



Pilot Convergence Analysis 2023

Final report

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Twenty-one EU+ countries participated to varying degree in activities related to first instance such as responding to an initial survey, providing input during a kick-off meeting, sharing insights during a dedicated advanced workshop, responding to the surveys on national caseload, supplying a sample of national guidance, sharing anonymised case files related to selected profiles of applicants, and/or providing decisions within a mock case exercise and taking part to a dedicated workshop. The EUAA hereby acknowledges the valuable contributions from: Belgium, Bulgaria, Czechia, Denmark, Finland, France, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

Along with the International Association of Migration and Refugee Judges, members of courts and tribunals of 16 EU+ countries took part to varying degree in activities related to the appeal instances such as, providing input during an initial online meeting, responding to a dedicated survey, providing cases for a case sample analysis related to selected profiles of appellants, and/or taking part to an Advisory Group supporting the design and implementation of the pilot analysis with regard to the appeal instances. The EUAA hereby acknowledges the valuable contributions of members of courts and tribunals from: Austria, Belgium, Croatia, Cyprus, Czechia, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovenia, and Sweden.





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List of abbreviations

Term	Definition
APD	Asylum procedures directive — 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)
CEAS	Common European Asylum System
CG	EUAA country guidance
COI	country of origin information
EPS	EUAA Early warning and Preparedness System
EU	European Union
EU+ countries	Member States of the European Union, Norway and Switzerland
EUAA	European Union Agency for Asylum
IPA	internal protection alternative
LGBTIQ	Lesbian, gay, bi-sexual, trans, intersex and queer persons
Member States	Member States of the European Union
QD	Qualification directive — 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)



Executive summary

The pilot convergence analysis of the European Union Agency for Asylum (EUAA) presents a comprehensive and innovative study that delves into some of the pivotal questions concerning the common European asylum system (CEAS). It stemmed from the roadmap for convergence of the French Presidency of the Council of the EU, which invited the EUAA to *'launch a pilot study, in close cooperation with Member States, to analyse asylum decision-making practices and the origin of differences in protection rates between Member States, in particular with regard to countries of origin for which guidance notes have been developed by the Agency, and present an annual report to the Management Board and to the Council on this analysis and on the work towards a true convergence, starting from 2023'*¹

This participatory study explores two closely linked dimensions of convergence:

- a. Convergence of *outcomes* of the examination of international protection applications; and
- b. Convergence of *decision-making practices*.

On both aspects, the analysis has generated unprecedented insights, benefitting from the active engagement of national determining authorities and judiciary representatives. While not exhaustive, this analysis sheds greater clarity on some of the factors that influence the observed variations in national asylum practices and decisions, as well as a baseline for future reporting.

The study also offers a well-corroborated and commonly agreed framework for measuring convergence² in the meaning of (decreasing) variation in recognition rates³ over time. Using the standard deviation model, it provides an overview of the trends observed since 2017 on five prominent countries of origin addressed in the EUAA country guidance documents. As of 2022, in comparison with the variation in recognition rates observed in 2021, this model evidences notable convergence for the two main countries of origin in the EU+, Afghanistan and Syria, as well as for Somalia.

The study's findings emphasise that the observed variations in recognition rates result from the complex interplay of multiple interconnected factors. Some of these factors are inherent to the institution of asylum. While they can be studied and their impact explained, they do not need to be remedied to achieve effective convergence within the CEAS. The different elements pertaining to the national caseload are prime examples of such factors. In conjunction with the obligation to examine applications for international protection individually

¹ Council of the European Union, Presidency communication, *'For a roadmap for the convergence of asylum practices in the field of asylum'*, Brussels, 23 June 2022, JAI 952, ASILE 77, MIGR 204, [url](#).

² Convergence is understood as the process of harmonising decision-making practices and policies, aiming to achieve a situation where the same application for international protection would be treated in the same manner and reach the same outcome irrespective of the Member State in which it has been lodged.

³ For the purposes of this analysis, recognition rates include positive refugee status decisions and subsidiary protection decisions. National forms of protection have not been included in the scope of positive decisions.



and objectively, these elements correlate with expected and justified differences in recognition rates.

Other drivers of variation in recognition rates stem from differences in national systems and decision-making practices influenced by national policies, guidance, and jurisprudence. These variations manifest across various stages of the decision-making process, from the examination of admissibility (such as for subsequent applications or the application of the safe third country concept), through the personal interview, evidence assessment and legal analysis at the first instance, to the different aspects of the examination of the application at the appeal level. Addressing these factors through common standards, policies and practices can contribute to meaningful and effective convergence, building upon the support provided by the EUAA.

Taking into account the multiple, complex and interlinked factors which have been identified as main drivers of variations in recognition rates, the measures towards greater convergence should be designed in a comprehensive and holistic manner. A number of actions at different levels can contribute to reaching greater convergence in accordance with high protection standards, including the following:

- 1 Adoption and operationalisation of the **New Pact** on Migration and Asylum.
- 2 Fully and timely reflecting pertinent **judgments of the Court of Justice of the EU (CJEU)** in relevant guidance, training and decision-making practice.
- 3 Prioritisation, promotion, enablement and facilitation of the use of **EUAA tools**, which offer relevant up-to-date, clear and actionable guidance.
- 4 Regular **convergence reporting**, based on the active contribution of Member States.

The EUAA convergence analysis of 2023 served as a pilot, testing a multitude of methods and tools, applied in a holistic manner. Based on the evaluation of this pilot, the EUAA, in collaboration with relevant stakeholders, will develop a methodology for a regular convergence analysis, ensuring an up-to-date understanding of the key parameters in the examination of the applications for international protection in the framework of the CEAS.



Methodology

The study was designed in a participatory manner, actively involving national determining authorities and appeal bodies in developing the pilot methodology. It employed innovative and holistic approaches and tools, unpacking the elements that constitute national decision-making and the factors that may lead to variations.

The focus of the pilot analysis is on the two main countries of origin at the EU+ level, **Afghanistan** and **Syria**. The remaining countries in the CG portfolio - **Iraq**, **Nigeria** and **Somalia** - are also addressed in various sections of the report, albeit not to the same extent of detail.

The pilot convergence analysis of 2023, upon its evaluation covering the methodology, tools and presentation of findings, will also serve as a basis for the design of the methodology for a future periodic convergence report. Conducting a convergence analysis on a regular basis will be instrumental in gaining further insights into the functioning of the CEAS. To facilitate the future analysis, there could be further improvement in several areas, in particular the building up of national information bases and the exchange of information on topics such as the main claims applicants present and the main reasons for decisions (e.g. persecution on specific grounds, ground for subsidiary protection, reason for rejection in relation to inadmissibility, credibility assessment, risk analysis or legal qualification).

Data analysis

The data analysis is primarily based on statistical data exchanged under the EPS. In addition, statistical data from Eurostat (according to Regulation (EU) 2020/851 amending Regulation (EC) 862/2007) have been used to supplement the analysis. The data shared with the EUAA by the EU+ countries are provisional, unvalidated data and therefore might differ from validated data submitted at a later date to Eurostat. To avoid distortions in variations due to recognition rates based on few decisions issued, cut-offs have been introduced for the different target groups under review. The comparison of findings derived from different datasets should therefore be avoided.

Analysis concerning first-instance decisions

The approach to the analysis of convergence at first instance was designed jointly with EU+ countries between October 2022 and July 2023. It included the following constitutive elements.

- An initial survey and a kick-off online meeting allowed to design the analytical framework of the pilot convergence analysis.
- An advanced workshop finetuned the methodology of the pilot with input from interested EU+ countries.



- Country-specific surveys provided insights into the actual caseload of EU+ countries in 2022, complementing information available via EPS and Eurostat data.
- The analysis of national general and thematic guidance as well as country-specific guidance shared by EU+ countries shed light on how decisions are made and on their outcome.
- Case samples shared by EU+ countries on two key profiles, namely Hazara applicants from Afghanistan and draft evaders from Syria constituted the basis of an analysis of national practices.
- A mock case exercise based on a fictional Afghan case eliminated all elements related to the specifics of the cases EU+ countries examine, allowing for a simulation of what would happen if the exact same cases were to be examined across the EU+.
- As an additional tool, the EUAA relied on its records from the joint development of common analysis and guidance on the respective countries of origin, gathering data from EUAA queries, meetings notes and existing reports.

Analysis concerning appeal decisions

The methodology underpinning the analysis of decision-making at the appeal instances conducted between March and July 2023 mirrored that of the first instance to the extent this was relevant and appropriate.

- An initial online thematic meeting allowed for general reflections on convergence as well as a discussion on the approach of the study with regard to courts and tribunals.
- The input collected in the framework of a dedicated survey helped frame the next steps of the project.
- To ensure full respect of judicial independence and consultation with members of courts and tribunals in finetuning the elements of the analysis pertaining to the appeal instances, an advisory group was formed.
- The analysis focused on the same key profiles as for the first instance, so as to be in a position to mirror the findings with regard to both instances.



Key findings

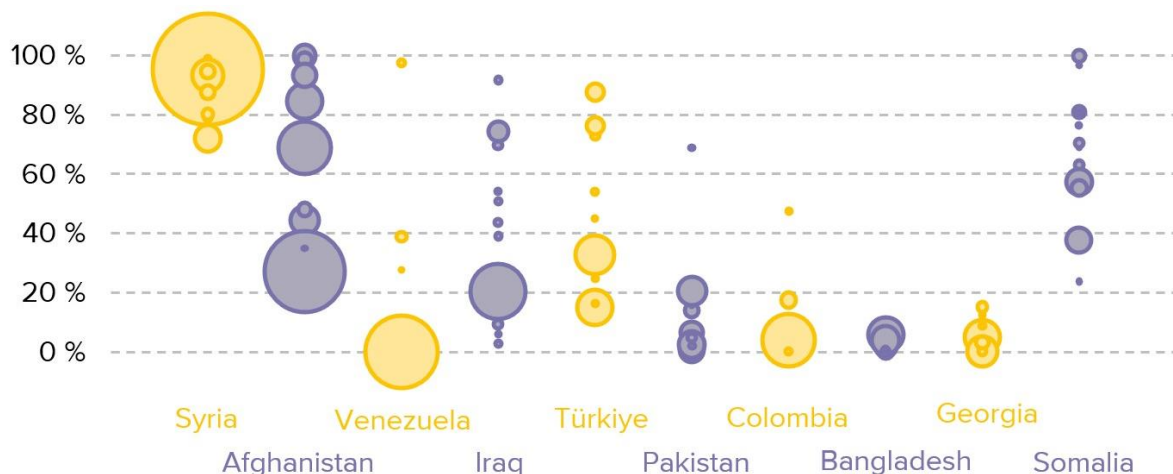
The primary observations derived from the pilot convergence analysis addressed the following fundamental questions:

- [What is convergence?](#)
- [Why aiming to foster convergence?](#)
- [How to measure convergence?](#)
- [What are the main factors leading to variations in recognition rates?](#)
- [What level of convergence to aim for?](#)
- [What can contribute to convergence?](#)

What is convergence?

When addressing the topic of convergence, audiences are often presented with an overview of international protection recognition rates per country of origin, showing wide disparities for certain nationalities and relatively less variation for others, such as in Figure 1 below.

Figure 1. Recognition rates for top citizenships (in terms of issued decisions at first instance) by EU+ countries, 2022



Source: EUAA EPS, [Annual Trend Analysis Report - 2022](#)

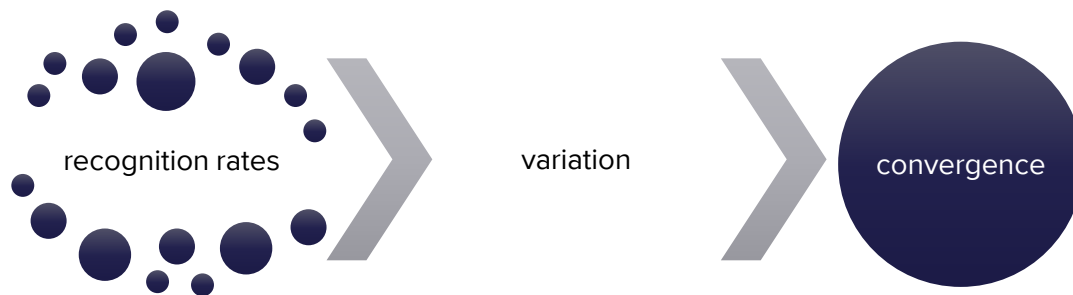
Note: Each bubble represents a different EU+ country (that issued at least 200 decisions in 2022). The bubble size indicates the number of first instance decisions issued, while the placement on the vertical axis denotes the recognition rate.



While this is an evocative illustration of the outcomes of decision making across the EU+ for the main nationalities, the picture it presents remains incomplete for several reasons. This analysis aims to address and, where possible, overcome the identified limitations, and to provide a holistic and evidence-based understanding of the existing variations in recognition rates.

(a) Definitions

As a starting point, this analysis puts forward the following working definitions for some of the main terms used within the document:



RECOGNITION RATES

For the purposes of this analysis, recognition rates include positive refugee status decisions and subsidiary protection decisions. National forms of protection have not been included in the scope of positive decisions.

It should be acknowledged that for a number of EU+ countries, the proportion of decisions granting a national form of protection is substantial and the latter would have a notable impact, should recognition rates be calculated differently.

VARIATION IN RECOGNITION RATES

Variation refers to the differences within a particular set of recognition rates. This is linked to a specific moment in time and indicates a 'state of play'. In the analysis, we refer to the variation observed on a monthly and on an annual basis.

CONVERGENCE

While variation refers to the state of play at a given moment, convergence, on the other hand, refers to the process of different elements or entities becoming more similar or approaching a common point over time. Therefore, convergence or divergence are the tendencies we can observe in recognition rates over time.

This analysis often refers to convergence also in terms of bringing practices and policies closer together. As noted by the French Presidency in their conclusions from June 2022, *'The objective remains to promote a Common European Asylum System (CEAS), characterised by greater convergence of practices and decisions, both of the determining authorities and of the judicial authorities of the Member States competent in asylum matters, so that the place*



*where the application for international protection is lodged is not decisive in the outcome of the procedure.*⁴

Convergence is understood as the process of harmonising decision-making practices and policies, aiming to achieve a situation where the same application for international protection would be treated in the same manner and reach the same outcome irrespective of the Member State in which it has been lodged.

Ultimately, and without prejudice to the objective factors substantiating existing variations in recognition rates, this convergence of practices and policies should also result in a decreasing variation in recognition rates.

(b) Outcome vs process

Currently available statistical data is only capable of capturing decision outcomes numerically. It provides no insight into the decision-making practices that lead to these outcomes. Based on the figures alone, one cannot assess the consistency of the processes across EU+ countries, as other important factors may be coming into play, including notably the actual makeup of the caseload in a particular EU+ country, or the applicability of certain inadmissibility procedures.

The very purpose of this study is to identify the origins of the observed differences. This is approached with the understanding that some variations in outcome are justified and necessary in a correct and objective implementation of the EU legal framework and that efforts should focus not on eliminating differences in recognition rates, but on establishing and implementing consistent policies and decision-making practices across EU+ countries.

(c) Types of EU-regulated international protection

Recognition rates often reflect only the positive vs negative decisions, namely refugee status and subsidiary protection decisions (totalled together) vs rejections (including in inadmissibility procedures). This may not show important disparities in the examination of applications for international protection, but also in the rights accorded to the beneficiaries as a result.

This analysis aims to take a step further and to present a more comprehensive picture of actual differences when it comes to the examination of cases and the type of EU-regulated international protection granted.

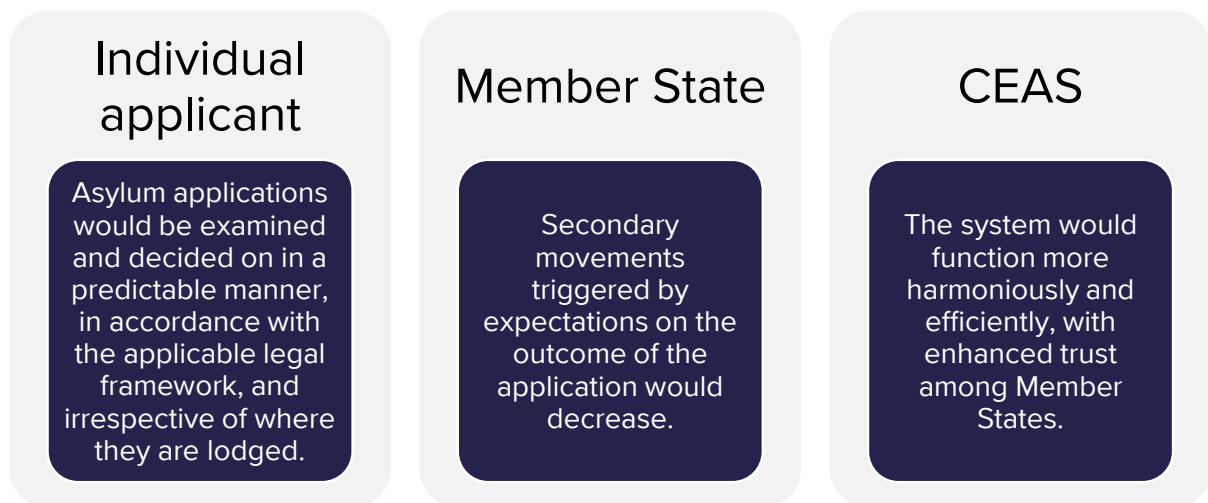
⁴ Council of the European Union, Presidency communication, 'For a roadmap for the convergence of asylum practices in the field of asylum', Brussels, 23 June 2022, JAI 952, ASILE 77, MIGR 204, [url](#).



Convergence should not be limited to reaching consistently positive or negative decisions, but should encompass the granting of the same form of protection for the same claims, observing the primacy of refugee status.

Why aiming to foster convergence?

The CEAS is built on the premise of convergence and efforts of Member States and the EUAA are continuously dedicated to this objective. The main benefits of achieving greater convergence can be seen at different levels:



How to measure convergence?

In this study, the EUAA proposes a way to measure and classify variation in recognition rates, which would then allow to measure convergence over time. After testing several methods of measuring variation, the Agency chose to rely on the standard deviation measure.

To ensure reliability of the findings, and to compensate for the bias that may be created by the recognition rate of EU+ countries that only examined a small number of applications, it introduced certain cut-offs in the respective datasets. Member States agreed that for the first instance, the recognition rate per country of origin becomes relevant for measuring overall convergence if the EU+ country took at least 200 decisions within a year. A smaller number of cases would be more substantially influenced by the specifics of the claims and would be insufficient to show patterns in the national decision-making practice. For appeals, the appropriate threshold was defined as 100 decisions in a year on the respective country of origin.



<p>low variation < 10 percentage points</p>
<p>medium variation 10-25 percentage points</p>
<p>high variation > 25 percentage points</p>

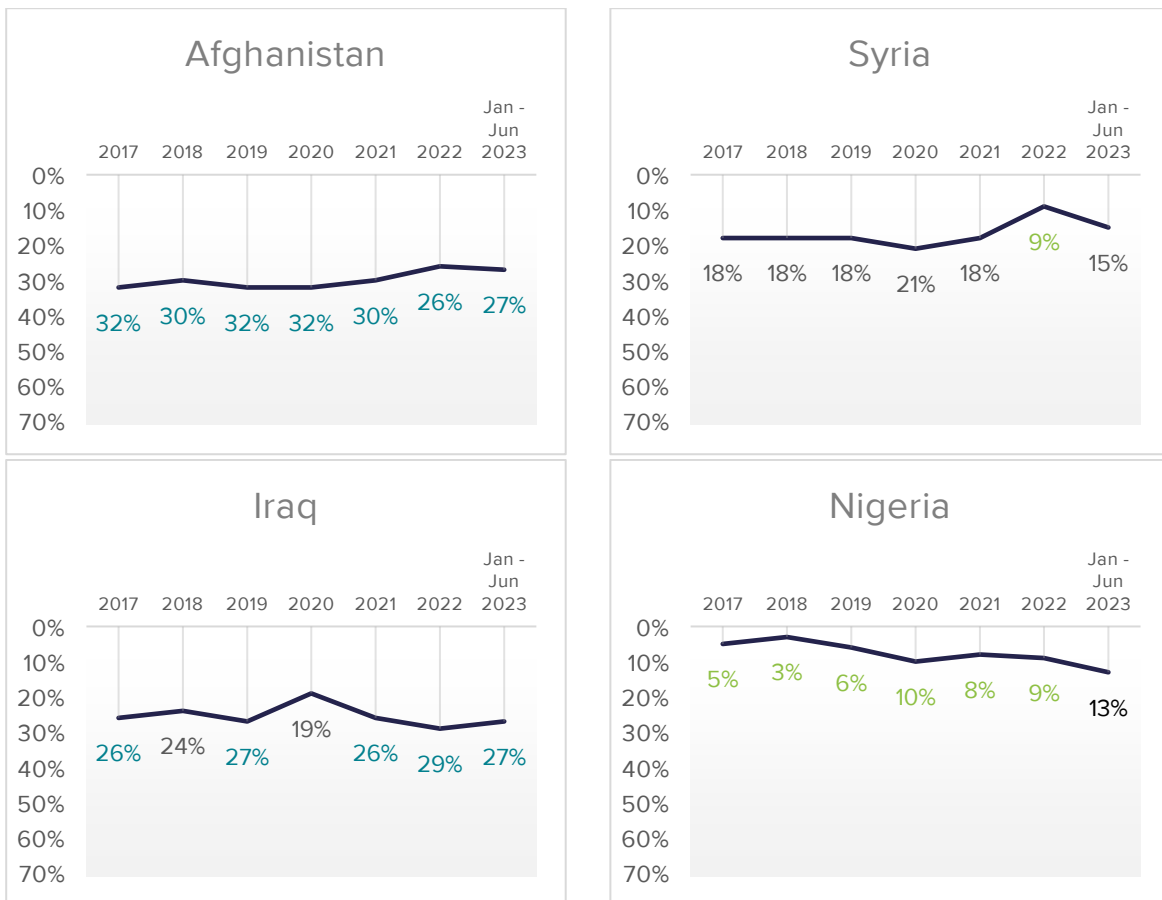
To further read these findings, the EUAA introduced thresholds for ‘low’, ‘medium’ and ‘high’ variation, based on observations of actual and simulated datasets. The proposed classifications were further discussed, based on their illustrative application to **Afghanistan** and **Syria**, and were agreed with EU+ countries.

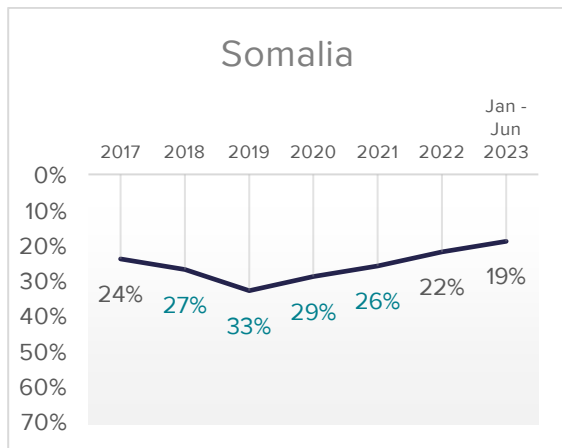
For the purposes of this analysis:

- Variation lower than 10 percentage points is considered low.
- Variation between 10 and 25 percentage points is considered medium.
- High variation would be variation larger than 25 percentage points. This is with the understanding that the maximum possible variation is 71 percentage points.

On this basis, the EUAA estimated the annual variation in recognition rates for first-instance decisions in 2017 – 2022. In addition, the variation in recognition rates for the first six months of the year, January – June 2023, was estimated by applying a cut-off of 100 decisions (half the standard cut-off of 200 decisions per year).

Figure 2. Variation rates 2017 - June 2023 in decisions at first instance, countries of origin covered in EUAA country guidance.





Source: Elaboration based on EPS data, January 2017 – June 2023

As seen in [Figure 2](#) above, the annual variation in recognition rates since 2017 remained high for **Afghanistan**. Some evidence of convergence was observed from 2020 to 2021 and especially from 2021 to 2022. For 2021 – 2022, the observed convergence could be correlated with the takeover of the country by the Taliban and the suspension of the issuance of negative decisions in a number of EU+ countries. The latter coincided with increasing recognition rates overall.

At the other end of the spectrum, **Nigeria** consistently presented low variation in recognition rates at the first instance, with the exception of the first six months of 2023, when the variation could be characterised as medium. This low variation, indicative of high convergence at EU+ level, was correlated with relatively low recognition rates across the main receiving countries.

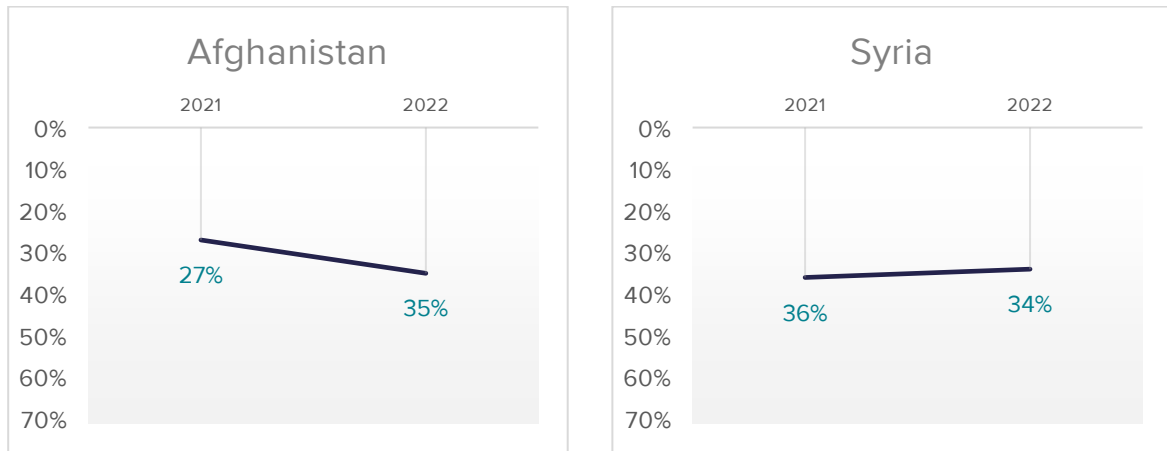
First-instance decisions on **Iraq** showed notable convergence from 2019 to 2020, coinciding with the first CG document published in June 2019. However, significant divergence was observed from 2020 to 2022 and variation remained high in the first six months of 2023.

In the case of **Somalia**, a convergence trend can be noted since 2019. In 2022 and the first six months of 2023, the variation in recognition rates was medium for the first time since 2017. This coincided with the publication of the first EUAA CG on Somalia in June 2022.

Lastly, looking at the main country of origin over the period from 2017, **Syria**, we can see that variation in recognition rates remained medium, with the exception of 2022, when it was classified as low. A notable convergence trend was observed from 2020 to 2022, coinciding with the publication of the first EUAA CG on Syria in 2020 and its annual updates since. However, the first six months of 2023 indicate a diverging trend.

Similar estimations could be made based on Eurostat data concerning decisions in **appeal instances**. Focusing on the two main countries, **Afghanistan** and **Syria** in the last two years, the variation at this level is displayed below.

Figure 3. Variation rates 2021 - 2022 in decisions at appeal instances, Afghanistan and Syria



Source: Elaboration based on Eurostat data, annual 2021 – 2022.

For **Afghanistan**, the variation in the decisions of appeal bodies was classified as high in 2021 at 27 percentage points and further increased in 2022 to 35 percentage points.

For **Syria**, unlike decisions at the first instance, variation was also classified as high in both 2021 and 2022, with some convergence noted to 34 percentage points in 2022.



What are the main factors leading to variations in recognition rates?

The observed variations in recognition rates are the result of the interplay of multiple complex and interlinked factors.

Some of these factors are inherent to the institution of asylum. While they can be studied and their impact explained, they do not need to be remedied to achieve effective convergence within the CEAS. The different elements pertaining to the national caseload are prime examples of such factors. In conjunction with the obligation to examine applications for international protection individually and objectively, these elements correlate with expected and justified differences in recognition rates.

Other drivers of variation in recognition rates, on the other hand, reflect differences among national systems and decision-making practices which may not be objectively necessary or even justified in accordance with the EU legal framework. The convergence analysis confirms that national policies, guidance and jurisprudence have a significant impact on recognition rates and that some differences between national approaches remain present in each main step of the decision-making process. Within this second category of factors, further efforts towards common standards, policies and practices can contribute to meaningful and effective convergence, in accordance with the existing legal framework and building on the support provided by the EUAA.

This study explores the role of some of the main drivers of variations in recognition rates with concrete illustrations of their relevance and impact. Its findings are evidence-based and largely corroborated across sources and analytical methods. However, they cannot be considered exhaustive or definitive.

Insights generated by the study further suggest that broader, less tangible aspects can play an important role in shaping national policies and decision-making practices, notably in reference to the broader political context in which the different national asylum systems function and the overall level of scrutiny placed on these systems.

Figure 4. Factors impacting recognition rates, focus of the pilot convergence analysis.

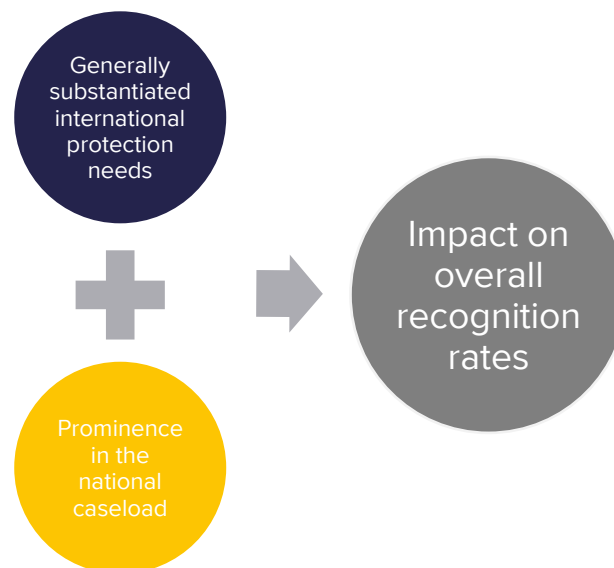


(a) Caseload

The main protection claims examined with respect to a particular country of origin have a determinative impact on its respective recognition rates. However, little reliable information is currently available on the composition of national caseloads, apart from some demographic characteristics, such as gender and age. With this in mind, the following main observations can be made.

The prevalent claims encountered in the national caseloads are a key determinative factor for recognition rates. However, the available information concerning the composition of national caseloads suggests that the reported variations in main claims across EU+ countries cannot at this stage conclusively account for the observed differences in recognition rates.

Other factors continue to play an important role, including differences in the general assessment of protection needs of certain profiles. Therefore, reaching and effectively applying a common assessment of international protection needs, especially for profiles which represent a notable proportion of national caseloads, would have a significant positive impact on convergence in the EU+.



The potential impact of the main profiles or claims examined as part of the national caseloads can be differentiated based on the expectations regarding the general assessment of their protection needs. A reference point for forming such expectations are the relevant EUAA CG documents, reflecting the common analysis and guidance developed by the EUAA together with EU+ countries on the basis of relevant COI.⁵ The actual impact of the consistency in the assessment of their protection needs on the overall variation in recognition rates and their convergence would then be determined by the relevance of the respective caseload.

⁵ See <https://euaa.europa.eu/asylum-knowledge/country-guidance>.



Notable examples in particularly prevalent profiles at the EU+ level are draft evaders from **Syria** and women and girls from **Afghanistan**. In both cases, the respective CG documents published in 2023 provided clear conclusions, confirming well-founded fear of persecution in general and a highly likely reason for persecution in relation to the refugee definition.⁶ Convergence in the assessment of the protection needs of both of these profiles is likely to have a significant positive impact on overall convergence, as they represent a notable proportion of most national caseloads. At the same time, as seen especially in the case of female applicants from **Afghanistan**, their prevalence may vary among the receiving countries, potentially manifesting in differences in recognition rates among EU+ countries, depending on the remaining profiles represented in the respective national caseloads.

For other profiles with high likelihood of being granted international protection according to the respective CG documents, national caseloads show more limited prevalence overall. Some self-reported variations in the proportions, which these profiles represent at the national level, may in principle account for differences in overall recognition rates. However, the analysis of their actual impact on recognition rates needs to take into account a number of additional complexities, most notably the differences in likely outcomes indicated by this study. This can be observed, for example, in relation to the profiles with links to the foreign military troops, which were present in **Afghanistan**.

Moreover, certain profiles with high level of agreement concerning their protection needs (e.g. LGBTIQ applicants from **Afghanistan** or **Syria**), would have no or very limited actual impact on overall recognition rates and their convergence, due to the profiles' limited relevance within national caseloads.

The clear guidance concerning the profiles above offers some predictability as to the expected outcome. Therefore, their prevalence in national caseloads could be correlated with existing variations in recognition rates. Similarly, the conclusive assessment that 'mere presence' in some territories would suffice to substantiate protection needs under Article 15(c) QD⁷, can be directly correlated with an expectation for positive decisions for applicants from those areas.⁸

On the other hand, the required highly individualised assessment for other profiles would make an analysis of convergence in their assessment and of their impact on variation in recognition rates particularly complex.

Linked to the main claims presented by the applicants from a specific country, the study also explores the relevance of establishing the country of origin of the applicant as a first step, and of their gender, age and family status, as well as their ethno-religious background and area of

⁶ See EUAA, CG **Afghanistan**, January 2023, [3.15. Women and girls](#); EUAA, CG **Syria**, February 2023, [4.2.2. Draft evaders](#). Reported assessments across EU+ countries suggest a positive decision would indeed be taken in relation to these profiles. Nevertheless, important differences persist in terms of the type of protection granted to such applicants, depending on the EU+ country which examines their application.

⁷ See, in particular, EUAA, CG **Syria**, February 2023, [5.3.4. Indiscriminate violence in Syria](#).

⁸ This takes into account the lack of or extremely limited applicability of internal protection alternative for the mentioned profiles and countries.



origin. A number of other factors related to the composition of the national caseload were also identified as relevant.

Inadmissibility grounds can come into play and result in decisions reported as rejections, notably in the case of applications from beneficiaries of international protection in another Member State or in the case of subsequent applications. The proportion of such cases in the respective EU+ country can have an impact on its recognition rates and distort the picture of convergence in terms of the in-merit assessment of protection needs of applicants from the respective country of origin.

The elements constituting the national caseload which may have an impact on the exhibited variations in recognition rates go beyond the substance of the applications and into elements concerning admissibility.

Furthermore, applications resulting from relocation, or following the evacuation efforts from **Afghanistan**, may correlate to a noticeable positive impact on recognition rates in the respective receiving country.

In some specific circumstances, where the protection needs are to a certain extent assumed (e.g. relocation, direct evacuation), the prevalence of such cases in the caseload can also have a notable impact on national recognition rates and their potential variation.

(b) Special procedures and approaches

As mentioned above, some decisions rejecting the application as inadmissible are recorded as rejections in the overall recognition rates. Notably, these include inadmissibility decisions on subsequent applications and on applications from beneficiaries of international protection in another Member State. The relevance of these factors depends on the composition of the national caseload as addressed above.

Another inadmissibility ground identified as relevant in this study is the application of the ‘safe third country’ concept. While some use of this concept has been reported on a case-by-case basis for applicants from **Afghanistan, Iraq, Nigeria, Somalia** and **Syria**, its systematic use remains exceptional.

Applying the ‘safe third country’ concept in a systematic manner has the potential to significantly impact recognition rates and, therefore, to lead to variations which are not indicative of differences in the substantive assessment of international protection needs.

The application of the ‘safe country of origin’ concept is of little relevance to the CG countries and relevant information on its impact is limited. Nevertheless, it can be noted that in the



specific case of **Nigeria**, its designation as a ‘safe country of origin’ has not had a noticeable impact on recognition rates. This observation aligns with the objectives of this concept as a tool to introduce efficiency in the asylum systems rather than a change in assessment concerning the particular country.

Apart from the admissibility-related aspects and the application of the safe country concepts, the study looks into the impact of prioritisation and suspension of the examination of (some of) the applications from a specific country.

Procedural approaches such as the prioritisation of certain applications or the suspension of examinations or the issuance of specific decisions may have a notable impact on recognition rates. However, this impact is temporarily limited, and it does not appear indicative of differences in the assessment of the relevant protection needs.

(c) National policy, guidance and jurisprudence

EUAA guidance and training have become integral parts of the CEAS and over the years have had a noteworthy impact on national policies and practices, assisting EU+ countries and contributing to enhanced practical cooperation and, ultimately, convergence.

Nevertheless, the decisions on applications for international protection continue to display significant variations. This observation remains valid when the analysis focuses on largely similar cases or even on identical facts.

It is, therefore, evident that elements pertaining to the national system are among the main drivers of variation in recognition rates. Depending on the national system, its legal traditions and set-up, key factors may include written or unwritten policy and guidance, national jurisprudence, or the less tangible organisational culture or even the broader political context.

Based on the documents shared in the framework of this study, it could be seen that written national guidance, both thematic and country-specific, is largely consistent with the available EUAA guidance. Nevertheless, some important differences were noted. The analysis of specific cases allowed for the further identification of the elements which were addressed differently by EU+ countries and their respective impact on the outcome of the examination of protection needs.

Both evidence assessment and the legal analysis were identified as areas where differences continue to manifest with significant impact on recognition rates as well as the type of protection granted across the EU+ countries.

In some cases, national jurisprudence played an important role, shaping national guidance and practices differing from the guidance developed by the EUAA together with EU+ countries.



(d) Main drivers of variation at the appeal instances

The right to an effective remedy is an integral element of the CEAS. The members of courts and tribunals hearing asylum cases are, therefore, key stakeholders in the implementation of the EU legal framework on international protection, along with the first instance determining authorities. Moreover, the appeal bodies play a dual role in relation to convergence.

Firstly, appeal instances are decision-makers in their own capacity, examining applications for international protection in accordance with the applicable legal regime.

Secondly, the jurisprudence produced and confirmed at the national level has a significant influence on first-instance decision-making policies and practices.

In addition to factors relevant at the first instance, some specific aspects can be pertinent to the recognition rates and their variation at the appeal instances.

Importantly, the **caseload** of the asylum appeal bodies is largely shaped by the decisions taken by the first instance determining authorities. As the outcomes at the first instance continue to vary, EU+ courts and tribunals encounter different types and volume of cases. For instance, the appeal bodies may encounter to a varying degree a range of rejections on admissibility (e.g. safe third country decisions, decisions rejecting the applications from beneficiaries of international protection in another Member State as inadmissible, subsequent applications) or a varying volume of rejections on the merits.

The **national judicial set-up** also plays an important role, which may have an impact on the degree of specialisation of the members of the appeal instances competent in asylum matters. The existence of jurisprudence of national appeal or supreme courts, and the extent to which the jurisprudence of the CJUE is applied, are also potential key drivers of variation in recognition rates.

Furthermore, the exposure to and **use of EUAA products and the engagement in EUAA's activities** designed for members of courts and tribunals also vary across EU+ countries.



What level of convergence to aim for?

Meaningful convergence is convergence towards common standards, policies and practices. The latter would not be expected to result in the lack of any variation in recognition rates and may not necessarily translate in low variation of recognition rates across all countries of origin. Its impact on recognition rates would depend on a number of objective factors, most notably the specifics of the national caseload.

A closer look at the makeup of the caseload per country of origin, along with the joint assessment of protection needs related to the main claims of applicants from this country, as per the EUAA CG, should inform the expectations with regard to the level of variation which would be objectively justified.

Taking **Syria** as an example, we would expect and aim for low variation. This is primarily due to a significant proportion of the applicants being men within the conscription age group (18-42 years old) or otherwise seen as political opposition. In these cases, refugee status should be a highly likely outcome, unless exclusion grounds are applicable on an exceptional basis. Furthermore, a number of governorates in the country experience such exceptionally high levels of indiscriminate violence, that no additional individual elements are required to apply Article 15(c) QD. Internal protection alternative would also generally not be applicable in **Syria**, with limited exceptions possible.⁹ All these elements justify an expectation of consistently high recognition rates across EU+ countries and, therefore, low overall variation.

The findings of the data analysis showed that over the period since 2017, variation in recognition rates for **Syria**, however, remained mostly medium, with the exception of 2022, when the variation was classified as low. The latter followed a notable convergence trend since 2020 - a positive development which could, to a certain extent, be correlated with the publication of the CG on **Syria**.

It is of note that in their large proportion negative decisions concerning **Syrian** applicants, have been related to inadmissibility rather than the examination of the applications on their merits. Therefore, the observed differences in recognition rates in **Syrian** cases can be explained by factors that do not relate to the actual assessment of the situation in the country of origin. When focusing only on the assessment itself, convergence may be higher than the current recognition rates appear to indicate. With this in mind, in addition to a common assessment of the situation in a particular country of origin, other aspects also appear pertinent to fostering greater convergence, including for example the examination of subsequent applications, the examination of applications from beneficiaries of international protection in another Member State, and the application of the safe third country concept. A number of EUAA tools and materials exist and continue to be developed to assist EU+

⁹ See the [EUAA CG Syria](#), February 2023.



countries in this regard, contributing to the efforts of reaching further convergence in decision-making on **Syria**.¹⁰

Afghanistan, on the other hand, presents a more diversified picture in terms of protection needs. In view of the EUAA CG from January 2023, an expectation of consistently high recognition rates can be formed regarding a number of different profiles of applicants.¹¹ However, their overall relevance in the caseload of Member States varies. For example, based on the EUAA CG assessment from January 2023, **Afghan** women and girls should be highly likely to be granted refugee status across EU+ countries. However, women and girls did not traditionally form the majority of the Afghan caseload and the respective impact of this general assessment on overall recognition rates may be limited. Many of the other profiles fall within the categories where additional risk-enhancing circumstances would be necessary to grant international protection. Therefore, depending on the differences in caseload across EU+ countries, we can expect and aim for medium to medium-low variation in relation to **Afghanistan**.

At 26 percentage points, the variation in first instance decisions for **Afghan** applicants already appeared close to that aim (medium variation is considered variation between 10 and 25 percentage points). However, as with **Syrian** applicants, albeit perhaps less visibly, further efforts are also needed in addressing the differences between refugee status recognition vs the granting of subsidiary protection across EU+ countries.

The examples above focus on cases where protection would be highly likely to be granted. However, low variation and convergence should not be equated with high recognition rates. **Nigeria** is a suitable example of a country where the recognition rates are generally low and where we do not observe significant variations among EU+ countries. In fact, in the period 2017 – 2022, the variation in recognition rates for **Nigeria** remained low. This would be consistent with generally lower proportion of applicants with claims that would be highly likely to lead to international protection, along with the likely availability of an internal protection alternative. Countries in similar situations would also justify an expectation of low variation in recognition rates.

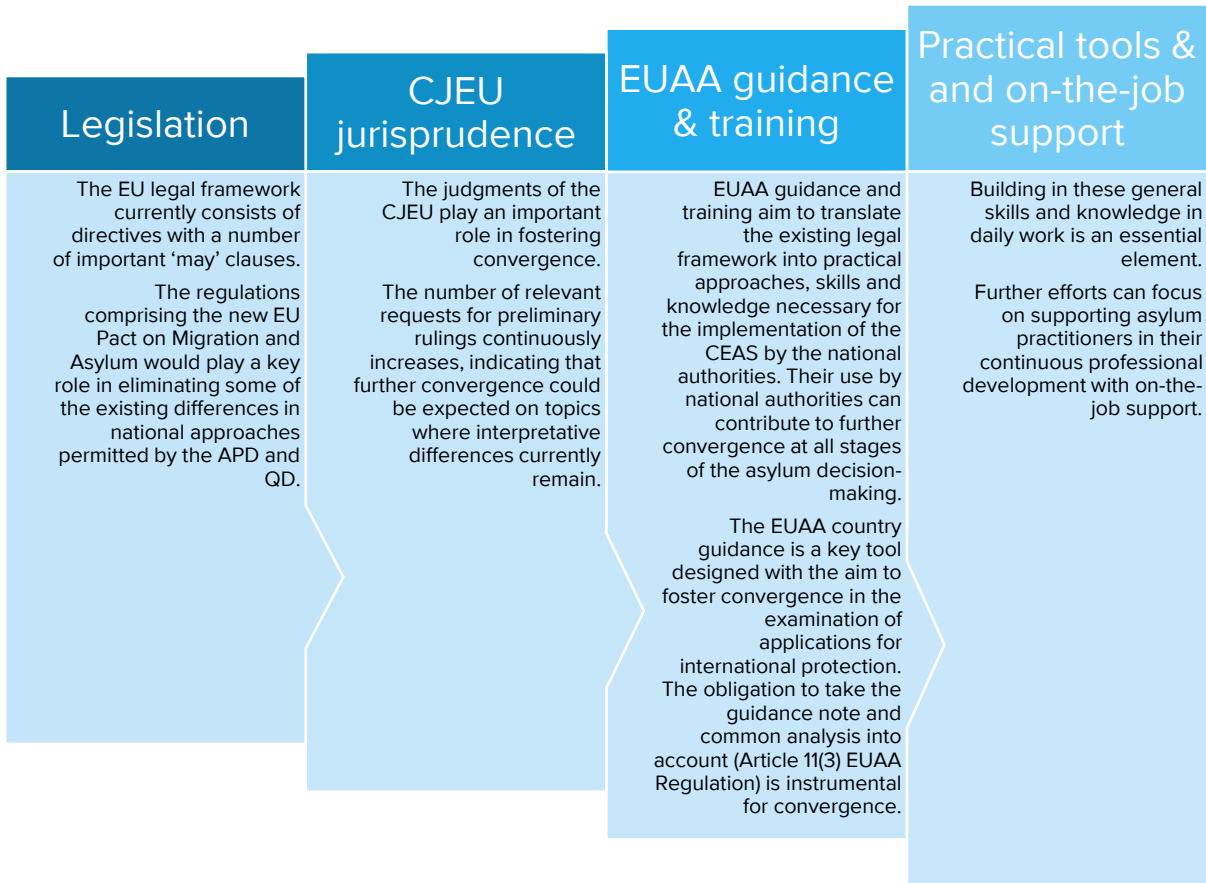
¹⁰ See the [EUAA Practical Guide on Subsequent Applications](#), December 2021, and the EUAA publications [Applying the Concept of Safe Countries in the Asylum Procedure](#), December 2022, and [Jurisprudence on Secondary Movements by Beneficiaries of International Protection](#), June 2022.

¹¹ See the [EUAA CG Afghanistan](#), January 2023.



What can contribute to convergence?

A number of elements contribute to convergence in decision-making practices and, therefore, in decision outcomes.



Over the years, the EUAA (previously as EASO) has developed a large portfolio of products and activities aimed at supporting a truly common asylum system. EU+ countries contribute actively to the design of the methodologies behind these processes and to the development of their content.

The **EUAA CG documents** are a prime example and culmination of the Agency's convergence-driven work to-date. To develop these common analyses and guidance notes on main countries of origin, EU+ countries jointly assess country of origin information (COI). The COI itself is produced in line with a methodology, which has also been jointly developed with EU+ countries. In the work on CG, senior national policy experts agree on this analysis and guidance to policy- and decision-makers, which is then endorsed by the EUAA Management Board consisting of representative of all Member States.¹²

Indeed, as seen in [Figure 2](#) above, there is some evidence of convergence which may be correlated with the deliberation and publication of the relevant EUAA CG documents. This is especially the case for **Syria** and **Somalia**, and to some extent for **Iraq** and **Afghanistan**, while

¹² See Article 11, [EUAA Regulation](#).



for **Nigeria**, where variations were already at a low level, there was no notable further convergence.

Similarly, EU+ countries largely train their case officers by making use of the **EUAA Training Curriculum**, including its core modules on the asylum interview method, evidence assessment and inclusion. **EUAA general guidance** is also available on these topics. However, despite having this common fundamental training and access to common guidance, in their national systems, the competent authorities appear to apply varying approaches at most steps of the decision-making process.

These differences may impact the possible outcome of the applications to a varying degree, as evidenced by the case samples analysis completed as part of this study. Some would manifest a different approach, which is not likely to affect the outcome of the application, while others would be key for the decision between recognising the person as a refugee, granting subsidiary protection, or rejecting the application.

To effectively foster convergence, efforts should address each step of the examination process, and focus on the elements which have the potential to lead to differences in outcome. The outline below addresses the main stages in the examination of applications for international protection, along with some of the key EUAA tools aimed to provide support and to foster convergence in these areas. In addition to the tools mentioned specifically, a wide array of EUAA publications and activities aim to directly or indirectly foster convergence. Among others, these include the wider situational awareness portfolio of the agency, the guidance and tools for quality assurance in the asylum procedure, as well as the operational support provided by the agency.

Admissibility

Topics relevant at this stage include subsequent applications, the examination of the applications of beneficiaries of international protection in another Member State, and the application of the safe third country concept.

A key EUAA tool relevant at this stage of the examination is the [EUAA Practical Guide on Subsequent Applications](#).

In addition, relevant EUAA situational analysis publications include [Applying the Concept of Safe Countries in the Asylum Procedure](#) and [Jurisprudence on Secondary Movements by Beneficiaries of International Protection](#).



Personal interview on the merits

Conducting the personal interview is a core competence for asylum case officers. The way that the interview is conducted is essential for the outcome of the application. Therefore, the harmonisation of procedural safeguards and of the practices in the identification and exploration of the material facts during the interview is key for overall convergence.

The EUAA guidance and training promote a well-developed comprehensive methodology for the asylum interview.

The training module [Asylum Interview Method](#) should be a starting point to fostering convergence in this regard. This can be further built on with advanced modules focusing on interviewing specific groups, such as [children](#) or [other vulnerable applicants](#).

In terms of EUAA guidance, a key tool is the [EUAA Practical Guide on the Personal Interview](#), along with further thematic practical guides, such as the [Practical Guide on Interviewing Applicants with Religion-based Asylum Claims](#).

Evidence assessment: credibility and risk

The way the evidence is collected and assessed is paramount for the outcome of the applications, making evidence assessment a key constitutive element of the decision on international protection. It determines which material facts are identified as such and accepted. Ensuring a common framework, including the application of consistent thresholds for the assessment of credibility and risk, is paramount for convergence.

The EUAA guidance and training promote a structured approach to evidence assessment, with clearly defined thresholds.

The core training module [Evidence assessment](#) aims to prepare asylum practitioners to apply the EUAA's structured method of evidence assessment when assessing an application for international protection so that the risk of subjectivity in individual cases is reduced.

Further guidance is provided in the [EUAA Practical Guide on Evidence Assessment](#), as well as thematic guides such as the [Practical guide on the use of country of origin information](#).

Here, a key EUAA line of products are the Agency's [COI reports and queries](#), developed following a [methodology](#) guided by the principles of objectivity, usability, transparency and publicity, validity and quality. These documents directly feed into the external credibility assessment as well as the overall factual risk analysis. In light of Article 10(3)(b) APD, the consistent use of EUAA COI should be strongly encouraged. Furthermore, in terms of risk assessment, Member States have the obligation to take the EUAA CG into account in accordance with Article 11(3) EUAA Regulation.



Legal assessment

The qualification for international protection would further depend on the application of the definitions of a refugee and the grounds for subsidiary protection in accordance with the Qualification Directive. Here, differences may pertain to the interpretation of the reasons for persecution, the requirement for an actor of persecution or serious harm, the application of the 'sliding scale' in the context of Article 15(c) QD, the application of the internal protection alternative, etc. These differences may result in variations in overall recognition rates, as well as in differences in the type of protection granted.

The EUAA modules on [Inclusion](#) and [Inclusion advanced](#) aim to provide asylum officials with the knowledge and skills necessary to apply the refugee and subsidiary protection criteria in a structured and consistent manner.

General guidance provided by the EUAA includes the [Practical Guide on Qualification for international protection](#), as well as a number of thematic guides, including those on [political opinion](#), [membership of a particular social group](#), and [internal protection alternative](#).

The most concrete EUAA tools for fostering convergence in the legal assessment are the [EUAA country guidance documents](#), which provide common analysis and guidance on the qualification for international protection of applicants from specific main countries of origin.

To foster convergence, a consistent approach in these aspects should be ensured among EU+ countries, including by applying a **quality assurance framework** aligned with the common standards and indicators developed by the EUAA.

Appeal

Last, but certainly not least, the appeal authorities play a key role in relation to the outcome of applications for international protection and in the efforts towards greater convergence. The appeal bodies across the EU+ countries are firstly, important decision-makers, but also, and especially at higher instances, responsible for shaping the decision-making policies and practices of the determining authorities at first instance.

A [dedicated line of EUAA support](#) aims to benefit the members of courts and tribunals across Europe who are working in this highly specialised area of the law. The EUAA coordinates the Courts and Tribunals Network and produces high-quality [materials](#) designed to support judicial practitioners in their daily tasks. Regular capacity-building activities are also organised, including [judicial workshops](#) and [expert panels](#).

Furthermore, members of courts and tribunals can make use of a [case law database](#) and [quarterly case law overviews](#).

Notably, in the assessment of applications for international protection, appeal bodies are also expected to ensure that 'precise and up-to-date [information is obtained from various sources, such as \[the EUAA\]](#)' (Article 10(3)(b) APD) and to take into account the [EUAA common analysis and guidance notes](#) (Article 11(3) EUAA Regulation).

The overview above presents an indication of the array of EUAA tools and activities which have the potential to foster convergence. Over the years, the Agency has also engaged in cycles of evaluations of the use and impact of these products, and in their continuous improvement. The findings of these evaluations and of the present convergence analysis corroborate that the following steps are necessary for the EUAA to effectively support convergence.

Figure 5. Steps towards convergence with the support of EUAA.



Step 1 relates to the 'ownership' of the different products and the 'buy-in' from EU+ countries. It signifies that the trust in the methodology used by the EUAA is essential for the use of the respective products. While every methodology merits regular review and potential update, for



most of the relevant EUAA products, this step has been completed with commonly agreed, clear and transparent methodologies put in place to provide a suitable framework for the development of high-quality products.

For the products where this is relevant, **Step 2** is also largely completed. EUAA general guidance and CG, in particular, are developed with the active participation of EU+ countries. Here, some challenges emerge in the efforts to find a balance between the willingness to develop these tools by consensus and ensuring that the guidance that these products provide is sufficiently clear and directive to effectively foster convergence.

In terms of awareness, **Step 3**, the EUAA increasingly invests efforts in outreach initiatives, aimed to bring the existing products closer to their target groups. Evaluations of some of these products confirm increasing awareness, which is a prerequisite for increased use of the relevant EUAA products.

The picture in relation to **Step 4** remains more complex. Currently, a significant number of EU+ countries develop national guidance and training, in parallel to the efforts they contribute to the common products developed by the EUAA. The direct use of the relevant EUAA products may also be limited in countries which lack the tradition of national guidance and internal training. Several different approaches can be identified depending on the topic, the type of product (training, guidance, or information) and the existence of parallel national tools. To varying degrees, these approaches are likely to perpetuate differences in decision-making practices and outcomes or to contribute to convergence.

Each of these steps rely on the capacity of the EUAA to develop and implement the relevant activities and on the willingness of EU+ countries to take part in jointly shaping the CEAS, as well as to implement it via consistent policies, processes and practices. On that basis, two elements emerge as key to reaching greater convergence:

- Continuing to invest in the relevance and aptness of the EUAA products to support the examination of applications for international protection in a directive, structured manner and in accordance with common standards, and
- Making effective use of the available EUAA products at the national level.





Way forward

Taking into account the multiple, complex and interlinked factors which have been identified as main drivers of variations in recognition rates, the measures towards greater convergence should be designed in a comprehensive and holistic manner. A number of actions at different levels can contribute to reaching greater convergence towards high protection standards, including the following:

1

An important step towards greater convergence would be the **adoption and operationalisation of the New Pact on Migration and Asylum**. While the adoption of the Pact is the prerogative of the EU legislators, its consistent and effective operationalisation would require the collaborative efforts of the European Commission and a number of different authorities within Member States. In relation to the examination of applications for international protection, this would include national determining authorities and other policymaking bodies, as well as the appeal bodies responsible for international protection matters. These efforts can be enhanced with targeted and continuous support by the EUAA.

2

The **jurisprudence of the CJEU** is a key tool for fostering greater convergence. National appeal bodies are encouraged to continue to identify areas within national practice and jurisprudence where further convergence is necessary and to launch relevant requests for preliminary rulings. Furthermore, upon the issuance of a pertinent judgment, it should be fully and timely reflected in relevant guidance, training and decision-making practice. Member States, in efforts supported by the EUAA and with the oversight of the European Commission, should ensure that this is consistently done at the first instance as well as in decisions at appeal instances.

3

The **EUAA provides an array of tools**, which aim to foster greater convergence in the correct and efficient implementation of the EU legal framework. In order to realise the actual convergence potential of these tools, Member States should prioritise their use, where available, over national equivalents. In this regard, Member States and the EUAA should promote, enable and facilitate the direct use of EUAA products by practitioners. Simultaneously, the Agency, jointly with Member States, will continue to ensure that the EUAA tools are relevant and up-to-date, and offer clear, actionable guidance. Should resources permit, the EUAA



jointly with Member States should also further expand the geographical scope of the EUAA country guidance documents.



4

The EUAA will, furthermore, continue to improve the **convergence analysis**. Upon the evaluation of the pilot study, the Agency, with input from the European Commission and Member States, will design a methodology for the regular monitoring of the progress made on the actions above, as well as other activities contributing to effective convergence in the examination of applications for international protection. The active contribution of Member States to this work would be paramount.



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