



# Quality Matrix Synthesis Report



# **Quality Matrix Synthesis Report on Personal Interview, Evidence Assessment and Qualification**

**December 2022**

On 19 January 2022, the European Asylum Support Office (EASO) became the European Union Agency for Asylum (EUAA). All references to EASO, EASO products and bodies should be understood as references to the EUAA.



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# About the report

**Why was this report created?** The mission of the European Union Agency for Asylum (EUAA) is to facilitate and support the activities of Member States of the EU and associated countries (EU+ countries <sup>(1)</sup>) 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. According to its overall aim to promote a correct and effective implementation of the CEAS, the EUAA develops common operational standards and indicators, practical guides and tools and thematic reports.

**How was this report developed?** This report is the output of the EUAA's quality matrix process. Quality matrix reports aim to comprehensively map and provide a comparative overview of EU+ countries' practices in implementing key thematic elements of the common legal framework. The respective EUAA's thematic networks of national contact points (NCPs <sup>(2)</sup>) participate in the development process of the report, depending on the topic. The process starts with the creation of a detailed questionnaire on the subject of the report. During the mapping phase, NCPs provide input on the national practices related to the subject matter. The responses are compiled into key findings. An EUAA thematic meeting focusing on the main topic examined in the report may take place. A draft report is created on the basis of the key findings and, where relevant, of the outputs of the thematic meeting. It is then shared with EU+ countries for consultation. The consolidated final report is then published and shared with the asylum authorities of the EU+ countries.

**Who should use this report?** The report is primarily intended for asylum case officers, interviewers and decision-makers, as well as policymakers in the national determining authorities. Additionally, the report is useful for quality officers and legal counsellors, as well as any other person working or involved in the field of international protection in the EU context.

**How to read this report.** The report is structured in three chapters, dedicated to three core aspects of the asylum determination process: [personal interview](#); [evidence assessment](#); and [qualification for international protection](#).

The information provided in each of the three chapters corresponds to the information provided by the EU+ countries asylum authorities who participated in the relevant mapping of national practices. Participation in a quality matrix mapping exercise is voluntary. On average, 23 EU+ countries participate in a mapping. Thematic mappings take place during specific periods. Therefore, the information provided reflects national practices at the time of the mapping. In cases where changes are made in the practice of a country and this is communicated formally to EUAA by the asylum authority, a special reference in the report explains the presence of the updated information the report as opposed to the reply provided in the questionnaire.

<sup>(1)</sup> The 27 Member States of the European Union, complemented by Iceland, Liechtenstein, Norway and Switzerland.

<sup>(2)</sup> National contact point: a person who acts as a representative of an EU+ country national asylum authority in the EUAA network(s).





**How does this guide relate to other EUAA tools?** The *Quality Matrix Synthesis Report on Personal Interview, Evidence Assessment and Qualification* can be read as a stand-alone document or be complemented by information found in the EUAA's practical guides on personal interview <sup>(3)</sup>, evidence assessment <sup>(4)</sup> and qualification for international protection <sup>(5)</sup>.

All EUAA practical guides and tools are publicly available online on the EUAA website: <https://euaa.europa.eu/practical-tools-and-guides>.

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<sup>(3)</sup> EASO, *Practical Guide: Personal interview*, December 2014.

<sup>(4)</sup> EASO, *Practical Guide: Evidence assessment*, March 2015.

<sup>(5)</sup> EASO, *Practical Guide: Qualification for international protection*, April 2018.





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# List of abbreviations

Abbreviation	Definition
<b>APD (recast)</b>	<b>asylum procedures directive</b> – 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 (recast)
<b>CEAS</b>	Common European Asylum System
<b>COI</b>	country of origin information
<b>CSO</b>	civil-society organisation
<b>EUAA</b>	European Union Agency for Asylum
<b>EU</b>	European Union
<b>EU+ countries</b>	Member States of the European Union and associated countries
<b>IPA</b>	internal protection alternative
<b>Member States</b>	Member States of the European Union
<b>QD (recast)</b>	<b>qualification directive</b> – Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)
<b>Refugee Convention</b>	The 1951 Convention relating to the status of refugees and its 1967 Protocol (referred to in EU asylum legislation and by the CJEU as ‘the Geneva Convention’)
<b>UNHCR</b>	United Nations High Commissioner for Refugees



# Personal interview

## Introduction

Third-country nationals who submit an application for international protection can present their reasons for fleeing their country of origin and seeking protection in one of the Member States of the EU and associated countries (EU+ countries) in a personal interview with competent staff from the national determining authorities dedicated to this purpose. The personal interview is the cornerstone of the asylum procedure, not only because it enforces the applicant's right to be heard, but also because often applicants rely mainly or exclusively on their statements to substantiate their claim. During the personal interview, the applicant must be given a fair and effective opportunity to present the grounds for their application. This chapter of the report aims to comprehensively outline EU+ countries' applicable practices on certain aspects of the personal interview in the context of the international protection procedure.

The EU legal framework on the personal interview is provided in Directive (2013/32/EU) (APD (recast)) on common procedures for granting and withdrawing international protection <sup>(6)</sup>. The provisions regulating the guarantees for applicants and the set-up of the personal interview, laid down in Chapter II 'Basic Principles and Guarantees' of the APD (recast), cover the following aspects: information provision to the applicant; qualifications of officials conducting the personal interview; reporting methods of the personal interview; postponement and possibility to omit the personal interview; presence of family members and/or third parties during the personal interview; consequences of failure to appear for the personal interview; issues regarding special categories of applicants such as minors and interpretation arrangements.

The information related to the personal interview presented in this report is based on a mapping exercise conducted in July-September 2019 and covering 21 EU+ countries. The initial mapping on the personal interview was conducted in 2014.

For guidance on how to conduct a personal interview and how to organise a remote personal interview, please consult the EUAA's *Practical Guide on Personal Interview* <sup>(7)</sup> and the *Practical recommendations on conducting the personal interview remotely* <sup>(8)</sup>.

<sup>(6)</sup> [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 (recast), (OJ L 180/60, 29.6.2013).

<sup>(7)</sup> EASO, *Practical guide on personal interview*, December 2014.

<sup>(8)</sup> EASO, *Practical recommendations on conducting the personal interview remotely*, May 2020.



# Information provision

## Information provision on the first instance examination

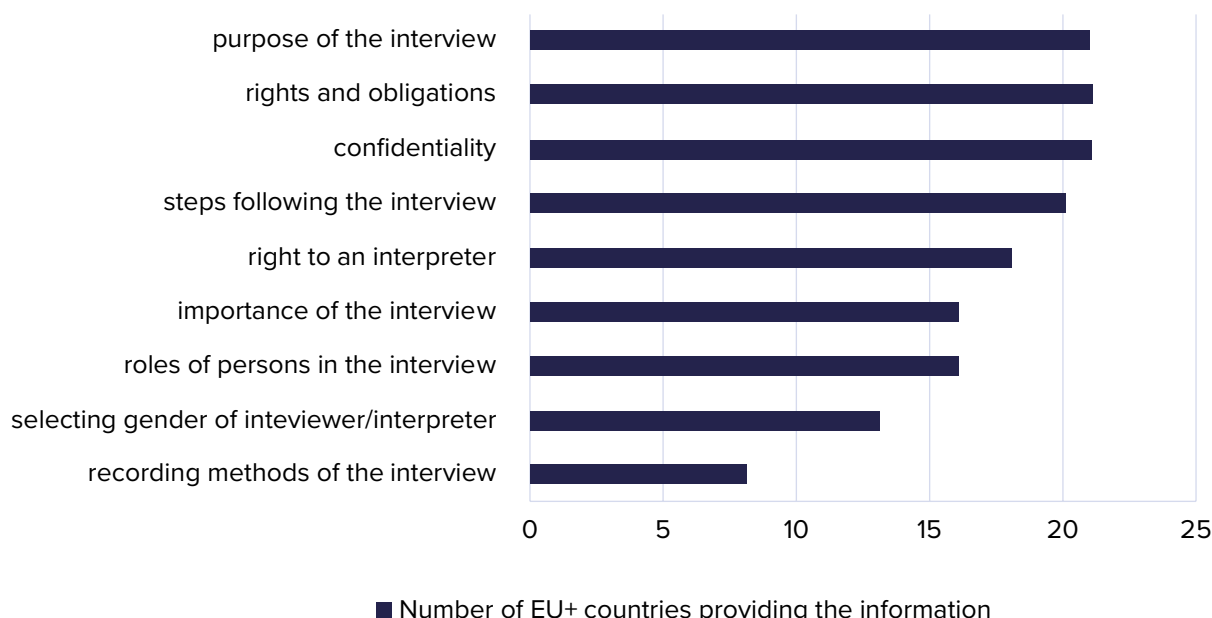
In accordance with Article 12(1)(a) APD (recast), applicants must be informed in a language which they understand of the procedure to be followed, of their rights and obligations during the procedure, and the possible consequences of not complying with them. They must also be informed of the applicable timeframes, the means at their disposal to submit elements, as well as of the consequences of an explicit or implicit withdrawal of the application. That information must be given in time, enabling the applicants to exercise the relevant rights and obligations.

According to the responses of the 21 EU+ countries taking part in the 2019 mapping exercise for the personal interview, all EU+ countries provide information to the applicants on the personal interview.

The findings indicate that, compared to 2014, the EU+ countries have expanded the scope of the information provided to the applicants before or during the personal interview.

The graph below presents the topics covered during information provision to the applicant before or during the personal interview and the number of EU+ countries providing the information.

**Figure 1. Information provision to the applicant before or during the personal interview**



Source: 21 EU+ countries

Along with the information provided to the applicant on their rights and obligations, in some countries asylum administrations also provide information on **the contact details of UNHCR and relevant civil society organisations (CSOs)**.



## Methods for providing the information

Regarding the methods for information provision before and during the personal interview, the vast majority of the responding EU+ countries complement written information material with oral information provision to the applicant.

Audio-visual presentations are used in 4 EU+ countries.



### Counselling for applicants along with written information and online presentation

Voluntary and independent counselling for all applicants on the asylum procedure, under the supervision of the national asylum authority, was introduced in Germany in 2019 following a review of the legal framework. The counselling comprises two stages: (1) a group information session with general information on the asylum procedure and return possibilities, conducted by the national administration, followed by (2) individual counselling sessions for each applicant, conducted by the national administrations or social welfare organisations.



### Video projection

An information provision video covering the different processes during an international protection application is available in 19 languages in Denmark. It starts with the applicant's arrival at an asylum centre and ends with either the applicant being granted a residence permit or the application being rejected. The video also provides information about the rights and duties of applicants. The video explains different situations, e.g. how the applicant's biometric features are recorded at a police station and how the interview is conducted.

An extended version of the video is available to show to unaccompanied children. Among other things, it shows how an age test is carried out at the national hospital when it is not possible to determine the age otherwise.

## Officials conducting the personal interview

### Qualifications required for officials conducting the personal interview

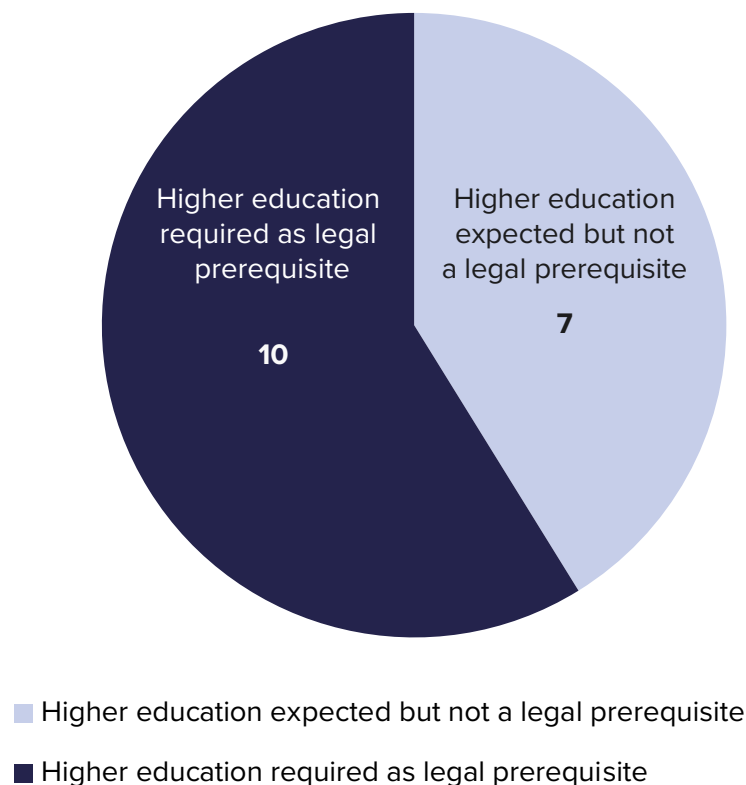
In accordance with Article 10(3)(a) and (c) APD (recast) on the requirements for the examination of applications, the determining authority must ensure that: 'applications are examined and decisions are taken individually, objectively and impartially' and 'the personnel examining applications and taking decisions know the relevant standards applicable in the field of asylum and refugee law'.

In addition, in accordance with Article 15(3) APD (recast) on the requirements for a personal interview, personal interviews must 'allow applicants to present the grounds for their applications in a comprehensive manner' by ensuring that the staff conducting the interviews 'is competent to take account of the personal and general circumstances of the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability'.



In the majority of the responding EU+ countries, relevant knowledge and competencies are required for officials conducting the personal interview. More than half of the EU+ countries require higher education as a legal prerequisite for officials to conduct a personal interview. In 7 EU+ countries, higher education is expected but does not form a legal prerequisite. Officials conducting the personal interview are required to have specific language skills in 3 EU+ countries.

**Figure 2. Higher education as a requirement for officials conducting the personal interview**



## Specialisation systems for officials conducting the personal interview

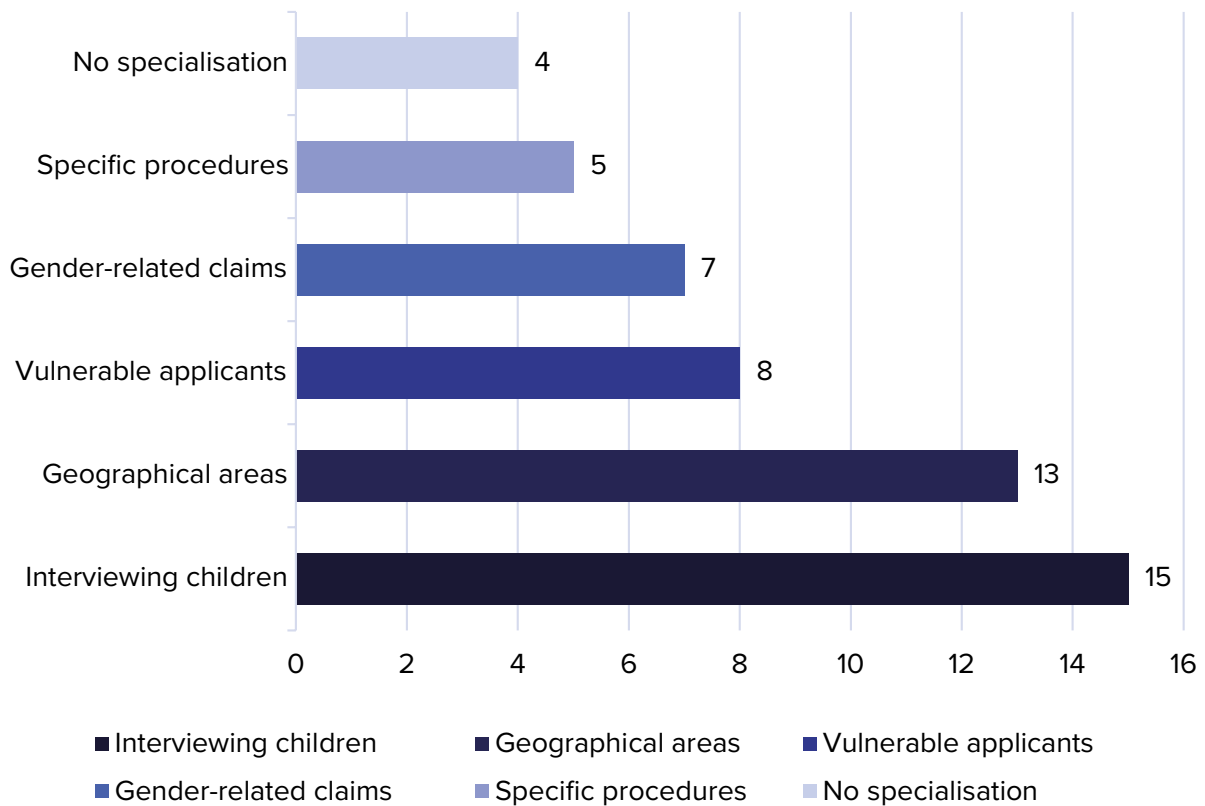
The mapping exercise revealed that most EU+ countries implement a specialisation system for the officials conducting the personal interview.

Most responding countries have indicated that they have more than one specialisation system in place. In particular:

- The majority of EU+ countries have specialisation systems for interviewing children and for interviewing applicants from selected geographical areas or countries of origin.
- About one third of the EU+ countries have specialisation systems for interviewing in gender-related cases.
- About one fourth of the responding countries have specialisation systems for the implementation of specific procedures (e.g. subsequent applications, exclusion cases).
- The remaining countries do not currently apply any specialisation system.



**Figure 3. Specialisation systems in place**



Source: 21 EU+ countries

## The process of the personal interview

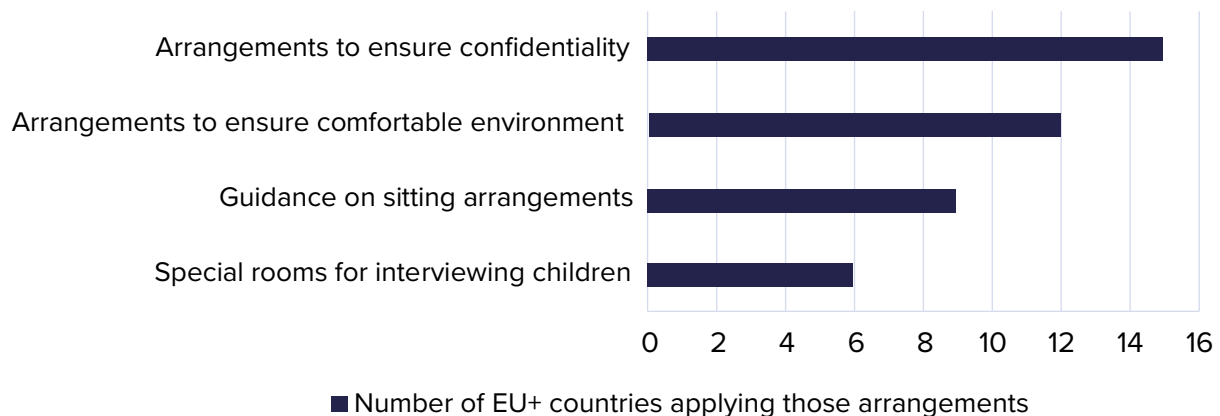
### Preparatory arrangements for the personal interview

In accordance with Article 15(3) APD (recast) on the requirements for a personal interview, the latter must take place under conditions which ensure appropriate confidentiality and ‘allow applicants to present the grounds for their applications in a comprehensive manner.’

The responding EU+ countries ensure the confidentiality of the personal interview through arrangements related to setting up hearing rooms, the equipment available and other relevant preparations. Most EU+ countries make the necessary arrangements in order to ensure a comfortable environment during the personal interview, mainly by providing water and tissues to the applicant and by holding the interview in an appropriate environment. Guidance regarding the sitting arrangements for those present in the room is sometimes provided while certain countries have special rooms for interviewing children.



**Figure 4. Arrangements made for the purposes of the personal interview**



Source: 16 EU+ countries

## Possibility to request an interviewer of a specific gender and/or to object to a particular interviewer

In accordance with Article 15(3)(b) APD (recast) on requirements for a personal interview, wherever possible, the interview with the applicant must be **conducted by a person of the same sex** if the applicant requests so, ‘unless the determining authority has reason to believe that such a request is based on grounds which are not related to difficulties on the part of the applicant to present the grounds of his or her application in a comprehensive manner’.

All EU+ countries provide the applicant with the possibility to choose the gender of the interviewer, at least under certain circumstances, for example in the following cases:

- the applicant’s claim involves gender-based violence;
- religious or cultural sensitivities related to gender are at the basis of the applicant’s request;
- the applicant presents certain vulnerabilities;
- in other cases when reasonable grounds apply.

When it comes to objecting to a particular interviewer, the applicant has the opportunity to do so in 9 EU+ countries when reasonable grounds apply. This is the case particularly when the applicant puts forward credible concerns regarding the impartiality or professional conduct of the interview process. Some of the responding countries also offer the possibility to the applicant to make remarks or comments at the end of the personal interview. Such comments are taken under consideration in the decision.

## Duration of the personal interview and breaks

All EU+ countries apply breaks during the personal interview, either at the request of the applicant, the interpreter or the interviewer, or at regular intervals. In most of the responding countries, the personal interview duration can vary on a case-by-case.



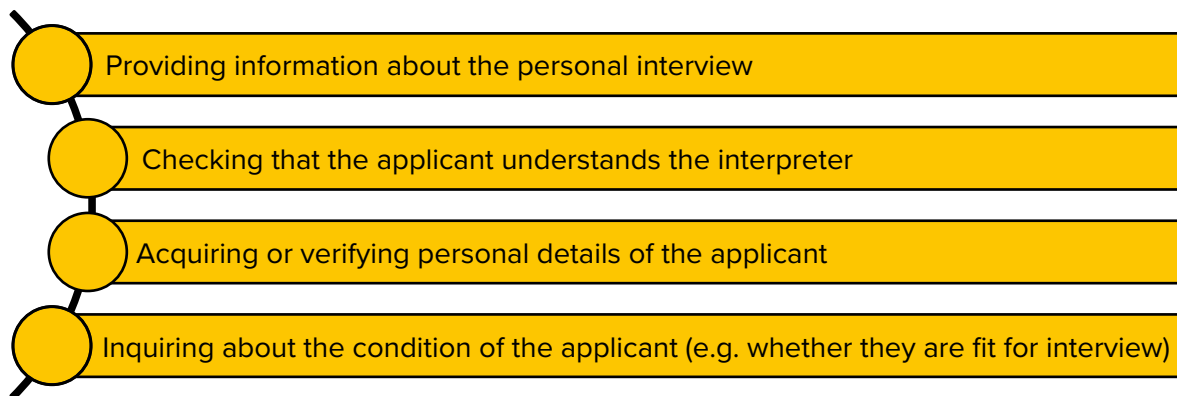
In almost half of the responding countries, the personal interview lasts between 2 and 4 hours. One third of the responding countries replied that the length of the personal interview varies from case to case and may last several hours. In 4 countries, the average duration of the interview is between 4 and 6 hours.

## Mandatory parts of the personal interview

The majority of EU+ countries have mandatory parts in the personal interview. These include the introductory part of the personal interview, the questioning methodology during the core of the personal interview and the concluding part.

The **introductory part** of the personal interview consists of four main elements for the majority of responding EU+ countries.

**Figure 5. Introductory part of the personal interview**

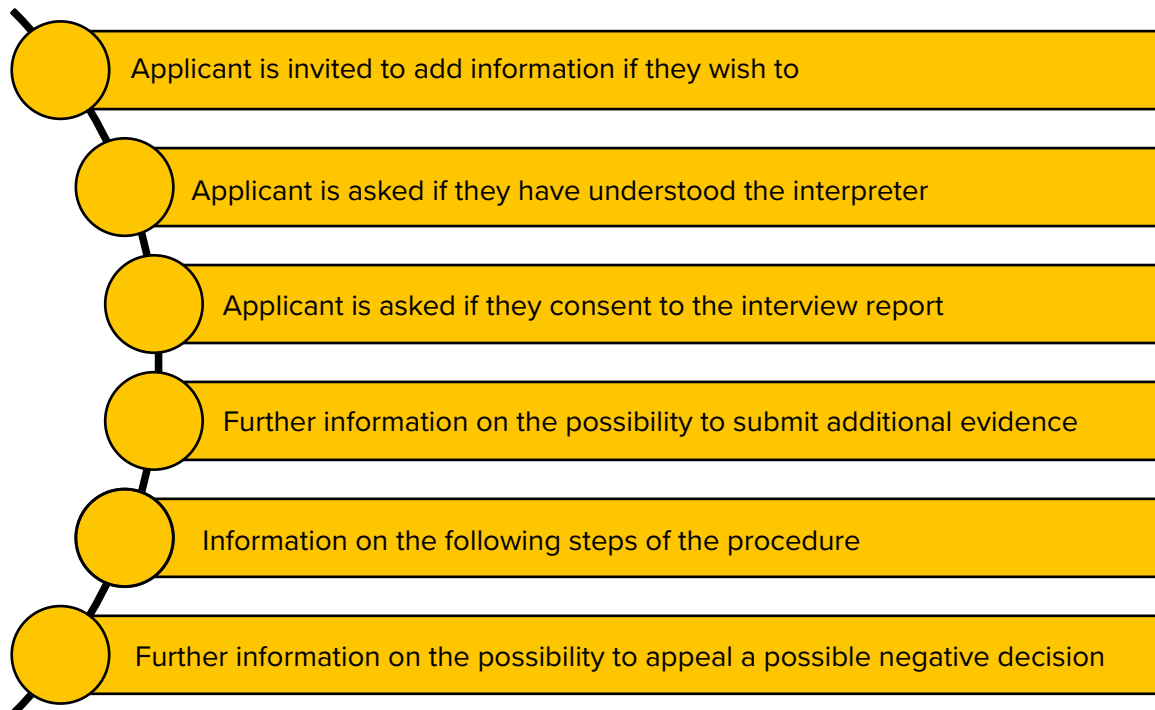


Source: 20 EU+ countries

Regarding the **methodology of questioning** during the interview, the majority of EU+ countries offer space to the applicant for the **free narrative part**, complemented with **open questions** during the core part of the personal interview.

The **concluding part** of the personal interview includes six elements in the majority of EU+ countries.



**Figure 6. Concluding part of the personal interview**

Source: 21 EU+ countries

## Presence of family members in the personal interview

Article 15(1) APD (recast) on the requirements for a personal interview of provides that personal interviews are conducted individually even in the case of families. As a rule, family members should not be present in the personal interview of kin. The legislator, however, allows family members to take part in the interview where this is deemed necessary by the determining authority.

More than half of the responding countries reported to exercise this prerogative on a case-by-case basis.

While the initiative to invite a family member in the interview room could be taken by the determining authority, most often it is the applicant who makes such request to the authority. In the former circumstance, the authority requests the consent of the applicant in order to invite a family member whereas, in the latter case, the authority will assess the reasonableness of the request taking also into account the relevance of the request for the applicant's claim as well as the possibility of a conflict of interest.

### Requests for a family member to participate in the personal interview – examples noted by the responding countries

- vulnerable applicant facing health issues that require a family member's support
- applicants bringing along their young child to the interview out of necessity.

In 1 EU+ country anyone who is a party to a case may, at any time of the case processing, be represented or assisted by others. The authority may also require the party to participate personally when it is relevant to the decision on the case. All applicants can request for a family member to be present during the interview. The request is granted unless there is a conflict of interest.

## **Presence of third parties in the interview room**

In accordance with Article 15(4) APD (recast) on the requirements for a personal interview, Member States may provide for rules concerning the presence of third parties at a personal interview.

The sections below present the third parties most commonly invited to participate in the personal interview.

### **Legal counsel / representative**

All EU+ countries that participated in the mapping allow the presence of a legal counsel / representative during the personal interview. The role of the legal counsel/representative consists mainly in the possibility to present remarks and to make relevant questions at the end of the personal interview. All EU+ countries also allow for the presence of a legal representative/guardian for minors during the personal interview, in which case their respective roles vary between silent presence and the possibility to make remarks and/or questions at the end of the personal interview.

### **Person of trust**

Presence in the personal interview of a person of trust is possible in the practice of almost half of the responding countries. However, the requirements to allow a person of trust in the interview room vary. The most common denominator of this assessment is that the applicant's request is considered justified in view of the specific characteristics of their case.

Further to the request being a reasonable one, before deciding whether to allow a 'person of trust' to be present in the interview some EU+ countries assess the possibility of a conflict of interest of the person of trust with the applicant. In the practice of 1 country the authority can refuse presence of a person of trust for reasons of confidentiality or privacy.

In some countries' practices, a person of trust would be allowed to participate in the interview by virtue of their profession, e.g. social worker, medical expert, nurse, psychologist.

Another EU+ country allows the presence of any person the applicant may request to attend, except for persons who are applicants for international protection themselves.

### **Additional interpreter**

An interpreter chosen and hired by the applicant can support the interview.



## Civil society organisations

CSOs representing or assisting the applicant can participate in the interview. A small portion of EU+ countries, 3 out of 21 responding, specified that CSOs representing the applicant have the right to make observations and ask questions, most commonly at the end of the interview.

## UNHCR and organisations working on its behalf in the country

Article 29 APD (recast) describes the role of UNHCR in relation to the asylum procedure in general.



### Article 29 APD (recast) – The role of UNHCR

1. *Member States shall allow UNHCR:*
  - (a) *to have access to applicants, including those in detention, at the border and in the transit zones;*
  - (b) *to have access to information on individual applications for international protection, on the course of the procedure and on the decisions taken, provided that the applicant agrees thereto;*
  - (c) *to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authorities regarding individual applications for international protection at any stage of the procedure.*
2. *Paragraph 1 shall also apply to an organisation which is working in the territory of the Member State concerned on behalf of UNHCR pursuant to an agreement with that Member State.*

It is an established practice in more than two thirds of responding EU+ countries to allow UNHCR's access to the personal interview, with the applicant's consent. Some countries expect UNHCR representatives to act as silent observers in the interview whereas others allow UNHCR to make remarks and ask questions, usually at the closing stage of the interview.

## Other third parties

Several responding EU+ countries noted that upon consent of the applicant, determining authorities can invite experts, university students, staff for training purposes as well as representatives of other relevant national authorities in the interview room.

## Reporting of the personal interview

All responding EU+ countries keep written records of the communication exchange between the parties in the personal interview. The vast majority of responding countries create a verbatim transcript of the personal interview. In the remaining countries, the written report is a mixture of verbatim transcript and summarising parts. Keeping a written record of audio-recorded interviews is good practice, as it is easier to refer to a written report when assessing the applicant's statements.



Audio recording the personal interview is possible in almost half of the responding countries. However, only 5 countries use audio-recording as standard practice. The rest only resort to using it in exceptional cases.

Video recording is an option used by a very small portion of responding countries (2 out of 21). It is mainly used in the context of remote interpretation through videoconference and in the context of interviews with children younger than 12 years of age.

## **Applicant's approval of the interview report**

All responding EU+ countries give the applicant the opportunity to make comments or clarify statements made during the interview, usually at the closing phase.

In 1 country, the applicant can do so at different times during the interview. Every time during the interview, the interviewer summarises the applicant's statements, the latter is asked whether the summary reflects their statements correctly and fully.

The vast majority of responding EU+ countries request the applicant's approval of the interview report. In countries where the interview is recorded and the interview report is not read back at the end of the interview, the applicant's approval may not be requested.

In 1 country, the applicant's explicit approval of the interview report is not requested during the interview. In line with this country's legislation, the applicant or their lawyer can ask for a copy of the report and submit observations to the interview report within a specific timeframe. These observations are considered by the asylum authority. In case no observations are submitted on the part of the applicant, at the latest one day before the decision is made, it is presumed that the applicant has confirmed the content of the interview report.

## **Access to the interview report**

### **Applicant / legal representative**

The interview report is made available to the applicant or their legal representative in all reporting countries. By the end of the interview, a copy of the interview report is handed over to the applicant or their legal representative in more than half of the reporting countries.

### **Third parties**

- UNHCR and organisations acting on UNHCR's behalf in a given country

With the applicant's consent and/or upon request to the asylum authority, UNHCR has access to the personal interview report in more than half of the reporting countries.

- Other national authorities

Other national authorities can have access to the interview report, where this is stipulated by law.



## Postponement of the personal interview upon applicant's request

All responding EU+ countries allow the applicant to request for a postponement of the personal interview when there are valid grounds and depending on personal circumstances. Justified health issues is considered a solid reason for postponement of the interview in all responding EU+ countries.

Another common reason for the interview to be rescheduled is the justified unavailability of the applicant's legal representative or guardian, in the case of an unaccompanied child.

## Omission of the personal interview

Article 14(2) APD (recast) provides for the possibility of omitting the personal interview with the applicant in two situations: a) the evidence available to the asylum authority suffices to confirm the applicant should be recognised as a refugee; b) the applicant is considered unable or unfit to be interviewed due to enduring circumstances beyond their control.

All responding EU+ countries would omit the personal interview in cases where the applicant is unable or unfit to be interviewed due to enduring circumstances beyond their control. In practice, however, such cases are rare.

The majority of responding EU+ countries may use the possibility not to interview an applicant when the evidence available to the asylum authority suffices to confirm that the applicant should receive international protection. On the contrary, 5 out of the 21 responding countries do not omit the personal interview of a manifestly founded application on the basis of the evidence available. In 2 of these countries, it is a legal requirement not to omit the personal interview even when a positive decision can be taken based on the available evidence.

## Consequences of the applicant's unjustified non-appearance for a personal interview

When an applicant does not appear for a personal interview and does not provide a justified reason this can be considered by the asylum authority as an implicit withdrawal of the application for international protection, leading to the discontinuation of the application or to a rejection decision on the merits of the application, provided that there are enough elements available in the file to come to this conclusion.

## Personal interview with children

When conducting the personal interview with a child, national asylum administrations are expected to consider the principle of the best interests of the child, in accordance with the Charter of Fundamental Rights of the European Union <sup>(9)</sup> (the Charter) and the 1989 United Nations Convention on the Rights of the Child <sup>(10)</sup>. When assessing the child's best interests,

<sup>(9)</sup> European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02.

<sup>(10)</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.



asylum authorities should take into account their well-being and social development, including their background<sup>(1)</sup>.

## **Age and mental maturity**

Neither the EU legislation nor any national legislation of the EU+ countries that participated in the mapping envisage an age threshold for the conduct of a personal interview with a child.

All the asylum authorities of EU+ countries' primarily assess the child's capacity to undergo an interview by considering their mental maturity in relation to their age. A child of a very young age, e.g. an infant or a toddler, cannot be expected to have the required mental capacity to undergo an interview. In the practice of most reporting countries, children under the age of 6 are not interviewed, unless in exceptional cases where child-specific reasons apply. The majority of EU+ countries' asylum authorities will interview children older than 12 years of age. Indicative age limits (where existing) for an interview to be conducted may vary from country to country (from 12 to 15 years of age). In a small portion of EU+ countries, the age of 14 is a cut-off limit for the mandatory conduct of a personal interview.

## **Personal interview with accompanied children**

The majority of responding EU+ countries reported to conduct interviews with accompanied children. In most responding countries, the decision to conduct a personal interview with an accompanied minor is based on the child's capacity to contribute to the establishment of material facts in line with their age. Other reasons for accompanied children to have a personal interview noted by the responding countries are the child's own request to be interviewed, as expressed through their own or their parent's voice; the child's reasons to request international protection being child-specific or in any other way different from their parents'; or the child having filed an independent application.

Some countries reported that, as part of their practice, they ask parents to consent to their children being interviewed. In the rare instances of parents objecting, the asylum authority respects such objection while at the same time informing the parents on the importance of a child's opportunity to make their voice heard. In the event of objection to their child(ren) to be interviewed, the asylum authority contacts the social services' authorities and communicates this refusal on the parent's part.

Conducting interviews with accompanied children does not form part of the standard practice of 1 in 5 of the reporting countries, where interviews with accompanied children are conducted only exceptionally.

## **Personal interview with unaccompanied children**

Unaccompanied children who are deemed to have the necessary mental maturity are, in principle, always interviewed. The personal interview takes place in the presence of the child's legal representative in all EU+ countries. 2 countries have specified that the presence of the child during the interview is an absolute requirement in all circumstances.

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<sup>(1)</sup> In accordance with recital 33 APD (recast).



Approximately 1 in 4 of the EU+ countries noted that the legal representative can be contacted to provide additional information on the child's application at any point during the asylum procedure. In this case, a legal representative is considered on par with the parent of an accompanied child, to whom the authorities might ask to provide related additional information on their child's case during the asylum process.

One EU+ country reported the following procedure in cases of unaccompanied children:

- appointment of a legal representative;
- assessment of the child's maturity;
- family tracing and/or reunification processes, where applicable;
- granting of a special residence permit to unaccompanied children who have not attained the sufficient mental maturity to undergo the standard asylum procedure.

## **Special arrangements for interviews with children**

Reporting countries noted the use of special arrangements regarding the conduct of the personal interview with children (accompanied or unaccompanied).

Dedicated and specially-trained officials conduct the personal interview with children in approximately half of the responding countries.

In some national administrations where it is not the standard practice that the case officer who conducts the interview also decides on the application, it is nonetheless anticipated that the same case officer handles the interview and the decision in cases of children.

In 1 EU+ country, different protocols for interviewing children under 15 years and children between 15 and 18 years of age are in place.

The use of child-friendly interview rooms for children under the age of 12 was also reported by 1 EU+ country.

The examination of applications of unaccompanied children is prioritised in 1 EU+ country.

## **Family members present in the interview**

Approximately half of the EU+ countries reported that a family member is allowed to be present in the interview of an (accompanied) child unless the best interests of the child dictate otherwise, and on a case-by-case basis. A child being interviewed in the presence of a family member is a possibility also when this is requested by the child, for example to feel more comfortable, or in cases where the child has filed a separate application.





### Good practice on interviewing children: dedicated unit and specially-trained case officers

National researchers in Norway have developed a special method for efficient communication with children on sensitive and challenging topics that need to be discussed with underage applicants. The asylum authority in Norway has a special unit focusing on child applicants and applying this method when children are interviewed (by specially-trained case officers).

## Interpretation arrangements in place during the personal interview

### Requirements for interpreters

More than half of the reporting countries noted that interpreters supporting the personal interview are certified professionals or members of a professional organisation. In about the same number of reporting countries, the interpreters are registered in a roster or database kept by the asylum authorities. Approximately half of the countries indicated the interpreters' adherence to a code of conduct and clean penal record as mandatory professional requirements.

In 1 EU+ country, the interpreters registered in the database are classified into seven categories according to their documented qualifications. The top three categories are reserved for interpreters with accreditation through authorised and/or university level interpreter training. The minimum requirement to be included in the register is twofold: documented bilingual skills (passing a language test) and completion of a basic introductory course on interpreting ethics and techniques.

### Training undergone by interpreters employed in the personal interview

In 1 in 3 of the responding EU+ countries, new interpreters are provided with on-the-job coaching to familiarise themselves with aspects of the asylum procedure related to their tasks. This coaching can take the form of an extended dialogue between the interpreter and a staff member of the asylum authority (in 1 country), written information for self-study (a list with specific terminology and a schedule about the procedure for asylum) (in 1 country), or online video training (in 1 country).

A specific online video training on interpretation in the context of asylum has been developed by 1 asylum authority jointly with an association of interpreters. Asylum-specific training for interpreters has been developed by 2 asylum authorities jointly with UNHCR.

Some countries have quality control processes in place to monitor the aptitude of interpreters. For example, in 1 EU+ country every newly contracted interpreter is invited to an extensive on-boarding conversation during which they are briefed in detail about the requirements of the work. If the newly contracted interpreter has little or no experience in interpreting, direct coaching with an experienced interpreter is arranged. The quality of work by interpreters is continuously assessed via feedback forms (completed by the interviewers). For newly contracted interpreters, additional and more frequent feedback forms are requested. Should there be any negative feedbacks, further conversations with the interpreter in question are held.





## Language used in the personal interview

To the extent possible, all reporting EU+ countries provide interpreters for the personal interview who master the applicant's preferred language (as indicated in their application form). In exceptional cases where the applicant cannot determine for themselves their own language, certain countries commission linguistic experts to assist with language determination.

## Unavailability of interpretation in a language

In the instance of a language for which no qualified interpreter is available to the asylum authorities, responding EU+ countries use the following options:

- the procedure is suspended until an interpreter is identified (through one or more of the options listed below) in half of the countries;
- cooperation with other authorities in the country to procure an interpreter, in approximately half of the countries;
- cooperation with other asylum authorities that have a sufficient availability of interpreters for the requested language, in approximately half of the countries;
- such cooperation may involve university scholars in other Member States, in 1 country;
- relay translation, in approximately half of the countries;
- conducting the personal interview with a non-professional interpreter (in approximately half of the countries);
- it has been noted by 1 country that, for some languages, neither interpretation training nor tests are available. Interpreters in such languages have to undergo a specially developed quality assurance programme. In all interviews involving interpretation by unqualified interpreters, an audio recording is made.

## Possibility to request an interpreter of a certain gender and to object to a specific interpreter

All reporting countries offer international protection applicants the possibility to request an interpreter of a certain gender, as provided for in EU legislation. It is likely that the request will be accepted if it is appropriate and if an interpreter of that gender is available. In 1 in 3 of the responding countries, an interpreter of the same gender is envisaged by law or regulation. In some countries it is a requirement that the interpreter involved in the examination of cases of persons with specific vulnerabilities (i.e. unaccompanied children and persons who have experienced gender-based violence) are of the same gender as the applicant.

In all reporting countries applicants have the possibility to object to an interpreter when there are good reasons for this. The applicant will have to justify their reasons to object to the interpreter. Reasons for objection raised by applicants are usually related to the interpreter's impartiality, perceived professional incapacity to qualitatively interpret the applicant's statements (as perceived by the applicant or the applicant's legal representative) or the possible connection with someone that the applicant considers their persecutor in the country of origin.



# Evidence assessment

## Introduction

The decision-making process in the assessment of applications for international protection can be viewed as a two-step process: evidence assessment (establishing the facts and assessing the risks) and legal assessment (applying the law).

Evidence assessment can be defined as the primary method of establishing the facts of an individual case through the process of examining and comparing available pieces of evidence <sup>(12)</sup>. Evidence includes the applicant's statements, documentation or other materials that support, verify, or refute a relevant fact <sup>(13)</sup>.

The process of assessing evidence comprises the collection of the evidence substantiating the claim, the identification of the core elements of the claim (material facts), the assessment of the credibility of the identified material facts, and the assessment of the risk the applicant may face upon return.

Applying a consistent evidence assessment approach is important to reach convergence in the decision-making process across case officers and Member States.

The EU legal framework on evidence assessment is provided in Article 4 'Assessment of fact and circumstances' of Directive (2011/95/EU) (QD (recast)) <sup>(14)</sup>. It is further complemented by Article 10 'Requirements for the examination of applications and Article 13 'Obligations of the applicants' of the APD (recast).

The information included in this section of the report is based on a mapping exercise conducted in August 2020 covering 23 EU+ countries. The initial mapping on evidence assessment was conducted in 2014.

For more information on evidence assessment please consult the EUAA's practical guide on evidence assessment <sup>(15)</sup>. An updated version of this practical guide will be published in 2023.

<sup>(12)</sup> See EASO, *Practical Guide: Evidence Assessment*, March 2015.

<sup>(13)</sup> See EASO, *Evidence and credibility assessment in the context of the Common European Asylum System – Judicial analysis*, 2018, pp. 17-18.

<sup>(14)</sup> [Directive 2011/95/EU](#) of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011).

<sup>(15)</sup> EASO, *Practical Guide: Evidence Assessment*, March 2015



## Gathering evidence

Collection of evidence is the first step of the evidence assessment <sup>(16)</sup>. The asylum authority gathers the evidence that is presented by the applicant for international protection to substantiate their claim, along with any additional evidence that will allow for a correct assessment of the application.

Most responding countries have indicated that specific third parties such as UNHCR, CSOs or other authorities or individuals (applicant's family members, friends, colleagues, witnesses, etc.) may present evidence on particular international protection cases.

This section focuses on the methods used by 23 EU+ responding countries to collect and process specific types of evidence, namely:

- evidence related to the identity and nationality of the applicant;
- evidence submitted in a language other than the official one of the country of application;
- country of origin Information (COI);
- consultation of experts;
- evidence from social media accounts;
- checks on applicants' belongings.

### Evidence related to the identity and nationality of the applicant

#### Collecting information and evidence on the applicant's identity and nationality

In most EU+ countries, law enforcement officers (border, federal or state police immigration police) have a role in collecting information on and examining the applicant's identity and nationality during the initial stages of the asylum process (the making and registering of the application for international protection).

The great majority of EU+ countries have specific procedures, policies or established practices in place regarding the examination of the applicant's identity.

In addition to standard procedures, such as the collection of biometric data (predominantly fingerprints and facial imaging), and the verification of the collected data within available databases, the administrations have recourse to specific identity assessment interviews and document verification. Some also mentioned the use of language analysis for that purpose, as well as information gathered on social media, and the examination of mobile phones.

Some EU+ countries that use or check social media as part of the examination process mentioned that these checks are not compulsory or automatic, and are done only when it is necessary. A number of responding countries mentioned that they can access information on

<sup>(16)</sup> See the description of the different steps of the evidence assessment in the EUAA, *Practical Guide: Evidence assessment*, 2015.



social media only when it is publicly available. The applicant's consent is needed in some EU+ countries to carry out social media checks.

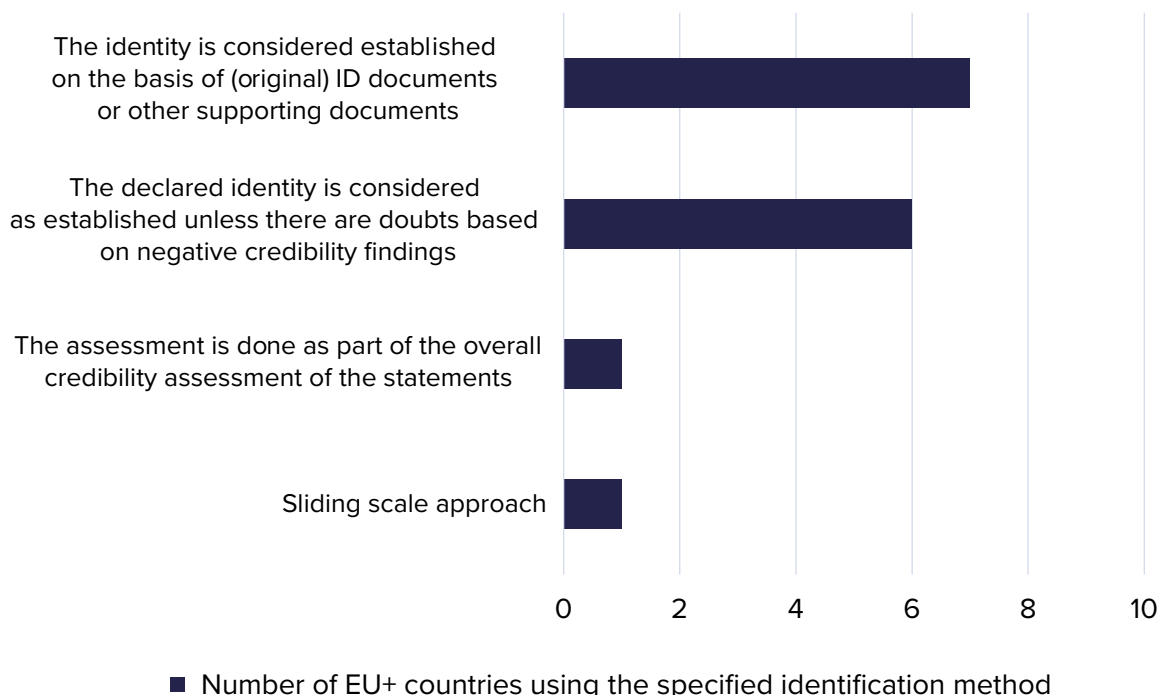
The applicant may be able to provide, at a later stage in the procedure, evidence in relation to their identity that they could not provide during the registration or lodging phase. In some EU+ countries the applicant is actively invited to take the necessary steps to try and gather evidence that can prove their identity. Such evidence may then be submitted at any point during the course of the asylum procedure until a decision is issued. These EU+ countries have specified that any document that could clarify the applicant's identity could be taken into consideration during the evidence assessment. In 1 EU+ country, the claims are categorised according to the kind of documents that the applicant has submitted to prove their identity.

### Declared identity, established identity, and false identification

Close to half of the responding EU+ countries makes a distinction, to some extent, between the applicant's declared (or attributed) identity and their established (or accepted) identity, while the other half does not make such a distinction.

The graph below shows the elements based of which such distinction is made, in the countries that actually made such distinction.

**Figure 7. Elements taken into account to consider the applicant's identity as established**

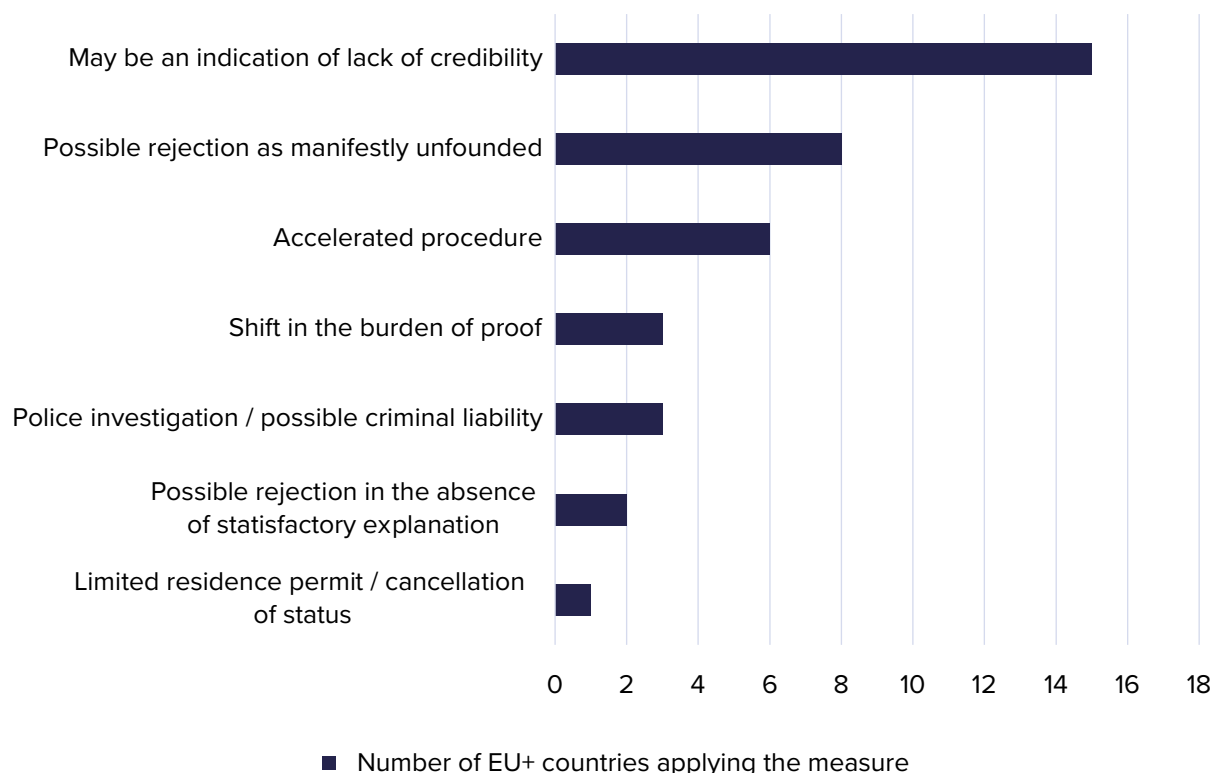


Source: 10 EU+ countries

In the vast majority of EU+ countries, the fact that the applicant's identity cannot be established is taken up as one element in the general credibility assessment.

Most EU+ countries take measures when it appears that the applicant has provided false identification before the authorities. The possible consequences mentioned by the responding EU+ countries are displayed in the graph below.

**Figure 8. Consequences of false identification presented by the applicant**



Source: 19 EU+ countries

Additional comments from EU+ countries show that some of them apply specific measures (such as accelerated procedure and/or rejection as manifestly unfounded) if it appears that the applicant has tried to purposely mislead the asylum authorities. Some EU+ countries added that when the applicant has provided false identification, they take a rejection decision as manifestly unfounded on a case-by-case basis, or when the criteria for granting international protection are not met.

## Evidence submitted in different languages

The analysis of the findings highlighted that in all EU+ countries the applicant can present written evidence that is not in the official language of the state authorities.

In the large majority of EU+ countries, the cost of the translation procedure is covered by the asylum authority. Some of them have set up internal procedures for the translation of written evidence presented. In more than half of the EU+ countries, the interpreters translate evidence during the interview.

In almost all EU+ countries, the translation focuses on the pieces of evidence relevant to the claim, while a few countries translate all submitted evidence irrespective of its relevance.

## Collecting country of origin information

### Country of origin information collected by the asylum authority

COI is indispensable for the assessment of applications for international protection <sup>(17)</sup>. Case officers use COI in different stages of the assessment, from preparation to credibility assessment and further to the assessment of future risks for international protection applicants.

All but 1 of the responding EU+ country asylum administrations have specialised **COI units** which, along with other tasks, are responsible for developing COI products and replying to case officers' queries. In all responding EU+ countries, the **case officer** has the liberty to conduct COI research relevant to their cases. In the large majority of EU+ countries, case officers are allowed to use and search both primary sources and specialised reports published by their COI units.

The major factor impacting the **response time** by COI units is the complexity of the subject in question. The practice varies depending on the expected timeframe within which the COI unit is requested to provide a reply: either 'as soon as possible', or within a specified maximum period, e.g. three or five days. Some responding EU+ countries have specified that the timeframe could also be longer than the expected deadline and that replies to complex requests may take weeks.

Besides national COI units, the asylum authorities of 5 responding EU+ countries specified that, where necessary, requests for additional COI information can be made to the Ministry of Foreign Affairs' **diplomatic representations** in the respective countries of origin. The possibility to commission **independent liaison persons** in countries of origin in order to acquire more precise information about circumstances in a specific case has been mentioned by 1 responding country.

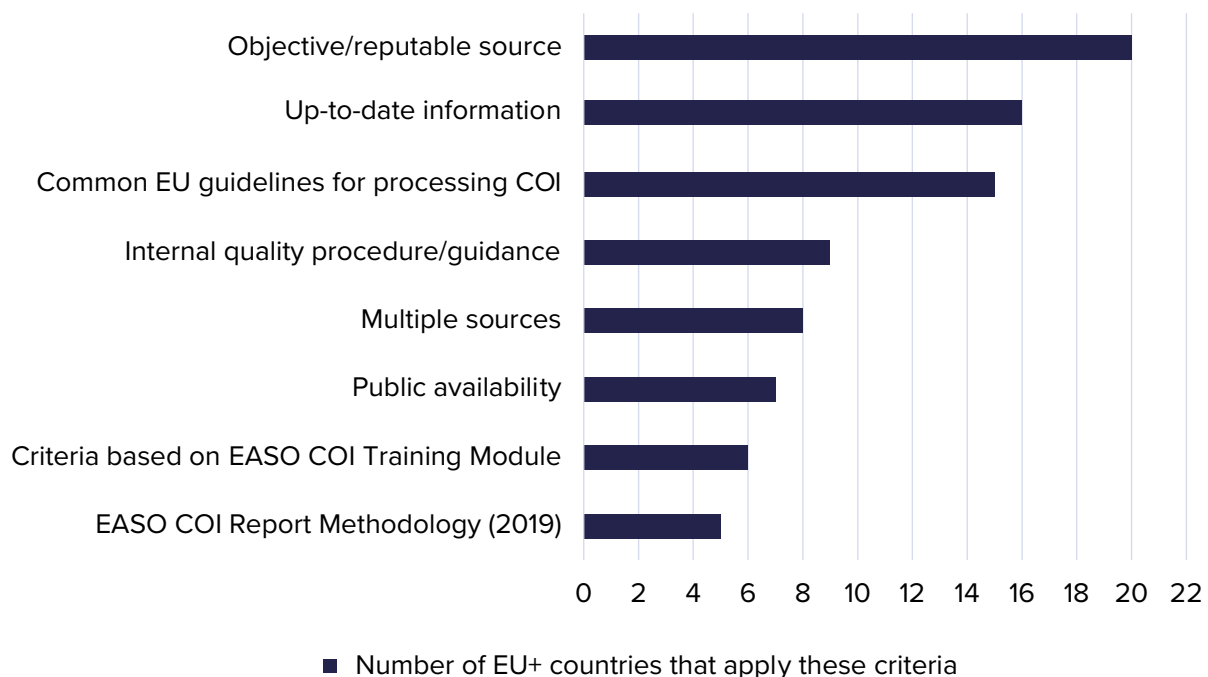
Case officers have access to a broad variety of **sources of COI**. Most of them have access to external COI portals and sources.

The majority of EU+ countries have developed an internal COI database and/or develop COI reports and products through national specialised units.

**COI in languages other than the official** national language(s) of a given EU+ country can be relied upon in all responding EU+ countries, if relevant to an international protection case. Some EU+ countries have specified that the COI used in the decision has to be translated in (one of) the national language(s). Others indicated that information in English does not need to be translated.

Figure 9 includes a non-exhaustive list of the most commonly applied criteria by EU+ countries in the assessment of the **quality of COI sources**.

<sup>(17)</sup> See EASO, *Country of Origin Information (COI) Report Methodology*, June 2019, and EASO, *Practical guide on the use of country of origin information by case officers for the examination of asylum applications*, December 2020.

**Figure 9. Quality criteria for country of origin information sources <sup>(18)</sup>**

Source: 23 EU+ countries

### Country of origin information presented by the applicant

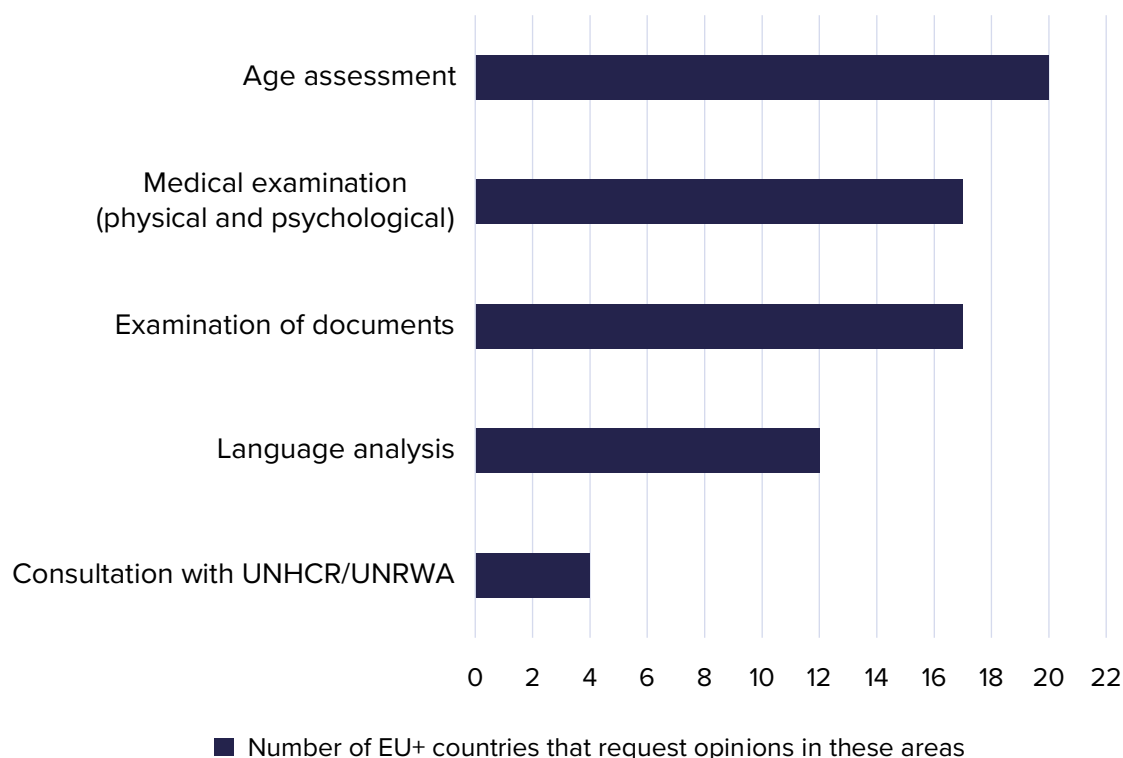
All EU+ countries allow the applicant and/or their legal representative to present COI, but most of them apply specific criteria to take the information into consideration. These criteria include the relevance of the information to the particular case, the possibility to verify the COI presented, its specificity and the added value it provides for the examination of the case.

### Consulting experts on medical, cultural, religious and other issues

Further to assessing COI, asylum administrations have the possibility to consult and consider external experts' opinions on particular issues, such as medical, cultural, religious, child-related or gender issues as provided in Article 10(3)(d) APD (recast). All responding EU+ countries enforce this provision when necessary and relevant. The main areas where external expert opinions are requested by asylum authorities are illustrated in Figure 10.

<sup>(18)</sup> Common EU guidelines on processing COI in the graph refers to: European Union, [Common EU Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008.

**Figure 10. Consultation areas where external expert opinions are usually requested**



Source: 23 EU+ countries

Some respondent states have added that their administration also has internal experts that can be consulted by case officers, on topics such as gender, minors, exclusion and subsidiary protection issues, and/or have a specific unit dealing with the examination of medical or psychological evidence, and/or of documentary evidence in general.

## Collecting evidence on open source social media

In most EU+ responding countries, an examination of open source social media is undertaken by the asylum authorities, either on a regular basis or on specific cases, for example only if and where deemed necessary.

It has been specified by 1 EU+ country that a check of the social media account only takes place if something relevant arises during the interview and the applicant's account is public. Another responding country has shared that, in their administration, information from social media accounts could only be traced and used with the applicant's consent. Some EU+ countries have added that they always confront the applicant with the information that was found on their social media accounts if it raises negative credibility findings.

On the other hand, 1 in 3 of EU+ responding countries do not run social media searches.





## Checking the applicant's belongings

Applicants' belongings, including mobile phones and other electronic devices that contain personal information, are not searched by the asylum authorities in the majority of responding EU+ countries.

In the EU+ countries where this type of search is done, it is carried out by the police and not by the asylum authorities. It has been specified by 1 EU+ country that the search of personal belongings is only possible when indications exist that the applicant has in their possession identification or other necessary documents but fails to comply with the obligation to present them. Another country has informed that the asylum authority can perform such search only with the applicant's consent. If the consent is not given, the assistance of the police may be requested. A couple of other EU+ countries specified that the applicant's belongings may be searched in certain situations, for example when there are security concerns or when looking for evidence that could constitute proof of identity.

## Credibility assessment

Once the applicant's statements and all other supporting evidence are gathered, case officers identify the material facts of the claim and link them to all relevant evidence. Material facts are facts that are directly linked to the definition of refugee <sup>(19)</sup> or of person eligible for subsidiary protection <sup>(20)</sup> and go to the core of the application <sup>(21)</sup>.

Material facts and the related evidence are analysed through different criteria, in order to conclude on the acceptance or rejection of each material fact. This process includes the assessment of the probative value of documentary and other evidence, as well as the credibility assessment of the applicant's statements.

Based on the accepted material facts, the case officer conducts the risk assessment, a factual and future-oriented assessment of the likelihood that future events related to persecution or serious harm will occur.

This section presents the practices of 23 EU+ countries in relation to credibility and risk assessment.

## Authentication of documents

Documents presented by the applicant may be authenticated through different methods available in the reporting countries, of which referral to the police is the most common. The methods used for the authentication of documents are presented in Figure 11.

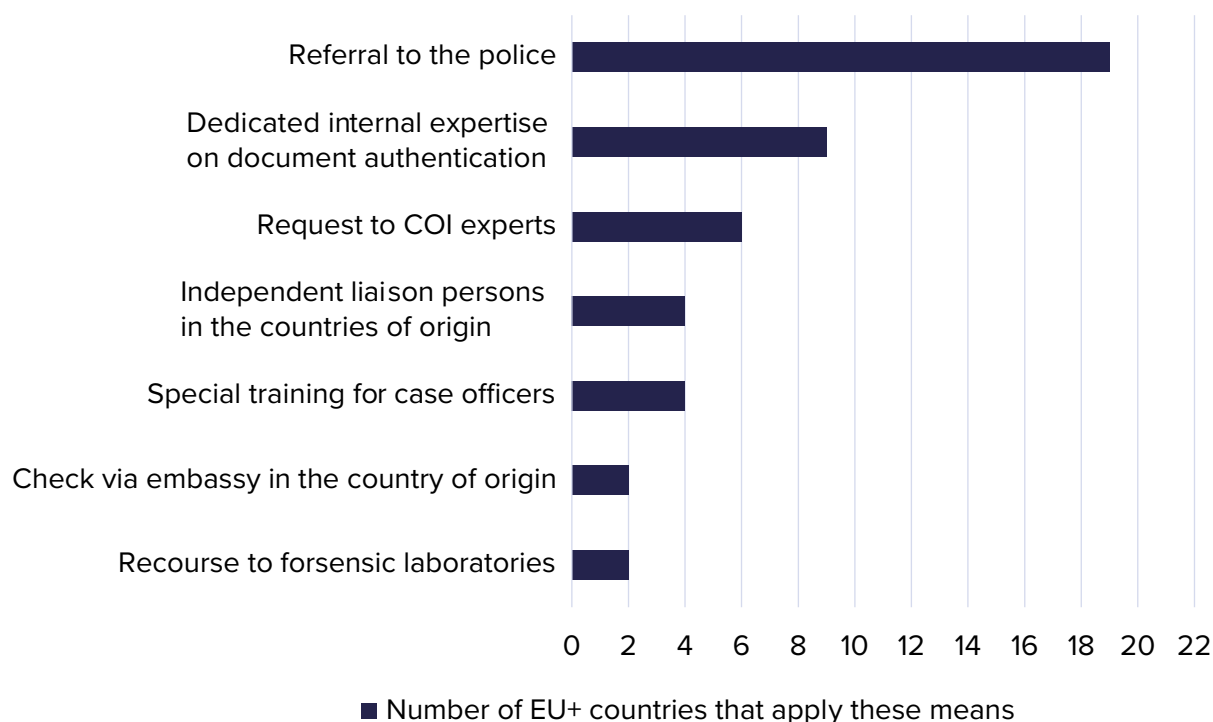
<sup>(19)</sup> Article 1(A)(2) of the 1951 Refugee Convention and Article 2(d) QD (recast).

<sup>(20)</sup> Article 2(f) and Article 15 QD (recast).

<sup>(21)</sup> EASO, *Practical Guide: Evidence Assessment*, March 2015.



**Figure 11. Methods for the authentication of documents**



Source: 23 EU+ countries

It has been mentioned by 1 EU+ country that case officers do not assess whether a document is genuine or false. This is done by specialised personnel at the immigration authority and the military police. This expert assessment is considered authoritative before their national court. Databases with reference documents issued in countries of origin from all over the world are also used, as mentioned by another respondent state.

## Examination of medical evidence

In the majority of the EU+ countries, the determining authority assesses the relevance of the medical evidence submitted by the applicant. In less than half of them, the administration may refer the applicant to appropriate medical expertise.

Some reporting countries mentioned that they use specific medical standards, such as the Istanbul Protocol <sup>(22)</sup>, for the assessment of medical documentation. They also referred to medical tests they may use, such as age determination procedures for unaccompanied children, the examination of victims of torture, or the use of DNA tests.

In some EU+ countries, an applicant may be required to present relevant medical evidence in order to substantiate the reasons for applying for international protection or specific medical conditions, such as evidence related to torture or post-traumatic stress disorder or female genital mutilation.

<sup>(22)</sup> UN Office of the High Commissioner for Human Rights, *Istanbul Protocol Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 'Istanbul Protocol'*, 2004, HR/P/PT/8/Rev.1.

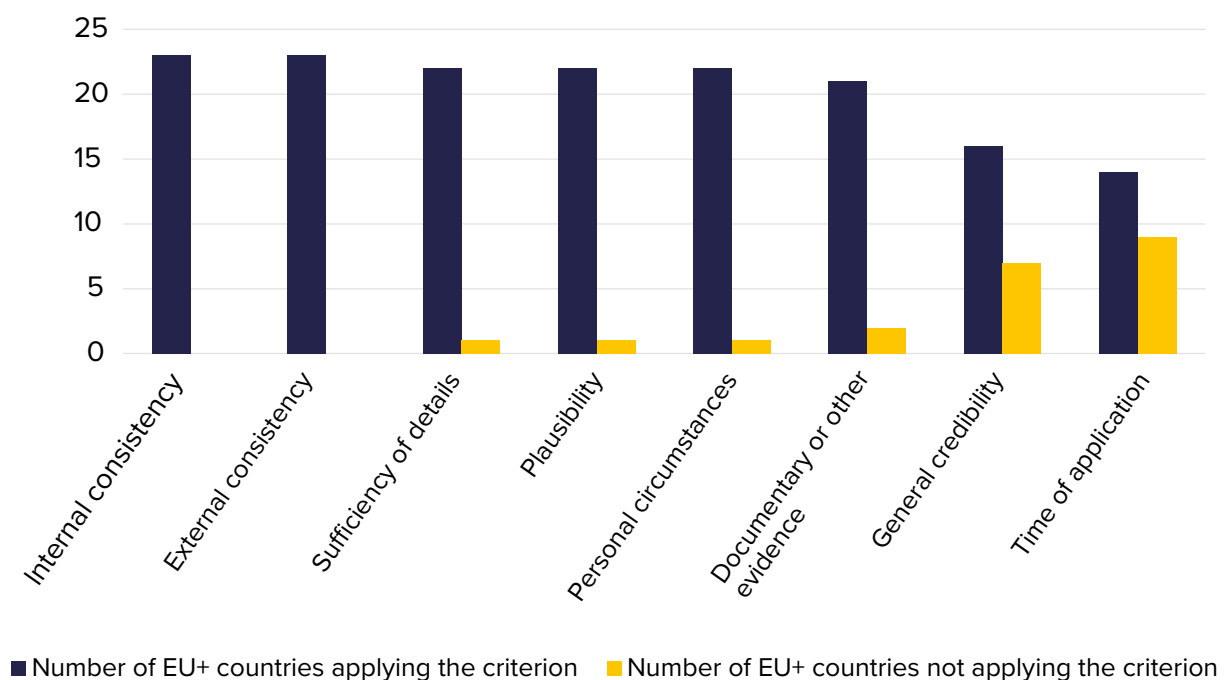
## Criteria for credibility assessment

In all responding countries, the credibility assessment is conducted against established criteria used with a very high level of harmonisation among the 23 EU+ countries mapped in this exercise. **Consistency** and coherence in the applicant's statements (internal consistency), consistency with relevant COI, **sufficiency of details** and **plausibility** of the applicant's statements are criteria used in all or almost all countries.

The **personal circumstances** of the applicant are also widely taken into account when deciding about the credibility of the presented material facts.

A lower level of harmonisation has been noticed in the application of two further criteria used to decide whether to accept uncorroborated material facts, namely whether the applicant applied for international protection at the **earliest possible time**, and whether the **general credibility** of the applicant is established. An analysis of the information provided by several countries that apply the general credibility criterion points however towards a common understanding of how general credibility is considered established, mainly through satisfaction of the above criteria, in some cases complemented with the manifestation of a cooperative behaviour. The application rate of the credibility criteria is shown in the figure below.

**Figure 12. Criteria for accepting material facts**



Source: 23 EU+ countries

## Standard of proof in credibility assessment

It is an established principle in asylum procedures that applicants are not expected to prove their claim to the level of ‘certainty’ or ‘beyond reasonable doubt’. Often it is not possible to ‘establish the truth’ as such in asylum claims. Applicants fleeing their country of origin may not be in the position to gather and take with them all evidence necessary to substantiate all the elements of their claim.

The findings of data collected through this mapping exercise confirm that none of the 23 countries covered by this report expect that facts be proven with ‘certainty’ or ‘beyond reasonable doubt’. Nevertheless, different approaches are notable in the application of the standard of proof required to consider the credibility of a material fact as established. In particular, a slight majority of responding countries will accept a material fact as credible based on the ‘reasonable degree of likelihood’ criterion, while less than 1 in 3 will rely on a ‘balance of probabilities’ according to which the fact should be more likely than not. Other levels of substantiation include ‘probable’ and ‘substantial evidence’, while very few countries do not have a defined standard of proof.

## Adverse credibility findings and opportunity to remedy

The majority of the 23 countries covered by this mapping exercise shares the standard practice to confront the applicant with potential adverse credibility findings **during the personal interview**. On that occasion, applicants are given the possibility to explain any incoherence, inconsistency, lack of evidence or other issues identified in their statements or supporting documents, and/or are informed about the insufficiency of evidence and the opportunity to submit it at a later stage. Additional or lacking evidence may be submitted until the issuance of the first instance decision in about 2 in 3 of the responding countries (some of them specify that evidence is to be submitted without undue delay), while the remaining countries provide the applicant with a concrete deadline to do so. The deadline may be ad hoc, based on the specific circumstances of the individual case, or a fixed timeframe after the interview has occurred. It may range from a few days to 1 month.

In 1 in 4 of the responding countries, when credibility issues become apparent after the conduction of the personal interview, applicants may be given the opportunity to be heard in a **supplementary interview** with the purpose to clarify any adverse credibility findings and/or to submit additional evidence.

In one country, namely the Netherlands, when statements or other evidence are rejected following the credibility assessment, the reasons that led to the rejection of the specific facts are presented in an **intentional decision**. This document is made available to the applicant and their lawyer, who are given the possibility to react through a written opinion. Only after this consultation the final decision is made.

A minority of responding countries have indicated that the applicant is informed about adverse credibility findings, including the insufficiency of evidence, only at the stage of the **decision**. However, some of them stressed that applicants are informed numerous times throughout the procedure about the general need to submit relevant evidence. When a decision to refuse international protection is taken, the applicant has also the possibility to provide additional evidence during the appeal procedure against a rejection decision.



# Risk assessment

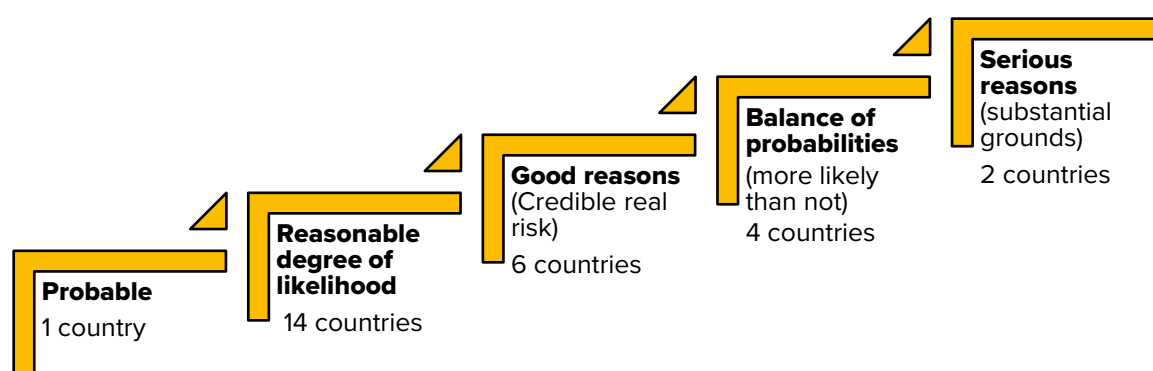
## Standard of likelihood for the risk assessment

Findings from the mapping exercise show that all but 3 responding countries set a standard of likelihood for the assessment of the risk that an applicant may face in case of return.

Standard of likelihood refers to the threshold that has to be met in order to establish that a certain event or events may occur in the future, by examining the foreseeable consequences of a return of the applicant to their country of origin. This threshold is not clearly regulated by EU law, nor has the CJEU so far ruled on this. Nevertheless, Article 4 QD (recast), the case-law of the European Court of Human Rights and the UNHCR Handbook on Procedures and Criteria for determining refugee status <sup>(23)</sup> point toward the conclusion that the applicant is not required to prove with near certainty the future events, but rather to substantiate that substantial grounds for believing that certain events may occur exist.

When it comes to **refugee status**, in roughly 2 in 3 of the responding 23 EU+ countries a well-founded fear of persecution is established when there is a ‘reasonable degree of likelihood’ that an act of persecution may occur. Less than 1 in 3 of the responding countries apply or may apply higher thresholds. Among them, 3 countries have reported that they may apply more than 1 standard (ranging from ‘reasonable degree of likelihood’ to ‘serious reasons’), on a case-by-case basis, depending on the applicant’s country of origin and personal circumstances. In 1 country only the set standard of likelihood is lower. For the standard to be met, it is sufficient to reach the threshold of the event being ‘probable’. Figure 13 offers a more detailed picture of the different standards of proof applied to the risk assessment in cases of a well-founded fear of persecution in the 23 EU+ responding countries.

**Figure 13. Risk assessment: standards of likelihood applied to well-founded fear of persecution**



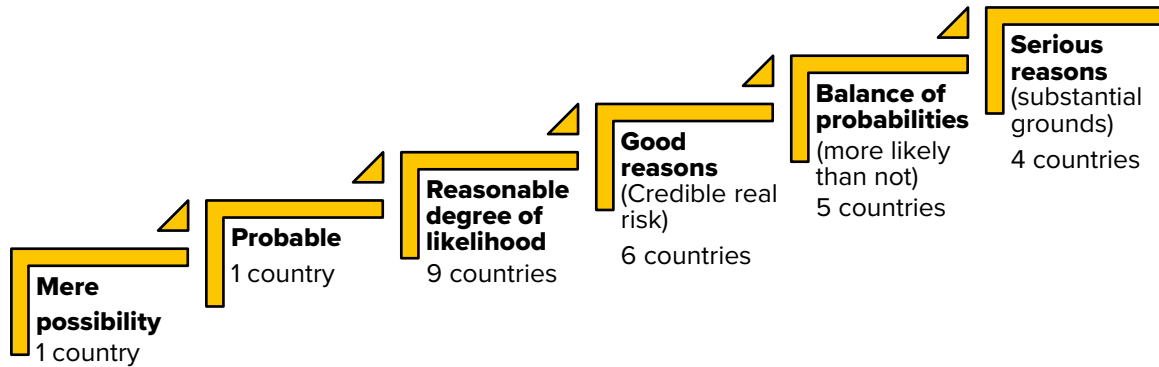
Source: 23 EU+ countries

<sup>(23)</sup> UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, reissued in February 2019.



When it comes to **subsidiary protection**, the number of countries applying the ‘reasonable degree of likelihood’ to serious harm as the standard of likelihood drops to less than half, while the number of those applying higher standards remains almost unchanged. Among them, 3 countries may apply more than one standard (ranging from ‘reasonable degree of likelihood’ to ‘serious reasons’), on a case-by-case basis. On the contrary, 2 countries require meeting a lower standard of proof, where a ‘mere possibility’ or a ‘probability’ of serious harm occurring is enough to establish the risk. A more detailed picture of the different standards of proof applied to risk assessment in relation to serious harm is offered in Figure 14.

**Figure 14. Risk assessment: standards of likelihood applied to serious harm**



Source: 23 EU+ countries



# Qualification for international protection

## Introduction

After the evidence assessment phase, which establishes the factual circumstances of a claim, including the risk that a person may face in case of return, the decision-making process continues with the conducting of a legal appraisal of whether the substantive conditions for granting international protection as laid down in the QD (recast) are met. In this assessment, case officers consider first if the risk amounts to persecution, whether the threshold of well-founded fear is met, and the existence of a nexus with the five grounds for persecution set in the Refugee Convention and the 1967 Protocol <sup>(24)</sup> and in the QD (recast). When an applicant is found not eligible for refugee status, the case officer moves to the assessment of the fulfilment of the legal requirements for subsidiary protection, assessing if the risk amounts to serious harm. Depending on the country and the profile of the case, the availability of an internal protection alternative (IPA) may also be assessed. The outcome of the legal assessment will establish whether an applicant qualifies for international protection.

The EU legal framework on qualification is provided for in the Chapters II to VI of the QD (recast). In this report, the term qualification is understood as being equivalent to terms such as ‘eligibility’ and ‘inclusion’ that may be used in other relevant EUAA products.

The information included in this part of the report is based on a mapping exercise of the national practices related to aspects of eligibility for international protection conducted in November 2020 covering 23 EU+ countries. The initial mapping on eligibility was conducted in 2014.

## Qualification for refugee status

### Acts of persecution

Article 9(1) QD (recast) defines the conditions under which an act may be qualified as persecution. In accordance with this article, an act must be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular those from which the European Convention on Human Rights <sup>(25)</sup> does not allow for a derogation <sup>(26)</sup>, or it must be an accumulation of various measures sufficiently severe as to affect an individual in a similar manner as in the former case.

<sup>(24)</sup> UN General Assembly, *Convention relating to the status of refugees*, Geneva, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, and *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267 (referred to in EU asylum legislation and by the CJEU as ‘the Geneva Convention’).

<sup>(25)</sup> *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11, 14 and 15*, 4 November 1950, ETS 5.

<sup>(26)</sup> In accordance with Article 15(2) ECHR, no derogation can be made from Article 2 (right to life) except in respect of deaths resulting from lawful acts of war, or from Articles 3 (prohibition of torture), 4(1) (prohibition of slavery or servitude), and 7 (no punishment without law) of the same convention. Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5.



The analysis of the information available from the mapping exercise in 23 EU+ countries shows that common features can be identified in the national practices mentioned by responding countries, namely the adhesion to the relevant international and national jurisprudence, as well as the consideration of the applicant's personal circumstances in the assessment of the nature of the acts, their repetition and the effects caused.

Several countries highlighted the importance of an individual assessment that considers the nature of the act, the repetition and the effects on the applicant in the light of the applicant's personal circumstances.

A high level of convergence has been observed among the 15 countries that specified which acts can be considered as reaching the level of persecution if taken cumulatively. The specific acts are shown in the figure below.

**Figure 15. Acts that may result in persecution if taken cumulatively**



Source: 15 EU+ countries

## Reasons for persecution

Information on the application of the five grounds for persecution presented in this section comes from different sources. While race and political opinion were mapped in 23 EU+ countries through quality matrix mapping, data on religion and membership of a particular social group cover 20 and 14 EU+ countries respectively and have been extracted from two dedicated queries. Nationality was not included in this quality matrix update since it was no longer found to be topical based on the findings of the original mapping.

The concept of **race** is quite uniformly interpreted as including considerations on the colour of the skin, descent, and membership of a particular ethnic group. In a few countries, the concept of race has evolved and has been replaced by other terms such as origin, descent, ethnicity or colour, and includes considerations related to ancestry, cultural and linguistic identity, common geographical or political origins or specific relationship with the population of another country.





A general agreement was observed on the interpretation of **political opinion** as the holding of an opinion, thought or belief on a matter related to the actors of persecution and to their policies or methods, irrespective of whether the applicant has acted upon that opinion. Political opinions that are attributed to the applicant by the actor of persecution are also covered. It has been specified by 1 country that the assessment looks to establish, among other conditions, whether the applicant holds a fundamental political belief, while the simple inability to express political opinions at the same level possible in the hosting country would not be sufficient *per se*.

The concept of **religion** is in the majority of the responding countries defined as including theistic, non-theistic and atheistic beliefs, participation in or abstention from worship, other religious acts or expressions of view, or forms of conduct based on religious belief, as per Article 10(1)(b) QD (recast). Most of the countries also specified that not specific practices are excluded *a priori*.

With regards to **membership of a particular social group**, respondents indicated that the application of the concept relies substantially on whether the group exists or not in a given country. They also mentioned some of the particular social groups based on which applicants had been recognised as refugees until the time of their response to the query, subject to specific countries of origin and always upon an individual assessment. Particular social groups most often mentioned include applicants with diverse sexual orientation and gender identity, children in danger of forced recruitment, applicants not conforming to moral/religious codes and values, applicants facing the risk of gender-related persecution, including when based on national legislations and policies (it may include situations related to forced marriages, female genital mutilation/cutting, domestic violence, forced sterilisation / abortion, single women with children born outside wedlock, etc.), potential victims of vendetta or honour crimes, applicants stigmatised because of an illness, disability or albinism, victims of human trafficking, humanitarian workers, healthcare professionals, and active human rights lawyers.

For more information on this topic please consult the EUAA's guidance on membership of a particular social group <sup>(27)</sup>.

## Qualification for subsidiary protection status (Article 15 QD (recast))

### Death penalty or execution (Article 15(a) QD (recast))

9 EU+ countries gave indications as to the situations they consider as being within the scope of the ground of 'death penalty or execution'. All such countries included 'execution following formal death sentence by state actors' while the majority of them included 'extrajudicial killings / summary executions committed by state actors'. The same countries have also replied that extrajudicial killing or summary execution committed by non-state actors may also be considered under this ground when the non-state actors are either affiliated to or working on behalf of the state, or when they have a sufficient level of authority and organisation on their own.

<sup>(27)</sup> EASO, *Guidance on Membership of a Particular Social Group*, March 2020.



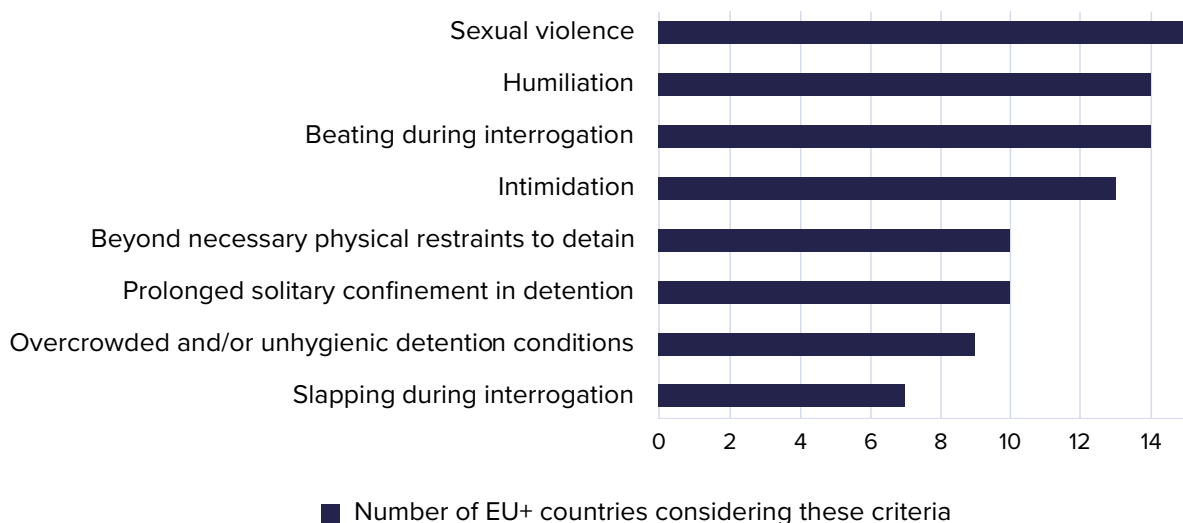
## Torture or inhuman or degrading treatment or punishment (Article 15(b) QD (recast))

The majority of EU+ countries that have guidance or established practice on the ground of ‘torture or inhuman or degrading treatment or punishment’ rely, at least partially, on the relevant jurisprudence, mainly from the European Court of Human Rights when it interprets the scope of Article 3 of the European Convention on Human Rights.

Indications on the criteria used to assess whether an act reaches the required level of severity have been given by 12 EU+ countries. All of them take into consideration the mental and the physical effects of the act on the applicant, as well as its gravity, duration and level of cruelty. The personal circumstances of the applicant (such as age, gender, state of health), are also a criterion shared by all these EU+ countries. The intention of the actor of serious harm is also considered as relevant, to a slightly lower extent.

When considering different forms of mistreatment, EU+ countries agreed in a large proportion to most suggested situations as potentially amounting to torture, or inhuman or degrading treatment, as it appears in Figure 16.

**Figure 16. Forms of mistreatment potentially amounting to torture, or inhuman or degrading treatment**



Source: 15 EU+ countries

1 EU+ country indicated that all the aforementioned forms of ill-treatment reach the necessary level of severity if they are inflicted on children. Other EU+ countries stressed that they assess to what extent the act(s), either considered in isolation or cumulatively, affect the applicant. The recurrence of the act is also mentioned as a criterion taken into account by 1 EU+ country.

The above considerations tend to show that there is clear convergence among the responding countries as to the main criteria relevant in the assessment of this ground, as well as to the forms of mistreatment to be considered.

## Threat to civilians by reason of indiscriminate violence (Article 15(c) QD (recast))

This section relates to the third situation of serious harm as defined in Article 15(c) QD (recast), namely that of a ‘serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict’.

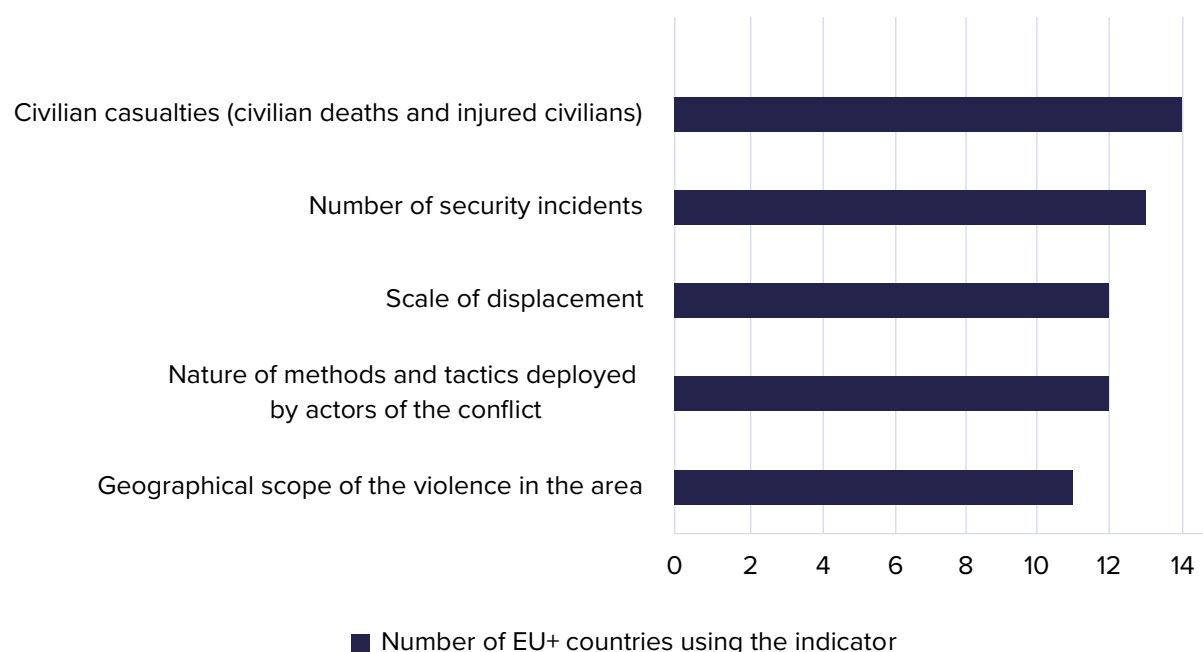
### Armed conflict

The notion of armed conflict is interpreted in line with international humanitarian law in 1 in 3 of the responding EU+ countries. Half of the EU+ countries mentioned that they followed the interpretation provided by the CJEU in the *Diakité* judgment <sup>(28)</sup>. Most EU+ countries consider that armed conflicts may include those that occur only in parts of the country of origin.

### Assessing the level of indiscriminate violence

The graph below reports the indicators used in the assessment of the level of indiscriminate violence. We can observe a high level of convergence among the 14 responding EU+ countries.

**Figure 17. Indicators of the level of indiscriminate violence**



Source: 14 EU+ countries

<sup>(28)</sup> CJEU, judgment of 30 January 2014, *Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides*, C-285/12, ECLI:EU:C:2014:39. Summary available in the [EUAA Case Law Database](#).

The impact on people's daily lives, such as restrictions on freedom of movement, access to essential public services, basic infrastructures (healthcare, food, potable water), are considered as additional criteria to be taken into consideration by some EU+ countries.

### The sliding scale approach to indiscriminate violence

The need for an applicant to substantiate an **individual** threat by reason of indiscriminate violence in situations of international or internal armed conflict is determined by the level of the indiscriminate violence under consideration. The CJEU, in the *Elgafaji* judgment, has indeed ruled that

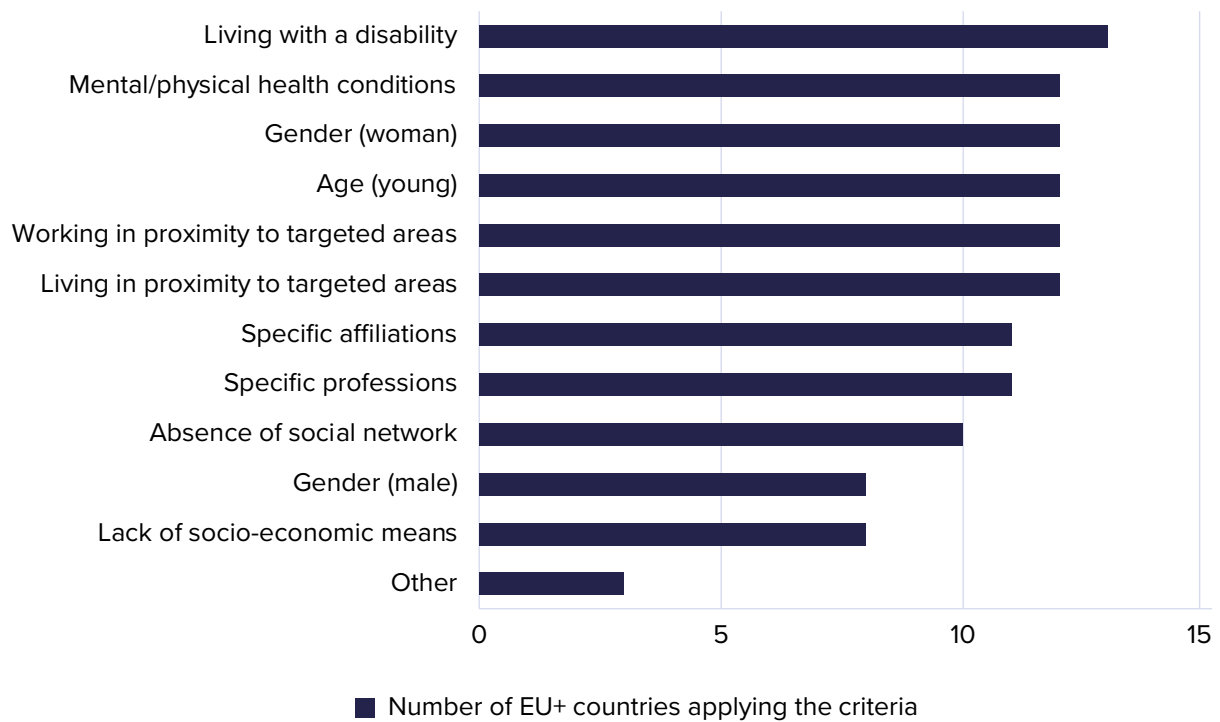
*the word 'individual' must be understood as covering harm to civilians irrespective of their identity, where the degree of indiscriminate violence characterising the armed conflict taking place [...] reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to the serious threat referred in Article 15(c) of the Directive.* <sup>(29)</sup>

In such a severe situation, the mere presence of the applicant is deemed sufficient to consider the threat to be individualised. For lower levels of indiscriminate violence, the CJEU has ruled that 'the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.' <sup>(30)</sup> The correlation between the level of indiscriminate violence and the level of the required individualisation of the threat is what is called 'sliding scale'. The sliding scale approach is put in practice by the majority of EU+ countries, while some EU+ countries apply Article 15(c) QD (recast) only where the mere presence is enough to be eligible for subsidiary protection without need for further individualisation. Among the EU+ countries belonging to the last group, 1 has further explained that in such case the only individual assessment that is done is whether the applicant comes from a country or area where such an exceptional situation exists. If there are other individual circumstances, they are addressed under Article 15(b) QD (recast).

Several EU+ countries that apply the sliding scale approach have given additionally indications as to potential risk-enhancing circumstances that they consider when assessing the individual threat under Article 15(c) QD (recast). These circumstances are presented in Figure 18.

<sup>(29)</sup> CJEU, judgment of 17 February 2009, *Meki Elgafaji and Noor Elgafaji v Staatssecretaris van Justitie*, C-465/07, ECLI:EU:C:2009:94, para.35. Summary available in the [EUAA Case Law Database](#).

<sup>(30)</sup> CJEU, judgment of 17 February 2009, *Meki Elgafaji and Noor Elgafaji v Staatssecretaris van Justitie*, C-465/07, ECLI:EU:C:2009:94, para. 39. Summary available in the [EUAA Case Law Database](#).

**Figure 18. Potential risk-enhancing circumstances**

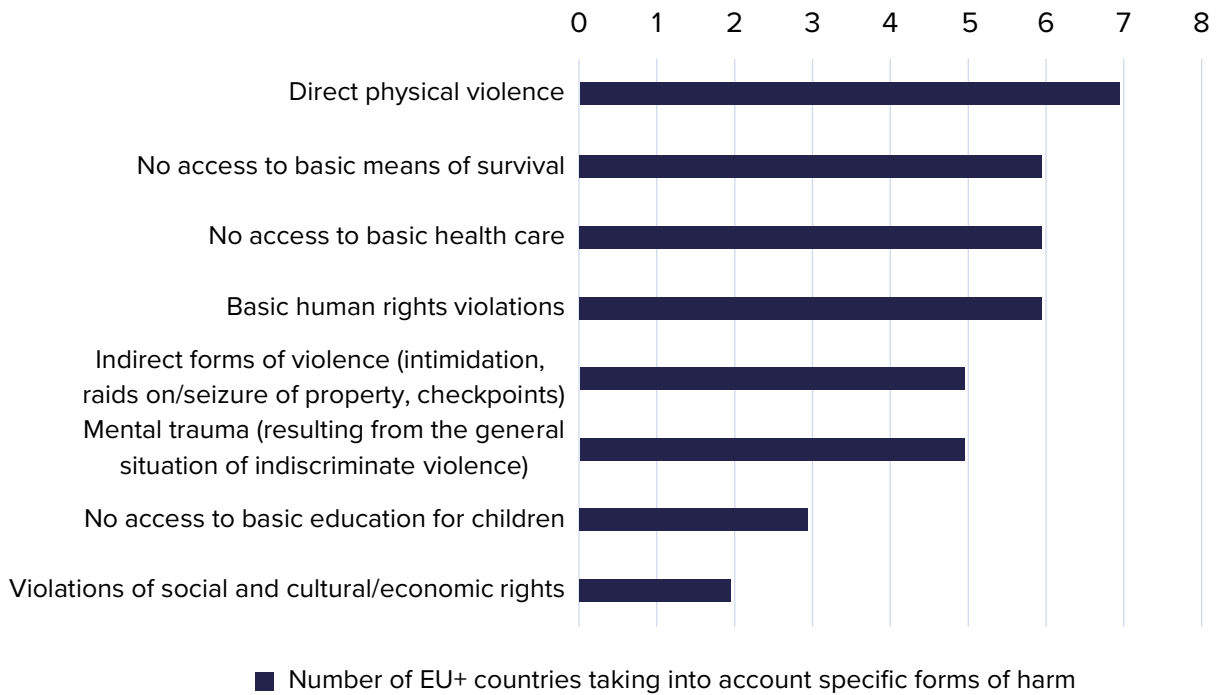
Source: 14 EU+ countries

Having previously been a victim of indiscriminate violence, being part of a family with children, or being unfamiliar with the environment and the surrounding security threats (due to a long stay abroad, for instance) are some other criteria that have been mentioned by some EU+ countries.

## Forms of harm constituting a ‘threat to a civilian’s life or person’

The figure below illustrates the forms of harm that are taken into account by EU+ countries as threats to the life or person of a civilian:

**Figure 19. Forms of harm related to ‘threat to a civilian’s life or person’**



Source: 8 EU+ countries

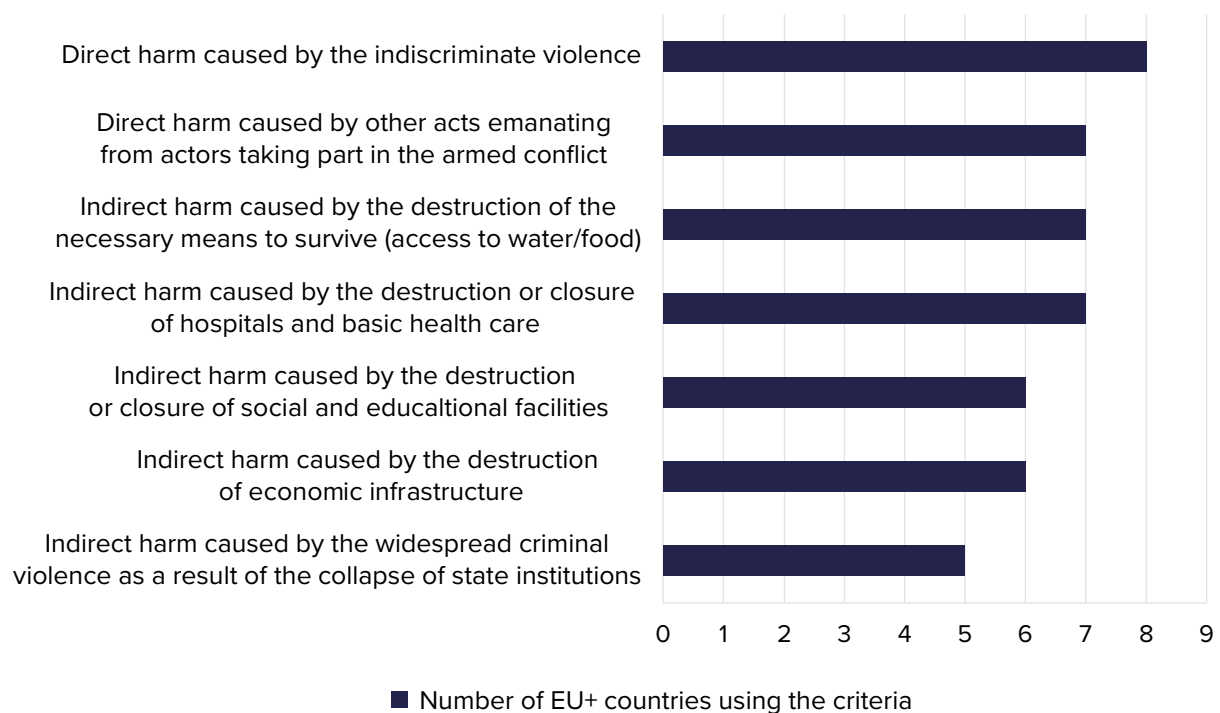


## Nexus between harm and indiscriminate violence in situations of armed conflict

Article 15(c) QD (recast) establishes a nexus ('by reasons of') between the serious and individual threat to a civilian's life or person, and its causes.

Figure 20 shows the elements that are taken into consideration by 8 responding EU+ countries that have guidance or established practice on the concept.

**Figure 20. Elements for assessing the nexus between harm and indiscriminate violence**



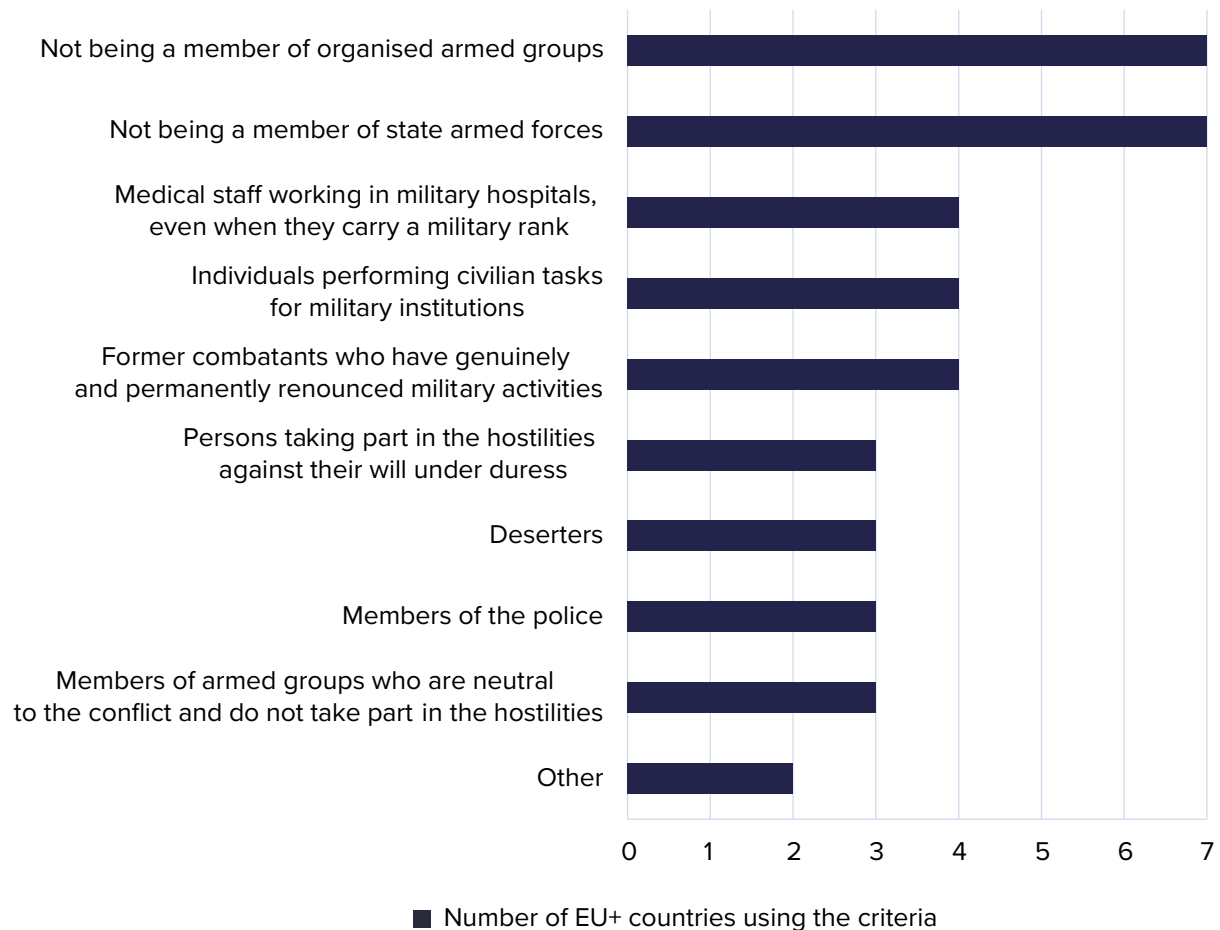
Source: 8 EU+ countries



## Notion of 'civilian'

The figure below shows the indicators taken into consideration to assess if the applicant is a civilian, by the EU+ countries that have guidance or an established practice on the concept.

**Figure 21. Groups that can fall under the notion of 'civilian'**



Source: 8 EU+ countries

The following additional elements are considered in the assessment of the status of civilian by a number of EU+ countries:

- not having participated (in a significant way) to the armed conflict, whether as part of an armed group or not;
- no longer belonging to a party to the conflict or taking part in the hostilities;
- the age of the applicant (children) and/or their vulnerability;
- leaving the country would as such not be sufficient to demonstrate that the applicant has regained the status of civilian.



## Protection in the country of origin

This section focuses on the criteria used by EU+ countries in the interpretation of some of the underlying conditions of Article 7 QD (recast), namely:

- non-state actors of protection
- effectiveness of protection;
- internal protection alternative.

### Non-state actors of protection ((Article 7 (1)(b) QD (recast))

The figure below shows the **criteria used to identify non-state actors of protection**, based on the answers provided by 14 EU+ countries.

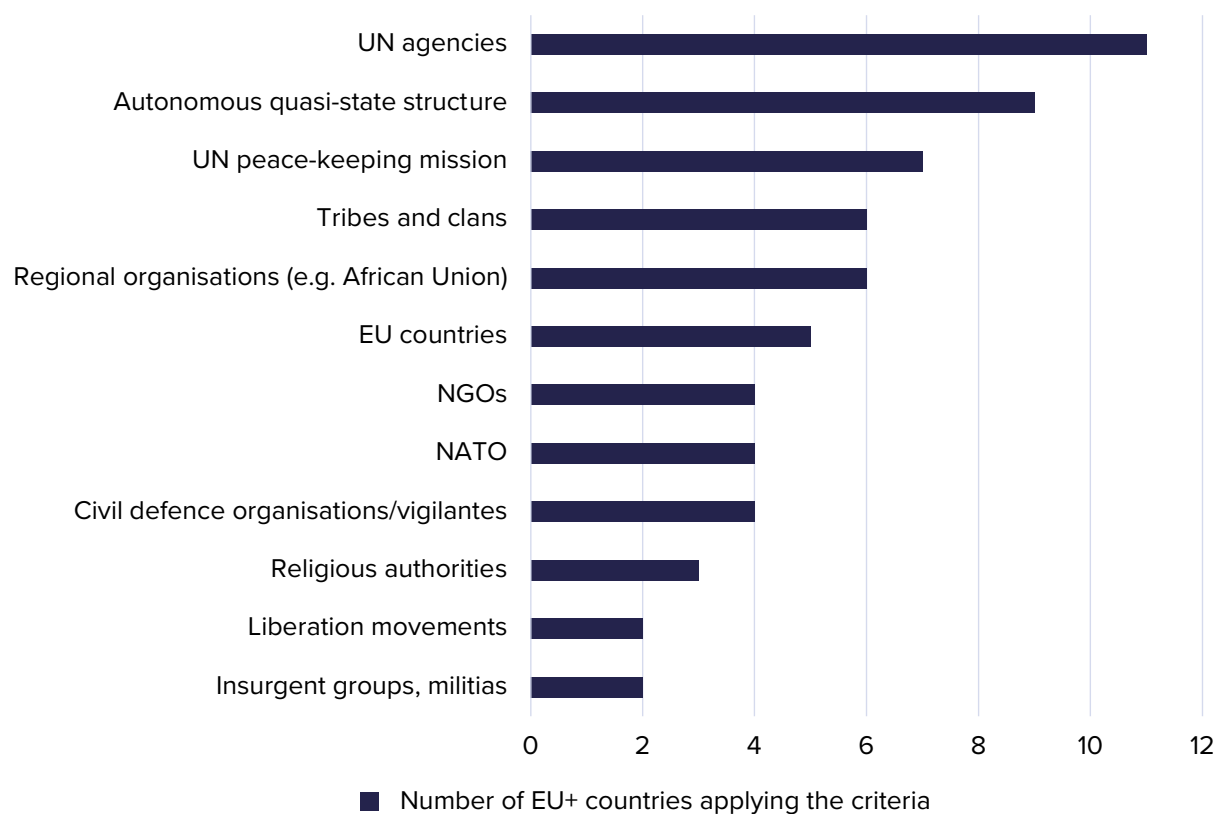
**Figure 22. Criteria used for the identification of non-state actors**



Source: 14 EU+ countries

The criteria above are used to determine whether non-state actors can be considered as actors of protection. Based on those, 14 EU+ countries have identified the **entities below as potentially meeting the requirements** of Article 7(1)(b) QD (recast).

**Figure 23. Potential non-state actors of protection**



Source: 14 EU+ countries

Some EU+ country have added that they complement these international sources with relevant national guidelines and country of origin guidance that may derive from fact-finding missions. The information may also arise from other state departments, such as the department of foreign affairs.

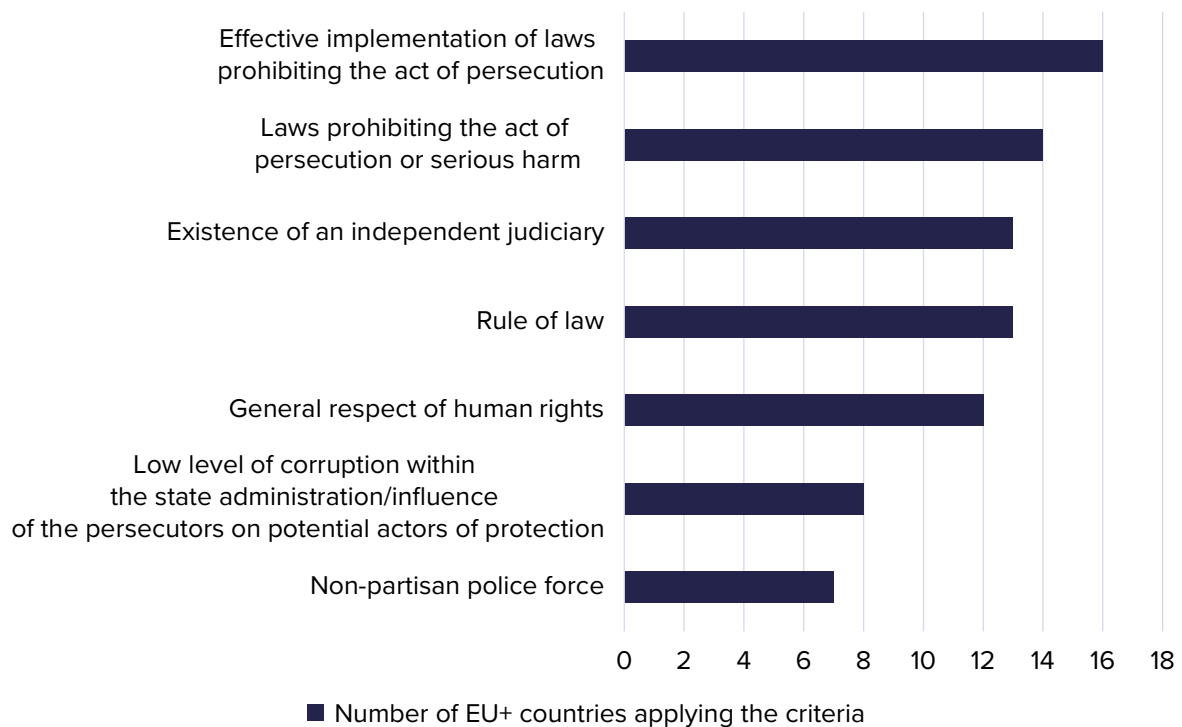


## The effectiveness of protection

The **effectiveness of protection in the country of origin** may be assessed based on different indicators.

Figure 24 shows the criteria used by 17 EU+ countries that have guidance or established practice on the topic.

**Figure 24. Elements required for effectiveness of protection**



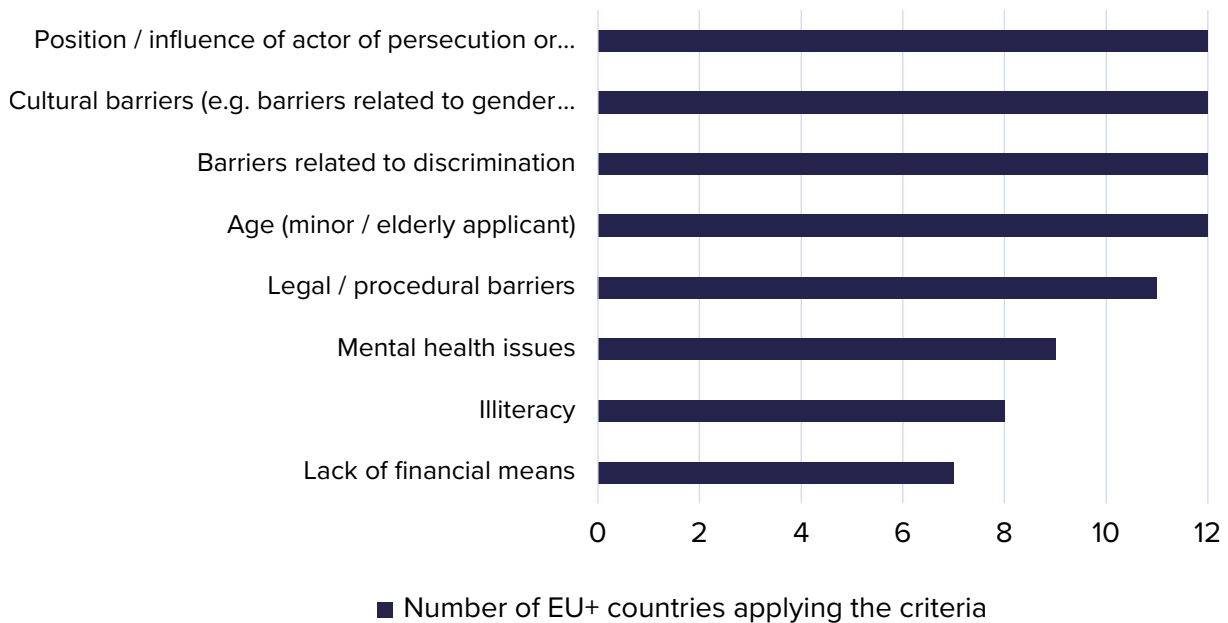
Source: 17 EU+ countries

Some factors may prevent the applicant from accessing effective protection.



The figure below shows the factors taken into account by 14 EU+ countries that have guidance or established practice in relation to the **potential barriers to the access of protection in the country of origin**.

**Figure 25. Potential barriers to accessing protection**



Source: 14 EU+ countries

## Internal protection alternative (Article 8 QD (recast))

This section on the IPA contains input from two sources. The first is the mapping of practices on evidence assessment, with input provided by 23 EU+ countries. The second is a mapping conducted through a dedicated query on policies, practices and jurisprudence on the IPA (October 2018) that gathered input from 20 EU+ countries.

In accordance with Article 8 QD (recast) on internal, EU countries may determine that an applicant is not in need of international protection if, in a part of their country of origin, the applicant's fear of being persecuted or of suffering serious harm cannot be considered well-founded. Cumulatively, for the provision to be applicable, concerned applicants should be able to safely and legally travel to and gain admittance to that part of the country, and reasonably be expected to settle in that part of the country.

The abovementioned provision on internal protection, albeit optional, has been introduced in the national legislation of all 23 EU+ countries which participated in the 2020 mapping of practices on evidence assessment and is applied in practice in the asylum process of all such countries, except 1.

All the reporting countries applying the concept ask related questions during the personal interview, when relevant. However, most of the reporting asylum authorities do not explicitly inform the applicant that an IPA will be considered in their case. Nevertheless, applicants have the possibility to put forward reasons why an IPA cannot be considered a viable solution for

them, during the personal interview's part focusing on the questioning on the internal protection alternative.

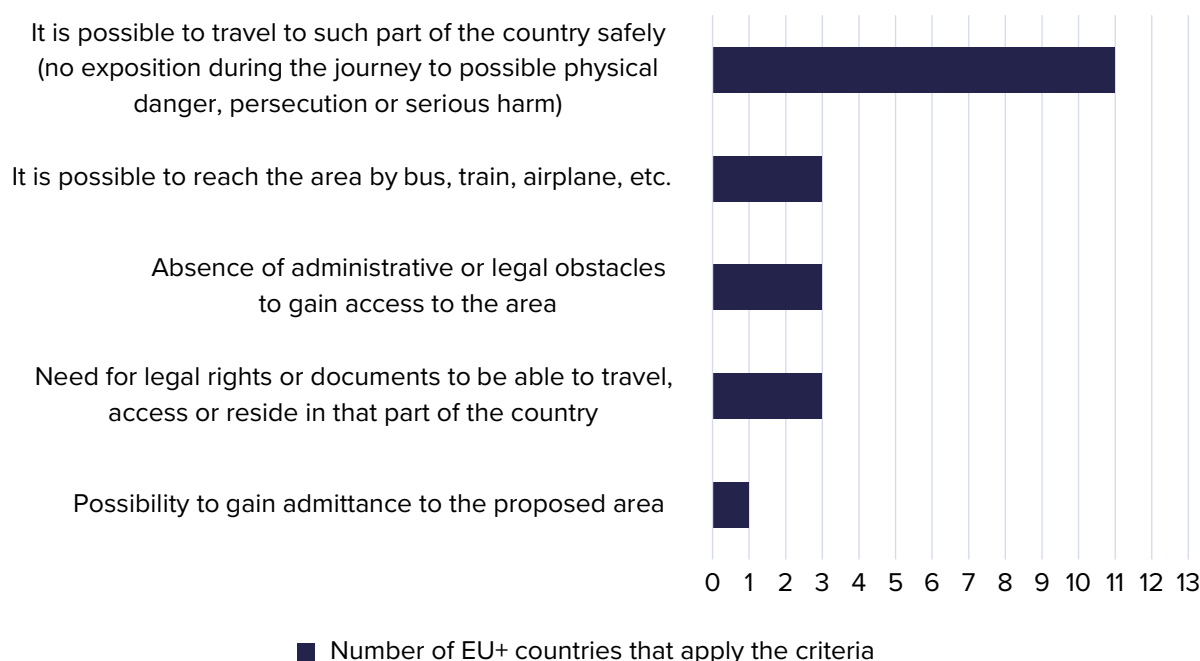
Applicants are explicitly informed through the decision that the IPA concept has been applied in their case. A first instance decision rejecting international protection on IPA grounds can be rebutted in the appeal stage in all reporting EU+ countries.

To apply an IPA, EU+ countries use generic guidance and/or country guidance (as it regularly contains information on the application of IPA) as well as other available guidance, such as UNHCR guidelines on the topic <sup>(31)</sup>.

When assessing if an internal protection alternative is available to the applicant, all EU+ countries apply the **general conditions** provided for in Article 8 QD (recast), namely safety, travel, admittance and reasonableness to settle. Most countries also consider the effectiveness of the protection by taking into account the general circumstances in the part of the country where the relocation is envisaged, as well as the local character of the threat from which the applicant is fleeing.

**Additional indicators** are used by 13 EU+ countries to assess if a part of the country is **accessible**. They are reported in Figure 26.

**Figure 26. Factors used to assess if a part of the country is accessible**



Source: 13 EU+ countries

<sup>(31)</sup> UNHCR, *Guidelines on International Protection No. 4: 'Internal Flight or Relocation Alternative' Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/03/04.

The assessment of the **reasonableness to settle in the considered part of the country**, as reported by the responding countries takes into account two types of factors: the personal circumstances of the applicant and the general circumstances, including the socioeconomic situation and the access to basic services in the envisaged area.

When assessing the reasonableness for the applicant to settle in the envisaged IPA area, personal circumstances are taken into account by the large majority of EU+ countries. General circumstances are applied by half of the reporting countries.

Personal circumstances include the person's age, gender, health condition, family situation and relationships (including childcare responsibilities and the effect of relocation upon dependent children), social links as well as ethnic, cultural and religious considerations, language abilities, educational and professional background and opportunities, past persecutions, and the applicant's possible vulnerable status.

Under general circumstances, EU+ countries referred to the infrastructure, the presence of humanitarian organisations offering assistance as well as possible overcrowding in the proposed area of relocation. Some responding countries consider that when the security situation in the proposed area worsens, it also makes it more difficult for individuals to lead a relatively normal life. It has been added by 1 responding country that the applicant should not find themselves in a humanitarian emergency situation.

The socioeconomic situation and the availability of basic services include the possibility to earn an income and have access to shelter and essential services such as sanitation, healthcare and education for children. A couple of EU+ countries consider that the socioeconomic circumstances do not have to be equal to those of the state where the application for international protection is made. The lowering of living standards or worsening of economic status is not deemed sufficient to consider the proposed areas as not fulfilling the reasonableness test. The criteria used by 1 of such countries considers what is 'normal' according to local criteria. The same responding country stressed that the applicant should not be discriminated against as far as their essential rights are concerned.



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