemic and vaccination campaigns, and information specifically prepared for Afghan evacuees and persons displaced from Ukraine.*

*4.10 Legal assistance and representation outlines changes in the provision of free legal counselling and advice to applicants.*

*4.11 Interpretation services presents amendments and concerns around the provision of interpretation, including institutional changes and initiatives to digitalise interpretation A box highlights the situation of interpreters from Afghanistan.*

*4.12 Country of origin information briefly describes research and production of information on countries of origin information.*

*4.13 Statelessness in the context of asylum explores the relationship between statelessness and asylum, highlighting associated challenges.*

*4.14 Content of protection presents initiatives taken for the integration of recognised beneficiaries of international protection based on the recast Qualification Directive.*

*4.15 Return of former applicants presents an overview of changes in procedures after a final negative decision on an application is taken.*

*4.16 Resettlement and humanitarian admission programmes presents resettlement efforts taken by EU+ countries and developments in the framework of humanitarian admission programmes.*





## In focus 1: Digitalising asylum and reception systems in 2021

As anticipated in *the EASO Asylum Report 2021*,<sup>274</sup> asylum and reception authorities continued to digitalise processes in 2021.<sup>275</sup> The COVID-19 pandemic spurred the need for technological solutions to ensure business continuity amidst movements restrictions and social distancing.

In 2021, national authorities assessed and adjusted procedures using the new digital tools, while civil society organisations and think tanks took stock of the new initiatives and made their recommendations.<sup>276</sup> Courts also reviewed the impacts of the new modalities and delivered several judgements related to privacy and data protection, for example on the use of mobile data for identification (see *Section 4.4*).

Reinforcing and improving digital initiatives in 2021 were driven by specific national contexts or a specific step of the asylum process. Developments included:

- Countries with high numbers of applications for international protection continued to use self-registration tools in several languages (see *Section 4.4*).
- Remote interviews gained ground, and generally EU+ countries implemented them for specific groups of applicants, while in-person interviews were still considered to be the most preferred option (see *Section 4.4*).
- Information was provided increasingly through digital channels, with several new websites and applications launched or expanded in 2021. At the same time, some national authorities launched projects to ensure that those unfamiliar with the digital world can also obtain the information they require on their rights and responsibilities in the asylum procedure and in reception (see *Sections 4.7 and 4.9*).
- Face-to-face interactions remained important for providing legal assistance and representation, while remote support was provided when it was considered to be practical and in line with procedural safeguards (see *Section 4.10*).
- Videoconferencing systems for interpreters were purchased or expanded to facilitate interpretation when local interpreters were not available, either due to a rare language or a sudden increase in arrivals (see *Section 4.11*).
- With limited travel outside of the EU for fact-finding missions, remote data collection through online meetings and desk research were used to gather information for COI reports. The result was that reports could often be produced in a shorter timeframe (see *Section 4.12*).
- Selection missions and pre-departure and cultural orientation programmes for resettled refugees typically remained online, although some EU+ countries resumed them on-site when the health situation allowed it. On some occasions, online activities were considered less effective and more time-consuming than face-to-face interactions, resulting in less cases being processed per day (see *Section 4.16*).
- Activities and support in reception typically returned to in-person contexts (see *Section 4.7*).



- New and improved online platforms were developed to train staff, for example on COI (see *Section 4.12*) or on identifying and supporting applicants with special needs (see *Section 5*).
- National authorities focused on simplifying workflows, by digitalising paper-based processes. For example, an EMN study analysed the digitalisation of data collection on the asylum procedure.<sup>277</sup>
- New apps were used to communicate efficiently with different units of an organisation; other authorities involved in asylum, reception and return; and stakeholders involved in certain stages of the overall asylum procedure.
- New apps were also used to better document the profiles and needs of applicants in reception. This also facilitated the transfer of information when applicants moved from one reception facility to another or when they made the transition from reception to other support services.
- Digital solutions continued to facilitate the transfer of a file from first instance authorities to appeal and establish more efficient channels of communication between the different instances. According to an EMN-OECD inform, three Member States used blockchain technology to enable secure exchanges and connect different systems.<sup>278</sup>

Piloting and implementing digital initiatives often take several years, so in 2021 many EU+ countries reported on key outputs and milestones for ongoing projects which were implemented earlier.

Digital projects will likely be adapted based on guidance from international, European and national courts. While new technologies can be implemented rapidly, national authorities need to take caution, because court rulings indicate that there is a continued need for strict scrutiny on the compatibility of digital innovations with fundamental rights and data protection guidelines.





## In focus 2: The impact of the on-going COVID-19 pandemic on asylum and reception systems

Since the outbreak in 2020, the COVID-19 pandemic and related restrictions have continued to strongly affect asylum and reception systems globally.

EU+ countries employed a variety of methods and approaches to ensure access to protection to those in need and efficient processing of new and pending applications amidst public health measures which aimed to curb infection.<sup>279</sup>

During 2021, countries broadly transitioned from rapid responses and urgent, ad hoc measures that characterised the first months of the emergency to more systemic solutions. A key trend was to embed new innovative working methods inspired and triggered by the pandemic into regular operations of asylum and reception authorities, for example with the integration of digital innovations (see *In focus 1*).

A series of situational updates<sup>280</sup> published by EASO documented the new processes which were implemented by EU+ countries and summarised commonalities in approaches.

### COVID-19 vaccinations for applicants for international protection

Access to COVID-19 vaccinations and the rollout of national inoculation campaigns were fundamental in limiting the number of infections, with several stakeholders, such as UNHCR, the IOM and the UN Security Council, calling for equitable access to vaccinations<sup>281</sup> and warning against the risks of a ‘vaccine gap’.<sup>282</sup> The COVAX initiative was launched by the World Health Organization (WHO), Gavi and the Coalition for Epidemic Preparedness Innovations to ensure that vaccines reach people around the world, with the intention to cover 20% of the global population, particularly in lower-income countries.

At the EU level, the European Centre for Disease Prevention and Control (ECDC) elaborated key aspects and conceptual approaches on the introduction and prioritisation of vaccinations.<sup>283</sup> Campaigns to vaccinate asylum seekers have followed these general principles, prioritising the elderly, vulnerable and immunocompromised individuals, in addition to people in collective accommodation settings due to the higher risk of contagion in such environments. Many national authorities offered vaccinations directly in reception centres.

All EU+ countries provided vaccinations free of charge and on a voluntary basis. Some countries also unfolded targeted vaccination information campaigns, aimed at promoting its benefits among asylum seekers and combatting misinformation. The campaigns used a variety of channels and formats to inform, raise awareness and enhance community engagement.<sup>284</sup>

Some countries also introduced measures to vaccinate undocumented migrants as part of the national vaccine rollout, a move commended by UNHCR. Although statistics are not available on the exact number of vaccinated asylum seekers in EU+ countries, the general uptake has been considered satisfactory, although some countries have reported challenges in mobilising asylum seekers to get vaccinated.<sup>285</sup>



### Remaining COVID-19 measures in asylum and reception systems

With the gradual rollout of vaccines since the end of 2020, COVID-19 restrictions were eased. While temporary solutions introduced to mitigate COVID-19 significantly receded, many specific arrangements continued throughout 2021 in several areas of the asylum procedure.<sup>286</sup> Nonetheless, restrictions in cross-border movement inhibited effective access to territory and access to the asylum procedure for people seeking protection.<sup>287, 288</sup>

At the registration/lodging stage, preventive health and safety measures – such as the use of disinfecting products, distancing and face masks – were in place in all EU+ countries. Asylum authorities maintained access at staggered hours, limited the number of people present at the same time, used plexiglass barriers and continued with body temperature checks in their premises. Some countries also maintained tests and quarantine on arrival, especially at times when infections peaked. In terms of information provision, large gatherings were avoided and replaced with individual consultations and meetings in small groups, by phone or online. In continuation of an already-common practice, the notification of decisions was done electronically, by post or through a legal representative.

The implementation of Dublin transfers which relies on the physical movement of individuals between countries was naturally affected by COVID-19-related restrictions. In general, Dublin transfers were subject to the same entry requirements as for general travel to EU+ countries (negative COVID-19 test, vaccination certificate, quarantine, etc.). The DubliNet platform was used to share relevant documentation and arrange reception where quarantine or self-isolation was required. No delays in transfers were documented due to the administration of vaccines as most countries reported that asylum seekers subject to a transfer were not vaccinated prior to implementing the transfer. Challenges were, however, noted with organising tests prior to travel and the communication of relevant medical information (see *Section 4.2*).

Due to their setup and requirements, personal interviews were strongly affected by COVID-19 measures. Where physical interviews continued, strict safety protocols were applied in terms of social distancing, the use of masks and sanitizers, specific requirements for interview space size, frequent breaks and enhanced airing of rooms. Many countries moved to remote interviews and invested in specialised equipment and secure software (see *Section 4.4*).

Preventive measures at the appeal level in courts and tribunals largely mirrored procedures which were developed by asylum authorities at first instance. Many countries shifted to remote or hybrid hearings, while in-person hearings and other activities were guided by general preventive health and safety measures.

In reception, general measures included medical screening, possible quarantine for newly-arrived asylum seekers and positive and symptomatic cases, rapid testing, and a revised maximum occupancy rate to allow for social distancing.

### Remaining COVID-19 measures in resettlement

EU+ countries resumed resettlement activities in 2021, turning to ad hoc solutions. Many of these can be expected to become long-term practices once formalised.<sup>289</sup>

Many EU+ countries continued to use remote selection missions to select refugees to be resettled in EU+ countries during 2021. To overcome technical challenges related to the online setting, mixed modalities were also used, such as selection based on dossiers and



increasing the quota of refugees through dossier selection. Pre-departure orientation and cultural orientation programmes were mostly carried out online, and the content of the programmes was adapted to include COVID-19-related topics, in particular information on the health measures in place in the country of resettlement.

Additional health checks related to COVID-19 were included in travel arrangements in most countries, as well as other measures such as isolation periods and protective equipment. In some countries, social distancing requirements meant that capacity in reception centres was reduced, and new solutions and new partnerships were set up to address this challenge. As a key trend, active coordination intensified at the national level (between different national ministries, including consulates and health authorities) and with UNHCR, the IOM and local authorities in the countries of first asylum.

### **Judicial review of COVID-19-related developments and measures**

Courts and tribunals maintained a crucial role in scrutinising COVID-19 measures and in the implementation of CEAS standards during the pandemic. Court rulings have had a direct impact on a number of aspects related to CEAS, such as the assessment of applications for international protection, the Dublin procedure, returns to third countries and the possibility of family reunification for beneficiaries of international protection.<sup>290</sup>





### In focus 3: Responses by EU+ countries to new protection needs of Afghan nationals

Developments in Afghanistan throughout 2021 intensified protection needs for many Afghan nationals. The deterioration of the security and human rights situation created waves of displacement for the general population, in addition to increased risks for particular groups, including human rights activists, former employees or persons who had cooperated with western actors in the country, journalists and specific minority groups. The increased needs were depicted by the number of first-time Afghan applicants for international protection in EU+ countries doubling in 2021 compared to the year before, and the number of subsequent applications submitted by Afghan nationals also increased.

In addition to efforts coordinated at the EU level (see *Section 2*), EU+ countries took a number of actions to adapt procedures and accommodate the evolving needs of Afghans. An immediate consideration was to provide quick access to safety, so EU+ countries organised rapid evacuations. These were implemented through evacuations, which provided pathways to safety for thousands of people, and humanitarian admissions, either directly from Afghanistan or from neighbouring countries where people had fled.

Various practices were introduced for the types of stay that were granted to evacuated Afghans, ranging from providing protection under the status of resettled refugees to channelling them through the asylum procedure or granting residence permits outside of asylum. Some countries provided humanitarian protection at first and then allowed newcomers to apply for international protection.

Dedicated information campaigns focused on providing information to Afghan nationals on matters related to asylum, including sections on websites with frequently asked questions to explain what each process entailed.

EU+ countries adapted their working methods to receive and process applications lodged by Afghans, including recruiting additional staff and creating separate streams for the registration of cases submitted by Afghans. Due to the volatility in the country of origin and the difficulty in accessing up-to-date COI, many EU+ countries suspended the processing of applications by Afghans at both first and second instances, with the exception of cases where protection needs were clearly evident.

In some cases, courts called first instance authorities to reassess applications on the basis of updated COI, as significant changes occurred in Afghanistan since the first instance decision had been issued. At the same time, the suspension of processing applications added to an already-large number of pending cases concerning Afghan applicants, thus prolonging the time they spend in the asylum procedure.

Efforts were also made by EU+ countries to bring Afghan families together, either by prioritising these cases through traditional family reunification processes or by establishing special admission programmes for family members of Afghans already living in Europe. When needed, special arrangements were made for the provision of material reception conditions, including accommodation.



Other national initiatives focused on the integration process of Afghan evacuees. Naturally, in response to the sharp deterioration of the security and human rights situation in Afghanistan, many EU+ countries suspended the return of Afghan nationals who had received a negative decision to their application.

The responses of EU+ countries to the protection needs of Afghan nationals in light of 2021 developments were not always uniform. Yet, efforts to facilitate access to safety and adapt procedures made it possible to swiftly offer protection solutions for those who needed them the most. The large number of pending cases by Afghan nationals, as well as the status of those who do not qualify for protection but cannot be returned, are issues that remain to be tackled and would require constructive and realistic approaches by EU+ countries.





## Section 4.1. Access to procedure



*Effective access to the asylum procedure means that people seeking international protection are able to reach the authorities and are afforded a fair and efficient process. Obstructing access to territory and access to the procedure may, in certain circumstances, result in a person being returned to a country where their life or freedom may be threatened, breaching the international principle of non-refoulement.*

*The recast Asylum Procedures Directive guides Member States on common procedures to undertake when an asylum application is submitted in the territory of a Member State, including at the borders, in transit zones, or in territorial waters.*

*The directive outlines access to the procedure as a three-step process:*

- *Making an application: A person expresses a wish to any national authority to apply for international protection.*
- *Registering an application: The competent authority officially records the application for international protection.*
- *Lodging an application: The application is formally lodged when all administrative formalities have been completed.*

*The time limit for the examination of a claim for international protection starts elapsing when the application is lodged and all formalities have been completed.*

Pressure on the EU's external borders intensified in 2021 with the number of arrivals resuming to pre-pandemic levels. Illegal border-crossings escalated, and EU+ countries had to manage sudden mass arrivals and ever-increasing numbers of applications for international protection. There were variances in the number of crossings across different routes, so the increase did not affect all routes and the situation remained stable in some areas.

While COVID-19-related restrictions and quarantine requirements were still in place, EU+ countries responded to the increased arrivals by adapting processes to facilitate the making, registering and lodging of applications. Several countries rearranged reception places and reorganised first instance procedures (see Sections 4.4 and 4.7). Other countries continued with initial or arrival centres which bring together reception and asylum authorities, while studies were undertaken to evaluate their impact and efficacy.

As immediate measures, many EU+ countries reintroduced internal border controls within the Schengen area which had an impact on access to territory. In June 2021, the European Commission set out a strategy to strengthen the legal framework of the Schengen area by implementing more effective external border management, measures compensating for the absence of controls at internal borders and robust governance.<sup>291</sup>

Operations by Frontex were stepped up to provide support directly to Member States. However, some activities and procedures were subject to investigations and reviews by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE), the EU Ombudsperson, the European Court of Auditors and the Frontex Management Board. No violations of human rights by Frontex staff were confirmed by these entities, however the respective bodies listed weaknesses and made recommendations for improvements. The



Agency appointed a Fundamental Rights Officer in June 2021 to reinforce its monitoring framework.<sup>292</sup>

A number of national human rights institutions working through the European Network of National Human Rights Institutions (ENNHRI) conducted research and analyses on issues related to the protection of migrants' human rights at the borders. In collaboration with national partners, ENNHRI published a number of guidance papers, including on monitoring at borders in 2020<sup>293</sup> and human rights scrutiny of public funds for migration and asylum in 2021.<sup>294</sup> ENNHRI's focus on monitoring at the borders culminated in a regional report,<sup>295</sup> which highlights trends, challenges and good practices relating to four key areas: returns and violence, access to relevant procedures, reception conditions and the deprivation of liberty, and human rights accountability. The report concludes with ten recommendations for achieving human rights-sensitive policies at the borders. A key finding in ENNHRI research was the lack of accountability for violations of migrants' rights at the borders. To address this, an ENNHRI report analysed the underlying causes of gaps in accountability at the borders and identified shortcomings in five key areas: structural gaps, gaps in investigations, gaps in access to justice, gaps in revision and prevention, and gaps in promoting a culture of rights.<sup>296</sup>

To highlight the point that access to asylum can be advanced through international legal avenues, in March 2021, ECRE published a legal note focusing on the prohibition of *refoulement* as an imperative element of an accessible, effective and fair asylum procedure.<sup>297</sup> In July 2021, ECRE and Heinrich Böll Stiftung published a report on reception, detention and the restriction of movement at the EU's external borders.<sup>298</sup> The report maps the current EU legal framework and resulting national practices involving the deprivation of liberty and restrictions on the freedom of movement for migrants and asylum seekers. It sets out a set of policy recommendations for EU Member States, the European Commission, the European Parliament and the Council of the EU (see *Section 4.8*).

Addressing practices in some EU+ countries, in March 2021, UNHCR issued a legal note on the externalisation of international protection. While acknowledging that international cooperation as an expression of solidarity is essential in relieving countries from an unduly heavy burden of hosting a large number of refugees, UNHCR stated that it should not be used to shift, minimise or avoid responsibilities, nor to obstruct rather than facilitate access to protection. According to the note, measures that prevent applicants from entering safe territories or the transfer of applicants to process their applications in other countries without sufficient safeguards may have an eroding effect on the international protection system.<sup>299</sup> The annex to the UNHCR note clarifies that the externalisation of international protection may comprise three categories of practices: extraterritorial processing in a third country or other location; unilateral measures to intercept or prevent arrivals which preclude access to asylum; and cooperative measures to intercept or prevent arrivals.<sup>300</sup>

## 4.1.1. Situation on the eastern borders

### Instrumentalisation of migration: Situation at the border with Belarus



The situation at the EU's eastern borders in 2021 was largely characterised by the irregular arrival of migrants from Belarus, in what the European Commission described as “the instrumentalisation of migration for political ends”<sup>301</sup> and “state-sponsored smuggling of migrants into the EU”.<sup>302</sup> The European Council stated that it will “not accept any attempt by third countries to instrumentalise migrants for political purposes” and condemned “hybrid attacks” at the EU's borders.<sup>303</sup> Following the 2020 Belarusian presidential election, the subsequent political unrest in

Belarus, and the forced landing of passenger aircraft Ryanair Flight 4978 to Minsk in May 2021, EU-Belarusian relations deteriorated. Belarus took various steps to facilitate irregular migration first to Lithuania and then to Latvia and Poland, the majority being Iraqi nationals.<sup>304</sup>

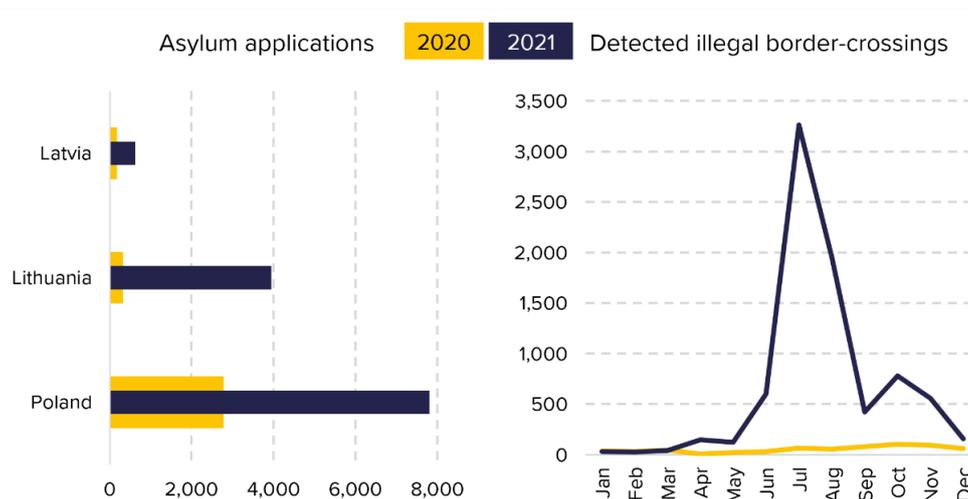
The sudden influx of migrants at the eastern European borders increased pressure on national asylum systems, especially in countries which had not commonly experienced such high numbers of third-country nationals trying to enter their territory. Poland received 7,800 applicants<sup>xi</sup> for international protection in 2021, close to three times as many as in 2020 and the highest level since 2016 (see *Figure 4.1*). Applications in Latvia more than tripled to about 600, and they increased 12-fold in Lithuania to 3,900 applications. For both countries, these levels were the highest since at least 2008.

Iraqis were the largest applicant group in both Latvia and Lithuania, while they were the third-largest group in Poland, after Belarusians and Afghans. Data on illegal border-crossings detected at the eastern land borders of the EU indicate sudden inflows beginning in June 2021, far above the number at any point in 2020. Illegal border-crossings then quickly declined back to previous levels by December 2021.

Lithuania, Latvia and Poland deployed additional resources to maintain control at the borders with Belarus and implemented rapid legislative changes relating to the initial stages of the asylum procedure, including the lodging of applications. Concern was expressed by international organisations, civil society organisations and various human rights bodies over enacted and proposed legislative changes in some countries in this region.

### Sudden increase in asylum-related migration at the eastern borders

**Figure 4.1. Applications for international protection (left) and detections of illegal border-crossings (right) in countries bordering Belarus, 2021 compared to 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022 and Frontex [[Detections of illegal border-crossings](#)] as of 8 March 2022.

<sup>xi</sup> Statistics reported to Eurostat refer to persons. Therefore, family members under one application should be counted and reported individually, irrespective of the national legal requirements or administrative procedures.



Media attention highlighted the tense situation, with Latvia, Lithuania and Poland, declaring emergency situations as a consequence of the instrumentalisation of migrants. In August 2021, Latvia declared a state of emergency due to the rapid increase in irregular migrant arrivals. The Cabinet of Ministers authorised the State Border Guard, the National Armed Forces and the State Police to order any person illegally crossing the border from Belarus to return to the country from which they have crossed and to take the necessary measures to enforce the order. During the emergency phase, asylum applications were accepted only outside the areas under the state of emergency.<sup>305</sup> UNHCR responded to these measures in written observations, stating that the fundamental right to seek asylum and the non-derogable principle of *non-refoulement* should be observed also in times of emergency.<sup>306</sup> Unrelated to these comments, the Office of Citizenship and Migration Affairs, the holder of the registration information system, enhanced the functionality of this system starting from August 2021. This enabled the State Border Guard, the organisation responsible for registrations, to swiftly register applications, making information immediately available to all authorities involved in the asylum process.<sup>307</sup>

By November 2021, Lithuanian authorities also declared a state of emergency which was applicable to the entire border section with Belarus and 5 kilometres from it. Measures included the substantial closure of the border, limited access to emergency areas to permit holders, and limited access by foreigners.<sup>308</sup> In December 2021, the Lithuanian parliament adopted amendments to the Law on the Legal Status of Aliens, which distinguishes between asylum seekers and irregular migrants. The law provides that at the end of a 6-month border procedure, the Migration Department and the State Border Guard Service will decide on the accommodation and the restriction of movement based on the individual situation of each person (see Section 4.8.2).<sup>309</sup> Legislative amendments also included the possibility to refuse the lodging of an asylum application in exceptional situations, meaning that persons who apply for asylum at border crossing points or transit zones are not considered to have entered the territory until a decision permitting entry is issued.<sup>310</sup> This was criticised by ECRE as violating the right to seek asylum and the principle of *non-refoulement*.<sup>311</sup>

Lithuania introduced new methods and material to provide information on the asylum procedure (see Section 4.9). Nonetheless, the UN Committee Against Torture (UN CAT) expressed concern over serious and unprecedented challenges relating to the lack of information on the asylum procedure in Lithuania. Concerns were raised about access to legal assistance and interpreters for refugees and asylum seekers, reported incidents of collective expulsions of asylum seekers without reviewing their individual situations, and pushbacks at the border (including of children) with people left in dire conditions with no access to the asylum procedure and basic needs.<sup>312</sup>

Poland also intensified activities at the border with Belarus. Additional personnel from the Polish Border Guard were deployed to the area, together with 1,000 soldiers from the Polish army. Border monitoring was increased with foot patrols, vehicles and aerial surveillance. The Polish Border Guard collaborated with Lithuanian border, customs and police services through agreements on the exchange of information.<sup>313</sup> In August 2021, UNHCR called for an end to the impasse on the Polish-Belarusian border and appealed to the Polish authorities to provide immediate support and grant access to the territory to the group of people who had set camp close to the border.<sup>314</sup> According to the Border Guard, the group wanted to cross the border illegally and were supported by the Belarusian services. The Council of Europe's Commissioner for Human Rights also urged Poland to take immediate action to protect the human rights of those stranded at the border with Belarus, calling the situation "alarming".<sup>315</sup>





A draft law was issued to amend the Polish Act on Foreigners and the Act on Granting Protection to Foreigners in the territory of the Republic of Poland.<sup>316</sup> Civil society organisations criticised this development as being non-compliant with EU law<sup>317</sup> and violating the principle of *non-refoulement*.<sup>318</sup> In addition, UNHCR published observations on the Polish draft law and expressed concern that the provisions undermine the right to seek asylum as foreseen in the 1951 Convention Relating to the Status of Refugees and the EU asylum *acquis*. UNHCR warned against the long-term deprivation of access to territory and the asylum procedure for persons attempting to cross the border irregularly and reiterated the importance of respecting the principle of *non-refoulement*.<sup>319</sup>

Related to events in previous years, in 2021 the ECtHR [found](#) violations of the prohibition of collective expulsions against Poland when Syrian nationals residing for several years in Belarus approached Polish border guards in 2017 to lodge asylum applications. They were instead returned to Belarus despite an interim measure that they should not be removed. UNHCR and the IOM issued joint statements several times during 2021, expressing concern about the situation at the border between Poland and Belarus and the lack of access to assistance and the asylum procedure.<sup>320</sup> UNHCR also issued a press statement stating it had not been granted access to asylum seekers at the Polish side of the border.<sup>321</sup>

During the escalation, there were many reports of impediments for asylum seekers to access the procedure for international protection within the EU. In August and September 2021, the ECtHR issued interim measures in two cases concerning Afghan and Iraqi nationals who were stranded [at the borders of Poland and Latvia with Belarus](#), and with regard to five Afghan nationals stranded at the [border between Belarus and Lithuania](#).

Several civil society organisations jointly called on the EU to restore rights and values at Europe's borders.<sup>322</sup> Referring to the situation at the border between Belarus and EU Member States, they called for access to the asylum procedure, humanitarian access and the withdrawal of non-compliant domestic legislation. They also demanded access to civil society organisations, the media and legal practitioners, and called for human rights standards and transparency at the heart of cooperation with third countries.<sup>323</sup>

Civil society organisations criticised Poland, Latvia and Lithuania, claiming that *refoulement* practices led to the tragic death of several people.<sup>324</sup> To this end, 16 civil society organisations in Lithuania, Latvia and Poland sent a letter to the President of the European Commission and the EU Commissioner for Home Affairs, expressing concern about the situation of migrants trapped at the EU's external borders. They called on the European Commission to ascertain that the measures taken by the three Member States were in compliance with EU law.<sup>325</sup> In their explanations, the Member States affected by this migration crisis stated that they always take all necessary measures to save the lives of migrants in need. The Polish Border Guard underlined that the causes and circumstances of the death of foreigners were established by the police and the Prosecutor's Office as part of the investigation. The Polish-Belarusian section of the state border is difficult to cross due to both the difficult terrain and weather conditions, and the Border Guard observed with concern the risky and irresponsible behaviour of foreigners who tried to cross the state border.

In response to the challenging situation, a number of initiatives were undertaken by the EU, including increased financial support to the affected countries, concerted action to combat disinformation, and humanitarian support. Additionally, the European Commission proposed a Council decision on provisional emergency measures for the modification of the asylum, return and reception rules at the EU's borders with Belarus for a period of 6 months (see [Section 2](#)).<sup>326</sup>





## Displaced people from Ukraine

While in 2021 a number of challenges were reported on access to territory and access to the asylum procedure at the EU's eastern external borders, in 2022 the response of EU Member States to the Russian invasion of Ukraine was to permit easy access to territory. A number of EU+ countries adopted various measures by the end of February 2022, allowing Ukrainian refugees and displaced persons the possibility to freely cross borders to seek refuge from the violent conflict.

The measures included the lifting of COVID-19 restrictions at border control points, the exemption from presenting documentation at the border, and in many EU+ countries, the automatic granting of temporary protection.<sup>327</sup> On 4 March 2022, the Council adopted for the first time an Implementing Decision<sup>328</sup> establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of the Temporary Protection Directive, Article 5.<sup>329</sup>

As of 2 May 2022, UNHCR declared a Level 3 emergency<sup>330</sup> and estimated that over 5.6 million people have fled Ukraine to neighbouring countries since the Russian invasion began on 24 February 2022.<sup>331</sup>

### 4.1.2. Situation along the Balkan routes



In 2021, several EU+ countries in central Europe and along the Balkan routes received considerably more applications for international protection than in 2020. This included Austria (39,000 applications, +162%), Bulgaria (11,000, +212%), Romania (9,600, +56%), Slovenia (5,300, +49%) and Croatia (2,900, +83%) (see *Figure 4.2*). The significant increase in Austria made it one of the top five receiving countries among EU+ countries. This was partly due to

Syrians lodging three times as many applications in Austria as in 2020, remaining by far the largest applicant group.

In addition, Afghan applicants strongly contributed to the increases in all five countries: their number more than doubled in Austria and Croatia, and more than tripled in Bulgaria and Slovenia. Afghans were by far the largest applicant group in Bulgaria, Croatia, Romania and Slovenia, as well as the second-largest in Austria. Detected illegal border-crossings along the Western Balkan route rose steeply in August and September 2021, which coincided with the Taliban takeover of Afghanistan. Overall, illegal border-crossings detected on this route were significantly higher than in 2020, in every month after January 2021.

In Austria, the Regional Administrative Court of Styria **condemned** the return of a Moroccan national who was arrested at the border with Slovenia. Despite the fact that a clear wish to apply for asylum was expressed, the authorities proceeded to return him to Slovenia, from where he was deported to Croatia, and subsequently returned to Bosnia and Herzegovina. In this case, the court noted that the deportation by Slovenian police to Croatia, and the onward deportation from Croatia to Bosnia and Herzegovina without examining the person's individual situation, amounted to chain *refoulement*.

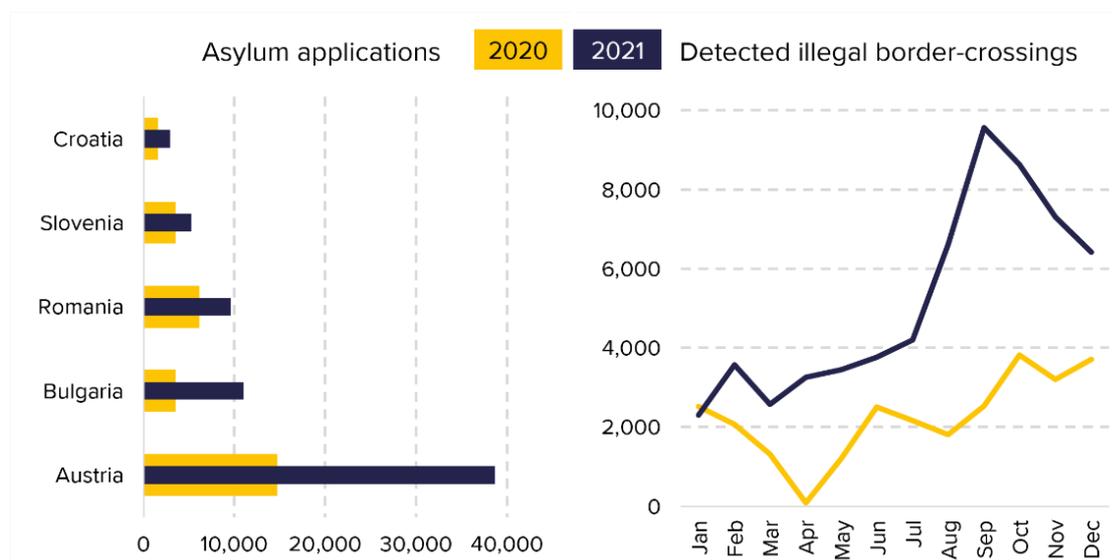
In Bulgaria, the ECtHR **found** a violation when a Turkish national who had irregularly crossed the border in 2016 by hiding in a heavy goods vehicle and who expressed fears of ill treatment if returned to Turkey was not given the opportunity to submit an application for international protection and was instead handed over to Turkish authorities at a border post.





## Rising applications in countries along the Balkan routes

**Figure 4.2. Asylum applications in selected EU+ countries along the Balkan routes (left) and detections of illegal border-crossings (right) on the Western Balkan route, 2021 compared to 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022 and Frontex [[Detections of illegal border-crossings](#)] as of 8 March 2022.

In Croatia, following reports of alleged pushbacks, border violence and allegations of impunity for law enforcement officers in 2020,<sup>332</sup> the Council of Europe’s Commissioner for Human Rights reiterated her call “to stop pushbacks and border violence and eradicate impunity of serious human rights violations committed against migrants by law enforcement officers”.<sup>333</sup> In response, the Ministry of the Interior signed a new agreement on an independent monitoring mechanism with academia and civil society organisations working in the field of human rights protection and legal and medical sciences. The mechanism aims to ensure transparent investigations and full respect for fundamental rights.<sup>334</sup>

The ministry underlined that an independent monitoring mechanism of police action toward migrants has been running in Croatia since 2008 by NGOs. The mechanism was carried out by the Croatian Legal Centre in cooperation with the Ministry of the Interior and the Ministry of Foreign Affairs of the Netherlands between 2008 and 2011, and by the Croatian Legal Centre in cooperation with UNHCR between 2012-2014 and 2018-2019. The process of drafting a legal basis for the independent monitoring mechanism was launched in 2020 in cooperation with the European Commission and led to the conclusion of the new agreement. The national Office of the Ombudsperson participated in the first meeting of the advisory board of the newly-established national independent border-monitoring mechanism.<sup>335</sup> The Ombudsperson also launched an investigation into reports and footage of human violations by police officials at the Croatian border.<sup>336</sup>

In a judgment decided in November 2021, the ECtHR [found](#) violations of the European Charter of Human Rights (ECHR) by Croatia, after a 6-year-old girl died on the tracks when ordered to return to Serbia from Croatia in 2017. The court noted that the Croatian authorities failed to conduct an effective investigation into the circumstances leading to the girl’s death and concluded a violation of the ECHR, Article 2 from a procedural aspect. Regarding the



complaint that the applicants were subjected to collective expulsion without an individual assessment of their circumstances, the court considered it was unable to establish whether Croatia provided the mother applicant and her five children with genuine and effective access to procedures for a legal entry to the country, and thus concluded that their removal was in breach of Protocol No 4 of the ECHR, Article 4.

In January 2021, the Commissioner for Human Rights published written observations in three ECtHR cases against Croatia<sup>337</sup> concerning Syrian applicants summarily returned from Croatia to Bosnia and Herzegovina in 2018. In her observations, the Commissioner stated that, “based on her own observations and numerous consistent and credible reports... [there was] widespread ill treatment of migrants by Croatian law enforcement personnel in the context of collective returns”, as well as a lack of independent, prompt and effective investigations of such treatment which consequently leads to impunity amongst law enforcement officers.<sup>338</sup>

In its report analysing the situation in 2020, a network of civil society organisations claimed that the Croatian state was in direct violation of the ECHR, Article 3 through the organisation of premeditated and coordinated pushbacks and ill treatment of migrants.<sup>339</sup> The NGO Centre for Peace Studies reported that a 5-year-old boy drowned in the Una River in Bosnia and Herzegovina while his family was attempting to cross the Croatian border.<sup>340</sup>

The transit zones at the Hungarian-Serbian border were closed in May 2020 as a response by the Hungarian authorities to the [FMS and Others](#) judgment in Joined Cases C-924/19 PPU and C-925/19. However, in March 2021, the ECtHR [ruled](#) that the extended stay of asylum applicants in these transit zones previously, the considerable delays in examining their application, the conditions of their stay and the lack of a judicial review of their detention within the transit zone constituted a violation of the ECHR, Articles 55(1) and 55(4) (see [Section 4.8](#)). In 2021, judgments related to the now defunct transit zones were still pending.

The special conditions to submit an asylum application which were introduced by the Hungarian government in May 2020 were extended until 31 December 2022.<sup>341</sup> According to these rules, applicants must submit a declaration of intent at a Hungarian embassy in a non-EU country, which is then assessed by the asylum authority. Infringement procedures launched by the European Commission in 2020 were still ongoing and a referral to the CJEU was made in July 2021.<sup>342</sup> UNHCR also expressed concern about legislative measures in Hungary which impede access to the asylum procedure.<sup>343</sup>

The Budapest Regional Court [declared](#) an administrative act from the asylum authority to be unlawful as it rejected an asylum claim without a substantive examination for an applicant who was already on the territory but lost his lawful residence title in the meantime. According to the asylum authority’s decision, the applicant could have only submitted his intent to apply for asylum at the embassy in Belgrade, Serbia. The court concluded that the applicant was subject to unlawful discrimination, as the court was made aware of at least one case when an asylum application was examined on its substance without the applicant having submitted a declaration of intent prior to applying for asylum. In addition, the CJEU [held](#) that Hungary had breached EU law by criminalising the facilitation of lodging an asylum application by persons who are not entitled to international protection under Hungarian law.

In a final judgment from the ECtHR dated October 2021, a violation was [found](#) against Hungary when a Pakistani national, who irregularly crossed the border in 2016 and told Hungarian police officers that he wanted asylum, was returned to Serbia without being allowed to lodge an asylum application. In February 2021, the Hungarian Helsinki Committee made submissions to the UN Special Rapporteur on the human rights of migrants when it





documented several instances of pushbacks to Serbia; pushbacks from the international airport in Budapest; and pushbacks after failed official deportation to the country of origin.<sup>344</sup>

In Romania, the authorities introduced a card document for asylum seekers which was intended to prevent the circulation of forged documents.

In March 2021, the Slovenian National Assembly adopted amendments to the International Protection Act.<sup>345</sup> The corresponding implementing regulation was adopted on the procedure for foreigners who wish to apply for international protection and the procedure for accepting applications for international protection.<sup>346</sup> The changes included amendments to the border procedure, providing for clearer provisions, appropriate care of vulnerable persons and changing the time limit for the border procedure from 2 weeks to 3 weeks. As a result of COVID-19 measures, the possibility of lodging and submitting an asylum application electronically was introduced.

A network of civil society organisations reported alleged chain pushbacks from Slovenia to Croatia, Bosnia and Herzegovina, and Serbia.<sup>347</sup> Allegations of pushbacks at the borders were addressed by the Human Rights Ombudsperson in the annual report for 2020, where concern was expressed about Slovenian authorities not taking into account the intentions expressed by foreigners to apply for asylum, and consequently law enforcement officers concluding that they are economic migrants.<sup>348</sup> The Slovenian government rebutted the allegations, stating that the irregular migrants did not apply for international protection and were returned. The authorities noted that irregular migrants change their identity and statements to conceal the circumstances of irregular crossings, and the police take measures to ensure that national and international legal requirements are all met.<sup>349</sup>

In April 2021, the Slovenian Supreme Court [upheld](#) a decision on a breach of the prohibition of *refoulement* and collective expulsion and the right to access the asylum procedure. A Cameroonian national who applied for international protection in Slovenia was transferred to Croatia and subsequently to Bosnia and Herzegovina. The court ruled that Slovenia breached the prohibition on collective expulsions as the competent authorities did not objectively assess individual circumstances.

### 4.1.3. Situation in Northern and Western Europe



Substantially higher levels of asylum applications were lodged in northern and western Europe. France received 121,000 applications in 2021, an increase of 29% compared to 2020 (see *Figure 4.3*). This was broadly in line with the overall increase in applications across EU+ countries. Applications increased substantially for many of the main nationalities applying in France, notably for Afghans (the largest group) but also for nationals of Côte d'Ivoire, Bangladesh and Albania, as well as for Georgians, whose applications more than doubled.

Belgium and Denmark received 25,000 and 2,100 applications for international protection in 2021, respectively. In both cases, this was an increase between 40% and 50% from 2020, mainly driven by Afghans who were the largest group in both countries. The Netherlands (27,000) received the most applications in several years, up by three-quarters from 2020. This was primarily due to more Syrian, Afghan and Turkish applicants.

For arrivals in northern and western Europe, several irregular migration routes played an important role. Total detections of illegal border-crossings at the EU's external borders were significantly higher in 2021 than a year earlier, except at the beginning of the year (see

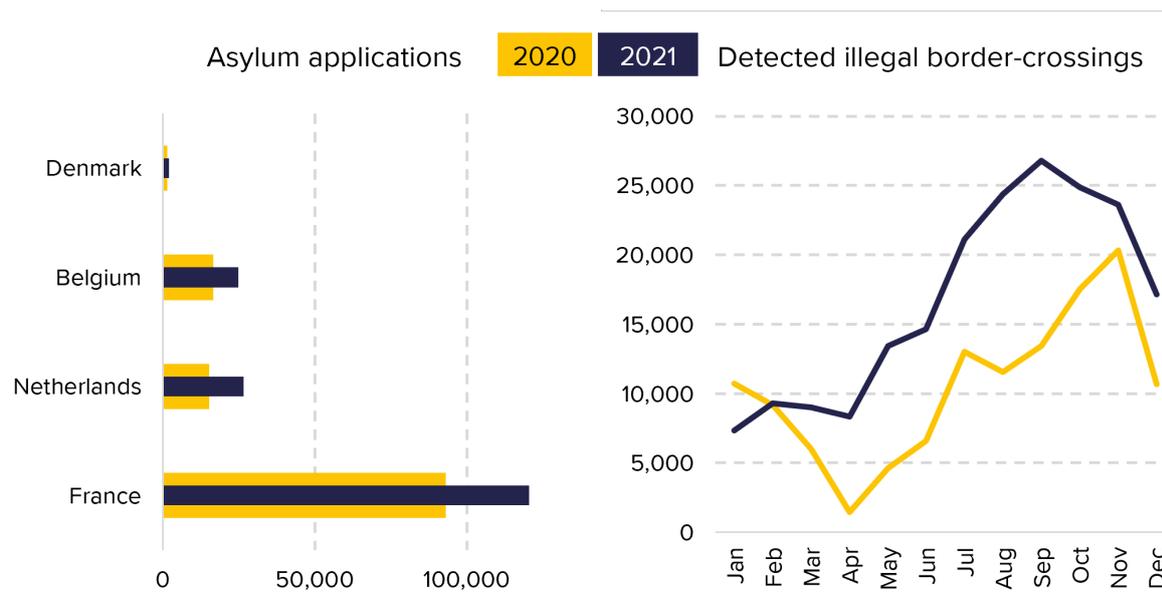


Figure 4.3). However, some relatively large groups of applicants – for example Albanians and Georgians applying in France – can in fact cross the EU’s external border legally because of a visa exemption and, therefore, are not included in data on illegal border-crossings.



### Northern and western Europe remained a key destination region

**Figure 4.3. Asylum applications in selected EU+ countries (left) and total detections of illegal border-crossings (right), 2021 compared to 2020**



**Note:** Total illegal border-crossings include all routes except the circular migration route from Albania to Greece.

Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022 and Frontex [[Detections of illegal border-crossings](#)] as of 8 March 2022.

In Germany, the previously-established AnKER centres, which combine asylum and reception authorities to swiftly gather information from asylum applicants, were tested by the increase in applications. In March 2021, the Federal Office for Migration and Refugees published a report in which the overall efficiency of these centres was assessed. The evaluation report confirmed that registration procedures in the AnKER centres increased in efficiency with faster processing times when compared to other centres.<sup>350</sup>

In June 2021, Denmark approved amendments to the Aliens Act and the Return Act, foreseeing the possibility to transfer suddenly-arrived asylum seekers to a partner country outside of the EU to process their asylum application and subsequently provide protection to those in need. The Danish proposal states that a transfer model will be implemented in compliance with international law and Denmark’s legal obligations.<sup>351</sup> The European Commission noted that external processing of asylum claims raises fundamental questions about both access to the asylum procedure and effective access to protection.<sup>352</sup> The UN High Commissioner for Refugees, Filippo Grandi, criticised this development and considered that the new law runs counter to the 1951 Refugee Convention.<sup>353</sup> UNHCR strongly urged Denmark to refrain from enacting laws and practices that would externalise its asylum obligations and undermine the international protection system.<sup>354</sup> The Danish Refugee Council also condemned the new law, calling it “irresponsible and lacking in solidarity”.<sup>355</sup>



In response to this criticism, Denmark underlined that the goal behind the Danish proposal is to break negative incentive structures for irregular migration and move towards legal pathways for international protection. The Danish government also emphasised that the proposal does not abolish the right to seek asylum in Denmark.<sup>356</sup>

UNHCR published its comments and reactions to a motion for a resolution by a Belgian opposition party in a similar vein to the Danish law and stated that it had serious reservations on the proposal, which had similarities with the approach adopted by Australia.<sup>357</sup> The proposal was not accepted.

In February 2021, The Belgian Constitutional Court **annulled** amendments to the legislation on international protection and foreigners and ruled on several points, including points relevant to access to the asylum procedure.

The significant increase in asylum applications (including the high number of secondary movements) and the reception situation in Belgium where two trade union actions were held in October 2021 led to delays in the registration of asylum applicants (see *Section 4.7*).<sup>358</sup> Ten civil society organisations published an open letter raising concerns that several persons were not able to apply for international protection during this time.<sup>359</sup> In a court action filed by the same civil society organisations, the First Instance Tribunal of Brussels condemned the Belgian State for not ensuring access to the asylum procedure, and Fedasil for not guaranteeing reception for applicants (see *Section 4.7.1.2*). In its **judgment**, the court referred to **CJEU case law** on effective access to the procedure and reiterated that the Asylum Procedures Directive, Article 6 requires Member States to ensure that people can exercise their right to make an application for international protection. The government and national authorities undertook several actions to improve the situation, including the launching of a large recruitment procedure for the migration authorities, action plans to increase the efficiency of the process (see *Section 4.4*) and opening new reception facilities (see *Section 4.7*).

In the Netherlands, changes continued to be made to improve the overall efficiency of the asylum procedure, specifically adjustments to the registration procedure and the omission of the initial interview which gathers information on identity, nationality and the travel route.<sup>360</sup> The number of applicants in the Netherlands increased more than anticipated, and the Ter Apel registration centre came under pressure<sup>361</sup> (see *Section 4.7*), however the authorities managed by reorganising the process and increasing capacity. The IND recruited additional staff, created a separate stream for the registration of the newly-arrived group of Afghan evacuees, and made plans to register persons arriving through family reunification in separate locations.<sup>362</sup> The control boards (*regietafel*) continued to ensure that the initial registration process effectively channels applications in the correct procedure.

### **French borders**

In France, sea crossings over the English Channel continued and the UK Home Office reported that around 430 migrants from France disembarked on the UK coast within a day and half in July 2021.<sup>363</sup> The UK and France issued a joint statement to strengthen action and cooperation to combat illegal immigration at their common border. UNHCR called for a coordinated and comprehensive response on both sides of the Channel to prevent the further loss of life after 27 people perished while attempting to cross on 24 November 2021.<sup>364</sup>



Within the context of a joint visit by the European Commission, Europol and Frontex in November 2021, France, Germany, Belgium and the Netherlands committed to strengthening their cooperation on migration matters and against smuggling networks.<sup>365</sup>

Pushback practices were reported at the French-Italian and French-Spanish land borders. The Asylum Information Database (AIDA) report for France reported that in February 2021 the border police returned a 16-year-old unaccompanied minor from Bayonne to Irun in Spain without appropriate guarantees.<sup>366</sup> The AIDA report for France also underlined that challenges remained in Menton, on the border with Italy, where access to French territory remained difficult, and also in the overseas territory of Mayotte.<sup>367</sup> The French Council of State [dismissed](#) a request by civil society organisations for the urgent closure of temporary police facilities in Menton as it found no infringement of the rights of asylum applicants.

However, the Council of State [ruled](#) in July 2021 that the government failed to respect the 10-day timeframe for registering applications for international protection according to national legislation which is applicable in Ile-de-France. The number of asylum applications in this region represents more than one-half of all applications submitted in mainland France.

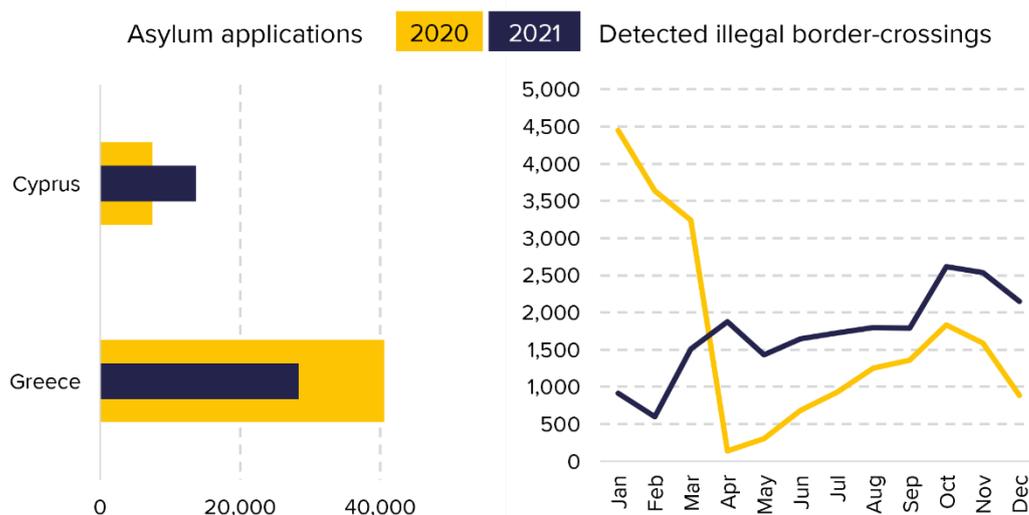
#### 4.1.4. Situation at the Eastern Mediterranean route

Developments at the Eastern Mediterranean route in 2021 continued to be marked with sea and land arrivals in Cyprus and Greece. While asylum applications in Greece (28,000) decreased by 30% compared to 2020, Cyprus (14,000) received 82% more applications (see [Figure 4.4](#)). Afghans lodged less than one-half as many applications in Greece as in the previous year but remained the largest group, ahead of Pakistanis, Syrians and Bangladeshis.



#### Fewer applications in Greece contrasted with rises in Cyprus

**Figure 4.4. Asylum applications in Greece and Cyprus (left) and detections of illegal border-crossings (right) on the Eastern Mediterranean route, 2021 compared to 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022 and Frontex [[Detections of illegal border-crossings](#)] as of 8 March 2022.



Nationals of Syria, the Democratic Republic of the Congo and Nigeria were the largest groups to apply for asylum in Cyprus, and all applied considerably more than in 2020. While detections of illegal border-crossings on the Eastern Mediterranean route were higher in most months of 2021 than a year earlier, they remained below the pre-pandemic levels of January to March 2020.

In Cyprus, arrivals increased through the Green Line. The authorities took important steps to facilitate the registration and lodging of asylum applications, for example by updating relevant forms and improving the processing of personal data. However, the pressure faced by the asylum system prompted the authorities to consider requesting the European Commission for approval to temporarily suspend asylum procedures for persons who entered the country irregularly.<sup>368</sup> Concern was raised within the European Parliament about Cyprus' expressed intention to suspend the processing of asylum applications.<sup>369</sup> In replies to the European Parliament, the European Commission stated that derogations could be possible while respecting the right to seek asylum and the principle of *non-refoulement*.<sup>370</sup>

Difficulties in access to the territory in Cyprus persisted. The Council of Europe's Commissioner for Human Rights urged the authorities to investigate allegations of pushbacks and ill treatment of migrants, improve reception conditions and ensure an enabling environment for civil society organisations.<sup>371</sup> However, the government emphasised the small share of asylum seekers and beneficiaries of protection and clarified that the Lebanese nationals returned to Lebanon had not applied for international protection.<sup>372</sup> UNHCR also expressed concern about access to the asylum procedure.<sup>373</sup>

In November 2021, the Cypriot Council of Ministers approved the establishment of an inter-ministerial committee mandated to suggest specific responses and management measures to address the emergency resulting from increased migration flows; a management unit with operational facilities; and a contingency plan for the irregular arrival of third-country nationals by sea or through the Green Line.<sup>374</sup>

Greece continued to act as a crossing point with arrivals from the Aegean Sea and land borders in Evros. The Greek authorities extended the validity of documents issued to asylum applicants and made improvements to the issuance of the document, which now includes electronic registration and renewal.

The Greek National Commission for Human Rights published a report on the situation of human rights of migrants at the border and called on the Greek State to respect the principle of *non-refoulement*; to permit unhindered, timely and effective access to the asylum procedure for all foreigners who enter the territory irregularly; and to conduct timely and thorough investigations of all complaints on pushbacks in the Evros region.<sup>375</sup>

The Greek Ombudsperson published an interim report, following an investigation of alleged pushbacks of third-country nationals from Greece to Turkey in the Evros region. The report recommends the Greek police to investigate allegations formally and to develop a specific and detailed operational plan to effectively address the possibility that private groups and militia are engaged in illegal pushbacks of foreigners in this region.<sup>376</sup>

While Frontex has been providing support to the Greek authorities, its role in operations at the maritime border came under scrutiny in 2020 through media reports about alleged pushbacks in the Aegean Sea with Frontex personnel present.<sup>377</sup> The investigation continued throughout 2021, with a request for missing information.<sup>378</sup> The European Parliament,<sup>379</sup> the European Anti-Fraud Office (OLAF)<sup>380</sup> and the European Ombudsperson<sup>381</sup> initiated





investigations into these operations, which were also scrutinised by academia and civil society organisations for a lack of a monitoring mechanism and oversight.<sup>382</sup> The European Parliament's Frontex Scrutiny Working Group (FSWG) noted that it “did not find conclusive evidence on the direct performance of pushbacks and/or collective expulsions by Frontex in the serious incident cases that could be examined by the FSWG”.<sup>383</sup> However, the report then concludes that Frontex “found evidence in support of allegations of fundamental rights violations in Member States with which it had a joint operations but failed to address and follow-up on these violations promptly, vigilantly and effectively”.<sup>384</sup> As mentioned in the introduction to this section, the Agency reinforced its framework for fundamental rights monitoring and appointed a Fundamental Rights Officer in June 2021.<sup>385</sup>

The Council of Europe's Commissioner for Human Rights raised concerns about allegations of pushbacks in a letter to the Greek authorities in May 2021.<sup>386</sup> In reply, the Greek authorities claimed that such allegations do not correspond to well-established standard operating procedures and they proved to be largely unsubstantiated.<sup>387</sup>

Civil society organisations reported forced returns in the Aegean crossing points and in the Evros border and claimed that there had been violations of the principle of *non-refoulement*.<sup>388</sup> They also called on the European Commission to initiate infringement proceedings against Greece, claiming non-compliance with the EU asylum *acquis*.<sup>389</sup> In a letter sent to the European Commission on 27 April 2021, five Greek civil society organisations requested the European Commission to assess Greece's compliance with procedural requirements in relation to the principle of *non-refoulement* and the country's obligations to provide access to the asylum procedure at its sea and land borders.<sup>390</sup> In response, the Minister of Migration and Asylum underlined that “we categorically deny the allegations”.<sup>391</sup>

UNHCR issued a press release stating that “in the absence of safe pathways, refugees and migrants feel compelled to entrust their lives to ruthless smugglers” and called for more action to curb the exploitation of persons in search of protection.<sup>392</sup>

The exceptional border procedure that applies to third-country nationals in the reception and identification centres in Lesbos, Samos, Chios, Leros and Kos was extended until the end of 2021.<sup>393</sup> Three civil society organisations, Médecins sans Frontières, Pro Asyl and Refugee Support Aegean, jointly published a statement raising their concern after several vulnerable asylum seekers supported by these organisations were placed in the border procedure.<sup>394</sup> Civil society organisations also flagged specific issues with the pre-registration procedure through the Skype application, claiming that it caused long delays to access the asylum procedure.<sup>395</sup>

On 7 June 2021, the Greek authorities designated Turkey as a safe third country<sup>396</sup> (see Section 4.15.7) for certain nationalities,<sup>xii</sup> which can render an application for international protection to be inadmissible. Civil society organisation HumanRights360 was critical of this approach, claiming that asylum applications must be substantively.<sup>397</sup> Refugee Support Aegean, the Greek Refugee Council, HIAS and DRC Greece commented on the bill amending migration and asylum legislation, reiterating the serious legal and political concerns on the use of the safe third country concept as an inadmissibility ground.<sup>398</sup>

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<sup>xii</sup> Afghanistan, Syria, Somalia, Bangladesh and Pakistan.





## 4.1.5. Situation at the Central Mediterranean route



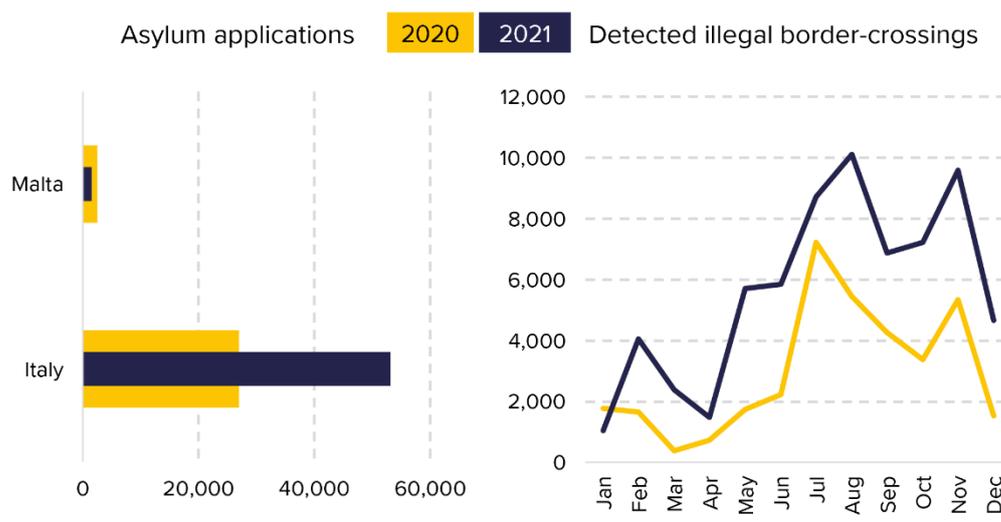
The Central Mediterranean route continued to be characterised by boat disembarkations in Italy and Malta, with rescue operations by NGO vessels continuing unabated.<sup>399</sup> Illegal border-crossings detected on the Central Mediterranean route exhibited similar trends over the course of 2021 as in 2020, with most being detected in the second half of the year (see Figure 4.5). However, levels were significantly higher than in 2020 in every month after January 2021.

As a consequence, asylum applications lodged in Italy (53,000) doubled from 2020 and were the highest in three years. In 2021, the largest applicant groups were Pakistanis, Bangladeshis, Tunisians and Nigerians. All of these as well as several other main nationalities lodged substantially more applications than in 2020. In contrast, applications in Malta (1,500) decreased compared to 2020 by about two-fifths.



### Applications doubled in Italy

**Figure 4.5. Asylum applications in Italy and Malta (left) and detections of illegal border-crossings (right) on the Central Mediterranean route, 2021 compared to 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022 and Frontex [[Detections of illegal border-crossings](#)] as of 8 March 2022.

The Italian authorities issued a tender for the rental of five private vessels to accommodate migrants rescued at sea during the quarantine period. Issues were reported concerning the confinement of migrants on quarantine vessels, with the National Guarantor for the Rights of Persons Deprived of Liberty expressing concern about the protection of fundamental rights, especially of minors and vulnerable persons.<sup>400</sup> ASGI criticised the conditions onboard the vessels which allegedly led to the death of two minors and an adult who drowned. They also noted the lack of medical staff and lack of support to victims of trafficking and other vulnerable people.<sup>401</sup>





Government authorities entered into an agreement with the Italian Red Cross to provide support to the persons onboard the vessels and initiated the identification of vulnerable persons.<sup>402</sup> In October 2021, the authorities started accommodating unaccompanied minors in dedicated reception centres during the quarantine period.

With regard to Italy's land borders, the Tribunal of Rome **ruled** that the practice of informal readmissions from Italy to Slovenia, based on the readmission agreement between the two countries concluded in 1996, were illegal. Such readmissions must be ordered by a reasoned administrative decision, notified to the person and be open to challenge before the appropriate judicial authorities in order to ensure an effective remedy. The case concerned an asylum seeker who applied for international protection in Italy but was returned to Slovenia, then to Croatia, where he was forcefully removed to Bosnia and Herzegovina (see *Section 4.1.2*).

Civil society organisations also raised concerns about this practice. In June 2021, Save the Children claimed that, based on the 1996 bilateral agreements, 1,301 readmissions were conducted to Slovenia, including minors.<sup>403</sup> ASGI issued a statement raising concerns about the discretionary power given to border police to establish the age of migrants during a border control.<sup>404</sup>

Civil society organisations reported issues with access to the procedure in Italy, citing illegitimate practices, long delays, inaccessible administrative offices and a lack of interpretation services (see *Section 4.11*).<sup>405</sup> Some of the issues mentioned included the lack of an appointment system in the police headquarters (*questure*) to lodge an application for international protection, leading to long queues and delays in accessing reception conditions; the lack of interpretation services in the *questure* where services are sporadic and led to a reliance on the interpretation services provided by the reception centres; and the 'illegitimate requests' for documentation which was not required to lodge an application (including work permits, passports, birth certificates and rental agreements).

Malta made several changes to practices to improve access to the procedure, including operating from new premises which are more accessible and allow for flexibility in the rearrangement of frontline procedures. Efforts were also made to condense the time between the making and lodging of an application. The application form was optimised to gather information for the examination of the application at the lodging stage and a new data protection section was added. Updated registration guidelines were issued and information on specialised services were made available to applicants with a sexual orientation or gender identity claim.

Improvements were also made to the registration and lodging processes, and the electronic database was further optimised to avoid the duplication of work and streamline processes. Steps were also taken to transition part of the Eurodac office into the offices of the International Protection Agency. Dividing Eurodac personnel between the police headquarters and the IPA premises make it possible to take fingerprints for Eurodac purposes on the same day an application is lodged, facilitating the Dublin process.

No changes were observed with Malta's position on the disembarkation of migrants rescued by NGO vessels, which was published in a government press release in 2020 stating that NGOs conducting rescue operations in the Mediterranean Sea facilitate, directly or indirectly, the business model of people smugglers.<sup>406</sup> No changes were noted either with the Memorandum of Understanding signed between Malta and Libya in 2020.<sup>407</sup> In comments to the Report of the Commissioner for Human Rights of the Council of Europe, Maltese authorities reaffirmed their adherence to international obligations to rescue persons in





distress at sea inside the country's area of responsibility. In principle, Malta considers it a duty to work with Libyan authorities on border management and the fight against people smuggling.<sup>408</sup>

In October 2021, the Council of Europe's Commissioner for Human Rights called on the Maltese authorities to ensure that their actions do not lead, either directly or indirectly, to returns to Libya, which is not a safe place for disembarkation.<sup>409</sup> In the report on her visit to Malta, the Commissioner for Human Rights expressed concern about the deterioration of Malta's approach to search and rescue in recent years. Specifically, she regretted the view, shared by the Maltese authorities during her visit, that cooperation on the return of migrants and asylum seekers to Libya is indispensable for the effective management of sea arrivals in Malta, and that this position is irreconcilable with the principle of *non-refoulement*.<sup>410</sup>

The European Parliament's LIBE Committee commissioned a report in 2021 to examine the approach to arrivals from the Mediterranean Sea, covering developments from the 2015 refugee crisis up to the COVID-19 pandemic.<sup>411</sup> The report recommends that the European Parliament should evaluate the European Commission's practice of infringement procedures against Member States that do not fully apply the directives in the area of migration and asylum. It also recommends establishing a permanent search and rescue observatory for the Mediterranean route to monitor human rights violations in the context of maritime interventions.

Specifically on the situation on the Central Mediterranean route, UNHCR highlighted the need to establish a more functional system for search and rescue operations, since due to the deteriorating situation in Libya, people will continue to resort to desperate measures to seek safety.<sup>412</sup> UNHCR also expressed concern about the loss of life at sea and underlined that the vast majority of interventions performed by the Libyan Coast Guard in their search and rescue region meant that the intercepted migrants who are disembarked in Libya are transferred to overcrowded detention centres in unsanitary conditions.<sup>413</sup>

In June 2021, Amnesty International, ECRE and Human Rights Watch jointly offered their recommendations for a plan of action comprising 20 steps toward protecting people on the move along the Central Mediterranean route.<sup>414</sup>

#### 4.1.6. Situation at the Western Mediterranean and Western African routes



Data on detected illegal border-crossings suggest that the migratory pressure on the Western Mediterranean route in 2021 was similar to the situation in 2020 (see Figure 4.6). Illegal border-crossings on the dangerous Western African route in the first months of 2021 were slightly higher than in the same period in 2020. While rising towards the end of the year, they remained far below the peak of November 2020. Overall, illegal border-crossings on the Western African route were therefore roughly stable.

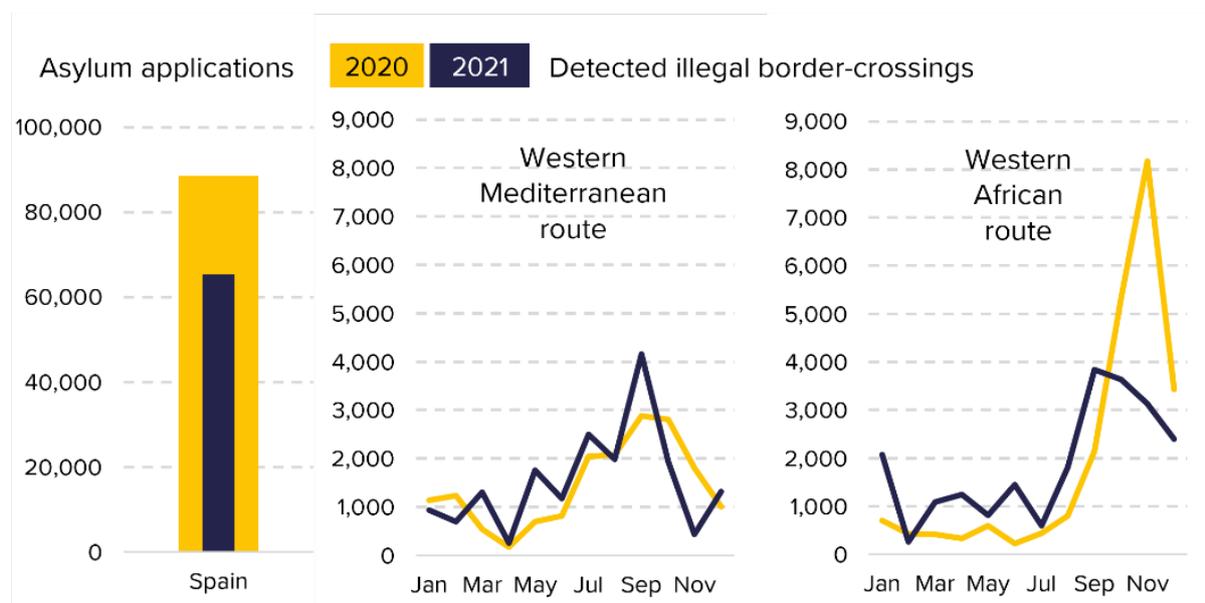
The number of asylum applications lodged in Spain decreased by about one-quarter to 65,000, the lowest in 3 years. However, this decrease was largely due to far fewer Latin American applicants, many of whom can legally enter EU+ countries without a visa and, hence, are not reported in data on illegal border-crossings. Despite decreasing applications, Venezuelans and Colombians remained the main nationalities in Spain. They were followed by Moroccans, Malians and Senegalese, who all applied considerably more than in 2020. Applications in Portugal (1,500) decreased by one-half.





## Stable situation on the Western Mediterranean and Western African routes

**Figure 4.6. Applications in Spain (left), detections of illegal border-crossings on the Western Mediterranean route (middle) and the Western African route (right), 2021 compared to 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022 and Frontex [[Detections of illegal border-crossings](#)] as of 8 March 2022.

### Canary Islands

Boat crossings to the Canary Islands continued in 2021 with disembarkations on the islands and reported loss of lives during the crossing.<sup>415</sup> The Spanish Ombudsperson published a study on the situation on the Canary Islands which cited difficult reception conditions, including issues with the provision of information.<sup>416</sup> The report also states that access to the asylum procedure was a major challenge for Spanish and European asylum systems.<sup>417</sup>

UNHCR and the IOM jointly called for more support to prevent further tragedies at sea after a boat with seven survivors was found off the Mauritanian coast on 16 August 2021.<sup>418</sup> The two organisations appealed for more support to be able to continue their life-saving interventions and the provision of medical and psychosocial assistance.<sup>419</sup>

### Ceuta and Melilla

In the Spanish enclaves of Ceuta and Melilla, the sudden arrival of around 8,000 migrants in 24 hours, which included families and unaccompanied minors, led to a crisis. The government deployed the army and additional security forces to control the situation.<sup>420</sup> Many migrants were seen attempting to scale the border fence or swim around the border in full view of Moroccan border guards.

Spanish authorities were quick to enforce readmission agreements with Morocco and returned many of the migrants, including minors. This was criticised not only by civil society organisations,<sup>421</sup> but also by the Spanish Ombudsperson, who submitted a reminder to the



government that procedural safeguards needed to be in place prior to any return procedures for minors.<sup>422</sup> UNICEF also stated that automatic returns from Ceuta and Melilla must end because they violate the rights of children.<sup>423</sup> A Spanish administrative court **ordered** the government to temporarily halt the removal of nine unaccompanied minors to Morocco because legal procedures had not been followed.

In another **case** decided in the same month, a local court in Ceuta suspended the return of nine unaccompanied minors to Morocco. The court held that the bilateral agreement of 6 March 2007 between Spain and Morocco is not an international treaty and therefore cannot be invoked to justify the return of minors. In addition, it referred to Article 5 of the agreement which specifically states that any decision on the return of minors should respect the rules and principles of international law and the Convention on the Rights of the Child.

### 4.1.7. Statistics on applications for international protection



In 2021, EU+ countries received approximately 648,000 applications for international protection, indicating that the number of people seeking refuge in Europe essentially returned to pre-pandemic levels even while some COVID-19 restrictions were still in place. The total represents an increase by one-third compared to 2020, matching the level in 2018.

As in previous years, most applicants were male, but their share increased to 70% in 2021, compared to 65% in 2020 and 63% in 2019. Applicants aged 18-34 years, predominantly men, accounted for one-half of all applicants in 2021, while 29% were younger than 18. Only one-fifth of all applicants were older than 35. The shares of applicants by age were similar to previous years, with women only being the majority of applicants aged over 65.

In the first few months of 2021, the monthly level of applications remained roughly stable from the end of 2020. But about halfway through the year, applications started to increase and culminated in two monthly peaks in September and November 2021. The peaks were largely the result of more applications by Afghans and Syrians, including many repeated applications by Afghans (see *Section 4.3*). The peak in September partly resulted from the Taliban takeover of Afghanistan and the evacuations that followed. From August 2021 onwards, Afghans were lodging the most applications for asylum in EU+ countries.

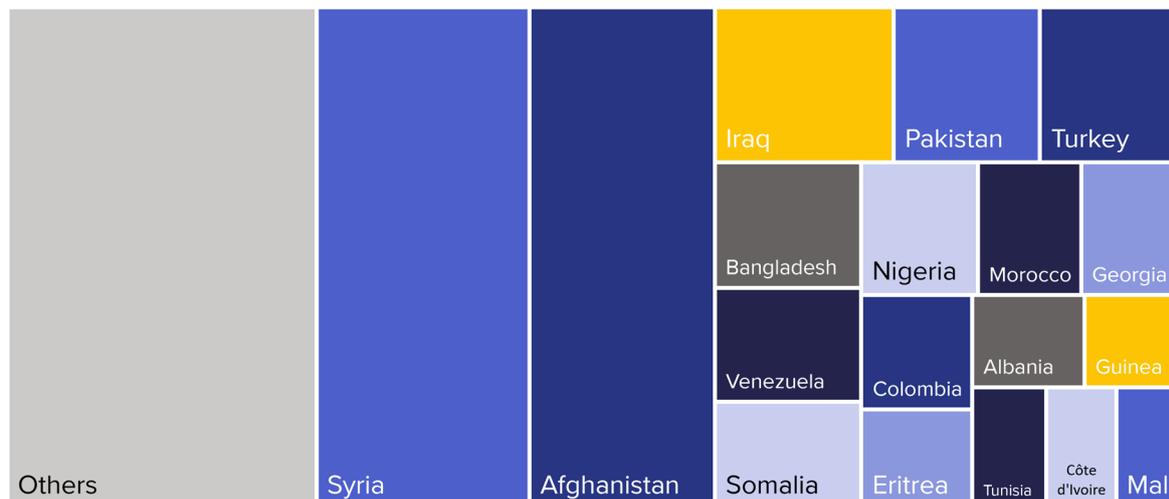
However, in terms of the annual total, Syrians represented the largest applicant group in 2021, lodging about 117,000 applications in EU+ countries (see *Figure 4.7*). In comparison, Afghans lodged 102,000 applications and were the second-largest group. Importantly, for both of these citizenships, applications in 2021 were the highest since the refugee crisis in 2015/2016. Their applications alone accounted for much of the overall increase in applications in 2021.





## Nationals of Syria, Afghanistan, Iraq and Pakistan lodged the most applications

Figure 4.7. Applications for international protection by nationality, 2021



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022.

These two citizenships were followed at a distance by nationals of Iraq (30,000 applications), Pakistan and Turkey (25,000 each) as well as Bangladesh (20,000). All these citizenships lodged considerably more applications than in 2020. In contrast, Venezuelans (18,000) and Colombians (14,000) lodged far fewer applications than in the previous 2 years.

### Receiving countries

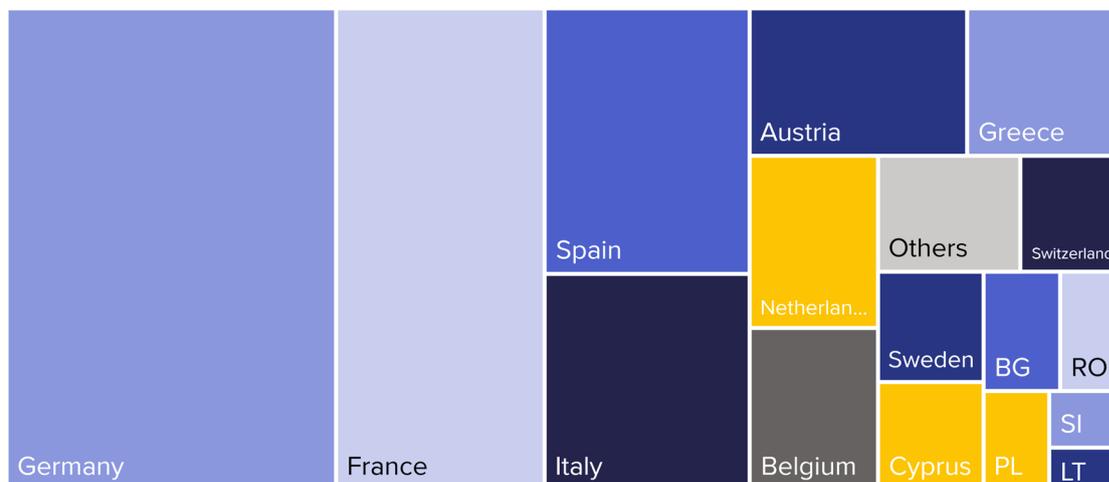
In line with the overall increase in the total number of asylum applications, the vast majority of EU+ countries received considerably more applications in 2021. As shown in Figure 4.8, Germany received the most asylum applications (191,000), followed by France (121,000), Spain (65,000) and Italy (53,000). In Austria (39,000), the number of applications was more than twice as high as in the previous year. This increase, as in many other EU+ countries, was linked to rising applications by Afghans and Syrians.

However, Spain was one of the few EU+ countries that received fewer applications, alongside Greece, Sweden, Finland and Malta (in descending order). The notable decrease in Spain was due to fewer applications by Latin Americans.



## Most applications were received by Germany, France, Spain and Italy

Figure 4.8. Applications for international protection by receiving EU+ country, 2021



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022.

### National capacity to absorb asylum applications

The capacity of countries to receive applicants may depend on the gross domestic product (GDP), population size or the size of the territory. Figure 4.9 ranks EU+ countries in terms of the number of applications received relative to these three indicators, which can shed light on the relative pressure on national asylum and reception systems. For each indicator, countries shaded in blue received a lower relative volume of applications than the EU+ baseline, while countries shaded in red received a higher relative volume than the EU+ baseline.

Countries in Figure 4.9 are arranged in decreasing order based on applications relative to population size (the middle circle). By this measure, Cyprus received by far the most applications in 2021, more than 1,500 per 100,000 inhabitants, followed by Austria, where 432 applications were lodged for every 100,000 inhabitants, and Malta (294 per 100,000 inhabitants). In several other countries, applications were still relatively high, between 216 and 266 applications for every 100,000 inhabitants, including in Greece, Slovenia, Liechtenstein, Iceland, Germany, Luxembourg and Belgium (in descending order).

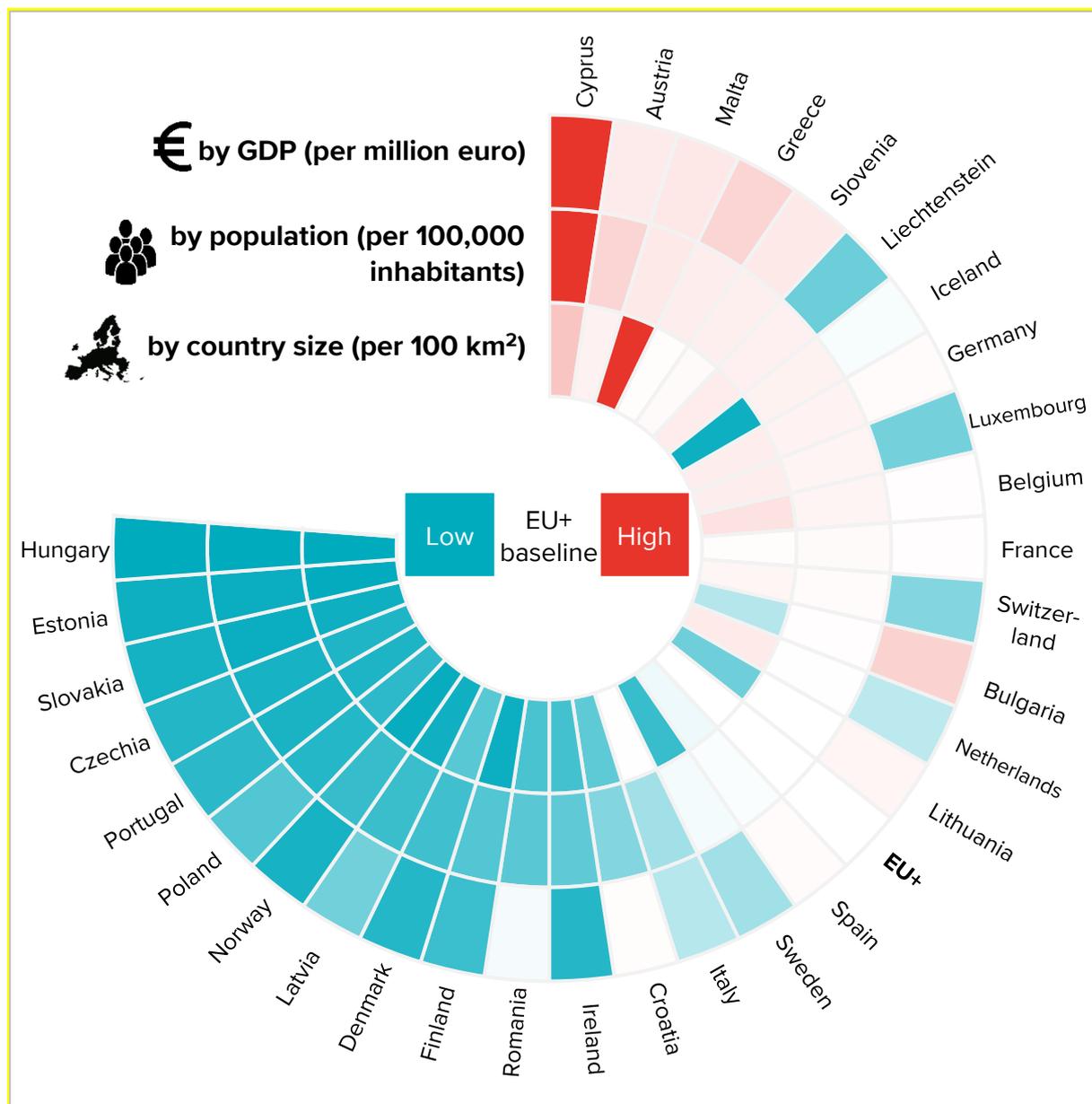
The most common indicator for a country's economic strength is GDP. In terms of applications relative to GDP, Cyprus again received by far the most applications in 2021 (59 applications per EUR 100 million of GDP), followed by Bulgaria and Greece (16 each). This measure was also comparatively high for Austria, Malta and Slovenia. Relative to the territorial size of countries, applications were the highest in Malta (473 applications per 100 sq km), followed by Cyprus (148) and Belgium (82).





 **In relative terms, most applications were received in Cyprus and Malta**

**Figure 4.9. Applications for international protection relative to GDP, population and country size, 2021**



**Notes:** Countries are sorted by the number of applications received relative to population size (clockwise from highest to lowest). The shades indicate the relative number of applications received compared to the EU+ baseline (midpoint) for each of the three indicators. Data on GDP for Liechtenstein refer to 2020.

Source: Eurostat for asylum applications [[migr\\_asyappctza](#)] as of 22 April 2022, population [[demo\\_pjan](#)] as of 19 March 2022 and GDP [[nama\\_10\\_gdp](#)] as of 19 March 2022 and the World Bank [[AG.SRF.TOTL.K2](#)] as of 19 February 2021.





## Section 4.2. The Dublin procedure



*The Dublin III Regulation is the cornerstone of CEAS which aims to define a clear and workable method to determine which Member State is responsible for the examination of an application for international protection. Its objective is to guarantee that each person has effective access to the asylum procedure and that each application will be examined by one Member State only.*

*To achieve these objectives, the Dublin III Regulation establishes a set of hierarchical criteria under Chapter III to determine the Member State which is responsible for the examination of an asylum application. These include:*

- *Criteria to protect family unity and unaccompanied minors (Articles 8-11 and 16);*
- *Criteria on the responsibility of the Member State which played the greatest part in the applicant's entry into or residence in the country (Articles 12-15); and*
- *If the first two do not apply, the responsible Member State is the one where an application for international protection was first lodged.*

*Member States may also assume responsibility based on the discretionary clauses of the regulation.*

*The Dublin III Regulation is applied by all EU Member States and four associated countries (Iceland, Lichtenstein, Norway and Switzerland). Throughout this section, the term Member States covers the associated countries as well.*

COVID-19 measures continued to have a direct impact on the various steps of the Dublin procedure. Although the number of applicants under the Dublin procedure increased during 2021, national authorities continued to face challenges in implementing transfers. As a result, the number of non-implemented transfers remained much lower than prior to the pandemic.

COVID-19 testing requirements and the lack of available flights were cited among the most significant barriers. Legislative changes in Denmark and Switzerland obliged applicants to undergo COVID-19 testing prior to a Dublin transfer, if necessary. Civil society organisations and UNHCR commented on these amendments. Indeed during the pandemic, authorities and national courts were faced with increasingly complex Dublin cases which required more guidance and clarification.<sup>424</sup>

The CJEU received a high number of requests for preliminary rulings on several aspects of the Dublin III Regulation: the application of the criteria for determining the Member State responsible, remedies, time limits for transfers and the link with other EU legislations which are outside of the CEAS legal instruments. The European Commission's proposal for a Regulation on Asylum and Migration Management, in particular its objective to reform the current Dublin system, continued to be reviewed and commented on in 2021, for example, by Forum réfugiés-Cosi<sup>425</sup> and METAdrasi.<sup>426</sup>

The humanitarian clause (Article 17(2) of the Dublin III Regulation) is used for an applicant's voluntary relocation within EU+ countries. As part of the Action Plan for immediate measures to support Greece, launched in March 2021, the European Commission confirmed that



4,307 persons, including 984 minors, were relocated up to September 2021 (see Section 2),<sup>427</sup> reaching the total number of 4,638 relocations at the end of 2021.<sup>428</sup>

According to reports from Member States and jurisprudence, there was an increase in the number of recognised beneficiaries of international protection moving onwards and applying for asylum in another EU+ country. This phenomenon does not fall under the scope of the Dublin III Regulation, even though the trend points to an ongoing challenge with the functioning of CEAS (see Section 4.3). To address this issue, the European Commission has underlined that the proposed Asylum and Migration Management Regulation would reduce incentives for unauthorised movements, for example by including beneficiaries for international protection in the scope of the take back procedure.<sup>429</sup>

### 4.2.1. Institutional and staff changes to manage the Dublin procedure



As seen in previous years, some countries modified their institutional organisation to clarify roles and responsibilities within the Dublin process. The number of staff working in Dublin units was also adapted in 2021 to manage increasingly complex cases. In order to facilitate the exchange of information between Dublin units, the Network of Dublin Units, together with the EUAA, developed recommendations to prepare, send, receive and reply to information requests in an effective manner.<sup>430</sup>

An amendment was pending approval by the Council of Ministers in Bulgaria to modify the “Regulation on responsibilities and coordination of public authorities implementing action on the application of the Dublin III and Eurodac Regulations”.<sup>431</sup> The changes clarify the responsibilities of and improve coordination among the different public authorities involved in the process.

In Belgium, the Council for Alien Law Litigation (CALL) ruled<sup>432</sup> that Dublin case officers of the Immigration Office have not been explicitly authorised by law to take the decision to extend the time limits for a transfer when an applicant has absconded. This competence is with the State Secretary for Asylum and Migration and has not been delegated, thus the extensions of the time limits decided by the Immigration Office were declared invalid. The legislative process was underway to prepare a new law reflecting proactive return policies, and this law would also settle the Immigration Office’s competencies related to the decision to extend Dublin transfer time limits, in accordance with the Dublin III Regulation, Article 29(3). In the meantime, the State Secretary remained responsible for taking such decisions.

Almost the entire staff of the Dublin unit changed in Finland, but this did not have any impact on cooperation with the country. The new colleagues received extensive training throughout the year. In France, most staff in the Dublin unit were renewed and they received specialised training.

In Spain, temporary contracts to manage the Dublin procedure finished and were replaced by permanent staff. The Dublin unit in Greece moved to new premises at the beginning of the year. Some Dublin units continued to work in shifts due to the COVID-19 pandemic, for example, in Poland.



## 4.2.2. Factors impacting the Dublin system



Throughout 2021, national authorities faced some challenges and ambiguities in identifying potential Dublin cases and establishing the proof and grounds to determine the Member State responsible for the processing of an asylum application. For instance, the registration process in Cyprus had a direct impact on the identification of Dublin cases (see Section 4.1).

Applicants must complete the registration questionnaire on their own, and missing or incorrect information made it difficult to identify, for example, applicants who could benefit from the Dublin criteria related to family relations.

The Swiss civil society organisation, Asylex, observed that asylum procedures were conducted rapidly and did not allow the identification of potential vulnerabilities that could impact a Dublin transfer decision,<sup>433</sup> while the Swiss Refugee Council underlined that the narrow interpretation of the criteria related to family relations remained an issue in 2021.<sup>434</sup>

The Greek Network for Children's Rights reported that the impact of Brexit persisted, as criteria related to family reunification could no longer be applied with the United Kingdom and children had to fulfil more stringent rules to reunite with their relatives in the country. The organisation observed that many children preferred to abandon the administrative hurdles and left to try to make it to the United Kingdom on their own.<sup>435</sup> The organisation noted that other administrative burdens persisted in 2021 as well, for example the requirement by the Spanish Dublin Unit to submit DNA tests for cases related to family criteria affected certain nationalities. Applicants were required to undertake these tests at their own cost.<sup>436</sup>

National courts delivered guidance to authorities and sought further clarification from the CJEU on modalities. The Council of State in the Netherlands **confirmed** that the Dutch authorities were not required to investigate the reasons if another Member State took responsibility on grounds other than the one mentioned in the take charge request. It also submitted a **case** for a preliminary ruling to the CJEU in order to clarify whether a diplomatic card issued by a Member State under the Vienna Convention on Diplomatic Relations would count as a residence document under the Dublin III Regulation.

In Germany, the Federal Administrative Court **ruled** on the collection and storage of data in Eurodac. The case concerned a third-country national who applied for asylum under a false identity but later revealed his EU citizenship that he received during the procedure. The court pointed out that as an EU citizen his data cannot be collected and stored in Eurodac, and the Federal Office for Migration and Refugees (BAMF) has no authority to subsequently order his identification (for example, taking his fingerprints). This is because identification measures for EU citizens entitled to freedom of movement are only permissible in accordance with the Freedom of Movement Act/EU and in compliance with the prohibition of discrimination for EU citizens under the TFEU, Article 18.

The Court of the Hague referred questions for a **preliminary ruling** to the CJEU, inquiring whether the interests of an unborn child should be taken into account when deciding on the Member State responsible for the asylum application.

The CJEU delivered a **preliminary ruling** related to a regulation outside of CEAS<sup>437</sup> on whether complying with a transfer decision regarding a minor child following one parent's application for international protection on behalf of the child and without the other parent's consent may amount to international child abduction. The mother applied for international protection for herself and her child in Sweden, citing domestic violence by the father and threats of violence



made by the father's family in the event of a return to the country of origin. The Swedish authorities transferred the child and mother to Finland based on the Dublin III Regulation and took no further action on the father's submission for a residence application in Sweden for the child. The court found that this cannot be considered as wrongful removal or retention of the child within the meaning of Regulation (EU) No 2201/2003 and the Hague Convention and confirmed that a person has the obligation to comply with a transfer decision and the right to rely on its implementation (see *Sections 2.4 and 5*).

### 4.2.3. Information provision in the context of the Dublin procedure



The Italian Court of Cassation referred questions for a [preliminary ruling](#) to the CJEU on the impact of not respecting the modalities of information provision, as outlined in the Dublin III Regulation, Article 4 (see *Sections 2.4 and 4.9*). [Similar questions](#) were referred to the CJEU by the tribunal in Milano.

The EUAA underlined in its new “Practical Guide on Information Provision in the Dublin Procedure” that information provision is an integral part of the procedure itself.<sup>438</sup> FRA focused on the right to information when authorities take fingerprints for Eurodac and produced a multilingual leaflet available in all EU languages, as well as in Icelandic and Norwegian, to support officers and national authorities in the information provision process.<sup>439</sup>

### 4.2.4. Decisions on outgoing Dublin requests



Decisions on outgoing Dublin requests include decisions in response to take back requests (under Articles 18(1b-d) and 20(5) of the Dublin III Regulation) and take charge requests (under Articles 8-16 and 17(2)), while they exclude decisions taken under the sovereignty clause (Article 17(1)). Thus, the data on outgoing Dublin requests cover all persons included in a decision received by the reporting country in response to a request to have a partner country take responsibility for the asylum application. This does not mean that the transfer was necessarily carried out, but it does mean that the partner Member State replied to the request, whether it was accepted or rejected, within the time limit or there was an implicit acceptance due to the expiration of the time limit.

In 2021, 114,300 decisions were issued in response to outgoing Dublin requests,<sup>xiii</sup> according to provisional data which are regularly exchanged between the EUAA and 29 EU+ countries.<sup>xiv</sup> This represented an increase by one-fifth compared to 2020, yet the annual total remained below pre-pandemic levels. However, the upward trend in the number of decisions issued started in August 2021, and by the last quarter of 2021, decisions on Dublin requests returned to pre-COVID levels. The increase in decisions was in accordance with more asylum applications being lodged in EU+ countries around the same period.

Overall, the annual ratio of decisions received on Dublin requests to asylum applications lodged was 18%, on par with 2020. Although some decisions on Dublin requests concerned family reunion cases, the stable ratio of decisions to applications suggests that in 2021 a

<sup>xiii</sup> This includes both decisions on requests and on re-examination requests.

<sup>xiv</sup> EPS data are not available for Iceland and Liechtenstein. France generally provides data with a one-month delay so the data for 2021 cover the period December 2020 to November 2021.



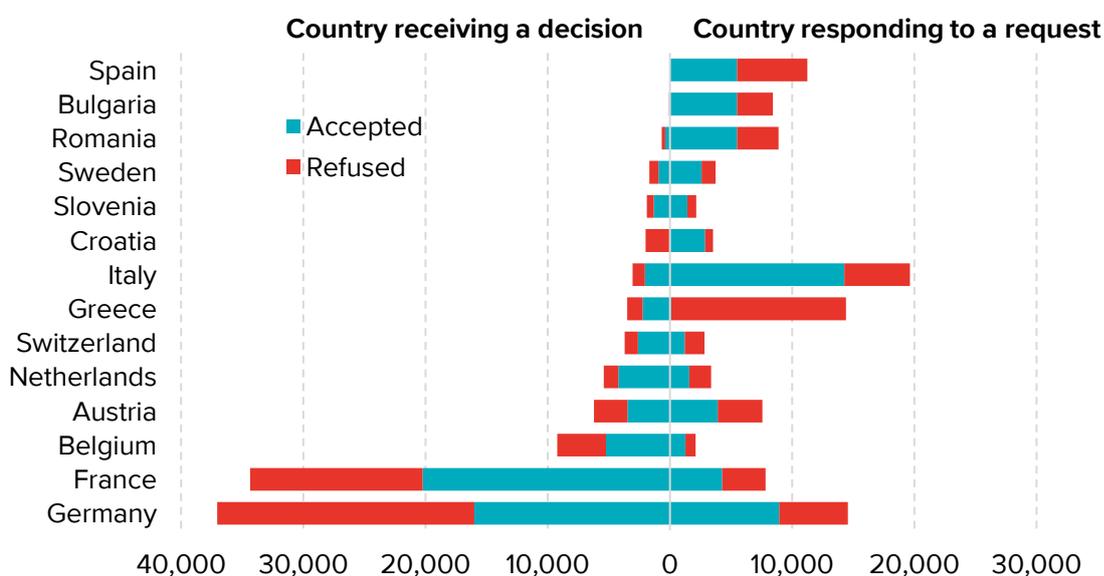
number of asylum seekers moved from the first country of arrival to another to lodge a new application (referred to as secondary movements), impacting asylum caseloads overall.

At the country level, Germany and France continued to receive the most decisions in response to their requests (see the left side of Figure 4.10), jointly accounting for over three-fifths of the EU+ total. Germany received almost one-third more responses than in 2020, whereas responses received by France increased by about one-sixth. Most countries received more responses in 2021, with the most notable relative increases in Romania, Slovakia, Croatia, Poland, Austria, Czechia, Belgium and Portugal (in descending order).<sup>xv</sup> In contrast, some countries received fewer responses, namely Greece, Spain, Sweden, the Netherlands, Malta and Norway (in descending order).



### Germany and France received the most decisions on Dublin requests, while Italy responded to the most requests

**Figure 4.10. Decisions on Dublin requests by selected countries receiving a decision (left) and responding to a request (right), 2021**



**Note:** The selection of countries includes the Top 10 countries receiving requests and the Top 10 countries responding to requests.

*Source:* EUAA EPS data.

As in previous years, Italy issued the most decisions overall on Dublin requests, followed by Germany and Greece (see the right side of Figure 4.10). While Italy issued more decisions than in 2020, the number was stable in Germany and rose by one-half in Greece, to the most decisions the country has issued in several years. Romania emerged as the fourth country, with over three times as many decisions as in 2020, followed by France. Austria issued nearly twice as many decisions on Dublin requests than in the previous year and Bulgaria, nearly four times as many. In contrast, fewer decisions were issued by Portugal, Sweden, Spain and Hungary (in descending order).

<sup>xv</sup> Only countries with at least 200 decisions received in 2021 were considered.



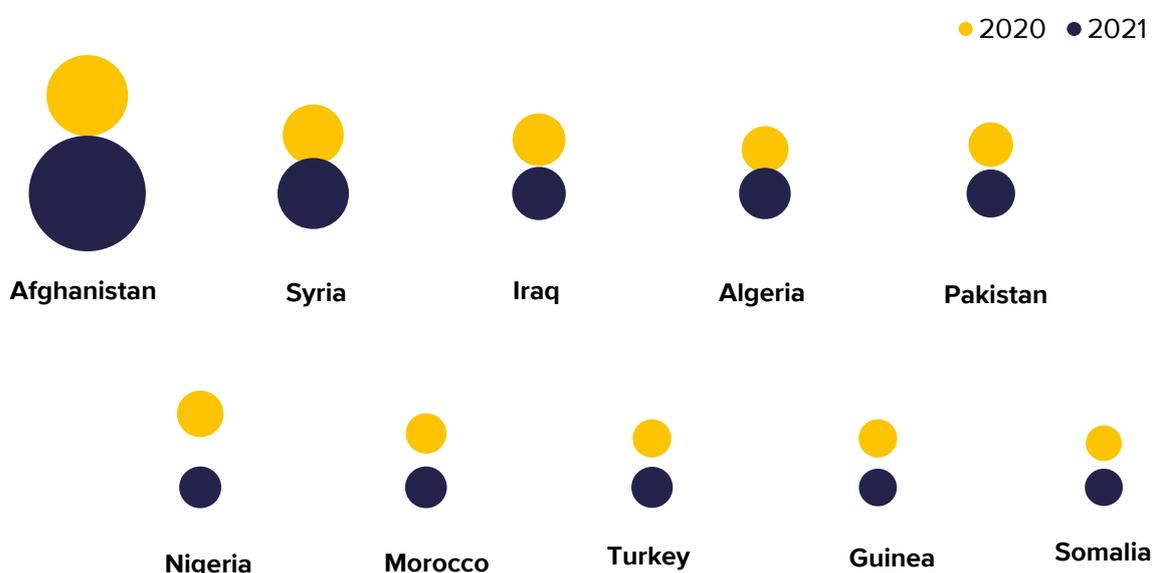
### 4.2.4.1. Citizenship of applicants in the Dublin procedure

Afghan citizens received more than double the number of decisions on Dublin requests compared to 2020 (see *Figure 4.11*), accounting for just under one-quarter of all decisions in 2021.<sup>xvi</sup> Decisions for nationals of Syria, Algeria and Pakistan also increased from 2020, albeit to a lesser extent. At lower levels, marked increases in decisions were recorded for Eritrean, Moldovan, Bangladeshi and Tunisian nationals. In contrast, decisions for Nigerians declined for the second consecutive year, reaching the lowest level since 2015.



**Dublin decisions increased for most top nationalities of origin, more than doubling for Afghans**

**Figure 4.11. Top 10 nationalities to receive decisions on Dublin requests, 2021 compared to 2020**



Source: EUAA EPS data.

### 4.2.4.2. Acceptance rate for Dublin requests



The acceptance rate for decisions in response to Dublin requests measures the proportion of decisions accepting responsibility (explicitly or implicitly) for an application out of all decisions issued. The acceptance rate in 2021 was 54% (2 percentage points lower than in 2020), showing a continued decline for the fourth successive year at the EU+ level.

At the country level, the acceptance rate remained stable or declined from the previous year in the majority of EU+ countries. However, the most notable increases in acceptance rates occurred in Croatia (+27 percentage points), Bulgaria (+16 p.p.) and Spain (+15 p.p.).<sup>xvii</sup> Acceptance rates varied from 80% or more in Lithuania, Latvia, Estonia, Croatia and Spain to less than 1% in Greece.

<sup>xvi</sup> Citizenship was not reported for 13% of decisions.

<sup>xvii</sup> Only countries responding to at least 300 requests in 2021 were considered.



### 4.2.4.3. Decisions on take back and take charge requests



The Dublin III Regulation distinguishes between two categories of requests: take back and take charge. A Member State may send a take back request (Articles 18(1b-d) and 20(5)) asking another Member State to take responsibility for an applicant who applied for international protection within the reporting country but had already applied in the first Member State or because the other Member State previously accepted responsibility through a take charge request.

Conversely, a Member State may send a take charge request (Articles 8-16 and 17(2)) asking another Member State to take responsibility for an applicant who has not applied for international protection in the requesting Member State but Dublin criteria indicate that the other Member State should be responsible. The criteria include family reunion (in particular for unaccompanied minors), documentation (visas, residence permits), entry or stay reasons (using information from Eurodac) and humanitarian reasons.

Of the cases with a reported legal basis,<sup>xviii</sup> over three-quarters of all decisions issued in EU+ countries in 2021 were on take back requests. This represents an increase from the previous 2 years, when decisions on take back requests accounted for just over two-thirds of the total. However, marked differences were noted at the country level. In particular, 97% and 64% of all decisions received by Greece and Malta, respectively, were in response to take charge requests.<sup>xix</sup>

The acceptance rate for take back requests in 2021 was 49% (5 percentage points lower than in 2020), whereas for take charge requests, the acceptance rate in 2021 was 60% (up by 9 percentage points). The increase in the acceptance rate for take charge requests was driven by more positive decisions issued by Italy and Spain and fewer negative decisions by Croatia, Greece, Spain and the United Kingdom.

The Swedish Migration Agency published a new legal position on take charge and take back procedures under the Dublin III Regulation, incorporating the CJEU jurisprudence from [Joined Cases C-582/17 and C-583/17](#).<sup>440</sup>

### 4.2.5. Use of the discretionary clause



Discretionary clauses are defined in Article 17 of the Dublin III Regulation. Article 17(1) is also referred to as the sovereignty clause, which allows a Member State to examine an application for international protection lodged by a third-country national or a stateless person, even if such an examination is not its responsibility under the criteria laid down in the regulation.

Article 17(1) was invoked about 3,900 times in 2021, declining for the third consecutive year to the lowest levels since 2015. It was applied most frequently by the Netherlands, followed at a distance by France, Germany, Switzerland and Belgium (in

<sup>xviii</sup> EUAA data do not contain information on the specific article of the Dublin III Regulation used as a basis for sending a request but distinguish between responses to take charge and take back requests. Data for France are not disaggregated by the type of request.

<sup>xix</sup> A large share of the decisions on take charge requests for Malta were issued in the context of ad hoc relocation schemes.





descending order). The discretionary clause was used mostly for Turkish and Syrian nationals in the Netherlands, for Afghans in Germany, as well as for Afghans and Turks in Switzerland.

In the context of the discretionary clause, a partner country is the country deemed responsible for examining an application for international protection according to the criteria set out in the Dublin III Regulation. It is the country to which a take back or take charge request could have been sent before invoking the clause. Greece continued to be identified as the main partner country to which a request could have been sent, mostly in relation to Turkish nationals and, to a lesser extent, Afghans and Syrians. Other commonly identified partners included Italy, Germany, Spain, Romania and Bulgaria (in descending order).

When France became the Member State responsible, whether by the expiry of the transfer time limit or by the application of the sovereignty clause, Forum réfugiés-Cosi reported difficulties faced by applicants in obtaining an appointment to have their application registered.<sup>441</sup>

Among court cases related to the use of the discretionary clause, the Norwegian Directorate of Immigration did not receive a clear reply from the Hungarian authorities whether Dublin returnees in possession of an expired or valid residence permit issued in Hungary would be able to submit an asylum application on the territory of Hungary based on the special conditions that have been applicable since May 2020 (see *Section 4.1*). Hence, it decided to examine the applications based on the Dublin III Regulation, Article 17(1).

The Swiss Federal Administrative Court delivered a [landmark decision](#) related to the meaning of family life in the context of the ECHR and the Dublin III Regulation. The court underlined that the ECHR, Article 8 provides safeguards for families, regardless of their residence or international protection status, but it does not guarantee an entitlement to residence in Switzerland. In this case, the applicant ignored an entry ban and re-entered Switzerland, married and had another child with her partner, who was provisionally admitted to Switzerland while Croatia was responsible for her application. The court noted that the couple acted in full conscience of their uncertain situation and that even though their separation for the duration of the asylum procedure in Croatia was difficult, family contact could be maintained with due consideration given to the well-being of their child. Hence, the court concluded that Switzerland had no obligation to examine the asylum application and referred the case back to the SEM for a proper assessment on applying the discretionary grounds of the Dublin III Regulation. The civil society platform, [humanrights.ch](#), underlined that civil society organisations have been urging the Swiss authorities to revert to the discretionary clause more often in similar situations.<sup>442</sup>

The Belgian CALL [noted](#) that an applicant living with someone does not constitute family life within the meaning of the ECHR, Article 8. Furthermore, the discretionary clause could not be applied by the Belgian authorities to take charge solely based on the claim that the applicant did not know anyone in France.





## 4.2.6. Assessing transfers to specific countries



Divergence across Member States in asylum and reception practices challenged courts to apply the principle of mutual trust in different contexts within the framework of the Dublin III Regulation.<sup>443</sup>

### **Bulgaria**



Tribunals in Italy [annulled](#) transfer decisions to Bulgaria after consulting several reports on gaps in the asylum and reception systems, particularly in relation to the identification of vulnerabilities, the provision of legal aid, reception and detention conditions, and the content of international protection. Similarly, the Rome Tribunal [referred](#) to the principle of caution when examining the guarantees in place for the fundamental rights of foreign nationals in Bulgaria.

ECRE noted that the Strasbourg Bar Association condemned the transfer of four Afghan nationals to Bulgaria in September 2021 as the country had not suspended returns to Afghanistan despite the Taliban takeover.<sup>444</sup>

Overall, transfers to Bulgaria more than doubled in 2021 compared to 2020, mainly on account of rising transfers from Germany and France.

### **Croatia**



When examining the situation of persons who had crossed the Croatian border irregularly and those who were returned to the country under the Dublin III Regulation, the Dutch Council of State [concluded](#) that there was no indication that Dublin transferees are pushed back from Croatia to third countries without the possibility to apply for international protection.

The Swiss Refugee Council continued with its Dublin project and published a selection of national jurisprudence on assessing transfers to Croatia, providing examples of both authorising and annulling transfer decisions. Noting the divergent jurisprudence, the organisation suggested to avoid transfers to Croatia due to information obtained on pushbacks and underlined the importance of obtaining individual guarantees when a transfer is implemented.<sup>445</sup> Indeed, throughout 2021, the Federal Administrative Court observed in some cases that the State Secretariat for Migration did not sufficiently investigate alleged police violence and the risk of pushbacks, and the court ordered a re-examination by the authority (see [here](#) and [here](#)).

However, the court observed several times that there were no systematic failures in the Croatian reception system that would require the annulment of a transfer decision (see [here](#) and [here](#)). Then in January 2022, the court annulled for the second time a transfer decision to Croatia, noting that the State Secretariat for Migration should have not relied on old reports to conclude the absence of systematic flaws in the asylum and reception systems, a decision which was welcomed by several Swiss civil society organisations.<sup>446</sup>

Related specifically to the availability of medical care, the Swiss Federal Administrative Court [noted](#) that there were no indications to suggest that Croatia would not provide necessary medical treatment to asylum applicants, but the court also observed that, while support for



applicants with special needs might be prescribed by law, sources suggested that it is not generally available. In this case, the court found that the State Secretariat for Migration did not have sufficiently detailed medical reports to adequately analyse the possibility to transfer the applicants back to Croatia.

In another case, the court **confirmed** the transfer decision of an applicant with an anxiety disorder, noting that the country had sufficient medical infrastructure. In addition to state support, NGOs were also offering assistance with mental health issues.

### Cyprus



The Dutch Council of State **found** that there were no serious structural shortcomings in reception conditions and accessing legal aid in Cyprus to conclude that the transfer of a single male applicant would be contrary to the ECHR, Article 3 and the EU Charter of Fundamental Rights, Article 4 (see *Section 4.10*). However at the end of 2021, in another case, the Court of the Hague **ordered** the annulment of a transfer decision and the re-examination of the case within 6 weeks, as it found that reception conditions were insufficient in Cyprus due to the large influx of applicants throughout September and October 2021.

### Denmark

 The Dutch Council of State confirmed the transfer decisions of Syrian nationals to Denmark for an **applicant** whose international protection was revoked due to committing a criminal offence, and for another one whose status was revoked as Damascus was **considered** to be a place where the applicant could safely return.

The court underlined that the Dutch authorities could rely on the principle of mutual trust, as the Danish authorities were applying the new policy on Damascus on a case-by-case assessment, applicants could use legal remedies in case of disagreement and can have access to legal aid in that process.

### Germany

 The Dutch Council of State **assessed** the availability of legal aid and the risk of indirect *refoulement* in Germany for a single male applicant from Afghanistan and dismissed the appeal against the transfer, noting that in both aspects German legislation fulfils the requirements of the recast Asylum Procedures Directive (see *Section 4.10*).

### Greece

 Courts have delivered several judgments in past years related to the assessment of Dublin transfers to Greece in individual cases,<sup>447</sup> after the publication of the European Commission's recommendation on the resumption of transfers to Greece.<sup>448</sup> In 2021, courts delivered less judgments related to Dublin transfers, but the number of cases increased in relation to recognised beneficiaries of international protection in Greece moving to other Member States outside of the scope of the Dublin III Regulation (see *Section 4.3*). Nonetheless, civil society organisations continued to assess the situation of Dublin transfers to Greece.

Refugee Support Aegean reported that Dublin returnees to Greece did not have access to the asylum procedure and accommodation. It also warned about the risk of *refoulement* to Turkey, which was declared to be safe for certain nationalities of applicants.<sup>449</sup>



Referring to this report, ECRE sounded the alarm on insufficient reception conditions (see *Section 4.8*) and the risks of chain *refoulement* for Dublin returnees based on new legislation related to the safe third country concept (see *Section 4.3*).<sup>450</sup>

## Italy

 The jurisprudence on transfers to Italy remained varied, although the majority of case law examples from 2021 confirmed that transfers are still being organised to the country. In fact, transfers to Italy increased in 2021 by + 17% compared to 2020. This was mainly due to more transfers from Greece, France, Portugal and Switzerland. In contrast, transfers from Germany and Austria dropped significantly (- 44% and - 18%, respectively).

The ECtHR [dismissed](#) the complaints of an applicant with two minor daughters as manifestly unfounded, noting the significant changes in the organisation of and access to reception in Italy in 2020<sup>451</sup> and the Italian government's confirmation that they would be given priority within the reception system as a single mother with minor children. The court concluded that the applicant did not prove that her prospects in Italy amounted to a sufficiently real and imminent risk that would fall within the scope of the ECHR, Article 3. The court came to the same [conclusion](#) on the transfer of a Libyan family with five children.

The Dutch courts followed this reasoning, for example in the [case](#) of a Nigerian family with minor children, in a [case](#) of a single parent with a minor child, and in a [case](#) where the applicant might find himself without accommodation for a few days in Italy but this was not seen as a plausible reason to prevent the transfer in the light of the ECtHR decision.

The [Portuguese Administrative Court](#), the Administrative Tribunal in Luxembourg (for example, in the [case](#) of a Syrian applicant and in the [case](#) of an applicant from Chad) and the [Swiss Federal Administrative Court](#) all came to the conclusion in several cases that there was no evidence of systematic flaws in the asylum and reception systems in Italy following legislative changes. Swiss civil society sources assessed that the Federal Administrative Court's decision focused on the legal framework and did not take into account the realities of reception conditions in Italy.<sup>452</sup>

The Higher Administrative Court of Baden-Württemberg [decided](#) in favour of transfers to Italy in cases related to young, healthy and fit-for-work persons.

Nonetheless, in other cases courts annulled transfer decisions to Italy. The Higher Administrative Court of North Rhine Westphalia in Germany [decided](#) against an applicant's transfer to Italy since the person had lost the right to accommodation after leaving the allocated accommodation in Italy without permission or a prior justified notification. In addition, the applicant would not have access to social benefits. Similarly, the Belgian CALL [annulled](#) an applicant's transfer decision to Italy, as he had been suffering from serious psychological and psychiatric issues and based on objective medical reports it could not be excluded that he would be at risk of treatment contrary to the ECHR, Article 3.

The Swiss Refugee Council published an update of its assessment of reception conditions in Italy but still advised against any transfers of asylum applicants, noting that their situation was assessed to be precarious.<sup>453</sup>





## Malta



Transfers to Malta increased in 2021 (72 compared to 53 transfers in 2020), but more than one-half were executed under the family unity provisions of the Dublin III Regulation.

The approach of Dutch courts on assessing transfers to Malta developed throughout the year. Although reception and detention conditions have reportedly been very difficult in Malta for several years, the Council of State [found](#) at the beginning of 2021 that the applicant did not demonstrate that he would not be eligible for reception, that the daily allowance would not provide for his subsistence and that Dublin returnees are automatically detained.

In another [interim decision](#), the Council of State noted that it was not in a position to decide on the transfer as the evidence presented reception and detention conditions in Malta up to 31 December 2019 and not in their current state. The court assessed that the EUAA would be in the best position to provide up-to-date and objective information on these aspects. In a later interim decision, the court [suspended](#) the execution of the applicant's transfer to Malta and requested more information from the national authority and clarity on the treatment that the applicant would face upon return.

The deliberations on another transfer decision to Malta prompted the Court of The Hague to send [questions for a preliminary ruling](#) to the CJEU to interpret the principle of mutual trust within the Dublin III Regulation: where lies and what is the burden of proof when it is alleged that the transfer would infringe the applicant's fundamental rights and under what conditions is the transferring country obliged to request individual guarantees?

Based on newly-emerging information from international organisations and civil society publications, the Council of State [held](#) in a case at the end of 2021 that there may still be structural and organisational issues in detention and reception in Malta and requested the Dutch asylum authority to conduct further investigation.

## Romania



The Dutch Council of State confirmed transfer decisions to Romania even though the applicant may not receive reception for 5 days while the admissibility of a subsequent application was being assessed (see [here](#) and [here](#)). The court noted that the situation was not equivalent to the high threshold of seriousness established by the [Jawo](#) judgment. The Supreme Administrative Court in Czechia considered reception conditions in Romania in another [case](#) concerning the detention of a person for the purpose of a Dublin transfer, and underlined that it was not made aware of any evidence suggesting shortcomings in the Romanian asylum and reception systems.

In contrast, a regional administrative court in Germany [found](#) that the high threshold of seriousness was likely to be reached for an applicant who could only submit a subsequent application once returned to Romania, as it determined that subsequent applicants did not have access to material reception conditions. Despite improvements to the reception system, an Italian tribunal also [considered](#) that the transfer of an Afghan applicant and her son should be annulled. In fact, Italy did not carry out any transfers to Romania in 2021 despite an increase in accepted requests (up to 140).

While the jurisprudence varied, transfers to Romania increased more than five-fold compared to 2020, particularly from Germany, Austria and Slovakia.





## Spain



The Dutch Council of State **found** no structural shortcomings in the Spanish reception system for Dublin returnees that would reach the high threshold of breaching the ECHR, Articles 3 and 4. While the reception conditions could be improved, the court noted the measures that the Spanish authorities had undertaken, especially the instructions issued in 2019 by the Spanish Ministry of Labour, Migration and Social Security to ensure that applicants transferred back to Spain were entitled to material reception conditions.<sup>454</sup>

The data for 2021 show that transfers to Spain increased by approximately one-fifth compared to 2020, mainly due to more transfers from France, Germany and Switzerland.

### 4.2.7. Deliberations on remedies under the Dublin III Regulation



Among legislative and policy changes across EU+ countries, a modification to the Asylum Law came into force in Luxembourg in July 2021. An appeal against a Dublin transfer decision means an automatic suspension of the transfer until the administrative court takes a final decision within 1 month.

Several aspects of remedies under the Dublin III Regulation still required interpretation and guidance from courts. For example, the French Council of State **held** that the extension of the transfer deadline is one way to implement the initial decision on a transfer and does not imply a new decision. Thus, it cannot be regarded as a separate decision subject to an appeal.

The CJEU delivered a **preliminary ruling** related to the right to an effective remedy against a decision to transfer an applicant to another Member State (see *Section 2.4*). The ruling was much commented on by various stakeholders with diverse perspectives on the case.<sup>455</sup>

Nonetheless, many new questions were referred to the CJEU for further clarification. For example, the Court of the Hague referred questions for a **preliminary ruling** to clarify whether an applicant, who was an unaccompanied minor at the moment of lodging the application, had the right to an effective remedy against the decision of a Member State which refused a take charge request.

A German Regional Administrative Court **referred** a similar question for a preliminary ruling in the context of a referral covering 12 questions related to four thematic areas. However, the respective administrative court decided on 18 February 2022 to withdraw the request in accordance with the Rules of Procedure of the CJEU, Article 100(1), due to the fact that the applicants withdrew their application. The case involved a Syrian family, where the father received subsidiary protection in Germany, while the mother and their three children entered the EU later through Greece. Their application was first considered inadmissible, but then the Greek authorities accepted their subsequent application and requested Germany to take charge of the application. The German authorities rejected the request, noting that a decision had already been made on the family's application.

The Rome Tribunal also made a reference for a **preliminary ruling** to clarify whether the right to an effective remedy also provides protection against the risk of indirect *refoulement* following a transfer to a Member State which does not have systematic flaws within the meaning of the Dublin III Regulation, Article 3(2). At the core of the dilemma was the fact that Italian authorities assess the concept of internal protection differently than the responsible



Member State where the applicant's first asylum claim was lodged and refused. The court of Firenze [sought clarification](#) from the CJEU on similar questions. Adding to the discussion, Forum réfugiés–Cosi pointed out this occurrence especially for the Dublin transfer of Afghan applicants to EU+ countries that did not suspend returns to Afghanistan.<sup>456</sup>

Finally, the labour court of Liège in Belgium [asked](#) the CJEU whether national legislation is in line with EU law when an application for an ordinary suspension of a transfer (under regular time limits) and an application for the annulment of the transfer decision do not suspend the implementation of the transfer. However, the court dismissed the case as manifestly inadmissible.

#### 4.2.8. Clarifications on time limits to implement a transfer



National courts were faced with various debates throughout 2021 related to the calculation of transfer time limits. The French Council of State assessed the implications of refusing to undergo a COVID-19 test prior to a Dublin transfer in several cases. In one of the [cases](#), it confirmed that the refusal could be seen as absconding and the transfer time limit could be extended as the applicant was well informed of the potential consequences of the refusal. However, in another [case](#), the council found that the applicant was not informed about these consequences in a language he could understand, thus he could not be considered to have intentionally absconded.

The German Federal Administrative Court decided in five cases<sup>457</sup> that not complying with a request to appear in person for a compulsory transfer to another Member State does not justify the extension of the transfer deadline to 18 months. The applicants could not be considered to have absconded when the authorities knew their location and had the possibility to implement the transfer, even if with direct force.

The Rome Tribunal [annulled](#) the transfer of an applicant because the notification of the transfer decision was given after the 6-month time limit.

As with remedies, several aspects of counting time limits remained unclear and gave rise to questions to the CJEU. For example, the Dutch Council of State referred questions for a [preliminary ruling](#) on the application of the so-called 'chain rule', a practical solution to determine the responsible Member State in cases where an applicant applied for international protection in more than two Member States. This rule is not set out in the Dublin III Regulation, but several Member States apply it in practice. The questions sought clarification on the term 'requesting Member State' and the modalities for counting the transfer time limit in these cases.

The Austrian Supreme Administrative Court referred questions for a [preliminary ruling](#) on whether placement in a hospital psychiatric unit would count as 'imprisonment' under the Dublin III Regulation, and consequently, how this would impact the extension of a transfer time limit.

The Dutch Council of State referred a [case](#) to the CJEU for a preliminary ruling on 1 September 2021 to clarify whether the fact that the appeal authority granted a remedy with a suspensive effect had an impact on the transfer time limit. This was not the first time that the Council of State reached out with this question to the court: a request for a preliminary ruling on the same issue was already submitted in May 2021 based on [three other cases](#), thus the Council asked the CJEU to consider the question in conjunction with both requests.



The German Federal Administrative Court referred similar questions for a preliminary ruling (see [here](#) and [here](#)), inquiring whether the *ex officio* suspension of the implementation of a transfer decision due to the COVID-19 pandemic is covered by the Dublin III Regulation's provisions on the *ex officio* suspension of a transfer pending the outcome of an appeal and would the time limit be suspended as well.



#### 4.2.9. Implementing Dublin transfers

Issues around the implementation of Dublin transfers persisted throughout 2021. Member States found that complying with COVID-19 testing requirements was particularly difficult. For example, the Dutch State Secretary for Justice and Security underlined that the requirement for a COVID-19 test prior to a transfer created a significant challenge in implementing Dublin transfers and returns (see *Section 4.15*). Between 1 January and 16 October 2021, overall 1,050 flights were cancelled due to a refusal to take the COVID-19 test.<sup>458</sup>

Indeed, as a result of the emergency measures implemented by EU+ countries, Dublin transfers have dropped to very low levels for 2 consecutive years: overall, about 13,500 transfers were implemented in 2021, which was similar to 2020, yet around one-half of the number in 2019.<sup>xx</sup>

In 2020 monthly variations in transfers were highly impacted by the pandemic, but in 2021 these fluctuations were more moderate (see *Figure 4.12*). Dips occurred in January, August and December 2021, in line with previous years and most likely due to the holiday season. The low number of transfers in 2021, combined with a slight increase in accepted requests, resulted in a lower ratio of implemented transfers to accepted requests: 1:5, representing a decrease from 1:4 in 2020 and 1:3 in 2019.<sup>xxi</sup>

Switzerland<sup>459</sup> and Denmark<sup>460</sup> adopted new legislation obliging applicants to undergo COVID-19 testing, if necessary, for a Dublin transfer or a return to the country of origin. The Dutch government announced its plans to create the legal basis for enforced COVID-19 testing in the beginning of 2022.<sup>461</sup>

The Netherlands and Belgium concluded an agreement to replace PCR tests by a quarantine before departure, subject to the possibility of re-assessment as the pandemic situation evolves. The Belgian State Secretary for Asylum and Migration extended the transfer period from 6 to 18 months for applicants in the Dublin procedure who refused to undergo PCR testing.<sup>462</sup>

The French National Assembly's investigative committee underlined in its report that the low number of implemented transfers shows in itself the need to move towards a new system of solidarity.<sup>463</sup> ECRE's assessment of the implementation of the Dublin III Regulation in 2020, which was published in the autumn 2021,<sup>464</sup> and the Christian Group's analysis of the proposed Asylum and Migration Management Regulation come to similar conclusions.<sup>465</sup>

<sup>xx</sup> Data were missing for Denmark and partially missing for Romania (January and September 2021).

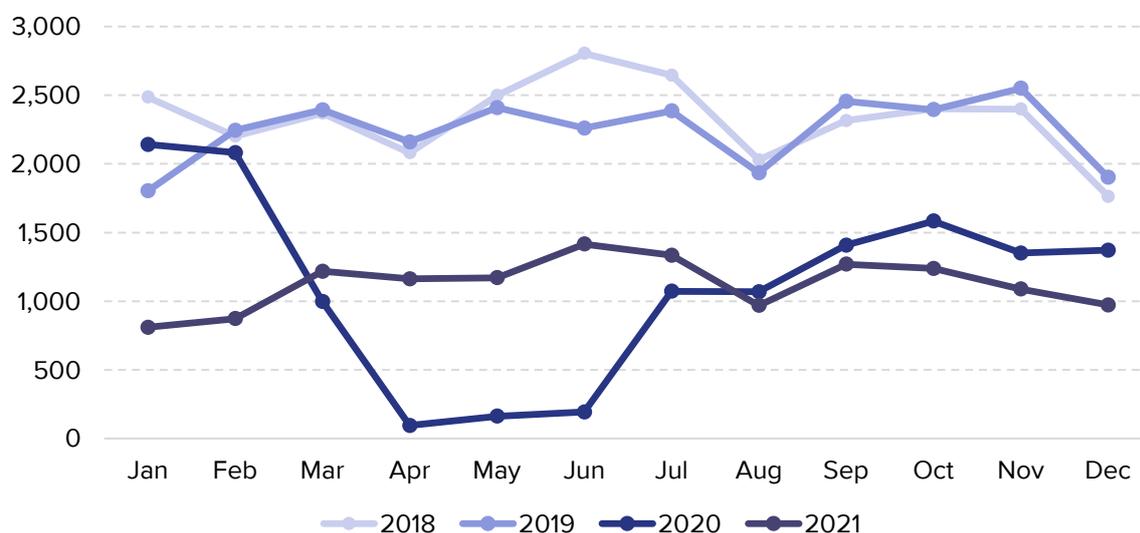
<sup>xxi</sup> The ratio of transfers following accepted requests should be used with caution to assess a Member State's capability to successfully implement transfers due to the lack of cohort data and given that there might be a substantial time lapse between an accepted transfer request and a physical transfer. This time lapse distorts the calculation of the rates if the number of acceptances is not stable over time.





## The number of implemented transfers were well below pre-pandemic levels throughout the year

**Figure 4.12. Number of Dublin transfers implemented in EU+ countries by month, January 2018-December 2021**



Source: EUAA EPS data.

Another frequent barrier was the lack of available flights which would depart and arrive within working hours. In Greece, this challenge was multiplied by not having an active contract with a travel agency for a certain period of time.<sup>466</sup>

The Benelux countries have concluded administrative arrangements on the practical implementation of the Dublin III Regulation. Among other things, the time limits for submitting and replying to requests to take charge and take back will be shorter than the (maximum) deadlines laid down in the regulation.<sup>467</sup>

France, Greece and Germany implemented almost two-thirds of all transfers in 2021. Among the countries implementing the most transfers, the Netherlands executed one-third less than in 2020 and the number declined in Germany as well. A slight increase in transfers was recorded in Greece (see Figure 13, left side), mostly due to the transfer of Turks and Bangladeshis. More transfers were also implemented by Switzerland (mostly of Algerians and Afghans), Austria, Czechia and Slovakia (mainly Afghans), and by Portugal (largely Gambians and Guineans).

As noted in the *EASO Asylum Report 2021*, some Member States – such as Belgium and the Netherlands – restricted material reception conditions for applicants in the Dublin procedure.<sup>468</sup> Related to these developments, the CJEU ruled in cases [C-92/21](#) and [C-134/21](#) that the Dublin III Regulation, Article 27 on remedies does not preclude a Member State – in this case, Belgium – to assign a specific reception facility for applicants who will be transferred to another Member State, where applicants receive support to prepare for the transfer (see Section 4.7).

In Estonia, the Supreme Court deliberated in two cases on the grounds for detention prior to a Dublin transfer (see [here](#) and [here](#) and Section 4.8).



The preparations to implement a transfer were an element in a case that was sent for a [preliminary ruling](#) by the Dutch Court of the Hague. It sought clarification on provisions of the directive on the issuance of residence permits for victims of trafficking in human beings in conjunction with the Dublin III Regulation.<sup>469</sup> The directive grants victims a reflection period, allowing them to recover and escape the influence of perpetrators in order to take an informed decision on cooperating with competent authorities. The Dutch court questioned whether it was allowed to take a Dublin transfer decision during this reflection period, and whether any preparations for a transfer or the transfer itself could be implemented during this time (see Sections 2.4 and 5).

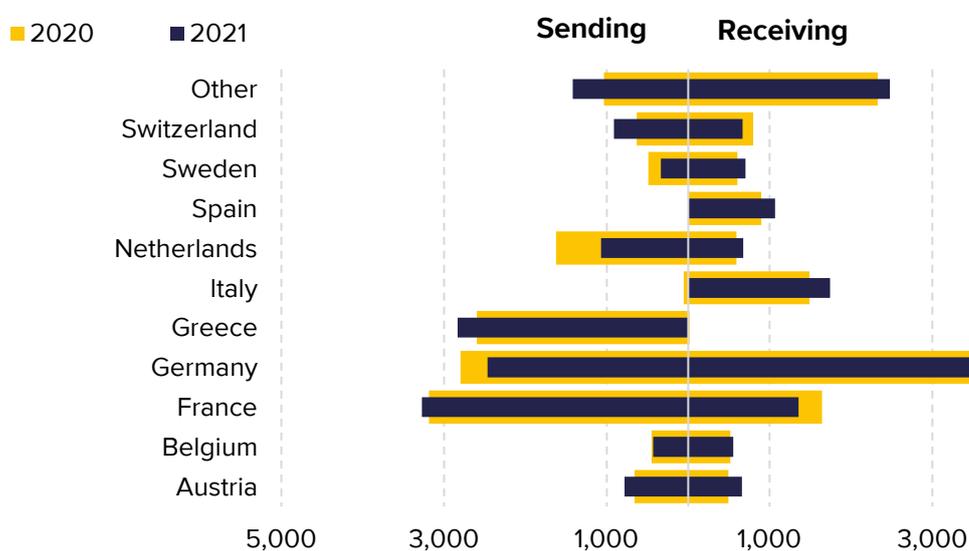
The largest declines in receiving transfers were seen in Germany and France in absolute terms (see Figure 4.13 right side). They were offset by increases in Romania, Italy, Spain, Austria and Sweden (in descending order), mainly driven by transfers of Algerians, Afghans and Syrians.<sup>xxii</sup> Romania received the most transfers in several years.

In 2021, most transferees were Afghans, accounting for over one-fifth (21%) of the total. They were followed at some distance by Algerians (8%), Syrians (7%), Nigerians, Iraqis and Guineans (5% each). The transfer of Afghan nationals increased by one-quarter from 2020, even exceeding the pre-pandemic levels of 2019. Greece transferred roughly the same number of Afghan citizens as in 2020, which was almost double the number in 2019.



### Fewer transfers were implemented by the Netherlands and Germany

**Figure 4.13. Number of Dublin transfers implemented by sending (left) and receiving country (right) for selected countries, 2021 compared to 2020**



Source: EUAA EPS data.

<sup>xxii</sup> Only countries where the surplus of transfers in 2021 compared to 2020 exceeded 100 are considered.



Over 1,000 Algerians were transferred in 2021, which was in line with pre-pandemic values in 2019. The transfer of Syrians, Moroccans and Guineans (in descending order) also increased, but remained below 2019 levels. In contrast, after dropping in 2020, the transfer of Iraqis and Nigerians declined further in 2021.

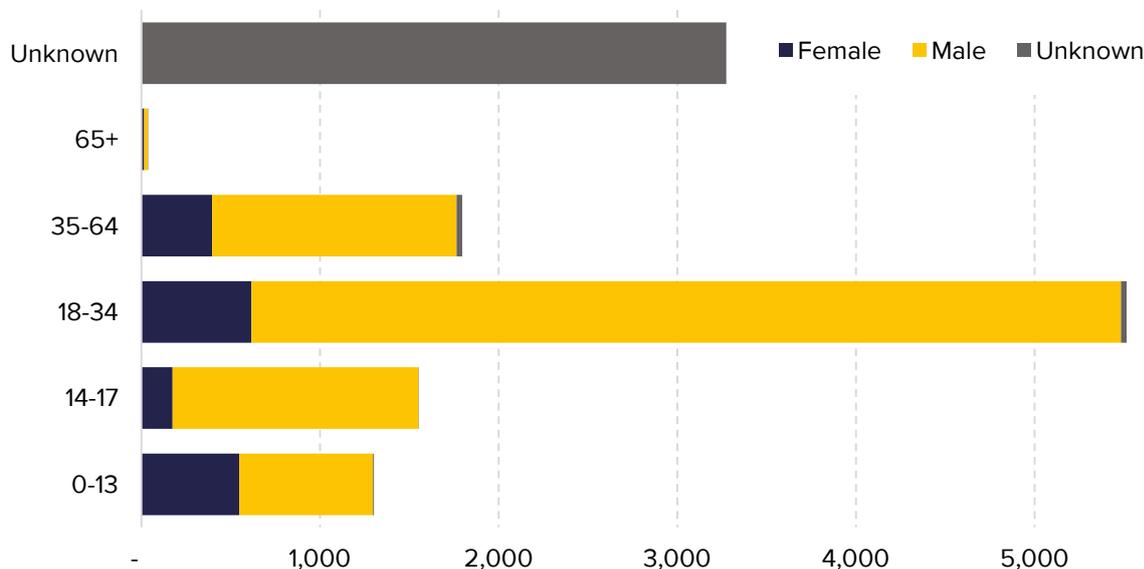
Most asylum applicants who were transferred through a Dublin procedure in 2021 were adult males (see *Figure 4.14*), but children under 18 years represented at least 21% of all transferees.<sup>xxiii</sup> Both the absolute number and the share of minors who were transferred were similar to 2020 levels. However, the age breakdown of the transferred minors shifted from the previous year: in 2020 younger minors (under 14 years of age) greatly exceeded the older age group (14 to 17 years), but the situation was reversed in 2021. In fact, a significantly larger number of 14- to 17-year-olds (mainly Afghans and Syrians) were transferred in 2021, generally from Greece. A considerable number of the transfer of minors from Greece was in the context of the relocation scheme for unaccompanied minors (under Article 17(2)).<sup>xxiv</sup> In total, Greece executed almost three-quarters of all transfers involving minors.

The transfer of female minors dropped by approximately 28% in 2021, with minor girls representing only one-quarter of all minors and about one-tenth of the minors in the 14-17 age bracket.



### Most transferees were adult males

**Figure 4.14. Transferees in the Dublin procedure by age group and sex, 2021**



Source: EUAA EPS data.

<sup>xxiii</sup> The share includes transferees for whom EU+ countries had not reported the age, which accounted for 24% of the cases.

<sup>xxiv</sup> According to information provided by Greek contact points, 615 unaccompanied minors were transferred in the context of ad hoc relocation schemes, while an additional 1,035 unaccompanied minors were transferred under family unity (Article 8) and humanitarian provisions (Articles 17(2)).



As in 2020, most minors who were transferred in 2021 were Afghans, followed at a distance by Syrians, Bangladeshis, Pakistanis, Iraqis, Somalis and Turks. All main nationalities which were transferred under the Dublin procedure had an increase in the number of minors being transferred, except for Iraqis for whom the transfer of minors almost halved. The main receiving countries for children were Germany, France and the United Kingdom.

#### 4.2.10. Reception of applicants in the Dublin procedure



The CJEU [held](#) that applicants in the Dublin procedure should have access to the labour market under the same conditions as any other applicant under the recast Reception Conditions Directive (see [Section 2.4](#)). Malta changed its policy which now allows applicants in the Dublin procedure to access the labour market 9 months after the lodging of an application, while other applicants become entitled to work as soon as they receive confirmation of their asylum application. The Malta Refugee Council published a statement, endorsed by 28 civil society organisations, expressing their concern with this policy and noting that it may further marginalise their situation, for example, having a negative impact on their mental health.<sup>470</sup>

In Belgium, the State Secretary for Asylum and Migration announced that children, applicants with vulnerabilities and first-time applicants have priority to receive reception over applicants who have already sought asylum in another EU Member State.<sup>471</sup>

Following a [judgment](#) from the Supreme Court in 2018, the Slovenian International Protection Act was amended to include that applicants awaiting a transfer to another country under the Dublin III Regulation have the same reception rights as other applicants until their transfer.



## Section 4.3. Special procedures to assess protection needs



*Countries may opt to use special procedures to assess an asylum application in an accelerated manner out of the regular procedure. This can be done, for example, when there are special protection needs or when an application is likely to be unfounded. Also, when an applicant presents a subsequent application without new evidence, the application may be dismissed as inadmissible without an examination on the merits, on the basis of the res judicata principle. In these special procedures, the duration of the procedure is shortened without undercutting procedural safeguards or a complete examination.*

*In the EU context, in addition to regular examination procedures, the recast Asylum Procedures Directive sets the framework to examine applications for international protection at first instance under special conditions involving accelerated procedures when:*

- *an application is presumably unfounded;*
- *applications are made at border or transit zones; or*
- *when the admissibility of the application is in question.*

*In addition to special procedures, countries may also introduce policies to process specific categories of cases with priority and ahead of other pending cases (see Section 4.4.9).*

### 4.3.1 Border procedures



Many applications for international protection are made at the border of a country or in a transit zone before an applicant gains entry into the territory. In well-defined circumstances under the recast Asylum Procedures Directive, a Member State can handle the application directly in such a location, either to assess its admissibility or to fully determine the case on the merits of the application.

In 2021, several countries introduced new practices, legislative provisions or proposed amendments to further simplify the procedure, adapt the time limits or digitalise the processing of these cases.

In the Netherlands, legal provisions came into force in June 2021 to replace the initial interview with an application interview during a border procedure. The change was introduced to avoid duplication in the asylum procedure, as the applicant was asked questions about identity, nationality and travel route in both interviews. With this change, an applicant in a border procedure is asked information about the identity, nationality and travel route and the reasons for applying for asylum.<sup>472</sup>

Slovenia adopted the Act amending the International Protection Act and introduced Article 43, which allows the competent authority to decide on the admissibility of an application at the border or in a transit area if a person expresses an intent to apply for international protection. The new provision also amends the time limit for a decision in the



border procedure from 2 weeks to 3 weeks. In addition, vulnerable persons with special needs related to physical or mental health are prioritised in the border procedure, while they are provided with adequate assistance.<sup>473</sup>

In Greece, the implementation of Article 90(3) and (5) of Law No 4636/2019 on the exceptional border procedure that applies to third-country nationals in Reception and Identification Centres in Lesbos, Chios, Samos, Leros and Kos was extended until 31 December 2021 by Joint Ministerial Decision No 15996 (Gov. Gaz. B' 5948/31.12.2020).<sup>474</sup>

In Lithuania, amendments introduced in December 2021 to the Law on the Legal Status of Aliens state that, at the end of the 6-month border procedure, all third-country nationals are provided with a certificate confirming their status. However, the right to accommodation and freedom of movement of each migrant would be decided on an individual basis, with the latter depending on the risk of absconding or the existence of a national threat. Furthermore, the right to work would be acquired 12 months after the date of registration in the Lithuanian Migration Information System (MIGRIS).<sup>475</sup> Before the adoption, UNHCR published legal observations on the proposed amendments, raising concern about detention safeguards in border procedures.<sup>476</sup>

In October 2021, the Finnish government submitted a legislative proposal to the parliament, the 'Smart Border' package, which includes amendments to the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS). The amendments will bring new technological means of processing at the border and concern specifically the Aliens Act and other relevant legislative provisions (the Act on the Processing of Personal Data by the Border Guard, the Border Guard Act, the Act on the Processing of Personal Data by the Police, the Act on the Processing of Personal Data by Customs, the Act on the Enforcement of Fines, and the Act on the Use of Air Carriers' Passenger Name Record Data in the Prevention of Terrorist Offences and Serious Crime).<sup>477</sup>

National courts also assessed legislative provisions and changes to the border procedure, as well as the detention of asylum applicants at the border, to determine whether they are in line with fundamental rights of asylum applicants.

In Belgium, the Constitutional Court **confirmed** that the amended Belgian legislation, namely the Act of 21 November 2017 which amended the Residence Act and the Reception Act, Articles 57/6/4 and 74/5 on detention at the border was in line with the Belgian Constitution. An applicant can be detained at the border for the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) to initiate an admissibility procedure. The detained applicant may lodge an appeal before the council chamber of the territorial criminal court, thus being guaranteed the right to access a court. The decision on admissibility of the application for international protection must be taken within 4 weeks. The starting point is the date on which the application was submitted.

In the Netherlands, the Council of State **ruled** that the State Secretary must treat an asylum application lodged at the border with sufficient diligence and must examine if detention is as short as possible. In one particular case, the council held that the State Secretary did not show if it had investigated other alternatives to detention to continue the processing of an asylum application despite the imposed quarantine measure. Following this judgment, the State Secretary examined the possibilities that are available to ensure that the processing of asylum cases was not delayed by COVID-19 quarantine measures in the detention centre.



In April 2021, the Spanish Ombudsperson published suggestions to the Ministry of the Interior after visiting the room for asylum applicants at Madrid-Barajas Adolfo Suárez Airport (T1). The Ombudsperson welcomed the reforms that had been done and noted further changes to meet the basic needs of applicants, such as access to luggage, natural light and health services.<sup>478</sup>

Civil society organisations undertook research projects to explore new ways to facilitate access to protection at the border with flexibility and sustainability. Of relevance for the influx of displaced persons from Ukraine, the Migration Policy Institute and Migration Policy Institute Europe examined case studies in the project “Beyond Territorial Asylum: Making Protection Work in a Bordered World” to identify lessons learned in border protection. In 2021, the project looked at effective practices in registration, screening, quick access to a temporary stay or status, and addressing immediate humanitarian needs in border zones.<sup>479</sup>

### 4.3.2 Safe country of origin and safe third country concept



Within EU law and as defined in the recast Qualification Directive, a safe country of origin is considered to be a place where the law is applied democratically, and political circumstances do not generally and consistently lead to persecution, torture, inhuman or degrading treatment or punishment, or threat by reason of indiscriminate violence in situations of international or internal armed conflict. The assessment of a country as a safe country of

origin considers aspects such as:

- relevant laws and regulations of the country and the manner in which they are applied;
- observance of human rights, in particular non-derogable ones;
- respect for the *non-refoulement* principle; and
- provision for a system of effective remedies against violations of rights and freedoms.

When a third country is regarded as a safe country of origin, it is usually included in a national list and presumed to be safe for applicants originating from that country, unless evidence to the contrary is provided. The procedure to designate a country as safe is guided by the recast Asylum Procedures Directive.

According to the recast Asylum Procedures Directive, Article 38, the safe third country concept means that Member States may send applicants to third countries with which the applicant has a connection, where it would be possible to request and receive international protection and when other conditions are fulfilled. In particular, the applicant must not be at risk of persecution, *refoulement* or ill treatment in violation of the ECHR, Article 3 in the third country.

In addition, the recast Asylum Procedures Directive, Article 39 defines the concept of a European safe third country. A third country may only be considered safe if it has an asylum procedure in place prescribed by law and has ratified and observes the provisions of the Geneva Convention without any geographical limitation and the ECHR, particularly on effective remedies.

Member States need to lay down in law the implementing modalities and consequences of the application of this concept. In such cases, the authorities may not be obliged to examine or fully examine an applicant’s request for international protection and their safety if the



applicant tries to enter or has entered the territory of the Member State illegally from a country considered to be a European safe third country.

### Safe country of origin concept



Several changes to the list of safe countries of origin were made by EU+ countries in 2021 and national courts also assessed the application of this concept in several cases.

Austria added the United Kingdom on its list of safe countries of origin as of 1 January 2021.<sup>480</sup> Greece classified Bangladesh and Pakistan as safe countries of origin under Joint Ministerial Decision No 778.<sup>481</sup> In May 2021, Cyprus updated the list of safe countries of origin by ministerial decision adding Armenia, Benin, Kenya, Kosovo, Moldova, Mongolia and Togo.<sup>482</sup>

Malta introduced a new provision in December 2021 in its Procedural Regulation that only the International Protection Agency (IPA) can designate a safe country of origin and it must be included in the Schedule to the Act.<sup>483</sup>

The Netherlands reassessed the situation in several countries of origin. After reviewing political developments in Tunisia in the summer of 2021, it was decided to still apply the safe country of origin designation. However, specific attention should be provided to persons who criticise the Tunisian president or government, including journalists, activists and political opponents.<sup>484</sup> India was suspended from the safe country of origin list since September 2020, but the authorities deemed that India was now a safe country of origin. However, exceptions are made for the following territories and categories of applicants: the union territory Jammu and Kashmir; religious minorities, including Christians and Muslims; Dalit women and girls; and journalists. In addition, specific attention is given to human rights activists, scholars and protesters who are critical of the government and government policies.<sup>485</sup> Algeria was removed from the list.<sup>486</sup>

The Netherlands also reviewed the designation of Bosnia and Herzegovina, Brazil, Georgia, Ghana, Jamaica, Kosovo, Mongolia, Morocco, Senegal and Serbia as safe countries of origin and retained them on the list.<sup>487</sup> For Ghana, special attention is, however, afforded to LGBTIQ persons, journalists and others facing discrimination. Also, an exception is provided to LGBTIQ applicants from Senegal, and special attention is given to persons facing criminal prosecution and discrimination. In addition, Albania, Montenegro and North Macedonia remained on the list of safe countries of origin for the Netherlands with no exceptions. The State Secretary also announced that 12 countries will be removed from the list because there was no substantial interest or relevance to keep them on the list: Andorra, Australia, Canada, Iceland, Japan, Lichtenstein, Monaco, New Zealand, Norway, San Marino, Vatican and Switzerland.<sup>488</sup> Lastly, the assessment done for Ukraine in July 2021, when the country was considered a safe country of origin, changed in 2022 due to the armed conflict with Russia.<sup>489</sup>

A similar action was taken in Iceland, where the Directorate of Immigration removed Ukraine from the list of safe countries published on its website on 24 February 2022.<sup>490</sup>

A new Royal Decree in Belgium confirmed the same eight countries on the list of safe countries of origin: Albania, Bosnia and Herzegovina, Georgia, India, Kosovo, Montenegro, North Macedonia and Serbia.<sup>491</sup> The decree was adopted in January 2022 and came into force at the end of February 2022.



By **decision** of the Council of State in France, three countries were removed from the list of safe countries of origin set by the Office for the Protection of Refugees and Stateless Persons' (OFPRA) board of administration: Benin (which had already been suspended from the list by the board in 2020), Ghana and Senegal. As a result, cases concerning applicants from these three countries are no longer considered in the accelerated procedure because of this criterion, and appeal cases are heard in collegial panels of the National Court of Asylum (CNDA, Cour nationale du droit d'asile), instead of single-judge panels.

Further judicial assessments of specific countries of origin were made in Luxembourg, where the Administrative Tribunal **ruled** on Serbia as a safe country of origin for an applicant claiming persecution from a drug trafficking gang and in the Netherlands, where the Council of State **ruled** on the need to reassess the designation of Mongolia as a safe country of origin for an LGBTIQ applicant. In this case, the Council of State noted that the State Secretary must consult the sources of information as specified in the revised recast Asylum Procedures Directive, Article 37(3) and that the reassessment can be done on the basis of several criteria, namely democratic governance, protection of the right to freedom and security, freedom of expression, freedom of religion and association, protection against discrimination and prosecution by third parties, access to independent investigations, and access to effective legal remedies.

In Sweden, legislative changes to the Aliens Act were introduced and came into force on 1 May 2021.<sup>492</sup> According to Chapter 8, Section 19, the Migration Agency may reject an application as manifestly unfounded when the applicant comes from a country included on a list of safe countries of origin. The decision then becomes immediately enforceable with no automatic suspensive effect or right to remain pending the outcome of an appeal procedure.<sup>493</sup> The Swedish Migration Agency is responsible for adopting the list of safe countries of origin. This list entered into force on 25 May 2021 and Albania, Bosnia and Herzegovina, Chile, Georgia, Kosovo, Mongolia, Northern Macedonia and Serbia were included.<sup>494</sup>

To determine whether the principle of legal certainty was respected in individual cases, the Swedish Refugee Law Centre, in cooperation with UNHCR, analysed negative decisions with an immediate enforcement pronounced by the Swedish Migration Board in the first 3 months from the setting up of the rules on safe countries of origin. The centre examined 37 cases which applied to 63 people: 39 men and 24 women, including 12 families and 22 children. The recommendations included the appointment of public lawyers, the provision of a real opportunity for applicants to refute the presumption that the country is safe for them, clearer guidelines for cases concerning vulnerable people, and an adequate assessment of the best interests of a child.<sup>495</sup>

### Safe third country concept



National high courts assessed the application of the safe third country concept in several EU+ countries. For example, in February 2021, the Belgian Constitutional Court **clarified** that the concept may be applied to unaccompanied minors as applicants when the principle of the best interests of the child is respected (see *Section 5*).

In Croatia, the Constitutional Court **clarified** the nature and content of the duty of national authorities to determine a safe third country, in light of the principles established by ECtHR jurisprudence. The Constitutional Court held that, prior to sending back applicants to Serbia, an individual assessment must be carried out in order to establish whether the



applicant would have access to the asylum procedure with adequate safeguards and protection against *refoulement*. The court concluded that Croatia failed to fulfil its obligations under the ECHR, Article 3.

In the Netherlands, the Council of State [clarified](#) in a judgment of 20 January 2021 that the right to family life must be taken into consideration when assessing the possibility of applying the concept of a safe third country.

Turkey was designated a safe third country on 7 June 2021 by Joint Ministerial Decision No 42799/2021 for applicants from Afghanistan, Bangladesh, Pakistan, Somalia and Syria.<sup>496</sup> A judicial review application was lodged against this decision before the Council of State on 7 October 2021 by the Greek Council for Refugees (GCR) and Refugee Support Aegean.<sup>497</sup> NGOs argued that the condition of an essential connection between the asylum applicant and Turkey, as well as the consent of the third country to receive the returnee, were not met. Furthermore, they noted that the decision applied even to applicants from countries with high recognition rates for international protection, such as Afghanistan, Somalia and Syria.<sup>498</sup> They also highlighted that a significant number of potential beneficiaries of international protection were left in a state of legal insecurity as Turkey does not accept readmissions from Greece and the EU-Turkey Statement has not been in force since March 2020.<sup>499</sup> In addition, in March 2021 Turkey withdrew from the Istanbul Convention.<sup>500</sup> The Greek Council of State [held](#) in 2017 that Turkey could be considered a safe third country for Syrians.

UNHCR published its Recommendations on the Safe Third Country Declaration by Greece in August 2021, urging the authorities to clarify the methodology and analysis used in the safe third country declaration, as required under Greek and EU law, and its monitoring role in protecting safeguards in law and in practice. UNHCR also urged Greece to reconsider the extensive use of admissibility procedures in favour of substantive, fair and fast asylum procedures.<sup>501</sup> The implementation of the safe third country concept in Greece in relation to readmissions to Turkey was also raised in the European Parliament as a priority question.<sup>502</sup> In December 2021, Albania and North Macedonia were also added to the list of safe third countries.<sup>503</sup>

In Switzerland, civil society organisations expressed concern about the implementation of the safe third country concept in the absence of an adequate assessment on the human rights situation in the countries and in the absence of clarification about the possible risks to which a person returning there would be exposed. They also noted that the standard of judicial review in Switzerland was inadequate from a human rights perspective.<sup>504</sup>

### 4.3.3 Accelerated procedures



According to the recast Asylum Procedures Directive, when an application for international protection is likely to be unfounded or where there are specific grounds, such as the applicant is from a safe country of origin or presented false information, Member States may accelerate the examination of the application. This can be done by introducing shorter, but reasonable, time limits for certain procedural steps without compromising the right to a fair process or the applicant's access to basic rights and guarantees. In the circumstances when a procedure can be accelerated – which are the same circumstances to examine an application at the border or in transit zones (see *Section 4.3.1*), the directive allows Member States to consider an application as manifestly unfounded.





In 2021, countries introduced amendments to the use of the accelerated procedure, extending its coverage to certain categories of applicants or changing the time limits, while national courts reviewed some of these changes. The quality of decisions pronounced in accelerated procedures was also examined.

Lithuania introduced amendments to the Law on the Legal Status of Aliens in December 2021, including changes for the accelerated procedure.<sup>505</sup> An appeal against a decision in an accelerated procedure may be lodged with the regional administrative court within 7 days of notification, and a second appeal may be lodged with the Supreme Administrative Court within 14 days from publication of the appeal decision. ECRE expressed concerns about the extension of the accelerated examination to applications from asylum seekers entering from Belarus, including vulnerable applicants.<sup>506</sup> Furthermore, UNHCR published legal observations before the adoption of the amendments, raising concerns about the safeguards applicable to the accelerated procedure.<sup>507</sup>

In the Netherlands, the legal provisions that came into force in June 2021 provided that the Track 2 simplified procedure, equivalent to the accelerated procedure, was extended to other categories of applicants besides applicants from safe countries of origin.<sup>508</sup> The Work Instruction 2021/14, implemented as of 25 June 2021, excludes unaccompanied minors from this procedure, which was considered a good practice by ECRE.<sup>509</sup>

In Slovenia, the time limit to lodge an appeal before the Administrative Court against a decision issued in the accelerated procedure was reduced from 8 days to 3 days through the adoption of the “Act amending the International Protection Act”.<sup>510</sup> The suspensive effect of the appeal is automatic, and the court must take a decision within 7 days, although according to civil society organisations, in practice the court procedures were usually longer.<sup>511</sup> The proposal also reintroduced the possibility of appealing to the Supreme Court, which was abolished in 2016.<sup>512</sup>

The Belgian Constitutional Court [reviewed](#) several legislative provisions in February 2021 and clarified that the accelerated procedure can be applied to unaccompanied minors only when the applicant comes from a safe country of origin, has made an inadmissible subsequent application or poses a threat to national security or public order.

External evaluators of the working group Egger, Dreher und Partner AG and Ecoplan AG, on behalf of the SEM in Switzerland, analysed the quality of asylum decisions in the accelerated procedure following the revision of the Asylum Act in March 2019. They concluded that the accelerated procedure took an average of 55 days and that generally the quality of asylum decisions was satisfactory. The study also looked at the rate of decisions appealed and concluded that approximately 96% of all negative, appealable asylum decisions became legally binding, either because they were not appealed or because they had been upheld by the Federal Administrative Court.<sup>513</sup> UNHCR commented on this evaluation and noted the limited number of decisions included in the study and that the study does not offer a complete picture of the functioning of the new system.<sup>514</sup>





### 4.3.4 Admissibility procedures

Admissibility procedures are conducted when a Member State does not have to examine whether an applicant qualifies for international protection because of specific circumstances, for example:



- Another Member State is responsible for the application under the Dublin III Regulation;
- Another Member State has already granted protection;
- Another country is considered to be the first country of asylum or a safe third country for the applicant;
- The application is a subsequent one with no new elements; or
- A dependent lodges an application after consenting to be a part of another application.

In these special cases, a Member State conducts the admissibility procedure to verify if the application may still be admitted for examination.

After the CJEU pronouncement of the judgment of [Milkiyas Addis](#) on 16 July 2020, the German Federal Administrative Court reopened the case on which the referral to CJEU was based. The CJEU held that failure to hear the applicant would lead to the annulment of the decision unless the applicant is provided with a personal hearing during an appeal, in compliance with the requirements of the recast Asylum Procedures Directive, Article 15. The German court [clarified](#) in March 2021 that, when the applicant was not given the opportunity to be heard in a personal interview, the inadmissibility decision is to be set aside. Furthermore, it is at the discretion of the court whether to hold a personal interview or annul the decision and refer the case back to the asylum authority. If the court decides to conduct the personal interview, it must ensure compliance with confidentiality and expressly state in the transcript of the hearing that the interview took place.

Also in Germany, regional administrative courts raised the question whether an application can be deemed inadmissible as a subsequent application after unsuccessful initial proceedings in Denmark. The Administrative Court of Freiburg [held](#) that an application cannot be deemed inadmissible as a subsequent application, since Denmark is bound neither by the recast Qualification Directive nor by the recast Asylum Procedures Directive. Deviating from this, the Administrative Court of Magdeburg has ruled that such applications can be deemed inadmissible, as there is a constitutional asylum and legal protection system in Denmark and it is not the responsibility of the German authorities and courts to check the correctness of Danish decisions.<sup>515</sup> The Regional Administrative Court of Schleswig-Holstein has presented the question to the CJEU ([C-497/21](#)), which may clarify the matter.

In Austria, the Constitutional Court delivered a [key judgment](#) related to applications submitted by EU citizens and to Protocol No 24 on Asylum for Nationals of Member States of the European Union.

The Swedish Migration Agency published a legal position on the conditions under which an asylum application may be rejected in accordance with Chapter 5, Section 1b of the Aliens Act without an examination of the merits and substance. This may apply when the person is granted international protection in a Member State, a non-Member State is considered to be the first country of asylum or a non-Member State is considered to be a safe third country for the applicant. The legal position also provided guidance on the situation when the Swedish Migration Agency may decide that a decision on deportation may be enforced even if it has not become final (rejection with immediate enforcement).<sup>516</sup>





#### Box 4.1. Beneficiaries resubmitting an asylum application in another EU+ country

Beneficiaries of international protection can travel to and reside in another Member State under specific conditions. The recast Qualifications Directive, Article 25 underlines that refugees are entitled to travel documents as foreseen in the Geneva Convention and beneficiaries of subsidiary protection receive a travel document when they are unable to obtain a national passport. These documents allow beneficiaries to travel to another EU+ country for a maximum of 90 days. Beneficiaries can also apply for a long-term stay, as any other third-country national, for example to work or study. In addition, after 5 years, they may be entitled to EU long-term residence which gives beneficiaries the right to reside in another Member State if they meet the requirements under the Long-term Residents Directive (see Section 4.14.2.3). Movements into another Member State outside of this legal framework are considered to be unauthorised for beneficiaries.

Over recent years, some EU+ countries – for example Belgium, Germany, Finland, the Netherlands, Norway, Sweden and Switzerland – have seen an increase in unauthorised movements of people who have been granted international protection in another EU+ country. This includes persons who have been granted international protection in an EU+ country, obtained travel documents legally, and then travelled to another EU+ country to apply for asylum again, adding to the case loads of national asylum systems.<sup>517</sup>

One of the objectives of the European Commission's Pact on Migration and Asylum is to address this occurrence, for example, through allowing transfers of recognised beneficiaries under the proposed Asylum and Migration Management Regulation or through better tracking of this type of secondary movements under the amended proposal revising the Eurodac Regulation (see Section 2.1.2). Pending the adoption of these proposals, EU+ countries have taken different approaches, often by prioritising additional applications and rejecting them swiftly (see Section 4.4), through modified, stricter reception conditions for applicants (see Section 4.7) or introducing travel bans (see Section 4.14.2.3).

The lack of comprehensive data makes it difficult to fully understand the scope of this trend. Data collection under the Dublin III Regulation does not include beneficiaries who move to another Member State (see Section 4.2). National data do not fully capture the magnitude either: while authorities often reject these applications, there may not be a separate procedure on admissibility or data on inadmissibility may not be disaggregated due to the reason of the decision. While the number of inadmissible decisions at the country level may give an indication about this occurrence, they cannot serve as a reliable indicator. More contextual information is also needed, for example on the number of beneficiaries who have received a travel document or the number of beneficiaries who obtained a residence permit to move to another Member State legally before qualifying for EU long-term residence. An advanced method for registration would also be useful to distinguish between applications lodged by people holding an international protection status in another country and other applicants.

Growing jurisprudence from recent years suggests that this occurrence is becoming more significant. This can be seen in the number of cases registered in the [EUAA Case Law Database](#), where many cases relate to Syrians who have been granted international protection for example in Bulgaria, Greece, Hungary or Italy. They move to another EU+ country where they re-apply for asylum, citing difficulties in accessing housing, health care or employment in the country which granted them protection. (See the report [Jurisprudence on Secondary Movements by Beneficiaries of International Protection](#))

In these cases, courts have frequently confirmed the inadmissibility decision taken by national authorities. At other times, courts have sent the cases back because the lower court or national authority failed to thoroughly examine the individual circumstances if a return to the first EU+ country would result in a risk of treatment contrary to the ECHR, Article 3, in line with the CJEU's decisions in 2019 in [Ibrahim and others](#) and [Hamed and Omar](#). In exceptional but a growing number of cases, national authorities granted international protection after a re-examination of the facts based on these standards.<sup>518</sup>



### 4.3.5 Subsequent applications



A former applicant may lodge a new asylum application when their situation has changed or new circumstances have arisen. Lodging a new application has however sometimes been used by applicants to prevent or delay a return decision. When an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige a Member State to carry out a new, full examination.

In these cases, a Member State has the possibility to dismiss an application as inadmissible in accordance with the *res judicata* principle (that the matter has been decided on its merits and cannot be litigated again between the same parties). When an application is not examined in accordance with the Dublin III Regulation, a Member State is not required to examine whether the applicant qualifies for international protection as the application is already considered to be inadmissible after a preliminary examination pursuant to the recast Asylum Procedures Directive.

In February 2021, the Belgian Constitutional Court [annulled](#) amendments of the Act of 21 November 2017, which amended the Residence Act and the Reception Act. The court held that applicants who submit subsequent applications in the year following the rejection of the first application, without delaying or preventing the execution of a removal measure, are denied a suspensive remedy. The court stated that applicants may rely on new elements or facts in the first year in a subsequent application, and those applicants can bring an action for a suspension in cases of extreme urgency.

The court also clarified that the CGRS cannot declare a subsequent application inadmissible on the sole ground that the person did not submit the elements justifying the submission of the next application during the previous procedure. The court noted that the CGRS has the obligation to rule on the risk of *refoulement* and, thus, check whether these new elements significantly increase the chances of the applicant being granted international protection.

To standardise and optimise the assessment process, a detailed template was developed for subsequent applications in Malta. It was finalised in December 2020 but introduced in practice and further optimised in 2021.

In the Netherlands, the policy on subsequent applications was changed following the CJEU judgment of [LH](#). The State Secretary for Justice and Security noted that this judgment did not lead to many subsequent applications in the Netherlands.<sup>519</sup> Furthermore, in July 2021, the Court of the Hague [annulled](#) a contested decision on an inadmissible subsequent application following the adoption of the CJEU judgment of [LH](#).

In Sweden, the Migration Agency published three legal positions on subsequent applications (RS/028/2021, RS/045/2021 and RS/024/2021).<sup>520</sup>

Courts also offered interpretive guidelines through judicial review. In Finland, the Supreme Administrative Court examined the competence of the Finnish Immigration Service to [rule](#) on multiple subsequent applications and [clarified](#) the criteria to assess a subsequent application after exhausting legal remedies for the first application.



The German Administrative Court of Schleswig-Holstein referred a case to the CJEU asking for a preliminary ruling on aspects concerning inadmissibility and subsequent applications when the unsuccessful procedure was conducted in Denmark, not bound by the request Qualification Directive and the recast Asylum Procedure Directive. The case is registered under [C-497/21](#).

#### 4.3.5.1. Data on repeated applications



Subsequent applications is a legal term based on the recast Asylum Procedures Directive, Articles 2(q) and 40. Data on these occurrences refer to repeated applications based on the Eurostat definition which refer to a person who lodged another application for international protection in a given Member State after a final decision was taken on a previous application. The data include:

- Subsequent applicants;
- New applicants who are considered repeated applicants if they lodged a new application after the discontinuation of a previous application; and
- Applicants with a reopened application.<sup>xxv</sup>

In 2021, about 89,000 or 14% of all applications were repeated applications lodged in the same EU+ country, which is the most since 2008.<sup>xxvi</sup> This represents an increase by more than one-half from 2020, when there were 57,000 repeated applications.

In total, 77% of repeated applications were lodged by men. Most repeats were made by the 18- to 34-year-old age group. One-quarter of repeated applications were lodged by applicants older than 35 years, and children accounted for 18% of repeated applications.

Most repeated applications were lodged in just two EU+ countries, which means they were more geographically concentrated than first-time asylum applications (see *Figure 4.15*). Close to one-half of all repeated applications were lodged in Germany alone (48%) and another one-fifth was received in France (19%). Apart from Italy (7%), Greece and Belgium (6% each) as well as Spain (4%), all other EU+ countries received 2% or less each of total repeated applications in 2021. While the number of repeated applications was substantially higher for several of these countries than in 2020, it notably doubled for Germany and Greece.

For a range of EU+ countries, around one in five applications was a repeat, including Belgium, Czechia, Germany, Greece and Poland. For some others, around one in ten applications was a repeat – this included France, Italy, the Netherlands and Switzerland. As in previous years, Finland stood out with almost one-half of all applications being repeated. In all remaining EU+ countries, repeated applications were relatively rare.

In 2021, two distinct patterns became prominent for the main nationalities lodging repeated applications (see *Figure 4.15*). The first group consisted of nationalities that also lodged many first-time applications, notably Syrians and Afghans, followed at a distance by Nigerians,

<sup>xxv</sup> Repeated applicants should be reported under ‘applications and pending applications’ data but not under ‘first-time applicants’ data.

[https://ec.europa.eu/eurostat/cache/metadata/en/migr\\_asyapp\\_esms.htm](https://ec.europa.eu/eurostat/cache/metadata/en/migr_asyapp_esms.htm)

<sup>xxvi</sup> At the time of writing, data on repeated applications were still missing for Cyprus, Denmark and Sweden.



Pakistanis and Iraqis. The share of repeats ranged from 11% to 15%, climbing up to 30% for Nigerians.

This pattern was seen particularly in Germany. Following a [ruling](#) of the CJEU in November 2020 on the refusal of military service in the Syrian army as possible grounds for well-founded fear of persecution,<sup>521</sup> Syrians lodged an exceptionally high number of repeated applications in Germany in 2021 (about 15,000 applications). Most higher administrative courts confirmed the BAMF practice to grant subsidiary protection status in such cases. Several appeal proceedings on points of law were pending at the German Federal Administrative Court against judgments of the Higher Administrative Court of Berlin-Brandenburg, granting refugee status in these cases based on the CJEU judgment, as an indication for the need for further legal clarification following the CJEU decision.<sup>522</sup> The question if a CJEU judgment in a preliminary ruling proceeding which interprets EU law has to be regarded as a new element for a subsequent application is currently [pending](#) for legal clarification in an appeal on points of law at the Federal Administrative Court and was recently [referred](#) to the CJEU for a preliminary ruling by the Administrative Court of Sigmaringen.

Likewise, mainly around the time of the Taliban takeover of Afghanistan, Afghans lodged 58% of their repeated applications in Germany (about 8,400 applications).

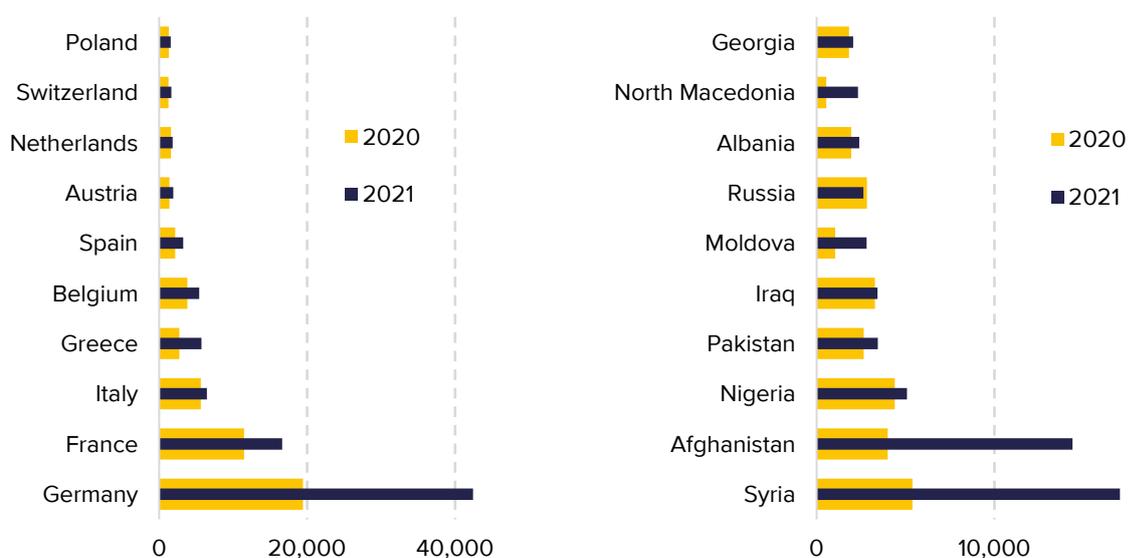
As in 2020, more than one-half of all repeated applications by Nigerians were concentrated in Italy, and Iraqis were the largest group applying repeatedly in Finland.

The second group represented countries of origin in the vicinity of the EU, including Moldova, Russia, Albania, North Macedonia, Georgia, Serbia and Bosnia and Herzegovina (in descending order). The share of repeats in this group was generally higher, ranging between 21% and 43%, except for Georgians (14%).



### Syrians, Afghans and Nigerians lodged the most repeated applications

**Figure 4.15. Receiving countries (left) and countries of origin (right) with the most repeated applications, 2021 compared to 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2021.





## Section 4.4. Processing asylum applications at first instance



*CEAS is based on the principle of common standards to grant and withdraw international protection across EU+ countries in an effort to ensure fair and efficient procedures. Fairness and common standards in asylum procedures ensure that similar asylum cases are treated in a similar manner in all Member States, leading to uniform decision-making and convergence across the EU, while ensuring that an individualised assessment is provided in each case.*

*The procedures foreseen in the recast Asylum Procedures Directive aim to ensure that decisions on applications for international protection are taken on the basis of facts and by persons with appropriate knowledge and training, after an adequate and complete examination has been undertaken without undue delay and subject to remedies. Within this framework, Member States have established their asylum systems and procedures in various ways.*

In the second year of the COVID-19 pandemic and related health measures, EU+ countries continued to organise remote interviews with applicants for international protection, delaying the initial interview for applicants who showed symptoms of COVID-19 infection. In general, remote procedures were no longer exceptional but rather the new normal. Developments in EU+ countries included long-term policy developments, efforts to improve the quality of first instance decisions, concerns over data protection and privacy considerations, and new guidelines for certain profiles of applicants from specific countries of origin in which the situation was continuously evolving in 2021.

The EUAA published a practical guide on the welfare of asylum and reception staff to build resilience in managers and staff faced with risk factors related to daily work in asylum. The guide includes standards and policies for developing staff welfare strategies,<sup>523</sup> a staff welfare toolbox with good practices from EU+ countries, and monitoring and evaluation mechanisms to assess the impact of the measures.

### 4.4.1. Reorganisation of first instance asylum authorities



Several countries started to reorganise their asylum and reception services or completed restructuring their first instance authorities with the aim of clarifying the tasks and division of competences between their offices and various other ministries.

Cyprus is in the process of reorganising the Asylum Service, including the asylum administration and the Ministry.

In Iceland, a new decree was adopted in November 2021 which mandated the Ministry of Social Affairs to provide reception to applicants and integration services to beneficiaries of international protection, whereas the Directorate of Immigration (operating under the Ministry of Justice) will continue to be responsible for the examination of asylum applications.<sup>524</sup>

In Spain, the Secretary of State for Migration and the International Protection and Humanitarian Assistance Programmes were reorganised under the same General Directorate, and a new General Sub-Directorate was created for Migratory Analysis.<sup>525</sup> Furthermore, in





October 2021, the Executive Commission of the Interministerial Commission of Retributions reorganised tasks in different departments within the Spanish Office of Asylum (Ministry of Home Affairs). As a result, a new Sub-Directorate of International Protection (Subdirección Adjunta de Protección Internacional) and three new heads of department (Jefaturas de Área) were established. The new sub-directorate has been assigned the assessment of international protection cases and statelessness, while the other has taken on horizontal topics, such as legislation, registry, archives, appeals, etc.

#### 4.4.2. Legislative and policy developments



Legislative proposals were initiated and new legislation came into force in 2021 to better align national laws with CEAS provisions, anticipate new technological developments or improve the efficiency of asylum procedures during emergencies. In addition, long-term policies and national strategies were published in 2021. Civil society organisations provided feedback and comments throughout these processes, strongly criticising policies aiming to externalise the asylum procedure to third countries.

Externalisation was a topic of concern following legislative changes in Denmark, which spurred debate on the topic. In June 2021, the Danish parliament adopted a proposal for a bill amending the Aliens Act and the Return Act. It introduced the possibility to transfer applicants to a third country where their asylum applications would be processed. The Danish proposal states that a transfer model will be implemented in compliance with international law and Denmark's legal obligations. Denmark has emphasised that the proposal does not abolish the right to seek asylum in Denmark.<sup>526</sup> The EU Commissioner for Home Affairs, Ylva Johansson, argued that externalisation is “not possible under existing EU rules or proposals under the Pact on Migration and Asylum”.<sup>527</sup> NGOs and academia also criticised the bill for disregarding European solidarity, access to the asylum procedure and effective international protection.<sup>528</sup>

Some countries undertook general reforms of their asylum systems. Croatia drafted amendments to the Act on International and Temporary Protection, with the aim of aligning national legislation with the recast Asylum Procedures Directive.

In Finland, the reform of the Aliens Act is planned to be included as an objective in the next Government Programme. The Ministry of the Interior is conducting a preliminary study on the need for amendments to the Aliens Act by identifying any necessary changes arising from case law and practical developments, including from technological advances such as the introduction of digital services and biometric identifiers.<sup>529</sup>

In November 2021, the Finnish Ministry of the Interior launched a new project, bringing together the expertise of various stakeholders in the asylum system, to develop uniform, long-term objectives and more comprehensive immigration and asylum policies. The project is scheduled to last for 2 years, and it will examine the needs of people and organisations in the field of immigration and asylum.<sup>530</sup>

In France, the revised articles of CESEDA entered into force in May 2021. The text was recodified and reorganised to clarify it and make it more accessible, without changing its substance. It also consolidates the applicable law by integrating, for the first time, references to various European regulations (Schengen Borders Code, Community Code on Visas and Regulation on the European Travel Information and Authorization System). CESEDA now includes the law applicable in the Pacific communities and the French Southern and Antarctic Lands.





In addition, Law 2021-1109 of 24 August 2021 introduced the possibility of refusing or withdrawing refugee status from third-country nationals with a final conviction of a crime or an offence constituting an act of terrorism or 'glorification' of an act of terrorism (CESEDA, Article L. 511-7, 2).

In Germany, the results of the Horizon 2020 research project, RESPOND, were published in March 2021 in the report "Refugee Protection in Germany." The project examined the character of asylum regulations in Germany from 2011 to 2018, their implementation, and the perspectives and experiences of refugees. The analysis concluded that, after the refugee crisis of 2015-2016 when around 800,000 refugees were registered in Germany and when a 'welcome culture' reigned in the society, the government passed numerous legislative packages, sometimes of symbolic importance, aiming to accelerate the asylum procedure and potentially risking to curtail procedural rights.<sup>531</sup>

In Lithuania, the government adopted amendments to the Law on the Legal Status of Aliens in December 2021 to improve the procedures for examining asylum applications during emergencies, clarify the rights of applicants and regulate the government's cooperation with NGOs.<sup>532</sup> ECRE assessed the changes to the legislation and their impact, pointing to a lack of compliance with EU and international laws. Its report highlights the limited places where an asylum application may be lodged and the creation of conditions for the collective expulsion of asylum seekers.<sup>533</sup> Before the adoption, UNHCR published legal observations on the proposed amendments, raising concern about the limitation of the rights of asylum applicants.<sup>534</sup>

New legal provisions to make the asylum procedure more flexible came into force in the Netherlands. The registration phase was changed by eliminating the initial interview and combining it with the application interview, in which the applicant is asked for a brief statement on the reasons for seeking asylum.<sup>535</sup> The length of the regular procedure was reduced to 6 days instead of 8, with a possibility to extend it by 3 days for complex cases, based on medical advice confirming that more time is needed for the interview or for applicants who require special procedural guarantees. Furthermore, the possibilities to omit the rest and preparation period (RVT) were extended (see *Section 4.3*).<sup>536</sup>

In Romania, the new National Strategy on Immigration 2021-2024 was approved and published on 19 August 2021, together with the Action Plan to implement the national strategy. The main objectives of the strategy which are related to international protection are to efficiently manage and strengthen the national asylum system and ensure compliance with European and international standards, strengthen the response capacity of the authorities during an influx of immigrants at the border and provide the infrastructure to implement migration, asylum and integration policies.<sup>537</sup>

After the adoption of the National Strategy by the Romanian government, the Romanian Coalition for the Rights of Migrants and Refugees met to discuss the situation in Afghanistan and its potential implications, developments in Timisoara near the borders with Serbia and Hungary where a relatively large number of migrants were arriving, and the need for more training.<sup>538</sup>

The National Assembly of Slovenia adopted the Act amending the Foreigners Act, which came into force on 27 April 2021 and was applied as of 26 May 2021.<sup>539</sup> Further legislative changes in Slovenia included two implementing regulations linked to the International Protection Act on the methods and conditions to ensure the rights of applicants and beneficiaries of international protection.<sup>540, 541</sup>





### 4.4.3. Decisions issued on first instance asylum applications



A first instance asylum application is considered to be closed once a decision has been issued by a national authority. According to Regulation (EC) 862/2007,<sup>542</sup> there are five outcomes that should be reported by EU+ countries:

- i) Refugee status (as per the 1951 Geneva Convention);
- ii) Subsidiary protection status;
- iii) Authorisation to stay based on humanitarian reasons under national law (humanitarian protection), if this exists under national law;<sup>xxvii</sup>
- iv) Temporary protection status (under EU legislation);<sup>xxviii</sup> and
- v) A negative decision resulting in the rejection of the application.

During the second year of the COVID-19 pandemic, EU+ asylum authorities issued approximately 535,000 first instance decisions, marginally more than in 2020 but roughly in line with pre-pandemic levels. Conversely, following a sharp drop in 2020, many more applications were lodged in 2021 (up by one-third) (see *Figure 4.16*), particularly since August 2021. As a result of the steady climb in applications, by the end of 2021, applications lodged in EU+ countries outnumbered first instance decisions by over 113,000.

In 2021, three EU+ countries jointly issued just under two-thirds of all first instance decisions: France (26%), Germany (25%) and Spain (13%). Italy and Greece followed at a distance, issuing 8% and 7% of all decisions, respectively, in addition to Austria and Belgium each issuing 4% of all decisions.

Of the top countries, France issued almost three-fifths more decisions than in 2020, exceeding pre-pandemic numbers by one-fifth. The increase applied almost equally to all age groups and both sexes, but most notably to minors under the age of 14. France issued more decisions to most of the top nationalities applying for asylum compared to the previous year, particularly, in relative terms, for nationals of Comoros, Turkey, Nigeria, Afghanistan and the Democratic Republic of the Congo (in descending order).<sup>xxix</sup>

First instance decision-making by Germany remained stable compared to 2020, but there were significant variations across citizenships receiving a decision. For example, Germany issued many more decisions (+50%) to Syrian nationals compared to 2020, particularly in the first 6 months of 2021. The decisions by Germany on Syrian applicants accounted for over one-tenth of all decisions taken on international protection in Europe in 2021. At lower levels, decisions for Moldovans more than doubled from the previous year, rising to the most on

<sup>xxvii</sup> Granting humanitarian protection is not harmonised at the EU level and is only reported to Eurostat by 23 of the 31 EU+ countries (Austria, Cyprus, Croatia, Czechia, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Italy, Liechtenstein, Lithuania, Malta, the Netherlands, Norway, Poland, Romania, Slovakia, Spain, Sweden and Switzerland). In addition, various forms of humanitarian protection can be granted, separate from the asylum procedure, and thus the positive decisions may not be reported to Eurostat under this indicator.

<sup>xxviii</sup> This is based on the [Temporary Protection Directive, Regulation 2001/55/EC](#), which was used for the first time in 2022 in EU countries.

<sup>xxix</sup> Only citizenship groups above 4,000 in 2021 were considered.



record.<sup>xxx</sup> In contrast, fewer decisions were issued to nationals of Afghanistan, Eritrea, Iran, Iraq, Nigeria and Turkey.<sup>xxxii</sup>

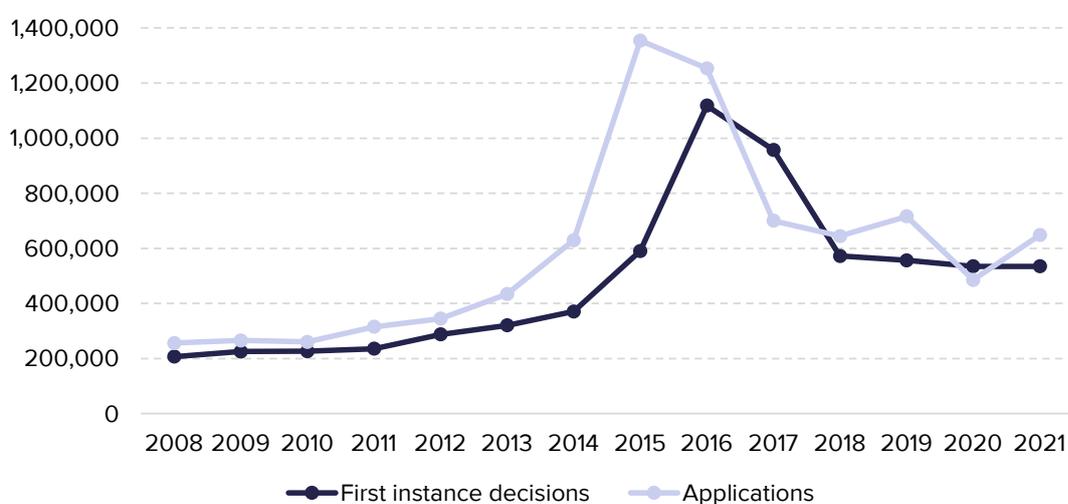
Conversely, Spain and Greece, which had bolstered their decision-making in 2020, each took approximately two-fifths fewer decisions in 2021. In Spain, fewer decisions were issued to Colombian and Venezuelan cases (-51% and -66%), as well as, at lower levels, to nationals of El Salvador and Nicaragua.<sup>xxxiii</sup> Many of the decisions issued by Spanish authorities continued to grant national protection to Venezuelans, which entails a faster and less labour-intensive procedure in terms of case processing. Greece issued fewer decisions to Afghan and Syrian nationals (-37% and -73%, respectively).

Decisions in Italy increased slightly. While Italy continued to issue most decisions to citizens of Bangladesh, Nigeria and Pakistan, an unprecedented number of decisions were issued to Afghans (four times as many as in 2020) and Tunisians (more than doubled from 2020). First instance decisions in Belgium increased by 29% compared to 2020, primarily driven by a sharp increase in decisions for nationals of Palestine and Eritrea (each almost doubling from the previous year), as well as for Afghans.



**After a momentary reversal in 2020, the number of applications exceeded decisions again in 2021**

**Figure 4.16. Number of first instance decisions issued and asylum applications lodged in EU+ countries, 2008-2021**



Source: Eurostat, [migr\_asyappctza] and [migr\_asydcfstq] as of 22 April 2022.

<sup>xxx</sup> Since at least 2008.

<sup>xxxii</sup> Only citizenship groups above 3,000 in 2021 were considered.

<sup>xxxiii</sup> Only citizenship groups above 2,500 in 2021 were considered.



Following an increased inflow of asylum applications, Austria issued four-fifths more decisions in 2021 than in 2020, recording an annual peak in the last quarter of 2021, following an upward trend since the second quarter of 2020. The increase was across all age groups (except those aged 65 or older) but most notable among 18- to 34-year-olds, where the share increased by over 140% in 2021. Austria issued two and a half times more first instance decisions to Syrians and almost three times more to Moroccans.<sup>xxxiii</sup>

Cyprus also ramped up decision-making in 2021, with two and a half times more decisions taken than in 2020. Of the top four nationalities, the largest increase in absolute terms was for nationals of India and Bangladesh, recording almost 9 and 12 as many decisions, respectively, as in the previous year, followed by Pakistanis and Syrians.

Despite stable decision-making between 2020 and 2021, Germany had the largest excess of inflow (applications lodged) over first instance decisions, followed at a distance by Austria and the Netherlands. In fact, in the overwhelming majority of EU+ countries, the number of applications lodged outnumbered decisions issued in 2021. Only France, Greece, Spain and Hungary (in descending order) closed more cases than they opened (see *Figure 4.17*). This suggests that pressure on national asylum systems in most EU+ countries remained high or increased.

Most first instance decisions in EU+ countries were issued to nationals of Syria, Afghanistan, Pakistan and Colombia (in descending order), receiving one in every three decisions in 2021. Except for Colombians, for whom decisions halved, all these nationalities received more decisions in 2021 than in 2020. The most notable increase in relative terms was for Pakistani applicants, who received nearly one-third more decisions in 2021 than in the previous year.

Nationals of Bangladesh and Nigeria also received considerably more decisions in 2021. The rise in decisions for Bangladeshis was mostly due to a significant increase in decisions by France, recording the largest increase in absolute terms. This was followed by Cyprus and at a lower level by Austria, Italy and Romania.

Similarly for Nigerians, the increase was explained by a rise in decisions issued by France (+4,000 from 2020) and at lower levels by Cyprus and the Netherlands, each taking the most decisions on Nigerian nationals on record. At lower levels, there were marked increases in decision-making for nationals of Belarus, Comoros, India, Moldova (each rising to the most on record) and North Macedonia.<sup>xxxiv</sup>

In contrast, the biggest decline in both relative and absolute terms was for decisions issued to Venezuelan nationals, which dropped by almost two-thirds from the 2020 peak, mainly driven by Spain as the top decision-issuing country for this group. At the same time, fewer decisions were issued to Colombians (primarily in Spain), Iranians (mostly due to a drop in decisions by Germany and Sweden) and Iraqis (largely on account of fewer decisions by Germany, Greece and Sweden).

Around one-half of all decisions at first instance were issued to adults in the 18- to 34-year-old age group. Over one-quarter of all decisions in 2021 were issued to minors, with Syrian and Afghan children jointly representing over one-third of those younger than 18. Decisions issued to Syrian minors declined by 15% in 2021, but there was a comparable rise in decisions issued to Afghan minors. Other main nationality groups for minors in 2021 included Iraqis, Nigerians and Eritreans (in descending order).

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<sup>xxxiii</sup> Only citizenship groups above 1,000 in 2021 were considered.

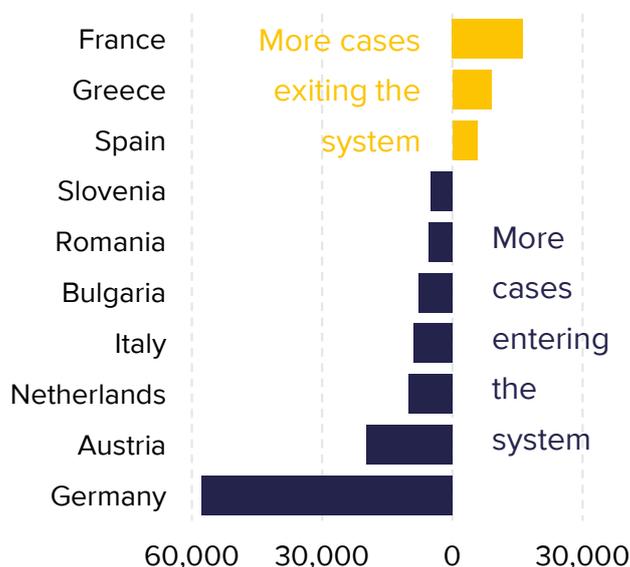
<sup>xxxiv</sup> Only citizenship groups above 2,000 in 2021 were considered.





**Germany and Austria received considerably more applications than the number of first instance decisions they issued**

**Figure 4.17. Disparity between the number of asylum applications and first instance decisions issued in selected EU+ countries, 2021**



Source: Eurostat, [migr\_asyappctza] and [migr\_asyappctza] as of 22 April 2022.

In contrast, while children from Venezuela and Colombia were among the top nationality groups in 2020, decisions for these groups dropped by two-thirds and one-half respectively, in line with a similar decline in decisions for Venezuelan and Colombian adults.

Men received over two-thirds of all first instance decisions in 2021, representing a slightly higher share than in 2020. In a few countries, however, women received a higher portion of decisions than the EU+ average. In Denmark, Ireland, Luxembourg, Norway, Spain and Switzerland, between 41% and 46% of all decisions were delivered to female applicants.<sup>xxxv</sup>

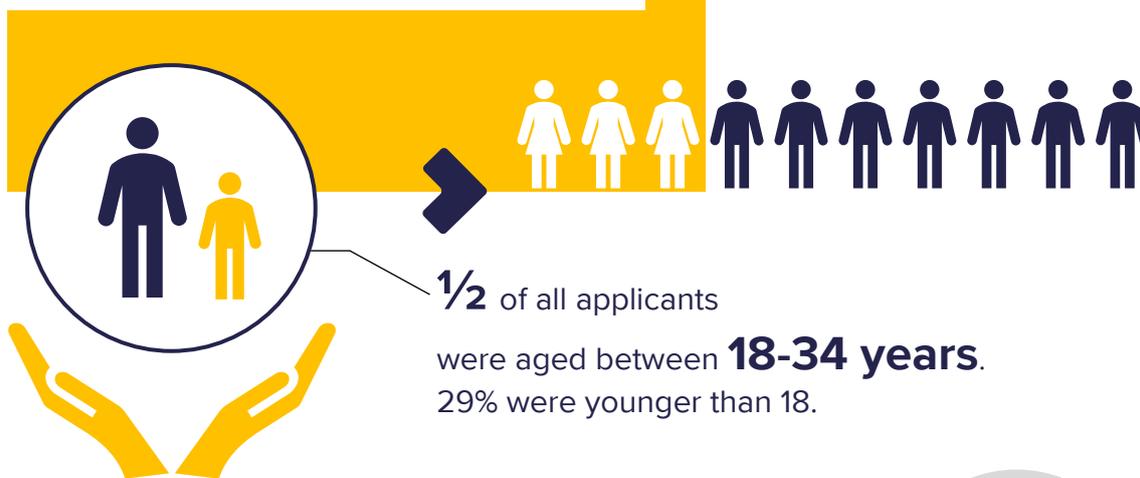
<sup>xxxv</sup> Only countries issuing more than 1,000 decisions in 2021 were considered.





## Profile of asylum applicants arriving in EU+ countries

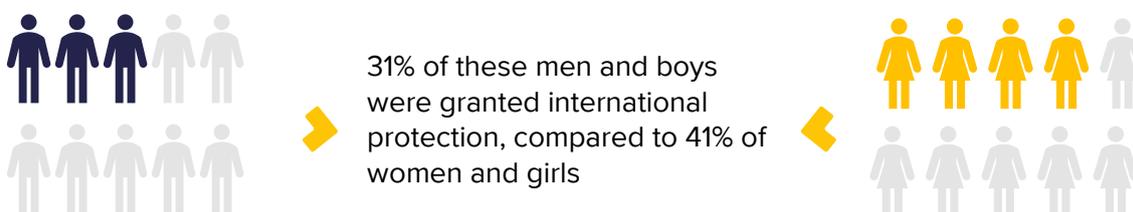
In 2021, the majority of asylum seekers in EU+ countries were **male**, accounting for **70%** of applicants in 2021



Nationals of **Syria** and **Afghanistan** represented the largest applicant groups, lodging the highest number of asylum applications since the refugee crisis in 2015-2016.



Over **2/3** of decisions on first instance applications were given to male applicants



Source: Data by Eurostat as at 22 April 2022.

#AsylumReport2022

<https://euaa.europa.eu/asylum-report-2022>





#### 4.4.4. Withdrawn applications

An asylum application can be withdrawn for various reasons before a final decision has been issued. For reporting purposes, withdrawn applications can be measured based on two indicators:



- 'explicit' withdrawals refer to cases where the applicant no longer needs international protection and notifies the authorities to withdraw the application; and
- 'implicit' withdrawals concern cases where the authorities fail to locate the applicant and therefore it is considered that the applicant has abandoned the procedure. Data on implicit withdrawals may cover cases prior to the reference year since an applicant may have absconded long before the withdrawal was noted and reported.

In 2021, about 69,000 applications were withdrawn in EU+ countries, the most since 2017. Compared to 2020, this represented a 46% increase, which is in line with the overall increase in asylum applications (+33% from 2020 to 2021). The number of withdrawn applications in 2021 represented 11% of the number of applications lodged. Nearly one-half of withdrawn applications occurred in the last 4 months of 2021, with an unprecedented peak in September.

Around four in every five withdrawals were by male applicants, and more than one-half by applicants between 18 and 34 years of age. In 2021, there were more than three times as many withdrawals by minors aged 14 to 17 years old than in 2020 and the most in absolute terms since the migration crisis of 2015-2016.

In 2021, Eurostat started reporting data on the type of withdrawal, which was previously unavailable. Two-thirds of all withdrawn applications were implicit. Provisional data from the EUAA's Early Warning and Preparedness System (EPS), which cover withdrawals of first instance applications only, suggest that most withdrawn applications in previous years were implicit.<sup>xxxvi</sup> While most EU+ countries had mostly implicitly withdrawn applications,<sup>xxxvii</sup> there were some exceptions. In Czechia, Finland, France and Ireland, more than 60% of withdrawn applications were explicit, and in Cyprus and Germany, it was almost 50%.<sup>xxxviii</sup>

In 2021, the most applications were withdrawn in Greece, accounting for nearly one-quarter of all withdrawals. Austria, Italy, Germany and Romania also had high numbers of withdrawn applications (in descending order).<sup>xxxix</sup> Most of the top countries recorded significantly more withdrawals in 2021 compared to 2020. This was especially the case for Bulgaria (more than

<sup>xxxvi</sup> Data on the type of withdrawal (implicit or explicit) are available through the EUAA EPS data exchange. Based on that data, around three-quarters of all withdrawals were implicit. However, a direct comparison of EUAA and Eurostat data is not possible. The EUAA indicator refers to applications withdrawn during the first instance determination process related to first instance decision-making, while Eurostat data cover applications withdrawn at all instances of the administrative or judicial procedure. In addition, the reporting dates differ: the EUAA uses the date of the decision on the withdrawn application, while Eurostat uses the date the application is considered withdrawn. Finally, the EPS data collection does not cover Iceland or Liechtenstein.

<sup>xxxvii</sup> Eurostat data did not cover Belgium and Italy, so EUAA EPS data were used for the total calculation. Information on the type of withdrawal was not available for Romania.

<sup>xxxviii</sup> Analysis was restricted to EU+ countries with a minimum of 100 reported withdrawals in 2021.

<sup>xxxix</sup> Analysis was restricted to EU+ countries with a minimum of 1,500 reported withdrawals in 2021.



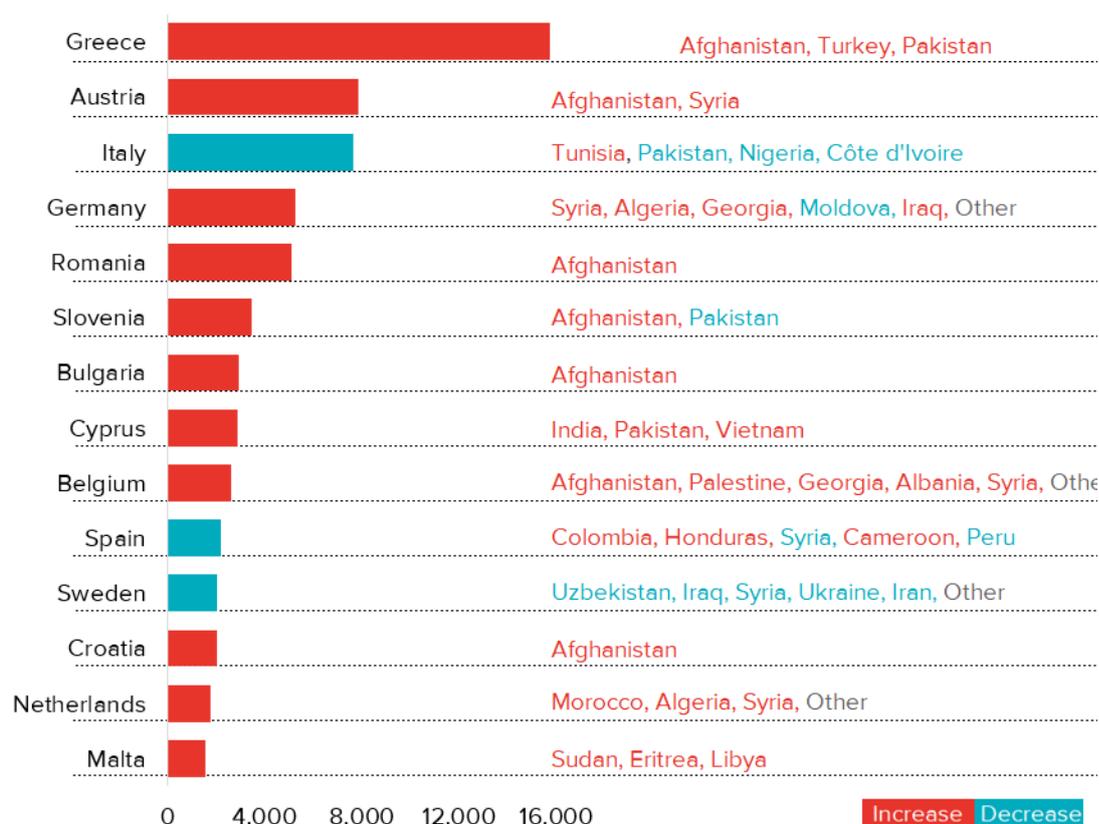


six times as many), Malta (almost four times as many), Austria and the Netherlands (more than three times as many each), as well as Greece, Belgium and Romania. It is possible that asylum applicants implicitly withdraw an application lodged in one EU+ country in order to apply again in another one, thus indicating secondary movements towards other EU+ countries. Thus the figures indicate a pattern of secondary movements from countries along the Balkan routes and at the EU's external borders.

Over one-quarter of withdrawn applications were by Afghan nationals, accounting for over 18,000 applications in 2021 compared to 5,000 in 2020. More than 60% of these withdrawals were by minors aged between 14 and 17 years old. These applications were largely withdrawn in Greece and other countries along the Balkan routes (see Figure 4.18). The rate of withdrawals increased as of September 2021 after the Taliban takeover of Afghanistan.<sup>543</sup>

Nationals of Syria, Pakistan, Turkey, Iraq, Bangladesh and Tunisia (in descending order) also withdrew a high number of applications, with large-scale increases compared to 2020. Syrians, Turks, Iraqis and Bangladeshis mostly withdrew their applications in Greece and Austria, whereas the majority of applications by Pakistanis were withdrawn in Greece and Italy. Four-fifths of withdrawals by nationals of Tunisia were in Italy.

**Figure 4.18. EU+ countries with the most withdrawals in 2021, nationality of applicants who accounted for at least 50% of all withdrawals in these countries and change compared to 2020**



Source: Eurostat [migr\_asywitha] as of 22 April 2022.





While at a smaller scale, citizens of Iraq withdrew a record number of applications in Latvia, after entering through Belarus.<sup>544</sup> The profile of nationalities differed in other EU+ countries. For example, withdrawals were mainly done by Indians, Pakistanis and Vietnamese in Cyprus, Moroccans and Algerians in the Netherlands, and Sudanese, Eritreans and Libyans in Malta (in descending order) (see *Figure 4.18*).

Most nationalities largely withdrew their applications implicitly. The main exceptions – with more explicit withdrawals – included nationals of Vietnam and North Macedonia, as well as Belarusians and Serbia.

#### 4.4.5. Analyses and measures to improve the quality of first instance decisions



EU+ countries analysed the quality of first instance decisions by examining sample decisions, the share of decisions which were overturned on appeal and divergences between national and international interpretations of asylum concepts. They identified aspects that need improvement and ways to provide asylum applicants with quality decisions on first instance applications.

In collaboration with the Croatian Law Centre, UNHCR published an analysis of the quality of first instance decisions in Croatia, based on a sample of 40 decisions from 2017-2019. UNHCR organised a workshop in collaboration with the Croatian Law Centre and the Croatian Ministry of the Interior to discuss the findings of the report.

The Finnish Immigration Service published an update in May 2021 to the analysis of the rate of first instance decisions which were overturned by courts between January to March 2021. The Immigration Service noted that the standards had improved and the number of errors in interpreting law and procedural shortcomings were much lower. The majority of cases which were returned for a re-examination concerned the submission of new evidence by the applicant or changes in the situation of the applicant since a first instance decision was pronounced.<sup>545</sup>

The Helsinki Committee noted that the Hungarian legal provisions and practices on exclusion decisions did not comply with EU law. Decisions to refuse international protection based on exclusion due to being considered a threat to national security were not adequately reasoned as the information provided by the security agencies, which is the basis for the decision to exclude from international protection, is classified. The Hungarian immigration authority does not have access to the information and the opinion of the security agencies is binding.<sup>546</sup> On this issue, the Budapest High Court made a [reference for a preliminary ruling](#) to the CJEU seeking interpretation of the relevant provisions of the recast Asylum Procedures Directive and the recast Qualification Directive (the pending case is registered under C-159/21).

Specific implementation guidelines were sent to police headquarters (*questure*) and territorial commissions in Italy in July 2021 by the National Commission.<sup>547</sup> The guidelines were sent after a monitoring report on the implementation of the new legislation in 15 Italian cities was prepared by immigration offices of the police headquarters and the territorial commissions, which highlighted several procedural issues and the lack of communication at the central level which led to failures in the application of legislative provisions.<sup>548</sup>

For the first time, IPA in Malta held reflective meetings on the quality of the international protection procedure, whereby lessons learned are captured and included in bulletins shared with case officers. Furthermore, regular meetings are held with the Quality Control Unit to





discuss and identify solutions to issues faced by case officers. The IPA introduced confidential psychological services to case workers during working hours, which require the written approval of the supervisor and a confirmation of attendance.

In July 2021, the National Audit Office of Malta published the report “Performance Audit: Fulfilling obligations in relation to asylum seekers”, which assesses the efficacy of each asylum process. The report identified inadequacies, including a lack of resources at first instance, and proposed strategic and operational recommendations.<sup>549</sup> In August 2021, the recruitment process was initiated for additional case officers.

Malta introduced a new practice to optimise case management, a so-called 3+3 principle, whereby each case officer has a weekly quota of interviewing three applicants and submitting three draft decisions (not corresponding to the interviews performed in the same week), with exceptions for case officers who may need to engage in other tasks or by extension by the line manager.

UNHCR published a study on the application in Switzerland of the definition of refugee according to the Geneva Convention. The study highlighted that the most important divergences between Swiss practice and international asylum law concern: i) the requirement of targeted persecution, which requires, with limited exceptions, that the persecution be ‘specifically’ directed against the person; and ii) the restrictive practice of requiring causality between motive and persecution, so that a subjective motive for persecution and sometimes of a main reason for the persecution were necessary. It also noted that there is a divergence in the assessment of applications from particularly vulnerable groups, such as women, children or LGBTIQ applicants (see Section 5).<sup>550</sup>

In Norway, the UDI commissioned in April 2021 an assessment of the quality of 150 asylum interviews and decisions in order to use the findings to draft guidelines and policy instructions to case officers who decide on asylum claims. The study found that case officers believe that interviews do not provide sufficient information to take a decision. The study also noted that the rules of evidence should be defined to apply them uniformly in asylum cases.

To improve the quality of decisions, training was a priority for case officers in EU+ countries. In Cyprus, the majority of staff deployed by the Cyprus Asylum Service and the EUAA completed compulsory training in the EUAA training curriculum core modules. Italy trained 177 interim workers under the AMIF Emergency Assistance grant scheme (EMAS) and Romania organised a national face-to-face training session on inclusion, offered by experts of the General Inspectorate of Immigration to case officers and legal counsellors.

#### 4.4.6. Right to be heard and the personal interview



The personal interview offers applicants for international protection the opportunity to tell their story of persecution to the asylum authorities and offers key information to case officers who decide on applications. The use of remote interviews in first instance procedures has gained ground in EU+ countries, a format which has remained after the lifting of COVID-19 measures.

More rules for personal interviews were introduced, while national courts provided guidance on the procedure to hold an interview.

Following the [judgment](#) of 7 December 2020 by the Council of State to suspend the pilot project to have interviews by videoconference for applicants residing in open reception centres, preparations were done in 2021 to create a legal basis which would make remote



interviewing possible again. The CGRS also granted refugee status without conducting a personal interview based solely on the basis of elements in the file. This concerned about 1,000 cases, mostly by applicants from Burundi, Eritrea and Syria with a very clear and obvious need for protection.<sup>551</sup>

In Greece, the Attica Directorate of the Asylum Service announced the start of remote asylum interviews as of April 2021 in Accommodation Structures under its jurisdiction (initially Malakasa, Inofyta and Ritsona), in close cooperation with the First Reception Service.<sup>552</sup>

Finland decided to continue using remote interviews, with the consent of the applicant, in reception centres and detention units, as they were found to be practical.<sup>553</sup>

In Ireland, the Refugee Council highlighted the shortcomings of remote interviews, including sound quality due to the software which was used. To remedy the situation, new software was introduced in December 2021.<sup>554</sup>

In the Netherlands, the Dutch Council of Refugees evaluated remote interviews and concluded that the experience has been positive overall, without any notable differences in the quality of in-person or video interviews. It was noted that remote interviews save money and travel time, but they are not suitable for vulnerable applicants dealing with trauma.<sup>555</sup> To make the asylum procedure more flexible, since June 2021, the initial interview is combined with the application interview, where applicants are asked for a brief statement on the reasons for seeking asylum, and minors can be interviewed separately where necessary.<sup>556</sup>

The change was criticised by the Dutch Council for Refugees as the asylum seeker does not receive legal assistance during the registration procedure and individualised information. The Dutch Council for Refugees considered that the general brochure was insufficient to cover the need for individualised information so that the applicant understands the impact of his/her statements related to the reasons for fleeing the country of origin.<sup>557</sup> From another perspective, the Dutch Advisory Committee on Migration Affairs/Dutch Advisory Council Migration expressed reservations about asking about the reasons during the application interview as this introduces an inquiry into the application phase, without in-depth questions being asked.<sup>558</sup>

In Slovenia, amendments to the International Protection Act introduced the possibility to have remote interviews when necessary.<sup>559</sup>

Malta introduced a new case management rule to hold one interview where all necessary information is collected. Exceptionally, an additional interview can be organised with the written authorisation of the line manager. The notification for an interview is delivered by phone call, email or text message. For applicants who do not appear for their personal interview without justification, a stricter policy was introduced in 2021 to close the application as implicitly withdrawn.

The Belgian Constitutional Court **clarified** that 8 working days were sufficient for an applicant to provide comments to the CGRS on the notes of the personal interview. In addition, the applicant has the opportunity to submit observations up to the working day preceding the day on which the decision was taken.

In France, the National Court of Asylum **held** that missing the personal interview due to a postal malfunction was a legitimate reason to refer the case back to OFPRA. The court held that the applicant was deprived of the right to be heard, and since the responsibility lied with



a third party, the Post Office, the court acknowledged the existence of a legitimate reason that justified the applicant's absence at the personal interview.

The Slovenian Supreme Court **held** that omitting the personal interview, either under the International Protection Act or the General Administrative Procedure Act, is not an absolute material breach of the procedure. The court noted that such an omission constitutes a relative material breach of the rules of the law and that it is necessary to determine whether it affected or was able to affect the lawfulness and correctness of the decision in the case.

#### 4.4.7. Efforts to further digitalise the asylum procedure



In 2021, EU+ countries continued with efforts for the long-term digitalisation of first instance asylum procedures, digitalising specific aspects of the procedure and interconnecting their digital asylum systems with other national electronic databases.

In Croatia, the project 'RECORD - Development, implementation and maintenance of an application for the needs of international protection' started at the end of 2020 to create a digital application to unite all processes related to international protection. The implementation of the application is planned to take place in the third-quarter of 2022.

BAMF in Germany carried out a feasibility study for digital certification processes and digital identity management, publishing a white paper as a first step toward analysing whether certification processes and identities of asylum seekers can be fully digitalised.<sup>560</sup>

France set up a teleservice that allows OFPRA to send letters to asylum seekers through a personal and secure digital space. This system, which was put in place for applicants living in two French regions in July 2020, was generalised throughout France in May 2022. Asylum seekers have the possibility to access their administrative documents quickly and easily with a smartphone, tablet or computer by using the portal which is translated into 25 languages. Support was also reinforced for claimants who require special assistance to connect.

In Ireland, the Immigration Service launched a new website in July 2021<sup>561</sup> and published a new Digitisation Strategy to transition from paper-based processes to more efficient immigration services.<sup>562</sup>

In Italy, three digital platforms were created through an AMIF EMAS project, which ended in March 2022. The platforms include a website for asylum seekers and beneficiaries of international protection, a platform for exchanges between the NAC and territorial commissions to harmonise procedures and facilitate communication, and a portal for open data on asylum.

The IPA in Malta is in the process of converting physical documents to electronic files and transitioning to an electronic system in general.

In Romania, a new AMIF project on the "Extension, development and modernisation of the national Eurodac system" is being carried out between 2021 and 2022. New hardware and software will be purchased to improve the response time during a massive influx of migrants by using portable fingerprint stations.<sup>563</sup>



Slovenia is in the process of upgrading its asylum databases by adding new fields and connecting them with the police database. The introduction of an electronic signature for an applicant is also in the planning.

In Switzerland, the Federal Council sought to renew the Central Information System on Migration (SYMIC) and develop new functionalities to provide high-quality digital services for a smooth running of cases in the areas of asylum, foreigners and nationality.<sup>564</sup>

#### 4.4.8. Privacy and data protection in first instance asylum procedures



Digitalisation can make the first instance asylum procedure more efficient and flexible, but its implementation also requires adequate safeguards to protect fundamental rights. Issues related to data protection and the right to privacy were raised in several countries during first instance procedures, where applicants challenged the seizure of their mobile phones and the use of the data to establish their identity and nationality. Furthermore, new legislative provisions concerning the use of mobile data in the asylum procedure came into force or were reviewed in several EU+ countries.

In Belgium, the Constitutional Court reviewed the Act of 21 November 2017 amending the Residence Act and the Reception Act by interpreting Article 48/6, according to which the CGRS may request information from an asylum applicant's electronic device. The court [stated](#) that the decision for such a request must be communicated in writing or orally to the applicant or the lawyer and that the authorities are not authorised to carry out unlimited searches themselves on the electronic device but may only consult the elements shown by the applicant from his/her phone.

The Belgian Constitutional Court also annulled Article 57/7(3) insofar as it does not limit the possibility for the CGRS to keep certain elements confidential to cases where "disclosure of information or sources would endanger national security, the security of the organisations or persons who provided the information or the security of the person(s) to whom the information relates, or where the interests of the investigation would be harmed in connection with the processing of applications for international protection by the competent authorities of the Member States or in the international relations of Member States".

In a judgment that was not final, the Regional Administrative Court of Berlin [held](#) that BAMF's evaluation of data from the applicant's mobile phone to determine her identity and nationality constitutes an interference with the fundamental right to guarantee the confidentiality and integrity of IT systems. The measure, which is suitable to obtain indications of identity and nationality, is disproportionate due to the encroachment on fundamental rights. The court also noted that measures, such as the evaluation of submitted documents, the implementation of register comparisons, inquiries from other authorities or checking with the interpreter for language issues, constitute milder means that should be used by the authorities.

The court also held that, in this particular case, the Federal Office was not entitled to read the applicant's data from the mobile phone and to evaluate it using software, to save the report generated from the evaluation of the applicant's mobile phone, to release the report for the applicant's asylum procedure and to take a decision on the asylum application based on the respective report. The court did not rule that the evaluation of data from applicants' mobile phones was generally unlawful. The lawfulness of the relevant provision (Asylum Act, Section



15a) was not doubted by the court. The unlawfulness of the measures in the specific case was determined, as the court concluded that milder means could have been applied. BAMF lodged an appeal against the decision on points of law. The proceeding was pending at the Federal Administrative Court for a decision on the legal aspects of the case (BVerwG 1 C 19.21).

Similarly, the Civil Court of Milan in Italy [held](#) that the confiscation of the mobile phone of an asylum applicant who is in detention had no basis in the Italian Constitution and was a limitation of the applicant's rights. The court noted that the limitation of communication with the outside world, which results from the impossibility of accessing the mobile phone, also constitutes a violation of the detainee's right to access legal safeguards. The court ordered the authorities to allow the applicant to use the mobile phone for a sufficient time (at least 2 hours daily).

In January 2021, the Federal Council in Switzerland adopted a parliamentary initiative on the obligation to cooperate in the asylum procedure, which includes the possibility of checking an applicant's mobile phone.<sup>565</sup> This legislative proposal was criticised by the Swiss Refugee Council, arguing that such measures would lead to a disproportionate violation of the right to privacy, and the proposal is disconcerting for data protection as it lacks an independent control of the data collected, and the procedures for accessing, using and saving data are not clearly defined.<sup>566</sup> Similar concerns were raised by UNHCR in April 2021.<sup>567</sup>

Subsequently, on 12 October 2021, the Swiss Federal Assembly adopted amendments to the Asylum Act (LASi) which would add a legal obligation on the asylum applicant to cooperate with the authorities by temporarily handing over any electronic devices when the identity cannot be established based on documents, or the itinerary could not be established by other means.<sup>568</sup> The Swiss Refugee Council and UNHCR criticised the measure as disproportionate and a violation of privacy rights.<sup>569</sup>

#### 4.4.9. Prioritisation policies



The prioritisation of specific cases to provide a speedy assessment at first instance was used for specific categories of applicants or in general for all applicants when a high number of applications were lodged.

In Cyprus, the asylum services prioritised applications submitted in detention and at police stations. Due to an increase in the number of applicants from the Democratic Republic of the Congo and from other African countries, Cyprus examined these applications with priority.

In Spain, the Ministry of Home Affairs' Sub-Secretariat instructed the Asylum and Refugee Office to prioritise applications submitted in Ceuta and Melilla due to a high influx of arrivals. Instructions on the prioritisation of applications submitted on the Canary Islands were adopted on 24 November 2020 and have been in force throughout 2021. In addition, Spain temporarily prioritised applications submitted by Afghan nationals who were evacuated after the withdrawal of international troops from Afghanistan.





## 4.4.10. Guidelines for assessing applications



First instance authorities provided guidelines to assess requests for international protection lodged by specific groups of applicants, including nationals of Palestine, Venezuela, the Democratic Republic of the Congo and other African countries, as well as applicants invoking an illness.

In Belgium, the CGRS published updated guidelines in July 2021 on the processing of applications filed by Palestinians. The policy outlined that assistance would be assessed for Palestinians for whom a well-founded fear of persecution was not established and who depend on assistance from the UNRWA. The CGRS decided to revoke negative decisions for which an appeal was pending and to take new decisions after an additional examination. Furthermore, the guidelines noted that cessation of protection was possible when protection was given due to the lack of assistance from the UNRWA, since the CGRS established that the assistance was re-established on a permanent basis.<sup>570</sup>

In Iceland, the Directorate of Immigration announced a change in the assessment of applications for international protection made by Venezuelan nationals. These applicants are no longer automatically granted subsidiary protection due to the general circumstances in the home country. From 1 January 2022, a practice based on the Foreign Nationals Act, Article 37(2) is applied, whereby an application made by a Venezuelan national is assessed individually with reference to the provisions on subsidiary protection.<sup>571</sup>

In Sweden, the Migration Agency amended a legal position on the application of the ECHR, Article 3 in the assessment of an asylum application when an illness is invoked (RS/008/2020)<sup>572</sup> and another legal position on derived protection status (RS/020/2020).<sup>573</sup>

In October 2021, two policy updates were issued in Malta: one concerning applicants from Libya which provided guidelines on the application of the recast Qualification Directive, Articles 15(b) and 15(c) and another on Sudanese applicants on the application of the recast Qualification Directive, Article 15(c), focusing on the regions of Darfur, Blue Nile and South Kordofan.

In the Netherlands, the State Secretary for Justice and Security adjusted the policy on Turkey for one risk group, including persons who are active in politics, journalism or human rights and who express significant criticism of the authorities and attract negative attention from the authorities. The condition that they are the subject to negative attention was deleted.<sup>574</sup>

Courts were presented with specific categories of applicants for which they either provided interpretative principles on the assessment of their cases or they referred the cases to the CJEU for a preliminary ruling.

Although the CGRS may decide not to invite an applicant for a medical examination in cases when the applicant raises a medical issue, the Belgian Constitutional Court [held](#) in February 2021 that the CGRS refusal must be justified in accordance with Article 62(2)(1) of the Act of 21 November 2017 amending the Residence Act and the Reception Act. A court cannot force the CGRS to proceed with a medical examination, but if the reasons of the CGRS for not conducting it are found unacceptable, the CGRS will be mandated to organise a medical examination.

The Supreme Administrative Court of Czechia [ruled](#) that it is unlawful to consider an application implicitly withdrawn when the applicant did not comply with the ministry's order to





appear at the reception centre for asylum seekers within 24 hours due to his wife's risky pregnancy, which amounted to a reason beyond the applicant's control.

The French CNDA **decided** that all children of a beneficiary of subsidiary protection should be eligible for the same type of protection, including children who are born after the protection was granted to the parent beneficiary. The CNDA thus decided that the mechanism for the automatic admission of accompanying children to the protection status granted to their parents, provided for in the CESEDA, Article L. 531-23 should also apply to children who are born after their parents have been granted protection.

The Irish International Protection Appeals Tribunal **requested** the CJEU to interpret relevant provisions for assessing applications, specifically provisions on the duty to cooperate, credibility assessments and the authority's obligation to provide a decision within a reasonable time.

In the Netherlands, the Council of State **set** stricter requirements for the assessment procedure and reasoning provided by the State Secretary for Justice and Security for decisions on asylum applications from religious converts. Previously, the State Secretary was allowed to attach decisive weight to the assessment of credibility on the reasons for and the process of the conversion, but now the State Secretary must include in the reasoning of the decision aspects concerning the knowledge of the new faith, the activities undertaken in relation to the conversion and include statements made by others about the conversion.

#### 4.4.11. The length of asylum processes



The excessive length of the asylum procedure was an issue which affected several Member States, caused not only by the COVID-19 restrictions but also by general inadequacies in asylum systems.

In Belgium, the Secretary of State announced the recruitment of 700 new staff for the asylum and migration services and published a vacancy in June 2021. It will also undertake an audit of the asylum services (CGRS, Immigration Office, Fedasil and CALL) with results expected in summer 2022. Both measures aim to clear the backlog in all stages of the asylum procedure.<sup>575</sup>

In Finland, the Ombudsperson analysed a complaint about delays in the processing time of an asylum application. The case was pending for 16 months in the absence of exceptional circumstances. The conclusions of the Ombudsperson highlighted that there was no justification for the excessive length of the procedure.<sup>576</sup>

In Ireland, over the course of 2021 an end-to-end review of the international protection process was completed. The review incorporated an assessment of the efficiency of processes and the experiences of those working and engaging with the processes. Key findings included challenges with communication and coordination, a lack of guidance and support for protection applications, an apparent lack of consistency in how people progress through the system (so providing clear guidance was challenging), a reliance of paper-based applications and insufficient resourcing.<sup>577</sup>

The Regional Administrative Court of Hanover in Germany **held** that a procedural delay of 1 year to await specific assurances from the Greek government, for an applicant who received protection in Greece, was not justified in the absence of particular difficulties to clarify the facts of the case.



In the Netherlands, the task force that managed the asylum backlog was integrated into the IND. By July 2021, the task force had examined 14,100 out of 15,350 backlog cases, focusing on applications lodged before 1 April 2020. The task force continued supporting the examination of cases lodged after 1 April 2020, as the 6-month time limit to take a decision was exceeded in 1,200 cases lodged after that date.<sup>578</sup>

In Portugal, civil society organisations observed significant delays in 2021 for cases channelled through the regular procedure after the annulment of a first instance negative decision pronounced in the accelerated procedure.<sup>579</sup>

#### 4.4.12. Processing of applications lodged by specific nationalities



Due to the evolving situations in Afghanistan and Ethiopia, the processing of requests for international protection lodged by nationals from these countries of origin, in particular possible negative decisions, were suspended for a period of time in several EU+ countries.<sup>580</sup>

Norway suspended cases lodged by Afghan nationals in July<sup>581</sup> and lifted the measure on 27 January 2022.<sup>582</sup> Belgium decided to temporarily suspend the notification of negative decisions for applicants from Afghanistan in August 2021<sup>583</sup> and lifted the suspension fully on 2 March 2022.<sup>584</sup> The processing of applications continued, such as the organisation of personal interviews, as well as the notification of decision to grant refugee status or declaring an application inadmissible for persons with a protection status in another Member State. In the Netherlands, the moratorium on decisions was imposed in August 2021 for 6 months.<sup>585</sup>

A moratorium on decisions and returns for Tigrayan applicants from Ethiopia was also taken in the Netherlands in July 2021.<sup>586</sup> The moratorium for Tigrayans was ended in November 2021, while Tigrayan ethnics were considered to be a risk group, with Tigrayan women a vulnerable minority group. The Netherlands also considered that there was no internal protection alternative for Tigrayans and they were not required to turn to the authorities or international organisations for protection in Ethiopia.<sup>587</sup>

Suspensions for negative decisions only were applied in Finland, Luxembourg and Switzerland. In Finland, the Immigration Service suspended the pronouncement of negative decisions on removals to Afghanistan on 9 July 2021. The asylum authority confirmed in November 2021 that negative decisions were still not issued and that only positive decisions were pronounced.<sup>588</sup>

In Luxembourg, cases lodged by Afghan nationals were processed where the need for protection was evident, so only positive, inadmissible and Dublin decisions were issued, while negative decisions were suspended. From the end of November 2021, the examination of these cases resumed, and in December 2021, the Ministry of Immigration and Asylum scheduled applicants for a complementary interview to discuss changes in their situation if the initial interview was done before 15 August 2021.<sup>589</sup>

In Switzerland, the policy of deciding only clear cases was considered problematic by the Refugee Council as other Afghans remained in an uncertain situation.<sup>590</sup> In Latvia, asylum authorities considered that there was no need to provide the personal interview if the Office of Citizenship and Migration Affairs had proof to grant refugee status.



## Section 4.5. Processing asylum applications at second or higher instance



*Under the rule of law, anyone alleging a violation of their rights is entitled to an effective remedy, which includes the right to appeal before the national authorities and the right to fair procedures in line with the standards of international human rights law.*

*The EU level legislative framework to appeal a decision during an asylum procedure is outlined in the Asylum Procedures Directive, Chapter V. Article 46 obliges Member States to ensure that applicants have the right to an effective remedy before a court or tribunal for a decision issued on a first instance application. The right to an effective remedy includes a full and ex nunc (i.e. which is valid for the future) examination of both facts and points of law, including an examination of the need for international protection as defined by the recast Qualification Directive, at least in appeals procedures before a court or tribunal of first instance guaranteeing adequate substantive and procedural safeguards.*

*EU law does not prescribe a specific organisation or structure of courts and tribunals to adjudicate asylum cases. Each EU+ country follows its own national system, so appeals in asylum cases may be lodged before general courts which adjudicate other matter besides asylum or specialised asylum courts which adjudicate only appeals in asylum cases. In addition, some EU+ countries also have a system of non-judicial complaints that must be exhausted before lodging an appeal with the courts.*

In 2021, developments centred around re-organising courts at second or higher instances and implementing changes to the appeal procedure, for example for time limits to appeal and the automatic suspensive effect of appeals. New solutions were introduced to enable documents to be submitted remotely, organise remote court hearings and use electronic communication between first instance authorities and courts. Special arrangements were made to process certain profiles of applicants at the appeal stage, such as for nationals from Afghanistan, the Democratic Republic of the Congo and Ethiopia. Lastly, constitutional and supreme courts in several EU+ countries clarified certain aspects affecting the right to an effective remedy.

### 4.5.1. Organisation of second instance courts



Amendments to the organisation and structure of courts were adopted or proposed in several Member States.

In Belgium, the Council of Ministers approved in June 2021 a draft law on the organisation of CALL. The proposal aimed to increase the number of judges of CALL and simplify and optimise the appraisal procedure for staff by introducing a comprehensive system of disciplinary and policy measures for officials.<sup>591</sup>

In Finland in May 2021, the Supreme Administrative Court proposed to the government amendments to the composition of administrative courts, with the purpose of making administrative courts more efficient without compromising legal certainty. For asylum cases under the Aliens Act, the court proposed to extend the possibility of using panels of two judges for all cases lodged before the Supreme Administrative Court.<sup>592</sup>



The Supreme Administrative Court of Slovakia, a new appeals court in asylum cases, started functioning in July 2021. Previously, asylum appeals were decided by the Supreme Court.<sup>593</sup> The NGO Human Rights League welcomed the creation of the new court, noting that this will allow judges to become specialised in asylum matters.<sup>594</sup>

In Slovenia, amendments to the International Protection Act introduced the right to appeal a decision of the Administrative Court before the Supreme Court. The Supreme Court must decide on the appeal within 30 days and the amendment applies only to applications lodged after 9 November 2021.<sup>595</sup>

Italy launched an open competition in August 2021 in the framework of the Recovery Plan to recruit more than 8,000 officers in view of the establishment of the “Ufficio del Processo” under the Ministry of Justice. The new personnel should contribute to the reduction of the number of cases pending before the 26 specialised court sections on immigration and asylum, by providing support through research, monitoring and drafting of judgments and decisions.<sup>596</sup> Other plans for improvement of second instance processes in Italy included cooperation between the National Asylum Commission and the Ministry of Justice in different activities, communication of the video registration of the first instance interview to the appeal authorities to avoid the need for an in-person hearing, and creating a board to address divergencies in the interpretation of legal provisions between first and second instance authorities. In addition, improvements were also planned, involving the Ministry of Foreign Affairs, to develop country of origin information to serve the needs and purposes of various institutional actors.

## 4.5.2. Changes to the appeal procedure

### Changes to time limits applicable in second instance procedures



Following a complaint by a group of NGOs, the Constitutional Court in Belgium examined amendments to the Act of 21 November 2017 amending the Residence Act and the Reception Act, which entered into force on 22 March 2018. The court **held** that it was not excessive to reduce the time limit to appeal in the regular procedure from 15 to 10 days.

In Finland, an amendment to the Aliens Act which came into force in August 2021 extended the time limit to 30 days to submit an appeal against a decision of the Finnish Immigration Service and before the Administrative Court and the Supreme Administrative Court.<sup>597</sup>

### Automatic suspensive effect



The suspensive effect of an appeal means that an appealed decision cannot be enforced until a decision on the appeal is delivered. Once an appeal is lodged, the applicant has the right to remain in a host country pending the outcome. Changes to the regular appeal procedure in asylum cases, specifically on the provision of an automatic suspensive effect, were implemented in 2021.

In February 2021, Bulgaria’s National Assembly adopted a bill amending and supplementing the Law on Foreigners. The amendments provide for a temporary automatic suspensive effect of an appeal against an expulsion order based on national-security grounds, containing ‘substantiated allegations’ of important risk of death or ill treatment in the destination country.<sup>598</sup> The appeal is considered by the court in an open session, scheduled not later than



3 days after the receipt of the appeal. A decision is pronounced within a time limit of 7 days from the lodging of the appeal. A further appeal may be lodged before the Supreme Administrative Court, which delivers a decision within 14 days of the receipt of the appeal.<sup>599</sup>

The Committee of Ministers of the Council of Europe welcomed these legislative amendments in their decision issued in March 2021 in the process of supervising the execution of the ECtHR judgment *C.G. and Others group v Bulgaria* (Application No 1365/07). The Committee of Ministers observed the considerable progress on improving the judicial review of expulsion cases and detention pending expulsion.

In Cyprus, the House of Representatives amended the Law on the Establishment and Operation of the Administrative Court in February 2021. The amendment introduced an automatic suspensive effect for an appeal against a return decision, deportation order and removal order.<sup>600</sup>

Lithuania introduced amendments to the Law on the Legal Status of Aliens in December 2021, which changed second instance procedures for decisions pronounced in an accelerated procedure (see Section 4.3.3).<sup>601</sup>

### Digitalisation of second instance procedures



With the aim of making justice faster, simpler and more environmentally-friendly, the Belgian CALL announced that from March 2022 procedural documents can be submitted online. Documents can be sent electronically via J-box, an alternative to traditional registered mail, and for an appeal in a special procedure, this option replaced the traditional submission by fax.<sup>602</sup>

The elimination of faxes was criticised by civil society organisations which considered this to be problematic for applicants without a lawyer and for whom the J-box is not accessible, especially for requests for interim measures.<sup>603</sup>

Furthermore, as of December 2021, CALL extended the possibility to use the written procedure at the request of the parties and not only at the initiative of the judge. In this case, both parties must explicitly agree and any silence by one of the parties will amount to agreeing to the request for processing the appeal by a purely written procedure. If the judge accepts the parties' request, the parties are informed and the court sets the date for the closing of the hearing within a minimum period of 8 days. The amendments introduced in December 2021 to the Aliens Act also provide that the written procedure may be used in exceptional circumstances (for example a health crisis or a natural disaster) by the adoption of a Royal Decree and for a period of 6 months.<sup>604</sup>

In Ireland, the Chairperson of the International Protection Appeals Tribunal issued a new Guideline on Taking Evidence from Appellants and Other Witnesses in February 2022, which amends the one issued in 2019. The guideline applies to oral hearings before the tribunal and takes into consideration the EUAA Judicial Analyses on Evidence and Credibility Assessment in the Context of the Common European Asylum System (CEAS) (IARMJ/EASO, 2018) and on Vulnerability in the Context of Applications for International Protection (IARMJ/EASO, 2021), as well as the UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status (December 2011). The guideline also reflects that oral hearings may be carried out remotely through audio-video means.<sup>605</sup>



In practice, the tribunal was designated as a body under s.31 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 of 31 December 2020, enabling it to provide remote audio-video hearings by default unless to do so would be unfair in the circumstances or otherwise contrary to justice. A contract for the provision of interpreter services for audio-visual hearings was finalised in mid-2021.

In Romania, Law No 114/2021 was adopted and put into force as of April 2021 to digitalise the second instance procedure and allow for remote hearings due to the COVID-19 pandemic.<sup>606</sup> According to the new law, courts have the possibility to restrict their activity if, due to the COVID-19 pandemic, they are severely affected by the number of judges and auxiliary staff in quarantine or isolation. In addition, hearings may take place by videoconference, with the agreement of the parties, where technical means ensure the integrity, confidentiality and quality of the transmission. Furthermore, the law provides for the use of electronic means of communication, both for the submission of documents to the case file and for the communication of documents by the court and bailiffs.<sup>607</sup>

### Communication between first instance authorities and courts



Communication and the flow of information are instrumental in processing cases within a reasonable time, while ensuring that all the information on which a first instance decision was taken is available to the courts. Efforts to improve communication between first instance authorities and second instance appeal courts were made in 2021.

In Cyprus, courts were added to the CASS database and case files will also be incorporated into the system. In Malta, the National Asylum Seekers Management System was improved to better communicate between the International Protection Agency and the International Protection Appeals Tribunal, leading to most communication between first and second instance taking place through the system.

### 4.5.3. Processing of cases lodged by specific nationalities



Country of origin information is one of the key aspects analysed during the asylum procedure to assess protection needs. Due to rapid changes and a lack of updated information on the situation in certain countries of origin – such as Afghanistan, the Democratic Republic of the Congo and Ethiopia – courts suspended cases pending at the appeal stage lodged by nationals of these countries.

When assessing requests for international protection, national courts still noted differences in July 2021 in the level of violence between regions in Afghanistan, with some still considered to be safe upon return.<sup>608</sup> However, considering the Taliban offensive nationwide after the withdrawal of international troops, national courts in EU+ countries began to gradually change their assessments.

In Austria, the decision-making practice has gradually **changed** after the ECtHR granted interim measure to prevent the deportation of an Afghan national on 2 August 2021 and because the security situation in Afghanistan changed in the summer of 2021. In December 2021, the Constitutional Court **examined** the international protection needs of an Afghan man and concluded that his return would violate the ECHR, Articles 2 and 3.



In Switzerland, courts **ordered** a national form of protection. Since August 2021, appeals from Afghan nationals to the French National Court of Asylum were examined with regard to protection grounds under the Geneva Convention, as this could lead to obtaining refugee status which is valid for 10 years.<sup>609</sup>

Since August 2021, some countries fully or partially suspended the processing of appeals lodged by Afghan nationals. In Denmark, the Refugee Appeals Board suspended appeals due to the uncertainty about the security situation in Afghanistan but continued to address cases regarding other aspects, such as age assessments and Dublin transfers.<sup>610</sup> The processing of asylum cases lodged by Afghan citizens was resumed in December 2021 by the Danish Refugee Appeals Board. Despite the fact that the situation in Afghanistan remained quite serious and uncertain, the Executive Committee of the Refugee Appeals Board found that background information had become available to allow the Refugee Appeals Board to resume the proceedings of the cases.<sup>611</sup>

In Luxembourg, cases lodged by Afghan nationals were not fully suspended, as applications were processed where the need for protection was obvious, so only positive decisions (as well as inadmissible and Dublin decisions) were issued while negative ones were not issued. From the end of January 2022, the examination of cases pending in second instance were resumed and applicants were provided the possibility to submit new evidence.<sup>612</sup>

In October 2021, the Finnish Supreme Administrative Court stated that the conditions in Afghanistan had changed significantly since the decisions of the Finnish Immigration Service and the Administrative Court had been pronounced and that international protection applications must be completely reassessed on the basis of up-to-date country information. Based on that, the Supreme Court granted leave to appeal to nearly 80 Afghan asylum seekers, overturned first instance decisions of the Finnish Immigration Service and judgments pronounced on appeal by the Administrative Court, and referred the cases back for re-examination to the Finnish Immigration Service.<sup>613</sup>

Similar approaches were followed by courts for asylum applicants from Ethiopia. In Denmark, the Refugee Appeals Board decided in December 2021 to suspend the processing of cases for Ethiopian nationals. The board considered that it was not possible to access sufficient background information on the conditions in Ethiopia due to the rapid developments, fluctuating nature of the situation and the limited access for journalists and NGOs to the affected areas. The suspension included asylum cases, cases of revocation and refusals of the extension of residence permits pursuant to the Aliens Act, Section 7, deportation cases pursuant to the Aliens Act, Section 49(a) and certain cases concerning the lapse of residence permits.<sup>614</sup>

Lastly, in October 2021 the Danish Refugee Appeals Board decided to review the cases for citizens of the Democratic Republic of the Congo who were about to be deported, in light of a report of the Swedish Migration Agency of 24 June 2021 (“Rättsligt Ställningstagande. Säkerhetssituationen i vissa delar av Demokratiska republiken Kongo (DRK)”) which assessed the situation in the provinces of North Kivu, South Kivu and Ituri. The report concluded that anyone would be at risk of being subjected to ill treatment in violation of the ECHR, Article 3 solely due to mere presence in the area.





#### 4.5.4. The right to an effective remedy



The right to an effective remedy against a negative decision for an asylum application was analysed in 2021 by several supreme and constitutional courts from EU+ countries, while NGOs and the academia evaluated the enforcement of judgments and whether courts provide adequate reasoning.

The Italian Court of Cassation **referred** a case to the Constitutional Court to review the constitutionality of a legal provision on the obligation to have a power of attorney whose date of issuance is certified as authentic by the lawyer in order to lodge an appeal on points of law in proceedings for international protection.

In France, the Council of State **held** that the CNDA can reject an appeal by order when the applicant did not present serious elements of proof, even if the applicant announced the submission of complementary observations and the time limit for such a submission had not yet expired.

On the requirement to have an impartial panel of judges that reviews a case on an appeal, the German Federal Constitutional Court allowed a constitutional complaint due to the rejection of the application by a biased judge from the respective administrative court, who approved the statement “migration kills” in a regulatory law case.<sup>615</sup> The Federal Constitutional Court **held** that the complaint was justified because the respective judge did not have the neutrality required by the Constitution to decide on the case and the administrative court decision to reject the application was arbitrary.

The University of Groningen in the Netherlands published a research report in September 2021 on the reasoning of decisions on appeal in immigration law, evaluating the new method of motivation implemented by the Administrative Jurisdiction Division of the Council of State since the beginning of 2020. This new method provides short, explanatory, standard sentences for decisions with an abbreviated motivation. The conclusion of the researchers was that motivating decisions in which the appeal is declared unfounded should be the rule rather than the exception, and the study was critical about the application of the abbreviated motivation.<sup>616</sup>

A study by the Hungarian Helsinki Committee found that the asylum authority did not comply with court judgments in Hungary,<sup>617</sup> and in Slovakia, the NGO Human Rights League noted the non-enforcement of court decisions.<sup>618</sup>

In addition, the ECtHR annulled its 2019 judgment in *N.A. v Finland* following the government’s request for a revision due to the applicant’s forgery of documents. In its 2019 judgment, the court found violations of the ECHR, Articles 2 and 3 due to Finland’s decisions to deport the applicant’s father to his country of origin, Iraq, where he was allegedly killed. At the time, the ECtHR judgment had led the Finnish Immigration Service to review other decisions on returns to Iraq.

In 2021, the Finnish government requested the revision of the judgment of 14 November 2019 as new facts had been discovered which had been previously unknown to the government. Specifically, a national court established that the applicant and her ex-husband conspired to forge documents, which were subsequently used as evidence before the Helsinki Administrative Court and before the ECtHR. These documents and false information were used as essential evidence by both of these courts. The ECtHR **concluded** that the applicant knowingly intended to deceive the court, and thus, it rejected the application due to an abuse of the right of petition.





## Section 4.6. Pending cases



Once an application for international protection has been lodged with a national authority, the processing phase begins. The final outcome of this process is a decision at first instance, which can be appealed and followed by another decision. The examination of a case can also be closed for other reasons, including an explicit withdrawal initiated by the applicant, an implicit withdrawal, for example in the case of absconding, and an acceptance of responsibility by a partner country in the context of a Dublin procedure.

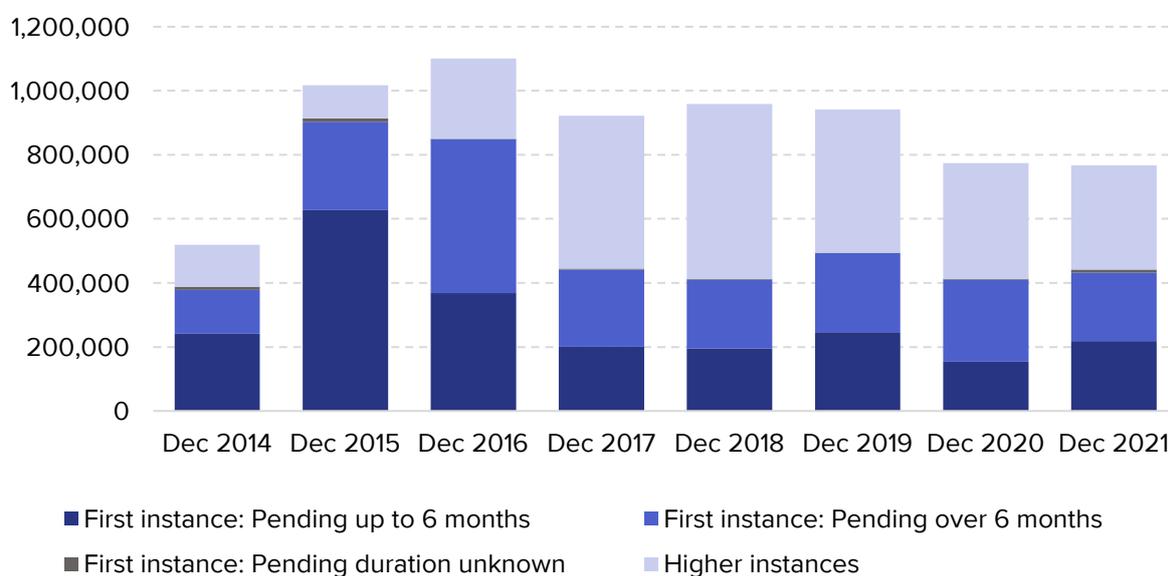
While an application is under examination, it is part of the stock of pending cases. Pending cases are a key indicator reflecting the workload experienced by national authorities and the pressure on national asylum systems, including reception systems.

At the end of 2021, over 767,000 applications were awaiting a decision in EU+ countries,<sup>x1</sup> similar to a year earlier with a slight 1% decrease. This comparison hides important variations throughout the year. In the first months of 2021, the stock of pending cases gradually declined, but the number started to quickly increase in August 2021 to return on par with the level at the end of 2020 in just a few months. Hence, the stock of pending cases was still higher than in the pre-crisis level in 2014 (see *Figure 4.19*), adding pressure on national reception systems.



### More cases pending at first instance than at higher instances

**Figure 4.19. Pending cases in EU+ countries at the end of each year, 2014-2021**



Source: Eurostat [[migr\\_asypenctzm](#)] as of 15 March 2022 and EUAA EPS.

<sup>x1</sup> At the time of writing, data were missing for Lithuania.



When combining Eurostat data with EUAA EPS data,<sup>xii, xliii</sup> the number of cases pending at first instance and at second or higher instances can be disaggregated. EUAA EPS data allow to further analyse pending cases by a duration of 6 months or longer at first instance.

The results indicate that the overall stock of pending cases increased at first instance, whereas there was a decrease at higher instances. The annual total of pending cases was influenced by two opposing trends: while cases pending at first instance rose (in the second half of 2021), cases at higher instances decreased steadily. At the end of 2021, some 442,000 cases were pending at first instance, accounting for 58% of the total – a higher share than a year earlier.

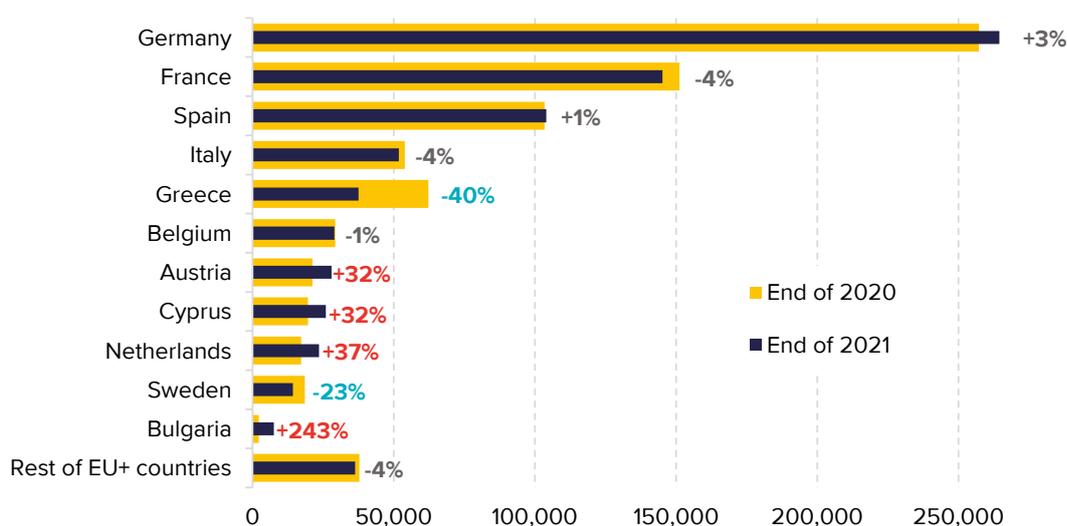
About one-third (34%) of all pending cases at all instances continued to be awaiting a decision in Germany, with a total of 264,000 open files (see *Figure 4.20*). This was driven particularly by more cases by Syrian and, to a lesser extent, Afghan applicants. Other EU+ countries with a considerable number of pending cases included France (145,000), Spain (104,000), Italy (52,000) and Greece (38,000). Compared to the end of 2020, Greece managed to decrease its backlog substantially (-40%), whereas decreases in France and Italy were more modest (-4% each).

In some countries, there were sharp increases in the number of pending cases: Austria (+6,700), the Netherlands (+6,400), Cyprus (+6,300) and Bulgaria (+5,400). In each of these countries, the number of pending cases started to rise in the second half of 2021. While in Cyprus the increase affected multiple nationalities, in Austria and the Netherlands it affected primarily Syrian applicants, and in Bulgaria Afghans and Syrians.



### Most cases awaiting a decision were still in Germany, France and Spain

**Figure 4.20. Pending cases in EU+ countries at the end of 2021 compared to the end of 2020**



Source: Eurostat [[migr\\_asypenctzm](#)] as of 15 March 2022.

<sup>xii</sup> EUAA data cover first instance cases. They are provisional and not validated, but they provide information on overall trends at the EU+ level.

<sup>xliii</sup> EUAA EPS data do not include information on Iceland and Liechtenstein. According to Eurostat data, the total number of pending cases in these two countries was low.



Afghans (103,000) and Syrians (96,000) not only continued to have the most pending cases in EU+ countries at the end of 2021, but their numbers rose, by 10% and 38%, respectively, compared to 2020 (see Figure 4.21). For Afghans, the total represented the most pending cases since July 2020. The increases for both nationalities were driven by the fact that more applications were lodged in 2021, thus by the end of the year, over two-thirds of cases awaiting a decision for Afghan and Syrian applicants were pending at first instance.

At the end of 2021, nationals of Iraq, Turkey, Nigeria, Pakistan, Colombia, Iran, Venezuela and Bangladesh (in descending order) also had considerable stocks of pending cases, although much lower than for the top two citizenships. Among them, increases compared to a year earlier were recorded only for Turks and Bangladeshis, whereas the stocks decreased markedly for Iranians, Nigerians, Colombians, Iraqis and Pakistanis.

Most applications for the bulk of the top nationalities were pending in Germany, where the backlog for Afghan and Syrian cases rose considerably compared to 2020. Colombians and Venezuelans had the most pending cases in Spain, Pakistanis in Italy and France, and Bangladeshis in France and Italy. Notable increases of caseloads for Afghan applicants were seen also in Bulgaria, Belgium and Italy. Pending cases for Syrian applicants grew in Austria, the Netherlands and on a smaller scale in Bulgaria and Cyprus.

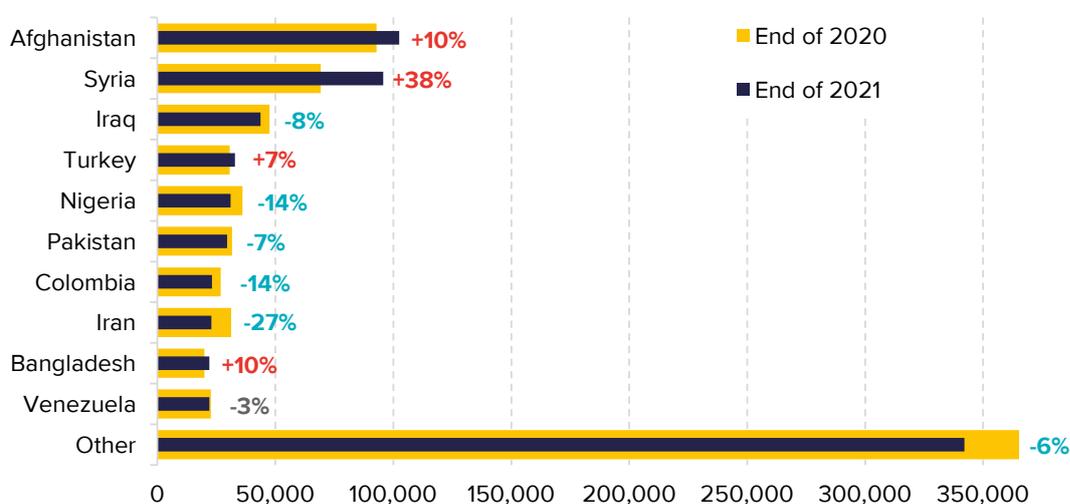
Over two-thirds of pending cases at the end of 2021 continued to comprise male applicants. For almost all nationalities, more males were awaiting a decision than females. The exception was for Latin Americans, such as Colombians and Venezuelans, where the majority of pending case were for women.

While 55% of pending cases were for adult males, children accounted for close to one-quarter (23%) of all applicants awaiting a decision. This affected somewhat more boys than girls in this group. Syrians and Afghans jointly accounted for over one-third of all minors. In total, 76% of all minors who had yet to learn the outcome of their application for international protection were below 14 years of age.



### Rising number of pending cases for Afghan and Syrian applicants

**Figure 4.21. Pending cases in EU+ countries at the end of 2021 compared to the end of 2020 by Top 10 countries of origin of applicants for international protection**



Source: Eurostat [[migr\\_asypenctzm](#)] as of 15 March 2022.



## Section 4.7. Reception of applicants for international protection



*The recast Reception Conditions Directive sets the standards for the conditions which must be met during the reception phase of an asylum procedure and aims to ensure that rights and obligations are harmonised across all Member States. The recast Reception Conditions Directive describes the conditions and processes under which applicants need to be informed about reception benefits and duties (see Section 4.9).*

*The reception of applicants for international protection encompasses rules on:*

- *material reception conditions (such as housing, food and clothing which are provided in-kind, as financial allowances or in vouchers – or a combination of these three, in addition to a daily expense allowance);*
- *freedom of movement;*
- *access to health care;*
- *education for children;*
- *access to the labour market;*
- *language instruction; and*
- *socio-cultural orientation.*

*The directive applies to all applicants throughout the whole asylum procedure from the moment an application is made and for all types of procedures until they are allowed to remain on the territory.*

*The directive also outlines the circumstances when Member States may reduce or exceptionally withdraw material reception conditions. Member States must have appropriate guidance, monitoring and controls to ensure that EU standards are upheld. They also need to provide suitable staff training and allocate sufficient resources. Member States are required as well to take into account the specific situation of vulnerable applicants (see Section 5). Furthermore, the directive lists the grounds, guarantees and conditions for the detention of applicants (see Section 4.8). The standards in the directive need to be implemented by all Member States, however, variations still exist in reception conditions across countries.*

The re-organisation and adaptation of reception systems remained at the forefront in national strategies to ensure fast and sufficient responses to changes in migratory flows. In 2021, reception authorities reached out increasingly to local authorities to address together some of the challenges related to the reception of applicants for international protection. Digitalising reception procedures focused on simplifying workflows.

Despite these efforts, the significant increase in the number of applicants in 2021 meant that reception systems in many EU+ countries were under strain. In some cases, this resulted in high occupancy rates in facilities, necessitating services to be quickly adapted to respond to the needs of all applicants.

In countries where the pressure on reception systems has been building up already prior to the COVID-19 pandemic, the new arrivals led to the saturation of the system. In these cases, reception authorities responded by opening new, typically temporary, places, while examining



longer-term structural solutions, for example, by creating more permanent accommodation places and helping recognised beneficiaries of international protection move on quicker from reception facilities. Facing unexpected influxes of applicants, some EU+ countries turned to the EUAA to provide support in various areas of reception.

The persisting COVID-19 context continued to add to existing and new challenges, as requirements for physical distancing, quarantine and isolation continued to demand more space. Reception staff needed to make adjustments when positive cases were reported and they were actively engaged in the COVID-19 vaccination roll-out for applicants throughout 2021. As COVID-19 restrictions began to ease, the number of support activities in reception facilities grew in 2021, often aimed at preventing tensions and de-escalating violence within and surrounding the centres.

The quality of reception remained an overall concern in many EU+ countries, as UNHCR and civil society organisations continued to report on sub-standard accommodation and support. In addition, courts were called on to deliberate on the adequacy of reception conditions in other EU+ countries in the framework of the Dublin III Regulation (see *Section 4.2*).

## 4.7.1. Organisation and functioning of reception systems

### 4.7.1.1. Changing institutional environments and training staff



The tasks and responsibilities of authorities responsible for reception continued to be adjusted in 2021, for instance in Austria, Cyprus, Greece and Iceland.

The operationalisation of the new administrative body responsible for reception continued in Austria. The new Federal Agency for Reception and Support Services (BBU, Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH) started its activities related to legal advice and representation, translation and interpretation services, return counselling and return assistance and human rights monitoring on 1 January 2021. It had already started tasks related to the provision of material reception conditions on 1 December 2020.<sup>619</sup> The agency introduced quality criteria for all activities and offered training to staff. Strict qualification criteria and a special training programme were developed for all new staff joining the BBU. However, the Quality Advisory Board expressed concerns about the BBU's lack of institutional independence as the legal aid provider (see *Section 4.11*).<sup>620</sup>

The Asylum Service in Cyprus established new sectors which are responsible for the reception of applicants for international protection.<sup>621</sup> In addition, the implementation and operationalisation of a reception allocation bureau was planned in the First Reception Centre Pournara to collect statistics, follow in- and outflows, and gather information on residences of applicants who are leaving the centre.

Ministerial responsibilities for reception were re-shuffled, impacting the institutional organisation in Greece and Iceland. Following the re-organisation of the Greek Ministry of Migration and Asylum, some services were centralised, and corresponding offices and staff from the Reception and Identification Service (RIS) were transferred to the ministry.<sup>622</sup> RIS staff participated in several training programmes, for example, on administrative procedures, identification and support to victims of human trafficking, and data management. After the general elections in September 2021 in Iceland, a new presidential decree was adopted on the re-allocation of ministerial responsibilities. Consequently, the Ministry of Social Affairs became responsible for providing material reception conditions and organising other aspects, such as medical services, children's education and leisure activities.<sup>623</sup>



Training for reception staff continued in most EU+ countries (see Section 5). Notably, Fedasil in Belgium launched a seven-module training programme for managers and training in breathing techniques for staff working in reception centres to support their emotional resilience. The content of the training on dealing with aggression was expanded. In Bulgaria, reception staff could apply for a special Master's programme at the Sofia University specially designed for persons working with refugees and migrants.<sup>624</sup>

In Malta, training initiatives for members of reception staff included orientation and induction training for new members of staff, train-the-trainer sessions on conflict management, train-the-trainer sessions on the EUAA modules on management in reception and reception of vulnerable persons, training on human trafficking, torture and other EUAA training sessions. Staff received training in basic first aid (122 officials), fire safety training (128 officials) and mental health first aid (22 officials) from a list of 13 reception staff training initiatives.

Some countries, for example Belgium and Luxembourg, faced challenges in recruiting new staff, especially social workers and medical staff.

### 4.7.1.2. Adjusting reception capacity



The increasing number of applicants for international protection (see Section 4.1) pushed reception capacity to its limits in many EU+ countries.

For example, Fedasil in Belgium signalled the need for more reception places in September 2021 due to the influx of applicants (especially unaccompanied minors), the loss of capacity due to flooding in Wallonia,<sup>625</sup> the resettlement of Syrian refugees, an increase in the length of stay in reception, the evacuation of applicants from Afghanistan, and continued COVID-19 requirements.<sup>626</sup> Pressure had already been building up in the Belgian reception system since 2018, and new procurement procedures were launched in 2019.<sup>627</sup> However, with fewer applicants in reception in 2020 due to the COVID-19 pandemic,<sup>628</sup> reception places were closed in 2021 without knowing that the numbers would rapidly rise in the second-half of the year.<sup>629, 630</sup>

The situation was of particular concern in the arrival centre in Brussels, where employees held two trade union actions in 2021.<sup>631</sup> In mid-November 2021, the centre's Information Point temporarily closed<sup>632</sup> and single men were starting to be directed to homeless shelters since mid-October 2021. However, applicants with vulnerabilities (families with children, single women, and applicants with disabilities and health conditions) could still access, register their application and be provided reception.<sup>633</sup>

Ten civil society organisations published an open letter in November 2021, raising awareness about the reception crisis and the fact that several persons were unable to apply for international protection (see Section 4.1).<sup>634</sup> The Brussels Labour Court treated several urgent requests from applicants to be granted material reception conditions, noting that the status of applicant needs to be established before the court can order Fedasil to grant reception (see the case of a [Palestinian](#) applicant and the rejected cases of applicants from [Turkey](#), [Mauritania](#), [Afghanistan](#) and [Cameroon](#)). On 19 January 2022, the Brussels first instance tribunal condemned Fedasil for not having foreseen appropriate structures to accommodate an increasing number of applicants and ordered the treasury to pay a daily fine until the situation is resolved. Following the judgment, civil society organisations published joint statements to highlight that many applicants were still not accommodated and were sleeping outdoors.<sup>635</sup>



At the end of October 2021, the arrival centre hosted approximately 900 persons, while its maximum capacity is 800 places.<sup>636</sup> To ease the pressure, in January 2022 Fedasil opened a night shelter<sup>637</sup> and a temporary facility for unaccompanied minors<sup>638</sup> for those who could not be hosted immediately in the arrival centre. Due to COVID-19 measures and the increased number of applicants, Fedasil also encouraged applicants to move out of reception facilities and live with family and friends. The reception system surpassed the symbolic milestone of 30,000 places in January 2022.<sup>639</sup> An operational plan was signed between the EUAA and Belgium in December 2021 to increase short- and medium-term reception capacity in line with CEAS reception standards.<sup>640</sup>

In summer 2021, both Latvia and Lithuania reached the capacity limits of their reception systems due to the increase in arrivals through Belarus (see *Section 4.1*). Both countries declared a state of emergency, which impacted reception as well. For example, in Lithuania, all centres were transformed to provide accommodation to applicants under the accelerated procedure, with strict limitations on the freedom of movement (see *Section 4.8*). Filming, photographing and sound recordings were prohibited in accommodation centres, access to the facilities was restricted, and gatherings in centres were limited.<sup>641</sup>

ECRE's legal analysis underlined that the amended law allowed restrictions on information provision (see *Section 4.8*), hindered access to legal assistance and blocked UNHCR and other organisations from accessing detention and reception facilities (see *Section 4.10*). Interpretation services (see *Section 4.11*), social and psychological assistance and access to employment were restricted.<sup>642</sup> UNHCR stated that applicants must have access to these rights and support services even in an emergency situation.<sup>643</sup>

The tensions led to protests by migrants, for example in the temporary facility in Verebie.<sup>644</sup> By October 2021, all applicants were moved from temporary sites to reception facilities.<sup>645</sup> In November 2021, the renovation and extension works in the Foreigners' Registration Centre in Pabradė finished and capacity was expanded.<sup>646</sup>

To increase reception capacity in Latvia, an AMIF-funded project provided the possibility to use already-existing premises under the responsibility of the Ministry of the Interior for the temporary reception of 70 asylum seekers. In addition, project activities started under the AMIF emergency assistance instrument to create an additional 250 places. The EUAA signed an operating plan with Lithuania in July 2021 (amended in September 2021)<sup>647</sup> and with Latvia in September 2021<sup>648</sup> to deploy a team of interpreters providing support, for example, with reception services.

The situation at the border with Belarus (see *Section 4.1*) impacted reception in Poland to the extent that two centres from the Office for Foreigners were temporarily lent to the Border Guard due to the need for more capacity in detention (see *Section 4.9*). Thus, the capacity in reception facilities temporarily decreased. One of these centres was returned to the Office for Foreigners in mid-June 2022. In addition, a special centre for single women and single mothers, operated by a contractor, was closed. The authorities were planning to construct a new, state-owned centre for women with AMIF funding.

In the Netherlands, challenges in swiftly increasing reception capacity came to the forefront in summer 2021. In January 2021, the Central Agency for the Reception of Asylum Seekers (COA, Centraal Orgaan opvang asielzoekers) Board expressed the need to establish 31,000 reception places in total by January 2023.<sup>649</sup> However in April 2021, the COA reported that fewer reception places were needed as there were fewer applicants in general due to the COVID-19 pandemic, the Immigration and Naturalisation Service (IND) had reduced the





number of applicants in reception by clearing up the backlog of cases, and the majority of expiring administrative contracts for reception facilities could be extended.<sup>650</sup> In September 2021, the COA announced an urgent need for 4,000 places due to a sharp rise in applications, the fact that recognised beneficiaries of international protection stay longer in reception due to shortages on the housing market, and the arrival of evacuees from Afghanistan who were temporarily accommodated at emergency locations of the Ministry of Defence.<sup>651</sup> The organisation managed to create 6,000 additional places by the beginning of November 2021, typically temporary places, with the duration of stay varying from 4 weeks to 6 months. In the medium-term, the urgent need to create more structural places remained.<sup>652</sup> The issue was the most visible in the central reception centre in Ter Apel.

The capacity decision in November 2021 stated that 42,000 places would be necessary in 2022. At the end of 2021, the COA had 36,000 places fully occupied.<sup>653</sup> The COA urgently needed extra places for unaccompanied children as well,<sup>654</sup> and due to the shortage in places, the care for unaccompanied minors aged 17.5 years and over was taken over by the COA from Nidos, and the minors were accommodated in regular reception places, instead of specific ones for minors (see *Section 5*).<sup>655</sup>

Only about one-half of residents in the reception system were applicants, while the number of beneficiaries of international protection occupying a place at a COA location rose to 11,500, of which 7,400 had been waiting longer than the agreed period of 3 months. In order to support beneficiaries of international protection moving out of reception, the Hotel and Accommodation Regulation was adopted in November 2021. The regulation allows municipalities to arrange for temporary accommodation for beneficiaries of international protection who are still in reception and the municipality receives a one-time, fixed amount per person.<sup>656</sup> The influx from family reunification for recognised beneficiaries of international protection also peaked throughout 2021.<sup>657</sup>

In order to facilitate the functioning of the COA and make adjustments to reception capacity more efficient, the Dutch coalition agreement of 15 December 2021 planned more stable financing to the organisation.<sup>658</sup> As part of the Implementation Agenda for Making the Asylum Chain more flexible, the COA has also considered setting up multi-functional places, which could be used as student dormitories or as general emergency shelters when reception facilities can be scaled down.<sup>659</sup>

The reception system was under great stress in Luxembourg, where an emergency structure was activated in autumn 2021 as the occupancy rate of facilities continued at full capacity throughout 2021. A large part of new arrivals came through family reunification programmes and there was an important increase in the arrival of unaccompanied minors. Compared to previous years, more babies were born to families in reception in 2020 and 2021, requiring accommodation and support to be swiftly adapted. As in previous years, only around one-half of reception residents were applicants, while many places were taken by recognised beneficiaries of international protection who were not able to make the transition to mainstream housing.

The influx of new applicants added a strain on the reception system in Bulgaria as well, where the occupancy rate increased to 50%, compared to 7% in 2019. Due to the high number of unaccompanied minors, mainly from Afghanistan, safe zones for unaccompanied children needed to be restructured. The Ombudsperson found poor living conditions, with a lack of adequate furniture and overcrowding. When the security zone was full, children were accommodated in the gym separately from adults<sup>660</sup> (see *Section 5*). The increase in residents





required the State Agency for Refugees to rapidly adapt the provision of services in reception centres.

In Austria, nine temporarily-closed federal reception facilities were reopened to address increased capacity needs due to COVID-19 measures and an increase in the number of applicants. Asylkoordination Österreich observed that facilities both at federal and regional levels reached the limit of their capacity.<sup>661</sup> Germany also faced a steadily increasing number of arrivals (see *Section 4.1.5*), resulting in the number of people allocated to initial reception exceeding those being further distributed to second-line reception in many federal states. The situation was similar in Switzerland, where capacity in federal asylum centres was used as a buffer for cantons, which could not absorb new arrivals. Plans were published to construct new federal asylum centres in the cantons of Zurich<sup>662</sup> and Saint-Gall.<sup>663</sup>

Initiatives to increase reception capacity and open new centres continued, for example in Cyprus, France, Italy and Portugal. In Cyprus, a Collective Reception and Accommodation Centre was being established in Limnes. The site started operating with 80 pre-fabricated housing units donated by the Polish government, which accommodated mainly applicants from a safe country of origin. The new centre is planned to have a capacity of 800-1,000 persons.<sup>664</sup> At the end of 2021, due to the high number of COVID-19 infections in the First Reception Centre Pournara, the facility in Limnes was temporarily used as a quarantine facility for newly-arrived persons, prior to lodging their application.

The implementation of the French “National plan for the reception of asylum applicants and the integration of refugees” started in 2021, with the creation of 4,500 places for applicants and 408 places for recognised beneficiaries of international protection with vulnerabilities (see *Section 4.14*).<sup>665</sup> The increase of places was accompanied by the implementation of the “regional orientation scheme”, which led to the transfer of 16,000 asylum seekers from the Ile-de-France region, where accommodation places were lacking, to the rest of the country in 2021. These actions led to the accommodation of 65% of all applicants at the end of 2021, compared to 53% in the beginning of 2021.<sup>666</sup>

In Italy, Decree Law No 139 provides for the creation of 3,000 new places for families in the System for Reception and Integration (SAI). The increase was necessary due to legislative changes from 2020 that opened SAI again for applicants and extended the scope of beneficiaries of protection who can be accommodated there,<sup>667</sup> in addition to the increased arrival of Afghans.<sup>668</sup>

The Portuguese Ministry of Home Affairs announced the financing of the construction of a new reception centre in Vendas Novas, in the Alentejo region, to be managed by the Jesuit Refugee Service Portugal.<sup>669</sup> In Romania, the regional centres in Timisoara and Bucharest were in the process of renovations. In addition, the General Inspectorate for Immigration had ongoing AMIF-funded projects to expand reception capacity by 500 places: 300 in Galati, 100 in Radăuți, and 100 in Timișoara.

New facilities were opened or the number of places were increased specifically for unaccompanied children and applicants with special needs, for example, in Belgium, Cyprus, France and Italy. In Croatia, renovations started with AMIF funding in the reception facility for applicants with special needs in Kutina.<sup>670</sup> In contrast, the Danish Immigration Service closed a facility for unaccompanied minors in Østrup due to the decreasing number of unaccompanied children over time (see *Section 5*).<sup>671</sup>



Due to a low number of asylum applications, the Finnish Immigration Agency, the Norwegian Directorate for Immigration (UDI) and the Swedish Migration Agency continued to reduce reception capacity.<sup>672</sup> However, the UDI had to find solutions to accommodate Afghan applicants, who numbered more than anticipated.

With a low number of applicants as well, the Vägeva Accommodation Centre in Estonia was temporarily closed at the beginning of 2021, while the Vao Accommodation Centre remained operational.<sup>673</sup> Due to the special conditions to submit asylum applications in Hungary (see *Section 4.1*), the number of applicants remained low and approximately 10 persons were accommodated at the end of 2021. An AMIF-funded project was set up to provide apartments for Afghan evacuees as part of an integration programme.

The number of places available under the ESTIA scheme in Greece were substantially reduced to 16,948 places at the end of 2021. Applicants were directed to other inland structures.<sup>674</sup> The Ministry of Migration and Asylum announced that the number of places will be further decreased to 10,000 in 2022.<sup>675</sup>

### 4.7.1.3. Reorganising and adapting reception systems



Strategic approaches related to the organisation of reception systems were adapted, for example in Cyprus, Germany, Finland, Spain and Sweden. In Cyprus, work was underway on an integrated national reception strategy. In Spain, the reform of the reception system continued throughout 2021. Only recognised beneficiaries of international protection can be referred to the second phase of the national reception system as of 2021.<sup>676</sup> The State Secretary for Migration announced a 17% increase in the budget for migration for 2022,<sup>677</sup> covering mainly the upgrade of the reception system, in line with the Recovery, Transformation and Resilience Plan that was adopted in June 2021.<sup>678</sup> According to this plan, one in every three reception places will be part of the state reception network by 2024. It was one in every ten places in 2019.<sup>679</sup> Civil society organisations, like CEAR,<sup>680</sup> Fundación Cepaim<sup>681</sup> and ECRE,<sup>682</sup> provided comments on the new and planned reform measures and put forward recommendations aiming to ensure that applicants' reception rights are respected and the new system is fully compliant with CEAS.

The German Federal Office for Migration and Refugees published an evaluation of 14 AnkER facilities and reception facilities with similar functions in six federal states.<sup>683</sup> The evaluation report concluded that the centres allowed for a more rapid identification of applicants and their countries of origin, and the average duration of asylum procedures in these facilities was slightly shorter, 77 days compared to 82 days in other facilities. However, the rate of Dublin transfers was lower and failed returns were higher than in other locations, although the differences were decreasing over time.<sup>684</sup> The evaluation found that the overall experience with these centres was positive, but the coalition agreement of the new German government will no longer use the AnkER concept, even though similar facilities for initial reception remain.<sup>685</sup>

In France, a National Reception Plan for asylum seekers and refugees set out the roadmap for 2021-2023, taking into account the situation of asylum applicants in France and the major measures put in place by the Asylum Law of September 2018. The National Reception Plan was prepared in consultation with everyone involved in asylum policy (e.g. state services, institutional partners and associations). The plan focuses on two areas: better accommodation and better support for asylum seekers and refugees. The main objectives are to increase the share of asylum seekers who are accommodated in the national reception system; place



asylum seekers in regions at an earlier stage; identify vulnerabilities and direct vulnerable asylum seekers to appropriate facilities; prepare and facilitate Dublin transfers to another Member State; and ensure that refugees are rapidly referred to the appropriate accommodation and rejected asylum seekers to the return preparation centre without being transferred to mainstream accommodation.

In Finland, legislative work continued to prepare for an eventual mass influx of migrants, and several amendments were introduced to the Reception Act. The Finnish Immigration Service must draw up a contingency plan for large-scale arrivals and has a central role in organising reception and give instructions to other actors in this scenario.<sup>686</sup>

In order to simplify workflows, the Finnish Immigration Service launched the PLANE project with AMIF funding, aiming to reform the electronic documentation of applicant files in reception centres, detention units (see Section 4.9) and the system providing assistance to victims of human trafficking (see Section 5).<sup>687</sup>

Similarly, the online web application, Match-IT, which Fedasil launched in 2015 for the central management of the reception network in Belgium, has been gradually extended and improved over the years. In April 2021, a new feature was rolled out to document social aspects of an applicant. In addition, a new IT system was launched in the arrival centre in Brussels to document residents in accommodation.

The Swedish government established an inquiry on an orderly initial reception of asylum seekers. The inquiry is tasked to propose measures to ensure that asylum seekers choose to live in the Swedish Migration Agency's accommodation throughout the asylum period, propose how a statutory obligation to participate in social introduction can be formulated, consider the scope of persons covered under the Law on Reception of Asylum Seekers and Others, and review the scope of benefits covered by this act (see Section 4.7.1.4).

As in previous years, several changes were implemented in the organisation of the reception system in Greece throughout 2021. The Ministry of Migration and Asylum took over the cash assistance component of the ESTIA programme from UNHCR in October 2021,<sup>688</sup> while it had already managed the accommodation part since 2020.<sup>689</sup> This transition entailed policy changes in entitlements, while civil society organisations observed delays in the provision of cash assistance (see Section 4.7.1.4). On the islands and in Fylakio (at the border), Law No 4825/2021 foresees that the RIS can create three reception types: Reception and Identification Centres (RICs/K.Y.T.), Controlled Structures for the Temporary Accommodation of Asylum Seekers, and Closed Controlled Access Centres (CCAC/KEΔ). RICs and CCACs were established and operated on the islands in 2021 and the Reception and Identification Service took several measures to strengthen safeguards and improve conditions within these facilities, for example, through a closer monitoring of contractors. CCACs were operating on the mainland in different locations, and it was planned that from November 2021, facility management (maintenance, technical works, repairs, cleaning and security) is managed by private companies.<sup>690</sup>

As in recent years, the living conditions in reception centres in Greece, particularly on the islands and at the border, continued to be the subject of serious concerns by various stakeholders. Although important improvements were made in CCACs to comply with EU standards on living space and reception conditions within the containers and hygiene conditions, reservations remained related to the site design, set-up and location of the centres. The European Committee of Social Rights [found](#), for example, that Greece failed to



provide adequate accommodation to applicant children on the islands and sufficient long-term accommodation for them on the mainland (see Section 5).

The Greek Administrative Court granted pecuniary damages to an [Egyptian](#) and [Syrian](#) applicant who lost relatives in the fires which destroyed the Moria reception camp in September 2020.<sup>691</sup> The appearance of the CCAC in Vathy, Samos – including double barbed-wire fences, watchtowers and the deployment of security personnel in uniform – raised concerns about isolating residents of the camp.<sup>692</sup>

Several adjustments were made in Italy as well. For example, the Ministry of the Interior announced the plan to build a transit centre for migrants at the border with France, to allow police forces to identify people and verify their legal status.<sup>693</sup> The ministry also signed a memorandum of understanding with civil society organisations (Rete per la Parità, Le Contemporanee, the National Council of Italian Women and the Italian division of Soroptimist International) to support the reception and integration of Afghan evacuees.<sup>694</sup> Ships continued to be used as quarantine facilities throughout 2021, raising further concerns, for example from the National Authority for the Rights of Persons Deprived of their Liberty<sup>695</sup> and several civil society organisations.<sup>696</sup>

In Luxembourg, the new first-reception centre started its operations at the beginning 2021,<sup>697</sup> and staff optimised processes and information flows. Particular focus was given to promote voluntary returns for applicants with little chances of being recognised to avoid forced returns. Reception structures for applicants in the Dublin procedure were established in the initial reception system. In addition, a complete IT overhaul has been started and was under implementation in the country's reception system.

Continuing with its reform of the reception system, the Norwegian UDI announced 12 framework agreements in its five regions. The agreements require contractors to be able to activate up to 5,000 places per region to address fluctuations in capacity needs.

#### 4.7.1.4. Entitlement to material reception conditions



Barriers in accessing the asylum procedure created delays in accessing reception, for example in Belgium and Italy, and were subject to several media reports, civil society reports and court rulings (see Sections 4.1 and 4.7.1.2).

Fedasil underlined that it did not change its general policy related to reception conditions for subsequent applicants, who are not entitled to material reception conditions until the application is considered admissible. This concerned mainly a group of Afghan applicants who submitted subsequent applications after the situation changed in Afghanistan, but the CGRS had not taken an admissibility decision or notified an inadmissibility decision (see Sections 4.3 and 4.4).<sup>698</sup> Deliberating on the Belgian policy to assign a specific reception facility to applicants who will be transferred to another Member State under the Dublin III Regulation, the CJEU held in cases [C-92/21](#) and [C-134/21](#) that this was in line with EU legislation and the regulation's provisions related to remedies (see Sections 2 and 4.2).

In Cyprus, applicants from a safe country of origin may be assigned to the Collective Reception and Accommodation Centre through an individual administrative act for an accelerated processing of their application. If they leave the centre, their material reception conditions may be reduced or, in exceptional and duly justified cases, withdrawn.<sup>699</sup>



In Slovenia, the amendment of the International Protection Act triggered changes to the implementing legislation. Two new decrees were adopted on applicants' reception rights<sup>700</sup> and accommodations for unaccompanied children (see *Section 5*),<sup>701</sup> as well as a decree on house rules of the asylum centre (see *Section 4.7.2*).<sup>702</sup>

A ministerial decision in Greece underlined that material reception conditions can be withdrawn, keeping the right to education and medical support, when an applicant breaches the accommodation rules of any type of facility, especially in case of violent behaviour. When an applicant is no longer a resident, a decision is taken that the person is no longer eligible for material reception conditions (either in-kind or in-cash).<sup>703</sup> In addition, the payment of financial assistance requires a verification of the applicant's physical presence in a reception facility since 1 July 2021. The objective of this support is to cover needs beyond accommodation, thus applicants benefiting from cash support without an accommodation could apply for housing.<sup>704</sup>

Civil society organisations underlined that in practice this meant that applicants living with family or friends lost their entitlement to cash assistance.<sup>705</sup> A ministerial decision clarified that applicants are entitled to this cash support if they are not employed full-time, or when employed part-time and their salary does not exceed 50% of the basic salary.<sup>706</sup> The financial support ends after 12 months of continuous payments. It can be reduced, if an applicant causes major damage to the facility or produces exaggerated utility costs.

The Ministry of Migration and Asylum in Greece signed an agreement with a non-profit organisation to provide support in managing the financial assistance scheme and distributing cash cards. The Mobile Info Team and HumanRights360 both observed important delays in the implementation of the scheme during the transition period, when the Ministry of Migration and Asylum took over the cash assistance component of the ESTIA programme from UNHCR (see *Section 4.7.1.3*), leaving many applicants without cash support.<sup>707</sup>

The Maltese authorities continued to focus on enforcing contracts signed with applicants for their accommodation to ensure that reception spaces are swiftly available (contract templates were revised and translated in 2019). When appointments are not respected or when there are clear indications that the applicant abandoned the asylum procedure, the IPA considers the application implicitly withdrawn and informs the Agency for the Welfare of Asylum Seekers (AWAS), which terminates the reception contract. To complement state-provided reception, the civil society organisation MOAS piloted an initiative where families in Malta can host asylum applicants in their homes.<sup>708</sup>

The Czech Supreme Administrative Court **ruled** that the fact that an applicant did not reach the assigned reception facility within the foreseen 24-hour time limit cannot automatically lead authorities to determine that the application was implicitly withdrawn (see *Section 4.4.10*).

The Italian Council of State **decided** that the withdrawal of material reception conditions can be considered lawful when the applicant was convicted of drug dealing, even if he was not informed about the initiation of the withdrawal procedure. The council added that this serious act makes the applicant's presence incompatible within the reception structure.

The Swedish Supreme Administrative Court continued delivering judgments on the interpretation of people and support which are covered by the Law on Reception of Asylum Seekers and Others.<sup>709</sup> For example, it **confirmed** the Swedish Migration Agency's decision to reduce the daily allowance of a rejected applicant who refused to comply with a voluntary return.





### 4.7.1.5. Monitoring the quality of material reception conditions



The provision of material reception conditions has been scrutinised and investigated by both state and non-state actors throughout 2021. To help countries, the EUAA launched the Assessment of Reception Conditions (ARC) tool, which includes a self-assessment of material reception conditions in national centres. The indicators in the assessment are based on the Agency's guidance on reception in general<sup>710</sup> and on the reception of unaccompanied minors.<sup>711</sup> Several Member States started testing the tool, including Belgium, Cyprus, Finland, Greece, Ireland, Luxembourg and Spain.

At the beginning of 2022, the Austrian Court of Audit published the results of the special audit of federal reception facilities, covering the period 2013 to 2020. The report urges the federal government to plan more strategically for an eventual significant increase in the number of applicants in need of reception. The audit also recommends changes in financing and re-negotiation of rental contracts for the opening and closing of facilities.<sup>712</sup>

The Ministry of the Interior in Italy and UNICEF signed an agreement for the monitoring of the quality of reception conditions for minors (see Section 5).<sup>713</sup> The Irish International Protection Service (IPAS) published detailed inspection reports on Direct Provision Accommodation Centres and Emergency Reception and Orientation Centres for each county. The inspections include a review of services, a room-by-room inspection and follow-up communication between the inspector and the centre.<sup>714</sup> As part of the reform of the reception system in the country, the Irish Refugee Council hoped that an independent monitoring mechanism would be established soon to monitor the implementation of the new standards.<sup>715</sup>

In Belgium, concerns were raised over the quality of material reception conditions offered in the centre in Jalhay, where a private operator took over the management of the facility from the Croix-Rouge at the end of 2020. Some of the issues highlighted were: a substantial decrease in the number of staff, lack of effective entry-exit control, decreased food allowance, gaps in the provision of health care and the management of medical files, unhealthy accommodation, and a decrease in the allowance for community service.<sup>716</sup>

Based on this report, Fedasil launched an investigation and put forward several action points to improve the situation, such as strengthening the presence of security personnel (24 hours, 7 days a week) and adjusting the amount of allowance for community service. The investigation found no grounds to suggest that accommodations were unhealthy or that there were gaps in the provision of health care and management of medical files.<sup>717</sup>

Civil society organisations continued to voice their concerns over reception conditions in Spanish facilities, especially the Temporary Reception Centres (CETI) in Ceuta and Melilla and the facilities on the Canary Islands. Accem pointed to the insufficient support for unaccompanied children in Ceuta,<sup>718</sup> while Amnesty International<sup>719</sup> and CEAR<sup>720</sup> reported on over-crowdedness, the poor hygienic situation and limited access to health care in Melilla.

The Spanish Ombudsperson published a report on the situation on the Canary Islands, and related to reception, he underlined that ad hoc emergency structures were not suitable to provide support. The structures also lacked trained staff.<sup>721</sup> These facilities were planned to be dismantled or turned into more permanent structures throughout 2021.<sup>722</sup> Accem reported on escalating tensions which led to several hunger strikes throughout 2021.<sup>723</sup> The Ombudsperson also visited temporary surveillance and assistance centres in Algeciras<sup>724</sup> and Malaga<sup>725</sup> and issued recommendations for improvements to the Ministry of the Interior.





In Poland, the mushroom poisoning of two Afghan children led to inspections from the Commissioner for Human Rights, concluding that the family had access to food and the children's death was an accident. The AIDA report for Poland presents observations from the Polskie Forum Migracyjne that reception centres receive less per capita money for food than public kindergartens, childcare homes and hospitals. The organisation underlined that the quality and amount of food is adequate, but it might not be adapted to cultural differences and not sufficiently diversified.<sup>726</sup>

#### 4.7.1.6. Working together with local authorities



Reception authorities in Belgium, France, Luxembourg and the Netherlands continued to work closely with local authorities.

To decrease the pressure on the Dutch reception system, the new government instructed the municipalities of Enschede, Venray and Gorinchem and the security region of Rotterdam-Rijnmond in December 2021 to create 2,000 emergency places before the end of the year, with guidance from the COA. These places are managed by the municipalities (except for Gorinchem, where the COA has already used the facility in the past), but discussions continue on shifting their management to the COA.<sup>727</sup>

Fedasil published the results of a survey inquiring about mayors' experiences with the operators of reception facilities. The cooperation between reception centres, the police, schools and local residents was strongly appreciated. The survey also found that the longer a centre operates in a locality, the more positive its image becomes. However, as Fedasil opens and closes centres rapidly, misunderstandings with municipal authorities can occur. There also seems to be a link between awareness of asylum, the increasing fake news on social media, and mayors' and residents' opposition or lack of support to centres.<sup>728</sup> The current pressure on the Belgian reception system (see *Section 4.7.1.2*) also had an impact on this cooperation. The Council of State confirmed the decisions of the mayors in Spa and Mouscron to decrease and limit the capacity of facilities in their localities due to concerns about public security, safety and health. The facilities were stretched to their maximum capacity causing increased tensions among residents and frequent police interventions.

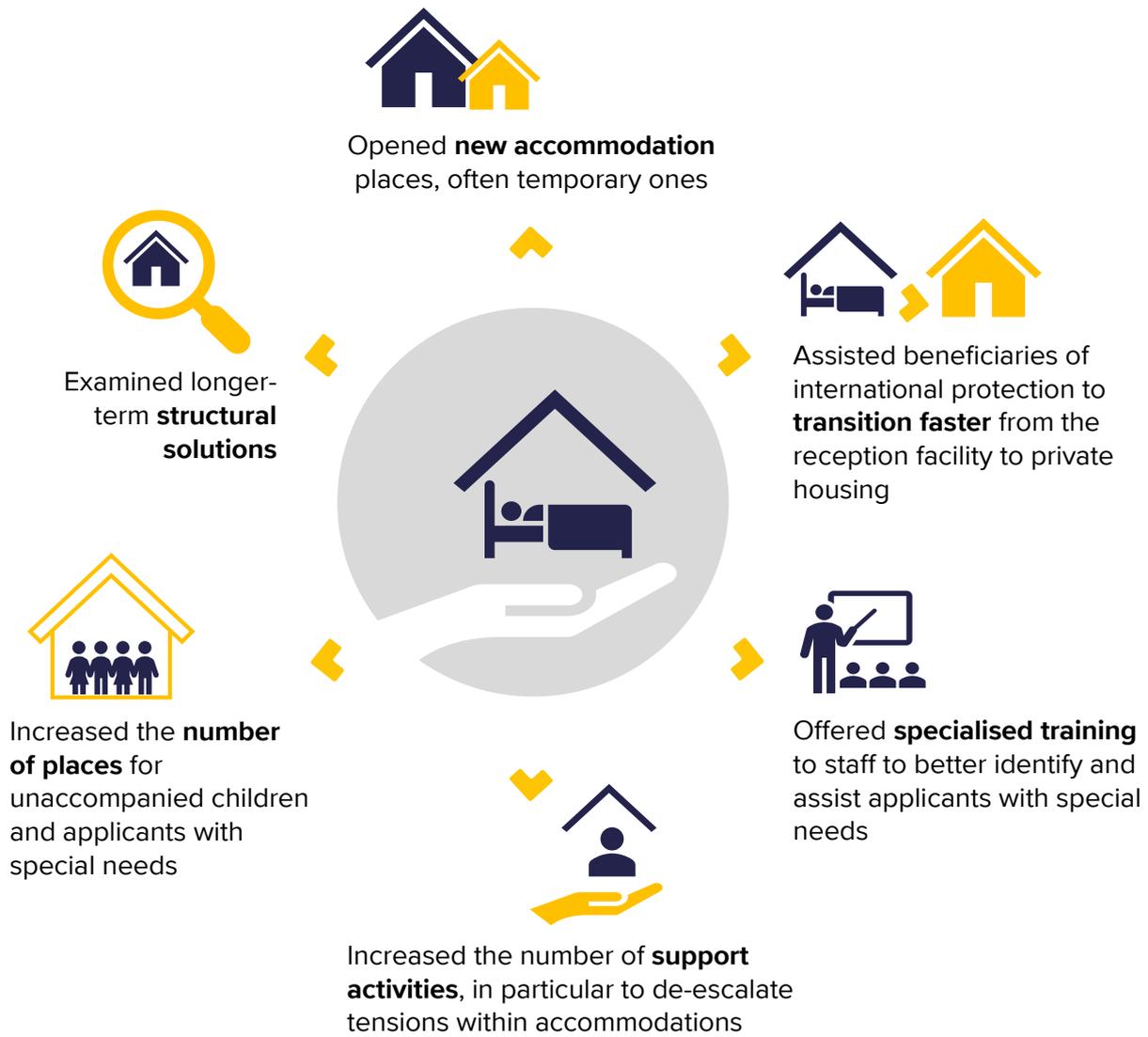
In Luxembourg, the Minister for Immigration and Asylum participated in local information sessions on the opening of reception facilities in Bascharge,<sup>729</sup> Frisange and Junglinster.<sup>730</sup> He highlighted the several types of administrative and financial support that municipalities may obtain if they collaborate on establishing a reception facility on their territory.





## Reception capacity to accommodate applicants for international protection

With the significant increase in asylum applicants in 2021, national strategies focused on reorganising and adapting reception systems. EU+ countries implemented various measures to alleviate the pressure on saturated systems, such as:



#AsylumReport2022  
<https://euaa.europa.eu/asylum-report-2022>





## 4.7.2. Applicants' daily life

### 4.7.2.1. House rules and measures for applicants with disruptive behaviour



The house rules for reception facilities were amended in Slovenia, while in the Netherlands, Norway and Switzerland, the focus has been on preventing violence and disruptive behaviour within and in the vicinity of reception centres.

The International Protection Act was amended in Slovenia and the new sanction system for breaching house rules of the reception facility started to be applied as of November 2021. The implementing acts were also adopted, including a decree on house rules in reception facilities.<sup>731</sup> The Legal Information Centre for NGOs assessed that moving an applicant to a special, separate room as a sanction to a severe violation of the house rules *de facto* amounts to detention.<sup>732</sup>

The Justice and Security Inspectorate in the Netherlands (which supervises the implementing organisations of the Ministry of Justice and Security) published a follow-up study on the approach to applicants with disruptive behaviour.<sup>733</sup> The report notes and welcomes the improvements since 2018, when the first specialised reception facilities for applicants with disruptive behaviour were established. But it underlines the difficulties that persist in regular reception facilities, which seem to lack sufficient powers, expertise and means to limit the impact of the behaviour of a small group of applicants, mainly originating from safe countries of origin. The inspectorate listed several recommendations, including:

- i) providing more resources and building the expertise of COA employees to be able to effectively deal with the situation;
- ii) ensuring that the police uses all criminal law options to pursue perpetrators; and
- iii) the IND prioritising cases of disruptive applicants and at the same time the police, the IND and DT&V ensuring arrangements for an effective return and examining possibilities to exchange information within the EU on disruptive applicants.

The State Secretary for Justice and Security reacted that the occurrence of disruptive behaviour is complex. Many disruptive applicants, some of whom are unaccompanied minors, have a drug or alcohol addiction combined with mental health issues. The State Secretary therefore suggested improving collaboration with and access to regular care facilities, while avoiding the creation of a parallel health care system for asylum applicants.<sup>734</sup>

COA and the IND have translated these recommendations from the Justice and Security Inspectorate into action, including an increased use of addiction experts and collaboration with health services and police. In addition, COA has worked out a plan of action to deal with residents with disruptive behaviour and co-developed an agenda with all chain-partners to counter applicants with disruptive and criminal behaviour in and outside of reception facilities. In 2022, the COA will implement two projects with AMIF funding, one focusing on unaccompanied minors who require more supervision and guidance in a small-scale reception facility and the other developing methods to counter disruptive behaviour by unaccompanied minors and improving the safety of residents and staff in facilities for unaccompanied minors (see Section 5).<sup>735</sup>



In Switzerland, the special centre for applicants with disruptive behaviour in Les Verrières was reopened again in February 2021, after it was temporarily closed in September 2019.<sup>736</sup> The State Secretariat for Migration noted after a month that the security situation had improved in the other centres, and there were fewer incidents reported after placing 21 applicants in the special centre with reinforced supervision and experienced staff.<sup>737</sup> This was part of the measures the organisation has implemented following the 2020 report from the Swiss National Commission for the Prevention of Torture mentioning reports of several incidents in federal asylum centres when security personnel used excessive force or implemented disproportionate measures.<sup>738</sup>

The State Secretariat for Migration also launched an internal audit to review and improve internal processes related to security. Supervisory staff were deployed in federal asylum centres, and security personnel were instructed to reach out to them to de-escalate conflicts. Pilot projects were launched to engage Muslim chaplains and organise consultations on addictions. The organisation also examined setting up an external agency to collect applicant complaints.<sup>739</sup>

Still, media reports persisted in the first half of 2021 about the excessive use of force in Swiss federal centres.<sup>740</sup> For example, a report from Amnesty International documented abuses committed by the security personnel in 2020 and at the beginning of 2021.<sup>741</sup> In response, the State Secretariat for Migration appointed a former federal judge to investigate externally the allegations, who found no indications of systematic violence and concluded that the incidents involved a few security officers and criminal investigations were opened.<sup>742</sup> The report made additional recommendations, such as to review and revise the training for security personnel, review and clarify rules for disciplinary measures and the legal basis for the use of coercion, and provide staff with police training in key positions of federal asylum centres.<sup>743</sup> The civil society platform, humanrights.ch, believed there were weaknesses in the report's methodology and did not categorically exclude the possibility of structural violence.<sup>744</sup>

The UDI in Norway announced a tender for a new supplier to train reception staff who lead dialogue groups on violence in reception centres.<sup>745</sup> The dialogue groups are offered for men and boys over the age of 15, and the UDI was considering developing a similar scheme for women. The programme is part of the new national action plan aiming to prevent negative social control and honour-related violence.<sup>746</sup>

#### 4.7.2.2. Freedom of movement



According to new rules in Slovenia, applicants are assigned to a municipality of temporary residence and they can only leave the municipality under certain circumstances. Unaccompanied children are exempt from these provisions.<sup>747</sup>

Referring to its judgments from 2019, the Spanish Supreme Court **ruled** again that persons who applied for asylum in Ceuta and Melilla have the right to move freely and establish residence anywhere in Spain and the national administration cannot limit this right by virtue of their status as an applicant. Applicants only have the obligation to inform authorities about a change in their residence. The Spanish Ombudsperson reminded the Ministry of the Interior of its legal duty to prevent limitations on an applicant's freedom of movement if they wish to move from Ceuta, Melilla or the Canary Islands to the peninsula.<sup>748</sup>



### 4.7.2.3. Employment



To facilitate employment opportunities for applicants, Ireland and Latvia reduced the waiting period to legally work. In Ireland, the waiting period to apply for a work permit was reduced from 9 months to 6 months, with an extended validity from 6 months to 12 months.<sup>749</sup> In Latvia, the waiting period was shortened from 6 months to 3 months.<sup>750</sup>

Malta amended its employment policy so applicants from a safe country of origin or in the Dublin procedure can access the labour market after 9 months from the lodging of their application for international protection, while other applicants are able to work legally as soon as their asylum application is confirmed. The Malta Refugee Council published a statement, endorsed by 28 civil society organisations, expressing their concern with this policy and noting its potential negative impact on an applicant's livelihood, mental health and their general labour conditions.<sup>751</sup>

The changes came after a judgment from the CJEU, where the court **held** that applicants in the Dublin procedure should have access to the labour market under the same conditions as any other applicant under the recast Reception Conditions Directive (see *Section 2.4*).

Legislative amendments on the provision of the Greek health care number (PAAYP) aimed to facilitate access to the labour market, but civil society organisations observed many remaining administrative barriers in the process which prevented several applicants from legally engaging in employment (see *Section 4.7.2.5*).

The registration of job seekers in Cyprus and the renewal of their unemployment period moved online, including for asylum applicants.<sup>752</sup> The Cyprus Refugee Council observed that applicants with poor English or Greek language knowledge had difficulties in accessing and using the online system.<sup>753</sup> The Ministry of Labour aimed to further facilitate the employment process with new orders issued in October 2021, allowing applicants to start working before a formal decision is made on the work permit application.<sup>754</sup>

The Dutch Advisory Council on Migration published a document "From asylum seeker to carer", putting forward recommendations to facilitate an applicant's access to the care sector.<sup>755</sup> The outgoing State Secretary for Justice and Security welcomed these recommendations but noted that the new government should follow up.<sup>756</sup>

### 4.7.2.4. Education, orientation and activities within reception centres



The increasing number of applicant children prompted more focus on their education, for example in Bulgaria and Romania. Overall 85 applicant children started the school year in Bulgaria, including – for the first time – seven first-graders. The State Agency for Refugees organises the daily commute to and from the school.<sup>757</sup> Civil society organisations stepped in to support children with preparatory and catch-up classes.<sup>758</sup>

The Romanian Ministry of Education observed that in the 2020/2021 school year most of the newly-arrived applicant and refugee children were enrolled in preparatory classes and thus were not registered in official school records. Many of them did not have access to tablets or laptops to follow online schooling. Due to poor Romanian language skills, many of them could





not acquire or demonstrate the same level of knowledge as their national peers, received poorer grades and were often included in lower class levels than their age would require.<sup>759</sup> To address these challenges, the ministry launched the educational programme School after School for children in the most vulnerable situations (including applicants and refugees) to improve Romanian language and mathematics skills. In addition, AMIF-funded projects of the General Inspectorate for Immigration implemented by civil society organisations provided Romanian language courses and educational activities both online and in-person for applicant and beneficiary children in regional reception centres and regional integration centres. Support included the provision of tablets for educational purposes.

The Irish government continued with initiatives launched in 2020 to facilitate access to education for applicant students.<sup>760</sup> Applicants who have permission to work and would like to enrol in Post-Leaving Certificate courses do not have to pay the international fee of EUR 3,600 for the 2021/2022 academic year.<sup>761</sup> The government also extended the student support scheme for post-graduate courses<sup>762</sup> and examined the possibility to extend English language support.<sup>763</sup> Following the removal of some of the barriers in 2020 the Minister for Further and Higher Education reported that the number of applications and grant holders increased fivefold.<sup>764</sup>

The Latvian Ministry of Education and Science prepared a report on applicant children's education, informing the Cabinet of Ministers of the challenges and potential solutions in light of the increased number of applicant children in the country.

The Centre for Peace Studies in Croatia analysed the education of applicant and beneficiary children in a thematic report and found some bottlenecks in the current legal framework. The report provides recommendations to overcome both legislative and practical barriers.<sup>765</sup>

The Hungarian Helsinki Committee reported on delays in accessing education due to the special conditions to submit an intent to apply for asylum (see *Section 4.1*). It also observed positive examples of working together with local schools.<sup>766</sup>

In contrast, the Greek National Commission for Human Rights noted that access to formal education was non-existent at the facility of Vathy in Samos, as the recruitment process for teachers for the afternoon preparatory class programme was not launched. Approximately 1,500 children living in the hotspot were offered only non-formal education by different NGOs.<sup>767</sup>

The [case](#) cited earlier from the European Committee of Social Rights also concluded that children did not have access to education on the islands. A report from the Greek Refugee Council and Save the Children found that in open accommodation sites 60% of children were enrolled in some form of education, while only 14% attended in practice. In RICs, only 9% of school-aged children were enrolled and 0.3% attended classes.<sup>768</sup> The Greek Ombudsperson and civil society organisations urged the government to ensure that applicant children are swiftly included and kept in mainstream education in local schools.<sup>769</sup>

Building on trends in recent years in several EU+ countries on rendering social orientation more extensive and swifter for applicants and recognised beneficiaries of international protection,<sup>770</sup> social orientation classes became obligatory in Sweden for all applicants as soon as possible after an application for asylum has been registered. The induction is now more comprehensive and delivered to all applicants over the age of 15 through two half-day sessions, while the material is adapted and in written for accompanied children and studied with the case officer for unaccompanied children. The sessions are organised in different





languages in first reception centres or through videoconference for persons who have their own accommodation. The Swedish Migration Agency offers childcare while parents follow the course.<sup>771</sup>

In Italy, the Ministry of the Interior issued a decree modifying previous tender specifications by increasing the per capita amount awarded to managing organisations of reception facilities in order to cover psychological support, social and local guidance, and language courses.<sup>772</sup> This is a result of legal changes from 2020, when the Reception Decree Law was amended to clearly list the types of services provided within first-line reception facilities.<sup>773</sup> ASGI questioned whether the increase would be sufficient to cover the hours of services.<sup>774</sup>

Among the activities offered in reception centres, the Bulgarian State Agency for Refugees organised Bulgarian language classes for children and adults, well-being sessions for women<sup>775</sup> (see Section 5), sports activities, and online screenings in the frames of a film festival.<sup>776</sup>

Civil society organisations in Malta offered different activities, many of them focusing on providing counselling and outreach to women (see Section 5). The Aditus Foundation welcomed the significant increase in the number of reception staff working in centres but observed that many residents still did not have enough information on accessing services.<sup>777</sup>

An AMIF-funded project in the Netherlands aimed to develop and implement a methodology which allows residents in reception centres to actively participate in civic and social life within and outside of reception centres. So-called #Join-counters were set up to engage and inform residents, offer them a wide range of participation activities and encourage them to participate. The project also covered language lessons in reception centres and training and information meetings for staff on location about the methodology and knowledge on facilitating and offering participation activities.<sup>778</sup>

Another project provided support for integration and for navigating in Dutch society. In addition, recognised beneficiaries of international protection gave online and physical workshops to applicants still waiting for a decision in a reception facility. The workshops were organised according to different target groups, for example people from a certain country of origin or persons with visual impairments. Short videos were developed on different subjects of the civic integration exam, explained by former beneficiaries of international protection who successfully passed the test. A few role models posted vlogs.<sup>779</sup>

Fedasil in Belgium launched an action plan for the integration of applicants. A Participation in Society Unit was created within the Future Orientation Department. A general guidance trajectory is planned to be elaborated, focusing on participation in society. In addition, a pilot project will be launched on individual coaching.

#### 4.7.2.5. Health and promoting a healthy lifestyle



In the first half of 2021, EU+ countries started to roll out their strategies on COVID-19 vaccinations.<sup>780</sup> Asylum applicants in most countries followed the general priorities defined for the whole population, but there were some exceptions. Croatia, Ireland, the Netherlands, Romania and Switzerland introduced specific policies for the vaccination of asylum applicants, specifying that vaccines are free of charge, on a voluntary basis and by registration to receive an appointment.





AMIF-funded projects aimed to facilitate access to health care in reception centres in Bulgaria, Finland and Romania. In Bulgaria, in the framework of the project "Improving the health status of refugee and migrant children in southern and south-eastern Europe", implemented with support from Caritas and in partnership with UNICEF Bulgaria, a new mobile ambulance unit opened in the reception and registration centre in Sofia. A nurse provides health counselling and basic medical care, and an ambulance is available to transport patients to health facilities.<sup>781</sup>

In recent years, the Finnish Immigration Service has been focusing on further developing mental health services in the reception system.<sup>782</sup> For example, the Psykke project was implemented with AMIF funding between 1 March 2019 and 30 June 2021, offering training and guidance to reception staff on mental health support in reception facilities.<sup>783</sup> In Romania, a project was implemented by NGOs to improve access to the health system for all applicants.<sup>784</sup>

In Malta, medical doctors contracted by AWAS started operating in the first quarter of 2021. The medical service is available in the initial reception centre and the main open centres. In addition, in the first quarter of 2021, welfare officers were recruited to follow the health care of vulnerable clients in tandem with social workers.

The French Office for Immigration and Integration (OFII) signed a convention with the city of Marseille, a first agreement of this kind, for the municipality to provide to the medical services of OFII vaccines against measles, mumps, rubella and hepatitis B for migrants in general, including asylum applicants.<sup>785</sup> The aim of this convention is to facilitate the access of migrants to vaccinations, since they are now able to get vaccinated free of charge at the OFII, a known interlocutor for them.

The AIDA report for Poland noted a few instances when applicants had difficulties in accessing necessary health care and were initially refused treatment.<sup>786</sup>

Law No 4825/2021 amended the provisions related to the Greek health care number (PAAYPA) to clarify some of the administrative issues related to the number's issuance. The number is automatically provided with the applicant's card, remains valid for the duration of the asylum procedure and is automatically deactivated with a final negative decision for international protection. It exceptionally remains active for unaccompanied minors until a return decision is implemented or until a minor reaches adulthood. HumanRights360 reported on some issues related to the issuance and extension of the health care number, even after the legislative amendments entered into force. The organisation observed that due COVID-19 measures in practice several applicants had challenges to access medical care and vaccinations.<sup>787</sup>

The Greek National Commission for Human Rights observed a wide gap in the provision of health and psychological services during an on-site visit in Samos at the Reception and Identification Centre of Vathy. The challenges centred around a lack of staff, lack of support from interpreters and a shortage of medication.<sup>788</sup> The findings were echoed by the European Committee of Social Rights in the [case](#) cited above, underlining that children had insufficient access to health care on the islands.

In an effort to promote a healthy lifestyle and sports, the Finnish Immigration Service, the Football Association of Finland and the Football Players' Association of Finland were awarded a grant of EUR 50,000 from UEFA to organise football activities in reception centres. This





includes a tour in reception centres entitled “Football belongs to everyone” and a training course for reception centre employees.<sup>789</sup>

In Spain, the Ministry of Inclusion, Social Security and Migration signed a memorandum with the Spanish Olympic Committee to promote sports in the reception system.<sup>790</sup> An AMIF-funded project in the Netherlands promoted sports and exercise among residents. Sports equipment was purchased for facilities in different locations, COA staff received training, work instructions were developed and a special magazine was published for staff to share tips and tricks on encouraging residents to do more sports.<sup>791</sup> In 2022, a similar project with external partners will focus on sports and exercise for young adults in reception centres.<sup>792</sup>

#### 4.7.2.6. Administrative processes



Applicants are often faced with administrative barriers to obtain certain documents or undertake administrative acts. In Latvia, the Asylum Law and several corresponding laws<sup>793</sup> were amended related to documents certifying an applicant’s status. These modifications aim to facilitate an applicant’s access to health care, education and employment.

Several initiatives aimed to clear some of these barriers in Ireland. For example, following the Irish High Court’s judgment from 2020,<sup>794</sup> the Minister for Transport intended to introduce an amendment to the Road Traffic and Roads Bill to put the government’s policy on a statutory basis and allow asylum applicants to apply for a driving license.<sup>795</sup>

Following engagement by the Department of Justice with the Banking and Payments Federation of Ireland and relevant stakeholders, the five main retail banks in Ireland agreed in May 2021 to adopt guidelines which enable asylum seekers and refugees to open basic bank accounts using alternative documentation, including state-issued documents, without undue difficulty, in line with the EU Payment Accounts Regulations. This was welcomed by the Irish Human Rights and Equality Commission.<sup>796</sup> The Banking and Payments Federation Ireland published a new “Guide to Opening Bank Accounts in Ireland”, which was drafted specifically for applicants and beneficiaries of international protection.<sup>797</sup> In addition they delivered training for members to ensure frontline staff can support applicants when opening a bank account. These developments were welcomed by ministers of the Irish government.<sup>798</sup>

However, in Italy, opening a bank account remained a challenge for some applicants. For example, the Rome Tribunal **ordered** Poste Italiane to stop refusing to open a bank account for applicants with a valid application document issued by the state. Similarly, in Bulgaria, a report commissioned by UNHCR noted that applicants do not have an official identity document during the asylum procedure so banks can refuse to open an account to prevent money laundering and financing of terrorist activities, as stated in national legislation.<sup>799</sup>



## Section 4.8. Aspects of detention involving asylum applicants and former applicants



Detention is clearly defined in the [recast Reception Conditions Directive, Article 2\(h\)](#) as the confinement of an applicant for international protection by a Member State within a particular place where the applicant is deprived of the freedom of movement. An exhaustive list of legal grounds under which applicants can be detained during the asylum procedure, detailed procedural safeguards (for example on the length of detention and judicial review) and conditions of detention are defined in the:

- [Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection](#);
- [Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection](#);
- [Dublin III Regulation](#); and
- [Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally-staying third-country nationals following a negative final decision on international protection](#).

In practice, detention may occur at different stages of the asylum procedure:

- At the start of the asylum procedure when an individual lodges an application for international protection, for example in order to determine or verify the applicant's identity or nationality;
- Pending the examination of a claim for international protection based on grounds set out in the EU asylum acquis, for instance to decide on the applicant's right to enter the territory, determine the elements of the asylum application which could not be obtained without detention, in particular if there is a risk of the applicant absconding, or organise a transfer to another Member State under the Dublin procedure; or
- Upon completion of the asylum procedure when a person, who had previously applied for international protection and the request was rejected, is detained pending a return to the country of origin.

The ECHR and international human rights conventions supplement the CEAS framework by setting additional constraints and safeguards during detention, mainly to protect against inhuman or degrading treatment and the freedom of movement.

In 2021, shortcomings in detention practices and conditions, particularly for applicants with vulnerabilities, were scrutinised by international, European and national monitoring and judicial organisations, such as CAT, Council of Europe's Committee for the Prevention of Torture (CPT), national Ombudspersons, the ECtHR and national courts, in addition to UNHCR<sup>800</sup> and civil society organisations.



## 4.8.1. Institutional changes and legislative reforms



Faced with the unprecedented influx of third-country nationals at the borders with Belarus (see *Section 4.1*), Lithuania amended the Law on the Legal Status of Aliens in 2021.<sup>801</sup> The amendment prolongs detention for an additional 6 months (up to 1 year in total) and limits the freedom of movement to specific geographical areas. The law also provides that an asylum seeker may be detained or have movement restricted to the place of accommodation after entering the territory illegally in the event of a war, an emergency or an emergency due to a mass influx of foreigners.<sup>802</sup> UNHCR submitted legal observations to Lithuania recommending that the detention of asylum seekers is used as a last resort while respecting the required safeguards and that alternatives to detention in a border procedure are needed.<sup>803</sup> A request for a preliminary ruling was sent to the CJEU, [inquiring](#) about the consistency of these legal provisions with EU law.

In Finland, the Helsinki reception centre and the Helsinki detention unit were merged into a single organisational entity under the Finnish Immigration Service in an effort to eventually move it to the central state administration.<sup>804</sup>

Amendments were also introduced in Bulgaria. The Bill amending and supplementing the Law on Foreigners introduced provisions for a swift judicial review of detention.<sup>805</sup> The Council of Europe's Committee of Ministers welcomed the provisions in the examination of the execution of the *C.G. and Others* case against Bulgaria.<sup>806</sup>

The training needs of staff working at facilities for asylum seekers and detained migrants in Bulgaria were highlighted in an evaluation report by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA).<sup>807</sup> The Group of Experts urged the Bulgarian authorities to further improve training and procedures to be followed, with a focus on the identification of victims of trafficking. The report emphasised the need for operational indicators to enable staff to proactively identify victims of trafficking, referrals to specialised structures and the access of specialised NGOs to facilities for asylum seekers and detained migrants.

Greece introduced CCACs at the borders, which are organised like the RICs but have temporary accommodation and special detention facilities as per Law No L.3907/2011, Article 31. By February 2022, three CCACs were established on the islands of Samos (with a capacity of 2,040), Kos (2,356), and Leros (1,780). The remaining three centres will be completed in 2022 in Fylakio (with a capacity of 330), Lesbos (8,000) and Chios (1,014).<sup>808</sup> Residents in the RICs and the CCACs can move freely inside and outside of the facilities, but NGOs have repeatedly raised concern about *de facto* restrictions to certain groups of applicants (see *Section 4.7 and Section 4.8.2*).<sup>809</sup>

To clarify practical complexities, the Swedish Migration Agency adopted legal positions on several issues. The positions provide guidance on the calculation of detention times,<sup>810</sup> the validity period of a detention decision<sup>811</sup> and which authority is competent to address detention if there is an enforceable expulsion or expulsion decision and the detainee applies for protection, as the decision may not be enforced before the application for protection has been thoroughly examined.<sup>812</sup>

Three EU+ countries implemented organisational changes to better address protection needs. In this context, the Belgian Immigration Office set up a new office for alternatives to detention. Following the amended law on the ratification of the Optional Protocol to the Convention



against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Cyprus, the National Commissioner for Administration and the Protection of Human Rights (Ombudsperson) can now visit freely, unhindered and unannounced any detention facility.<sup>813</sup> Although this practice was already in place, the amendment reaffirmed the role of the Ombudsperson acting as the National Preventive Mechanism, as foreseen in the Optional Protocol to the Convention Against Torture.<sup>814</sup>

#### 4.8.2. Recourse to detention



Detention has been frequently used to address a mass influx of migrants at the borders or for enforced returns (see *Section 4.15*), and its excessive or arbitrary use continues in some countries.

The UN CAT raised concerns about the prevalence of detention for applicants for international protection at the borders of Belgium,<sup>815</sup> which was considered by the [Constitutional Court](#) as necessary for effective border control under the Aliens Act. The Committee recommended for Belgium to cease this practice, based on [ECTHR case law](#) which affirmed that automatic detention at borders was problematic. As underlined by the Committee, detention should be used only in exceptional circumstances and as a last resort, on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.

The use of detention has also been voiced by NGOs in Greece. For instance, the detention of newly-arrived asylum seekers in closed centres as a systematic practice and the unavailability of alternatives to detention were underlined by Refugee Support Aegean, while the Greek Council for Refugees (GCR) and Oxfam [noted](#) that nearly 3,000 migrants were in detention as of June 2021. In addition, people remain detained pending removal, despite the suspension of readmissions to Turkey since March 2020.<sup>816</sup>

Following the complaint submitted by Equal Rights Beyond Borders on behalf of 19 detainees in the Kos Pre-Removal Detention Centre, the Greek Ombudsperson issued an opinion requesting the authorities to “reconsider the decision of administrative detention”.<sup>817</sup> The opinion also pointed out the long detention periods of over 6 months during a global pandemic and the generic detention orders that failed to examine individual needs and circumstances, particularly for those with serious vulnerabilities (including survivors of sexual and gender-based violence, victims of trafficking, and people with medical conditions with a higher risk for complications from COVID-19 infection). Furthermore, the Administrative Court of Syros [ordered](#) the lifting of the exit ban which was imposed on residents of the CCACs.

These issues were also underlined by METAdrasi when its lawyers argued before the Rhodes Administrative Court of First Instance on behalf of two Syrian citizens. They claimed that the detention of the applicants lacked a legal basis and violated the ECHR, Article 5(1) as their readmission to Turkey was impracticable and had been suspended since 16 March 2020 for an indefinite period of time.<sup>818</sup> The two Syrians were released.

NGOs in Italy reported to the Council of Europe about the continuation of unlawfully detaining foreign nationals without the necessary guarantees and remedies.<sup>819</sup> In March 2021, the Committee of Ministers, supervising the execution of [judgment \*Khlaifia and Others v Italy\*](#), decided not to end the supervision procedure and requested additional information on the remedies invoked by foreign nationals in detention.<sup>820</sup> The examination of the case was closed in December 2021 when legislative interventions were adopted by the Italian authorities to regulate the administrative detention of migrants in reception centres, provide a



clear and accessible legal basis, require the authorities to provide information about rights and the grounds for detention, and provide an automatic judicial review of the lawfulness of any decision to detain.<sup>821</sup> Furthermore, NGO Coalizione Italiana Libertà e Diritti Civili (CILD) pointed out that detention at Italian repatriation centres was “unnecessarily oppressive, excessively burdensome, and dramatically inhumane”.<sup>822</sup>

Following a legislative reform in Lithuania, all newly-arrived asylum seekers from Belarus are deprived of the freedom of movement.<sup>823</sup> This policy, which aims to address the mass influx of foreigners, has been questioned by civil society organisations<sup>824</sup> and international organisations (for example, the Council of Europe’s Commissioner for Human Rights)<sup>825</sup> for leading to mandatory and prolonged detention. To this end, the UN CAT urged Lithuania to ensure safeguards against unlawful or arbitrary detention, refrain from detention of families with children and vulnerable asylum seekers, and conduct a thorough, prompt and independent investigation into all instances of alleged torture and ill treatment in places of immigration detention.<sup>826</sup>

Similar challenges were encountered in Poland, where two reception centres for asylum seekers were temporarily lent to the Border Guard and turned into detention centres. In addition, the training centre of the Ministry of National Defence in Wędrzyn was lent to the Border Guard for purpose of detention, and two Border Guard stations in proximity of the Belarusian border (Dubicze Cerkiewne and Połowce) became centres for the registration of foreigners, in which the foreigners were held after being issued a decision on detention before being transported to a detention centre.<sup>827</sup>

The widespread use of arbitrary detention was strongly noted in Malta by the CPT, which urged the authorities to address the serious issues outlined in its report and reform the immigration detention system with the support of the EU and the Council of Europe, as appropriate.<sup>828</sup> In reply, Malta noted that the difficulties result from the immense challenges linked with high influxes that are ultimately recognised by the CPT in its report.<sup>829</sup> Notwithstanding these extreme pressures, the government of Malta noted that it has consistently remained committed to meeting its international obligations and to safeguard the minimum standards of a humane and safe reception of migrants.

The restriction of movement of asylum seekers in Ceuta and Melilla,<sup>830</sup> and more recently on the Canary Islands,<sup>831</sup> were the subject of recurrent complaints to the Spanish Ombudsperson. The Ombudsperson has reiterated for many years that asylum seekers have the fundamental right to freedom of movement throughout Spanish territory, which has been reaffirmed by the Supreme Court. Due to the continuous complaints, the Ombudsperson formulated a reminder of legal duties to the General Directorate of the Police.<sup>832</sup>

Challenges due to arbitrary detention without a detention order or an individual assessment were reported in [Croatia](#)<sup>833</sup> and Hungary,<sup>834</sup> while similar cases were brought before the courts in [Cyprus](#) and [Greece](#).

The UN CAT expressed concern on the use of detention in Sweden and the placement of asylum seekers in remand prisons for security or other exceptional reasons.<sup>835</sup> The Migration Court of Appeal in [Sweden](#) annulled a detention order, stating that the decision to detain an asylum applicant under the Swedish Aliens Act was not consistent with the Reception Directive, Article 8(3d).



In Portugal, the practice remained that asylum seekers who apply for international protection while in detention and pending a removal procedure are detained, including in airport detention facilities.<sup>836</sup> The detention of asylum seekers, in such circumstances, are always based on a court order. In Czechia, detention was also reported to be widely applied.<sup>837</sup>

As an example of good practices, in Finland, with the exception of a few cases, foreigners in detention during the pandemic were released, according to the [Parliamentary Ombudsperson](#).<sup>838</sup>

### 4.8.3. Alternatives to detaining applicants



According to the recast Reception Directive, detention should be a measure of last resort and only applied after all non-custodial alternative measures to detention have been duly examined in order to better ensure the physical and psychological integrity of asylum applicants. In addition, alternatives to detention are [considered](#) to be cost-effective and processing cases efficiently in an environment compliant with human rights. However, according to the recast Reception Conditions Directive, EU Member States must ensure that the rules concerning alternatives to detention are regulated in national legislation.

The [Council of Europe](#) and UNHCR undertook various initiatives in 2021 to promote alternatives to detention. UNHCR actively advocated to establish suitable alternatives to detention in [Czechia](#), [Estonia](#) and [Poland](#), encouraging countries to refrain from detaining children in particular.

On good practices, in June 2021 Belgium established a new department on alternatives to detention within the Immigration Office, which will become fully operational in 2022. Furthermore, the prolongation of a return decision on a monthly basis is applied as an alternative to detention.

### 4.8.4. Conditions in detention facilities



The conditions to be met in detention are defined in the recast Reception Conditions Directive, while international and European legal frameworks on human rights provide additional standards and guarantees to protect against inhuman and degrading treatment.

Growing concerns about conditions in detention centres and the use of *de facto* detention were raised for example for Greece,<sup>839</sup> Italy,<sup>840</sup> Lithuania,<sup>841</sup> Malta<sup>842</sup> and Poland. To accommodate a larger number of detainees, as an emergency solution the minimum space per person was temporarily reduced from 4 sqm to 2 sqm in Poland on the basis of the Ordinance of the Minister of the Interior and Administration.<sup>843</sup> All detention centres for families and single women returned to 4 sqm on 25 April 2022, and the centre in Wędrzyn returned to 4 sqm on 6 June 2022. In Malta, the Council of Europe's Commissioner for Human Rights was also struck by the deplorable situation in Block A in the Safi Detention Centre, despite the efforts made by the authorities to improve the living conditions.<sup>844</sup> Thus, the Commissioner strongly urged the authorities to take immediate action to ensure dignified conditions.

Other deficiencies were noted especially concerning the provision of health care to people in detention,<sup>845</sup> the use of cameras and a lack of a complaint system (in Cyprus<sup>846</sup> and Finland), lack of access to exercise and the provision of recreational activities (in Finland<sup>847</sup> and Croatia<sup>848</sup>), absence of legal representation (in Switzerland<sup>849</sup>) (see *Section 4.10*) and



**restrictions** on the use of mobile phones. In Greece, Refugee Support Aegean noted that the number of medical staff and interpreters in pre-removal centres remained worryingly low.<sup>850</sup>

In Finland, the CPT had no critical remarks to make on material conditions, but a few minor deficiencies were identified.<sup>851</sup> The Finnish government presented answers to the CPT following its visit in September 2020.<sup>852</sup> The government provided information on access to medical treatment, psychological support and psychiatric treatment in the detention facilities for foreigners in Metsälä and Joutseno. The Metsälä facility (Helsinki detention facility) will be moved to a new building in 2024. The Ombudsperson noted privacy issues in the Joutseno detention unit with the use of cameras in specific areas. It also lacked a complaint system that is accessible, confidential and functional, where complaints and action taken must be recorded.<sup>853</sup>

The impact of COVID-19 measures continued to impede access to detention facilities,<sup>854</sup> and consequently, access to legal assistance, social and health support, and communication.<sup>855</sup> For example, JRS Europe observed the continuation of some of these specific challenges in 2021 as well.<sup>856</sup> Social distancing and quarantine obligations led to capacity adjustments in Sweden and transfers to other locations to address shortages in Netherlands.

#### 4.8.5. The interplay between the use of detention and the steps of the asylum procedure



Detention may have implications on the asylum procedure in terms of access to procedure, information provision, the personal interview and applicable timeframes. In 2021, EU+ countries made efforts to counterbalance shortcomings and address existing gaps.

The Finnish Immigration Service started conducting personal interviews through videoconferencing more often in detention units.<sup>857</sup> Cyprus developed the Guide of Prisoner's First Contact to inform newly-arrived detainees about their rights, obligations and the applicable rules.<sup>858</sup>

In a **case** involving the Netherlands, the ECtHR concluded that the ECHR, Article 5(4) had not been violated when, during the first weeks of the COVID-19 pandemic, the applicant was represented by and heard through his lawyer, who had attended the hearing on a detention order by telephone and with whom he had had regular contact. The general interest of public health and the application's fundamental rights had been respected, even if the applicant could not attend in person or through videoconference.

Following the Supreme Court of Cassation's **ruling** on administrative shortcomings in Italy, if the territorial commission failed to summon the applicant within the timeframe for an accelerated procedure, detention measures should be revoked since the detention period cannot exceed the time needed to examine the application. Nonetheless, practical barriers in accessing the asylum procedure were noted in Italy for detainees in a pre-removal detention centre (CPR).<sup>859</sup>

Conversely, delays in the asylum procedure may affect and prolong detention. The ECtHR recently **underlined** that the strict time limits to examine an asylum application constitute an important safeguard against arbitrariness. If national authorities do not react to an applicant's complaints about serious delays in the proceedings, this may result in a violation of the right to liberty and security, as was seen in a case against Czechia. The court also **found** a violation of the ECHR, Articles 5(1) and 5(4) in Hungary for the extended stay of applicants in the transit



zone, considerable delays in examining the asylum claims, conditions of the stay and the lack of a judicial review.

The impact of subsequent applications on detention was addressed by the Cypriot Administrative Court (see for example [here](#) and [here](#)), concluding that a person acquires the status of an asylum seeker from the moment of registering a subsequent application until the final decision of the Asylum Service, thus contested detention and expulsion orders should be annulled.

Likewise, the Supreme Court in Estonia ruled that if the legal status of a detainee changes, a new application for detention is needed (see [here](#) and [here](#)). The status of detainee as an applicant of international protection is also critical for free legal aid, as underlined by the Supreme Court in Cyprus.

## 4.8.6 Detention of children and applicants with special reception needs



The recast Reception Conditions Directive, Article 11 foresees additional safeguards and guarantees for vulnerable persons, while minors, particularly unaccompanied ones, should only be detained under exceptional circumstances. UN treaty bodies conduct periodic country reviews and manage individual complaints mechanisms to ensure that detention practices uphold human rights.

In this context, the UN Committee on the Rights of the Child called on Poland to ensure that asylum-seeking children, refugee children, children in situations of migration and families with children are not placed in guarded detention centres.<sup>860</sup> The Committee also notified the Polish government (Communication No 3870/2021) about the first case of an unjust placement of foreigners in a guarded centre, which had a direct effect on the deterioration of the parent's health and a negative impact on the condition of the minor children.<sup>861</sup>

Similarly, the Committee on the Rights of the Child recommended to Switzerland to ensure that authorities in charge of asylum procedures comply with the rights and best interests of the child in all decisions related to the transfer, detention or deportation of any asylum-seeking or refugee child, including by: i) developing a procedure for assessing and determining the best interests of the child in all asylum processes; ii) strengthening coordination between the asylum system and the child protection system and ensuring that child protection professionals are involved in such decisions; and iii) exempting children from the accelerated asylum procedure. It also stressed that all cantons should take measures to prevent the placement of children with adults during police custody, pre-trial detention, administrative detention and youth welfare placement.<sup>862</sup>

The CPT recommended to Malta to introduce specific measures for vulnerable groups (especially families with children, unaccompanied and separated minors, and women) and called for immediate action to transfer vulnerable people to open centres and out of detention.<sup>863</sup>

On many occasions, national Ombudspersons continued to stand as the guardians for children in detention. Despite long-standing advocacy by the Ombudsperson in Slovenia and other stakeholders, the National Human Rights Institution (NHRI) highlighted the continued practice of unsuitable accommodation for minors and that practically all minors who are to be returned were detained in the Postojna detention centre.<sup>864</sup>



The detention of vulnerable applicants was reviewed by the ECtHR in 2021. The court **found** a violation of the right to liberty as national authorities had not verified that the initial detention was a measure of last resort for which there was no other alternative and they did not consider the minority of the child who was detained with the mother. In addition, the detention of a 4-month-old baby for 11 days was considered as excessive beyond the severity threshold under the ECHR, Article 3.





## Section 4.9. Access to information



*Persons seeking international protection need information on their situation in order to be able to fully communicate their protection needs and personal circumstances and, in turn, have them comprehensively and fairly assessed. Under the recast Asylum Procedures Directive and the recast Reception Conditions Directive, Member States need to ensure that relevant information is made available to applicants, for example where and how applications for international protection may be lodged. Obligations also include the provision of information to potential applicants who are in detention facilities and at border crossing points.*

*Effective access to information is a primary constituent of procedural fairness. Applicants have the right to be informed so that:*

- *they understand the different stages of the process;*
- *they know their rights and obligations in each of these stages, and the possible consequences of not complying or cooperating;*
- *the timeframe for each stage of the procedure is clearly communicated; and*
- *they are aware of the means available to them to exercise their rights and fulfil their duties.*

*For applicants with pending cases, it is crucial to receive information, because a lack of clarity can be a contributing factor to absconding and secondary movements.*

EU+ countries continued to enhance the provision of information to asylum applicants through digital innovations and improvements. In 2021, national authorities worked on mobile applications, online portals, information hubs, updated websites and new features on existing information platforms to enable applicants to access information faster and more easily. The information provided through these platforms was also made available in multiple languages.

In addition, targeted information provision was set up for specific groups in need of protection, for example, for evacuees from Afghanistan and displaced persons from Ukraine.

### 4.9.1. Information provision on the asylum procedure

#### 4.9.1.1. New initiatives to improve access to information



In 2021, most EU+ countries continued to develop new technology or upgrade existing ones to provide information readily to asylum seekers. As seen in Table 4.1, the initiatives included launching new websites so information can be accessed in one central place. Online multilingual information hubs and in-person information points were also created.

Staff who work directly with asylum applicants need to be aware of different methods of communicating information effectively. With this aim, national authorities in Portugal provided training to police officers and the personnel of the High Commission for Migration (ACM) to improve information provision for applicants for international protection and refugees.<sup>865</sup>





**Table 4.1. Examples of methods or features to relay information on the asylum procedure, 2021**

Initiatives	Country
 New website	Belgium ( <a href="https://asylum.belgium.be">asylum.belgium.be</a> ) Ireland ( <a href="https://www.irishimmigration.ie">www.irishimmigration.ie</a> ) Italy <sup>866</sup>
 Online information hub	Bulgaria ( <a href="https://rumorfree.org">rumorfree.org</a> ) Iceland ( <a href="https://newiniceland.is">https://newiniceland.is</a> )
 New information point	Czechia, Poland (in reception centres and designated hotels) <sup>867</sup>
 Improved communication by telephone	Cyprus: New phone numbers were launched <sup>868</sup>
 New features on existing information system	Lithuania (Lithuanian Migration Information System (MIGRIS)) <sup>869</sup>

For accessibility, information should also be made available in various languages. To ensure that asylum applicants and protected persons fully understand the asylum procedure, their rights and their obligations, a new website, [asylum.belgium.be](https://asylum.belgium.be), was launched in Belgium in nine languages. Similarly, online counsellors in Iceland provided information in eight languages through a newly-introduced information hub, [newiniceland.is](https://newiniceland.is), and telephone interpretation was available in additional languages through this hub (see Section 4.11).

The French Council of State also stressed the importance of providing information in multiple languages. It **annulled** a Dublin transfer when an applicant was not informed in a language he understood of the consequences of refusing a PCR test.

The importance of information provision was highlighted in 2021 by the Italian Court of Cassation, which referred a **case** for a preliminary ruling to the CJEU (see Section 2.4). Administrative courts found that there was a breach of the duty to provide information according to the Dublin III Regulation, Article 4 when an applicant to be transferred was not given adequate information or an information brochure. The transfer decision was deemed invalid and annulled.

Under the “Let’s speak asylum” project, the EUAA has developed methodologies and practical tools to support the provision of information in the context of asylum and reception. The resources, which include webinars and training modules, are valuable to national administrations to reduce the duplication of efforts at the EU level and to harmonise practices.

Civil society organisations across EU+ countries expressed concerns about the quality and accessibility of information on the asylum procedure.<sup>870</sup> In Greece, the Border Violence Monitoring Network and Mobile Info Teams reported that only a small share of applicants were informed about how to access the asylum procedure and the possibility of remote pre-registration.<sup>871</sup> Additionally, Equal Rights Beyond Borders in Greece reported on the limited access to information for detained asylum seekers.<sup>872</sup>

The Hungarian Helsinki Committee noted that information on the asylum procedure was hard to find online and was available only in English and Hungarian.<sup>873</sup> To tackle similar issues, the Aditus Foundation in Malta called for information on the asylum procedure to be provided in several languages.<sup>874</sup>



### 4.9.1.2. Information for specific nationalities



Due to a sharp increase in the number of applicants arriving from Afghanistan or through Belarus, EU+ countries quickly made specific information available to these groups of applicants. For example, Denmark, Finland, the Netherlands, Norway, Spain and Sweden launched dedicated web pages on the current situation in Afghanistan, some also providing a section on frequently asked questions.

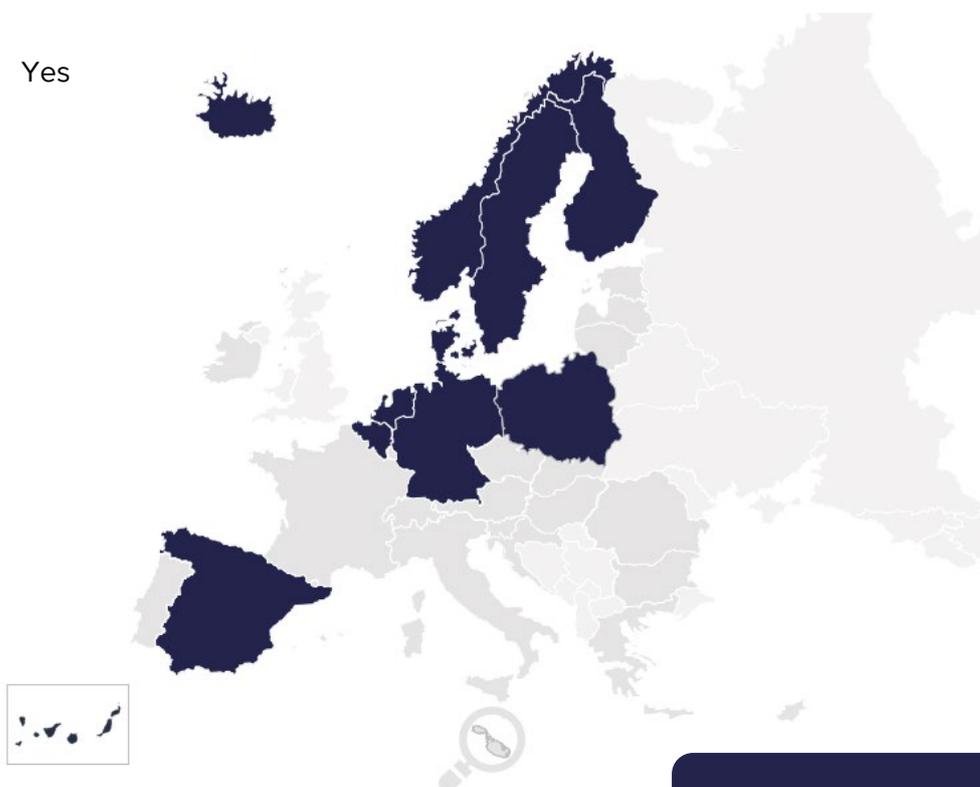
The Immigration Office in Belgium launched a Facebook campaign targeted at Afghan nationals already present in Austria, Bulgaria, Germany and Romania to dissuade them from coming to Belgium.

In Iceland, extensive information on the support and services available by the authorities was published on various portals of the competent authorities.

In Poland, information material on the asylum procedure was made available to Afghan nationals,<sup>875</sup> and a brochure on how to enter Poland was prepared by the Association for Legal Intervention for Belarusian nationals.<sup>876</sup> The Office for Foreigners has published information on work, education, social assistance and international protection on its website and in leaflets. The information is available in Pashto, Dari and Belarusian. The Office for Foreigners also created additional support for these groups using cultural mentors and the Office's staff at their place of accommodation, in addition to holding meetings on specific topics, such as medical care, the procedure for granting international protection, education and the labour market.

**Table 4.2. Specific information prepared for Afghan and Belarusian nationals, 2021**

■ Yes



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### Box 4.2. Information to displaced persons from Ukraine

Following the Russian invasion of Ukraine on 24 February 2022, millions fled the war towards EU+ countries, which reacted quickly to provide relevant information to this particular group of displaced people.

For example, information points and stands were set up, dedicated phone lines and websites were launched, and leaflets and posters with QR codes were developed to address specific information needs of people coming from Ukraine.

Read more on the most recent responses by EU+ countries to address the needs of displaced people from Ukraine in the [Situational Update](#) series.

**Table 4.3. New information points for displaced persons from Ukraine, 2022**

Country	Information points at borders	Phone lines	Email addresses	Websites dedicated web pages	Leaflets posters
Austria				x	
Belgium				x	
Bulgaria		x		x	
Croatia					
Cyprus					
Czechia			x	x	x
Denmark	x			x	x
Estonia		x			
Finland				x	
France				x	x
Germany				x	
Greece		x	x	x	
Hungary					
Iceland					
Ireland					
Italy					
Latvia	x	x		x	
Lithuania	x	x		x	
Luxembourg					
Malta					
Netherlands					
Norway					
Poland	x	x	x	x	x
Portugal					
Romania		x		x	x
Slovakia				x	x
Slovenia		x	x	x	x
Spain		x	x	x	x
Sweden	x			x	x
Switzerland					



## 4.9.2. Information on everyday life, rights and obligations



EU+ countries also put effort into informing applicants and beneficiaries of international protection about life in the host country and services which are available. In 2021, some EU+ countries improved ways to provide adequate information on applicants' rights and obligations in the context of everyday life and integration. These included in-person information sessions, new information points, online information platforms, guides, videos and mobile

applications.

Some initiatives focused on residents in reception facilities, while others targeted a broader group, including people living in the community. For example, reception centres in Cyprus and the Netherlands produced information material for newcomers and residents of the centres. In Cyprus, an information leaflet on the daily operations of the Limnes accommodation centre was made available.<sup>877</sup> The Dutch Central Agency for the Reception of Asylum Seekers developed simplified information material for illiterate persons and for persons who cannot read and write in the Latin alphabet.<sup>878</sup>

An amendment to Article 42(2) of the International Protection Act in Slovenia foresees that information on the consequences of arbitrarily leaving the Asylum Centre's admission facility is now provided by the police during preliminary proceedings.<sup>879</sup>

A number of initiatives undertaken in 2021 focused on integration-related matters. In Bulgaria, the State Agency for Refugees (SAR) organised activities in reception centres on several topics, such as language, culture, and sports for both adults and minors.<sup>880</sup> In Cyprus, online tools were launched to promote civic education through the Erasmus+KA2 project, [IEUME](#).<sup>881</sup> In Romania, a new regional integration centre was opened through a collaborative effort by three NGOs to provide information and support the social inclusion of beneficiaries of international protection and other third-country nationals in several counties in the south-eastern part of the country.<sup>882</sup> In Croatia, the Office for Human Rights and the Rights of National Minorities produced a [video](#) to raise awareness about the importance of integrating beneficiaries of international protection.<sup>883</sup>

In addition to giving information on registration and the asylum procedure (see *Section 4.9.1*), information points in Czechia and Poland provided information on other aspects of everyday life as well. For example, the Client Centre for Providing Information to Foreigners in Czechia, which was launched in February 2021 and funded by AMIF, provides information on the rights and obligations of foreigners – including applicants and beneficiaries of international protection. Similarly in Poland, an information point for third-country nationals arriving at Silesia was created to provide information in four languages on employment, access to health care, language courses and culture.

In Croatia, a new application called “[\(Re\)Settle in Croatia](#)” was made available for beneficiaries of international protection with information on their rights, services available, important phone numbers, guides on managing everyday situations and challenges, and an audio dictionary with useful everyday phrases.<sup>884</sup>

In Portugal, a new information portal for migrants who reside in Lisbon, [lisboaacolhe.pt](#), was launched, gathering all relevant information in one single information channel. Financed by the European Regional Development Fund, the Hungarian version of the transnational information platform for residents in the Danube region, [danubecompass.org](#), was updated and translated into additional languages. The platform provides information on several areas,





such as international protection, access to health care and education, and language learning.<sup>885</sup>

International and civil society organisations played an important role in many countries in relaying information on employment, housing and other aspects of everyday life. For example, in Italy, UNHCR, the Association for Juridical Studies on Immigration (ASGI) and the Italian housing union SUNIA published a [guide](#) on housing autonomy for beneficiaries of international protection.

Built in collaboration with several civil society organisations, a free, multilingual application, [RefAid](#), was launched in Malta in 2021 to provide refugees and migrants reliable information on available services, such as assistance with work and food provision by non-profit organisations.<sup>886</sup>

UNHCR, in collaboration with JobsPlus and the Department for Industrial and Employment Relations in Malta, organised an information session for refugees and asylum seekers which focussed on employment and working conditions. In addition, JRS Malta published a set of [videos](#) in seven languages on the fundamental rights of all workers, with information on contracts and probationary periods.<sup>887</sup>

As the pandemic persisted throughout 2021, EU+ countries continued to provide information related to COVID-19. In Bulgaria, information talks on COVID-19 were organised on a regular basis by SAR to counter disinformation and provide accurate and up-to-date facts.<sup>888</sup> In Portugal, a [leaflet](#) on awareness-raising and prevention of spreading the virus was translated into four additional languages.<sup>889</sup> In Germany, a social media campaign was launched for a 27-day period, as part of an IOM study on the advantages, cost and effectiveness of targeted information provision for asylum applicants.<sup>890</sup>

In Belgium, information material on the COVID-19 booster vaccine was distributed in reception centres prior to the launch of the vaccination campaign.<sup>891</sup> In Croatia, leaflets with instructions from the Croatian Institute of Public Health were translated into several languages and were distributed to all applicants and posted in visible places in reception centres. In France, the Minister of Health and Solidarity and the Minister Delegate to the Minister of the Interior in charge of citizenship issued a joint instruction to stress the importance of COVID-19 vaccinations for migrants, notably asylum applicants. In all regions, vaccination operations and information sessions against misinformation were held so that all eligible asylum applicants had the opportunity to be vaccinated. Although difficult to measure because of the turnover, the vaccination rate in asylum housing facilities was very satisfactory overall (with often more than 80% of adults vaccinated).

While EU+ countries made great strides to provide information on everyday life, rights and obligations, civil society organisations raised concerns about adequate or sufficient information being made available to asylum applicants.<sup>892</sup> For example, Asylex in Switzerland noted a lack of information on rights and obligations during the asylum procedure even though there was information provision on other topics, such as returns.<sup>893</sup>





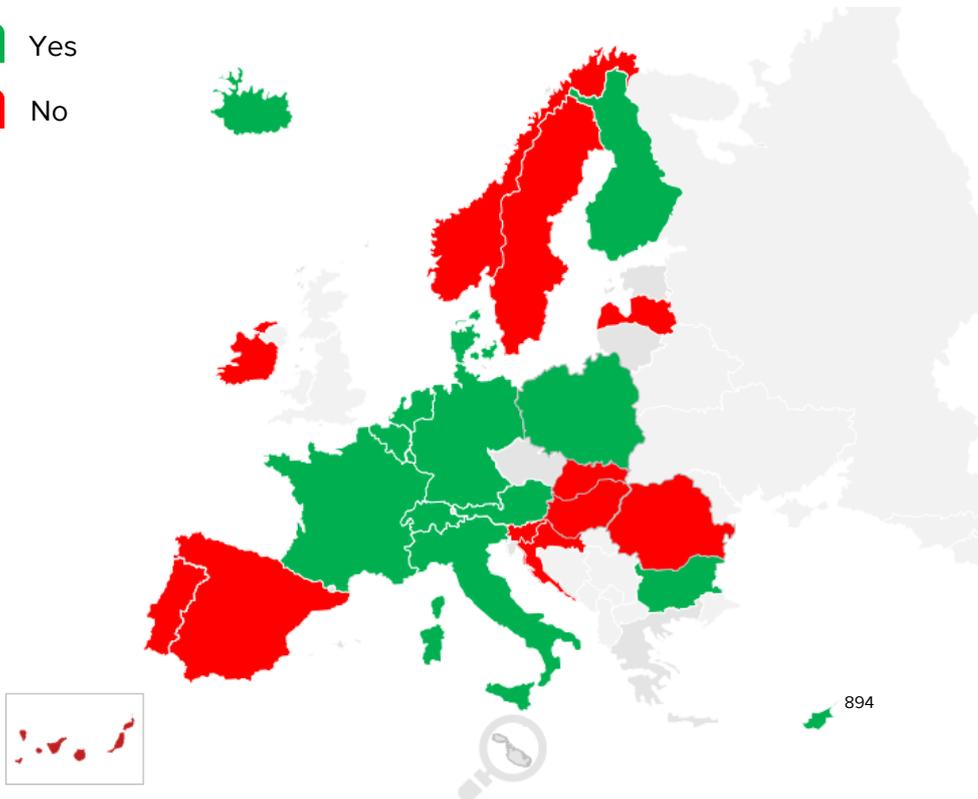
**Box 4.3. COVID-19 vaccination campaigns**

Vaccination campaigns were rolled out in late 2020, and EU+ countries prioritised vaccinating the general population, including asylum seekers and beneficiaries of international protection, throughout 2021.

In all responding countries to an EUAA survey,<sup>i</sup> COVID-19 vaccinations were free of charge and on a voluntary basis. As reported in [Situational Update No 2](#), “Follow-up: COVID-19 vaccination for applications and beneficiaries of international protection”, vaccination campaigns were launched across the region, with a number of campaigns designed specifically for asylum seekers (see [Table 4.3](#)).

**Table 4.4. COVID-19 vaccination campaigns in EU+ countries, 2021**

- Yes
- No



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### 4.9.3. Information on the return procedure for rejected applicants



Several EU+ countries improved existing procedures or launched new activities to inform rejected applicants and third-country nationals about the options available to return to their country of origin.

In the Netherlands, an existing website on return procedures was integrated into the main website of the Repatriation and Departure Service. In addition, Dutch Council for Refugees' platform, [Forrefugees](#), was set up to provide information to rejected applicants and offer an overview in nine different languages of return projects to 20 countries.<sup>895</sup>

Norway provided grants of NOK 1 million to voluntary organisations, individuals and non-profit companies to develop measures for the provision of information for assisted returns. The new measures will target people who are outside of reception centres.<sup>896</sup>

The newly-established Returns Unit in Malta implemented a series of activities during 2021. A system of return counselling was introduced with over 700 migrants being counselled by Returns Unit officers. The unit made a concerted effort to expand its outreach. Promotional material was designed and distributed among several stakeholders, including leaflets in English, French and Arabic and flyers in Arabic, Bengali and English. A booklet on "Stories of Return" was developed and translated into English, French and Arabic (produced by the IOM). Posters, leaflets and roll-up banners in five languages (English, French, Arabic, Somali and Amharic) were designed and produced jointly with the IOM and disseminated in open and closed reception centres, NGOs and homeless shelters. Information cards were made available in English. In 2021, the Returns Unit set up a Facebook page, "Voluntary Return Malta", which can be easily accessed by scanning a QR code. Additionally, the Returns Unit offered a service through mobile phones giving migrants the opportunity to communicate with return counsellors by WhatsApp. With the IOM's support, a video on assisted voluntary return and reintegration was produced in four languages, and new information material was published. In addition, the Returns Unit continued conducting return counselling sessions, during which migrants are counselled on an individual basis and provided with information on possible return options.<sup>897</sup>



## Section 4.10. Legal assistance and representation



*Legal assistance is fundamental to inform asylum applicants of their rights and allow them to comprehend the process. The provision of legal aid in the early stages of the asylum procedure increases the efficiency of the entire process by allowing case officers to assess a complete and accurate file, reducing the burden on decision-makers, reducing the rate of appeals and safeguarding the right to non-refoulement. Furthermore, EU legislation requires Member States to make free legal assistance and representation available on request and under certain conditions during an appeal procedure.<sup>898</sup>*

Lockdowns due to the COVID-19 pandemic continued to affect the provision of legal assistance in asylum and other related procedures in 2021, for example for the return of former applicants, family reunification and issuing residence permits after recognition. When personal contact between a legal aid provider and client was not possible, consultations were organised by email or phone, risking to affect the quality of services, confidentiality, submission of documents and building trust.<sup>899, 900</sup>

Some EU+ countries extended the provision of legal assistance or adopted guidelines to ensure an effective legal assistance at first instance, with a focus on the role of lawyers during the personal interview. Some legislative amendments clarified the scope of legal assistance, while other changes aimed to align state payments to legal representatives.

Along with difficulties in accessing the asylum procedure, some applicants lacked or had insufficient legal information and assistance at the European borders. Similarly, civil society organisations raised concern on legal aid for asylum applicants placed in detention (see *Section 4.8*).

### 4.10.1. Eastern borders



A sudden influx of migrants at the EU's eastern borders during 2021 added pressure on national asylum systems, especially in countries which had never experienced such high numbers of third-country nationals trying to enter their territory. The European Commission proposed temporary asylum and return measures to assist Latvia, Lithuania and Poland to manage the emergency situation and adequately react to a hybrid attack by Belarus in instrumentalising asylum seekers (see *Section 2*).<sup>901</sup> During the escalations on the borders of Belarus, there were reports of hindered access to procedures (see *Section 4.1*) and access to legal information and assistance in Lithuania and Poland. Since August 2021, civil society organisations, international organisations and European institutions continuously called on these two countries to respect the right to asylum and to grant lawyers and other stakeholders access to the border and transit zones (see *Section 4.1*).<sup>902</sup>

In an effort to address the growing concern, the ECtHR adopted interim measures between 20 August and 3 December 2021 in cases submitted by asylum applicants against Poland and Lithuania.<sup>903</sup> In one application against Poland, the ECtHR indicated to the authorities to allow direct contact between lawyers and applicants when the applicants were physically present on Polish territory or to grant access to the applicant's lawyer to the Polish border zone. In



other cases, interim measures were lifted or not extended because representatives lost contact with the applicants or failed to respond to court requests.

The Law on the Legal Status of Aliens, Article 71(1) was modified in Lithuania in July 2021,<sup>904</sup> allowing restrictions to be placed on contact between legal service providers and asylum applicants during a state of emergency. The legislative amendment received high criticism from national and international actors for breaching fundamental procedural safeguards defined in international and EU laws by making it excessively difficult for third-country nationals to access the asylum procedure.<sup>905</sup> ECRE highlighted that these restrictions interfere with the provision of legal aid and limit the ability of an asylum applicant to properly prepare and cooperate with the authorities.<sup>906</sup> In addition, UNHCR commented on other amendments, namely the shorter appeal deadline against a negative decision, affecting access to an effective remedy and access to legal aid. It recommended an extension to 15 days for an appeal to allow applicants enough time to seek qualified legal counselling (see *Section 4.5*).<sup>907</sup> However, this article was repealed on 1 January 2022.

Similarly in Poland, international and civil society organisations denounced restrictions on accessing the border and transit zones, which were put in place through legislative amendments in August 2021.<sup>908</sup> The Council of Europe's Commissioner for Human Rights reiterated concerns over the lack of explicit guarantees on accessing lawyers at the border zones,<sup>909</sup> while UNHCR noted that the legislative changes meant that third-country nationals would be subject to the return procedure without receiving free legal aid to appeal a return decision.<sup>910</sup> The National Bar Association in Poland condemned the practice of the Border Guard officers who hinder access to legal assistance and the right to an effective remedy by conducting, for example, unnecessary verifications on the validity of power of attorneys.<sup>911</sup>

The Polish Border Guard underlined that during this time there were many attempts to cross the border by force and with the use of dangerous items. There were also provocations by the Belarusian special services which were addressed to the Polish Border Guard officers and Polish Armed Forces. The provocations included: incidents of Belarusian officers aiming weapons at people on the Polish side, marked shooting or firing likely with the use of blank ammunition and the use of pyrotechnics.

Earlier in the year, an amendment to the Law on the Legal Status of Aliens entered into force in Lithuania in March 2021, clarifying the scope of free legal assistance as covering solely asylum procedures at the national level and thus excluding cases submitted before European courts. In practice, in a recent report following a visit to the Kybartai Foreigners Registration Centre, the Lithuanian Ombudsperson noted unclarities and a lack of information on the appointment of state-funded lawyers and reiterated that the right to receive free legal aid must be put into practice.<sup>912</sup>

In Latvia, a reception centre was placed under quarantine in the context of COVID-19 measures, hindering the access of legal counsellors and interpreters to the facility and to applicants. They could resume their work as soon as the pandemic allowed.<sup>913</sup>

#### 4.10.2. Eastern Mediterranean region



In 2021, the Greek Asylum Service provided free legal aid to all applicants contesting a negative decision. To cope with the demand, a roster of 130 lawyers, who were paid per case and represented before the Appeals Authority, were selected to provide free legal aid at second instance.





In a 2020 decision, the Council of Europe had requested Greece to report back by 1 March 2021 on measures taken to address deficiencies in the asylum procedure, including on the provision of legal aid to applicants.<sup>914</sup> Civil society organisations criticised the Greek government's reply for providing figures on legal aid for a short period, without contextualising and offering the full overview.<sup>915</sup> The organisations assessed that the time allocated to an appointed lawyer to communicate with a client, a maximum of 2 hours, risked not being sufficient to prepare the appeal case.<sup>916</sup> In the same submission, Refugee Support Aegean and ProAsyl described an alleged practice of the Appeals Committee to consider that failure to provide legal aid does not amount to procedural harm when an applicant has received information on rights and obligations in the initial phase of the procedure.<sup>917</sup>

ECRE commented on the limited availability of legal aid, since there was no state-funded legal aid for a first-time asylum application and an insufficient number of lawyers to provide legal assistance in an appeal procedure.<sup>918</sup>

Similarly in 2020, the Council of Europe's Commissioner for Human Rights denounced new requirements in Greece which blocked many NGOs from working with applicants,<sup>919</sup> particularly those which worked on legal rights in the asylum procedure.<sup>920</sup> The Greek Minister for Citizens Protection formally replied in May 2021, stating that the changes were intended to improve the quality of services.<sup>921</sup>

Nevertheless, civil society organisations raised concern over the lack of legal and procedural information provided to third-country nationals who were detained at the land border in Evros,<sup>922</sup> and UNHCR added that the absence of legal aid could result in asylum applicants being detained without properly assessing their case individually or exploring alternatives to detention.<sup>923</sup>

According to METAdrasi, there were significant challenges in accessing and receiving legal assistance at first instance as a result of the rapid processing of applications under the accelerated procedure. Applicants seemed to rarely have access to a lawyer before the interview at first instance.<sup>924</sup> The NGO also observed that delays and improper organisation within the Asylum Service meant that lawyers were often not able to meet the appellant before the submission of the appeal.<sup>925</sup> For example, no lawyer was appointed by the Registry on Kos, leaving all applicants whose applications were rejected at first instance without legal aid for an appeal.<sup>926</sup> Similarly, the Border Violence Monitoring Network noted that asylum applicants living in RICs on the island of Lesbos encountered challenges to access legal aid.<sup>927</sup>

The UNHCR Assistant High Commissioner for Protection reiterated the organisation's support to the authorities in Cyprus to ensure a fair and efficient asylum system that includes access to legal aid.<sup>928</sup>

The Administrative Court of International Protection in Cyprus clarified that illegally-staying third-country nationals who no longer qualify as asylum applicants under the Refugee Law do not receive free legal aid for procedures which are unrelated to international protection (see [here](#) and [here](#)). In another [case](#), the court emphasised that the burden of proof for an appeal lies with the applicant and free legal aid is not to be granted when there is no prospect of success in an appeal when the applicant comes from a safe country of origin. In contrast, legal aid was granted for an [appeal](#) when the applicant provided extensive statements that would require a judicial examination.





### 4.10.3 Central Mediterranean region



In 2021, several NGOs offered information sessions to migrants who were rescued at sea in Italy, but reportedly many – including unaccompanied minors – did not have sufficient access to legal and procedural information.<sup>929</sup>

When the ASGI was denied access to the Lampedusa hotspot in August 2021, the Administrative Court of Sicily **ruled** that civil society organisations must be allowed to enter detention facilities to provide legal counselling (see *Section 4.9*).

Facing increased processing times for appeals with state-funded legal assistance in asylum-related cases, the courts in Rome and Bologna proposed to allow law firms to provide *pro bono* assistance with the backlog of cases after undergoing specialised training.<sup>930</sup>

The Supreme Court of Cassation in Italy **rejected** an appeal as inadmissible for a lack of certification of the power of attorney. A similar case was **referred** by the same court to the Constitutional Court to verify if legislative provisions requiring the certification of the date by a lawyer is compliant with the constitutional provisions related to the right to an effective remedy. The legal requirement of certification may be excessive since it is limited only to international protection proceedings and may hinder applicants from receiving effective legal protection.

IPA in Malta drafted guidelines on the involvement and conduct of legal representatives (NGOs or private lawyers) during an asylum interview, allowing lawyers to intervene at certain parts of the interview and limiting their presence in cases of disruptive behaviour. According to the new rules, a lawyer can submit supplementary statements within 5 days of the interview.

However, civil society organisations in Malta raised concerns about the lack of or insufficient access to legal assistance and representation during the asylum procedure<sup>931</sup> and for those placed in detention.<sup>932</sup> For example, the ECtHR **ruled** against Malta on the lawfulness of detention of a former applicant (see *Section 4.8*) and found that adequate legal representation was not given and correspondence with his lawyer was tampered.

Access to legal aid was examined in the context of Dublin procedures, for example for transfers from the Netherlands to Malta (see [here](#), [here](#) and [here](#), and *Section 4.2*).

### 4.10.4. Western Mediterranean region



The Council of Europe launched a free Human Rights Education for Legal Professionals (**HELP**) online course on “Asylum and Human Rights” in Tenerife, Spain, in co-operation with the Bar Association of Tenerife (ICATF) and Spain's General Council of Lawyers.<sup>933</sup> Several civil society organisations continued to report on shortcomings in the provision of legal assistance on the Canary Islands, especially for detained migrants, due to a lack of specialised lawyers in immigration matters.<sup>934</sup>

A practical guide on legal assistance for sea arrivals was published in August 2021 by the Spanish General Council of Lawyers.<sup>935</sup> The guide provides information on best practices to ensure the quality of legal assistance, access to administrative files and working methods during health emergencies, such as the COVID-19 pandemic.



In a preliminary assessment, the Supreme Administrative Court in Portugal **allowed** a judicial review when the applicant complained of a lack of information on free legal aid in the asylum procedure, including having a lawyer during the interview. The judgment on the merits of the case is pending. Throughout 2021, UNHCR continued to provide legal information to asylum applicants in Portugal, through its partner the Portuguese Refugee Council.<sup>936</sup>

#### 4.10.5. Western Europe



In Switzerland, the Asylum Act (LASi)<sup>937</sup> was modified by adding paragraph 1bis to Article 102 to provide access to free legal counselling or representation after an asylum applicant has been transferred to a canton if the services were received while accommodated in a federal centre. The legislative amendment is expected to enter into force in 2022, once the referendum deadline has passed.

Asylex in Switzerland noted practical issues with the provision of legal aid in the appeal procedure. For example, a lawyer has full discretion to submit an appeal or not, and this fact, coupled with a short deadline for an appeal, results in a lack of access to a judicial review of a negative decision. In addition, the remuneration of lawyers is by lump sum per asylum seeker, irrespective of the workload or the submission of an appeal, thus demotivating legal practitioners to engage in such cases.<sup>938</sup>

Legal advice and representation for asylum applicants in Ireland are provided by the Legal Aid Board, an independent body which is established under statute. Certain law centres in Dublin, Cork and Galway have solicitors employed by the board who specialise in international protection. The board operates a mixed model of service delivery to asylum applicants which involves both the use of in-house staff and the referral of cases to private solicitors on a panel. Arrangements were being made to implement legislative changes and recommendations made in October 2020 by the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process. The Legal Aid Board is included in this work, which is being undertaken by Ireland's Department of Justice, to identify how processing and general support to applicants can be further enhanced, taking into account a projected increase in new applicants who will wish to receive legal aid. Stakeholders expected that continued video hearings will have a sustained positive impact on the efficiency of the support from the Legal Aid Board. Funding of EUR 47.2 million has been allocated to the Legal Aid Board for 2022, representing an increase of 7.5% on the 2021 allocation of EUR 44.6 million.<sup>939</sup>

In France, the Legal Aid Bureau experienced a sharp increase in requests for legal aid related to asylum cases, specifically 53% more than in 2020 – in addition to the number of appeals before the CNDA. Since the implementation of video-conference hearings at the Administrative Court of Appeal in Nancy in September 2021, more lawyers showed interest to assist in asylum-related cases remotely.<sup>940</sup>

Lawyers in Germany have access to an applicant's original case files on the electronic management system. An administrative court **considered** a lawyer's complaint that access to an incomplete electronic file is not compliant with the recast Asylum Procedures Directive, Articles 23 and 46 and the EU Charter, Article 47 and it referred the question to the CJEU on the compatibility of national practices with procedural safeguards enshrined in EU law (case C-564/21).



When an applicant submitted an asylum application after multiple attempts, the Brussels Labour Court **adopted** an interim judgment and ordered Fedasil to provide accommodation and legal assistance immediately (see *Section 4.7*).

In Luxembourg, the Administrative Tribunal **ruled** on requirements for the admissibility of an appeal against a negative decision finding that failure to have the signature of a lawyer included in List I of the Bar Associations regulation was a reason to deem an appeal as inadmissible. The procedural formalism may hinder access to second instance determination in asylum cases when representing lawyers are not on the required list.

Although the German Federal Constitutional Court found the legal provisions on the airport procedure to be constitutional (2 BvR 1516/93), civil society organisations continuously denounced the German airport procedure for issuing decisions on asylum applications in 2 days, risking that not enough time is provided to properly access legal information and assistance.<sup>941</sup>

#### 4.10.6. Central and Eastern Europe



The newly-established Austrian BBU, which started activities on 1 January 2021, provides legal advice and representation, return counselling and return assistance, human rights monitoring, translation and interpretation services.<sup>942</sup>

The agency adopted organisational and institutional measures to ensure independence and freedom of instructions, also by setting up an advisory group on quality. Throughout 2021, all legal advisors received specialised training on quality assurance, and strict qualification requirements will apply to future employees. The agency met with civil society organisations throughout the year and agreed to be more transparent about the working arrangements on legal counselling between the agency and the Ministry of Justice.<sup>943</sup>

The Federal Minister for Justice assessed that the first 6 months of operations of the agency were successful and improved standards,<sup>944</sup> for example legal aid was offered automatically to all rejected asylum applicants, 3,600 counselling sessions were carried out and over 1,000 appeals were submitted. The annual report of the Quality Advisory Board expressed concern that the confidentiality of the interpreters used for legal counselling for the Ministry of the Interior was not legally guaranteed.<sup>945</sup>

In 2021, UNHCR Bulgaria and other national NGOs offered traineeships to students to engage them in legal, social and integration assistance for asylum applicants and beneficiaries of international protection.<sup>946</sup> Students were involved in communicating with asylum applicants, drafting legal analysis and preparing studies on countries of origin of applicants. An AMIF-funded project on the provision of legal assistance to asylum applicants with vulnerabilities, both in the administrative phase and in appeal proceedings, continued to be implemented by the National Legal Aid Bureau until 31 July 2021. In the Dublin procedure, legal aid was provided mainly to unaccompanied minors to ensure they are reunited with their parents. UNICEF provided support, training and interpretation under a project funded until 31 December 2022 for lawyers who provided assistance to unaccompanied minors (see *Section 5*).<sup>947</sup>

Amendments to the International Protection Act in Slovenia entered into force on 9 May 2021 and now legal counsellors must undergo a security check and be granted access to classified information to perform activities during an asylum procedure.<sup>948</sup> The requirements received strong comments from civil society organisations, prior to its adoption, as being unnecessary





and disproportional toward other legal professionals.<sup>949</sup> The Amending Act also introduced stricter payment procedures for legal counsellor in appeal and excluded extraordinary appeals from the scope of free legal aid (International Protection Act, Article 11).

The Slovenian Ombudsperson highlighted to the Constitutional Court that third-country nationals who are returned under the readmission agreement with Croatia are not provided with a return decision, do not have access to legal assistance and cannot appeal.<sup>950</sup> Civil society organisations suggested that amendments to the Foreigners Act should also address the issue of free legal aid in return procedures.<sup>951</sup>

In 2022, a new UNHCR project is expected to be launched in Slovenia on the provision of legal assistance in first instance procedures. Initially, legal assistance will be provided only to vulnerable persons when lodging an application and to applicants under restrictions of movement.

In Czechia, an AMIF-funded project continued to run in 2021 to provide legal assistance to third-country nationals in the return process. The legal professionals regularly visit detention facilities to encourage voluntary returns.<sup>952</sup>

In Slovakia, a draft act was launched for public consultation, to enter into force on 1 June 2022. Article 22(8) lists the services available to asylum applicants, without expressly mentioning access to legal aid. UNHCR recommended to include an entitlement to 'meaningful, timely and effective access to legal counselling services' in Article 22(8).<sup>953</sup> The organisation also suggested to include a more active role of the legal representative during the interview by allowing additional questions.

#### 4.10.7. Northern Europe



In Finland, the Aliens Act was amended, making free legal aid available to all applicants for international protection during an interview, not only to vulnerable groups.<sup>954</sup> In addition, people with legal training but who are not qualified as public legal counsellors can no longer be assigned as legal assistants to third-country nationals in the international protection procedure, which will improve the quality of services. In line with this, the Legal Aid Act was amended to eliminate any pay differences for legal assistants working on international protection cases, with the aim to improve the availability of professional legal aid.<sup>955</sup> All legal professionals are now remunerated on an hourly basis as of 1 August 2021, which was confirmed by the Turku Administrative Court in two cases.<sup>956</sup>

Throughout 2021 the Finnish Immigration Service continued to ensure legal assistance and interpretation to applicants when decisions were increasingly communicated by phone or video call.<sup>957</sup> In addition, in a study on the impact of COVID-19, the Parliamentary Ombudsperson in Finland noted that all third-country nationals placed in immigration detention centres were provided with access to legal assistance in procedures before the administrative courts in 2021.<sup>958</sup>

In Estonia, civil society organisations highlighted difficulties for legal professionals to access asylum applicants in detention centres. Coupled with a lack of interpretation services in detention, and a ban on bringing electronic devices into the premises which hindered communication between legal counsellors and applicants.<sup>959</sup>





In Iceland, a 2018 contract agreement for legal services provided to applicants between the Ministry of Justice and the Red Cross was extended until February 2022, with a possibility of a further renewal until May 2022.

In Sweden and Denmark, legal service providers, for example the Swedish Refugee Law Centre (one of the several actors providing legal counselling and representation in Sweden) and the Danish Refugee Council, acting in partnership with UNHCR, continued to offer remote counselling in 2021 due to COVID-19 restrictions.<sup>960</sup> However, due to limitations of digital and phone counselling, the Swedish Refugee Law Centre started since September 2021 to provide direct contact legal advice for applicants, in order for them to better understand their rights and the asylum procedure.<sup>961</sup>





## Section 4.11. Interpretation services



*Interpreters play a key role throughout the asylum procedure to ensure that the exchange of information between an applicant and the asylum authority is accurate and understood by both parties. They are pivotal in enabling applicants to tell their story in their own words. Thus, skilled interpreters can reflect the nuances of a dialect and address the specific needs of applicants with vulnerabilities. While the recast Asylum Procedure Directive sets out the legislative provisions for interpretation, in practice the quality, integrity and efficiency of interpretation services are indicators which must be met by Member States. In the absence of adequate services, the result of the final decision could be affected.*

### 4.11.1. Institutional and legislative changes



In 2021, some EU+ countries underwent internal reorganisation which impacted the provision of interpretation services. For example, the Federal Agency for Reception and Support Services in Austria, which began operations in December 2020, started to provide translation and interpretation services related to its own work.<sup>962</sup> In parallel, the Ministry of the Interior and the Federal Administrative Court kept their own respective databases and tools. The Finnish Immigration Service was restructured at the end of 2020, so the Legal Services Unit became responsible for assessing interpretation services.

In Germany, a new coalition agreement between the Social Democrat Party SPD, the Green Party and the Liberal Party FDP sets out to closely monitor the use of interpreters for LGBTIQ applicants for international protection in order to eradicate discrimination.<sup>963</sup>

Due to the situation at the border with Belarus, Lithuania introduced several amendments to the Law on the Legal Status of Aliens in August 2021. In the event of a declaration of martial law, a state of emergency or an emergency due to a mass influx of foreigners, Article 71 states that some rights provided to asylum applicants, including interpretation, may be temporarily and proportionally restricted.<sup>964</sup> International and civil society organisations expressed concerns over these rules (see *Section 4.10*). This article was repealed on 1 January 2022.

In June 2021, Norway introduced the Interpretation Act<sup>965</sup> which came into force on 1 January 2022. The act requires that public agencies use certified interpreters to improve quality and ensure trust in the process.

### 4.11.2. Digitalising interpretation services



EU+ countries continued to invest in the digitalisation of interpretation services throughout the year. Some countries developed or expanded systems, while others resorted more to using existing videoconferencing facilities.

The Federal Office for Migration and Refugees in Germany uses video hubs to provide remote interpretation. The interpreters are connected through video transmission to personal interviews (or other steps in the asylum procedure) which are carried out in requesting branch offices. Transmission is provided exclusively from the Federal Office's premises through a secure internal network.





Finland increased the number of interpretation services provided by video, while Slovenia purchased new equipment in order to launch a remote interpretation system in 2022. The system will facilitate interpretation into rare languages when interpreters are based outside of the country.

In Bulgaria, remote interpretation during registration and eligibility interviews was used in reception centres located outside of the capital, where interpreters are harder to find and employ. According to civil society organisations, however, this creates additional difficulties for the applicant as video communication is often disrupted or unclear due to connection issues.<sup>966</sup> Similarly, issues with quality were reported during simultaneous telephone interpretation in border procedures in France,<sup>967</sup> and in Sweden remote interpretation proved to be challenging in some cases as well.<sup>968</sup>

To address concerns about the inefficiency of the Skype appointment system and issues accessing the platform due to the limited capacity and availability of interpretation, the Greek Asylum Service made instructions available in 16 languages as of October 2021.<sup>969</sup> In addition, to cope with COVID-19 restrictions, METAdrasi developed a new videoconference system which covers approximately one-quarter of translation needs within the asylum procedure.<sup>970</sup>

Information material related to COVID-19 and vaccinations was translated into different languages. For example, to reach the refugee community in Cyprus, UNHCR translated [COVID-19-related information](#) into 12 languages and disseminated it through different channels,<sup>971</sup> while in Czechia, a [comprehensive information material](#) with relevant information on labour arrangements and rights and opportunities in accessing financial support related to COVID-19 was translated into Arabic, English and Russian and shared through relevant NGO websites, newsletters as well as hard copies distributed in refugee facilities across the country.<sup>972</sup>

Bulgaria launched an awareness-raising campaign on vaccinations. SAR's social experts provided information material prepared by the Bulgarian Red Cross and translated it into the main languages of applicants.<sup>973</sup> Moreover a child-friendly storybook was developed by UNHCR and translated into several languages, providing child friendly information on COVID-19 (see *Section 4.9*).<sup>974</sup>

### 4.11.3. Providing interpretation

#### Boosting human resources to manage increased arrivals



As the number of asylum applications steadily increased during the year, some countries deployed more interpreters to cope with the rising demand. This was highlighted by the Ombudsperson in Cyprus, who noticed improved communication for residents in reception centres when using more interpreters.<sup>975</sup>

To handle the increased number of applications from West and Central African countries in Slovenia, the authorities issued short-term contracts (rather than going through public tendering procedures) to quickly employ interpreters with knowledge of rare languages. In Malta, a tender was published to subcontract interpretation services in general.

Several Member States signed agreements with civil society organisations, international organisations and private companies to provide interpretation throughout the asylum procedure. This was the case in Italy, where a shortage of interpreters was observed during





the lodging of an application.<sup>976</sup> Under a framework of cooperation with the Department of Civil Liberties and Immigration of the Ministry of the Interior, an NGO established special teams, including interpreters, to assist unaccompanied minors from the moment of disembarkation until first accommodation.<sup>977</sup>

Likewise, METAdrasi has an agreement with the Greek authorities to provide interpretation in 36 different languages/dialects to assist applicants from 72 different countries.<sup>978</sup> Moreover, UNICEF Greece worked with METAdrasi to provide interpretation to refugees and migrants who are survivors of gender-based violence. The number of languages and dialects available were diversified from 3 to 22, at 26 service delivery points, for this particular group.<sup>979</sup>

In 2021 Luxembourg increased the budget for the Directorate of Immigration for translation and interpretation by 2.8%, while in practice it spent 32% more for these purposes in 2021 compared to 2020. The costs allocated to the National Reception Office (ONA) for experts, studies and translations decreased by 38%.

In Lithuania, the Ministry of the Interior signed a memorandum of understanding with the Red Cross to organise translation services in various dialects, share their expertise with social workers working with migrants, and act as intermediaries between municipal communities and government representatives to ensure effective communication with illegal migrants.<sup>980</sup>

Through its operational activities to support asylum and reception authorities, the EUAA provided interpretation services to certain countries in 2021. The Operational Management Centre in Latvia requested the assistance of the EUAA due to a shortage of interpreters in Kurdish/Arabic.<sup>981</sup> The EUAA provided 20 interpreters to assist with asylum and reception procedures.<sup>982</sup> In Lithuania, the EUAA deployed 72 interpreters in 2021 under the operating plan.<sup>983</sup> In December 2021, Belgium and the EUAA signed an operational agreement to support the reception system with 100 additional resources, including interpreters.<sup>984</sup>

Nonetheless, other countries were faced with inadequate resources to provide sufficient interpretation services. For example, FRA highlighted the limited availability of interpreters for return procedures across EU+ countries, with an overall shortage of qualified interpreters for specific languages, issues with reimbursement procedures and ceilings, and an absence of interpretation for preparatory consultations.<sup>985</sup>

In Spain, ECRE reported that appropriate interpretation services were not always guaranteed in the first stages of the asylum procedure.<sup>986</sup> In Estonia, the Police and Border Guard Board reported that they had limited interpreters available if there was a mass influx of new arrivals.<sup>987</sup>

In Bulgaria, increased arrivals and the limited availability of interpreters meant that case officers had to conduct interviews also over the weekend, which was the only time slot when interpreters were available. In addition, the ECtHR [overruled](#) the return of a Turkish journalist, in part due to a lack of interpretation services which would have been essential for Bulgarian authorities to assess the risk of persecution.

Practical challenges brought by COVID-19 still remained an issue during 2021 for some countries. For example, Belgian authorities reported a high number of cancellations of interviews due to absences or illnesses of interpreters.



Access to interpretation in detention was reported by the National Ombudsperson to be an issue in Bulgaria.<sup>988</sup> Likewise, UN CAT<sup>989</sup> and the Ombudsperson<sup>990</sup> reported a lack of interpreters for refugees and asylum seekers in detention in Lithuania (see *Section 4.8*).

#### Box 4.4. Interpreters from Afghanistan



Interpreters are usually employed by national authorities to provide assistance during the asylum procedure, but sometimes interpreters themselves are granted international protection as a result of the services they provide. This was the case in 2021 for Afghan interpreters cooperating with western forces during the war. Following the Afghanistan crisis, interpreters were one of the profiles evacuated or entitled to humanitarian admission in the EU<sup>991</sup> and other countries<sup>992</sup> as they were in danger of being persecuted by the Taliban.

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#### Quality assurance



To further finetune mechanisms of interpretation provision, EU+ countries focused on improving the quality of interpretation. One method was through specialised training to interpreters on the specific context of international protection. For example, interpreters in Portugal attended the EASO training module “Interpreting in the Asylum Context”.

In Italy, the IOM and NGOs organised periodic training for interpreters working in immigration offices. In addition, a platform is being developed for the exchange of information between the National Asylum Commission and territorial branches. It will contain a section for interpreters with training courses and other resources.

In Finland, new quality assurance modalities for interpretation services were put in place in 2021 after the launch of the project Tulppani in 2020. As of 2021, the International Protection Agency’s interpreters in Malta are bound by a code of conduct to increase professionalism and performance. The Swedish Migration Agency published a legal position on the requirements for interpreters and translators to work in the asylum context.<sup>993</sup>

In Slovenia, new copyright agreements were ongoing for translation and interpretation in international protection proceedings. And UNHCR updated the Handbook for Interpreters in Asylum Procedures in German.<sup>994</sup>

NGOs in Spain recommended that the authorities need to develop a training and certification mechanism to ensure quality. They called for resources to be invested in regular monitoring to address the gaps in specialised knowledge to interpret in the asylum and migration fields.<sup>995</sup>

Civil society organisations in Ireland reported deficiencies in training for interpreters in the asylum setting.<sup>996</sup> UNHCR also pointed out the variations in the quality of interpretation in Ireland and stressed the need for a regulation on interpretation services.<sup>997</sup> This was echoed by the Translators and Interpreters Association, which called for standardisation in the provision of interpreters in the asylum context.<sup>998</sup> In addition, UNHCR stressed the need for a better selection and training of interpreters, for example those working with children<sup>999</sup> and LGBTIQ applicants.<sup>1000</sup>



A study in Sweden revealed an urgent need to improve the quality of interpreters in asylum determination procedures, ensuring specific training modules and knowledge and sensitivity about the subject matter.<sup>1001</sup>

### Interpreters in health care



There was a shortage of interpreters in all sectors connected with asylum and immigration in Croatia, especially in social services, education and health care.<sup>1002</sup> Similarly, the Greek National Commission for Human Rights observed a wide gap in the provision of health and psychological services in Samos due in part to a lack of support from interpreters.<sup>1003</sup> For example, the psychologist in the pre-removal detention centre in Kos does not have access to interpreters and therefore cannot communicate with most applicants.<sup>1004</sup>

The OFII medical service launched a pilot project in three major French cities (Marseille, Strasbourg and Toulouse) in June 2021. Medical screening is done in the presence of an interpreter for all new asylum applicants. In addition, the government plan on vulnerabilities, which was presented in May 2021, foresees improving interpretation and mediation in health care.

In Austria, Arabic and Dari-Farsi interpreters were engaged to assist doctors in their consultations with patients receiving the COVID-19 vaccination<sup>1005</sup>. However, legal advisors noted that police doctors in detention facilities did not consult interpreters during a medical examination.<sup>1006</sup>

In Spain, the United Nations Committee on the Rights of the Child [reported](#) that the interpreter was not involved in the medical examination of a child undergoing an age assessment. A similar issue was reported in Czechia, where the Constitutional Court [indicated](#) a violation when an age assessment was held without interpretation.

### Challenges in second instance procedures



There seemed to be particular challenges in providing interpretation for second instance asylum applications in 2021. In Portugal, for example, interpretation to prepare an appeal was difficult to secure, as the law does not specify if this expense is included in free legal aid.<sup>1007</sup> In Estonia, the law firm must initially bear the costs of interpretation, which can be reimbursed once the proceeding is concluded.<sup>1008</sup> Similarly, interpretation for an appeal in Bulgaria is subject to the availability of funds of lawyers, who must pay for these services at their own expenses.<sup>1009</sup>

The Finnish Supreme Court [ordered](#) the reimbursement of interpretation costs after the Administrative Court rejected the fee as unjustified on the basis of the applicant's allegedly good understanding of English. The Supreme Administrative Court in Finland also [recognised](#) procedural errors during an appeal by an Iraqi national whose hearing was held in Kurdish Soranese instead of Badini.

Hearings were disrupted in Ireland until May 2021, specifically for second instance procedures. In part this was due to general COVID-19 restrictions but also because providing interpretation for video hearings was not covered in the contract of interpreters.<sup>1010</sup>





## Languages and dialect not covered



The lack of interpretation in certain languages continued to be reported in several Member States. NGOs highlighted the shortage of specific languages in Croatia, resulting in overburdening existing resources and undermining the quality of services. There was also a lack of female interpreters.<sup>1011</sup> Authorities mentioned similar issues in Belgium, where female interpreters for Somali were limited and interpreters were not available for some rare African languages. Norway, at the same time, pointed out that they did not have enough interpreters immediately for Uyghurs, when the authority suddenly received an increased number of applications.

NGOs reported that there was a serious shortage of interpreters in Spain for applicants who do not speak English, French or Arabic.<sup>1012</sup> In particular, this was seen on the Canary Island, where interpretation was not available for a number of languages and dialects spoken in several sub-Saharan African countries, in addition to insufficient interpreters for Wolof, Bambara and Moroccan dialects. The shortage led to situation where interpretation was given as a collective service or not provided at all.<sup>1013</sup>



## Section 4.12. Country of origin information



*Up-to-date, reliable information on countries of origin is necessary for authorities to make well-informed, fair decisions on a claim for international protection. The information can also be used to change policies to address current needs and trends.*

*The recast Qualification Directive, Article 4(3a) specifies that the assessment of an application for international protection must take account of all relevant facts about the applicant's country of origin. Along the same lines, the recast Asylum Procedures Directive, Article 10(3b) stipulates that precise and timely information on the general situation in countries of origin of applicants and, where necessary, in countries through which they have transited is to be obtained from various sources, such as the EUAA, UNHCR, the Council of Europe and other relevant international organisations.*

Key developments in the production of COI in 2021 centred around improving methodologies and production flows, investing in researchers and producing information rapidly to address crisis situations, such as the rising number of applicants from Afghanistan.

### 4.12.1. Enhancing capacity and improving methodologies



In 2021, there were no major institutional changes with regards to COI units. However, Germany employed more country analysts and formed new regional teams, resulting in a larger production of new country reports. In contrast, other countries faced budget cuts due to the impacts of the COVID-19 pandemic, and thus had to downsize their teams.

Because fact-finding missions were still not possible, for example in Belgium, Denmark and Sweden, COI production was based on desk research and video interviews or Skype meetings. The new method allowed reports to be produced within a short timeframe and made it possible to produce quick updates on earlier fact-finding missions.

In Germany, the production line of COI reports was streamlined and an internal peer review was introduced amongst the regional analyst teams. Sweden as well developed a mainstreamed methodology for COI reports which are used to identify safe countries of origin of asylum applicants.

In the Netherlands, the Office for Country Information and Language Analysis (Team Onderzoek en Expertise Land en Taal (TOELT)) was divided into two departments, one employing country specialists and linguists (TOELT 01) and the other employing the employees of the Regional Information Centres and the coordinators' interpreters (TOELT 02). Additionally, since February 2021 the IND made most of the country of origin reports publicly available, as the reports were found to be useful sources for the assessment of an asylum application and other stakeholders working with asylum seekers.<sup>1014</sup>

The Belgian Refugee Council was involved in the ongoing revision of the Migration Code in Belgium.<sup>1015</sup> The organisation recommended that the full content of Article 10 of the Asylum Procedure Directive is transposed into Belgian law to highlight the importance of accurate and up-to-date COI.<sup>1016</sup> Additionally, it recommended to include into national legislation the quality standards which have already been established, such as the EUAA's [Country of Origin](#)



## Information (COI) Report Methodology and the ACCORD Researching Country of Origin Information – Training Manual.<sup>1017</sup>

While some countries faced difficulties in carrying out training on the job for new COI analysts and researchers, other countries turned to new platforms to provide the training online. For example, Sweden developed webinars for case officers and other employees at the Swedish Migration Agency, which are available after the live transmission. The “focus country pages” on the Lifos website were also enhanced by including recommended reading on various topics and main countries of origin.

In Switzerland, training on methodologies, quality standards and visualisations was boosted, and in Greece, monthly workshops on topics related to COI research were organised with academics and researchers. In Germany, all new COI analysts participated in the EUAA COI training with a focus on drafting EUAA COI reports and conducting peer reviews. This was organised partly as a webinar and partly as in-person training.

### 4.12.2. The focus of COI content

COI production continued to focus on the most common countries of origin of asylum applicants in Europe, namely Afghanistan, Iran, Iraq and Syria. Research was also undertaken on other countries of origin in 2021, including:



- Ethiopia concerning the evolving security situation and in particular the Tigray region;
- Turkey on the security situation, military service and the position of Kurds;
- Pakistan;
- Sudan; and
- Palestine, particularly concerning Gaza.

To further enhance the information available on specific countries, the EUAA addressed particular areas in greater detail, as can be seen in [COI](#) and [MedCOI](#) reports, as well as [country guidance](#). The Asylum Research Centre Foundation (ARC) and the Dutch Council for Refugees provided commentary on some of the EUAA products and offered their recommendations, including on the methodology, the peer review process and the possibility to consult existing COI in more languages.<sup>1018,,1019</sup>

To make information more readily available, in September 2021, the ARC launched a Thematic COI Sources Database, where public COI sources are listed by topic (such as children’s rights, gender and LGBTIQ), medical COI, minorities, media sources, etc.<sup>1020</sup>

The ARC and Asylos collaborated on a project which addresses information gaps about persons with disabilities who are seeking international protection. They found that persons with disabilities commonly had their claims rejected, appearing to be a consequence of the lack of COI on the topic. They published a document on “Principles for Conducting Country of Origin Information Research on Disability”, which will be followed by a handbook, training module and a country report on the situation of children and young people with disabilities in Nigeria.<sup>1021</sup>

Despite efforts by national COI units to improve the production of COI and widen the scope, civil society organisations continued to report on the lack of detailed and up-to-date COI on specific topics.<sup>1022</sup> In particular, they highlighted the lack of COI reports related to statelessness and nationality rights. The main source of information for these themes is from



UNHCR's repository of protection policy and guidance, although reports from the EUAA, the UK Home Office and the ARC published in 2021 made reference to these issues.<sup>1023</sup>

The ENS highlighted the importance of COI in assessing statelessness and nationality matters, where inaccuracies can lead to the rights of stateless refugees and migrants being jeopardised.<sup>1024</sup>

It was also reported that at times COI reports are drafted with a certain political background for specific regions, which affects their value as objective evidence.<sup>1025</sup>

Additional challenges included the lack of accessibility and user-friendliness of COI databases and the lack of multilingual information, as COI material is mostly available in English.<sup>1026</sup> Both of these issues make it difficult for stakeholders to use country of origin information even at times when it is available. It was reported that applicants may not be made aware of the importance of COI at the first instance stage of the asylum proceedings and of their right to submit additional COI evidence in support of their claim.<sup>1027</sup>

In 2021, courts also stepped in to stress the importance of consulting COI before taking a decision on a claim. In *CF and DN (Afghanistan) v Bundesrepublik Deutschland*, the CJEU [provided](#) clarification on the interpretation of the recast Qualifications Directive on the criteria to be applied to assess a situation of indiscriminate violence to grant subsidiary protection and highlighted the importance of taking into account all relevant facts on the country of origin at the time of taking the decision.



#### Box 4.5. COI on Afghanistan

Following the changes related to the security situation in Afghanistan in August 2021, many countries reported difficulties in accessing up-to-date information in the first weeks of the Taliban takeover. They noted a lack of contact networks and sources in the country. However, in the weeks to follow, many EU+ countries (for example Belgium, Bulgaria, Croatia, Denmark, Finland, France, Romania and Sweden) rapidly produced COI reports to better inform policies on how to manage this group of applicants. Some countries suspended negative decisions considering that the COI available at that stage was no longer relevant (for example Belgium, Denmark and Luxembourg).

The EUAA provided support to countries by producing a [COI information Report on Afghanistan in September 2021](#) and [Country Guidance: Afghanistan in November 2021](#).

[#AsylumReport2022](#)



## Section 4.13. Statelessness in the context of asylum



*Statelessness is a legal anomaly which affects people who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully exercise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.*

*The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone “who is not considered as a national by any state under the operation of its law”.<sup>1028</sup> Nationality is the legal bond between a person and a state, and international law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law, for example by being non-discriminatory and non-arbitrary, avoiding statelessness and ensuring gender equality. Nationality is generally acquired at birth by descent (*jus sanguinis*) and/or place of birth (*jus soli*), or later in life based on residence, marriage or adoption. A stateless person does not have a nationality of any country, whether born stateless or having become stateless later in life.*

*Stateless persons and refugees are two distinct categories in international law, but a person can be both a refugee and stateless. In the context of asylum, statelessness may be relevant to the determination process for an asylum application. It is important that both claims are assessed and both statuses addressed explicitly. In instances where refugee status ceases without the person having acquired a nationality, this may necessitate international protection as a stateless person.*

### 4.13.1. Changing legislation



2021 marked the 60<sup>th</sup> anniversary of the 1961 UN Convention on the Reduction of Statelessness, an international treaty which aims to prevent new cases of statelessness.<sup>1029</sup> A fact sheet published by UNHCR for the occasion confirmed that progress has been made over the last decade with more and more countries signing the treaty. However, it warned that new cases of statelessness persist.<sup>1030</sup>

In January 2021, Iceland acceded to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.<sup>1031</sup> Following accession, a Standard Operation Procedure was adopted by the Directorate of Immigration, which was developed in cooperation with UNHCR. It outlines the policies and procedures to be followed when considering asylum applications from stateless persons.<sup>1032</sup> To ensure that practices align with the convention, UNHCR organised an open seminar and technical workshop for legal practitioners on “Operationalising the Statelessness Determination Procedure”.

In Bulgaria, in February 2021, a new legislative act amending and supplementing the Law on Foreigners in the Republic of Bulgaria was adopted by the National Assembly, introducing new grounds for refusing to grant stateless.<sup>1033</sup>

In October 2021, Finland opened consultations on proposed amendments to the Citizenship Act (359/2003) and the Government Decree on Citizenship (293/2013).<sup>1034, 1035</sup> The UNHCR



Representation for Nordic and Baltic Countries provided feedback to align the definition of stateless person to the 1954 Convention, to include a statelessness determination procedure to the current citizenship status procedure and to introduce more favourable requirements for the naturalisation of stateless persons.<sup>1036</sup> The government's proposal is expected to be submitted to the parliament in the spring session in 2022.

In the Netherlands, a proposal for a Statelessness Determination Procedure Act was submitted in December 2020.<sup>1037</sup> The bill was discussed by parliament in May 2021 and January 2022 to clarify pending questions, including the duration of the process and the extent of stateless cases in the country.<sup>1038</sup> The coalition agreement of 15 December 2021 included reference to this bill, stating that the process will continue in 2022.<sup>1039</sup>

Following amendments to the Swedish Aliens Act which introduced a shift from permanent to temporary residence permits, the Act on Swedish Citizenship was amended to grant a stateless person holding a temporary residence permit the right to obtain Swedish citizenship, which before was only possible with a permanent residence permit.<sup>1040</sup> The person must have been born in Sweden, be stateless since birth and resided in Sweden for the past 5 years or resided in Sweden for a total of 10 years and not yet turned 21 years of age. The change was necessary to avoid divergence with the 1961 UN Convention on the reduction of statelessness. For stateless persons holding a permanent residence permit, the residence requirements remained unchanged: 4 years of lawful and habitual residence for naturalisation of adults, 2 years of lawful and habitual residence for children born abroad, and legal and habitual residence (no specific length) for children born in Sweden. However, the ENS reported that these amendments in the legislation resulted in a longer and more difficult process for stateless persons to acquire Swedish citizenship.<sup>1041</sup>

#### 4.13.2. Data on statelessness



According to UNHCR's Global Appeal 2022 Update, there are an estimated 483,000 stateless persons in Europe.<sup>1042</sup> Based on Eurostat data, EU+ countries<sup>xliii</sup> have received approximately 78,500 applications for international protection by stateless persons over the last decade, from 2012 to 2021 (see Figure 4.22).

The share of applications by stateless persons in the overall total number increased in EU+ countries from 2012 to 2014, representing approximately 1% to 2.6% of all applications. Since 2015, the trend reversed and the share continued to decline, with stateless persons accounting for 0.4% of all applications in 2021.

The share of positive decisions<sup>xliiv</sup> on asylum applications at first instance, or the recognition rate, for stateless persons in EU+ countries is generally high. But there has been a decreasing trend since 2014, with an 86% recognition rate in 2014 compared to 55% in 2021.

In addition, the recognition rate for applicants registered as of 'unknown' nationality was consistently and significantly lower than for applicants registered as 'stateless' from 2012 to 2019, while for 2020 and 2021 it was higher (62% for 'unknown' compared to 56% for 'stateless' in 2020; and 60% compared to 55% in 2021).

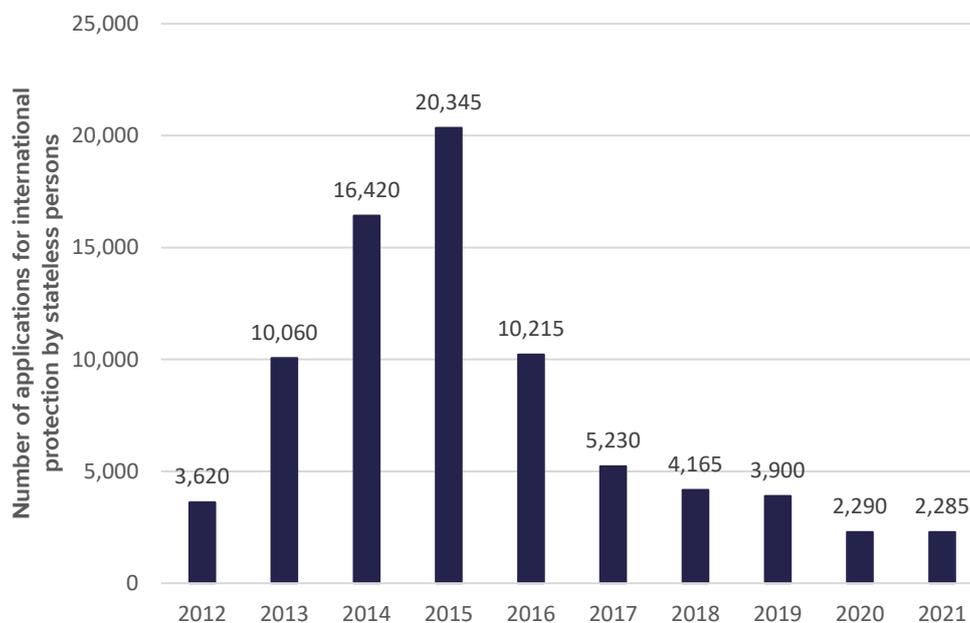
<sup>xliii</sup> EU 27 and Iceland, Liechtenstein, Norway and Switzerland.

<sup>xliiv</sup> Only EU-harmonised statuses (i.e. refugee and subsidiary protection) are included as positive decisions. For more information on how recognition rates are calculated see Section 4.14.1.



**Approximately 78,500 applications for international protection were lodged by stateless persons in EU+ countries over the last decade**

**Figure 4.22. Number of applications lodged by stateless persons in EU+ countries, 2012-2021**



Source: Eurostat [[migr\\_asyappctza](#)] as of 22 April 2022.

### 4.13.3. Identifying stateless persons and their rights



Legislation, practices and policies vary across EU+ countries on the criteria needed to be identified as a stateless person. In many cases, these individuals may be registered under the nationality of their country of former habitual residence or as having ‘unknown’ nationality. Thus, the data available on statelessness may not be entirely representative of the reality across EU+ countries.

Failing to properly identify statelessness during the asylum procedure can have a direct impact on the outcome of the case. For example, statelessness in the country of origin may be wholly or partially linked to a fear of being persecuted. If the applicant is not identified as stateless, the need for protection may not be adequately addressed during the procedure.<sup>1043</sup>

In addition, the status which is recorded during the registration of an application (e.g. national, stateless or unknown) has an impact on the nationality rights of the applicant’s children and access to processes, such as family reunification and naturalisation. As such, identifying potential cases of statelessness and referring the cases to a statelessness determination process are of paramount importance.

In Czechia, the Asylum Act and the Act on Stay of Foreigners were amended in August 2021.<sup>1044</sup> The changes stipulated that some provisions of the asylum procedure do not apply to the procedure for recognising statelessness, for example the appointment of a legal



representative, having an oral hearing, and an appeal of the decision is not possible. However, the ministry will provide an interpreter free of charge and issue a decision within 6 months of submitting the application (which can be extended by another 6 months for complex cases).

Civil society organisations claimed that the legislative amendments make it more difficult for stateless people to have their status recognised and that the new legal amendments are vague and unclear.<sup>1045</sup> According to the Organisation for Aid to Refugees, many areas are not governed by the law which result in uncertainty and arbitrariness in the procedure, for example the type of documents stateless persons should submit to prove statelessness, their rights and obligations during the procedure and the expected results of the procedure.<sup>1046</sup> The Consortium of NGOs Working with Migrants noted that this unconstitutional amendment results in a significant deterioration of the legal status of stateless people.<sup>1047</sup>

The Supreme Administrative Court in Czechia **ruled** that stateless status does not automatically include the issuance of a permanent residence card and the same rights that are granted with refugee status. The court noted that the Act on the Residence of Foreign Nationals must be followed for stateless persons, and not the Asylum Act.

A judgment in Switzerland sparked civil society organisations to criticise national procedures whereby applicants registered as having no nationality are not always promptly referred to the statelessness determination procedure.<sup>1048</sup> In a case concerning an applicant who was recognised as a refugee in the past and registered with Western Sahara as nationality, the Federal Court **registered** the applicant "without nationality" as the country of Western Sahara is not recognised by Switzerland. The court noted that "without nationality" does not lead to statelessness as the country does not have the power to withdraw a nationality. As a consequence, persons registered "without nationality" are usually granted different and provisional permits and have reduced rights.

Meanwhile, the Federal Administrative Court (FAC) in Switzerland **ruled** in a case concerning an applicant who was born in the al-Hasakah province of Syria as a member of the Ajanib minority and fled his country of birth in 2011 in the context of civil war. His asylum application was rejected, but he was included in the refugee status granted to his spouse. Meanwhile, he had applied for statelessness status and his application was rejected by the State Secretariat for Migration (SEM) on the ground that he could have acquired Syrian nationality before leaving the country through the presidential decree granting Syrian Arab nationality to those registered as Ajanib in the al-Hasakah province. The FAC found that the applicant did not act abusively considering the situation in Syria at the time when he did not apply for nationality before leaving the country and cannot be expected to apply for naturalisation today. Therefore, the court granted him the status of a stateless person, ruling that any applicant who appears to have no nationality must in principle be recognised as needing protection. It noted that denying access to the stateless determination procedure constitutes an unjustifiable interference with social identity and the right to private life (ECHR, Article 8).

The UN Committee on the Rights of the Child **decided** on a case involving a mother and her child who were returned from Switzerland to Bulgaria. The Committee found that Switzerland failed to take into account the fact that the applicant is stateless and verify if the applicant would have access to a nationality procedure in Bulgaria.

In February 2022, the Netherlands changed the requirements for the documents to be presented by Lebanese Palestinians for the registration of statelessness. Before an identifying document, a birth certificate or an UNRWA (or DPPRA) registration card were required to be





registered as stateless, but now applicants can submit a family extract or an individual extract instead of a birth certificate.

In Germany, the new government plans to expand both access to and the scope of residence permits for all undocumented people living in the country, including stateless persons. The planned amendments aim to introduce the right to employment for persons whose deportation has been suspended ("Duldung"), as well as to provide access to a temporary 1-year residence permit if the "Duldung" status has been held for 5 years, which may give them access to a longer-term residence permit.<sup>1049</sup>

In December 2021, Belgium formally pledged to introduce a residence permit for stateless persons during the UN High Level Officials Meeting event taking place under the Global Refugee Forum.<sup>1050</sup>

#### 4.13.4. Improving the situation of stateless persons



The ENS is an alliance of civil society organisations from 41 countries which conduct research on statelessness. In 2021, the alliance published an analysis of the impact of the proposed Pact on Migration and Asylum on the fundamental rights of stateless migrants and refugees.<sup>1051</sup> The analysis found a lack of clarity on how the pact would address the specific protection

challenges faced by this group. The following recommendations were made:

- Integration of the specific rights of stateless persons in fundamental rights monitoring mechanisms and in FRA guidance;
- Identification of statelessness and statelessness as a vulnerability factor in the Screening Regulation;
- Exclusion of stateless people from return sponsorship and the application of the return procedure, as well as from the asylum border procedure;
- Beneficiaries of stateless status to be included alongside beneficiaries of international protection in the proposed amendment to the Long-Term Residence Directive;
- Reference to statelessness to be included in the Eurodac Regulation and in the Recast Return Directive; and
- Mainstreaming of statelessness in the work of the Migration Preparedness and Crisis Network, as well as of the European Commission and the EUAA.

The ENS also provided a submission to the European Commission 2021 Enlargement Package, based on input from ENS members in Albania, Bosnia-Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia.<sup>1052</sup> The contribution highlighted that many people affected by or at risk of statelessness in the Western Balkans are members of Roma, Ashkali and Egyptian communities, and are both refugees and migrants and people who have lived in the same place for generations. The ENS underlined that countries included in the Enlargement Package have specific obligations under international law to protect stateless people and prevent statelessness, but in many cases, effective law, policies and practices have not been implemented at the national level, resulting in people falling through the gaps and being left with no nationality.

In September 2021, the ENS published a thematic briefing on stateless determination and protection in Europe, comparing practices in the 27 countries of the Stateless Index and outlining key actions for improvement.<sup>1053</sup> The briefing noted that in general EU+ countries only provide basic rights for stateless applicants, but it commended the courts in Italy for





clarifying that an applicant should not be detained while waiting for a decision on determination of statelessness.

Following the crisis in Ukraine in early 2022, the ENS published a briefing on the situation of stateless people and people at risk of statelessness who are forcibly displaced from the country.<sup>1054</sup> The briefing underlined this group would not be able to prove their residence and nationality status due to the nature of statelessness. Ukraine introduced an Stateless Determination Procedure in May 2021, but few stateless persons received a residence permit on this basis by the time of the crisis. The ENS therefore recommended that eligibility for temporary protection is extended to all stateless persons and persons at risk of statelessness who are/were living in Ukraine, regardless of documentation or residence status, that access to protection is ensured, and that appropriate steps are taken to identify and record statelessness, in particular among unaccompanied and separated children.

Having adequate procedures in place to process applications from stateless persons is gaining ground in EU+ countries. It was noted that an increasing number of queries launched on the EUAA and EMN restricted platforms focused on data on statelessness, requirements in place for stateless determination and practices currently in place in other countries.

In December 2021, the EUAA published a [Practical Guide on Registration](#) which includes a section on identifying and registering initial indications of statelessness in an effort to harmonise practices across Europe. According to the ENS, the guide is an important tool that should be widely disseminated and implemented by officials responsible for registration.<sup>1055</sup>

The Council of Europe's European Committee on Legal Co-operation (CDCJ) and UNHCR organised a conference in September 2021 which focused on strengthening efforts to end statelessness in Europe and guarantee the provision of fundamental rights to everyone.<sup>1056</sup> Following the Conference, the CDCJ agreed in its plenary meeting in December 2021 to prioritise follow-up activities on statelessness and the right to nationality, including guidance on child-sensitive procedures in administrative and migration law matters for stateless children or children at risk of being stateless and guidance on the establishment of nationality, in particular for children.<sup>1057</sup>

In Czechia, the Organization for Aid to Refugees (OPU) has been working to ensure that, during the statelessness determination procedure, applicants have access to reception and accommodation centres managed by the Refugee Facilities Administration of the Ministry of the Interior.<sup>1058</sup> According to OPU, the right to housing during the determination procedure is not clearly stipulated in Czech law, and the Ministry of the Interior's Department for Asylum and Migration Policy has in practice not offered housing to this profile of applicants, work permits or access to health care.

The Belgian Refugee Council contributed to the revision of the Migration Code by recommending to include the definition of a stateless person in law, establish residence rights for stateless persons and introduce family reunification for them.<sup>1059, 1060</sup>

In Italy, the National Observatory on Unaccompanied Minors and UNHCR published a study on the risks of not identifying stateless unaccompanied minors and found that unaccompanied minors are generally unaware of their stateless status and instead apply for international protection.<sup>1061</sup> If the case officers are not aware and proceed, the minor may face many challenges when turning of age and needing to change their permit. The report recommended more training on statelessness, better collaboration between different actors





during the asylum procedure, and the introduction of a referral mechanism for possible cases of statelessness.

Despite the efforts of national authorities to introduce measures to protect stateless people, civil society organisations reported a number of areas in which progress is still required:

- There is an overall lack of clarity around the definition of a stateless person and a lack of available information on who might be stateless or at risk of statelessness.<sup>1062, 1063</sup>
- Many countries still lack a statelessness determination procedure established in law, leading to confusion on what procedures should be applied when a person claims to be stateless.<sup>1064</sup>
- Insufficient training and resources are provided to officials working in the identification and registration of stateless persons. Stateless persons are in a particular category of vulnerability as lack the right to a nationality, but there is a lack of awareness of this aspect and therefore of the instruments necessary to identify it.<sup>1065, 1066, 1067</sup>
- Stateless persons in many countries do not have access to residence rights, including through temporary residence permits, for the duration of the statelessness determination procedure.<sup>1068, 1069</sup>
- Stateless persons experience difficulties in accessing their rights, for example due to a lack of proper identity documents or lack of clarity in the determination process. In some cases, they do not have access to the reception system or to some phases of it. These issues result in difficulties for stateless persons in terms of integration, as they lack housing, access to the labour market, access to education and other services that are key to integration.<sup>1070, 1071</sup>
- There is a lack of comprehensive information on statelessness and nationality rights in country of origin information.<sup>1072, 1073</sup>
- Gaps in legal frameworks and practices often result in arbitrary detention of stateless persons, in particular when documentation to prove their status is missing. There is a need for better identification instruments in return procedures and decisions to detain.<sup>1074, 1075</sup>
- Stateless people cannot apply for statelessness status at the border in some cases, which creates additional barriers for those without documents to enter the country regularly.<sup>1076</sup>

### 4.13.5 The impact of the COVID-19 pandemic on stateless people



Stateless populations were frequently left out of vaccination campaigns which were aimed at the broader population due to uncertainties of their legal status and lack of documentation, resulting in difficulties to access vaccinations and treatments.

Stateless persons were in some cases included in the national vaccination plans, for example in Portugal and Spain, where access to the vaccination is not based on legal status or nationality. In Portugal, vaccinations for stateless persons were prioritised based on health risks, as for the rest of the population. In Spain, vaccinations are available to all persons residing on the territory.





The COVID-19 Emergency Statelessness Fund (CESF), a global consortium of NGOs and citizenship rights activists initiated by the Institute on Statelessness and Inclusion (ISI), published a roadmap to address the impact of COVID-19 on stateless people.<sup>1077</sup> The roadmap aims to support stakeholders by informing and guiding them on developing an inclusive response related to the rights and wellbeing of stateless people.

In France, financial support was provided to lower-income households and young people who were already receiving help from other financial services, including people holding stateless status. However, this support was subject to certain criteria being met, and in many cases the benefits did not extend to stateless people.

UNHCR published a report on the impacts of the COVID-19 pandemic on stateless people, warning of the risk of vaccination gaps as the majority of national immunization plans did not include this group.<sup>1078</sup> The report recommended that extra efforts were needed to reach stateless persons as they may face additional barriers, such as a lack of identity documents, fear of coming forward for the vaccination due to uncertainties with their legal status, the cost of vaccination in countries where health care insurance is required and where free vaccinations are only available to nationals, and discriminatory and inconsistent vaccination distribution practices.<sup>1079</sup>





## Section 4.14. Content of protection



*Recognised beneficiaries of international protection are granted certain rights and obligations, as outlined by the Geneva Convention. The recast Qualification Directive outlines the content of international protection to harmonise what a recognised beneficiary can expect under national policies. Its provisions shape the integration of beneficiaries of international protection through standards on residence permits, employment, education, social welfare and health care. Relevant articles of the directive also outline the criteria for the cessation and revocation of refugee status.*

*2021 marked the first year of implementation of the EU Action Plan on Integration and Inclusion 2021-2027. The key actions included:<sup>1080</sup>*

- *A new partnership between the European Commission and the Committee of the Regions for improved cooperation and support on the integration of newcomers to cities, regions and rural areas;<sup>1081</sup>*
- *The 6th European Migration Forum which addressed the situation of migrants, including beneficiaries of international protection, during the COVID-19 pandemic and explored ways in which migrants can contribute to the EU's economic and social recovery;<sup>1082</sup>*
- *A new early childhood education and care toolkit, providing support to young children with additional needs, such as migrant and refugee children.<sup>1083</sup>*

Several Member States updated their integration strategies in 2020 to match the EU Action Plan, so efforts in 2021 focused on implementing these new strategies. As a result, many legislative changes related to integration entered into force in 2021 or the beginning of 2022, while others were in the pipeline.

At the country level, discussions on national forms of protection and regularisation measures came to the forefront in 2021, due in part to COVID-19 travel restrictions and the reduced possibility of implementing returns. Countries also addressed the increased use of status reviews of cessation and revocation grounds in previous years. Immediate protection was granted on humanitarian grounds, for example for Afghan evacuees and, more recently, for the first wave of persons fleeing from Ukraine (see Section 2). Cases were referred to the courts frequently throughout 2021 to provide guidance on family reunification.

The number of studies from various stakeholders – national authorities, research institutes, think tanks, academia and civil society organisations – evaluating the efficiency and impact of national integration strategies continued to grow, and the reports provided useful insights to further improve integration approaches. While practical barriers persisted in many aspects of everyday life for beneficiaries of international protection, national authorities, often together with local authorities and civil society organisations, undertook initiatives to overcome these challenges, especially in the field of children's education.





### 4.14.1. Granting international protection: Recognition rates



The recognition rate refers to the number of positive outcomes as a percentage of the total number of decisions on applications for international protection. For reporting in the Asylum Report, positive decisions calculated in the recognition rate include EU-harmonised statuses only (e.g. refugee and subsidiary protection). At times, the recognition rate which includes national forms of protection may be presented for countries where there is a considerable difference with the recognition rate of EU-harmonised statuses.<sup>xiv</sup>

The recognition rate for specific nationalities of applicants can indicate which citizenships are granted protection more frequently and which are rejected.

#### 4.14.1.1. Recognition rates at first instance



The overall EU+ recognition rate for first instance decisions on asylum applications was 34% in 2021. This means that out of 535,000 decisions issued, 182,000 were positive, granting the applicant either refugee status or subsidiary protection. As such, two-thirds of all first instance decisions were negative.

Most positive decisions at first instance granted refugee status (118,000 or 65% of all positive decisions) and subsidiary protection was granted in the remaining 64,000 cases (35% of all positive decisions). While the recognition rate for EU-regulated types of protection has remained stable since 2018, the share of positive decisions granting refugee status dropped in 2021.

Asylum applicants who were not eligible for international protection as defined in the Qualification Directive may be granted an authorisation to stay for humanitarian reasons under national law. The EU+ recognition rate of 34% excludes authorisations to stay for humanitarian reasons. If such authorisations are included, the recognition rate for 2021 would be 40%. This considerable difference is largely due to humanitarian status granted to Venezuelans in Spain, which represented more than two-fifths of all humanitarian permissions to stay in EU+ countries. Moreover, Afghans received one-seventh of all humanitarian permissions, most of which were issued by Germany and Switzerland.

In 2021, women received more positive decisions on their protection claims (41% of all decisions) than men, who were granted protection in 31% of all decisions. This difference was slightly higher than in 2020 (35% compared to 28%). However, the data available do not indicate which applications lodged by males or females were part of family groups.

The same caveat applies to the situation of children, whether their application is lodged as part of a family submission or alone. Overall, 53% of decisions issued protection to minors younger than 18 years, which is considerably higher than for applications lodged by the 18-34 age group (28%), 35-64 age group (24%) and applicants aged 65 years or older (25%). In 2021, recognition rates by age group were slightly higher compared to the previous year.

<sup>xiv</sup> Persons granted authorisation stay for humanitarian reasons are defined by Eurostat: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum\\_decision](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum_decision)





In some EU+ countries, first instance recognition rates varied over time, usually because of changes in caseloads. Partially because of more positive decisions issued to Afghan applicants, overall recognition rates increased for example in Bulgaria (from 37% in 2020 to 62% in 2021), Czechia (10% to 27%), Denmark (23% to 41%), Estonia (36% to 67%), Latvia (13% to 40%), Lithuania (23% to 45%), Poland (17% to 67%) and Portugal (23% to 62%). While the recognition rate also climbed in Hungary, from 27% to 73%, the overall number of decisions was low (55 decisions in 2021) and new legislation requires applicants to submit a declaration of intent at a Hungarian embassy in a non-EU country before they can enter the country and apply for international protection.

In contrast, recognition rates declined substantially in Cyprus (50% to 19%), Greece (55% to 44%) and Iceland (63% to 45%).

#### 4.14.1.2. Recognition rates for specific nationalities

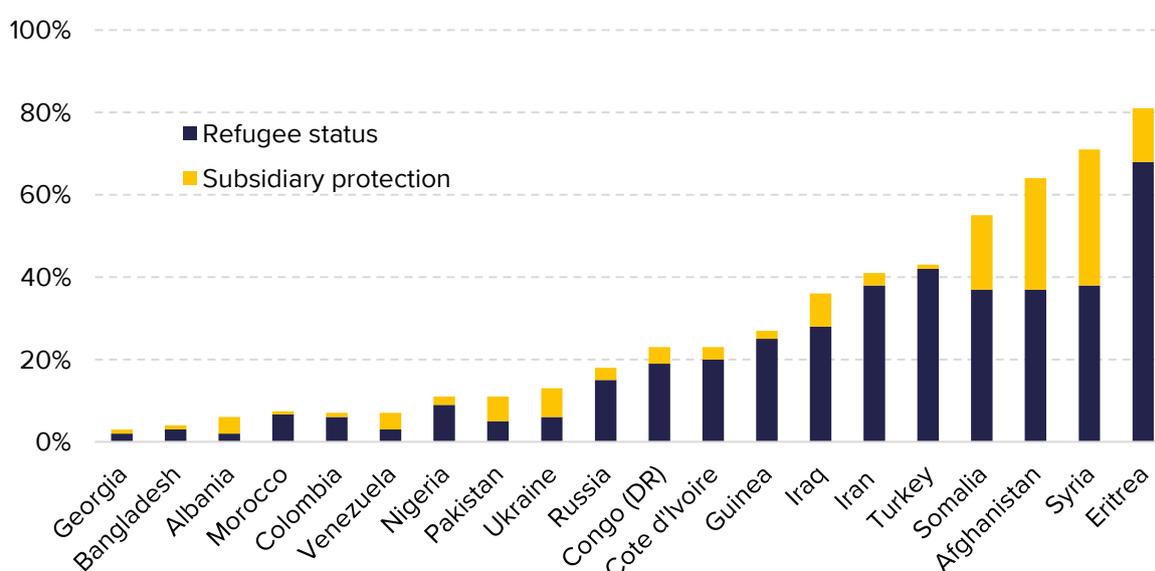


Among the 20 nationalities receiving the most first instance decisions in 2021, Eritreans had the highest recognition rate at 81%. The high rates of acceptance have been the case for this group of applicants since 2015, ranging from 79% to 89%. This was followed by Syrians (71%), Afghans (64%) and Somalis (55%) (see Figure 4.23). For the remainder of the top nationalities, recognition rates remained relatively low. For example, nationals of Albania, Bangladesh, Colombia, Georgia, Morocco and Venezuela had recognition rates ranging from only 3% to 8%.



#### Eritreans, Syrians and Afghans had the highest recognition rates

**Figure 4.23. First instance recognition rates in EU+ countries by nationality and status granted, 2021**



**Note:** These 20 nationalities received the highest number of first instance decisions issued in 2021 in EU+ countries.

Source: Eurostat [[migr\\_asycfstq](#)] as of 22 April 2022.



Among the top 20 nationalities, more than one-half of all positive decisions granted subsidiary protection to nationals of Albania, Pakistan, Ukraine and Venezuela.

Outside the top 20 nationalities, recognition rates were notably high for nationals of Belarus (80%), Yemen (77%), Burundi (65%), Palestine (64%), China (51%), South Africa (50%), as well as stateless persons (55%). However, low recognition rates were more common, particularly for citizens of countries which are exempt from visa requirements to enter the EU. These comprised applicants from the vicinity of the EU, including Bosnia and Herzegovina, Georgia, Montenegro, North Macedonia and Serbia, as well as some Latin American countries, such as Argentina, Chile, Colombia, Peru and Venezuela.

In the specific case of Venezuelans, seven in every ten decisions granted humanitarian status, which permits them to remain in the EU but is not counted towards positive decisions in the recognition rate. Venezuelans in Spain alone accounted for over two-fifths (12,865) of all cases in which humanitarian status was granted in 2021 in EU+ countries.

Recognition rates have remained high for nationals of Yemen, although their rate has declined from a 92% peak in 2017. The share of positive decisions has also remained high for Syrian applicants, although the 71% recognition rate in 2021 was the lowest value in a decade. This may have been partially related to the unprecedented number of repeated applications lodged by Syrians in Germany, which are rejected as inadmissible if there is a lack of grounds for reopening the case.<sup>1084</sup>

Recognition rates have been increasing for Afghan nationals, from 31% in 2017 to 64% in 2021. If humanitarian protection were included in the calculation, the overall recognition rate for Afghans would increase to 72%. The climb was partially triggered by the fact that some EU+ countries temporarily suspended issuing negative decisions to Afghans in the context of the Taliban takeover (see *In focus 3 on Afghanistan*).<sup>1085</sup> The political background also prompted the rise in recognition rates for Belarusian applicants, from 25% in 2020 to 80% in 2021. Afghans and Belarusians had the highest recognition rates in EU+ countries since at least 2008.

#### 4.14.1.3. Differences in recognition rates for specific nationalities across receiving countries



As in the past, large differences in national practices were seen in granting protection to the Top 10 citizenships of applicants. With bubble sizes indicating the number of decisions, Figure 4.24 shows the recognition rates for selected countries of origin. For example, the recognition rate for Syrians was at least 62% in most countries that issued many decisions (more than 200), but it was only 36% in Denmark.

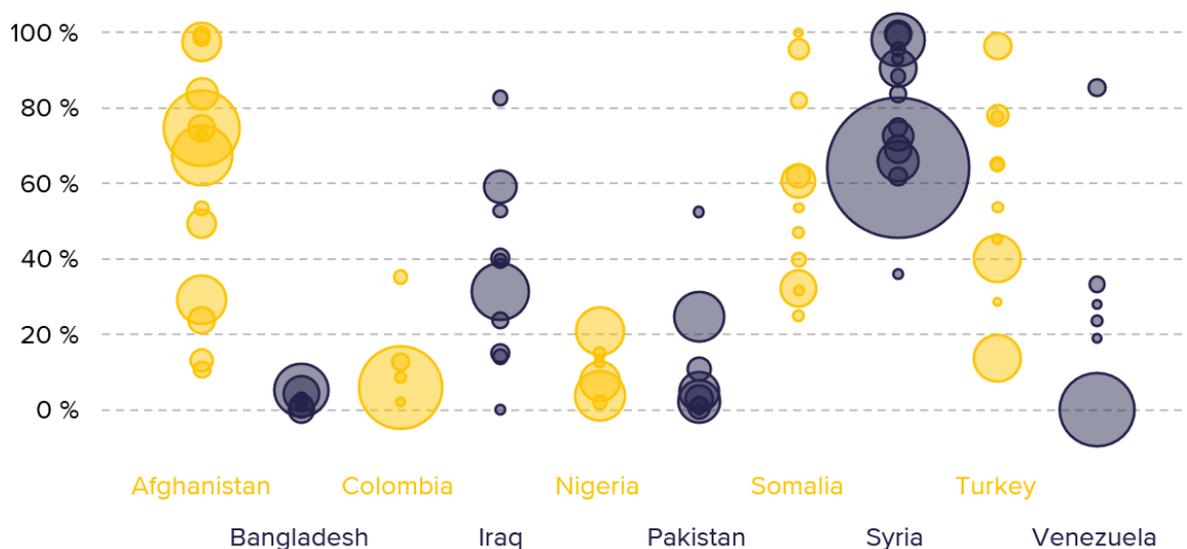
Conversely, the recognition rate for nationals of Venezuela was below 33%, except in Italy (85%). Similarly, the rate for Colombians did not exceed 13%, except in Italy (35%). In fact, recognition rates in Italy were at the upper-end of the range for many citizenships, including Afghans, Iraqis and Somalis.

Overall, discrepancies in recognition rates were most apparent for applicants from Afghanistan, ranging from 11% in Bulgaria to 99% in Poland and Spain. Wide ranges also occurred for Iraqi applicants (from 0% in Poland to 83% in Italy) and Turks (from 16% in France to 96% in Switzerland). However, extremely high or low percentages can sometimes be a result of very few decisions being issued.



## Recognition rates for certain citizenships differed significantly across EU+ countries

**Figure 4.24. Recognition rates for nationalities receiving the most decisions at first instance, by receiving country, 2021**



**Note:** Each bubble represents a different EU+ country issuing more than 200 first instance decisions in 2021 for the selected nationality. The bubble size indicates the number of first instance decisions and the placement on the vertical axis denotes the recognition rate. The 10 nationalities presented received the most first instance decisions in 2021.

Source: Eurostat [[migr\\_asyappctzm](#)] as of 22 April 2022.

There are several reasons why the same citizenship may have different recognition rates across EU+ countries. For example, applicants with the same citizenship can have significantly different profiles and protection needs, or come from different regions of the same country. This has been the case for applicants from Afghanistan, where the security situation varied considerably from one region to another until the takeover by the Taliban.

Recognition rates may also differ between first-time and repeated applications lodged by the same nationality. Similarly, some applicants may have already received an EU protection status in another Member State but they submit a new application (see *Section 4.3.4*). EU+ countries may also differ slightly in terms of their national policies and guidelines on asylum, in addition to the interpretation of certain legal concepts. In particular, receiving countries can have different lists of safe countries of origin and safe third countries or assess internal protection alternatives and the level of indiscriminate violence differently, which can impact eligibility for subsidiary protection.



## 4.14.2. Building perspectives: Legal status and family reunification

### 4.14.2.1. National forms of protection and regularisation measures



Following the Taliban rise to power in 2021 (see Section 2), many EU+ countries provided Afghan evacuees with humanitarian protection or a special temporary residence permit at first, allowing the newcomers to apply for international protection later. This was the case for example in Denmark, Finland,<sup>1086</sup> Hungary and Switzerland.<sup>1087</sup>

Italy finetuned its processes related to national forms of protection which were established in recent years. The Italian Ministry of the Interior published a circular informing prefectures about the possibility of regularisation on the basis of transforming undeclared work to regular employment,<sup>1088</sup> which was created by Legislative Decree No 34/2020.<sup>1089</sup> Another circular clarified that the special permit based on the principle of *non-refoulement* – based on Legislative Decree No 130/2020<sup>1090</sup> – can be requested directly from the questura.<sup>1091</sup>

Indeed, the Lecce Tribunal [held](#) that the provisions of Legislative Decree No 130/2020 restored a previous form of humanitarian protection and jurisprudence related to that protection remained applicable. The Supreme Court of Cassation [noted](#) that, when deciding on granting a special permit for humanitarian considerations, a comparative assessment was necessary on the applicant's situation in Italy, the level of integration and the living conditions in the country of origin. The Rome Tribunal granted a special permit based on humanitarian considerations in another [case](#), examining the applicant's effective social integration in Italy.

The Italian government also shared clarifications on the process of converting the permit of an unaccompanied minor to a work permit, following a [ruling](#) from the Council of State.<sup>1092</sup> When there are no sufficient elements to assume the social and civil integration of the applicant, the person is required to provide additional information on schooling, professional training, social and civil behaviour, and family, and the questura is requested to assess these new elements, even if Italian legislative provisions are not binding on the matter.

Among regularisation initiatives, the Irish government launched a scheme with a strand for undocumented migrants<sup>1093</sup> and another for applicants for international protection.<sup>1094</sup> Asylum seekers who have been in the asylum procedure for at least 2 years can apply for unrestricted access to the labour market and a pathway to Irish citizenship. They can continue with the asylum procedure in parallel with the regularisation process.

Migrants without official papers in Belgium – many of them rejected asylum applicants – held a hunger strike for 2 months, demanding the regularisation of their status after several years of living and working in the country.<sup>1095</sup> The Immigration Office underlined that no collective regularisation initiatives were planned and each request was treated in an individual manner.<sup>1096</sup> The neutral zone, which hosted the hunger strikers, was finally closed at the end of July 2021.<sup>1097</sup> The Belgian CALL decided on cases related to the authorisation to stay and, for example, [annulled](#) the decision of the Immigration Office to reject an authorisation to stay for humanitarian reasons of a former asylum applicant who was excluded from international protection. The authority did not provide arguments for the rejection of the authorisation to stay, but it noted that the person could be considered a danger to public order or security by referring to the exclusion decision.





In the Netherlands, a new policy was launched to naturalise approximately 8,000-10,000 persons who were regularised earlier, the so-called RANOV permit holders. This group was exempted from some of the conditions for naturalisation, such as submitting a valid foreign passport or other evidence of their nationality, a birth or registration certificate, and they are not obliged to renounce their original nationality.<sup>1098</sup>

In France, more than 12,000 workers with a job linked to COVID-19 and essential workers were naturalised in October 2021 by lowering the 5-year legal residency to just 2 years.

Evaluating initiatives from previous years, the Council of Europe's European Commission against Racism and Intolerance adopted conclusions on the implementation of its recommendations to Malta in 2021, and observed that the government established the Specific Residence Authorisation policy for rejected applicants for international protection in 2019. However, the organisation noted that this status does not offer a more permanent solution for the regularisation of people who cannot be returned to their country of origin. Thus, it considered that the related recommendation had not been implemented.<sup>1099</sup>

#### 4.14.2.2. Review, cessation and revocation of international protection status



International protection status ceases in circumstances when the status is no longer necessary or justified. It may also be revoked when the person should have been excluded from international protection earlier, when the status was obtained through misrepresenting or omitting facts, or when the beneficiary is considered to be a danger to the security of the state or the community.

Some legislative and policy changes were implemented in 2021 which affected the review, cessation or revocation of international protection status. In Greece, Law No 4825/2021 amended the grounds for revoking or refusing to renew refugee status and clarified the steps of this procedure. The amendments also underline the authority's responsibility to provide an individualised reasoning for the decision to revoke the status or to refuse to renew it.

ECRE published a legal note on cessation and status review, outlining legal obligations under international and EU laws which include the impact of the CJEU judgment in [OA](#).<sup>1100</sup>

Courts retained an important role in shaping the limits of initiatives introduced by national authorities in recent years on reviewing and revoking protection status for certain groups of applicants, for example, those who have committed a criminal offence or have travelled to their country of origin. For example, the Belgian CALL [confirmed](#) the revocation of refugee status in the case of a Turkish national who had been convicted several times of criminal offenses, but underlined that the revocation of the status cannot be interpreted as depriving him from his state of being a refugee and he is still entitled to all rights which the Geneva Convention attaches to it, as it was already noted by the CJEU in 2019 in [Joined Cases C-391/16, C-77/17 and C-78/17](#).

The Austrian Supreme Administrative Court [referred](#) questions for a preliminary ruling to the CJEU on practices in Austrian courts to weigh different interests when a beneficiary of international protection has committed a criminal offence. The courts sometimes may grant national protection against a removal and at the same time do not revoke the international protection status.





The French Council of State I noted in a [case](#) that the fact that a person refrained from any reprehensible behaviour after being released due to a serious crime does not automatically mean that this person no longer constitutes a serious threat to the society. Related to the revocation of subsidiary protection, the French National Court of Asylum [upheld](#) OFPRA's decision to revoke this status of a person, who was convicted several times with minor sentences, but the violent and repeated character of these crimes in a short period of time gave serious grounds to believe that the person's presence would be a serious threat to public order and security.

Related to travel, CALL [confirmed](#) the decision of the CGRS to revoke the refugee status of a beneficiary who travelled back to his country of origin for his father's funeral and obtained a passport. The court noted that his behaviour indicated an absence of fear of persecution. In another case, the CJEU [deliberated](#) on the automatic suspensive effect of an appeal against a return decision in the case of a seriously ill person whose refugee status was revoked due to travelling to a funeral in his country of origin (see *Section 2*). The referring Belgian court asked whether in this situation the person has still a provisional right to residence and access to social assistance.

The Finnish Supreme Administrative Court [upheld](#) the decision to end subsidiary protection and revoke the permanent residence permit of an applicant who returned to his country of origin for 4 years after having obtained permanent residence. The court examined the situation based on up-to-date country of origin information and considered that the person had no family members or any other ties with Finland. The court also [upheld](#) the cessation of refugee status of an applicant who was granted the status due to his political opinion and religion, but then later voluntarily applied and obtained a passport at the country of origin's embassy in Helsinki.

The Estonian Court of Appeal [granted](#) the renewal of protection status to a person with subsidiary protection whose husband – joining her through family reunification – travelled back to their country of origin once.

Several courts gave further guidance on assessing the facts and circumstances for renewal, cessation or revocation. In Czechia, the Supreme Administrative Court [clarified](#) that, when reviewing an applicant's subsidiary protection status, the authorities have to examine the circumstances based on which the person received this status, and it is not adequate to base the decision not to renew the status due to changes in other circumstances. The Norwegian Supreme Court [confirmed](#) that when assessing the cessation of refugee status, the court must also consider the circumstances at the time of its decision, even when the person was already returned to the country of origin, and noted that the court can also take into account the possibility of the internal flight alternative when assessing the cessation of status. The Estonian Court of Appeal deliberated on the notion of a significant, non-temporary change of circumstances and found that since the political regime in the country of origin changed, the decision not to end the refugee status can be [confirmed](#).

The French Council of State referred back a [case](#) to the National Court of Asylum, as it maintained the subsidiary protection status of a person whose spouse was granted this status as well, based on a reasoning related to family unity, while the council noted that the court should have examined during the review the existence of the grounds for granting subsidiary protection. The council decided not to refer another [case](#) to the Constitutional Court, when the applicant complained that his refugee status was revoked and the CNDA rejected his request for annulment of this decision during a hearing, where the presence of the public was not allowed. The Budapest High Court [referred](#) questions to the CJEU for a preliminary ruling





related to a decision to withdraw refugee status, which the determining authority took based on a binding, but confidential and classified, report from the national security authority, to which the applicant or his legal representative could not have access.

The Danish Refugee Appeals Board upheld the Immigration Service's decisions to revoke protection status for a number of Syrians from Damascus, for example, in the [case](#) of a single woman and in the [case](#) of a woman with children who left her spouse. In 2021, the Danish Refugee Appeals Board upheld the decision to revoke protection status in 50% of cases brought before the board. It was observed that mainly single women and elderly lost their permits.<sup>1101</sup>

#### 4.14.2.3. Residence permits and travel documents



Member States must issue a residence permit to beneficiaries of international protection: refugees should receive a permit for at least 3 years which is renewable and beneficiaries of subsidiary protection should receive a permit for at least 1 year which is renewable. Refugees are entitled to travel documents as foreseen in the Geneva Convention, while beneficiaries of subsidiary protection may receive the national passport of their host country, under specific conditions.

Sweden shifted towards shorter, more temporary first permits after adopting proposals from 2020.<sup>1102</sup> The legislation on travel bans was extended in Switzerland. A brief issue arose in Belgium, where, due to the high number of decisions recognising refugee status in October and November 2021, the CGRS had a temporary backlog in issuing refugee certificates,<sup>1103</sup> necessary to obtain the residence permit from the municipality. This was resolved by the beginning of 2022.

A bill adopted in Sweden made all new residence permits temporary, with the exception of resettled refugees. Permanent residence can be obtained after a minimum of 3 years in the country, and as a general rule, adults applying have to be able to support themselves and their dependant relatives and have decent housing.<sup>1104</sup> The changes were adopted even though during the legislative process several actors warned against the risk of a negative impact on integration.<sup>1105</sup> For example, a survey report in the frames of the RESPOND project presented the migration and integration experiences of Syrians in Sweden and found that their legal status seemed to have an impact on their mental health, and those with temporary permits were more likely to declare poor mental health.<sup>1106</sup>

Law No 4825/2021 made minor adjustments to the provisions on the residence permit of beneficiaries of international protection and their family members in Greece and adjusted some of the provisions related to the delivery of travel documents to beneficiaries of international protection.<sup>1107</sup> Refugee Support Aegean and ProAsyl observed that beneficiaries of international protection still faced administrative challenges to obtain official documentation, including the residence permit which is a prerequisite to obtain a social security number and social benefits. Due to a continuing backlog in issuing residence permits by the police, the organisations observed that several applicants had to wait months to obtain the permit.<sup>1108</sup> This was particularly difficult for beneficiaries who travelled on to another country in the EU and needed to return to Greece.<sup>1109</sup> The Mobile Info Team observed cases when the residence permit was delivered only after 16 months.<sup>1110</sup> The organisation also witnessed several cases when beneficiaries of international protection who were recognised in Germany and travelled to Greece for family reasons had to wait several months to receive a visa to re-enter Germany, during which period they were left without any protection.<sup>1111</sup>



A Royal Decree facilitated the process of granting residence and work permits for unaccompanied children in Spain. The length of the initial permit was increased from 1 to 2 years, and the renewal period will be 3 years. Children aged 16 will be entitled to work based on this residence permit. For children reaching the age of majority, integration, studies and training are considered as valid grounds for extending and transferring their permit to another title.<sup>1112</sup>

The AIDA report for Romania noted that beneficiaries need to have a rental contract to be issued a residence permit, while many of them face difficulties in finding an apartment.<sup>1113</sup>

Third-country nationals, including beneficiaries of international protection, who would like to obtain a long-term permanent residence after 5 years of continuous residence in Czechia must take a Czech language exam at A2 level instead of A1 since September 2021.<sup>1114</sup> Those who are issued a long-term residence permit must complete within a year a 4-hour integration course on their rights and obligations, fundamental values, everyday life, culture and traditions.<sup>1115</sup> On the path toward long-term permanent residence, the Czech Supreme Court [concluded](#) that stateless persons do not have to be granted the same type of residence permit and rights as available for refugees (see *Section 4.13*).

Regarding the travel of beneficiaries of international protection, the Swiss parliament approved amendments to the Swiss Federal Act on Foreigners and Integration which imposed a general travel ban on persons with temporary admission entering into force later in 2022.<sup>1116</sup> The possibility has existed since 2020 to pronounce a general travel ban for a group of refugees from a certain country of origin, and the amendments from 2021 build on this to align the legislation on refugees and persons with temporary protection.<sup>1117</sup> Persons travelling back to their country of origin would automatically have their status revoked.

UNHCR found that the new measures disproportionately limit the freedom of movement and the right to family life<sup>1118</sup> and proposed a compromise allowing for travel to other Schengen countries under certain conditions.<sup>1119</sup> The organisation also noted that the National Council (lower house of the parliament) initially proposed certain exceptions, for example travelling for sports and cultural events or for visiting family members.<sup>1120</sup> However, none of these proposed exceptions were included in the final version of the law. The Swiss Refugee Council described in detail the practical barriers in obtaining the permits and documents necessary within this new legal framework to exceptionally travel.<sup>1121</sup>

#### 4.14.2.4. Family reunification



Some Member States initiated changes to facilitate family reunification for beneficiaries of international protection and provided clarifications on the process through more detailed guidance. Courts remained active in shaping policy and practice on family reunification, similar to previous years, and some sought further guidance from the CJEU. Practical barriers persisted in several countries, such as asking relatives to submit documents at consulates or requiring documents which were difficult to obtain.

The coalition programme of the new German government included plans to remove restrictions on the family reunification of beneficiaries of subsidiary protection.<sup>1122</sup>

An amended law entered into force in June 2021 in Luxembourg, allowing beneficiaries of international protection to apply for family reunification with facilitated conditions during 6 months from being granted the status.<sup>1123</sup>



The Dutch IND published new work instructions on the examination of identity and family relations in family reunification procedures, including the use of DNA tests.<sup>1124</sup> The authority started to use a new, digital family reunification application form, developed together with the Dutch Council for Refugees.<sup>1125</sup> The IND also adjusted the procedure for a minor's family reunification application. A child with a residence permit will be able to apply for facilitated family reunification, even if they are being cared for in the Netherlands by an adult family member. Under the previous policy, they were not considered to be unaccompanied anymore for the purposes of family reunification. In practice, this meant that the fees related to the procedure had to be borne by the child and the family members caring for the child, while under the new legal basis, these fees are lifted. The adjustment aims at making the process more compliant with the ECHR, Article 8.<sup>1126</sup> A [case](#) was pending in front of the ECtHR, where the Dutch authorities rejected the family reunification request of a Somali beneficiary with his brother, stating that there were no indications that the brother was exclusively dependent on him. UNHCR submitted observations to the court and reiterated that the organisation promoted an inclusive family reunification policy, allowing reunification for family members beyond the nuclear family.<sup>1127</sup>

In Finland, a draft government proposal was sent out for comments to amend the Aliens Act provisions on the family reunification of beneficiaries of international protection.<sup>1128</sup> UNHCR welcomed the draft and provided recommendations for further improvement, for example solutions to practical barriers in lodging an application for family reunification.<sup>1129</sup> UNHCR based its recommendations on a study that it commissioned to the Finnish Refugee Advice Centre (FRAC), which found that applicants for family reunification were often requested documents that they were unable to obtain or their application was dependent on their legal residence in the country where the Finnish diplomatic mission is located.<sup>1130</sup> The FRAC issued a separate statement on the proposed amendments and concluded that the changes are not sufficient to address many of the already-identified challenges.<sup>1131</sup> The organisation highlighted these challenges again in the context of family reunification for Afghan evacuees in a statement signed jointly with Amnesty International Finland, the Finnish Federation for Child Welfare, Refuge Counselling and Save the Children.<sup>1132</sup>

Faced with the impact of these practical barriers, the Finnish Supreme Administrative Court ruled in a [case](#) that the exception from the requirement to possess sufficient means should still be applied when the application for family reunification was submitted only a few days after the 3-month deadline due to administrative delays in obtaining one of the required documents. The court observed that the spouse submitted all documents as soon as they were available and the delay was thus objectively excusable. However, in another [case](#) the court found no exceptionally-compelling reasons and confirmed the negative decision for family reunification based on a lack of sufficient means, when the refugee sponsor submitted the application for reunification more than a year after the lapse of the 3-month deadline when more favourable conditions would apply.

The Administrative Court of Athens was also called upon to assess documentation requirements for family reunification. It [ruled](#) that a refugee's request for family reunification cannot be rejected merely because of the absence of certain supporting documents, and the authority must assess alternative processes to investigate the family relationship, if necessary with support from the Greek consular authorities.

Adjustments were made to the family reunification process in Spain, and it is now the sponsor in Spain who must begin the procedure, not the family member in the country of origin.<sup>1133</sup> Denmark launched a new digital application to allow family members other than spouses and children to apply online for family reunification.<sup>1134</sup>





The Irish government established an Afghan Admission Programme, providing 500 places for family members of Afghan nationals living in Ireland since 1 August 2021. Eligible family members receive a residence permit allowing them to work without the need for an employment permit.<sup>1135</sup> The government of Iceland confirmed that family reunification requests from Afghan residents were treated with priority in 2021 (see Section 4.16).<sup>1136</sup>

In France, 1,757 family reunification visas for beneficiaries of international protection (*réunification familiale*) and 193 family reunification visas for other foreigners who are not beneficiaries of international protection (*regroupement familial*) were issued to Afghan nationals.

In Norway, the Healthcare Investigation Board published its report following the murder-suicide of a young South Sudanese mother and her children, who had arrived to Norway through family reunification. The report underlined that refugee women arriving to the country through family reunification are often in an extremely vulnerable situation, and the requirements for family reunification may impact their mental health and prevent them from seeking professional support. The demands of the integration process are often seen to be higher than what a newly-arrived person can handle in such a short period of time. Faced with these challenges, health and social care services still lacked flexibility and coordination.<sup>1137</sup>

Concerning the scope of persons who can reunite with a family member, the Belgian CALL [referred](#) questions for a preliminary ruling to the CJEU in the case of a minor who received international protection in Belgium and whose mother requested a visa for family reunification. The Immigration Office rejected the request, as the daughter was married and the authority held that after the marriage she did not form part of her parents' nuclear family. However, during the asylum procedure, the marriage of a child was not recognised under Belgian law, and the daughter was registered as an unaccompanied minor. The court asked the CJEU whether the daughter should be still considered as an unaccompanied minor under the Family Reunification Directive.

The Norwegian Supreme Court [annulled](#) the UDI's negative decision of a family reunification request by a Syrian woman who was married at the age of 13 in 2012. The UDI based its rejection on the fact that she had not reached the age of majority at the time of the marriage and it cannot be recognised under Norwegian law. However, the Supreme Court underlined that a long time has passed since then and the spouse showed real desire to continue cohabitating with the husband. The court also noted that it was also in the best interests of children to grow up with both parents. In addition, the Grand Board of the Norwegian Immigration Appeals Board [concluded](#) that the mother of a girl granted refugee status, who was refused both international protection and a residence permit on humanitarian grounds before her daughter was born, should receive derivate refugee status instead of requiring her to go through the family reunification process to obtain a legal permit to stay. The CJEU also used elements related to its jurisprudence on family reunification to [reply](#) to questions referred for a preliminary ruling on qualifying for derivate status under the recast Qualification Directive.

In Denmark, refugees with temporary subsidiary protection status are, as a rule, only eligible for family reunification after the expiry of a waiting period. In 2016, the Danish parliament amended the Danish Aliens Act to the effect that, as a rule, beneficiaries of temporary subsidiary protection status in Denmark are required to wait 3 years for family reunification. In the judgment of 9 July 2021 in the case of *M.A. v. Denmark*, the ECtHR [found](#) that the Danish authorities had failed to strike a fair balance between the applicant's interest in being reunited with his wife in Denmark and the interest of the community as a whole to control immigration





in order to protect the economic well-being of the country, ensure the effective integration of those granted protection and preserve social cohesion. Accordingly, the court found that there had been a violation of the ECHR, Article 8. Due to this judgment, the immigration authorities currently administer a 2-year waiting period in order to comply with the judgment, which also applies to pending cases. Consequently, some of the cases were reopened and impacted families were contacted.<sup>1138</sup> The Danish government has announced that it will propose an amendment to the Aliens Act to consolidate this practice.

The Swiss Observatory on Asylum and Foreigners' Law and the civil platform [humarights.ch](https://www.humarights.ch) commented on the ECtHR judgment involving Denmark and noted that, even if Switzerland is not bound by the ECtHR, the waiting period of 3 years for family reunification of refugees and persons with temporary admission under Swiss legislation is disproportionately long.<sup>1139</sup>

Long waiting times for family reunification can have a negative impact on various aspects of the lives of beneficiaries of international protection. For example, the Danish Rockwool Foundation Research Unit and the University of Copenhagen concluded in their study that the risk of receiving a psychiatric diagnosis was twice as high for a refugee father waiting for his family to arrive than for other refugee fathers, and this risk increases the longer the family remains separated.<sup>1140</sup>

Deliberating on the impact of the COVID-19 measures on family reunification, the French Council of State [found](#) the government's decision to suspend the issuance of family reunification visas was disproportionate and contrary to the right to family life and the best interests of the child.

The French Council of State was also faced in August 2021 with a [request](#) for the urgent issuance of family reunification visas for the relatives of an Afghan beneficiary of international protection. The council noted that the measures requested were unnecessary, as the consular activity in Kabul ceased, and persons at the airport in the compound dedicated to France were taken care of by the French military, irrespective of visas. Similarly, the council [found](#) no reasons to order the administration to take additional measures in another family reunification request from two Afghan nationals.

A case was pending in front of the CJEU concerning a family reunification request of a Syrian child recognised as a beneficiary of international protection in Austria, who reached the age of majority in the meantime. UNHCR provided a statement on the case and underlined that time limits may not be applied in a way that makes family reunification excessively difficult or impossible.<sup>1141</sup>



## Ensuring family unity in asylum

Family reunification was scaled up in 2021 as a complementary pathway to Europe



Family members reuniting with a beneficiary of international protection underwent a separate path for registration in some countries.



Following the surge to power of the Taliban, family reunification was one of the procedures used to assist Afghans to settle in Europe.

Some Member States initiated changes to facilitate family reunification for beneficiaries of international protection and provided clarifications on the process through more detailed guidance.



Many EU+ countries turned to digitalisation to facilitate the procedure.

Practical barriers persisted in several countries, such as requesting relatives to submit documents at consulates or requiring documents which were difficult to obtain.



Countries worked on removing restrictions and lengthy time limits to facilitate the process.



Family reunification continued to be a challenge for many stateless applicants who were not recorded accurately during the registration of an asylum application.



In some countries, the sharp rise in family reunification for recognised beneficiaries of international protection resulted in additional strains on reception systems.

Cases related to family reunification were referred to the courts increasingly in 2021. For the full coverage of jurisprudence, consult the [EUAA Case Law Database on family reunification](#)



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### 4.14.3. Developing policies: Integration plans and their evaluations



#### 4.14.3.1. Developing and updating integration strategies

Following several changes and updates to integration plans in 2020, in 2021 Member States focused on their implementation, and relatively few new strategies were presented.

The French Minister responsible for citizenship issued a circular to define priorities for 2021 for the integration of newly-arrived migrants and beneficiaries of international protection.<sup>1142</sup> The circular confirmed that the focus remains on integration through employment,<sup>1143</sup> and as a follow-up, the launching of the AGIR programme was announced in December 2021, which proposes an individualised and comprehensive 20-month integration pathway to all beneficiaries of international protection, focusing on housing and employment.<sup>1144</sup> The programme was progressively rolled out in 2022 in 27 departments and is planned to be extended to the whole territory of France for 2024.

The National Strategy on Migration was adopted in Bulgaria for the period 2021-2025, including a chapter on integration, which mentions that policies are implemented with AMIF funding but no specific areas for improvement are listed.<sup>1145</sup> As an initiative from non-state actors, the Multi Kulti Collective, the Bulgarian Council on Refugees and Migrants and UNHCR Bulgaria started to develop the country's first Refugee Integration Manifesto, which is planned to be used as an advocacy document to shape the integration of beneficiaries of international protection at national and local levels.<sup>1146</sup>

The new National Strategy on Immigration for 2021-2024 was launched in Romania, including special objectives on integration.<sup>1147</sup> The Coalition for the Rights of Migrants and Refugees, bringing together relevant stakeholders from the country in the framework of a civil society initiative, met to follow up on this strategy and discuss advocacy plans.<sup>1148</sup>

The Slovak government adopted a new strategic document on migration policy, underlining the strengthened need for local-level integration of beneficiaries of international protection, including high-quality education for children and the continued offer of Slovak language classes.<sup>1149</sup>

The Latvian government adopted in February 2021 a general policy planning document entitled "Guidelines for the Development of a Cohesive and Civically Active Society for 2021-2027", followed by an action plan, outlining activities also for the integration of foreigners.<sup>1150</sup> The UN Committee on Economic, Social and Cultural Rights expressed concern over the low level of integration of beneficiaries of international protection in Latvia and recommended the development of a targeted strategy for their social and economic integration.<sup>1151</sup>

In the framework of the National Action Plan for Integration in Luxembourg, 10 projects were launched for the period of 2021-2022, focusing on diversity, fighting against discrimination and language learning.<sup>1152</sup>





#### 4.14.3.2. Revising legislation on integration



The revision of integration acts continued with many legislative pieces entering into force throughout 2021.

The Slovak government adopted a draft amendment to the Asylum Act, defining and regulating the initial integration of beneficiaries of international protection. The amendments are expected to enter into force in June 2022.

The amendment extends the provision of a one-time financial contribution to foreigners who have been granted subsidiary protection and introduces an integration allowance to all beneficiaries of international protection. Social and psychological counselling and a cultural orientation course will be provided as part of the initial integration process, and integration centres will be able to provide accommodation not only for refugees but also for foreigners who have been granted subsidiary protection.<sup>1153</sup>

A new Integration Act was adopted in Norway in 2020 and entered into force in January 2021. The changes put more emphasis on training participants in the introduction programme (mostly refugees) on the skills required by Norwegian employers or needed to qualify for further education. The new legislation made the mapping of skills and career guidance mandatory before beginning the introduction programme and changed the provision of language support from required hours to a required level. The previous standard 2-year programme was replaced by a wider range of programmes from 3 months to 3 years.<sup>1154</sup>

The new Civic Integration Law entered into force on 1 January 2022 in the Netherlands, where newcomers under integration obligation are guided through the process by municipalities.<sup>1155</sup> The Education Agency started to impose this integration obligation from the beginning of the year but had to temporarily halt this process until March 2022, as for some persons still the old legislation from 2013 should apply.<sup>1156</sup>

Changes to the integration path entered into force in the Flemish region of Belgium. The new programme includes four components (language learning, economic autonomy, social orientation, social networking and participation) and concludes with an exam. The compulsory programme is subject to a EUR 360 fee. The changes were highly debated throughout its adoption process.<sup>1157</sup> The French-speaking Brussels Community Commission – the francophone government of Brussels – announced that the city's integration programme became mandatory on 1 January 2022, and those who fail to comply receive a fine.<sup>1158</sup>

The Finnish parliament reviewed the effectiveness of migrant integration in the country in 2019, and the government started preparations for a comprehensive action plan following that report.<sup>1159</sup> The Equality Ombudsperson provided positive feedback in spring 2021 on the government's draft report on the need to reform integration support.<sup>1160</sup> The draft is foreseen to be presented to the Finnish parliament in September 2022.<sup>1161</sup> In parallel to this process and building on consultations with NGO activists of immigrant background, the Finnish National Coalition Party – currently in opposition – published its own proposals for amendments in June 2021.<sup>1162</sup>





#### 4.14.3.3. Fostering cooperation among different stakeholders



Throughout 2021, several initiatives focused on improving cooperation with municipalities and regions on the integration of beneficiaries of international protection and migrants. The Urban Agenda for the EU Partnership on Inclusion of Migrants and Refugees published its new action plan for 2021-2022, listing seven actions for this period, related to access to health care, treatment of mental health concerns, the role of art and culture in integration, specific concerns of LGBTIQ migrants, evidence-based policymaking in cities, financial instruments to be used for integration by cities and children in migration.<sup>1163</sup>

The different arrangements for the collaboration between the local authorities and the Directorate General for Foreigners in France (DGEF) and the Interministerial Delegation for the Reception and Integration of Refugees (DIAIR) were harmonised and brought together under the framework of “Integration territories”. Local authorities who aim to be more involved in the integration of newly-arrived migrants, including beneficiaries of international protection, can receive financial support from the state through the territorial contracts for reception and integration, for more strategic local integration actions, and the territorial projects for reception and integration, for more punctual, smaller integration projects.<sup>1164</sup> In its report on multi-level governance for migrant integration, published in February 2022, the OECD cited the previous version of the territorial contracts for reception and integration, the territorial contracts for reception and integration of refugees, as an example of best practices to repeat.<sup>1165</sup>

The Dutch Inclusion and Community Platform developed guidance for municipalities on the integration of Eritrean beneficiaries of international protection. The organisation estimated that a special guide was necessary, as approximately 20,000 Eritreans lived in the Netherlands and studies found that their employment levels and Dutch language knowledge were lagging behind compared to other nationalities.<sup>1166</sup>

The “Building structures for intercultural integration in Cyprus” project was launched in June 2021, as part of the Intercultural Cities Programme of the Council of Europe. The project aims to empower local stakeholders to be part of the integration process, and through this, support Cyprus in implementing its National Action Plan on the Integration of Third-Country Nationals 2020-2022.<sup>1167</sup>

The Luxemburgish Minister for Family and Integration signed a pact with 18 municipalities supporting the development, implementation and evaluation of local integration activities.<sup>1168</sup>

The Swiss Federal Council opened consultations on adjusting the financing of cantonal integration measures under the new Swiss Integration Agenda. The federal government and cantons continued in 2021 with the initiation of the agenda’s implementation, first through undertaking the necessary legislative changes. They also decided to start a pilot in 2023 on monitoring progress towards the five efficiency objectives of the Integration Agenda.<sup>1169</sup>

Among multi-stakeholder initiatives, the Office for Human Rights and Rights of National Minorities in Croatia continued with the project “INCLuDE – Inter-sectoral cooperation in the empowerment of third-country nationals”, with co-funding from AMIF.<sup>1170</sup> The Advisory Group of Third-Country Nationals and Persons of Migrant Origin was established, which will meet twice a year to support decision-makers with recommendations on the involvement of third-country nationals in political discussions and in the creation, implementation and evaluation of integration policies and strategies.<sup>1171</sup> In addition, a handbook was drafted for representatives



of local authorities to support them in designing and implementing integration activities.<sup>1172</sup> A number of informative videos were also launched, focusing on the integration of beneficiaries of international protection (see Section 4.9).<sup>1173</sup> The project "New Neighbours - Inclusion of persons under international protection in Croatian society" continued and an Open Day was held with panel discussions on the achievements, challenges and opportunities for integration and the role of religious communities.<sup>1174</sup>

In Finland, the Integration Partnership Programme was launched in November 2020 to establish a nationwide network of integration and social inclusion actors, and over 140 stakeholders registered by March 2021<sup>1175</sup> and hold regular meetings.<sup>1176</sup>

A report from the Migration Policy Institute and the Durable Solutions Platform looked into initiatives to foster partnerships and coordination in the context of the situation of Syrian refugees.<sup>1177</sup>

To improve the involvement of grassroots organisations, the Greek Directorate for Social Integration started to register representative bodies of migrant and refugee communities to improve communication and cooperation between these organisations and the Ministry of Migration and Asylum.<sup>1178</sup>

#### 4.14.3.4. Evaluation of integration plans and support



Different actors, national authorities, academia, think tanks and civil society organisations continued to evaluate the different components of integration programmes throughout 2021 in support of evidence-based policymaking.

Some evaluations looked into women's integration process and outcomes. The EMN French National Contact Point published a national report analysing the integration of migrant women, including those benefitting from international protection. The report provides a panorama of the different projects undertaken in various thematic areas and underlines the importance of ongoing projects to establish a network of childcare facilities, allowing women to participate in training and be supported in their search for employment.<sup>1179</sup>

The German BAMF published an analysis on the social integration of refugee women. The report points out that refugee women have different prerequisites for integration than refugee men: they often have lower education levels, less likely to be employed and have little knowledge of the German language. They are more involved in household activities and participate less in sports or cultural events. They often have fewer contacts with German citizens. However, having children turned out to be a positive factor to establish contacts within the host society.<sup>1180</sup>

The Austrian Federal Ministry of Social Affairs, Health, Care and Consumer Protection published the results of a research project that looked into the impact of the COVID-19 pandemic on migrants from the Western Balkans, Turkey and beneficiaries of international protection from Afghanistan, Iraq and Syria living in Vienna and its surroundings. Among findings on the use of communication channels, employment and education, the report observes that rules on COVID-19-related curfews were not clear for beneficiaries of international protection.<sup>1181</sup>

The Netherlands Scientific Council for Government Policy published a report with suggestions for a more pro-active government policy on migrant integration, taking into account the changing character of migration flows.<sup>1182</sup> The report underlines the key role local authorities



play in the integration process, an element that was already taken up by the Dutch government (see Section 4.14.3.2). The Netherlands Institute for Social Research assessed the role that policy has played in the integration of Syrian beneficiaries of international protection in particular.<sup>1183</sup> For this group, a short asylum procedure, limited number of transfers between reception facilities, rapid housing and family reunification seemed to have reduced health risks. Good access to care, early detection and targeted prevention were important factors in preventing health issues. In turn, better health and good knowledge of the Dutch language strengthened their position on the labour market. Passing the civic integration exam also increased their chances of finding a job. In addition, doing voluntary work during the reception phase contributed to a smoother integration process even after beneficiaries left the reception location. The report pointed out that it was possible to make better matches between beneficiaries and labour market regions, for example, by using big data and algorithms.

In Finland, a government study examined the impact of amendments to the Aliens Act on applicants between May 2015 and June 2019 and found that the focus was on streamlining the asylum procedure instead of the fundamental rights of applicants. During this period, the number of appeals increased and rejected applicants were left in limbo, without a legal right to stay but without the possibility to return to their country of origin.<sup>1184</sup>

The Swedish Institute for the Evaluation of Labour Market and Education Policy analysed the impact of the length of the asylum procedure on integration and concluded that longer processing times impacted labour market outcomes. It found that recognised beneficiaries who had waited longer for their final decision had lower earnings. The study also underlined that longer processing periods did not seem to have a negative impact on mental and physical health.<sup>1185</sup>

In Greece, the IOM evaluated the accommodation and education components of the HELIOS programme, funded through AMIF to support the integration of beneficiaries of international protection to increase their self-reliance. 68% of persons who regularly attend integration courses confirmed that they acquired language skills and knowledge of Greek society, which facilitated their interaction with the host community. 41% of beneficiaries who received rent support stated that they intended to continue leasing the apartment they found through the programme, even after financial support from the programme ends.<sup>1186</sup>

In order to evaluate the funding of integration measures, the Czech Ministry of Regional Development requested the Consortium of Migrant Assisting Organisations to map integration projects funded by the EU between 2014-2020. The mapping found that systematic integration support was mainly financed through AMIF, while ESF projects were mainly one-offs and lacked follow-up.<sup>1187</sup>

The research programme Coming of Age in Exile (CAGE) looked into the health and socioeconomic situation of young refugees in Denmark, Finland, Norway and Sweden<sup>1188</sup> and observed that Denmark had the lowest integration outcomes.<sup>1189</sup>

The privately-established Danish Knowledge Centre on Integration closed due to a lack of funding after 2 years of existence.<sup>1190</sup> The centre still published insightful analysis throughout 2021, finding that 74% of Danes surveyed believed that the results of integration were significantly worse than in reality.<sup>1191</sup>

The civil society initiative Fremde werden Freunde analysed the political participation of refugees in Vienna and observed that many of them participated in non-institutionalised, low-



profile activities related to personal concerns. Often coming from undemocratic, repressive regimes, refugees appreciated democracy in their host society.<sup>1192</sup>

France Terre d'Asile dedicated an issue of its periodic bulletin to the societal engagement and political participation of beneficiaries of international protection and how they impacted the overall integration path.<sup>1193</sup> In Cyprus, another civil society initiative provided insights to the impact of the COVID-19 pandemic on applicants, beneficiaries of international protection and migrants. The first two studies observed a disproportionately larger impact on women's life and integration<sup>1194</sup> and substantial delays in the delivery of residence permits and other official documents, which delayed access to education, health care and employment.<sup>1195</sup>

Through a project funded by the municipality of Sofia in partnership with UNHCR, the Bulgarian Council for Refugees and Migrants and the Multi Kulti Collective continued to publish issues of the Bulgarian academic bulletin "Refugees: Today and Tomorrow". The issues addressed myths about and among refugees,<sup>1196</sup> financial difficulties for civil society organisations which support refugee integration in Bulgaria,<sup>1197</sup> and the integration of refugee children<sup>1198</sup> and women.<sup>1199</sup>

Prepared in the framework of the National Integration Evaluation Mechanism (NIEM), ten policy briefs examined various aspects of the integration of beneficiaries of international protection in Hungary. The briefs addressed data gaps, the role of grassroots organisations, social attitudes towards refugees, as well as health, education and housing.<sup>1200</sup>

#### 4.14.4. Support for integration: Orientation, education, employment, health and welfare

##### 4.14.4.1. Employment



Initiatives on the employment integration of beneficiaries of international protection continued to be implemented and adjusted to address the negative impact of the COVID-19 pandemic. Several evaluations were published throughout 2021, to assess the efficiency and impact of targeted employment policies.

The Bulgarian Ministry of Labour and Social Policy extended its refugee employment and training programme for 2021-2022. The language component of the programme started in December 2021, providing Bulgarian language training for 180 academic hours at levels A1, A2 and B1. The programme has been running since 2016, but it was observed that only very few refugees were employed through it so far.<sup>1201</sup>

The employment rate of refugees and migrants reached a record high in Denmark, despite many of them losing their jobs at the beginning of the COVID-19 pandemic.<sup>1202</sup> The increase is linked to the current economic boom in Denmark. This has resulted in more women entering the labour market. To further increase the employment rate of migrant women, the Danish government proposed a reform plan to require migrants who receive social benefits to work or participate actively for 37 hours a week in order to receive full social benefits. The proposal was met with severe criticism,<sup>1203</sup> but has not come into force since there has not been political agreement or an amendment yet. The independent Danish Knowledge Centre on Integration indeed observed that only 17% of Syrian women living in Denmark were employed, compared to 80% of Eritrean men and 38% Eritrean women. The centre notes that this may be due to education levels and trauma, as 40% of Syrian refugees arrived in Denmark with limited education and were more likely to be suffering from trauma.<sup>1204</sup>



In France, among the 21 integration projects that have received national funding for 2021, several focused on employment support to beneficiaries of international protection.<sup>1205</sup> A study from the Jesuit Refugee Service France suggested that the labour market integration of beneficiaries could be more efficient if the various administrative hurdles for a work permit could be lifted for asylum applicants as well.<sup>1206</sup>

Switzerland launched a pilot programme for the employment integration of refugees and persons with temporary admission and concluded subsidy contracts with 14 cantons. The project offers compensation to employers who engage refugee workers. In addition, the pre-apprenticeship integration programme was extended by 2 years and will offer apprenticeships in more fields of work, supporting refugees to obtain a federal certificate on their training and assisting them to find work.<sup>1207</sup>

The Swedish government noted that more recent beneficiaries of international protection could find employment and be integrated at a faster pace than those who arrived earlier.<sup>1208</sup> To facilitate migrant women's employment, the Swedish government proposed to reserve 90 days of parental leave to each parent including for low-income families. So far only parents with an income high enough to qualify for sickness benefits have had 90 reserved days in their parental insurance.<sup>1209</sup>

Among civil society initiatives, the Finnish Refugee Aid and IKEA launched a project to employ beneficiaries of international protection for 3 months in an IKEA store following coaching sessions. They had the opportunity to try various posts.<sup>1210</sup>

Research institutes, think tanks, academia and civil society organisations published several reports analysing the labour market situation of beneficiaries of international protection. For example, a report within the RESPOND project analysed the education and labour market integration of beneficiaries in countries along the Eastern Mediterranean route: Turkey and Iraq, as source and transit countries, the transit countries of Greece, Italy and Poland, and the destination countries of Austria, Germany, Sweden, and the United Kingdom (before Brexit). The report observes that beneficiaries typically found work through their social networks, even when state support was available.<sup>1211</sup> Another report from the same project noted the link between difficulties in accessing the labour market, the lack of income and the negative impact on health.<sup>1212</sup>

A study from the International Centre for Migration Policy Development (ICMPD) compared the employment situation of beneficiaries of international protection in Austria before and after the start of the COVID-19 pandemic and found that the pandemic had a particularly negative impact for the employment of women refugees and refugees with higher-level education. Persons from both groups were more likely to become or remain inactive.<sup>1213</sup>

The Dutch Inclusion and Community Platform published its sixth annual municipal policy monitoring of employment guidance and the civic integration of beneficiaries of international protection. It highlighted that due to the COVID-19 pandemic municipal workers has less contact with persons under their guidance and there were less municipal internships and volunteer jobs available for beneficiaries.<sup>1214</sup>

The Sociological Research Institute of the Georg August University in Göttingen, Germany published a qualitative study on the employment and employment-related training of refugees. The report observes that many refugees are highly motivated to find employment and they are often overqualified for the low wage, unstable jobs that they attain. Many



employers take advantage of their temporary residence situation. The report concludes that these types of jobs isolate refugee workers and do not contribute to their integration.<sup>1215</sup>

Another analysis from Friedrich Ebert Stiftung finds that the German labour market would not be able to function without migrants and increasingly refugee workers.<sup>1216</sup> The foundation conducted research on self-employment opportunities for refugees and highlighted that many of the persons fleeing were entrepreneurs themselves in their home country, so it would be beneficial to have policies which support self-employment and start-ups. The report notes that the majority of refugees become self-employed after approximately 20 years of stay.<sup>1217</sup> MPI Europe's report adds that many recently arrived beneficiaries of international protection face grim perspectives on the labour market after completing years of integration and skill-building programmes.<sup>1218</sup>

The Slovak civil society organisation, Human Rights League, published a report on the integration of beneficiaries of international protection in the labour market, noting that refugees must still overcome multiple legal and practical constraints to find employment. The authors underlined that limited resources are invested in integration, and a targeted programme for beneficiaries of international protection is absent. The circumstances often push beneficiaries to undertake precarious work with low wages and irregular salaries.<sup>1219</sup>

#### 4.14.4.2. Education



Challenges for beneficiary children's inclusion in education begin already during the reception phase (see *Section 4.7*). Belgian authorities try to facilitate applicant children's enrolment into school during reception, for example through the expansion of the network of schools offering induction classes to all newly-arrived foreign children with two new institutions joining in Wallonia, Belgium. Schools have been able to enrol children and accommodate all requests since the launching of this initiative, but the number of requests for enrolment increased in 2021.<sup>1220</sup>

The Romanian Ministry of Education launched a special catch-up programme, open also for applicant and refugee children, to provide support with Romanian language learning and mathematics (see *Section 4.7*).<sup>1221</sup> The civil society organisations Zaedno v chas (Teach for Bulgaria) and EducArt International Association published material to support children whose mother tongue is not Bulgarian to learn the Bulgarian alphabet.<sup>1222</sup>

The Irish Refugee Council and College Connect launched a new report on barriers to access higher education for refugees and people in the asylum process<sup>1223</sup>. The Irish government was aware of some of the barriers, like high education fees, and thus continued to facilitate access to higher education for applicant students (see *Section 4.7*).

The Ministry of Universities in Spain issued a new decree on the recognition procedure for foreign degrees and shortened the procedure to 6 months.<sup>1224</sup>

#### 4.14.4.3. Language instruction



While no new legislative or policy developments were reported for 2021, researchers looked into the implementation and impact of some current policies. For example, fees for Danish language courses for self-supported students (for example, working migrants) were abolished in 2020, and the number of enrolled students in 2021 rose by 78%.<sup>1225</sup> The Rockwool Foundation Research Unit observed refugees with neighbours from the same ethnic background were



less likely to begin a language course, while those who have found a job were less likely to finish their language course.<sup>1226</sup>

A RESPOND policy brief analysed the link between the education opportunities and employment perspectives of adult beneficiaries of international protection in Poland. It found that only 35% of beneficiaries attended Polish language classes because the content of the classes did not correspond to their daily needs.<sup>1227</sup>

#### 4.14.4.4. Social welfare



UNHCR launched its Integration Policy Brief in September 2021, dedicated to the promotion of effective access of refugees in the social protection systems impacted by the COVID-19 pandemic.<sup>1228</sup>

Until January 2021, refugees could aggregate periods of residence from their home country with periods of residence in Denmark for the calculation of their old age pension. 40 years of residence in Denmark qualifies for full old age pension and less years than 40 years for a pro rata share. The decision to omit the exemption for refugees was decided in 2015 with a transition period. The Danish Gerontological Society warned about the fact that elderly refugees are often socially marginalised, and the new rules may increase their poverty.<sup>1229</sup>

An amendment to the Norwegian Social Services Act came into force, which requires third-country nationals older than 30 years with insufficient Norwegian knowledge to participate in language training as a condition to receive financial support.<sup>1230</sup>

The CJEU concluded that excluding beneficiaries of international protection from the Italian family card scheme was contrary to EU law (*see Section 2*).

An administrative court in Bulgaria underlined that beneficiaries of international protection must have the same access to social assistance, including family allowances, as Bulgarian nationals and referred back the case for re-consideration to the Social Assistance Directorate, which originally refused to grant the allowance.

Asylex in Switzerland reported on the limited amount of social assistance available for persons with temporary admission, which can differ from canton to canton.<sup>1231</sup>

#### 4.14.4.5. Health care



The COVID-19 pandemic spurred interest in reviewing overall access to health care in many countries. Following up on a report from 2018, the National Audit Office of the Danish Parliament issued a new note on the treatment of trauma suffered by refugees. The note summarises the improvements since 2018 but still found important gaps. For example, about one-third of newly-arrived applicants in the municipalities are assessed not to need a medical examination upon arrival, while another one-third are not even assessed for an examination. When recognised beneficiaries make the transition from a reception facility to a municipality, information on their health situation is not transferred due to a lack of consent, hindering adequate medical follow up.<sup>1232</sup> The Danish Refugee Council published recommendations to improve the identification and treatment of trauma.<sup>1233</sup>

The French authority responsible for public health published a report on the health situation of migrants with vulnerabilities, including refugees. The report observes that the health of



newly-arrived asylum applicants is typically better compared to citizens in the host country, but it can quickly deteriorate due to difficulties in accessing health care and discrimination.<sup>1234</sup>

Amendments to the Health Insurance Act came into force in Slovakia, which will facilitate the financing process for health care costs for beneficiaries of subsidiary protection.

The Fundación Cepaim appreciated that beneficiaries of international protection can readily access the Spanish health care system, but observed instances of difficulties in accessing certain medical treatments, namely medicines that are not covered by the reception programme or the health care system, where costs must be borne by the beneficiary.<sup>1235</sup>

MPI Europe published a report on health care and integration of migrants and highlighted that migrants and refugees were at disproportionately higher risk of infection and severe disease during the COVID-19 pandemic. Still, the report concludes that increased awareness about the connection between health and integration could be a catalyst for more inclusive services instead of an accelerator for inequalities.<sup>1236</sup> A report from the RESPOND project focuses on Yazidi ethnics recovering from trauma and recommends different therapeutic approaches in host countries, like Germany and the Netherlands.<sup>1237</sup>

#### 4.14.4.6. Housing



Beneficiaries of international protection continued to face several challenges in transitioning from reception to mainstream accommodation, for example in Belgium, Cyprus,<sup>1238</sup> Greece, France,<sup>1239</sup> Ireland<sup>1240</sup> and the Netherlands. For example, in Greece, HumanRights360 reported on some of the practical barriers that beneficiaries face in transitioning from reception to mainstream housing. Since March 2020, recognised beneficiaries must move out from reception 30 days after their recognition. However, they only become entitled to rent allowance with a registered housing contract of at least 6 months and a bank account, which is different from the one where they received financial support during reception. In addition, beneficiaries often have difficulties in communicating with apartment owners due to the lack of sufficient Greek.<sup>1241</sup> Indeed, a policy brief developed in the frames of the RESPOND project highlighted that the ESTIA and HELIOS programmes must be linked to prevent homelessness.<sup>1242</sup>

In order to facilitate this transition in Italy, UNHCR, the Association of Legal Studies on Immigration (ASGI) and the National Unitary Union of Tenants and Assignees (SUNIA) published a guide to housing autonomy for beneficiaries of international protection. The guide notes some of the barriers that beneficiaries face in accessing public or private rental markets, including communicating with a potential owner.<sup>1243</sup>

The Dutch State Secretary for Justice and Security announced in March 2021 that 11,000 beneficiaries of international protection (permit holders *or vergunninghouders*) should be accommodated in municipalities by the end of 2021. This number was lower than originally expected at the end of 2020 (with an estimated 13,500 persons).<sup>1244</sup> To support municipalities in reaching this target, the Integrated Guide for Reception, Housing and Civic Integration was drafted and published in February 2021.<sup>1245</sup> The estimates were reviewed in October 2021 for the first half of 2022 and concluded that 10,000 beneficiaries will be in need of housing. Even though many recognised beneficiaries of international protection continued to remain in reception facilities longer than needed, the drop in places was due to fewer people arriving through family reunification<sup>1246</sup> (see Section 4.7).



In Portugal, the High Commission for Migration and the Institute for Housing and Urban Rehabilitation signed a cooperation protocol to provide adequate access to housing to migrant populations, including to beneficiaries of international protection.<sup>1247</sup> To facilitate access to housing, a pilot project was launched by the civil society organisation Association to Support the Inclusion of Migrants and Refugees (AIIR) to promote accommodation and integration of refugee families in rural villages, while guaranteeing living and working conditions.<sup>1248</sup>

#### 4.14.4.7. Social orientation



In 2021, the length of the obligatory orientation course was extended in Austria, while initiatives in Croatia, Poland, Romania and Slovakia focused on providing social orientation for migrants and beneficiaries of international protection through special information centres. National organisations developed relevant guidelines, for example in Spain, and with EU funding, civil society organisations developed digital applications to help with orientation and everyday life.

The obligatory orientation course for beneficiaries of international protection in Austria was extended from 8 to 24 hours to include modules on gender equality, antisemitism and the importance of voluntary work.<sup>1249</sup>

In Croatia, the Civil Rights Project Sisak (CRP Sisak) opened an integration centre in the town of Sisak to provide support for the integration of different groups of migrants, including beneficiaries of international protection and resettled refugees (see *Section 4.16*).<sup>1250</sup>

Two pilot integration centres were launched in the voivodeships of Opolskie and Wielkopolskie, as the second phase of the AMIF-funded project “Building Structures for the Integration of Foreigners in Poland.” Their tasks include information provision, Polish language courses, orientation, and intercultural, legal and psychological counselling.<sup>1251</sup>

As a civil initiative, the Global Help Association, the IOM and the Ecumenical Association of Churches in Romania opened a new regional integration centre in Giurgiu to support the social inclusion of beneficiaries of international protection and other third-country nationals in the south-east of the country.<sup>1252</sup> The centre provides information, counselling, education, social services, in-kind support and facilitates access to housing, health care and the labour market. In Brasov county, another similar project was implemented by the Romanian Association for the Promotion of Quality and Best Practices and the Romanian National Council for Refugees, with an information point which provides support services. Despite the COVID-19 pandemic, the project forged ahead of schedule, in particular due to the high interest in language training.<sup>1253</sup> Overall, six network regions were established and currently two integration centres function independently of government reception centres, with funding secured until the end of 2022.<sup>1254</sup>

To bridge the gap between locals and newly-arrived beneficiaries of international protection,<sup>1255</sup> the NGO Mareena in Slovakia used crowd-funding to open a café for a month in February 2021, where women refugees shared typical cuisine from their country of origin.<sup>1256</sup> The civil society organisation Human Rights League launched the first accredited service to support beneficiaries of international protection and migrant victims of hate crime, through free legal, social and psychosocial assistance.<sup>1257</sup>





Academic and civil society partners from Austria, Cyprus, France, Malta and Portugal implemented the Erasmus+ KA2 project IEUME, aiming to develop innovative educational tools to support the integration process of migrants, including beneficiaries of international protection (see *Section 4.9*).<sup>1258</sup>

The Spanish Committee of Representatives of Persons with Disabilities developed a guide promoting the inclusion of refugees, asylum seekers and stateless persons with disabilities (see *Section 5*).<sup>1259</sup> JRS Europe provided examples of their integration initiatives designed specifically for women in Greece and Portugal, in addition to individual success stories in Germany and Italy.<sup>1260</sup>

Among practical issues faced in everyday life, a report commissioned by UNHCR in Bulgaria found that not only applicants (see *Section 4.7*) but also recognised beneficiaries of international protection face challenges in opening bank accounts in the country due to the bank's policy.<sup>1261</sup>





## Section 4.15. Return of former applicants



*The EU legal framework on the return of former applicants for international protection falls within the remit of general immigration law. An effective and humane return of rejected asylum seekers is an integral part of a credible asylum system, as is the possibility to return to a country of origin voluntarily if an application for international protection is withdrawn. For the practical functioning of CEAS, returning a rejected asylum applicant effectively to the country of origin is essential, since an inability to return such a person in an efficient and sustainable way may corrode confidence in the system and stigmatise migration.*

*Return options include:*

- *Voluntary return and departure: when a person opts to withdraw a claim and voluntarily returns to the country of origin (voluntary return) or a person complies with a return decision (voluntary departure); and*
- *Forced return/removal: the return of persons who are required by law to leave but have not consented to do so and who are subject to coercion in order to carry out their removal.*

*In many cases, returnees can receive support under assisted return schemes prior to departure. In addition, reintegration support is available after arrival to the country of return in various forms.*

### 4.15.1. Gradually resuming return procedures



After being significantly impacted by COVID-19 restrictions in 2020, the implementation of returns resumed in 2021. Nonetheless, many countries, such as Finland, have not reached the level of operations as before the pandemic.<sup>1262</sup> The courts weighed in on enforcing a return during a pandemic, and for example the Court of Cassation in Belgium [found](#) that in principle an expulsion order and a forced removal from the country are not unlawful during the COVID-19 pandemic because these are not considered to be a 'trip', or a 'non-essential trip' within the meaning of the current restrictions.

Several countries introduced obligatory COVID-19 testing prior to a forced removal. In this context, the Swiss parliament adopted on 15 September 2021 a number of legislative changes in the area of asylum and return, including compulsory COVID-19 tests for a person subject to a return or expulsion measure, even against their will. Similar provisions were introduced in Denmark, where the Danish Return Agency may perform a medical examination on returnees for diseases and illnesses covered by the Danish Epidemic Act, including COVID-19.<sup>1263</sup>

In France, the law related to the management of the health crisis of 5 August 2021 introduced penal sanctions against people who refuse to comply with the health requirements which are required for an automatic enforcement of an expulsion measure.

The courts issued decisions on these types of measures. For instance, the Administrative Court of Mainz (Germany) [held](#) that COVID-19 compulsory tests for carrying out deportations are permitted. The Court of the Hague (Netherlands) [confirmed](#) the continuation of a detention measure for lack of cooperation of the applicant to conduct COVID-19 test prior to deportation.





## 4.15.2. Reorganising return procedures to reinforce interconnections with asylum



Many countries introduced legal and procedural changes in 2021 to create interlinks between asylum and return procedures in an effort to increase the efficiency of national systems. These included, for example, return counselling in connection with a negative asylum decision and incorporating a return order in a negative asylum decision.

Through the Federal Act, Article 2(3), Austria established the Federal Agency for Reception and Support Services which has been responsible for return counselling and return assistance since 1 January 2021. The counselling session is not scheduled until the return decision against an asylum seeker or unlawfully-residing third-country national becomes final, enforceable or practicable, while the possibility of receiving voluntary return counselling at any stage of the procedure has been retained. This practical change increases efficiency as counselling takes place closer to the actual return.

Following amendments to the Refugee Law in Cyprus in October 2020, the Head of the Asylum Office may issue a deportation or removal order jointly with a negative decision when deciding on an application for international protection. Both decisions, which will no longer be separate administrative acts, can be challenged before the International Protection Administrative Court and the suspensive effect may be automatic.

Greece further adjusted its legislation to the provisions of Directive 2008/115/EC "on common rules and procedures in the Member States for the return of illegally-residing third-country nationals" with Law 4825/2021 (A'157) and reformed deportation and return procedures.<sup>1264</sup> All decisions rejecting requests for international protection should include a return provision (Article 2 amending Article 21(1) and (4) of Law 3907/2011). If another return or deportation order is already in force, it must be incorporated in the decision rejecting the application and ordering the return. In addition, the period of voluntary departure was shortened to 25 days (previously 30 days), which may be extended up to 120 days.

In Ireland, an amendment to the International Protection Act 2015, Section 48(3) to extend the 5 day period for a voluntary return to 30 days has been finalised for inclusion in the General Scheme of the Courts and Civil Law (Miscellaneous Provisions) Bill 2022, a government priority bill.<sup>1265</sup> This change was implemented in line with recommendations of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process.<sup>1266</sup>

Following a [CJEU ruling](#), in December 2021 the Dutch State Secretary of Justice and Security announced a decision to postpone the execution of return decisions for unaccompanied minors whose requests for asylum have been rejected, for as long as it is unclear whether they have access to adequate reception in the country of origin.<sup>1267</sup>

Sweden issued a legal position RS/071/2021 providing guidance to assess under which conditions an asylum application can be seen as manifestly unfounded.<sup>1268</sup> The Swedish Migration Agency should then decide on an immediate enforcement of a return to the home country.

The links between asylum and return were brought before the CJEU by Belgium. When hearing an appeal against the legality of a return decision due to a refusal to grant international protection, the Council of State [questioned](#) whether they can take account of





changes in circumstances that may have a significant bearing on the assessment of the situation only where those changes occurred prior to the conclusion of the international protection proceedings by the CALL.

The Supreme Administrative Court in Austria also [referred](#) questions on the revocation of protection and the return of third-country nationals in line with the principle of *non-refoulement*. A similar issue was addressed by the Belgian CALL, which [held](#) that, even if refugee status has been withdrawn, the third-country national is protected against *refoulement* as long as the decision is not accompanied by an order to leave the territory.

The Supreme Court in Spain [held](#) that an application for international protection implies an automatic suspension of the expulsion procedure for an irregular stay until the administrative authorities issue a decision rejecting or declaring the request as inadmissible. This affects the execution of the expulsion or return order, because it is not possible to classify the stay as irregular when international protection has been requested and until the request is rejected or declared inadmissible.

Similarly, the UN CAT and UN Human Rights Committee requested [Switzerland](#) and [Denmark](#) to refrain from the deportation of applicants until their cases were reviewed. In accordance with the established practice, the Danish Refugee Appeals Board will reopen asylum proceedings in such cases if the applicants still reside in Denmark, even if a request has not been put forward.

The Cypriot Administrative Court [clarified](#) that a person who submits a subsequent application acquires the status of an asylum seeker from the moment of registration until the final admissibility decision by the Asylum Service. Thus, in this case the contested detention and expulsion decrees were annulled. In another case, the court [found](#) that the applicant was not aware of the deportation process against him when he applied for international protection, and thus, he should not have been detained for the reason of delaying or preventing his return.

### 4.15.3. Digitalising return procedures



The digitalisation of return processes facilitates efficiency, enhances the synergies between the asylum and return systems, and ensures compliance with the EU legal framework (e.g. SIS regulation). In 2021, EU+ countries resorted to tools supported by Frontex, such as the Frontex Application for Return (FAR) (a web-based application aimed at supporting the organisation of return operations and providing technical assistance to voluntary returns), to improve the implementation of returns.

New databases are being developed in Estonia to fulfil requirements and recommendations following the Schengen return-related evaluation. Finland has also implemented various projects on processing data and digitalising information systems, while the relevant legal framework was adapted accordingly.

In 2021, the use of FAR in the Netherlands was expanded to foreign nationals who leave voluntarily, and discussions with the IOM Netherlands are ongoing to explore the possibility to include the IOM in the Dutch cooperation with Frontex.

In Croatia, AMIF funds have been allocated for the implementation of the project "Informatisation of work and work processes in the Detention Centre for Foreigners", which aims to establish an electronic database of accommodated foreigners and enable video calls



and conversations to take place between foreigners and their diplomatic and consular missions in and outside of Croatia.<sup>1269</sup> It also supports international organisations or other transit detention centres for foreigners to improve return procedures.

In Luxembourg, the Directorate of Immigration participated in the Recamas project, launched by Frontex, to carry out a gap analysis to identify possible shortcomings in the national returns case management system and to propose measures for improvements. The analysis was carried out with the participation of all stakeholders involved in return management.

Slovakia is involved in the Readmission Case Management System (RCMS) platform with Sri Lanka, and it was recently launched with Pakistan but has not yet been used in practice.

#### 4.15.4. Strengthening the voluntary returns and reintegration framework



Countries continued their efforts to enhance voluntary returns through partnerships, reintegration programmes and personalised counselling to third-country nationals.

Belgium made substantial efforts to intensify voluntary returns. By 2022, 80 new staff members are expected to be recruited as return counsellors to organise interviews and information sessions with migrants and rejected asylum seekers living in private housing, who have recently received a return decision. This will enable proper and personalised information and assistance to be given, while minimising potential obstacles for the return.

At the beginning of 2021, the IOM and the Ministry of Foreign Affairs in the Netherlands launched the Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS).<sup>1270</sup> The project is a global initiative in cooperation with 12 countries (Afghanistan, Chad, Egypt, Ethiopia, Iraq, Lebanon, Libya, Mali, Morocco, Niger, Nigeria and Tunisia), which adopts a whole-of-society approach to combating human trafficking and facilitating voluntary returns in a sustainable manner. The ICMPD aimed at supporting and further strengthening the newly-established National Assisted Voluntary Return and Reintegration mechanism in Turkey. This project will be implemented from 2021-2024 with financial support from the governments of Denmark, the Netherlands and Norway.<sup>1271</sup>

A new assisted voluntary return and reintegration programme was also launched in Hungary by the IOM. A similar approach was followed by Spain, which developed a voluntary return programme in collaboration with NGOs and the IOM. The EUR 3.9 million programme helped 1,501 persons to return to their country of origin.

The "Migration Policy of the Slovak Republic: Perspective until 2025" sets the priorities for the coming years, with an emphasis on voluntary returns rather than forced returns.

The Swedish Migration Agency updated the list of countries whose citizens are eligible for reintegration assistance in cash when returning to these countries from Sweden. In addition, the government commissioned the Swedish International Development Cooperation Agency (Sida) to map Sweden's work with returns and sustainable reintegration.



### 4.15.5. Enhancing the forced return framework



Beyond the voluntary framework, an efficient migration system requires effective forced return mechanisms.

In this regard, Cyprus signed an agreement with the European Commission in February 2022, which includes standard procedures for returns. A Memorandum of Understanding and an Action Plan for the more effective management of migration is expected soon, as migration management has been considered pivotal in Cyprus.

In Denmark, the Return Act (*hjemrejseloven*), which is the first consolidated law in the field of return, came into force in 1 June 2021.<sup>1272</sup> The act formalised the tasks and responsibilities of the Danish Return Agency, defined the assessment and decision on compliance/non-compliance, the postponement of the legal date of departure, financial support and introduced the Return Contract. This is a legal agreement between the Danish Return Agency and the rejected asylum seeker who does not have the right to stay in Denmark. The contract can be entered into voluntarily (possibly after negotiations) or can be imposed by decision if the foreigner refuses to sign.

In Latvia, the Ombudsperson concluded a project, “Effective implementation of the monitoring and forced return process (Stage 1)”, which aimed to improve the mechanism to monitor forced return operations of third-country nationals and ensure compliance with Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008. To this end, guidelines were developed in the framework of this project, training material was created and the questionnaire to monitor forced return operations was improved to help detect victims of trafficking in human beings. The Ombudsperson held several training workshops to increase awareness and strengthen the capacity of staff to identify victims of human trafficking and ensure the rights of the child in a forced return process. Training was targeted at employees of the Orphan's Courts, municipalities, State Border Guard, State Inspectorate for Protection of Children's Rights and NGO's.<sup>1273</sup>

A Returns Unit was established in 2021 within the Ministry for Home Affairs, National Security and Law Enforcement in Malta, with the aim of identifying shortcomings in the national return management system and recommending and ensuring the introduction of new efficient processes. It comprises civilian personnel to coordinate the return of third-country nationals. The unit's tasks include: enhancing the national approach on voluntary returns; providing return counselling; formulating, implementing and monitoring in-cash and in-kind support schemes; joint implementation of Assisted Voluntary Return and Reintegration Programmes with the IOM and other relevant stakeholders; researching available funding opportunities for return initiatives and implementing EU-funded projects on return; formulating and implementing a communications strategy through the dissemination of information material on return procedures and opportunities, as well as organising outreach activities; establishing stronger communication channels between national migration stakeholders, including NGOs, human rights activities and migrant communities.

Luxembourg introduced Bill 7954 to parliament on 19 January 2022, which was approved by the Council of Government on 26 November 2021.<sup>1274</sup> The bill amends the Immigration Law to ensure a more effective management of the removal of third-country nationals who are illegally residing in Luxembourg. The different categories of removal measures are structured in a clear and coherent way to make implementation more straightforward. Furthermore, the members of the Consultative Commission on the Evaluation of the Best Interests of Unaccompanied Minors in Return Decisions continued its work.



With the new regulation of Article 303b of the Act on Foreigners Poland introduced a new procedure for issuing a decision to leave the territory when a foreigner is intercepted immediately after illegal crossing the external EU's border.<sup>1275</sup> This change was a direct result of the crossings at the Belarus border. In addition, Poland continued implementing the ICMPD project "Development of the forced return monitoring system in the Republic of Moldova FReMM", which runs from December 2020 until February 2022, to ensure the return system to Moldova is in line with human rights.

In cooperation with the Autonomous city of Ceuta, Spain made efforts to carry out removals of minors who were living in reception centres, based on the Agreement between Spain and Morocco on cooperation in the field of prevention of the illegal emigration of unaccompanied minors, their protection and their concerted return signed in 2007.<sup>1276</sup> Several NGOs (e.g. Save the Children<sup>1277</sup> and Fundacion Raices<sup>1278</sup>), the General Council of Lawyers<sup>1279</sup> and international organisations (e.g. UNICEF<sup>1280</sup>) condemned these removals and have asked the government and UN organisations to immediately put a stop to them. In the same line, the Spanish Ombudsperson sent an official complaint and requested the Ministry of the Interior to suspend the collective return of minors from Ceuta to Morocco.<sup>1281</sup> Consequently, the Administrative Court of Ceuta ordered the government to temporarily stop removals to Morocco of nine unaccompanied minors because the legal procedure had not been followed (see here and here).

Sweden amended and issued legal positions on returns, addressing practical obstacles (RS/048/2021), particularly situations when the applicant is not admitted in the home country, the applicant is a child with no legal guardian and there is no orderly reception in the home country,<sup>1282</sup> and the immediate enforcement of a return to the home country including safe countries of origin (RS/071/2021).<sup>1283</sup>

Some EU+ countries temporarily halted the implementation of returns for specific profiles in 2021. For example, the Swedish Migration Agency updated its legal positions to stop the deportation of people to Afghanistan<sup>1284</sup> of Tigrayan ethnicity to Ethiopia.<sup>1285</sup> The SMA created a specific page where information on the situation in Afghanistan and its implications on the asylum procedure are regularly updated.<sup>1286</sup> Guidelines were also issued on the right to receive reception aid when a valid refusal of entry or deportation order is in place.

Similarly, the Netherlands issued a decision and departure moratorium for third-country nationals from Afghanistan<sup>1287</sup> and ethnic Tigrayans from Ethiopia.<sup>1288</sup> In Norway, the UDI and the UNE temporarily suspended returns to Ethiopia,<sup>1289</sup> Afghanistan,<sup>1290</sup> and Gaza,<sup>1291</sup> and the suspension of returns to Libya (except Tripoli) remained in place.<sup>1292</sup> The inability to effectuate returns to Afghanistan due to the security situation was reaffirmed by courts in Austria (see for example [here](#) and [here](#)).

#### 4.15.6. Implementing readmission agreements in the national framework



France ratified its bilateral agreement with India (Delhi, 2018) in October 2021 on cooperating on migration. The protocol on the implementation of the Agreement between the EU and Armenia on readmissions has been prepared for signing.



Greece improved cooperation with authorities in Bangladesh in the field of returns. Furthermore, it ratified the EU-Serbia Readmission Agreement (Law 4861/2021, A' 230)<sup>1293</sup> and the EU-Montenegro Readmission Agreement (Law 4862/2021, A'231).<sup>1294</sup>

In its policy priorities until 2025, Slovakia defined the need to conclude new or revise existing readmission agreements and their implementing protocols. It aims to conclude EU readmission agreements in order to improve and strengthen cooperation with third countries whose citizens are most often expelled or in which the implementation of expulsion decisions remains problematic.

#### 4.15.7. The EU-Turkey Statement



Due to COVID-19 restrictions, Turkey suspended returns from Greece in March 2020, despite repeated calls from Greece<sup>1295</sup> and the European Commission<sup>1296</sup> to resume returns under the EU-Turkey Statement. Consequently, the implementation of the safe third country concept (see *Section 4.3.2*) for readmissions to Turkey may leave asylum seekers in limbo, while detention in this context was heavily criticised by various stakeholders

(see *Section 4.8*).

This issue was specifically raised by the European Parliament as a priority question for written answer P-000604/2021 to the European Commission under rule 138.<sup>1297</sup> It was noted that Greek authorities were issuing voluntary departure decisions for Syrian nationals with a final decision rejecting their application as inadmissible as Turkey was considered to be a safe third country. These applicants are requested to depart from Greece within 10, 15 or 30 days, without examining their applications on their merits. However, due to the suspension of transfers to Turkey, it created a situation of refugees 'in orbit'. At the same time, material reception conditions were no longer provided to these rejected applicants. Consequently, the compatibility of this practice with the recast Asylum Procedures Directive, the ECHR and the EU Charter of Fundamental Rights was questioned.

In its answer given by Commissioner Johansson on behalf of the European Commission on 1 June 2021, the Commission noted that the recast Asylum Procedures Directive, Article 38(4) provides that "where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to [an asylum] procedure is given".<sup>1298</sup> In line with that provision, an applicant whose application has been declared as inadmissible is therefore able to apply again, and thus, Greece will need to take into account the circumstances at the time of the re-examination, including the prospects of a return in line with the EU-Turkey Statement. In the meantime, applicants must have access to material reception conditions under the conditions set out under the EU Charter of Fundamental Rights and EU and national laws.

The European Commission confirmed that it is in close dialogue with the Greek authorities about this issue and that the EU remains committed to the full implementation of the EU-Turkey Statement as the main framework for cooperation on migration matters.

In an effort to follow up on existing practices, 12 MEPs submitted a question for written answer E-004131/2021 on the possibility of Syrians applying for asylum again and the European Commission's measures to ensure access.<sup>1299</sup> Given the recognition of Turkey as a safe third country also for asylum seekers from Afghanistan, Pakistan, Bangladesh and Somalia, the European Commission was requested to ensure that applications will not be declared inadmissible under the false presumption that applicants can be readmitted to Turkey and to



ensure Greece's compliance with the recast Asylum Procedures Directive. The Commissioner reaffirmed that, while inadmissible applicants cannot enter Turkey, Article 38(4) of the directive must be applied to provide access to the asylum procedure on the basis of their merits.<sup>1300</sup>

These developments are particularly important in light of recent legislative amendments in Greece<sup>1301</sup> which foresee a fee of EUR 100 for each subsequent application after a first subsequent application (i.e. second subsequent application onwards) (see *Section 4.8*).

#### 4.15.8. Judicial review of procedural guarantees and human rights standards



The courts stand as the watchers of return procedures, assessing whether the relevant processes abide by the law. In this context, the ECtHR found violations of the ECHR, Article 8 (see for example [here](#) and [here](#)) and Article 3. For instance, the ECtHR [ruled](#) on the rapid removal of a rejected applicant to Turkey without an examination of individual circumstances and a proper assessment of the risk he allegedly faced in the event of a return and in the absence of an explicit application for protection to the relevant authorities.

In addition, the CJEU [ruled](#) that Article 5 of Directive 2008/115 in conjunction with the ECHR, Article 24 means that Member States must take due account of the best interests of the child before adopting a return decision accompanied by an entry ban, even when the person to whom that decision is addressed is not a minor but the father.

In line with the ECHR framework, the Constitutional Court in Malta [noted](#) that there is an obligation not to effectuate a return if the removal of a person would mean an infringement of Article 3 of the ECHR based on substantial grounds to believe that that person would risk being subject to torture or inhumane and degrading treatment.

The Council of State in the Netherlands [ruled](#) in a singular case that the State Secretary must pay compensation for damages suffered by a rejected asylum applicant who was subject to inhuman and degrading treatment after being deported to Russia.

The Federal Constitutional Court in Germany [allowed](#) a constitutional complaint, affirming that legal protection is not limited to the mere possibility of bringing a case before the court but it must provide a judicial review prior to enforcing a deportation order.

The Council of State in the Netherlands [ruled](#) that there were no reasonable prospects of deportations to Algeria or Morocco for persons without a laissez-passer, which [led](#) to the lifting of detention measures for people without a valid travel document. The same conclusion was [held](#) by the Federal Administrative Court in Austria in relation to Afghanistan.<sup>1302</sup> In contrast, the Court of Appeal of Timisoara in Romania [extended](#) the detention of an Afghan national by 3 months due to the impossibility of enforcing a return to Afghanistan and the risk of absconding.



## Section 4.16. Resettlement and humanitarian admissions



*Resettlement involves the selection and transfer of refugees from a country in which they have sought protection to a third country which has agreed to admit them as refugees with permanent residence status.<sup>xlvi,1303</sup> In the EU context, resettlement programmes are voluntary and persons in need of protection are identified as eligible by UNHCR.<sup>1304</sup>*

*Resettlement is an expression of international solidarity, involving several national and international stakeholders. EU resettlement schemes are based on national pledges corresponding to the number of third-country nationals that Member States commit to admit and aim to manage migration based on predictable timelines and ensure common grounds for eligibility, while carrying out rigorous security checks.*

Since the introduction of the first European Resettlement Scheme in July 2015, the process has remained an important point on the policy agenda. Its role in providing protection was reinforced in July 2021 with the Commissioner for Home Affairs convening the High-Level Forum on Resettlement, Humanitarian Admission and Complementary Pathways (see Section 2). In 2021, most changes involved practical aspects, but there were some relevant legislative developments as well.

Based on preliminary EUAA EPS data, the total number of persons resettled to EU+ countries in 2021 appears to be higher than in the previous few years.<sup>xlvii</sup>

### 4.16.1. Resumption of resettlement programmes



On-going COVID-19 measures during 2021 prompted national administrations to use digital tools in order to continue with their activities in the field of resettlement. For instance, some selection missions moved online to comply with health measures and minimise the risk of infection, while others were organised onsite when the health situation allowed it. Digital tools (such as WebEx, Microsoft Teams and Skype) were used for conducting selection interviews and related meetings. Nevertheless, moving to online settings came with many challenges, such as technical issues (poor Internet connection, inadequate sound, bad image quality and interruptions), language barriers and the risk of losing trust during the interview phase. On some occasions, online activities were considered less effective and more time-consuming than face-to-face interactions, resulting in less cases being processed per day. To overcome logistical issues related to online settings, close cooperation with national authorities of the country of first asylum, UNCHR and the IOM were established during the year.

Pre-departure and cultural orientation programmes were mostly conducted fully online or through hybrid models that combined face-to-face sessions with remote training. The Netherlands, for example, offered different modalities, including fully digital information training provided through WhatsApp. A hybrid model was also developed where a part of the

<sup>xlvi</sup> Practices at the EU+ level may vary when it comes to granting refugee status and permanent residence in resettlement cases.

<sup>xlvii</sup> Data on resettlement for 2021 published by Eurostat were not complete at the time of writing.



family attended the physical session and other family members participated in a remote session simultaneously. France resumed the organisation of face-to-face cultural orientation sessions in early 2021, with small groups to limit the risk of COVID-19 contamination.

A pre-departure orientation programme was introduced by Slovenia in November 2021 which replaced the 3-month introductory activities post-arrival.<sup>1305</sup> To facilitate resettlement in Lithuania, as of April 2021 travel documents issued to refugees by the International Committee of the Red Cross were recognised as valid.<sup>1306</sup>

In Spain, the Supreme Court **confirmed** that refugees who were resettled in Spain have refugee status, while in France, the National Court of Asylum **held** that the admission of an asylum seeker to a resettlement programme in which UNHCR takes part in Turkey does not imply that the refugee falls under the strict mandate of the UNHCR and that, in these circumstances when the strict mandate is not confirmed, it is up to the national asylum authority to determine the type of protection status to be given to the person (refugee status or subsidiary protection) upon arrival in France.

The modification of the Swedish Aliens Act in July 2021 stated that only resettled refugees are granted permanent residence permits immediately, while beneficiaries of international protection are granted a temporary residence permit with a validity determined by the type of protection granted (*see more in Section 4.14.2.3*).<sup>1307</sup>

With severely scaled down resettlement operations in 2020, most countries were not able to fulfil their pledges for the year, resulting in a carry-over to 2021 or a readjustment of the biannual resettlement targets set by some countries (as in the case of France). In this context, in June 2021, the Danish Minister for Immigration and Integration resettled 200 Congolese and Burundian refugees living in Rwanda as part of the 2020 quota.<sup>1308</sup> Similarly, Spain continued implementing the 2019-2020 Resettlement National Plan by taking in nearly 550 refugees from Jordan, Lebanon and Turkey. After extending the deadline for implementing the transfers of selected third-country nationals until 31 December 2021, Lithuania fulfilled its commitment for the year with the resettlement of 1,000 refugees.<sup>1309</sup> Germany also transferred unused places from 2020 to 2021 and added a top-up for 2021. In total, 6,547 persons were admitted in 2020/2021 through resettlement, humanitarian admission, community sponsorship and admission programmes of the federal states.

In addition to the annual quota of 5,000 refugees for 2021, Sweden decided to additionally resettle 1,400 individuals who were selected in 2020 but could not be transferred during the year due to COVID-19 pandemic.<sup>1310</sup> Thus, a total of 6,400 quota refugees were transferred in 2021, including Afghan nationals who were evacuated in August 2021.

Developments in Afghanistan triggered rapid evacuations of persons in need of international protection and resettlement. In Sweden, a number of amendments to the regulatory framework on resettlement were adopted on 15 August 2021 to enable greater flexibility in specific situations, such as the Afghanistan situation. According to a government decision, the requirement that a person must be in a third country to be eligible for resettlement was temporarily removed. Furthermore, a decision of 15 August 2021 by the Ministry of Justice provided flexibility for the responsible authority, the Swedish Migration Agency, to redistribute places that were available within the 5,000 quota for 2021, allowing a larger number of places for emergency cases than the 500 earmarked for that purpose. In the period August-December 2021, 1,300 Afghan nationals were granted permanent residence permits and resettled in Sweden under the resettlement framework.<sup>1311</sup>



Afghan nationals also received protection under the resettlement programme in Norway, where approximately 700 Afghans, including unaccompanied children and families, were granted protection.<sup>1312</sup>

National governments decided on their 2022 quotas based on the budgets for the new year. In Switzerland, the Federal Council approved the 2022-2023 resettlement programme in May 2021 which includes the resettlement of 1,600 refugees focusing on three to five primary host countries.<sup>1313</sup> In Spain, the National Resettlement Programme was approved at the end of December 2021 under which 1,200 refugees will be resettled during 2022.<sup>1314</sup> Likewise, Belgium agreed to resettle 1,250 refugees in 2022, increasing the amount progressively for 2023 (1,400 refugees) and 2024 (1,500 persons), although insufficient reception places within the Belgium reception system have halted the transfer of resettled refugees during 2021 (see *Section 4.7*).

Due to the deterioration of the security situation in Afghanistan, the Finnish government also increased the refugee quota by about 500 refugees, with a total of 1,500 persons to be transferred in 2022. The budget for this plan was raised to a total of EUR 1.1 million.<sup>1315</sup>

#### 4.16.2. Reception for resettled refugees



The reception phase for resettled refugees begins upon arrival to the country of resettlement. The arrangements and services which are provided differ from one country to another. In terms of national developments in 2021, a new integration centre was opened in Sisak, Croatia by the Civil Rights Project Sisak (CRP Sisak) to host resettled refugees and other beneficiaries of international protection (see *Section 4.14*).<sup>1316</sup> In addition, a new mobile application called “(Re)Settle in Croatia” was made available on Google Play and Apple Store as of July 2021. The free mobile application, which is available in Arabic, Croatian, English, and Kurdish Kurmanji, provides useful information to resettled refugees on their rights services available, such as health care, education and work) and an audio-dictionary.

The French government approved an [instruction](#) with guidelines on reception policies for resettled refugees in February 2021. This document, targeting the hosting regions and local actors, presented the guidelines for the year (national objectives, financial resources, governance system) and established the division of responsibilities for the reception of resettled refugees between central and local administrations and funded organisations, the regional distribution and the monthly calendar for 2021 arrivals.<sup>1317</sup>

With AMIF funding of about EUR 7.5 million, 17 projects were selected by the Finnish government to develop its asylum system in different aspects. One project aims to support the refugee quota programme, focusing in particular on refugees with special needs, supporting mental health, rehabilitation from war trauma, reinforcing paths to working life and organising cultural orientation training.<sup>1318</sup>

Reception capacity in some EU+ countries was limited due to social distancing measures and avoiding overcrowded centres. For example, Belgium paused all transfers of selected refugees, while in Switzerland, resettled refugees were temporarily hosted in cantonal reception facilities in the cities of Zurich and Berne due to a lack of accommodation in Swiss federal asylum centres.<sup>1319</sup>





### 4.16.3. Complementary pathways for admission



Complementary pathways are safe and regulated avenues for refugees that complement resettlement by providing a lawful stay in a third country where international protection needs are met. They are additional to resettlement and do not substitute the protection afforded to refugees under the international protection regime. Programmes are diverse by nature and can benefit refugees in a variety of ways depending on their specific objectives.<sup>1320</sup>

#### 4.16.3.1. Humanitarian admission programmes



Humanitarian Admission Programmes are complementary pathways to international protection through which a country can admit a group of refugees by providing temporary protection on humanitarian grounds.<sup>1321</sup> Different practices prevail in the implementation of these programmes at the national level.

The humanitarian crisis in Afghanistan resulted in the implementation of multiple national initiatives to provide protection quickly to Afghan nationals. These efforts were in line with key priorities set out by the EU and the High-Level Forum in August 2021, which called to cooperate on the evacuation of persons at risk and establish humanitarian corridors for Afghan refugees seeking protection in neighbouring countries (see *Section 2*).<sup>1322,1323</sup> In October 2021, a high-level Resettlement Forum focused on helping Afghans most at risk through a global effort. National responses included resettlement from neighbouring countries, humanitarian admissions, family reunification and evacuations. However, the forum also discussed the need for flexibility through complementary pathways.<sup>1324</sup>

While some countries, such as Norway and Sweden, opted to receive Afghan nationals under their resettlement programmes, many EU+ countries used humanitarian admission schemes. Between 14 August and 31 December 2021, around 2,100 Afghans were evacuated and received international protection through a simplified asylum procedure to process their applications rapidly (see *Section 4.4*).

The German federal government has admitted local staff and their families under the existing admission programme for former local staff. In addition, a decision was taken on the admission of individuals working in education and academia, policymaking, the judiciary, NGOs, culture and the media who are exposed and at risk due to their personal engagement in Afghanistan. This includes human rights activists and journalists. By the end of 2021, Germany had granted admission to more than 25,000 Afghans from these groups. Following the announcement by the European Commission of an Afghan support scheme for humanitarian admissions, Germany submitted a pledge for 25,000 places. From mid-August 2021 until the end of 2021, almost 7,000 Afghans with an admission to Germany arrived in the country. The arrivals of Afghans who have been granted admission in Germany are ongoing.<sup>1325</sup>

In line with its commitments, the Irish government launched the Afghan Admission Programme in December 2021, under which people either residing in Afghanistan or neighbouring countries who had fled from Afghanistan since 1 August 2021 and who have close family members in Ireland can apply for a temporary Irish residence. A total of 500 places were available under this programme. The closing date for submissions was extended to 11 March 2022.<sup>1326</sup>





In some countries no resettlement activities were carried out during 2021. Nonetheless, their governments pledged to receive Afghan nationals on humanitarian admission grounds. This was the case for Luxembourg that pledged to receive 90 Afghan nationals at risk, including girls, women, former judges and human rights activists during 2021 and 2022. Similarly, Portugal hosted 768 Afghan citizens who were evacuated through humanitarian admission in 2021. In Greece, 800 Afghan nationals (consisting of female dignitaries and their families) were admitted.

Countries that traditionally implement humanitarian admission programmes continued with them during 2021. In addition to the 2,500 Afghan nationals that France pledged to receive during 2021 and 2022, mostly through evacuations, an additional 1,094 asylum visas were issued in 2021, mainly to Syrians, Iraqis and Afghans in need of international protection. In 2021, France expanded its humanitarian corridors from Lebanon by signing two protocols to receive up to 600 Syrians or Iraqis in need of protection over the next 3 years (2021-2023).

A new protocol for the protection of 500 individuals from Libya was signed between the Department of the Civil Liberties and Immigration under the Italian Ministry of the Interior, the Sant' Egidio community and the Federazione Chiese Evangeliche Italiane (FCEI) in June 2021.<sup>1327</sup> Furthermore, arrivals were also processed under several Memoranda of Understanding for humanitarian corridors and evacuations. In 2021, 128 third-country nationals arrived from Lebanon, 279 from Ethiopia, Niger and Jordan, and 98 from Libya. No Afghan nationals arrived in Italy through humanitarian corridors or evacuations from Iran and Pakistan. In December 2021, the Court of Rome **ordered** the issuance of a humanitarian visa to two Afghan children whose lives were in danger under the Taliban regime. The measure would allow them to arrive safely in Italy and apply for international protection in the country.

Civil society organisations immediately shared their reactions to the humanitarian crisis in Afghanistan, calling for increasing resettlement commitments at the European and national levels, the activation of humanitarian corridors from Afghanistan and the granting of humanitarian visas to allow people to safely arrive in Europe.<sup>1328, 1329</sup> In this context, a joint statement was signed by more than 60 civil society organisations, highlighting the priorities for an EU response and the need for evacuations, resettlement and other safe routes.<sup>1330</sup> A lack of harmonisation in the response given by EU+ countries based on their asylum systems and their varied positions on returns of Afghan nationals were also observed. Civil society organisations called for a coordinated EU response to protect human rights and urged that humanitarian and development aid for the Afghan population do not replace the reception of Afghans at the EU's borders.<sup>1331</sup>

#### 4.16.3.2. Community Sponsorship Programmes



As a safe and legal pathway to protection, community-based sponsorship programmes are gaining ground as an alternative to supporting refugees arriving to EU+ countries. This type of programme allows individuals, private companies and organisations to directly engage in financial, emotional and practical support to refugees who are resettled in their communities.<sup>1332</sup>

Studies were published in 2021 to highlight the opportunities for the development of community sponsorship programmes. UNCHR published a study outlining the challenges and opportunities related to community sponsorship programmes in the Swedish context.<sup>1333</sup> The Finnish Ministry of the Interior and the Ministry of Employment also published a study in May 2021, which concluded that this model could be a plausible option as it speeds up the integration of resettled refugees in Finland.<sup>1334</sup>



Building on previous experience, some EU+ countries, such as Germany, Ireland and Spain, continued developing their existing programmes and established new pilot projects. For example, a community sponsorship pilot programme for the reception of resettled refugees was established in five localities in the Comunidad Valenciana in Spain.<sup>1335</sup> In addition, a new agreement was signed with Navarre to develop community sponsorship initiatives, and the extension of the agreement was signed with the Basque government.

In line with the UNHCR report “Projected global resettlement needs 2021”,<sup>1336</sup> a new co-funded project, SAFE, is financed by the European Commission and being implemented in France and Italy from January 2021 to December 2023 by the NGO Forum Réfugiés-Cosi. The project aims at fostering collaboration between transnational stakeholders to develop and improve access to protection through sponsorship systems and complementary pathways, such as humanitarian corridors, family reunification and student mobility, for beneficiaries of international protection.<sup>1337</sup>

#### 4.16.3.3. Complementary education pathways



Complementary education pathways are safe and regulated avenues through which refugees may move to a third country for the purpose of higher education, while being able to support themselves and reach sustainable and lasting solutions.<sup>1338</sup> The “university corridors” programmes are implemented through ad hoc agreements and partnership projects between multiple actors, such as higher education institutions and university networks, associations, national authorities, international organisations, host communities, civil society organisations and refugee students.

In line with the UNHCR Three-Year Strategy on Resettlement and Complementary Pathways,<sup>1339</sup> as well as the UNHCR Refugee Education 2030 Strategy,<sup>1340</sup> multiple projects were implemented in 2021. For example, the project University Corridors for Refugees (UNICORE 4.0), supported by UNHCR, the Italian Ministry of Foreign Affairs and International Cooperation and several Italian civil society organisations, offered refugees living in Cameroon, Niger and Nigeria the opportunity to study in 27 Italian universities.<sup>1341</sup>

The German Academic Exchange Service launched new scholarship programmes for refugees from Cameroon, Côte d'Ivoire and Senegal, with funding from the German Foreign Office.<sup>1342</sup> The project “Universities for Refugees” (UNIV'R) was established in France in 2021 with the support of UNHCR, which aimed to enable refugees residing in a first country of asylum to study for a Master's degree of 2 years in a French higher education establishment. While two refugees arrived during 2021,<sup>1343</sup> 50 refugees would benefit from the project over the next two years.<sup>1344</sup>

Although these types of complementary pathways have shown their benefits in the last years, civil society organisations have pointed out that refugees using these programmes may face challenges due to a poor knowledge base from the national system, insufficient financial support, and the need for reception and integration support in the long term. Forum Réfugiés-Cosi suggested some measures to cope with these challenges, including the need to adapt and facilitate administrative procedures, securing scholarships and financial support from municipalities, foundations and private companies, and improving coordination between the education institutions and the host community.<sup>1345</sup> Similarly, UNHCR suggested several actions to expand educational corridors at the national level, mainly related to identifying and applying context-specific solutions to legal and regulatory barriers, investing in raising awareness and creating venues for coordination.<sup>1346</sup>



## Section 5. Children and people with special needs in the asylum procedure



*EU legislation contains provisions to address the special needs of applicants who may be considered especially vulnerable in the asylum system. These provisions ensure that vulnerable applicants receive adequate support to benefit from their rights and comply with the obligations which are defined under CEAS so that they can be on an equal footing with other applicants.*

*The recast Asylum Procedures Directive, Article 2(d) defines applicants in need of special procedural guarantees as those with a limited ability to benefit from rights and fulfil the obligations granted in the directive due to individual circumstances. Recital 29 gives examples of these circumstances: age; gender; sexual orientation; gender identity; disability; serious illness; mental disorders; consequences of torture, rape or other serious forms of psychological; and physical or sexual violence.*

*The term ‘unaccompanied minor’ refers to “a minor who arrives on the territory of the Member State unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not taken into the care of such a person. It includes a minor who is left unaccompanied after he/she has entered the territory of the Member State”.*

*The recast Asylum Procedures Directive, Article 24 outlines the special procedural guarantees for applicants in general, and Article 25 specifies the guarantees for unaccompanied minors. Member States are required to assess within a reasonable time whether there is a need to implement these guarantees for individual applicants and provide adequate support.*

*The recast Reception Conditions Directive defines applicants with special reception needs. It also lists examples, which are non-exhaustive, but they cover a slightly different scope. It explicitly mentions unaccompanied minors, single parents with minor children, victims of human trafficking and victims of FGM, but it does not refer to gender, sexual orientation or gender identity. Detailed provisions are listed in the recast Reception Conditions Directive, Chapter IV and require Member States to take into account the specific situation of a vulnerable applicant, assess vulnerabilities within a reasonable period and ensure that the needs are addressed. Chapter IV also lists specific provisions for minors, unaccompanied minors and victims of torture and violence. Article 11 lists the conditions for detaining vulnerable persons and applicants with special reception needs.*

*All instruments of the EU asylum acquis must be applied and interpreted by taking into consideration the Charter of Fundamental Rights of the European Union, as it is part of primary EU law. Article 24 of the Charter concerns the rights of the child and specifies that children have the right to protection and care as necessary for their well-being. The right to express their view freely and have them taken into consideration are also guaranteed. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child has the right to maintain a personal relationship and direct contact with both parents on a regular basis, unless it is contrary to his/her interests.*

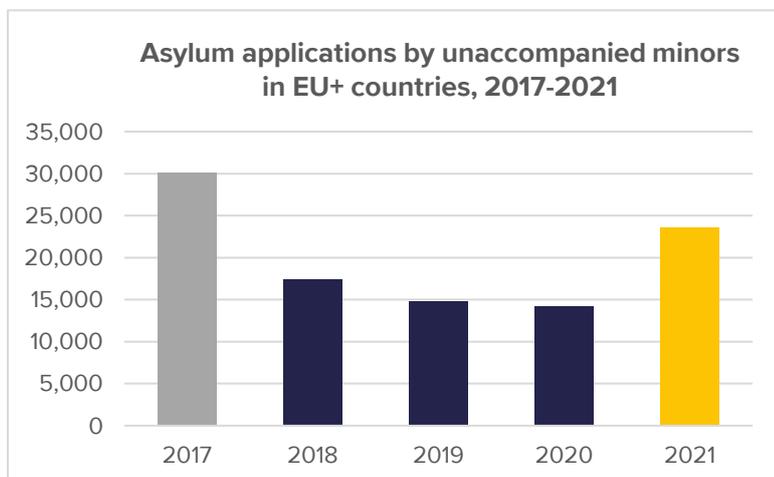




## Unaccompanied minors seeking protection

**4** in every **100** asylum applicants in EU+ countries are children travelling without a parent. They have made the journey alone in search of protection.

With **23,600 applications**, 2021 had the highest number of unaccompanied minors seeking refuge in EU+ countries since 2017.



**2/3** of all unaccompanied minor applicants were **16 to 17** years old

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There was a sharp increase in the number of applications by children from Afghanistan and Syria. Young Afghans represented 53% of all unaccompanied minors, while Syrian children accounted for 16%.





As in previous years, approaches to applicants with special needs were impacted by national legislative frameworks and the different flows and profiles of applicants. Some countries focused on improving identification and support in a comprehensive manner for all applicants with special needs. Others launched new initiatives or continued with earlier ones for specific groups of applicants.

Guidelines for assessing cases were updated and fine-tuned to ensure that claims related to gender-based violence, FGM/C, sexual orientation and gender identity, and trafficking in human beings were adequately taken into account by case officers. Specialised training for staff continued to equip them with the knowledge to identify and address specific needs in a swift and appropriate manner.

Some reception systems were once again faced with the challenge of adequately supporting applicants while reception places were limited (see *Section 4.7*). Thus, finding a place for applicants with vulnerabilities was a priority, but the available places might not have been the best fitted for the specific profiles.

Several countries reported an alarming increase in the number of unaccompanied children, which put the spotlight on any pre-existing gaps in the procedure to appoint a guardian, age assessments of self-proclaimed minors and the legal framework to ensure that a child's best interests are heard and taken into account in the context of asylum. The rapid inclusion of children into mainstream education remained a challenge in several countries, which can have a multiplying impact on their future perspectives as recognised beneficiaries of international protection and the possibility to obtain other types of permits related to study or work, in case their asylum application is rejected or their protection needs cease after a certain period.

## 5.1. Comprehensive approaches to identify and support children and applicants with special needs



Several countries took a more comprehensive approach to identify and address specific needs of asylum applicants. In 2021, they developed national strategies and coordination mechanisms, improved vulnerability assessment processes and continued to provide a wide range of specialised training.

For example, the French Ministry of the Interior published in May 2021 an action plan to strengthen support for applicants and beneficiaries of international protection with vulnerabilities.<sup>1347</sup> The plan lists ten action points for improved identification and support for special needs, in particular for female victims of all types of violence (past or present) (see *Section 5.2*), persons with health or mental issues, those with reduced mobility (see *Section 5.3*), LGBTIQ applicants (see *Section 5.4*), victims of human trafficking (see *Section 5.5*), and unaccompanied children (see *Section 5.6*). The action points include establishing adapted reception places, launching dedicated information campaigns and organising specialised training for all stakeholders involved in detection and support – especially for OFII's vulnerability coordinators and employees at the single registration desks (SPADA), as well as social workers in housing facilities.

A working group was established in Italy to better coordinate mechanisms for the identification of and support to applicants with special needs and vulnerabilities. The group, which includes representatives of ministries, the European Commission, the EUAA, Frontex,





Europol, UNHCR, the IOM, UNICEF, Médecins sans Frontières, the Red Cross and the SAI network, will develop targeted guidelines.

In Ireland, the International Protection Accommodation Service (IPAS) piloted a vulnerability assessment process throughout 2021. The pilot finished at the end of 2021, and the results are being assessed to develop long-term procedures.<sup>1348</sup>

Amendments to the Maltese Reception Regulations provided a more comprehensive transposition of the provisions in the recast Reception Directive on material reception conditions for vulnerable applicants.<sup>1349</sup> In addition, the Special Needs and Vulnerability Assessment (SNVA) Adult Referral Assessment Procedure was updated by AWAS. This procedure ensures the early identification of people with special needs (vulnerable adults) in initial reception centres. The overall objective is to identify vulnerable applicants and their special needs at any stage of the asylum procedure and to ensure timely access to appropriate services in terms of special reception needs, as well as special procedural guarantees.

The AIDA report for Cyprus welcomed that the identification system was improved in the first half of 2021 but noted that challenges started to resurface when the number of applicants increased later in the year. In addition, the report observed that the system primarily focuses on special reception needs, and less attention is paid to special procedural needs. Another weakness identified was the timing of the vulnerability assessment process, which is typically done 2 months after an applicant's arrival to the country, potentially leaving time-sensitive special needs unattended.<sup>1350</sup>

The Slovak Ministry of the Interior's Migration Office updated its internal instrument which is used for the identification of special needs and vulnerabilities, by finetuning the procedures for completing an applicant's social file and by strengthening cooperation among the various actors involved. Similarly, new standard operating procedures were developed in Romania on the identification, needs assessment, assistance and referral of vulnerable persons.

The Swedish Migration Agency updated its legal position on assessing the asylum applications of persons claiming to belong to a particularly vulnerable group in their country of origin.<sup>1351</sup>

The Finnish Non-Discrimination Ombudsperson published the first observations on an AMIF-funded project which was launched in 2020. The project sought to improve the identification of and support to former applicants with special needs who were being returned to their country of origin and to enhance monitoring of the implementation of a return. The Ombudsperson suggested to extend the time limits to allow for a thorough vulnerability assessment.<sup>1352</sup>

In cooperation with UNHCR and the IOM, the Austrian Federal Office for Immigration and Asylum (BFA) organised regularly training sessions for its staff on identifying special needs and vulnerabilities, interviewing applicants with special needs, and tailoring approaches to specific groups, such as women, children, LGBTIQ applicants and survivors of trafficking in the asylum procedure.

Training continued for the staff of the State Agency for Refugees in Bulgaria, which was organised by civil society organisations and the IOM on identifying and supporting survivors of human trafficking, working with children accommodated in safe zones and preventing gender-based violence.





In Italy, training focused on interviewing children, applicants with special needs and cases based on sexual orientation and gender identity.

## 5.2. Protecting women and girls



National authorities took steps to ensure that gender-specific circumstances are taken into account throughout the asylum procedure. When necessary, courts stepped in and maintained that FGM/C, gender-based violence and women's rights activism are recognised as grounds for international protection. Reception facilities and the provision of comprehensive support were enhanced in some countries to ensure safety for women and girls.

### 5.2.1. Updating procedures to better protect victims of violence



The State Agency for Refugees in Bulgaria updated its standard operating procedures for preventing and responding to sexual or gender-based violence within the asylum procedure, and the new procedures were implemented in cooperation with UNHCR and the State Agency for Child Protection. In addition, the agency established a pilot programme of self-care and well-being classes for women in the reception and registration centre Vrazhdebna in Sofia.<sup>1353</sup>

In Croatia, the Ministry of the Interior developed standard operating procedures to prevent and address sexual and gender-based violence in reception centres, in cooperation with UNHCR, Médecins du Monde, the Red Cross and the Croatian Law Centre. The new procedures, which were implemented in April 2021, define the roles and responsibilities of all service providers in the prevention of and response to violence. The Gender Equality Office designed leaflets in eight languages on gender-based violence for women applicants and beneficiaries of international protection.

Following the examples of the asylum and reception authorities, a gender coordinator was appointed for the Belgian Immigration Office in 2021.

Related to the specific needs of women and girls in reception, the Italian Ministry of the Interior's Department of Civil Liberties and Migration issued a circular to disseminate an operational guide to first-contact reception staff. The guidance addresses the provision of initial support to survivors of gender-based violence, which was developed by the IOM, UNHCR and UNICEF.

The European Institute for Crime Prevention and Control, which is affiliated with the United Nations (HEUNI), started implementing the project SARAH – Safe, Aware, Resilient, Able and Heard, aiming to protect migrant women who are victims of gender-based violence, including applicant and refugee women. The project is implemented by civil society organisations in four EU Member States, namely Germany, Greece, Finland and Italy.<sup>1354</sup>

In collaboration with the Mediterranean Institute of Gender Studies (MIGS), UNHCR Cyprus mapped the experiences and impact of sexual and gender-based violence among female and male asylum seekers in the Pournara First Reception Centre and highlighted that 49% of all women assessed were identified as victims of sexual or gender-based violence. The organisations added that the high share can be further contextualised with the higher rate of male arrivals and the higher number of men assessed in the mapping. The study observed a general lack of data on sexual or gender-based violence among asylum-seeking and refugee



women and put forward specific recommendations to improve data collection, reception conditions, specialised support services, access to information, housing and accommodation, as well as employment and training.<sup>1355</sup>

The Swiss Refugee Council published a legal analysis on the use the reports from the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in the asylum procedure.<sup>1356</sup> Together with UNHCR, the organisation summarised recommendations on the protection of women and girls in the area of asylum, which were collected from multiple reports published after the adoption of a special report on the situation of female applicants and beneficiaries of international protection by the Federal Council in 2019.<sup>1357, 1358</sup> Indeed, in its annual report for 2020, the Swiss parliamentary control committees (Commissions de gestion et de la Délégation des Commissions de gestion des Chambres fédérales) also looked at the risk of violence against women in federal reception facilities, as a follow-up to the special report.

The SEM in Switzerland underlined that addressing the issue of violence against women would remain a priority in 2021 and the authority planned to hold information and training sessions for asylum and reception staff to raise awareness of all forms of violence against women. A video will be developed to inform asylum applicants about social conventions and their rights and duties in Switzerland. It will also address specific topics related to women and underline the prohibition of all forms of violence against them.<sup>1359</sup>

On specific gender-related asylum grounds, the Belgian CALL [granted](#) refugee status to a woman by concluding that her fear of persecution following her abortion in Senegal was well-founded.

Related to forced marriages, the Belgian court also [held](#) that an applicant cannot be excluded from international protection based on having married and having had a sexual relationship with a minor girl, when he himself was also a minor at the time of the marriage. The court underlined in another [case](#) that early marriage may constitute a ground for exclusion, but this should not be automatic. It granted refugee status to the applicant, whose wife was 13 years old at the time of the marriage. Taking into account the importance of religious laws, customs and traditions and the Syrian law on personal status, the court concluded that he was not aware of the unlawfulness of his actions and did not intend to commit rape. The wife was 23 years old at the time of the judgment, left Syria with her husband, and the welfare officer observed mutual trust and respect between the spouses, who were both actively involved in the education of their children. The CALL came to a similar conclusion in another [case](#) and overturned the exclusion of a Syrian applicant who married a 14-year-old girl.

In contrast, the French CNDA [confirmed](#) OFPRA's decision to exclude from international protection a Congolese man, whose well-founded fear of persecution was acknowledged based on his political and religious engagements, but he had married a 12-year-old girl and had a child with her when she was 14.

The CNDA [granted](#) refugee status to a woman from Côte d'Ivoire who was abused by her uncle since her childhood and was forced to marry one of his business partners. The court noted the evolution of legislation on forced marriage but concluded that this practice was still widespread and authorities provided no effective protection against it. It came to the same conclusion in the [case](#) of a woman from Mali, who was forced to marry and was a victim of domestic violence, and in another [case](#) of an Afghan woman who was harassed to re-marry after her husband passed away.



On assessing gender-based violence more generally, the Belgian CALL [held](#) that despite some ambiguous points in the statement, a female applicant provided sufficiently detailed, precise and plausible points to conclude that she was a victim of threats following her divorce, and there seemed to be insufficient protection for victims of violence in Turkey. However, in another [case](#), the court reiterated that the fear of persecution must be demonstrated in concrete terms, and the mere fact that women are the main victims of sexual and psychological gang violence in El Salvador was not sufficient to substantiate that the single female applicant and her two girls are actually threatened and persecuted in their country of origin.

The French CNDA [granted](#) subsidiary protection to a single, unmarried woman from Central Kasai in Congo (based on the recast Qualification Directive, Article 15(c)), as it considered that isolated women were sexually targeted by armed groups. In another case, the CNDA [stated](#) that, in addition to a well-founded fear of persecution which was thoroughly documented by medical certificates, supported by the applicant's credible statements and corroborated with COI reports, the fact that an applicant was a single woman with five children from the Democratic Republic of Congo would make it difficult for her to settle in a safe environment if returned to her country of origin.

In Finland, the Supreme Administrative Court [ordered](#) the Finnish Immigration Service to reassess a case based on updated COI reports and the best interests of the child, when it originally rejected refugee status for a Somali girl when assessing that her report on attempts to forcibly marry were not sufficiently credible.

The High Court in Ireland [referred](#) back a case for examination and underlined that the authorities are also obliged to verify the risk of future persecution in the event of a return of a single Pakistani woman, next to the assessment of persecution in the past.

The Dutch Council of State [granted](#) international protection to a female lawyer from Iran who had helped a woman in a divorce from her abusive husband. She had an altercation with the judge on the case on women's rights, after which she was removed from court, then arrested, detained and assaulted for 2 days by the security service. Originally, the asylum authority deemed her statements credible but not sufficiently serious to grant international protection.

### 5.2.2. Addressing FGM/C



The Finnish Immigration Service produced new, comprehensive guidance for reception staff to help combat FGM/C in countries of origin.

The Maltese IPA and AWAS signed a memorandum of understanding on the medical referral of applicants claiming to be survivors of FGM/C. The IPA refers these women and girls to AWAS, which follows up with a medical examination at a local hospital. When the fact of FGM/C is confirmed, the applicant receives a medical certificate, the IPA omits questions related to this fact during the interview to avoid retraumatising the person, and AWAS adapts material reception conditions accordingly.

As part of an ongoing commission from the Swedish government to several authorities to combat and prevent FGM/C, the Swedish Migration Agency undertook a legal quality monitoring of 400 cases, with the final report expected to be published in 2022.<sup>1360</sup>



Among court cases related to FGM/C, the Norwegian Immigration Appeals Board **ruled** that the mother of a girl who was granted international protection due to a risk of FGM/C in the country of origin should be granted a derivate residence permit for international protection and should not be referred to apply for family reunification (see *Section 4.14*). The decision was based on the best interests of the child.

In the Netherlands, the Court of the Hague **rejected** the appeal of a Nigerian woman who claimed that her four children were at risk of FGM/C, noting that legislation prohibited FGM/C in Nigeria and the applicant's statements were found to be contradictory.

The UN Committee on the Rights of the Child **concluded** that Denmark violated the best interests of a girl who was at risk of FGM/C and forced marriage if returned to her country of origin. The committee underlined that the authorities assessed only the general situation in the country of origin and did not consider the child's specific context.

With regard to gender-based violence, a protocol was approved in Spain to establish common criteria for professionals who work with applicants and beneficiaries of international protection to detect and prevent gender-based violence in reception. The Swedish Migration Agency updated its legal position from 2017 on investigating and assessing women's gender-based persecution within the asylum procedure.<sup>1361</sup>

### 5.3. Applicants with disabilities and special health needs



The new EU Strategy for the Rights of Persons with Disabilities was adopted for 2021-2030, and the European Commission called on Member States to work closely with the EUAA and facilitate the training of protection officers and interpreters who are in contact with applicants with special needs, including persons with disabilities.<sup>1362</sup> The EUAA published the findings of a consultation process with applicants for international protection on mental health. Recommendations were presented on improving reception conditions and conditions during the personal interview.<sup>1363</sup>

Several times throughout 2021, courts assessed the impact of medical conditions and health issues in the context of Dublin transfers (see *Section 4.2*) and returns (see *Section 4.15*), for example in Greece (see [here](#)), Iceland (see [here](#) and [here](#)), Italy (see [here](#)), the Netherlands (see [here](#) and [here](#)) and Switzerland (see [here](#), [here](#) and [here](#)). The Court of the Hague **referred** questions for a preliminary ruling to the CJEU on the availability of medical treatment and the possibility to return a former applicant (see *Section 4.15*).

While the Swedish Migration Agency **updated** its legal position on the medical examination of applicants invoking physical or psychological harm to support their asylum claim,<sup>1364</sup> the UN Committee on the Rights of Persons with Disabilities **found** in a particular case that the Swedish authorities failed to dispel any doubts about the risks an applicant would face if returned to Afghanistan, when he was diagnosed with and treated for PTSD which was assessed to be life-threatening due to the risk of suicide.

A Belgian project financed by Fedasil established a manual for counsellors working with applicants with hearing impairments.<sup>1365</sup> Meanwhile, the Icelandic Directorate of Immigration has been developing new standard operating procedures for applicants with disabilities and mental health issues.



The Irish Centre for Human Rights and the Centre for Disability Law and Policy of the National University of Ireland in Galway drafted a joint submission to the Minister for Children, Equality, Disability, Integration and Youth and to the minister responsible for disability. It highlighted that a strategic approach to managing applicants with disabilities was applied in the development and implementation of the vulnerability assessment tool that was piloted throughout 2021 (see *Section 5.1*).<sup>1366</sup>

Among initiatives related to reception, the Greek Ministry for Migration and Asylum highlighted that the new CCACs on the islands (see *Section 4.7*) were all wheelchair accessible. In Italy, the number of reception places for applicants with a chronic illness or mental health issues was further increased by 170 places in 2021.<sup>1367</sup> The French government aimed to make 2% of reception places accessible to persons with reduced mobility.<sup>1368</sup> In the Netherlands, the COA prepared new, simplified information material for illiterate persons and persons who cannot read and write in the Latin alphabet. For example, a new welcome letter was made for new residents (see *Section 4.9*).<sup>1369</sup>

Deliberating on health-related issues as a ground for asylum, the Belgian CALL granted refugee status to an HIV-seropositive woman from *Côte d'Ivoire*, taking into account her particular vulnerable situation due to her illness and for being an orphan with physical signs of sexual abuse and suffering from major psychological issues. The regional court in Bruno, Czechia referred a case back for further assessment when an application was made on behalf of a child due to his health status, coming from a country designated as safe country of origin. The court observed that the application should not have been rejected as manifestly unfounded, without considering the health grounds.

In Germany, health services for asylum applicants are covered by state authorities for the first 18 months of their stay. After this period, the statutory health insurance becomes responsible, which only covers the cost of a treatment if it is undertaken by a licensed practitioner. Additional practitioners can be authorised by a special committee according to *Ärzte-ZV*, Section 31. The judgment B 6 KA 16/20 R by the Federal Social Court clarified that therapists can be authorised according to *Ärzte-ZV*, Section 31(1) and (2), even if they had not been treating asylum applicants within the first 18 months of their stay in Germany. According to the court, the intention of the cited clause was to combat the general lack of qualified psychotherapists to treat traumatised asylum applicants, not just to avoid the interruption of a treatment started before the 18-month cut. Consequently, the psychotherapy must then be covered by the statutory health insurance scheme.<sup>1370</sup>

#### 5.4. Seeking protection and receiving support in reception based on sexual orientation, gender identity, gender expression and sex characteristics



As one of the main outputs of the SOGICA project, a comprehensive and comparative analysis was published on international protection based on sexual orientation and gender identity in Germany, Italy and the United Kingdom, extrapolating the findings to a broader, pan-European perspective. The report presents the theoretical and policy framework, the experiences of this profile of applicants throughout the asylum procedure and reception, and emerging trends which impact the grounds for asylum based on sexual orientation and gender identity. It also offers recommendations to address systemic issues and inconsistencies in national asylum systems.<sup>1371</sup>





Even after the formal closing of the SOGICA project, outputs continued to be published throughout 2021 and 2022, focusing on specific aspects, such as the need to better account for sexual orientation and gender identity in human rights law to effectively address related issues in European asylum law,<sup>1372</sup> the notion of family and family rights of applicants claiming asylum on grounds of sexual orientation and gender identity,<sup>1373</sup> improving guidance for decision-makers,<sup>1374</sup> and the impact of social factors outside the legal asylum procedure on the outcome of the procedure.<sup>1375</sup>

Among initiatives of national authorities, the Maltese IPA issued internal guidelines, which were formally adopted in 2020 and implemented in 2021, on interviewing and assessing applications based on sexual orientation and gender identity. The guidelines include a clear policy that the criminalisation of a person's sexual orientation or gender identity in the country or origin must be automatically considered as persecution.

The Swedish Migration Agency updated its legal position from 2015 on the investigation and assessment of a future risk of persecution for applicants claiming asylum due to sexual orientation or gender identity.<sup>1376</sup>

The Dutch State Secretary for Justice and Security launched the reassessment of the safe country of origin list, following a [judgment](#) by the Council of State related to an applicant claiming asylum based on his sexual orientation and which led to the revision of the overall reassessment process (see *Section 4.3*). While several countries were re-affirmed as being generally safe, LGBTIQ applicants from Brazil, Jamaica and Senegal should be exempted from this presumption, and special attention should be paid if the applicant came from Georgia, Ghana, Mongolia, Serbia and Ukraine (since 28 February 2022, Ukraine cannot be considered to be a safe country of origin in general until the moratorium on decisions is maintained).

To improve reception and support for applicants with special needs due to their sexual orientation or gender identity, the Danish organisation LGBT Asylum was granted DKK 2 million (approximately EUR 268,000) for 2022-2025 to provide counselling and social support for LGBTIQ applicants.<sup>1377</sup> In Belgium, the first special reception facility was established for LGBTIQ applicants with a total of 14 places in two secret locations in Brussels. The French Ministry of the Interior launched a request for proposals in order to dedicate 200 places in the reception system to vulnerable LGBTIQ applicants and recognised beneficiaries of international protection, to be available early 2022.<sup>1378</sup> As part of the reform of the Irish reception system, the IPAS announced the development of a new LGBTIQ resident policy, including accommodation for transgender applicants.<sup>1379</sup> In Austria, LGBTIQ applicants are typically accommodated in Vienna, where the NGO Queerbase has been providing support to them since several years.<sup>1380</sup>

Among court cases related to sexual orientation and gender identity as a ground for asylum, the Belgian CALL [confirmed](#) the decision of the CGRS to reject an application when the applicant asked for international protection based on his sexual orientation but could not recall any persons to be attracted to or any situation or memorable event of such attraction. The High Court in Ireland confirmed several negative decisions for a lack of credibility about the sexual orientation of the applicants (see for example [here](#), [here](#) and [here](#)).

In Italy, the Supreme Court of Cassation [annulled](#) the asylum authority's negative decision based on a lack of credibility and noted that the assessment was grounded in secondary details and stereotyped notions of sexual orientation. The authority had not taken into account the difficulties the applicant had in telling intimate details to substantiate his claim. In





another case, the same court **reiterated** that the applicant's lack of credibility cannot be deducted from the sole fact that he could not reply to stereotypical questions on homosexuality.

The Genoa tribunal underlined in another **case** that the applicant's statements seemed linear, coherent and credible, and the decision on credibility cannot be made only on the fact that he did not immediately share information related to his sexual orientation. The Bologna tribunal also **overturned** the authority's decision and granted international protection to an applicant from Senegal. He was threatened by his family due to his sexual orientation and could not rely on the protection of authorities, as homosexuality is considered a crime in Senegal and is socially condemned.

The French CNDA granted international protection to applicants based on its assessment that homosexual people constituted a particular social group, for example in **Brazil**, **Benin**, Zanzibar in **Tanzania** and **Venezuela**.

## 5.5. Identifying and supporting survivors of human trafficking



In its new EU strategy on combatting trafficking in human beings 2021-2025, the European Commission strives to provide a comprehensive response and cover all aspects from prevention to the conviction of traffickers.<sup>1381</sup> The document notes instances when traffickers took advantage of national asylum systems and gives examples of the instruments under the Pact on Migration and Asylum to ensure that smuggling networks are dismantled and victims can safely reach the EU.

In response, several Member States, for example Slovakia and Slovenia, adopted new national action plans for combating trafficking in human beings.<sup>1382</sup> The Spanish government adopted the National Strategic Plan against Human Trafficking for 2021-2023 with 16 action lines and 62 measures. This is considered to be the first comprehensive plan to address all forms of trafficking in the country, involving several ministries, the judiciary, the state prosecutor's office, international organisations and civil society organisations.

The Council of Europe's GRETA published reports on Bulgaria,<sup>1383</sup> Denmark,<sup>1384</sup> Malta<sup>1385</sup> and Romania<sup>1386</sup> in 2021 and on France<sup>1387</sup> in early 2022.

The Slovak government adopted a resolution to outline its plan for addressing the 2020 recommendations from GRETA.<sup>1388</sup> As part of the changes, authorities have started to implement the updated national referral mechanism in 2021, laying down the roles and responsibilities for the identification of and support to survivors of human trafficking.<sup>1389</sup>

In preparation for GRETA's visit to Ireland,<sup>1390</sup> the Irish Human Rights and Equality Commission prepared a report on Ireland's compliance with the Council of Europe's Convention on Action against Trafficking in Human Beings. The report welcomes the approval of the National Referral Mechanism<sup>1391</sup> and underlines that it needs to apply to all suspected victims of trafficking regardless of their nationality and immigration status. The report underlines that the development of specific accommodation for trafficking victims needs to be a priority under the reform of the Irish reception system.<sup>1392</sup>

The Working Group on Asylum and Human Trafficking in Switzerland published its recommendations for the State Secretariat for Migration. Some of the recommendations have already been implemented as a result of the discussions within the working group, for



example a 30-day recovery and reflection period for potential victims of human trafficking who are identified during the asylum procedure. The authority is planning to further improve its processes, for example by introducing a special interview for survivors of human trafficking, harmonising rules for identification and assistance, and facilitating communication among support, medical and security staff, as well as legal advisors.<sup>1393</sup>

A consultative group was established in Bulgaria to launch an online platform offering guidance and support to victims of trafficking. The group includes the State Agency for Asylum, the Agency for Social Aid, the Agency for Quality of Social Services, the State Agency for Child Protection, the Prosecutor's Office, Directorate General National Police, Combating Organized Crime, border police, as well as the IOM and UNHCR. The launch of the platform is part of the activities under the project "ACTIVATE – Improving the identification of victims, prevention of trafficking in human beings and support mechanisms", funded by AMIF and implemented by Animus Association Foundation. Following the standard operating procedures of the Bulgarian National Mechanism for Guiding and Assisting Traffic Victims which was approved by a Council of Ministers' decree in 2016, the platform will include information on the stakeholders involved in the national mechanism, an interactive map of social services for victims of trafficking, information on international, European and Bulgarian legislative frameworks, and research, reports and data on trafficking in human beings.

Under the same AMIF project, 126 Greek reception and public health employees working in reception facilities received training on the identification of victims of human trafficking.<sup>1394</sup>

The Deputy Minister for Social Welfare, the Minister for Justice and the police signed a memorandum in Cyprus to strengthen cooperation for the referral and support to survivors of human trafficking.<sup>1395</sup> The national reception strategy also established assessments and referral mechanisms as core objectives.<sup>1396</sup>

Fighting human trafficking has remained a priority for the Finnish government. In July 2021, it adopted the national Action Plan against Trafficking in Human Beings, including five strategic objectives and 55 actions.<sup>1397</sup> The Finnish Ministry of the Interior and the Ministry of Economic Affairs and Employment requested the Non-Discrimination Ombudsperson to analyse practices related to issuing a special residence permit to victims of human trafficking. The request came from the Finnish parliament inquiring about the need for legislative amendments on the grounds of the special residence permit.<sup>1398</sup>

The report concluded that most victims were granted international protection or a residence permit based on humanitarian reasons, but the provisions on the special residence permit created for victims of human trafficking were rarely applied.<sup>1399</sup> In addition, several other initiatives were ongoing to revise the identification of and support to survivors of human trafficking in general, for example by developing a comprehensive legislative framework to combat trafficking,<sup>1400</sup> a pilot programme on job training for victims of human trafficking,<sup>1401</sup> and a general revision of support to survivors to avoid re-victimisation.<sup>1402</sup>

UNHCR and the Italian National Commission for Asylum published new guidelines for the identification of victims of trafficking in an effort to standardise the procedure across territorial commissions.<sup>1403</sup> Italian tribunals were faced with several asylum claims by trafficked applicants, for example women from Nigeria (see [here](#) and [here](#)). The CNDA in France noted that a Nigerian woman from Lagos, escaping a prostitution network, could not be considered to belong to a particular social group, as the scale, methods and traffickers' means of control over the victims were not comparable to that in Edo or other southern states in Nigeria. Still,



due to the risks after escaping from prostitution, the court concluded that she should be granted subsidiary protection.

In contrast, the Swiss Federal Court **concluded** in a case that an applicant from Edo who was forced into prostitution after she arrived to Europe could return to Nigeria and re-establish her life there, given that she remained in constant contact with her family and there were no indications that they would not support her upon return.

The French action plan on vulnerabilities foresees an evaluation of the 300 places dedicated to victims of human trafficking and female victims of violence.<sup>1404</sup>

The Dutch Court of the Hague **referred** questions to the CJEU seeking clarification on the issuance of a residence permit for victims of trafficking in human beings in conjunction with the Dublin III Regulation. The Council of State questioned the **impact** of an appeal on the counting of the Dublin transfer time limit in a case involving human trafficking (see *Section 4.2*).

Several civil society initiatives provided their input and expertise in the area of human trafficking and asylum. For example, the COALESCE project was launched in January 2021 with AMIF funding to provide support to female migrant victims of trafficking in human beings for sexual exploitation. It is led by the Mediterranean Institute of Gender Studies in Cyprus, and project partners include the European Network of Migrant Women and civil society organisations from Cyprus, Germany, Ireland, Italy, Latvia and Lithuania.<sup>1405</sup> Throughout 2021, Mind the Gap reports were published for each project country, analysing the needs to integrate survivors.<sup>1406</sup>

The AMIF-funded project “Identification of Trafficked International Protection Beneficiaries’ Special Needs (TRIPS)” is a 2-year initiative coordinated by Forum Réfugiés-Cosi which aims to identify and address specific integration needs of trafficked beneficiaries of international protection, both at the EU and national levels.<sup>1407</sup> The project is implemented with civil society partners from Czechia, Ireland and Italy and the Churches’ Commission for Migrants in Europe. Country-specific project updates were published throughout 2021,<sup>1408</sup> as well as a European level comparative report leading to recommendations to European and national policymakers and national authorities.<sup>1409</sup>

## 5.6. Children going through the asylum procedure



The new comprehensive EU Strategy on the Rights of the Child was adopted in 2021 with specific considerations on refugee children’s access to education and adequate health care, as well as their need for age-appropriate information and guidance during the asylum procedure.<sup>1410</sup>

The United Nations Committee on the Rights of the Child published its concluding observations on Luxembourg,<sup>1411</sup> Poland<sup>1412</sup> and Switzerland<sup>1413</sup> in 2021, and on the Netherlands<sup>1414</sup> in early 2022, mentioning concerns related to the best interests of the child in the asylum procedure and their reception conditions.

Among comprehensive national initiatives, a draft law on child protection was discussed in France and adopted by the National Assembly in July 2021,<sup>1415</sup> and by the Senate in December 2021.<sup>1416</sup> The draft includes several provisions relevant to unaccompanied children. For example, the services responsible for evaluating the child’s minority and isolation will be subject to stricter regulatory measures. The redistribution scheme for unaccompanied minors



will be adapted to take into account the socio-economic situation of departments and will prioritise departments that can support children with their transition into adulthood. The evaluation file will be systematically consulted to verify if the child has been assessed in another department. When a department has established the age and the fact that the child is unaccompanied, another department cannot undertake a new assessment to re-evaluate these conclusions. The law would ban accommodating children in facilities not specifically authorised for this purpose.

In addition, 17-year-old children will be interviewed as soon as possible to prepare them for the transition into adulthood. Departments will be obliged to offer support in transitioning to adulthood for youth up to the age of 21. In addition, the government's special action plan on vulnerabilities foresees several steps to facilitate unaccompanied children's access to the asylum procedure (see *Section 4.1*), for example through a dedicated registration procedure harmonised across prefectures. Furthermore, the action plan proposes to establish an inter-ministerial working group to accelerate the designation of guardians for unaccompanied children and the amendment of the Civil Code to clarify the application of guardianship for unaccompanied children whose parents are alive but geographically far.<sup>1417</sup>

A new national coordination board dedicated to unaccompanied children was established in Italy, with its first meeting foreseen for spring 2022. It includes stakeholders from the national coordination board on reception and the integration of beneficiaries of international protection.<sup>1418</sup>

The prioritisation procedure was updated in Ireland, which re-confirmed that asylum interviews for unaccompanied minor applicants may be scheduled with priority.

The Austrian Federal Ministry of Justice established a Commission on the Best Interests of the Child in February 2021. The commission was tasked to review the legal framework and practices related to children in the asylum procedure.<sup>1419</sup> Its report of July 2021 included a set of recommendations organised around 11 topics, including on the assessment of the best interests of the child in the asylum procedure, legal advice to children, age assessments, guardianship, accommodation and care for children, avoiding statelessness, improving the legal framework, data collection and monitoring children's rights.<sup>1420</sup>

The Ministry of Justice announced to follow up on these recommendations and improve processes for the guardianship of unaccompanied children and the determination of the best interests of the child. The Austrian parliament requested the federal government to undertake a more in-depth revision of these processes.<sup>1421</sup> The Federal Ministry of the Interior conducted an internal review as well, concluding that many of the recommendations were already being applied or were on the way to implementation. As new measures, the ministry updated its guidelines on the determination of the best interests of the child, adapted other internal work documents and reinforced staff training. Prior to the publication of the Commission's report, UNHCR offered its perspective on the state-of-play in Austria and made recommendations on taking into better account the best interests of the child within the asylum procedure.<sup>1422</sup>

### 5.6.1 Data on unaccompanied minors



According to the Eurostat Technical Guide, applications for international protection by unaccompanied minors are counted as such when the age of the applicant has been accepted by the national authority. The age of an applicant may be determined through an age assessment procedure.



In 2021, some 23,600 applications for international protection were lodged by unaccompanied minors in EU+ countries,<sup>xlviii</sup> the most since 2017. However, the share of unaccompanied minors within all applicants for international protection remained relatively stable at around 4%, so the increase in their absolute number is a reflection of more asylum applications being lodged in general, rather than a disproportional influx of unaccompanied minors.

Most unaccompanied minors lodged applications in Austria (5,600), Germany (3,300) and Bulgaria (3,200), followed at some distance by Greece, Belgium, Romania, Italy, Switzerland and Slovenia (in descending order). With the exception of Greece, these countries received more applications by unaccompanied children than in the previous 2 years (or longer). Austria, Belgium and Switzerland received the most unaccompanied minor applicants since the refugee crisis of 2015-2016, while in Bulgaria, Romania and Slovenia the numbers were possibly the highest ever.<sup>xlix</sup>

While the overall share of unaccompanied minors in EU+ countries was relatively small, there were significant variations in patterns at the country level. In particular, in Bulgaria 29% of asylum applications in 2021 were lodged by unaccompanied minors. Their share was also relatively high in Romania (18%), Austria and Slovenia (15% each). These proportions suggest that a large number of unaccompanied minors arrived in EU+ countries with the flows of asylum-related migration through the Balkan routes.

### Nationality of minor applicants



The absolute number of applications by unaccompanied minors from Afghanistan (12 600) and Syria (3 900) was the highest since the migration crisis in 2016 and considerably higher than in each of the previous 4 years (see Figure 5.1). In relative terms, more than one-half of all applications by unaccompanied children were lodged by Afghans (53%), followed at some distance by Syrians (16%), Bangladeshis (6%) and Somalis (5%), all with increasing trends compared to recent years. Unaccompanied minors also represented 5% of applications lodged by nationals of Pakistan, but their number remained relatively stable compared to 2020 and lower than in earlier periods. On a smaller scale, there were more unaccompanied minors from Egypt (455) than at any other point since records began in 2008.

While unaccompanied minors accounted for 4% of all applications in EU+ countries, variations can be seen in the nationalities which make up this group. In total, 12% of all Afghans who sought international protection were unaccompanied minors. This has been the case already for several years and this trend shows no sign of depletion since the Taliban takeover of the country.

Unaccompanied minors from Afghanistan mostly and increasingly applied for asylum in Austria, Bulgaria, Romania, Germany and Belgium (in descending order). Unaccompanied minors from Syria tended to lodge applications in Austria and Germany, and children from Bangladesh and Pakistan applied mostly in Italy and Greece. Unaccompanied Somali minors applied in multiple countries, including Greece, Germany, Austria and Italy (in descending order).

<sup>xlviii</sup> Data were missing for France, Lithuania and Portugal.

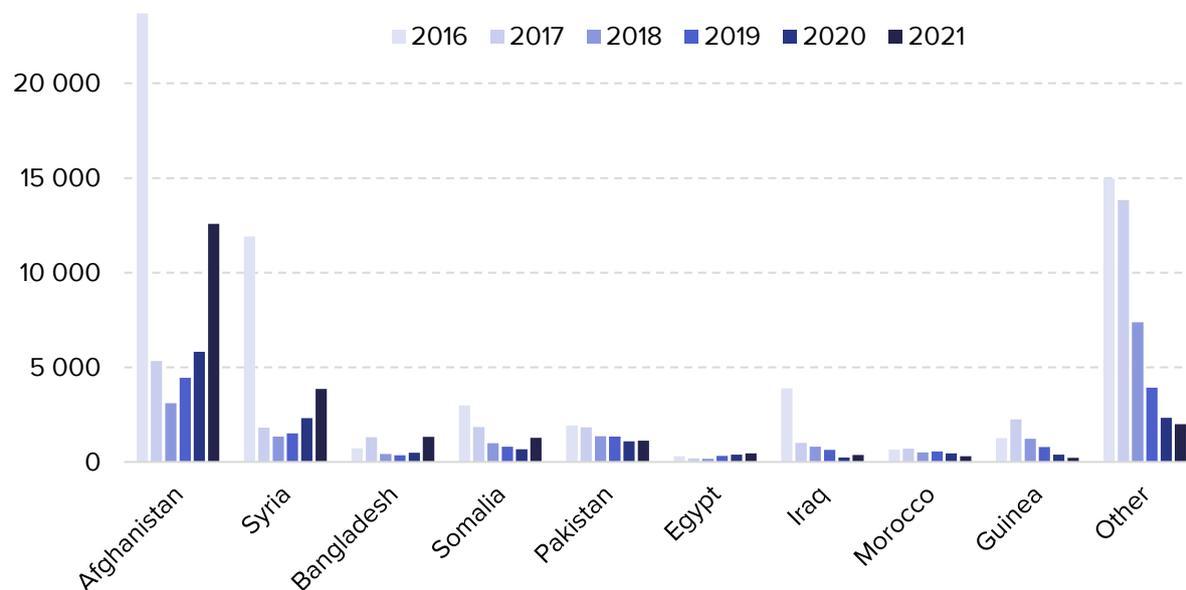
<sup>xlix</sup> At least since 2008 when Eurostat's harmonised data collection began.





## Asylum applications by unaccompanied minors from Afghanistan and Syria increased considerably compared to the past 4 years

**Figure 5.1. Number of applications by unaccompanied minors by top countries of origin, 2016-2021**



Source: Eurostat [[migr\\_asyunaa](#)] as of 22 April 2021.

Overall, 12% of all minor applicants were unaccompanied, but the share increased to nearly one-half of all 14- to 17-year-old applicants. Notably, 86% of Bangladeshi minors between 14 and 17 years of age were unaccompanied, as well as 75% of Egyptians, 66% of Pakistanis and 65% of Afghans in this age group. In contrast, just 12% of 14- to 17-year-old Eritreans were unaccompanied and 14% of Iraqi minors.

About two-thirds of all unaccompanied minor applicants were 16- to 17-year-olds. Only 9% of the total were younger than 14 years at the EU level, but all unaccompanied minors applying for asylum in the Netherlands were in this age group.

Girls represented just 6% of all unaccompanied minors in EU+ countries (see *Figure 5.2*). Their share was higher in the youngest age cohort, those younger than 14 years, accounting for about one-fifth.

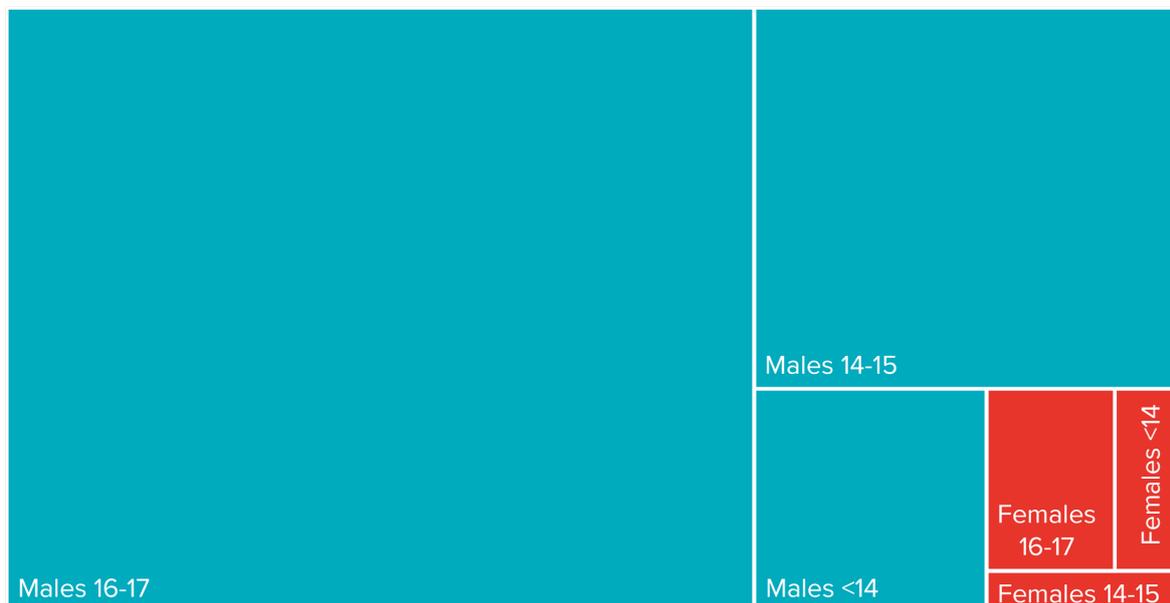
Girls were a minority among unaccompanied minors for all nationalities of applicants. However, they were slightly more prominent among children from Somalia and Eritrea, representing 25% and 21% of the total, respectively.<sup>1</sup> In contrast, there were no girls among unaccompanied minor applicants from Algeria, Bangladesh and Egypt.

<sup>1</sup> Only nationalities with at least 100 applications by unaccompanied minors in 2021 are considered.



## Very few girls among unaccompanied minor applicants in EU+ countries

Figure 5.2. Sex and age groups of unaccompanied minors applying for international protection in EU+ countries, 2021



Source: Eurostat [[migr\\_asyunaa](#)] as of 22 April 2022.

### 5.6.2. Legal representation of asylum-seeking children



The Bulgarian State Agency for Refugees monitored throughout 2021 the implementation of amendments from 2020 related to the representation of unaccompanied minors in the asylum procedure. It organised workshops and meetings with case officers and reception staff and updated its internal guidelines.

Croatian authorities observed that guardians often consent to unaccompanied children aged 16 years and older to be accommodated in regular reception facilities in order to stay close to adult relatives in the same facility. Guardians receive basic training on international protection, but the authorities noted that they may need more specialised knowledge to address the specific circumstances surrounding the protection of children. The Croatian Ministry of the Interior established good relations with guardians and schools, facilitating the school enrolment of both accompanied and unaccompanied children.

METAdrasi published a detailed overview of the development of rules and responsibilities for the guardianship of unaccompanied children in Greece in recent years, highlighting that the current inconsistencies in the process risk leaving children without representation.<sup>1423</sup> In a recent ECtHR case, the Greek authorities had not informed the prosecutor – who acts as a temporary guardian for unaccompanied children – about the arrival of an unaccompanied child who identified as a gay boy and was at a heightened risk of contracting COVID-19 due to his asthma. The authorities treated him as an adult, he was accommodated in unhygienic conditions in a tent with 14 other unrelated adult men and was exposed to repeated racist and homophobic attacks. The child was eventually referred to an age assessment procedure

following his lawyer's intervention and was recognised as a minor 4 months after his arrival.<sup>1424</sup>

In 2021, the European Committee of Social Rights **concluded** that Greece was in breach of several provisions of the European Social Charter. An effective guardianship system for unaccompanied children was not in place and the protective custody scheme in practice meant that many children were detained. The committee also noted violations related to the reception of applicant children (see *Section 5.6.5*).

The Maltese Minor Protection (Alternative Care) Act was amended in 2021 to avoid the potential conflict of interest that was embedded in the previous practice, when social workers and guardians belonged to the same institution. Persons claiming to be minors receive a provisional care order and an interim representative is appointed (the Unit Leader of the Unaccompanied Minor Asylum Seekers (UMAS) Protection Services), until the results of the age assessment confirm minority. AWAS conducts the age assessment and sends the results to the court, which nominates the guardian and issues the definitive care order.<sup>1425</sup> AWAS noted that in practice no NGO or other private actors have volunteered to fulfil the tasks of guardians and it was difficult to identify a permanent legal guardian.

The Finnish Immigration Service became entirely responsible for providing guidance on, planning and monitoring the guardianship of unaccompanied children in 2020, and this new arrangement had started to be implemented in 2021.

Ensuring the continuity of guardianship and legal representation for unaccompanied children is crucial, as illustrated in a **case** from the Administrative Tribunal in Luxembourg. The child intended to appeal against a negative asylum decision, but at the moment of submitting the appeal, he was not assisted by a representative. His new representative had submitted a request to represent the child but had not received a decision yet, while his previous representative considered his tasks to have been taken over.

In Slovenia, amendments to the International Protection Act ensured that unaccompanied children have continuous legal representation even after a decision is given on their asylum application.<sup>1426</sup> Statutory representatives are obliged to attend training every 3 years, and the training programme was enhanced with material on communication skills.<sup>1427</sup>

### 5.6.3. Assessing the age of a child applicant



In 2021, the EUAA updated and published its findings on age assessment practices in EU+ countries.<sup>1428</sup> Complementing a child-friendly animation which was released in 2020,<sup>1429</sup> the agency published a booklet for children arriving to Europe which explains what the age assessment process is.<sup>1430</sup> AWAS in Malta has updated the age assessment procedure and the age assessment tool with the support of the EUAA, according to the Agency's guidelines.

An advisory council was established in Belgium, chaired by the Catholic University of Leuven and the University of Ghent, to improve and standardise age assessment processes, ensuring that all hospitals carry out the examinations in the same manner. Authorities continued to be faced with a high number of applicants claiming to be minors: in 2021, 69% of self-proclaimed minors were found to be adults.

The Croatian Ministry of the Interior clarified the procedural steps for an age assessment in collaboration with medical institutions. However, no age assessment has so far taken place



based on the new rules in 2021, as self-proclaimed minor applicants had absconded before the process could be initiated.

In Slovenia, authorities can request an age assessment already when an asylum application is made, instead of when it is lodged. These amendments were introduced to ensure that children can have access earlier to tailor-made reception and support, and authorities can start arranging procedural guarantees.<sup>1431</sup>

In Cyprus, the Administrative Court for International Protection raised issue with the age assessment procedure and the role of Social Welfare Services as the guardian of unaccompanied children.<sup>1432</sup> Based on the judgment, national authorities started to revise relevant roles and procedures.

Finnish authorities purchased a new, more reliable software which automatically calculates an applicant's presumed age based on an X-ray of the wrist. Discussions were also underway in France to revise the methods for an age assessment, in particular related to bone age assessments.

Principles of the age assessment procedure were clarified with the Organic Law 8/2021 in Spain. The law underlines that when the age of majority cannot be established, the person must be considered a minor pending the results of the age determination. Medical tests require the child's prior informed consent, and they must be carried out respecting the child's dignity and without risking the child's health. Medical tests which are invasive, require the child to be completely naked or genital examinations can no longer be done.<sup>1433</sup>

Amnesty International welcomed these changes and urged for additional measures to accelerate the age assessment process, noting that approximately 1,000 minors were waiting for the results of their age determination on the Canary Islands, in some cases for over a year.<sup>1434</sup> Indeed, the UN Committee on the Rights of the Child **found** that Spain had violated several articles of the Convention on the Rights of the Child in the age assessment process for a Gambian child who arrived to the Canary islands by boat. The Committee also **found** several violations in the age assessment process and the subsequent treatment of a girl from Cameroon fleeing domestic violence.

In June 2020, the Swedish government commissioned an independent inquiry to examine the method used by the National Board of Forensic Medicine for the medical age assessment in the asylum process.<sup>1435</sup> The inquiry's interim report was published in October 2021 (SOU 2021:84). It contains, for example, the current underlying scientific basis for the method and a description of how the board's statements have developed over time. The inquiry's final report will include a research study and is expected to be published in 2024.<sup>1436</sup>

The Constitutional Court in Czechia **concluded** that an applicant's constitutional rights were violated when the medical examination for an age assessment was undertaken in the absence of an interpreter and without the supervision of the child protection services. The flaws in the process led to the applicant being treated and detained as an adult.

The Court of the Hague **reiterated** case law that information from another Member State showing that the applicant was registered as an adult was sufficient to consider him an adult also in the Netherlands.





#### 5.6.4. Applicant children's right to be heard



Following a pilot in 2020, the CGRS in Belgium started preparations to ensure that recording asylum interviews with children will become a standard practice. The tender procedure for technical equipment was launched. Due to COVID-19 measures, the special interview rooms for children could not be used, and interviews were held in larger regular interview rooms without toys and other child-friendly materials. During an evaluation of video hearings in the Netherlands, some unaccompanied minors commented that they preferred this method of interviewing which allowed them to stay together with their guardian at the place that they knew.<sup>1437</sup>

The United Nations Committee on the Rights of the Child [held](#) that Finland violated its international obligations when it rejected the asylum application of a child who had been harassed, bullied and received threats in his home country due to his parents' sexual orientation when national legislation was adopted prohibiting "the promotion of non-traditional sexual relationships". The committee underlined that the Finnish authorities failed to take into account the applicant's young age and the permanent impact that bullying and stigmatisation could have on him. The Finnish government was ordered to provide adequate compensation for the applicant and to take all necessary measures to prevent similar violations in the future, in particular ensuring that the best interests of the child are taken into account effectively and systematically in the asylum procedure and that children are systematically heard.

Subsequently, the Finnish Immigration Service requested UNHCR's opinion on the meaning and implications of the committees' views to understand their correct interpretation. The views also prompted the Finnish Immigration Service to draft a memorandum analysing the adopted views and made accessible to officials handling asylum applications. Additionally, by request of the Finnish Immigration Service, UNHCR is currently carrying out a quality control report and reviewing the extent to which the best interests of the child have been considered in asylum decisions made by the Finnish Immigration Service.

As a follow-up, the Finnish Immigration Service initiated a new practice which allows applicant children younger than 12 years old to be heard more frequently. The authority can organise a hearing on its own initiative or based on a request from the minor, the parents or the legal counsel. Children aged 12 years and older have already been systematically heard in the asylum procedure following earlier law amendments. Inspired by the Committee's decision, the Non-Discrimination Ombudsperson analysed the legal framework, practice and jurisprudence related to the best interests of the child, focusing on family reunification of children who are beneficiaries of international protection.<sup>1438</sup>

The Committee on the Rights of the Child published its observations on the fifth and sixth combined reports for Poland and urged the authorities to ensure that applicant children's views are duly taken into account during administrative procedures and that the right of the child to be heard is effectively and consistently implemented.<sup>1439</sup>

The Swedish Migration Agency issued a new legal position on statements by children in which it clarified the circumstances when and the ways in which children should be heard during the asylum procedure.<sup>1440</sup> In addition, the agency developed a digital notebook for case officers to guide them in assessing a child's best interests in the procedures for an asylum application, for the extension of a temporary permit, for a Dublin return or when deciding on detention or alternatives to detention.





The Swiss Council for Refugees published a legal analysis on children's right to be heard in the asylum procedure and suggested that all accompanied children older than 6 years are systematically heard, unless this is against their best interests, as it was already suggested by the Swiss Federal Court in family law matters.<sup>1441</sup>

In Malta, the IPA issued instructions that children between 2 and 10 years old could not accompany their parents to the personal interview at the IPA's premises. The authority observed that parents could not focus on the process with their children present, which had an impact on the quality of the interview and, ultimately, on their chances of being recognised swiftly.

Amendments to the Slovak Asylum Act were discussed in 2021 to ensure that the best interests of the child are better taken into account throughout the asylum procedure.

### 5.6.5. Children in the reception system



The increased number of children and unaccompanied child applicants throughout 2021 required reception authorities to swiftly adapt capacity and support. For example, in the Netherlands, new facilities were opened but were still insufficient to meet the capacity demand of Nidos, COA and the IND. Facilities were full, leading to high pressure on the quality of reception and support. (see *Section 4.7*).<sup>1442</sup> Unaccompanied children with disruptive behaviour remained at the centre of Dutch policy concerns, and a new AMIF-funded project was launched for 2022 to establish methods to counter such behaviour in reception (see *Section 4.7*).<sup>1443</sup> COA observed that these issues reduced interest from municipalities to open reception facilities, leading to shortages in places.

In Bulgaria, safe zones for unaccompanied children needed to be restructured. The Ombudsperson found poor living conditions, with a lack of adequate furniture and overcrowding. When the security zone was full, children were accommodated in the gym separately from adults<sup>1444</sup> (see *Section 4.7*). The Ombudsperson also requested the Supreme Administrative Court to adopt an interpretative decision related to children's rights when they are placed in detention together with an adult relative pending a return. The court **rejected** the request, as it found no contradiction in jurisprudence and practice. It reiterated that children can appeal against a detention decision in their own name, the information provided by the police on the relationship between the child and the accompanying adult was not a binding one, and the authority ordering the detention can further assess this relationship.

New facilities for unaccompanied children were opened in Belgium. Cyprus was also planning to increase its reception facility dedicated to unaccompanied children. The safe zone in Limnes was completed in 2021, with a capacity of 18 places, which could be increased up to 36 places. The bids for a structure in the safe zone in Pournara was foreseen for spring 2022. However, the Cyprus Refugee Council reported that children were accommodated outside of the safe zones and there had been incidents of alleged sexual harassment.<sup>1445</sup> UNHCR observed similar instances and expressed concern about the living conditions for children.<sup>1446</sup> In March 2022, the Deputy Minister for Social Welfare announced plans to transfer children from Pournara to a dedicated facility in Famagusta.<sup>1447</sup> The move followed the opinion published by the Ombudsperson for Children,<sup>1448</sup> decisions taken during the extraordinary meeting of the Council of Ministers on the situation in Pournara<sup>1449</sup> and the president's visit to the centre.<sup>1450</sup>





Due to a rise in arrivals, the number of specialised reception places for unaccompanied children was increased in Slovakia. In Slovenia, amendments to the International Protection Act clarified that unaccompanied children should be accommodated in child-friendly institutions, instead of reception centres.<sup>1451</sup>

The Italian SAI network's capacity for unaccompanied children was increased from 3,887 places in 148 facilities to 4,672 places in 239 facilities at the end of 2021. The Ministry of the Interior signed an agreement with UNICEF to monitor reception conditions for unaccompanied children.<sup>1452</sup> The Ministry's Department of Civil Liberties and Migration published an operational handbook on the identification and reception of unaccompanied children, developed with support from the EUAA and other international and national stakeholders.<sup>1453</sup> To provide immediate support, the department signed an agreement with the civil society organisation *Terres des Hommes Italia* for psychological and psychosocial assistance from disembarkation to first reception.<sup>1454</sup> The department also concluded an agreement with *Save the Children* to continue the provision of targeted support to unaccompanied children.<sup>1455</sup>

Reception conditions for unaccompanied children in Spain, especially in Ceuta, Melilla and the Canary Islands, remained of serious concern. Accem reported that the government of the Canary Islands had started an investigation into alleged cases of sexual exploitation in a reception facility for unaccompanied minors.<sup>1456</sup>

The AIDA report for Germany cites a study from the Federal Association for Unaccompanied Refugee Minors published in 2021, which acknowledged general improvements in reception conditions for unaccompanied children but highlighted vast differences across the federal states.<sup>1457</sup>

In a [case](#) related to Greece (see *Section 5.6.2*), the European Committee on Social Rights noted that the state did not provide adequate protection for applicant children from physical and moral dangers, and that children did not have access to education, neither on the islands or on the mainland, nor access to sufficient health care on the islands. The committee found that the state failed to provide adequate accommodation for applicant children on the islands and long-term accommodation on the mainland.

In this light, Greek authorities made some further steps to provide a safe space for unaccompanied children, and the Ministry for Migration and Asylum established a National Mechanism for the Detection and Protection of Unaccompanied Children, in cooperation with the IOM, Aris, METAdrasi and the Network for Children's Rights. The mechanism includes a hotline in six languages to help guiding homeless unaccompanied children to emergency accommodation in Athens and Thessaloniki.<sup>1458</sup>

The Swiss Observatory on Asylum and Foreigners' Law published a series of articles highlighting the gaps in the reception of unaccompanied children, for example in monitoring special facilities,<sup>1459</sup> procedures to follow when a child disappears from a facility,<sup>1460</sup> and inconsistencies in the roles and responsibilities when a child is at risk of abuse.<sup>1461</sup>

The Portuguese High Commission for Migration signed a cooperation protocol with an NGO to develop targeted support for single-parent families and children in reception.<sup>1462</sup>

The Swedish Migration Agency issued a new legal position to clarify that municipalities and regions are entitled to be reimbursed for the care of unaccompanied children from the moment they express a wish to apply for asylum.<sup>1463</sup>





Faced with several cases on the detention of children, the courts highlighted that this always should be a measure of last resort (see *Section 4.8*).

EU+ countries undertook several measures throughout 2021 to further facilitate educational opportunities for applicant children, but delays in enrolment and gaps in support persisted in some countries and under certain circumstances (see *Section 4.7.2.4*). This could have a detrimental effect on educational attainment in the future when they continue with education as beneficiaries of international protection (see *Section 4.14.4.3*).

### 5.6.6. Future perspectives for applicant children: Transitioning into adulthood and issues with residence permits



In order to ensure continued support after reaching the age of 18, a new strategy was being developed in Belgium to extend the pathway designed for unaccompanied children with an additional stage for young adults aged 18-21 years. The IOM launched a new programme in Cyprus to facilitate this transition through semi-independent housing and adapted support for education, vocational training and health care.<sup>1464</sup>

A Royal Decree facilitated the process of granting residence and work permits for unaccompanied youth in Spain, helping them transition into adulthood (see *Section 4.14*).

In Italy, courts deliberated on granting humanitarian status to applicants who arrived as minors but became adults during the asylum procedure. In one [case](#), the court argued that the violence the applicant had suffered as a child during his journey to Italy should have been a relevant fact for assessing humanitarian protection. In another [case](#), the applicant's high level of integration was considered to be a determining factor to note that refusing to renew his residence permit based on humanitarian considerations would be in breach of his right to private and family life.

The Swedish Migration Agency updated its legal position on assessing the best interests of the child,<sup>1465</sup> following the [judgment](#) of the Migration Court of Appeal in 2020 which concluded that the expulsion of a 14-year-old child, born and raised in Sweden, would be contrary to the ECHR, Article 8. Her best interests outweighed the circumstances for not granting residence permits to her and her parents.<sup>1466</sup>

The Administrative Tribunal in Luxembourg referred a question to the CJEU for a preliminary ruling in the [case](#) of a child whose parents were granted international protection in Greece but an asylum application had not been submitted for the child as he was born in Greece. The parents moved to Luxembourg, re-applied for asylum and argued that the child should be considered as an applicant and not as a beneficiary of international protection.

The status of children born after the recognition of their parents was analysed in France by the CNDA as well. Children of a beneficiary of subsidiary protection, born after the parent was granted protection, requested international protection from OFPRA but their application was rejected. The CNDA [underlined](#) that based on the best interests of the child, they should be able to enjoy the same protection as the parent, and granted the children subsidiary protection as a derivative right.

The CNDA overturned OFPRA's decision in another [case](#) when the applicant's fears to return to his country of origin after leaving a long time ago and significant changes in the political environment did not appear to be justified, but his enlistment as a child soldier at the age





of 12 and the exceptional gravity of threats and ill treatment he suffered could justify his refusal to claim protection from the authorities in the country of origin.

As an impact of the CJEU judgment in [TQ](#) (see *Section 2*), the return of unaccompanied minors was suspended in the Netherlands until an examination determines if they would receive adequate reception and care in the country of origin. The Dutch State Secretary for Justice and Security requested the Dutch Research and Documentation Centre (WODC) to analyse the situation of unaccompanied minors travelling from one Member State to another throughout Europe and deliver recommendations to prevent this pattern. The State Secretary noted that children may leave the reception facility to an unknown destination when they have no prospects of receiving international protection.<sup>1467</sup>

Earlier in 2021, the WODC published a report on the contradictions and gaps between youth protection law and foreigners' law. The report investigated two situations: the supervision policy framework (so-called OTS framework applied for example when a child from a family who is unlawfully present on the territory is taken into care) and the return procedure of unaccompanied minors.<sup>1468</sup>

The UN Human Rights Committee (CCPR) [found](#) that a boy and his younger brother would face a real, personal and foreseeable risk if returned to Afghanistan, and the Swedish authorities failed to properly examine their father's abusive behaviour and threats of revenge. The committee also [found](#) several violations in the case of a boy and his mother, who were granted subsidiary protection in Bulgaria, but they then moved to Switzerland to reapply for asylum and were ordered to return to Bulgaria by the Swiss authorities. The child was not heard during the asylum procedure and the authorities failed to verify whether the stateless child would have access to nationality in Bulgaria.

Following the [decision](#) of the UN Committee on the Rights of the Child in 2020, the Danish Refugee Appeals Board obtained additional information as required and [maintained](#) its decision to return a mother and her three children to China. The Ministry of Foreign Affairs confirmed that the children's Danish birth certificates will be recognised by the Chinese authorities and that their parents can apply for "Confirmation that the Relevant Person Does not have the Overseas Chinese Status", as they did not obtain a residence permit in Denmark. The board also underlined that the children were not at risk of persecution, as both parents are registered in the Hukou register and will not have less favourable treatment.





## Concluding remarks

In 2021, existing hotspots and new trends continued to add pressure on asylum systems in EU+ countries. Outward mobility from existing displacement zones and new circumstances presented in the report, such as the instrumentalisation of migration, factored in to add strain on national administrations. EU+ countries needed to manage mass arrivals and an ever-increasing number of applications for international protection, which rose to pre-pandemic levels. In the face of such developments, EU+ countries continued to adapt their asylum and reception systems, using a mix of temporary and long-term solutions.

As the COVID-19 pandemic entered into its second year, the functioning of asylum and reception systems continued to meet challenges. However, EU+ countries were better prepared in 2021 and mainstreamed solutions to overcome the barriers set by the pandemic and ensure business continuity. This was made possible, for example, with the continued digitalisation of asylum procedures – a trend that slowly took pace over the past few years, gained increased momentum during the pandemic and persisted in 2021.

Following the Russian invasion of Ukraine at the beginning of 2022, within a very short timeframe EU+ countries were called to find quick and comprehensive protection solutions for approximately 5 million people fleeing the war – a task of unprecedented magnitude in recent years. The Temporary Protection Directive, an already-existing EU legislative tool, provided the framework for a systemic solution and its activation paved the way for addressing the needs of persons fleeing Ukraine in a uniform and predictable manner.

Overall, developments in 2021 and early 2022 illustrated the paramount importance of having a functional, multinational European protection architecture in place – a system that provides effective protection to those in need, while treating those not in need in a respectful and dignified manner. These developments also highlighted a core premise at the heart of asylum: the need for protection is generated and amplified by crises. Therefore, crisis situations and associated pressures are not to be viewed as exceptional but as the reality that a functional asylum system is designed to address.

Armed conflict, systematic human rights violations, political instability and continuously-degrading ecosystems have triggered and will continue to trigger major displacements worldwide. Flexible systems and sound policymaking based on reliable facts are needed to identify creative solutions to increased pressure. In addition, comprehensive legislative and policy frameworks are essential to provide the foundation to address the needs of displaced persons arriving in Europe, while respecting the fundamental rights of people and the principle of *non-refoulement*.

Over the past two decades, with the establishment and evolution of CEAS, Europe has made remarkable progress toward developing a common framework for managing asylum. The swift European response to the crisis in Ukraine and the provision of protection solutions were made possible because a legislative instrument, the Temporary Protection Directive, was readily available for use, despite never being activated before.

There is undoubtedly room for improvement in a number of areas in the field of asylum, including effective access to the territory and the asylum procedure, equitable sharing of responsibility among European countries, reception conditions and implementing the return of persons not in need of protection efficiently.





As discussions continue toward the adoption of the legislative instruments of the European Commission's Pact on Migration and Asylum, and with growing jurisprudence from CJEU and national judicial authorities to ensure the correct interpretation and application of the European asylum law, CEAS will be further calibrated and modernised to respond to evolving migratory patterns and associated protection needs.





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# Reader's guide

## Legal basis

The *Asylum Report 2022: Annual Report on the Situation of Asylum in the European Union* is produced in accordance with the EUAA Regulation, Articles 69, 16(4), 20(7), 35(6), 50(5b) and 51(10).

Its objective is to provide a comprehensive overview of the situation of asylum in EU Member States and Iceland, Liechtenstein, Norway and Switzerland, describing and analysing flows of applications for international protection, major developments in legislation, jurisprudence and policies at the European and national levels, and the practical functioning of CEAS.

The production process follows the methodology and basic principles agreed by the Agency's Management Board in 2013. Drafts are disseminated to the Management Board for their comments prior to its formal adoption and public launch.

## Qualitative information

Primary factual information presented in the report was collected by the EUAA throughout the year in the framework of its information management activities organised around the EUAA [Information and Documentation System](#) (IDS). This involves desk research on developments related to each step of the asylum procedure and the validation of the information by representatives of national authorities. Bilateral calls were organised with IDS focal points, who are nominated representatives of national authorities, to confirm, amend and add new information to ensure an accurate and comprehensive picture of developments in 2021. Information was further verified with EMN reports.

The European Commission was consulted during the drafting process, in accordance with its role under the 1951 Convention relating to the Status of Refugees, Article 35, which is reflected in EU Treaties and the asylum *acquis* instruments. UNHCR was also consulted during the drafting process and public information produced by its experts were included in the report.

The report provides an analysis based on a wide range of duly-referenced sources of information to reflect the ongoing debates at the European level. It also identifies areas where improvement is most needed (and thus where the EUAA and other key stakeholders should focus their efforts) in line with its declared purpose of improving the quality, consistency and effectiveness of CEAS. To that end, the EUAA takes due account of information already available from other relevant sources, as stipulated in the EUAA Regulation, including from EU+ countries, EU institutions and agencies (such as Frontex and FRA), civil society organisations, international organisations and academia.

Two open calls for contributions were launched to members of the Agency's Consultative Forum and other civil society stakeholders, inviting them to provide information on their work which is relevant to the functioning of CEAS. They were also invited to share their publications to be used as sources and provide written input through a standardised online form.





Jurisprudence was collected throughout the year and added to the [EUAA Case Law Database](#), a publicly-available platform which serves as a point of reference for European and national case law related to CEAS. In addition, members of the EUAA Network of Courts and Tribunal members contributed to the report by providing relevant examples of national case law. Links to cases in the report redirect to the English summary in the EUAA Case Law Database.

In an effort to further strengthen the report's methodological basis, the EUAA continued discussions with members of the JHA network and organised an online event to exchange experiences on ways to engage with various audiences of annual reports. Representatives from EASO, Frontex, Europol, EIGE, Eurojust, FRA, the EU Agency on Law Enforcement Training (CEPOL), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shared their insights.

The *Asylum Report 2022* covers the period 1 January to 31 December 2021 but also refers to relevant developments in the year of writing. Whenever possible, information referring to 2022 was based on the most up-to-date sources available at the time of adoption of the report by the EUAA Management Board.

The report is not exhaustive and country examples presented in the report serve only as illustrations of relevant aspects of CEAS.

## Quantitative information

Statistical information was primarily derived from Eurostat. Selected data at the EU+ level were also obtained from EASO's Early Warning and Preparedness System (EPS) data exchange for additional information and for the section on Dublin procedures (due to the unavailability of respective Eurostat data at the time of writing).

The data published in this report were extracted from Eurostat on 22 April 2022. The data are provisional and may be updated or revised by Member States. These data are provided to Eurostat by ministries and national administrations in Member States in the framework of [Regulation \(EC\) 862/2007](#) on community statistics on migration and international protection as amended by [Regulation \(EU\) 2020/851](#), except for data on first-time asylum applicants.

The annual data presented in the statistical annexes are computed as the aggregation of data submitted to Eurostat throughout the year on a monthly (or quarterly) basis or based on the annual statistics provided to Eurostat.

The following indicators are presented in this report:

- Applicants for international protection, withdrawn applications and pending cases collected monthly by Eurostat and presented based on their annual datasets.
- Asylum decisions in first instance (refugee status granted, subsidiary protection status granted, authorisation to stay for humanitarian reasons granted, and rejections) collected quarterly by Eurostat and presented annually based on the aggregation of their quarterly datasets.
- Asylum applicants considered to be unaccompanied minors collected annually by Eurostat.





Data published by Eurostat are rounded to the nearest five. As such, aggregates calculated on the basis of rounded figures may slightly deviate from the actual total. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

The definitions for the indicators presented in the report are available in the [Eurostat Glossary](#) and the [Eurostat Technical Guidelines](#). With the exception of the indicator on withdrawn applications, all statistics reported to Eurostat refer to persons. Therefore, family members under one application should be counted and reported individually, irrespective of the national legal requirements or administrative procedures.

The Eurostat Technical Guidelines for data collection were amended in December 2013 and subsequently entered into force in the reference month of January 2014. Thus, data published prior to 2014 are not necessarily comparable. The main changes for data collection included:

- Clarification on the definitions of first-time and repeated applicants;
- Instructions on how to report persons subject to a Dublin procedure in the pending cases table;
- Instructions not to report cases where another Member State assumed responsibility of negative asylum decisions; and
- Clarification on the definition of humanitarian protection.

Methodological changes to the Eurostat Technical Guidelines entered into force as of January 2015 in reference to reporting on cases in the Dublin procedure and withdrawn cases, as follows:

- Persons subject to the Dublin procedure shall be removed from the stock of pending applications of the sending country from the time of the acceptance decision;
- Persons subject to the Dublin procedure shall be included in the stock of pending applications of the receiving country from the moment of physical arrival and when such persons apply or re-apply for asylum;
- Dublin transfers shall not be considered as an implicit or explicit withdrawal;
- Persons subject to the Dublin procedure and who abscond after the acceptance decision shall not be reported in withdrawn applications data;
- Revisions at the own initiative of the national asylum authority shall be considered as regular revisions (i.e. require revision of the previously-reported data); and
- Persons reappearing after implicit or explicit withdrawal of an application shall be considered under regular revisions and be removed from data on withdrawn applications.





Further modifications to the Eurostat Technical Guidelines were published in February 2018<sup>ii</sup> and introduced:

- A new voluntary data disaggregation on 'status of minor' as of the 2018 reference period. The new concept measures whether a minor applicant was 'unaccompanied' or 'accompanied' by an adult with responsibility for the minor during the application procedure;
- An amendment and new specification to the 'Resettlement Framework' variable: the former category "Agreement in the JHA Council on 20.07.2015 – JHAC15" was changed to "EU Resettlement Frameworks – EU\_RFW" to include Resettlement Frameworks launched by the European Commission (or Justice and Home Affairs Council) applicable to each reference year; and
- Methodological guidance on reporting on the new variables of Table A16 (resettled person), namely 'country of residence', 'decision' and 'Resettlement Framework'. These guidelines were agreed in the Asylum and Managed Migration Working Group in 2016.

Following the entry into force of [Regulation \(EU\) 2020/851](#), additional amendments to the Eurostat Technical Guidelines were published in December 2020:

- New monthly table on subsequent applicants, introduced from January 2021 reference month. It includes clarification of the concepts of subsequent, new and re-opened applications.
- New monthly table on applicants under accelerated procedures, introduced from January 2021 reference month.
- New annual table on applicants receiving material reception conditions, introduced from 2021 reference year.
- New mandatory disaggregation by type of withdrawal (implicit, explicit) for monthly Table A03 (applications withdrawn) introduced from January 2021 reference month.
- New mandatory disaggregation by reason to withdraw a protection status (revocation, ending, refusal to renew) for Tables A09 and A17, introduced respectively from Q1 2021 reference quarter and 2021 reference year.
- Mandatory provision of disaggregation by status of minor introduced from 2021 reference period.
- Mandatory provision of disaggregation by country of residence and decision for Table A16 (resettled persons), introduced from 2021 reference year.

## Products related to the *Asylum Report 2022*

The [National Asylum Developments Database](#) presents the legislative, institutional and policy developments which are described in the report. Updates can be searched by country, topic, year and type of development. The information is also summarised and presented in a table by country and by thematic area in a PDF document.

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The report presents a selection of jurisprudential developments based on the [EUAA Case Law Database](#). The hyperlinks within the text will bring readers to the specific case in the database.

The sources used for the production of the *Asylum Report 2022* are presented in the list of references at the end of the report. They are also available in a separate, detailed [Sources on Asylum 2022](#), grouped by type of source. Readers can easily identify whether sources are from European institutions and agencies, international organisations, national authorities, civil society organisations or think tanks and academia. A list of legislation and case law referenced in the report is also provided.



## Statistical tables

### Table 1: Asylum applicants in EU+ countries by reporting country and main citizenship, 2016-2021

Reporting country	2021						% chg. on last year	Share in EU+	Highest share	Sparkline
	2016	2017	2018	2019	2020	2021				
<b>Citizenship</b>										
Germany	745 160	222 565	184 180	165 615	121 955	190 545	↔ + 56	29%	Syria (37%)	
France	84 270	99 330	137 665	151 070	93 200	120 685	↔ + 29	19%	Afghanistan (14%)	
Spain	15 755	36 610	54 050	117 800	88 530	65 295	↔ - 26	10%	Venezuela (24%)	
Italy	122 960	128 850	59 950	43 770	26 940	53 135	↔ + 97	8%	Pakistan (14%)	
Austria	42 255	24 715	13 710	12 860	14 760	38 615	↗ + 162	6%	Syria (41%)	
Greece	51 110	58 650	66 965	77 275	40 560	28 355	↘ - 30	4%	Afghanistan (16%)	
Netherlands	20 945	18 210	24 025	25 200	15 255	26 520	↔ + 74	4%	Syria (32%)	
Belgium	18 280	18 340	22 530	27 460	16 710	24 970	↔ + 49	4%	Afghanistan (26%)	
Switzerland	27 140	18 015	15 160	14 195	10 990	14 850	↔ + 35	2%	Afghanistan (21%)	
Sweden	28 795	26 330	21 560	26 255	16 225	13 990	↘ - 14	2%	Syria (17%)	
Cyprus	2 940	4 600	7 765	13 650	7 495	13 670	↔ + 82	2%	Syria (23%)	
Bulgaria	19 420	3 695	2 535	2 150	3 525	11 000	↗ + 212	2%	Afghanistan (55%)	
Romania	1 880	4 815	2 135	2 590	6 155	9 585	↔ + 56	1%	Afghanistan (44%)	
Poland	12 305	5 045	4 110	4 070	2 785	7 795	↗ + 180	1%	Belarus (29%)	
Slovenia	1 310	1 475	2 875	3 820	3 550	5 300	↗ + 49	1%	Afghanistan (49%)	
Lithuania	430	545	405	645	315	3 940	↗ +1 151	1%	Iraq (60%)	
Croatia	2 225	975	800	1 400	1 605	2 930	↔ + 83	0%	Afghanistan (61%)	
Ireland	2 245	2 930	3 670	4 780	1 565	2 650	↔ + 69	0%	Nigeria (17%)	
Finland	5 605	4 995	4 500	4 520	3 190	2 525	↘ - 21	0%	Iraq (24%)	
Denmark	6 180	3 220	3 570	2 700	1 475	2 080	↔ + 41	0%	Afghanistan (27%)	
Norway	3 490	3 520	2 660	2 265	1 375	1 635	↔ + 19	0%	Syria (36%)	
Portugal	1 460	1 750	1 285	1 820	1 000	1 540	↔ + 54	0%	Afghanistan (44%)	
Malta	1 930	1 840	2 130	4 090	2 480	1 515	↘ - 39	0%	Sudan (14%)	
Czechia	1 475	1 445	1 690	1 915	1 160	1 405	↔ + 21	0%	Ukraine (27%)	
Luxembourg	2 160	2 430	2 335	2 270	1 345	1 405	↔ + 4	0%	Syria (32%)	
Iceland	1 125	1 085	775	845	640	870	↔ + 36	0%	Venezuela (41%)	
Latvia	350	355	185	195	180	615	↗ + 242	0%	Iraq (58%)	
Slovakia	145	160	175	230	280	370	↔ + 32	0%	Morocco (31%)	
Liechtenstein	80	150	165	50	35	95	↗ + 171	0%	Sudan (16%)	
Estonia	175	190	95	105	50	80	↔ + 60	0%	Afghanistan (19%)	
Hungary	29 430	3 390	670	500	115	40	↘ - 65	0%	Iran (25%)	
<b>Citizenship</b>										
Syria	340 410	107 250	85 180	79 410	70 340	117 160	↔ + 67	18%	Germany (60%)	
Afghanistan	187 070	47 275	46 925	60 580	50 010	102 110	↗ + 104	16%	Germany (31%)	
Iraq	127 920	49 305	42 415	32 085	19 960	30 490	↔ + 53	5%	Germany (55%)	
Pakistan	46 300	28 900	27 670	28 845	18 635	24 935	↔ + 34	4%	Italy (30%)	
Turkey	11 240	16 165	24 045	26 380	16 720	24 625	↔ + 47	4%	Germany (32%)	
Bangladesh	15 000	18 865	13 740	15 845	11 570	20 110	↔ + 74	3%	Italy (35%)	
Venezuela	4 680	14 505	22 515	45 640	30 940	18 325	↘ - 41	3%	Spain (87%)	
Somalia	21 420	14 700	14 790	15 105	11 855	17 160	↔ + 45	3%	Germany (24%)	
Nigeria	47 035	40 170	26 705	25 875	14 135	16 980	↔ + 20	3%	Italy (32%)	
Morocco	12 625	9 140	8 880	10 185	7 875	14 985	↔ + 90	2%	Spain (44%)	
Georgia	8 775	12 060	20 950	22 765	8 905	14 970	↔ + 68	2%	France (37%)	
Colombia	1 100	4 650	10 325	32 470	29 580	13 970	↘ - 53	2%	Spain (83%)	
Eritrea	38 965	28 235	16 960	13 515	9 575	12 110	↔ + 26	2%	Germany (27%)	
Albania	31 060	24 350	21 050	20 665	7 005	11 390	↔ + 63	2%	France (54%)	
Guinea	14 910	19 080	15 855	13 730	8 920	10 090	↔ + 13	2%	France (63%)	
Other	344 520	265 575	246 320	273 015	169 420	198 595	↔ + 17	31%	France (27%)	
<b>EU+</b>	<b>1 253 030</b>	<b>700 225</b>	<b>644 325</b>	<b>716 110</b>	<b>485 445</b>	<b>648 005</b>	↔ + 33		<b>Syria (18%)</b>	

! Data not available

Source: Eurostat [migr\_asyappctza] as at 22 April 2022,

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)



## Table 2: First-time asylum applicants in EU+ countries by reporting country and main citizenship, 2016-2021

	2021						% chg. on last year	Share in EU+	Highest share	Sparkline	
	2016	2017	2018	2019	2020	2021					
<b>Reporting country</b>							<b>Citizenship</b>				
Germany	722 270	198 255	161 885	142 450	102 525	<b>148 175</b>	↔ + 45	27%	Syria (37%)		
France	76 790	91 965	126 580	138 290	81 735	<b>103 790</b>	↔ + 27	19%	Afghanistan (15%)		
Spain	15 570	33 035	52 730	115 175	86 380	<b>62 050</b>	↘ - 28	11%	Venezuela (25%)		
Italy	121 185	126 550	53 440	35 005	21 330	<b>43 900</b>	↗ + 106	8%	Pakistan (16%)		
Austria	39 875	22 455	11 580	10 985	13 400	<b>36 725</b>	↗ + 174	7%	Syria (43%)		
Netherlands	19 285	16 090	20 465	22 485	13 660	<b>24 725</b>	↔ + 81	4%	Syria (34%)		
Greece	49 875	56 940	64 975	74 910	37 860	<b>22 660</b>	↘ - 40	4%	Pakistan (15%)		
Belgium	14 250	14 035	18 130	23 105	12 905	<b>19 545</b>	↔ + 51	4%	Afghanistan (26%)		
Cyprus	2 840	4 475	7 610	12 695	7 065	<b>13 260</b>	↔ + 88	2%	Syria (23%)		
Switzerland	25 825	16 615	13 465	12 545	9 725	<b>13 240</b>	↔ + 36	2%	Afghanistan (22%)		
Bulgaria	18 990	3 470	2 465	2 075	3 460	<b>10 890</b>	↗ + 215	2%	Afghanistan (55%)		
Sweden	22 335	22 190	18 075	23 125	13 595	<b>10 145</b>	↘ - 25	2%	Syria (21%)		
Romania	1 855	4 700	1 945	2 455	6 025	<b>9 065</b>	↔ + 50	2%	Afghanistan (43%)		
Poland	9 780	3 005	2 405	2 765	1 510	<b>6 240</b>	↗ + 313	1%	Belarus (34%)		
Slovenia	1 265	1 435	2 800	3 615	3 465	<b>5 220</b>	↔ + 51	1%	Afghanistan (50%)		
Lithuania	415	520	385	625	260	<b>3 905</b>	↗ +1 402	1%	Iraq (61%)		
Croatia	2 150	880	675	1 265	1 540	<b>2 725</b>	↔ + 77	0%	Afghanistan (62%)		
Ireland	2 235	2 910	3 655	4 740	1 535	<b>2 615</b>	↔ + 70	0%	Nigeria (17%)		
Denmark	6 055	3 125	3 465	2 605	1 420	<b>1 995</b>	↔ + 40	0%	Afghanistan (28%)		
Norway	3 245	3 350	2 530	2 165	1 325	<b>1 595</b>	↔ + 20	0%	Syria (37%)		
Finland	5 275	4 330	2 950	2 445	1 445	<b>1 355</b>	↘ - 6	0%	Afghanistan (17%)		
Luxembourg	2 065	2 320	2 225	2 200	1 295	<b>1 355</b>	↔ + 5	0%	Syria (33%)		
Portugal	710	1 015	1 240	1 735	900	<b>1 350</b>	↔ + 50	0%	Afghanistan (44%)		
Malta	1 735	1 610	2 035	4 015	2 410	<b>1 200</b>	↘ - 50	0%	Sudan (16%)		
Czechia	1 200	1 140	1 350	1 570	790	<b>1 055</b>	↔ + 34	0%	Ukraine (25%)		
Iceland	1 100	1 065	730	805	625	<b>865</b>	↔ + 38	0%	Venezuela (41%)		
Latvia	345	355	175	180	145	<b>580</b>	↗ + 300	0%	Iraq (60%)		
Slovakia	100	150	155	215	265	<b>330</b>	↔ + 25	0%	Morocco (32%)		
Liechtenstein	75	145	145	40	25	<b>80</b>	↗ + 220	0%	Syria (19%)		
Estonia	150	180	90	100	45	<b>75</b>	↔ + 67	0%	Afghanistan (20%)		
Hungary	28 215	3 115	635	465	90	<b>40</b>	↘ - 56	0%	Iran (25%)		
<b>Citizenship</b>							<b>Reporting country</b>				
Syria	335 855	104 440	82 175	76 405	64 965	<b>99 885</b>	↔ + 54	18%	Germany (55%)		
Afghanistan	183 435	43 175	41 880	55 795	46 010	<b>86 800</b>	↔ + 89	16%	Germany (27%)		
Iraq	124 885	45 095	37 430	27 525	16 690	<b>26 545</b>	↔ + 59	5%	Germany (59%)		
Turkey	10 235	15 075	23 020	25 010	15 135	<b>22 645</b>	↔ + 50	4%	Germany (31%)		
Pakistan	44 105	26 670	23 435	24 460	15 995	<b>21 115</b>	↔ + 32	4%	Italy (33%)		
Bangladesh	13 820	17 360	11 355	13 200	10 430	<b>18 835</b>	↔ + 81	3%	Italy (35%)		
Venezuela	4 700	13 010	22 265	45 010	30 460	<b>17 795</b>	↘ - 42	3%	Spain (88%)		
Somalia	20 270	13 275	13 095	13 280	10 450	<b>15 475</b>	↔ + 48	3%	Germany (24%)		
Morocco	11 970	8 175	8 060	9 300	7 160	<b>14 200</b>	↔ + 98	3%	Spain (45%)		
Colombia	1 090	3 970	10 120	32 020	29 135	<b>13 265</b>	↘ - 54	2%	Spain (84%)		
Georgia	7 690	10 855	19 545	20 500	7 085	<b>12 765</b>	↔ + 80	2%	France (36%)		
Eritrea	37 700	27 245	15 910	12 565	8 890	<b>11 345</b>	↔ + 28	2%	Germany (28%)		
Nigeria	45 470	38 240	23 250	20 910	9 740	<b>10 550</b>	↔ + 8	2%	France (30%)		
Tunisia	2 490	2 020	3 260	3 770	2 825	<b>9 085</b>	↗ + 222	2%	Italy (70%)		
Albania	27 765	20 875	17 465	17 295	5 055	<b>8 920</b>	↔ + 76	2%	France (55%)		
Other	325 580	251 945	228 725	249 805	148 730	<b>161 525</b>	↔ + 9	29%	France (31%)		
<b>EU+</b>	<b>1,197,060</b>	<b>641 425</b>	<b>580 990</b>	<b>646 850</b>	<b>428 755</b>	<b>550 750</b>	↔ + 28		<b>Syria (18%)</b>		

': Data not available

Source: Eurostat [migr\_asyappctza] as at 22 April 2022,

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)



### Table 3: Pending cases at the end of the year in EU+ countries by reporting country and main citizenship, 2016-2021

Reporting country	2021						% chg. on last year	Share in EU+	Highest share	Sparkline	
	2016	2017	2018	2019	2020	2021					
<b>Reporting country</b>							<b>Citizenship</b>				
Germany	601 915	443 645	384 815	326 770	257 210	<b>264 425</b>	➔ +3	34%	Syria (21%)		
France	44 070	38 405	142 970	160 785	151 200	<b>145 180</b>	➔ -4	19%	Afghanistan (12%)		
Spain	20 365	38 880	78 705	133 020	103 410	<b>104 010</b>	➔ +1	14%	Colombia (20%)		
Italy	99 920	152 420	102 995	47 020	53 895	<b>51 800</b>	➔ -4	7%	Eritrea (18%)		
Greece	40 015	47 815	76 330	105 450	62 270	<b>37 535</b>	⬇ -40	5%	Afghanistan (24%)		
Belgium	24 740	18 720	19 535	29 065	29 240	<b>28 960</b>	➔ -1	4%	Afghanistan (25%)		
Austria	77 445	57 655	38 045	27 140	21 205	<b>27 935</b>	➔ +32	4%	Syria (38%)		
Cyprus	2 860	5 120	10 180	18 795	19 590	<b>25 925</b>	➔ +32	3%	Syria (22%)		
Netherlands	12 245	7 385	15 965	20 205	17 130	<b>23 520</b>	➔ +37	3%	Syria (30%)		
Sweden	82 960	51 485	37 620	27 530	18 525	<b>14 275</b>	⬇ -23	2%	Afghanistan (13%)		
Bulgaria	15 595	2 725	1 820	1 100	2 200	<b>7 555</b>	⬆ +243	1%	Afghanistan (60%)		
Switzerland	31 475	24 155	15 130	11 440	6 855	<b>7 435</b>	➔ +8	1%	Afghanistan (21%)		
Ireland	4 055	5 670	7 060	7 330	6 805	<b>6 565</b>	➔ -4	1%	Nigeria (15%)		
Finland	15 000	9 335	10 490	8 315	6 330	<b>5 045</b>	⬇ -20	1%	Iraq (36%)		
Malta	1 070	1 500	2 020	4 260	5 140	<b>4 015</b>	⬇ -22	1%	Sudan (17%)		
Poland	2 880	2 885	4 460	4 790	3 600	<b>3 850</b>	➔ +7	1%	Belarus (35%)		
Luxembourg	2 465	1 525	1 525	1 790	1 890	<b>1 815</b>	➔ -4	0%	Syria (23%)		
Slovenia	555	475	410	530	640	<b>1 615</b>	⬆ +152	0%	Afghanistan (49%)		
Romania	935	2 085	1 520	930	2 260	<b>1 515</b>	⬇ -33	0%	Afghanistan (49%)		
Denmark	7 020	4 205	2 600	1 440	1 250	<b>1 440</b>	➔ +15	0%	Afghanistan (37%)		
Norway	7 005	2 525	1 985	1 325	805	<b>935</b>	➔ +16	0%	Syria (33%)		
Croatia	495	415	250	620	610	<b>600</b>	➔ -2	0%	Afghanistan (68%)		
Czechia	770	810	795	775	590	<b>540</b>	⬇ -8	0%	Ukraine (22%)		
Iceland	580	345	450	425	295	<b>385</b>	➔ +31	0%	Venezuela (51%)		
Latvia	225	90	125	100	95	<b>255</b>	⬆ +168	0%	Iraq (47%)		
Slovakia	95	110	155	110	145	<b>150</b>	➔ +3	0%	Afghanistan (33%)		
Portugal	50	55	90	180	95	<b>75</b>	⬇ -21	0%	Afghanistan (20%)		
Liechtenstein	75	90	80	30	20	<b>35</b>	➔ +75	0%	Albania (14%)		
Estonia	70	70	80	55	45	<b>30</b>	⬇ -33	0%	Russia (33%)		
Hungary	3 415	675	125	235	45	<b>15</b>	⬇ -67	0%	Iran (33%)		
Lithuania	190	255	380	550	250	:	n.a.	n.a.	n.a.		
<b>Citizenship</b>							<b>Reporting country</b>				
Afghanistan	235 220	158 055	129 165	117 930	92 900	<b>102 505</b>	⬆ +10	13%	Germany (45%)		
Syria	156 670	110 870	93 560	86 545	69 235	<b>95 720</b>	➔ +38	12%	Germany (58%)		
Iraq	120 740	82 640	78 370	65 145	47 465	<b>43 680</b>	⬇ -8	6%	Germany (69%)		
Turkey	12 960	18 200	29 355	34 575	30 645	<b>32 820</b>	➔ +7	4%	Germany (47%)		
Nigeria	50 070	58 020	50 145	42 005	36 080	<b>31 060</b>	⬇ -14	4%	Germany (38%)		
Pakistan	47 370	44 750	44 450	41 245	31 570	<b>29 515</b>	➔ -7	4%	Italy (31%)		
Colombia	1 140	3 605	11 990	36 785	26 775	<b>23 150</b>	⬇ -14	3%	Spain (88%)		
Iran	44 155	30 405	35 860	37 940	31 200	<b>22 920</b>	⬇ -27	3%	Germany (66%)		
Bangladesh	14 965	19 725	18 595	19 085	19 910	<b>21 990</b>	➔ +10	3%	France (43%)		
Venezuela	4 990	14 840	34 590	37 970	22 645	<b>21 990</b>	➔ -3	3%	Spain (87%)		
Somalia	31 335	21 715	21 620	22 435	20 110	<b>21 625</b>	➔ +8	3%	Germany (29%)		
Russia	28 200	28 510	32 405	30 870	26 130	<b>18 770</b>	⬇ -28	2%	Germany (59%)		
Eritrea	34 735	28 350	24 760	21 465	22 870	<b>18 170</b>	⬇ -21	2%	Italy (51%)		
Guinea	13 080	18 065	22 845	24 550	19 775	<b>15 860</b>	⬇ -20	2%	France (55%)		
Georgia	9 590	10 910	20 310	17 875	12 945	<b>14 505</b>	➔ +12	2%	Germany (30%)		
Other	295 335	272 870	310 690	305 690	263 385	<b>253 155</b>	➔ -4	33%	France (27%)		
<b>EU+</b>	<b>1,100,555</b>	<b>921 530</b>	<b>958 710</b>	<b>942 110</b>	<b>773 640</b>	<b>767 435</b>	➔ -1		<b>Afghanistan (13%)</b>		

'-' Data not available

Source: Eurostat [migr\_asypentzm] as at 22 April 2022,

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asypentzm&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asypentzm&lang=en)



### Table 4: Withdrawn applications in EU+ countries by reporting country and main citizenship, 2016-2021

							2021			
	2016	2017	2018	2019	2020	2021	% chg. on last year	Share in EU+	Highest share	Sparkline
<b>Reporting country</b>							<b>Citizenship</b>			
Greece	7 475	10 210	11 740	16 610	5 970	15 760	↑ + 164	23%	Afghanistan (29%)	
Austria	9 705	6 875	2 720	2 200	2 500	7 855	↑ + 214	11%	Afghanistan (48%)	
Italy	8 640	14 000	7 730	14 310	10 430	7 630	↓ - 27	11%	Tunisia (23%)	
Germany	45 245	40 290	7 190	4 680	4 735	5 240	↔ + 11	8%	Syria (12%)	
Romania	210	1 485	1 275	945	2 260	5 120	↑ + 127	7%	Afghanistan (59%)	
Slovenia	620	950	2 370	3 270	2 875	3 445	↑ + 20	5%	Afghanistan (47%)	
Bulgaria	10 050	10 045	805	1 120	475	2 935	↑ + 518	4%	Afghanistan (72%)	
Cyprus	470	510	810	1 765	2 145	2 860	↔ + 33	4%	India (20%)	
Belgium	3 360	1 515	1 275	1 420	1 100	2 580	↑ + 135	4%	Afghanistan (8%)	
Spain	1 870	1 610	2 985	4 295	2 645	2 195	↓ - 17	3%	Colombia (19%)	
Sweden	13 875	5 400	4 645	3 810	2 650	2 080	↓ - 22	3%	Uzbekistan (8%)	
Croatia	1 255	565	500	765	1 315	2 035	↑ + 55	3%	Afghanistan (69%)	
Netherlands	2 080	805	900	1 225	590	1 785	↑ + 203	3%	Morocco (22%)	
Malta	115	185	235	310	385	1 535	↑ + 299	2%	Sudan (38%)	
Poland	10 000	2 740	1 940	1 990	1 040	1 110	↔ + 7	2%	Afghanistan (50%)	
Switzerland	5 075	:	1 665	1 455	1 090	1 080	↔ - 1	2%	Algeria (22%)	
Portugal	55	80	380	475	720	1 040	↔ + 44	2%	Gambia, The (13%)	
France	1 045	1 460	1 665	2 235	2 565	900	↓ - 65	1%	Albania (8%)	
Denmark	3 255	1 480	1 450	885	445	435	↔ - 2	1%	Morocco (13%)	
Latvia	150	140	55	80	70	290	↑ + 314	0%	Iraq (78%)	
Ireland	1 140	:	355	425	180	270	↔ + 50	0%	Pakistan (24%)	
Slovakia	35	:	70	180	175	210	↔ + 20	0%	Morocco (26%)	
Finland	3 750	555	365	340	160	150	↓ - 6	0%	Iraq (40%)	
Czechia	110	150	310	160	80	145	↔ + 81	0%	Ukraine (21%)	
Luxembourg	545	280	205	380	105	65	↓ - 38	0%	Eritrea (15%)	
Norway	475	145	105	145	60	50	↓ - 17	0%	Syria (20%)	
Iceland	200	560	165	145	75	25	↓ - 67	0%	Iraq (40%)	
Liechtenstein	30	10	40	20	10	20	↑ + 100	0%	Syria (50%)	
Estonia	20	20	25	5	5	10	↑ + 100	0%	Afghanistan (0%)	
Hungary	44 905	3 460	120	110	70	0	↓ - 100	0%	n.a.	
Lithuania	65	:	100	:	260	:	n.a.	n.a.	n.a.	
<b>Citizenship</b>							<b>Reporting country</b>			
Afghanistan	29 605	16 690	4 945	6 415	5 015	18 265	↑ + 264	27%	Greece (25%)	
Syria	24 855	6 605	3 895	3 470	3 020	5 095	↔ + 69	7%	Austria (29%)	
Pakistan	12 200	8 590	4 000	4 790	3 350	4 390	↔ + 31	6%	Greece (32%)	
Turkey	1 540	1 890	1 925	3 810	1 495	3 945	↑ + 164	6%	Greece (64%)	
Iraq	24 550	11 480	5 780	4 780	2 730	3 375	↔ + 24	5%	Greece (28%)	
Bangladesh	2 615	1 980	955	1 450	1 255	2 590	↑ + 106	4%	Greece (31%)	
Tunisia	910	575	490	685	505	2 130	↑ + 322	3%	Italy (81%)	
Morocco	3 735	2 385	1 485	2 355	2 500	1 865	↓ - 25	3%	Netherlands (21%)	
Iran	5 440	3 260	1 575	1 685	1 110	1 815	↔ + 64	3%	Greece (50%)	
Georgia	2 225	2 310	2 035	1 955	1 920	1 630	↓ - 15	2%	Greece (22%)	
Algeria	3 315	2 195	1 675	2 410	1 395	1 520	↔ + 9	2%	Germany (24%)	
Egypt	865	815	490	885	975	1 220	↔ + 25	2%	Greece (35%)	
India	1 540	1 070	460	915	985	1 215	↔ + 23	2%	Cyprus (48%)	
Nigeria	3 970	5 460	2 100	2 745	1 750	1 200	↓ - 31	2%	Italy (38%)	
Albania	6 980	2 425	1 415	1 875	1 090	1 085	↔ 0	2%	Greece (52%)	
Other	51 480	37 795	20 970	25 530	18 090	17 515	↔ - 3	25%	Italy (16%)	
<b>EU+</b>	<b>175 825</b>	<b>105 525</b>	<b>54 195</b>	<b>65 755</b>	<b>47 185</b>	<b>68 855</b>	↔ + 46		<b>Afghanistan (27%)</b>	

'-' Data not available

Source: Eurostat [migr\_asywitha] as at 22 April 2022,

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asywitha&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asywitha&lang=en)



### Table 5: Unaccompanied minors in EU+ countries by reporting country and main citizenship, 2016-2021

	2021										
	2016	2017	2018	2019	2020	2021	% chg. on last year	Share in EU+	Highest share	Sparkline	
<b>Reporting country</b>							<b>Citizenship</b>				
Austria	3 900	1 350	390	860	1 370	5 605	↑ + 309	24%	Afghanistan (60%)		
Germany	35 935	9 085	4 085	2 690	2 230	3 250	↔ + 46	14%	Afghanistan (45%)		
Bulgaria	2 750	440	480	525	800	1 170	↑ + 296	13%	Afghanistan (82%)		
Greece	2 350	2 455	2 640	3 330	2 800	2 275	↓ - 19	10%	Pakistan (27%)		
Belgium	1 020	735	750	1 220	1 210	1 800	↔ + 49	8%	Afghanistan (76%)		
Romania	45	265	135	185	980	1 745	↔ + 78	7%	Afghanistan (85%)		
Italy	6 020	10 005	3 885	660	520	1 510	↑ + 190	6%	Bangladesh (33%)		
Switzerland	1 985	765	435	490	600	1 100	↔ + 83	5%	Afghanistan (65%)		
Slovenia	245	390	555	670	550	780	↔ + 42	3%	Afghanistan (58%)		
Sweden	2 160	1 285	900	875	500	530	↔ + 6	2%	Afghanistan (32%)		
Cyprus	215	225	260	565	190	395	↑ + 108	2%	Syria (47%)		
Netherlands	1 705	1 180	1 225	1 045	985	370	↓ - 62	2%	Syria (58%)		
Poland	140	115	125	105	115	200	↔ + 74	1%	Afghanistan (30%)		
Croatia	170	40	25	35	115	195	↔ + 70	1%	Afghanistan (51%)		
Norway	270	175	145	125	75	170	↑ + 127	1%	Afghanistan (59%)		
Finland	370	175	105	95	145	135	↓ - 7	1%	Afghanistan (41%)		
Denmark	1 185	460	240	195	145	115	↓ - 21	0%	Afghanistan (39%)		
Ireland	35	30	15	50	30	55	↔ + 83	0%	Afghanistan (45%)		
Luxembourg	50	50	35	35	50	55	↔ + 10	0%	Afghanistan (27%)		
Spain	30	20	75	100	45	45	→ 0	0%	Mali (33%)		
Slovakia	0	10	10	30	10	20	↑ + 100	0%	Afghanistan (75%)		
Latvia	5	10	5	5	0	15	n.a.	0%	Iraq (67%)		
Iceland	20	10	5	5	5	5	→ 0	0%	Afghanistan (0%)		
Hungary	1 220	230	40	10	0	5	n.a.	0%	Afghanistan (0%)		
Malta	15	5	5	20	10	5	↓ - 50	0%	Afghanistan (0%)		
Czechia	5	5	10	10	0	0	n.a.	0%	n.a.		
Liechtenstein	5	0	0	0	0	0	n.a.	0%	n.a.		
Estonia	0	0	0	0	0	0	n.a.	0%	n.a.		
Portugal	25	40	40	45	95	:	n.a.	:	n.a.		
France	475	590	740	755	650	:	n.a.	:	n.a.		
Lithuania	0	0	0	0	0	:	n.a.	:	n.a.		
<b>Citizenship</b>							<b>Reporting country</b>				
Afghanistan	23 695	5 330	3 105	4 450	5 830	12 575	↑ + 116	53%	Austria (27%)		
Syria	11 915	1 810	1 355	1 515	2 315	3 860	↔ + 67	16%	Austria (37%)		
Bangladesh	735	1 320	430	355	490	1 340	↑ + 173	6%	Italy (38%)		
Somalia	2 985	1 850	1 000	810	675	1 280	↔ + 90	5%	Germany (18%)		
Pakistan	1 930	1 830	1 365	1 350	1 090	1 135	→ + 4	5%	Greece (54%)		
Egypt	315	200	175	320	390	455	↔ + 17	2%	Greece (53%)		
Iraq	3 895	1 010	815	650	250	370	↔ + 48	2%	Germany (24%)		
Morocco	665	710	505	560	455	310	↓ - 32	1%	Switzerland (21%)		
Guinea	1 260	2 250	1 225	795	400	225	↓ - 44	1%	Germany (47%)		
Algeria	405	345	280	305	240	165	↓ - 31	1%	Switzerland (58%)		
Eritrea	3 805	2 920	1 420	450	225	145	↓ - 36	1%	Belgium (28%)		
Tunisia	45	45	135	45	50	135	↑ + 170	1%	Italy (56%)		
Turkey	95	80	95	105	90	115	↔ + 28	0%	Germany (35%)		
Iran	580	190	260	235	120	100	↓ - 17	0%	Germany (40%)		
Mali	560	875	420	70	50	95	↔ + 90	0%	Italy (68%)		
Other	9 465	9 380	4 775	2 720	1 555	1 245	↓ - 20	5%	Italy (23%)		
<b>EU+</b>	<b>62 350</b>	<b>30 145</b>	<b>17 360</b>	<b>14 735</b>	<b>14 225</b>	<b>23 550</b>	↔ + 66		<b>Afghanistan (53%)</b>		

'-' Data not available

Source: Eurostat [migr\_asyunaa] as at 22 April 2022,

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyunaa&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyunaa&lang=en)



## Table 6: Refugee status at first instance in EU+ countries by reporting country and main citizenship, 2016-2021

	2021										
	2016	2017	2018	2019	2020	2021	% chg. on last year	Share in EU+	Highest share	Sparkline	
<b>Reporting country</b>							<b>Citizenship</b>				
Germany	256 135	123 895	41 365	45 050	37 815	<b>32 065</b>	↓ -15	27%	Syria (50%)		
France	18 720	19 005	21 120	17 355	11 955	<b>21 340</b>	↑ +79	18%	Afghanistan (21%)		
Greece	2 470	9 425	12 635	13 520	26 370	<b>13 040</b>	↓ -51	11%	Afghanistan (33%)		
Austria	24 685	17 800	10 615	5 620	5 005	<b>9 500</b>	↑ +90	8%	Syria (71%)		
Belgium	11 755	9 655	7 860	5 555	4 735	<b>8 290</b>	↑ +75	7%	Palestine (23%)		
Netherlands	9 740	3 030	1 755	2 455	4 975	<b>7 825</b>	↑ +57	7%	Afghanistan (29%)		
Italy	4 800	5 895	6 495	10 115	4 575	<b>6 840</b>	↑ +50	6%	Afghanistan (30%)		
Spain	350	580	575	1 640	4 365	<b>5 355</b>	↑ +23	5%	Colombia (22%)		
Switzerland	5 850	6 240	6 185	5 395	5 255	<b>5 240</b>	→ 0	4%	Turkey (37%)		
Sweden	16 870	13 330	5 995	3 300	2 830	<b>2 080</b>	↓ -27	2%	Syria (18%)		
Poland	100	150	165	130	130	<b>1 015</b>	↑ +681	1%	Afghanistan (74%)		
Norway	11 565	3 835	1 335	1 650	1 015	<b>925</b>	↓ -9	1%	Syria (61%)		
Finland	4 320	2 400	1 765	1 300	850	<b>860</b>	→ +1	1%	Afghanistan (20%)		
Ireland	445	635	630	580	620	<b>795</b>	↑ +28	1%	Somalia (26%)		
Luxembourg	740	1 085	950	635	725	<b>730</b>	→ +1	1%	Eritrea (39%)		
Romania	600	870	310	320	210	<b>510</b>	↑ +143	0%	Afghanistan (33%)		
Denmark	4 275	1 280	830	650	205	<b>360</b>	↑ +76	0%	Eritrea (46%)		
Cyprus	210	220	195	150	145	<b>310</b>	↑ +114	0%	Palestine (24%)		
Portugal	100	115	220	60	80	<b>230</b>	↑ +188	0%	Syria (30%)		
Lithuania	185	275	120	85	80	<b>225</b>	↑ +181	0%	Afghanistan (71%)		
Czechia	140	25	40	50	35	<b>190</b>	↑ +443	0%	Afghanistan (66%)		
Bulgaria	765	800	320	140	105	<b>145</b>	↑ +38	0%	Syria (41%)		
Croatia	85	120	110	55	30	<b>70</b>	↑ +133	0%	Afghanistan (57%)		
Latvia	40	40	25	30	5	<b>60</b>	↑ +1100	0%	Belarus (50%)		
Iceland	50	50	80	90	80	<b>55</b>	↓ -31	0%	Afghanistan (27%)		
Estonia	65	45	15	35	20	<b>50</b>	↑ +150	0%	Afghanistan (30%)		
Hungary	155	105	70	20	85	<b>20</b>	↓ -76	0%	Iran (50%)		
Malta	165	165	150	50	75	<b>20</b>	↓ -73	0%	Sudan (50%)		
Slovenia	135	140	100	85	80	<b>15</b>	↓ -81	0%	Syria (33%)		
Slovakia	0	0	0	5	5	<b>10</b>	↑ +100	0%	Afghanistan (100%)		
Liechtenstein	20	15	0	5	0	<b>0</b>	n.a.	0%	n.a.		
<b>Citizenship</b>							<b>Reporting country</b>				
Syria	218 045	62 820	35 970	36 800	41 375	<b>33 005</b>	↓ -20	28%	Germany (49%)		
Afghanistan	20 355	30 320	10 720	6 900	8 710	<b>19 710</b>	↑ +126	17%	France (23%)		
Turkey	485	4 820	6 515	9 415	9 155	<b>7 910</b>	↓ -14	7%	Germany (31%)		
Eritrea	26 890	18 230	9 945	7 970	6 360	<b>7 525</b>	↑ +18	6%	Germany (27%)		
Iraq	47 065	34 025	11 230	9 015	6 815	<b>5 250</b>	↓ -23	4%	Germany (47%)		
Somalia	5 415	8 060	4 300	3 630	4 140	<b>4 910</b>	↑ +19	4%	Germany (37%)		
Iran	8 550	19 180	6 080	4 530	3 610	<b>3 855</b>	↑ +7	3%	Germany (27%)		
Palestine	720	1 225	1 510	1 985	2 675	<b>3 005</b>	↑ +12	3%	Belgium (63%)		
Guinea	1 055	2 060	1 985	1 910	1 900	<b>2 960</b>	↑ +56	3%	France (74%)		
Unknown	9 375	4 000	2 500	2 795	2 685	<b>2 850</b>	↑ +6	2%	Germany (77%)		
Côte d'Ivoire	360	700	1 155	1 190	1 265	<b>1 980</b>	↑ +57	2%	France (89%)		
Nigeria	1 000	2 695	2 440	3 240	1 845	<b>1 845</b>	→ +	2%	Italy (59%)		
Congo (DR)	1 400	1 680	2 065	1 600	1 285	<b>1 600</b>	↑ +25	1%	France (61%)		
Colombia	35	75	165	280	815	<b>1 405</b>	↑ +72	1%	Spain (83%)		
Russia	2 520	2 525	2 470	1 780	1 285	<b>1 310</b>	→ +2	1%	France (34%)		
Other	32 265	28 810	22 980	23 090	18 540	<b>19 050</b>	→ +3	16%	France (37%)		
<b>EU+</b>	<b>375 535</b>	<b>221 225</b>	<b>122 030</b>	<b>116 130</b>	<b>112 460</b>	<b>118 170</b>	↑ +5		<b>Syria (28%)</b>		

'-' Data not available

Source: Eurostat [migr\_asydcfstq] as at 22 April 2022,

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfstq&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfstq&lang=en)



## Table 7: Subsidiary protection status at first instance in EU+ countries by reporting country and main citizenship, 2016-2021

Reporting country	2021						% chg. on last year	Share in EU+	Highest share	Sparkline
	2016	2017	2018	2019	2020	2021				
<b>Reporting country</b>	<b>Citizenship</b>									
Germany	153 695	98 065	25 030	19 415	18 950	<b>23 000</b>	↕ + 21	36%	Syria (88%)	
France	10 040	13 560	11 600	10 785	7 180	<b>12 540</b>	↕ + 75	20%	Afghanistan (61%)	
Italy	12 090	6 385	4 205	6 870	4 970	<b>8 215</b>	↕ + 65	13%	Afghanistan (27%)	
Greece	240	1 035	2 580	3 835	7 955	<b>3 540</b>	↘ - 55	6%	Afghanistan (78%)	
Netherlands	10 710	4 140	1 480	1 830	2 820	<b>2 865</b>	↔ + 2	4%	Syria (45%)	
Austria	5 355	7 015	3 625	1 075	1 050	<b>2 145</b>	↕ + 104	3%	Syria (53%)	
Spain	6 500	3 510	2 320	1 540	1 390	<b>2 025</b>	↕ + 46	3%	Mali (55%)	
Cyprus	1 090	1 020	1 020	1 150	1 530	<b>1 985</b>	↕ + 30	3%	Syria (96%)	
Poland	150	340	190	130	215	<b>1 905</b>	↕ + 786	3%	Belarus (88%)	
Bulgaria	585	900	420	265	710	<b>1 875</b>	↕ + 164	3%	Syria (95%)	
Belgium	3 290	2 930	1 815	975	975	<b>890</b>	↘ - 9	1%	Afghanistan (40%)	
Switzerland	1 805	1 065	1 120	970	980	<b>735</b>	↘ - 25	1%	Eritrea (40%)	
Romania	205	380	285	265	430	<b>625</b>	↕ + 45	1%	Syria (72%)	
Sweden	47 215	12 265	3 985	2 305	1 365	<b>520</b>	↘ - 62	1%	Syria (65%)	
Denmark	330	260	55	580	70	<b>260</b>	↕ + 271	0%	Eritrea (92%)	
Iceland	40	15	20	205	290	<b>195</b>	↘ - 33	0%	Venezuela (59%)	
Malta	970	590	480	350	190	<b>155</b>	↘ - 18	0%	Eritrea (45%)	
Luxembourg	25	35	65	35	25	<b>135</b>	↕ + 440	0%	Syria (70%)	
Norway	400	150	55	45	50	<b>135</b>	↕ + 170	0%	Afghanistan (78%)	
Portugal	210	380	405	110	15	<b>80</b>	↕ + 433	0%	Afghanistan (44%)	
Finland	1 705	650	395	205	135	<b>75</b>	↘ - 44	0%	Afghanistan (40%)	
Czechia	295	120	115	75	60	<b>65</b>	↕ + 8	0%	Syria (62%)	
Ireland	40	50	180	120	120	<b>65</b>	↘ - 46	0%	Somalia (23%)	
Hungary	270	1 110	280	35	40	<b>20</b>	↘ - 50	0%	Afghanistan (25%)	
Latvia	90	235	5	5	10	<b>20</b>	↕ + 100	0%	Belarus (75%)	
Slovakia	10	20	35	15	20	<b>20</b>	↔ + 0	0%	n.a.	
Croatia	10	30	25	0	5	<b>0</b>	↘ - 100	0%	n.a.	
Estonia	60	45	0	5	5	<b>0</b>	↘ - 100	0%	n.a.	
Liechtenstein	5	5	5	5	10	<b>0</b>	↘ - 100	0%	n.a.	
Lithuania	15	15	20	10	0	<b>0</b>	n.a.	0%	n.a.	
Slovenia	35	15	0	0	0	<b>0</b>	n.a.	0%	n.a.	
<b>Citizenship</b>	<b>Reporting country</b>									
Syria	183 615	74 735	27 200	22 500	22 650	<b>28 925</b>	↕ + 28	45%	Germany (70%)	
Afghanistan	17 850	24 435	11 470	9 080	12 920	<b>14 445</b>	↕ + 12	23%	France (53%)	
Somalia	4 030	7 320	2 715	1 665	2 010	<b>2 350</b>	↕ + 17	4%	France (34%)	
Mali	1 360	605	525	700	565	<b>2 060</b>	↕ + 265	3%	Spain (54%)	
Belarus	15	10	5	0	85	<b>1 715</b>	↕ +1 918	3%	Poland (98%)	
Iraq	15 920	19 605	4 300	2 785	1 935	<b>1 580</b>	↘ - 18	2%	Germany (29%)	
Pakistan	2 285	1 170	750	990	710	<b>1 495</b>	↕ + 111	2%	Italy (95%)	
Eritrea	11 340	9 910	3 875	2 265	1 345	<b>1 460</b>	↕ + 9	2%	Germany (29%)	
Yemen	580	1 345	1 190	1 755	1 440	<b>1 040</b>	↘ - 28	2%	Netherlands (37%)	
Venezuela	10	50	220	1 250	925	<b>800</b>	↘ - 14	1%	Italy (67%)	
Ukraine	950	910	530	500	460	<b>550</b>	↕ + 20	1%	Spain (43%)	
Libya	755	855	685	720	555	<b>485</b>	↘ - 13	1%	Italy (30%)	
Unknown	7 050	3 500	520	450	465	<b>475</b>	↔ + 2	1%	Germany (67%)	
El Salvador	55	30	110	980	645	<b>430</b>	↘ - 33	1%	Italy (79%)	
Nigeria	1 035	695	315	380	260	<b>410</b>	↕ + 58	1%	Italy (74%)	
Other	10 630	11 160	7 405	7 190	4 595	<b>5 870</b>	↕ + 28	9%	France (45%)	
<b>EU+</b>	<b>257 480</b>	<b>156 335</b>	<b>61 815</b>	<b>53 210</b>	<b>51 565</b>	<b>64 090</b>	↕ + 24		<b>Syria (45%)</b>	

**Notes:** '!' Data not available

Poland has requested Eurostat to amend the number of decisions on subsidiary protection given in the country.

Source: Eurostat [migr\_asydcfstq] as at 22 April 2022,

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfstq&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfstq&lang=en)



## Table 8: Humanitarian protection at first instance in EU+ countries by reporting country and main citizenship, 2016-2021

							2021				
	2016	2017	2018	2019	2020	2021	% chg. on last year	Share in EU+	Highest share	Sparkline	
<b>Reporting country</b>							<b>Citizenship</b>				
Spain	0	0	0	35 240	45 300	13 030	↓ - 71	43%	Venezuela (99%)		
Italy	18 510	19 520	19 970	1 390	2 030	6 330	↑ + 212	21%	Nigeria (14%)		
Germany	24 075	39 650	9 535	5 855	5 700	4 790	↔ - 16	16%	Afghanistan (47%)		
Switzerland	5 535	7 300	7 925	4 420	3 945	3 035	↔ - 23	10%	Afghanistan (50%)		
Netherlands	365	645	375	555	820	1 370	↔ + 67	5%	Iran (23%)		
Ireland	:	70	190	265	195	595	↑ + 205	2%	Nigeria (20%)		
Austria	330	390	780	725	785	465	↔ - 41	2%	Russia (55%)		
Sweden	2 505	1 185	675	470	230	205	↔ - 11	1%	Stateless (20%)		
Denmark	2 525	830	435	355	140	155	↔ + 11	1%	Syria (97%)		
Finland	1 045	385	245	160	160	130	↔ - 19	0%	Iraq (38%)		
Norway	805	780	70	95	80	40	↔ - 50	0%	Afghanistan (38%)		
Slovakia	190	45	5	15	15	15	↔ + 0	0%	Afghanistan (33%)		
Iceland	5	0	0	5	20	5	↓ - 75	0%	Venezuela (100%)		
Malta	55	10	25	10	5	5	↔ + 0	0%	Sierra Leone (100%)		
Belgium	:	:	:	:	0	0	n.a.	0%	n.a.		
Bulgaria	:	:	:	:	0	0	n.a.	0%	n.a.		
Croatia	0	0	0	0	0	0	n.a.	0%	n.a.		
Cyprus	0	0	0	0	0	0	n.a.	0%	n.a.		
Czechia	0	0	0	10	0	0	n.a.	0%	n.a.		
Estonia	0	0	0	0	0	0	n.a.	0%	n.a.		
France	:	:	:	:	0	0	n.a.	0%	n.a.		
Greece	0	0	0	0	0	0	n.a.	0%	n.a.		
Hungary	5	70	15	0	5	0	↓ - 100	0%	n.a.		
Latvia	:	:	:	:	0	0	n.a.	0%	n.a.		
Liechtenstein	15	0	5	0	0	0	n.a.	0%	n.a.		
Lithuania	0	0	0	0	0	0	n.a.	0%	n.a.		
Luxembourg	:	:	:	:	0	0	n.a.	0%	n.a.		
Poland	45	20	15	5	15	0	↓ - 100	0%	n.a.		
Portugal	:	:	:	:	0	0	n.a.	0%	n.a.		
Romania	0	0	0	0	0	0	n.a.	0%	n.a.		
Slovenia	:	:	:	:	0	0	n.a.	0%	n.a.		
<b>Citizenship</b>							<b>Reporting country</b>				
Venezuela	30	90	140	35 180	45 380	13 015	↓ - 71	43%	Spain (99%)		
Afghanistan	22 270	30 610	8 460	4 195	4 315	4 200	↔ - 3	14%	Germany (54%)		
Nigeria	3 475	5 555	4 220	765	855	1 305	↔ + 53	4%	Italy (67%)		
Iraq	1 285	2 725	2 455	1 310	1 190	890	↔ - 25	3%	Germany (71%)		
Pakistan	1 790	1 800	1 480	295	220	880	↑ + 300	3%	Italy (80%)		
Syria	4 440	2 475	2 210	1 940	1 155	815	↔ - 29	3%	Switzerland (44%)		
Bangladesh	1 495	1 860	2 635	135	295	615	↑ + 108	2%	Italy (93%)		
Somalia	2 575	2 775	1 105	730	455	500	↔ + 10	2%	Germany (49%)		
Mali	1 625	1 355	1 250	85	90	490	↑ + 444	2%	Italy (98%)		
Iran	425	595	290	220	235	465	↔ + 98	2%	Netherlands (69%)		
Eritrea	1 395	2 145	795	785	505	420	↔ - 17	1%	Germany (42%)		
Turkey	180	410	360	350	485	350	↔ - 28	1%	Netherlands (59%)		
Russia	360	535	405	245	435	325	↔ - 25	1%	Austria (78%)		
Tunisia	65	60	60	0	5	290	↑ + 5 700	1%	Italy (95%)		
Ukraine	1 385	1 200	795	175	215	285	↔ + 33	1%	Italy (79%)		
Other	13 215	16 710	13 605	3 165	3 610	5 325	↔ + 48	18%	Italy (60%)		
<b>EU+</b>	<b>56 010</b>	<b>70 900</b>	<b>40 265</b>	<b>49 575</b>	<b>59 445</b>	<b>30 170</b>	↔ - 49		<b>Venezuela (43%)</b>		

': Data not available

Source: Eurostat [migr\_asydcfstq] as at 22 April 2022,

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfstq&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfstq&lang=en)



### Table 9: Rejections at first instance in EU+ countries by reporting country and main citizenship, 2016-2021

							2021		Highest share	Sparkline
	2016	2017	2018	2019	2020	2021	% chg. on last year	Share in EU+		
<b>Reporting country</b>									<b>Citizenship</b>	
France	58 735	78 380	82 325	85 755	67 200	<b>103 145</b>	↗ +53	32%	Bangladesh (8%)	
Germany	197 180	262 580	103 175	83 850	66 125	<b>72 835</b>	↗ +10	23%	Syria (27%)	
Spain	3 395	7 965	8 980	19 620	73 740	<b>50 580</b>	↘ -31	16%	Colombia (37%)	
Italy	54 470	46 440	64 545	75 110	29 215	<b>22 840</b>	↘ -22	7%	Pakistan (21%)	
Greece	8 745	14 055	17 130	15 345	27 830	<b>20 715</b>	↘ -26	6%	Pakistan (25%)	
Belgium	9 915	11 460	9 340	10 640	10 645	<b>11 865</b>	↗ +11	4%	Palestine (10%)	
Cyprus	675	1 205	1 265	1 975	1 700	<b>9 980</b>	↗ +487	3%	India (21%)	
Sweden	29 190	34 290	20 690	14 655	12 790	<b>7 260</b>	↘ -43	2%	Uzbekistan (10%)	
Austria	12 045	19 960	19 500	6 460	3 660	<b>6 655</b>	↗ +82	2%	Morocco (19%)	
Netherlands	8 065	8 135	6 660	8 090	4 965	<b>4 435</b>	↘ -11	1%	Iran (15%)	
Romania	490	825	700	725	1 870	<b>2 960</b>	↗ +58	1%	Afghanistan (40%)	
Poland	2 185	2 090	2 120	1 730	1 625	<b>1 455</b>	↘ -10	0%	Russia (44%)	
Bulgaria	1 700	3 040	1 370	855	1 370	<b>1 255</b>	↘ -8	0%	Afghanistan (61%)	
Finland	13 685	3 745	2 040	3 185	1 895	<b>1 235</b>	↘ -35	0%	Iraq (43%)	
Switzerland	9 395	1 615	1 770	1 525	1 090	<b>890</b>	↘ -18	0%	Algeria (15%)	
Denmark	3 290	4 510	1 310	1 455	760	<b>750</b>	↔ -1	0%	Iran (13%)	
Czechia	860	1 050	1 230	1 255	850	<b>675</b>	↘ -21	0%	Ukraine (21%)	
Malta	245	350	855	635	605	<b>630</b>	↗ +4	0%	Bangladesh (22%)	
Croatia	185	335	300	265	250	<b>370</b>	↗ +48	0%	Afghanistan (26%)	
Luxembourg	490	585	400	510	415	<b>315</b>	↘ -24	0%	Iraq (13%)	
Iceland	440	315	270	400	195	<b>305</b>	↗ +56	0%	Iraq (25%)	
Lithuania	90	80	140	235	265	<b>275</b>	↗ +4	0%	Iraq (47%)	
Norway	6 540	1 930	660	670	425	<b>215</b>	↘ -49	0%	Syria (9%)	
Portugal	270	455	420	570	325	<b>205</b>	↘ -37	0%	Morocco (17%)	
Slovenia	100	90	135	130	220	<b>160</b>	↘ -27	0%	Pakistan (25%)	
Latvia	125	90	95	120	100	<b>110</b>	↗ +10	0%	Iraq (27%)	
Ireland	1 650	130	170	895	335	<b>85</b>	↘ -75	0%	Nigeria (24%)	
Slovakia	40	30	40	55	45	<b>85</b>	↗ +89	0%	Morocco (47%)	
Estonia	65	60	60	45	45	<b>25</b>	↘ -44	0%	Armenia (20%)	
Hungary	4 670	2 880	595	645	350	<b>20</b>	↘ -94	0%	Afghanistan (25%)	
Liechtenstein	35	15	30	20	15	<b>5</b>	↘ -67	0%	Albania (100%)	
<b>Citizenship</b>									<b>Reporting country</b>	
Syria	8 140	8 280	8 870	10 155	11 275	<b>23 985</b>	↗ +113	7%	Germany (83%)	
Pakistan	24 800	32 680	21 480	21 100	16 920	<b>20 875</b>	↗ +23	6%	Greece (25%)	
Colombia	300	670	1 435	5 875	41 510	<b>20 450</b>	↘ -51	6%	Spain (92%)	
Nigeria	20 155	30 165	26 605	25 325	14 415	<b>16 910</b>	↗ +17	5%	France (41%)	
Bangladesh	10 365	11 610	13 620	14 180	9 795	<b>15 935</b>	↗ +63	5%	France (49%)	
Afghanistan	47 065	93 760	30 075	15 800	17 645	<b>14 620</b>	↘ -17	5%	France (28%)	
Iraq	35 965	41 145	22 330	17 295	12 720	<b>10 990</b>	↘ -14	3%	Germany (53%)	
Georgia	6 380	8 615	13 645	18 160	8 785	<b>10 590</b>	↗ +21	3%	Germany (28%)	
Turkey	2 650	9 590	7 525	8 020	10 365	<b>10 460</b>	↔ +1	3%	France (52%)	
Guinea	4 825	10 025	10 415	11 505	8 200	<b>8 470</b>	↔ +3	3%	France (69%)	
Albania	41 030	26 970	15 845	17 770	8 740	<b>7 650</b>	↘ -12	2%	France (41%)	
Côte d'Ivoire	4 215	6 470	9 225	7 360	6 045	<b>7 270</b>	↗ +20	2%	France (82%)	
Ukraine	8 770	10 455	7 685	8 350	6 855	<b>7 005</b>	↔ +2	2%	France (46%)	
Russia	13 595	17 040	11 050	8 690	7 130	<b>6 570</b>	↘ -8	2%	France (39%)	
Moldova	3 060	1 445	2 500	3 460	3 535	<b>6 375</b>	↗ +80	2%	Germany (65%)	
Other	197 650	199 770	146 015	144 380	126 985	<b>134 180</b>	↗ +6	42%	France (35%)	
<b>EU+</b>	<b>428 965</b>	<b>508 690</b>	<b>348 320</b>	<b>337 425</b>	<b>310 920</b>	<b>322 335</b>	↔ +4		<b>Syria (7%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfstq] as at 22 April 2022,

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfstq&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfstq&lang=en)



## Table 10: Decisions at first instance in EU+ countries by reporting country and main citizenship, 2016-2021

	2021						% chg. on last year	Share in EU+	Highest share	Sparkline
	2016	2017	2018	2019	2020	2021				
<b>Reporting country</b>	<b>Citizenship</b>									
France	87 485	110 945	115 050	113 895	86 330	<b>137 015</b>	↗ +59	26%	Afghanistan (12%)	
Germany	631 090	524 200	179 110	154 180	128 585	<b>132 675</b>	→ +3	25%	Syria (42%)	
Spain	10 250	12 055	11 880	58 035	124 795	<b>70 980</b>	↘ -43	13%	Colombia (28%)	
Italy	89 875	78 230	95 210	93 485	40 795	<b>44 230</b>	↗ +8	8%	Pakistan (17%)	
Greece	11 455	24 515	32 340	32 700	62 155	<b>37 290</b>	↘ -40	7%	Afghanistan (28%)	
Belgium	24 960	24 050	19 015	17 170	16 355	<b>21 030</b>	↗ +29	4%	Palestine (15%)	
Austria	42 415	45 160	34 520	13 890	10 500	<b>18 755</b>	↗ +79	4%	Syria (43%)	
Netherlands	28 875	15 940	10 285	12 940	13 585	<b>16 500</b>	↗ +21	3%	Syria (24%)	
Cyprus	1 975	2 450	2 480	3 275	3 380	<b>12 270</b>	↗ +263	2%	India (17%)	
Sweden	95 780	61 065	31 335	20 725	17 215	<b>10 060</b>	↘ -42	2%	Syria (9%)	
Switzerland	22 580	16 225	17 000	12 315	11 275	<b>9 910</b>	↘ -12	2%	Turkey (21%)	
Poland	2 480	2 600	2 500	1 995	2 000	<b>4 385</b>	↗ +119	1%	Belarus (41%)	
Romania	1 295	2 065	1 295	1 315	2 505	<b>4 105</b>	↗ +64	1%	Afghanistan (33%)	
Bulgaria	3 045	4 740	2 105	1 250	2 195	<b>3 270</b>	↗ +49	1%	Syria (57%)	
Finland	20 750	7 180	4 440	4 845	3 040	<b>2 300</b>	↘ -24	0%	Iraq (33%)	
Ireland	2 130	885	1 175	1 870	1 275	<b>1 545</b>	↗ +21	0%	Somalia (15%)	
Denmark	10 410	6 880	2 625	3 030	1 180	<b>1 525</b>	↗ +29	0%	Eritrea (29%)	
Norway	19 315	6 700	2 115	2 455	1 560	<b>1 320</b>	↘ -15	0%	Syria (44%)	
Luxembourg	1 250	1 715	1 410	1 175	1 165	<b>1 175</b>	→ +1	0%	Syria (31%)	
Czechia	1 300	1 190	1 380	1 390	960	<b>935</b>	→ -3	0%	Ukraine (17%)	
Malta	1 435	1 110	1 495	1 040	870	<b>810</b>	↘ -7	0%	Bangladesh (17%)	
Iceland	540	385	380	710	585	<b>560</b>	→ -4	0%	Venezuela (27%)	
Portugal	595	955	1 040	740	420	<b>500</b>	↗ +19	0%	Afghanistan (20%)	
Lithuania	285	370	270	320	345	<b>500</b>	↗ +45	0%	Afghanistan (33%)	
Croatia	280	480	435	320	290	<b>435</b>	↗ +50	0%	Afghanistan (30%)	
Latvia	260	365	125	150	115	<b>200</b>	↗ +74	0%	Belarus (28%)	
Slovenia	265	240	235	215	295	<b>175</b>	↘ -41	0%	Pakistan (23%)	
Slovakia	250	95	85	85	80	<b>130</b>	↗ +63	0%	Morocco (31%)	
Estonia	195	150	80	90	70	<b>75</b>	↗ +7	0%	Russia (27%)	
Hungary	5 110	4 170	960	705	470	<b>55</b>	↘ -88	0%	Afghanistan (18%)	
Liechtenstein	75	45	45	30	25	<b>15</b>	↘ -40	0%	Albania (33%)	
<b>Citizenship</b>	<b>Reporting country</b>									
Syria	414 275	148 305	74 285	71 420	76 475	<b>86 765</b>	↗ +13	16%	Germany (65%)	
Afghanistan	107 530	179 160	60 700	36 020	43 670	<b>53 015</b>	↗ +21	10%	France (31%)	
Pakistan	30 055	37 070	24 850	23 755	18 880	<b>24 465</b>	↗ +30	5%	Italy (30%)	
Colombia	375	800	1 715	6 330	42 620	<b>22 235</b>	↘ -48	4%	Spain (90%)	
Nigeria	25 700	39 125	33 620	29 750	17 360	<b>20 530</b>	↗ +18	4%	France (35%)	
Turkey	3 510	15 120	14 575	17 985	20 275	<b>18 990</b>	↘ -6	4%	France (34%)	
Iraq	100 280	97 560	40 350	30 475	22 700	<b>18 750</b>	↘ -17	4%	Germany (50%)	
Venezuela	410	2 415	3 230	38 890	49 440	<b>18 525</b>	↘ -63	3%	Spain (85%)	
Bangladesh	12 685	14 375	17 040	15 255	10 590	<b>17 215</b>	↗ +63	3%	France (48%)	
Somalia	18 525	25 680	14 995	11 810	10 815	<b>13 270</b>	↗ +23	2%	France (29%)	
Guinea	6 880	14 085	14 170	13 995	10 530	<b>11 905</b>	↗ +13	2%	France (69%)	
Georgia	6 840	9 095	14 305	18 930	9 230	<b>11 155</b>	↗ +21	2%	France (28%)	
Eritrea	42 860	32 605	16 795	12 990	9 800	<b>11 145</b>	↗ +14	2%	Germany (27%)	
Iran	16 585	37 455	17 260	14 895	12 490	<b>10 100</b>	↘ -19	2%	Germany (37%)	
Côte d'Ivoire	5 770	8 740	11 725	9 000	7 625	<b>9 675</b>	↗ +27	2%	France (82%)	
Other	325 725	295 565	212 805	204 840	171 915	<b>186 990</b>	↗ +9	35%	France (34%)	
<b>EU+</b>	<b>1118 005</b>	<b>957,155</b>	<b>572 420</b>	<b>556 340</b>	<b>534 415</b>	<b>534 730</b>	→ 0		<b>Syria (16%)</b>	

': Data not available

Source: Eurostat [migr\_asydcfstq] as at 22 April 2022,

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfstq&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfstq&lang=en)



# Asylum Report 2022

As the go-to source of information on international protection in Europe, the *Asylum Report 2022* provides a comprehensive overview of key developments in asylum in 2021.

The European Union Agency for Asylum (EUAA) collates information on all aspects of the Common European Asylum System. To this end, the report outlines changes to policies, practices and legislation. It presents trends in asylum, key indicators for the reference year 2021, an overview of the Dublin system which determines the Member State responsible for a case and a dedicated section on applicants with special needs, including unaccompanied minors. Examples of case law are featured to interpret European and national laws in the context of the EU asylum *acquis*.

The *Asylum Report 2022* draws on information from a wide range of sources – including perspectives from national authorities, EU institutions, international organisations, civil society organisations and academia – to present a complete picture and diverse perspectives. The report, covering 1 January to 31 December 2021, serves as a reference for the latest developments in international protection in Europe.

