

# Asylum Report 2024





# **Asylum Report 2024**

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

**June 2024**



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## Foreword

For the first time since the inception of the Common European Asylum System (CEAS), Europe was called to assist such a high number of people seeking protection. In 2023, asylum applications rose to levels reminiscent of the 2015-2016 refugee crisis. But in reality, countries provided protection to far more people, as over 4.3 million beneficiaries of temporary protection were recorded since the beginning of the Russian invasion, on top of the over 1.1 million asylum seekers in 2023.

Against this background, the adoption of the New Pact on Migration and Asylum represented an important moment for the EU in advancing its unique multinational asylum system. This success was catalysed by political will, flexibility and extensive efforts at the technical level to iron out the specific details of a sophisticated framework. The pact will play a pivotal role in converging practices and enabling EU+ countries to address the high number of asylum seekers.



But let us be clear – Member States will need to continue to show perseverance in the coming years. Work remains to be done to address existing backlogs, effectively process the increased number of incoming applications and provide accommodation to applicants for protection. Simultaneously, authorities will need to restructure their asylum and reception systems to align with the common procedures which are defined in the pact. It is clear that this will require additional resources and detailed national implementation plans.

The European Union Agency for Asylum (EUAA), already functioning with an enhanced mandate for 2 years, has continued being a major actor in the field of international protection in Europe by providing unprecedented levels of operational, technical and training support in 2023. As we usher in an era of important advancements in Europe's asylum system, a well-equipped EUAA will continue to assist in harmonising practices in Member States, increasing expertise and improving Europe's capacity to provide protection solutions.

Nina Gregori  
Executive Director  
European Union Agency for Asylum





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Through various channels, civil society organisations, academia and research institutions provided the EUAA with research findings and information from the ground. To present the full picture of asylum in 2023 and take account of all perspectives, contributions from these institutions and organisations were included in this report. To this end, the EUAA would like to acknowledge the following contributors:

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[European Council on Refugees and Exiles \(ECRE\)](#)

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[International Rescue Committee \(IRC\) Hellas](#)  
[International Rescue Committee \(IRC\) Italy](#)  
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[Santa Casa da Misericórdia de Lisboa](#)  
[Stichting Nidos](#)





## Acronyms and abbreviations

ADDE	Lawyers for the Defence of Foreigners' Rights (Belgium)
AI	artificial intelligence
AIMA	Agency for Integration, Migration and Asylum (Portugal)
AMIF	Asylum, Migration and Integration Fund
APD	Asylum Procedures Directive
ASGI	Association for Juridical Studies on Immigration (Italy)
AWAS	Agency for the Welfare of Asylum Seekers (Malta)
BAMF	Federal Office for Migration and Refugees (Germany)
BBU	Federal Agency for Reception and Support Services (Austria)
BFA	Federal Office for Immigration and Asylum (Austria)
CALL	Council for Alien Law Litigation (Belgium)
CCAC	Closed Controlled Access Centres (Greece)
CEAR	Spanish Commission for Refugees
CEAS	Common European Asylum System
CETI	migrant temporary reception centre (Spain)
CGRS	Office of the Commissioner General for Refugees and Stateless Persons (Belgium)
CJEU	Court of Justice of the EU
CNDA	National Court of Asylum (France)
CNRR	National Council for Refugees (Romania)
COA	Central Agency for the Reception of Asylum Seekers (Netherlands)
COI	country of origin information
CPR	return and repatriation centre (Italy)
CPT	Council of Europe's Committee for the Prevention of Torture
CRPD	UN Convention on the Rights of Persons with Disabilities
DSA	Detention Service Agency (Malta)
DT&V	Repatriation and Departure Service (Netherlands)
EASO	European Asylum Support Office
ECRE	European Council on Refugees and Exiles
ECHR	European Charter of Human Rights
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EES	Entry/Exit System
EIGE	European Institute for Gender Equality
EMN	European Migration Network
ENS	European Network on Statelessness
EPS	EUAA's Early Warning and Preparedness System
ESTIA	Emergency Support to Integration and Accommodation
ETIAS	European Travel Information and Authorisation System
EU	European Union
EU+	European Union Member States, Iceland, Liechtenstein, Norway and Switzerland
EUAA	European Union Agency for Asylum
eu-LISA	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
FGM/C	female genital mutilation/cutting
FRA	European Union Agency for Fundamental Rights





Frontex	European Border and Coast Guard Agency
GNCHR	Greek National Commission on Human Rights
GRETA	Council of Europe's Group of Experts on Action against Trafficking in Human Beings
IDS	Information and Documentation System
IGC	Intergovernmental Consultations on Migration, Asylum and Refugees
IHEC	Irish Human Rights and Equality Commission
IND	Immigration and Naturalisation Service (Netherlands)
IPAC	International Protection Administrative Court (Cyprus)
IOM	International Organization for Migration
JHA	Justice and Home Affairs
JRS	Jesuit Refugee Service
LGBTIQ	lesbian, gay, bisexual, trans-gender, intersex and queer
LIBE	European Parliament's Committee on Civil Liberties, Justice and Home Affairs
MedCOI	medical country of origin information
MENA	Middle East and North Africa
MOAS	Migrant Offshore Aid Station (Malta)
NGO	non-governmental organisation
NOAS	Norwegian Organisation of Asylum Seekers
OAR	Asylum and Refugee Office (Spain)
OECD	Organisation for Economic Cooperation and Development
OFPR	Office for the Protection of Refugees and Stateless Persons (France)
ONA	National Reception Office (Luxembourg)
OPU	Organization for Aid to Refugees (Czechia)
PBGB	Police and Border Guard Board (Estonia)
PMM	Presidency for Migration Management (Türkiye)
PTSD	post-traumatic stress disorder
QD	Qualification Directive
RCD	Reception Conditions Directive
RD	Returns Directive
RIC	Reception and Identification Centre (Greece)
SAI	Hospitality and Integration System (Italy)
SAR	State Agency for Refugees (Bulgaria)
SBGS	State Border Guard Service (Lithuania)
SEM	State Secretariat for Migration (Switzerland)
SIS	Schengen Information System
SMA	Swedish Migration Agency (Sweden)
SOGIESC	sexual orientation, gender identity or expression, and sex characteristics
UDI	Directorate for Immigration (Norway)
UNCAT	UN Committee Against Torture
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Emergency Fund
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
WHO	World Health Organization







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# Introduction



As the go-to source of information on international protection in Europe, the annual EUAA Asylum Report provides a comprehensive overview of key developments in asylum in Member States of the European Union, Iceland, Liechtenstein, Norway and Switzerland (EU+ countries). All aspects of the Common European Asylum System (CEAS) are covered by summarising changes to legislation, policy and practices at the European and national levels. The report presents selected case law which has shaped the interpretation of European and national laws, as well as key statistical indicators for the 2023 reference year, which highlight emerging trends and the effectiveness of asylum systems.

As asylum applications climbed to over 1.1 million in 2023, in addition to about 4 million displaced Ukrainians receiving temporary protection, EU+ countries were faced with saturated reception systems and rising backlogs of decisions on first instance applications. This report details the steps taken by national authorities to manage the situation, in addition to implementing further improvements such as procedural safeguards for vulnerable applicants.

To set the scene, Section 1 presents an overview of forced displacement globally and addresses the international community's response to large refugee movements. The section addresses key topics which were discussed at the global level, including climate-induced displacement and developments concerning stateless populations.

Section 2 zooms in on the context in the European Union, presenting the latest legislative and policy developments in the evolution of CEAS. It starts with a description of the instruments included in the Pact on Migration and Asylum to better manage asylum in Europe. It provides a brief update on the extension of temporary protection for displaced persons from Ukraine. The section also presents an overview of the common migration routes to Europe. Cases addressed by the Court of Justice of the EU are also summarised to clarify the interpretation of law in often complex situations.

Section 3 analyses developments at the national level at each stage of the asylum procedure, including access to the asylum procedure and to information, legal assistance, interpretation services, procedures at first and second instances, special procedures, the Dublin procedure, reception conditions, detention during the asylum procedure, country of origin information, the content of protection and resettlement. The key indicators which are presented help to identify and monitor trends in receiving countries, as well as with the main nationalities of applicants.



The situation of children and applicants with special needs are described in Section 4. The section combines quantitative, qualitative and legal information to provide an overview of the situation for minors, women, victims of violence and human trafficking, and lesbian, gay, bisexual, trans-gender, intersex and queer (LGBTIQ) asylum applicants. The section focuses in particular on unaccompanied minors, reviewing changes to legal representation, age assessments and reception conditions.

The support provided by the EUAA to countries during 2023 is outlined in Section 5. It details the Agency's work, including cooperation with third countries, and operational and technical assistance which was provided over the course of the year. It also presents an evaluation of these activities, when applicable.

To include diverse perspectives, observations by civil society organisations and other stakeholders are presented throughout the report by topic. In 2023, concerns often centred around access to the asylum procedure, reception conditions and applicants with special needs.

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





# Section 1. Global developments in the field of asylum in 2023



To set the broader context within which asylum-related trends in Europe emerged, this section provides an overview of key themes in forced displacement at the global level.

Protection needs continued to rise in 2023, while no single development was a catalyst in the same way that the Russian invasion of Ukraine, the Taliban's takeover of Afghanistan or the COVID-19 pandemic impacted previous years.<sup>1</sup> Nonetheless, these crises continued to influence developments in 2023 amid new and ongoing conflicts, climate shocks, geopolitical unrest, violence and persecution which led millions of people to flee their homes.

Millions of people around the world are affected by forced displacement due to violent conflict, persecution, human rights violations, natural disasters and degrading ecosystems. Recurrent cycles of displacement are frequently explained by the intricate interaction of several underlying causes, embedded in deficient political, economic, social, cultural and natural ecologies. People who are forcibly displaced may seek refuge for themselves and their families within their home country (internally displaced persons) or by crossing international borders (refugees). The majority of forcibly displaced people do not cross international borders but remain within the territory of their countries.

## Box 1.1. Definitions of displaced persons



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

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

## 1.1. Global trends in international protection

The United Nations High Commissioner for Refugees (UNHCR) reported that there was a historical high of 114 million displaced people globally in October 2023 due to persecution, conflict, violence and human rights violations.<sup>4</sup> Key hotspots for displacement included Afghanistan,<sup>5</sup> the Democratic Republic of the Congo,<sup>6</sup> Latin American and Caribbean



countries,<sup>7</sup> Myanmar,<sup>8</sup> Somalia,<sup>9</sup> Sudan<sup>10</sup> and Ukraine.<sup>11</sup> Taken together, these seven areas accounted for an estimated 90% of all new displacements in 2023.<sup>12</sup>

Between the end of 2022 and June 2023, 1.1 million new refugees were reported by UNHCR, representing a 3% increase for a total of 36.4 million refugees in mid-2023.<sup>13</sup> This increase was in line with the general trend which has seen the global refugee population double over the past 7 years.<sup>14</sup> In addition, an escalation of the conflict in Gaza in October 2023, and the associated humanitarian crisis, drastically increased protection needs in the region.

In December 2023, 80% of the world's refugee population was hosted by countries that together represent only 19% of the world's income.<sup>15</sup> Thus, more than three-quarters of globally displaced people continued to be hosted in low- and middle-income countries, which seem to bear a disproportionate share of the burden as a function of the resources at their disposal. At the face of human tragedy, many countries have opened their borders and received forcibly displaced people, offered livelihood opportunities, and accorded access to national education and health systems, despite the pressure this may entail on their own resources.<sup>16</sup>

At the same time, as noted by UNHCR's Assistant High Commissioner for Protection,<sup>17</sup> there are justifiable concerns about protection gaps and deficiencies in the operation of asylum systems throughout the world: legal processes are often slow and burdensome; refugees may need to wait for years before their stay is regularised, and with no right to work, they rely on humanitarian assistance and are unable to use their skills for personal development and to contribute to host societies; timely determination and the effective return of those who are not in need of protection often prove difficult; and racial discrimination in host society preventing meaningful participation and ultimately integration.<sup>18</sup>

Following displacement, refugees may find themselves in a precarious situation with limited prospects to access durable solutions, which include a return to the country of origin in safety and dignity, integration into the host country or resettlement to another safe country. Local integration requires substantial psychosocial and material support, including shelter, food, safe water, healthcare, access to education and employment, and overall systematic nourishing of refugee self-reliance. A return to the country of origin requires that the original cause of displacement has been addressed, which very often is difficult to achieve. A spontaneous return to the country of origin, when original sources of displacement persist, is not conducive to the safety and dignity of the returnee and has a low chance of sustainability.<sup>19</sup> Resettlement and complementary pathways provide safe and legal ways to protection, but the pledged spaces from resettlement countries do not suffice to address increasing needs. UNHCR estimated that for 2024 more than 2.4 million refugees are in need of resettlement compared to just over 2 million in 2023, representing a 20% increase.<sup>20</sup>

To sketch the landscape of migration at the global level, in January 2024, the Migration Policy Institute (MPI) provided an overview of the Top 10 global trends in migration in general, most of them of direct relevance to international protection. According to the MPI analysis, key issues in migration in 2023 included:<sup>21</sup>

- **Emergence of new models in the externalisation of humanitarian protection alongside migration management:** Key destination countries have been pushing their borders outwards over several years to restrict irregular arrivals and limit access to asylum, which persisted in 2023. However, in parallel, some practices increased the



possibilities for legal and safe pathways and extended the possibility to apply for protection in a third country.

- **New movement patterns with migrants seeking second and third destinations:** The gradual lifting of COVID-19 mobility restrictions allowed for onward travel from the first destination country to others. This occurs in part due to limited or incomplete integration in the initial destination country or due to economic considerations.
- **A new migration reality in the western hemisphere:** The barriers traditionally separating South and Central America have become increasingly porous due to factors such as uneven post-pandemic economic recoveries across countries, the professionalisation of smuggling activities and the proliferation of social media. In this reality, Central America – traditionally the origin of many migrants – is increasingly becoming a region of transit or even destination.
- **Competition among destination countries for high-skilled migrants:** Following the post-pandemic restructuring of the labour market, key destination countries increasingly adopted policies which target high-skilled migrants.
- **Migrants may be forced back years after fleeing violence:** Millions of people who fled violence in hotspots like Afghanistan, Myanmar and South Sudan may face the prospect of having to return due to political instability and crisis in the host country.
- **Temporary protection statuses may create inequities:** The growing use of temporary statuses has allowed to offer quick and easy access to protection for millions of people (e.g. in the EU and the United States) who would otherwise be caught in lengthy asylum procedures or remain in the periphery of protection regimes. This approach, however, has also created inequities, as protection is linked to one's nationality rather than an individual assessment of one's needs.
- **Despite rigid external borders, movement within regions gets easier:** While increased focus has been placed on external border management over the past years, movement within certain regions of the world became easier, fostering regional integration, often by abolishing visa restrictions.
- **Immigration-related fears remain at the top of voters' minds:** High numbers of irregular arrivals instigated fears among the populations of receiving countries in different parts of the world who reacted by supporting politicians advocating restrictive migration policies. Migration-related anxieties have -for several years- been at the front and centre of public discourse and a key consideration during elections.
- **With climate change receiving growing attention, a potentially landmark climate migration policy was applied in 2023:** Australia offered to host 280 people from Tuvalu, a Pacific nation island which is threatened by climate change. The offer did not occur in the context of international protection considerations, because people fleeing the impact of climate change were not deemed eligible for international protection; however, the gesture was symbolically powerful, especially in a year in which natural and climate-related disasters led to the displacement of millions of people around the world.<sup>22, 23</sup>



- **Social media apps have been established as a tool to support migration:** Social media platforms have evolved into crucial tools in catalysing migration, including regular and irregular forms. They render information easily accessible and facilitate communication across different actors, including smugglers. Authorities also increasingly rely on social media to reach migrants.

In its 2024 Global Appeal, UNHCR identified five areas in international protection which need further action:<sup>24</sup>

- Tackling the challenge of internal displacement by reinforcing the primary responsibility of states to assist and protect people in accordance with humanitarian law and human rights law, while implementing response operations in a number of hotspots throughout the world.
- Making progress toward the reduction and prevention of statelessness.
- Increasing accountability to affected people by ensuring that they can safely and confidently use their preferred channels of communication to receive information that allows them to make informed choices in their situation
- Addressing the impact of climate change on climate-vulnerable and displaced populations, among others through the [Strategic Plan for Climate Action 2024-2030](#).
- Working with development partners to create the conditions for displaced populations to be effectively included in host societies, socially and economically empowered, and self-reliant.

In an effort to further mobilise support for protection solutions, in September 2023 UNHCR launched the Hope Away from Home campaign, calling on world leaders to honour their legal and moral obligations to people seeking safety from war, violence and persecution. The campaign takes the message of solidarity and action to decision-makers and leaders to solve some of the most urgent challenges facing those who were forced to flee.<sup>25</sup>

## 1.2. Global Compact on Refugees

Amid this backdrop, the international community continued to develop solutions for people in need of protection, often through multistakeholder cooperation. The Global Compact on Refugees, a key agreement which was reached in 2018, provides the framework for predictable and equitable responsibility-sharing through international cooperation. Its objectives include:

- i) easing pressure on host countries;
- ii) enhancing refugee self-reliance;
- iii) increasing access to third-country solutions; and
- iv) improving conditions in countries of origin.<sup>26</sup>

In November 2023, an indicator report was published with an overview of the progress made in the initiatives pledged at the first Global Refugee Forum in 2019. The report highlights concrete examples of progress toward the four key objectives of the Global Compact on Refugees, such as increasing refugees' access to education, economic inclusion, resettlement and complementary pathways.<sup>27</sup> The report also identifies areas where gaps exist and efforts





need to be scaled up. For example, it showed that often the gains occurred in high-income countries and that more is needed to assist refugees in low-income countries and in protracted situations to foster more equitable responsibility-sharing.<sup>28</sup> Reflecting the increasing diversity of actors involved in providing solutions, the report also shows that the number and range of partners involved in refugee responses increased, including more local NGOs, faith-based organisations, and refugee- and women-led organisations.<sup>29</sup>

The second Global Refugee Forum, which took place in December 2023, provided an opportunity for governments and other stakeholders to pledge their support for specific policies and programmes for protection solutions, thus showing their solidarity with displaced populations and countries hosting refugees. More than 4,200 participants from 168 countries attended the forum in person, with an additional 10,000 joining online. Through a combination of contributions and pledges, governments, international actors, the private sector and civil society organisations committed over USD 2.2 billion. Countries also pledged to resettle 1 million refugees by 2030 and support an initiative to assist an additional 3 million refugees to access third countries through community sponsorship.<sup>30</sup>

Regional cooperation through three support platforms continued to provide targeted support to specific situations in Afghanistan ([SSAR](#)), Central America and Mexico ([MIRPS](#)) and East Africa ([IGAD](#)). New initiatives in 2023 included the launching of a solutions support platform for the Central African Republic ([CAR-SSP](#)), which has been a major hotspot of displacement with over 725,000 Central Africans registered as refugees in neighbouring countries in 2023,<sup>31, 32</sup> and a regional pledge made at the Global Forum to develop a plan of action in support of the Cartagena+40 Process.<sup>33</sup>

In an effort to further coordinate action and protect asylum seekers and refugees, in December 2023 a group of UN and regional experts launched the Platform of Independent Experts on Refugee Rights (PIERR). The platform aims to better coordinate joint advocacy initiatives and promote the implementation of international human rights norms and standards. It provides the space to share knowledge, act on, intervene and speak about concerns related to forced displacement in a coordinated matter. The platform is composed of the UN Special Rapporteurs on human rights of migrants and on trafficking in persons, especially women and children; the Working Group on Arbitrary Detention; the UN Committee against Torture (UNCAT); the Special Rapporteur on refugees, asylum seekers, internally displaced persons and migrants in Africa of the African Commission on Human and Peoples' Rights; and the rapporteurship on the rights of migrants of the Inter-American Commission on Human Rights.<sup>34</sup>

### 1.3. Climate-induced displacement

Climate change and its link with generating displacement, as well as the impact of climate change on refugees and host communities, were among the key themes at the Global Refugee Forum. Nearly 60% of the world's displaced populations live in countries that are the most vulnerable to the impact of climate change. As the effects of climate change intensify, so does the hardship experienced by displaced populations and host communities.<sup>35</sup>

A multistakeholder pledge on climate action was announced to include refugees in national adaptation plans and international climate fora, and to contribute to the strengthening of protection, preparedness and resilience of displaced people and host communities to climate impacts.<sup>36, 37</sup> During the 27<sup>th</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27), King Abdullah II of Jordan launched the Climate-



Refugees Nexus initiative to highlight the vulnerability of countries that face the dual challenge of climate change and hosting large refugee populations. The initiative draws attention to the adverse impact of climate change on these countries and calls on international organisations, investors and climate funds to prioritise refugee-hosting countries in climate hotspots and provide financial, technical and capacity-building resources.<sup>38</sup> At the COP28 convention in December 2023, displaced climate activists participated and spoke on behalf of millions of other displaced people who are disproportionately affected by climate change and called for greater inclusion of affected communities in developing solutions.<sup>39</sup>

## 1.4. Global developments on statelessness

The issue of statelessness continued to receive attention by the international community, as millions of stateless people continued to find themselves in particularly precarious situations. UNHCR reported that in June 2023 an estimated 4.4 million people were stateless or of undetermined nationality, based on statistics shared by governments and other sources in 97 countries.<sup>40</sup> The number is likely to be much higher as about one-half of all countries do not report data on statelessness, including countries with known stateless populations.

An issue of great relevance in the context of asylum, statelessness has been firmly embedded in the Global Compact on Refugees in an effort to improve the protection of stateless people. At the Global Refugee Forum in December 2023, a multistakeholder pledge was announced to prevent and reduce statelessness.<sup>41</sup>

To build on the advances made by the #IBelong campaign, the Global Alliance to End Statelessness aims to accelerate solutions to statelessness by 2030. The new initiative brings together stateless and formerly stateless people, civil society organisations, academic institutions, faith-based organisations, the UN and other international entities. The alliance, which will be officially launched at the end of 2024, will serve as a platform to increase collective advocacy efforts and catalyse political commitments to address statelessness.<sup>42</sup>

Reflecting on their participation in the Global Refugee Forum, the European Network on Statelessness (ENS) offered five key observations and recommendations on how the international community can enhance action to address statelessness, which include:

- Increasing UNHCR programmes, resources and prioritisation on statelessness;
- Mainstreaming statelessness as a cross-cutting issue in the discourse on international protection;
- Adequately supporting and profiling the launch of the Global Alliance to End Statelessness;
- Ensuring sufficient resources in programmes and supporting activities of the Global Alliance; and
- Including civil society organisations when discussing solutions, especially people with lived experience with statelessness.<sup>43</sup>

In line with its mandate to prevent and reduce statelessness, in March 2023 UNHCR issued its annual background note on gender equality, nationality laws and statelessness. The note presented law reforms and initiatives at the regional level to promote gender equality in nationality matters, offered information on progress made since the beginning of the #IBelong



Campaign, and provided an overview of nationality laws which do not grant women equality with men in conferring nationality to their children.<sup>44</sup>

As effective responses are contingent on accurate analytics, the availability of relevant statistics is of utmost importance. In 2023, the UN Statistical Commission endorsed the International Recommendations on Statelessness Statistics (IROSS), which were developed by the Expert Group on Refugee, IDP and Statelessness Statistics (EGRISS). To strengthen globally-consolidated data, the recommendations provide guidance on how to better include stateless persons in national statistical systems and improve official statistics.<sup>45</sup>

## 1.5. The Humanitarian-Development-Peace nexus

As the international community continues to address complex aspects of constantly changing patterns of displacement, a growing realisation seems to inform the discourse and praxis of international protection over the past years: forced displacement is not only a humanitarian concern but also a development challenge. The majority of refugees around the world not only originate from fragile environments, but also flee to fragile environments.<sup>46</sup>

In such contexts, humanitarian support alone from governments and private donors may not suffice in fostering protection. Comprehensive support is needed from a diversity of stakeholders, including businesses, financial institutions and civil society organisations, that can synthesise their respective expertise in achieving development solutions. The approach is meant to address the risk of aid dependency, the exclusion of refugees from host societies and the increased burden on the already-limited resources in host countries. It aims to render cooperation among developmental, peace and humanitarian actors as the default response in displacement situations. It also highlights the importance of ensuring the participation of affected communities in the design of protection solutions to exhibit their agency and contribute their skills.

To actively advocate and strategize the humanitarian-development-peace praxis, members of the International Network on Conflict and Fragility (INCAF), within the Organisation for Economic Cooperation and Development's (OECD) Development and Assistance Committee, developed a common position to address forced displacement. Three areas of work were identified:

- a) Provide early mitigation of shocks associated with the impact of forced displacement in low- and middle-income countries (e.g. provision of immediate assistance; dialogue with affected local communities, authorities and municipalities; and collaboration with different actors to ensure alignment and complementarity of efforts);
- b) Include forcibly displaced and stateless populations in sustainable development and climate action programmes; and
- c) Address recurring drivers of forced displacement, support solutions and preparedness to cope with emerging trends (e.g. engage those involved in peacebuilding activities to prevent conflict; support private sector investments to build economic prospects and resilience; and highlight the benefits of systemic solutions and preparedness in mitigating the risk of crises).<sup>47</sup>





The Data Sharing Agreement, signed by UNHCR and the World Bank in June 2023, is an example of collaboration between humanitarian and development actors. Through the agreement, both organisations will have quicker access to data, and thus humanitarian aid and developmental assistance can be better targeted. Access to data related to the socioeconomic condition of displaced people will enable the World Bank to design programmes for long-term economic resilience and individual potential.<sup>48</sup> In parallel, country-level data from the World Bank can inform UNHCR assistance to displaced populations and host communities. Sharing statistics between the two organisations also enhances analytical understanding and fosters complementarity in environments where both organisations operate.<sup>49</sup>

The Humanitarian-Development-Peace nexus approach was prominent in the 2023 Global Refugee Forum, where a multistakeholder pledge invited a wide range of contributors to leverage their strengths to address humanitarian crises through a whole-of-society approach, while attaining human security.<sup>50</sup>







## Section 2. Major developments in asylum in the European Union in 2023



This section presents an overview of the latest legislative and policy developments shaping the evolution and practical implementation of CEAS at the EU level in 2023 and early 2024.

The political agreement reached between the European Parliament and the Council in December 2023 on key legislative instruments of the Pact on Migration and Asylum represented a major breakthrough in the CEAS reform, paving the way for the successful completion of a process meant to equip Europe with a functional and modern migration and asylum architecture.

In 2023, the EU took further action to systematically address the devastating consequences of Russia's aggression on Ukraine, including steps to catalyse closer cooperation among international actors and putting forth instruments to support Ukraine's recovery, reconstruction and modernisation. The extension of temporary protection to March 2025 offered stability and predictability to millions of beneficiaries.

With pressures on external borders persisting throughout 2023, the EU introduced initiatives to increase the effective management of external borders. Steps taken in this direction focused on calibrating a European Integrated Border Management, including the upgrade of existing information systems and their interoperability, as well as working with key partner countries across migration routes.

This section also provides an overview of jurisprudence by the Court of Justice of the EU (CJEU), which in 2023 issued more than 20 judgments and orders related to international protection.

### 2.1. Reforming the Common European Asylum System

CEAS is a legal and policy framework which was developed to guarantee harmonised and uniform standards for people seeking international protection in the EU. It emphasises a shared responsibility to process applications for international protection in a dignified manner and with fair treatment.<sup>51</sup> Since its inception, CEAS has been periodically reformed to respond to ever-changing patterns of migration and asylum. The amendments take into account the varied experiences of European countries and mixed migration flows.<sup>52</sup>





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

A legal and policy framework to guarantee harmonised and uniform standards for people seeking international protection in the EU.

It ensures that asylum seekers are treated equally in an open and fair system – wherever they apply.

#CEAS

**1999 – 2005**

### First phase

In 1999, the European Council adopted the Tampere Programme which set the foundation for a comprehensive approach to international protection, known as CEAS.

Between 2000 and 2005, six legislative instruments establishing minimum standards for asylum were adopted: the Eurodac Regulation, the Temporary Protection Directive, the Reception Conditions Directive, the Dublin Regulation replacing the 1990 Dublin Convention, the Qualification Directive and the Asylum Procedures Directive.

The European Council adopted the Hague Programme in 2005, agreeing to move to a second phase of CEAS and introducing the idea of a European support office.

**2008 – 2013**

### Second phase

Legislative proposals were issued in 2008 and five of the legislative instruments were amended between 2011-2013, moving from minimum standards to establishing a common asylum procedure and a uniform status for refugees and beneficiaries of subsidiary protection.

In addition, the regulation establishing the European Asylum Support Office (EASO) was adopted in 2010 to assist Member States in harmonising practices and enhancing practical cooperation.

**From 2015 onwards**



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## New challenges and reforms

In 2015, the unprecedented number of people seeking protection in the EU challenged existing policies in asylum and reception. A new system was needed to manage changing migratory patterns. To address the situation, in 2016 the European Commission proposed a third package of legislation to create an efficient and fair system for international protection, even in times of high migratory pressure.

### 2020

#### Third phase

At the end of 2020, the European Commission proposed a new Pact on Migration and Asylum for a more effective system to manage migration in the EU.

The pact included legislative proposals to reform CEAS, building on the proposals put forth in 2016 and negotiations since then, while introducing additional proposals.

### 2022

The regulation to establish the new Agency was the first proposal to be approved by the European Parliament and Council. On 19 January 2022, EASO was transformed into the European Union Agency for Asylum (EUAA) with a reinforced mandate to offer greater operational and technical support to Member States in harmonising practices in international protection.



### From 2023 onwards

In April and May 2024, the European Parliament and Council adopted the Pact on Migration and Asylum to reform EU policies. The legislation will enter into application in June 2026, except for the resettlement framework.

The agreement includes a package of the following instruments:

- a new **Screening Regulation**
- an amended proposal revising the **Asylum Procedures Regulation**
- an amended proposal revising the **Eurodac Regulation**
- a new **Asylum and Migration Management Regulation**
- a new **Crisis and Force Majeure Regulation**
- a new **Migration Preparedness and Crisis Blueprint**
- a new **Recommendation on Resettlement and complementary pathways**
- a new **Recommendation on Search and Rescue operations by private vessels**
- new **Guidance on the Facilitators Directive**



In this evolutionary process, the Pact on Migration and Asylum was presented by the European Commission in September 2020 as a set of regulations and policies for Europe to develop a fairer, more efficient, harmonised and sustainable asylum system. The pact is informed by an approach that is meant to be humane and fair with those seeking protection, firm with those who are not in need of protection, and tough with those who exploit the most vulnerable.<sup>53</sup> The pact also represents an integrated solution that caters to the needs of European countries experiencing different and varying degrees of migratory pressures.

Since the presentation of the pact, progress on the agreement had been steady but uneven across the different legislative instruments. Nonetheless, on 20 December 2023, the European Parliament and the Council reached political agreement on the core elements of five key regulations meant to overhaul the EU's legal framework on asylum and migration. These five regulations include:<sup>54</sup>

The **Asylum Procedures Regulation**, which establishes a common procedure that Member States need to follow when receiving and processing applications for international protection. The regulation streamlines procedures and sets standards for the rights afforded to applicants, including the right to free legal counselling in the administrative procedure. The regulation introduces a border procedure to swiftly assess at the EU's external borders whether applications for protection are unfounded or inadmissible. People subject to the border procedure are not authorised to enter the Member State while the procedure is being conducted. A prioritisation system is foreseen to indicate the categories of applicants who must be given priority to determine admission to a border procedure. Unaccompanied minors are excluded from the border procedure, unless they pose a security threat. The regulation also provides a formula to determine adequate capacity for each Member State in terms of reception and human resources to effectively carry out the border procedure.

The **Asylum and Migration Management Regulation**, meant to replace the Dublin III Regulation, aims to determine which Member State is responsible for the examination of an asylum application. The new regulation clarifies the responsibility criteria and streamlines the rules for the transfer of applicants, when this is necessary. The criterion of first or legal entry still retains prominence in determining responsibility, but the regulation also introduces provisions to foster solidarity with frontline Member States that receive the majority of applications for protection. A new Solidarity Mechanism, which offers flexibility in contributions, foresees mandatory expressions of solidarity to support Member States that cannot cope with the number of irregular arrivals. Solidarity may be expressed by relocating applicants and beneficiaries, deploying personnel or supporting capacity-building. A minimum annual number of relocations is foreseen, currently set at 30,000 people, as well as a minimum annual amount for financial contributions, currently fixed at EUR 600 million.

The **Screening Regulation** aims to strengthen controls at the EU's external borders and quickly identify the correct procedure to determine protection needs. Screening will apply to people who have been apprehended for an unauthorised crossing of an external border by land, sea or air, people disembarked following a search and rescue operation at sea, and people who have made an application for protection at an external border-crossing point or in a transit zone but do not fulfil the conditions for entry. It also applies to people found on EU territory who have escaped external border controls. Member States will establish independent mechanisms to monitor respect for fundamental rights during screening.





The updated **Eurodac Regulation** makes it possible to better tackle irregular movements and supports the implementation of the Asylum and Migration Management Regulation. Instead of applications, it is possible to register individual applicants on the Eurodac database, which allows national authorities to identify more easily people who lodge multiple applications. It helps in identifying the Member State responsible for examining an application and tracing secondary movements. The database is expanded to register additional biometric data, such as facial images, and covers applicants for protection and people who are staying illegally in a Member State. Data will be collected and registered for people aged 6 years and older, compared to the previous limit of 14 years. An additional parameter registered in the database will concern whether a person poses a threat to the Member State's security, while law enforcement authorities can consult the database to prevent, detect or investigate terrorist activities or other serious criminal offences. Beneficiaries of temporary protection are also registered in the Eurodac database; however, this provision does not apply to persons displaced from Ukraine who currently have temporary protection. The database can also be used to register people who are resettled under national or EU resettlement schemes.

The **Crisis and Force Majeure Regulation** sets an EU framework for national responses to crisis situations, comprising a combination of adjustments to certain rules and provisions of support by the EU and Member States. In crisis or force majeure situations, including situations where migrants are instrumentalised for political purposes, Member States may deviate from certain rules in the asylum procedure. In these situations, for instance, the timeline to register applications for international protection can be extended to 4 weeks instead of 7 days. A Member State can also request to change the criteria for an application to be examined in the border procedure, for example by increasing the recognition rate threshold for the application of the border procedure from 20% to 50%. In addition, Member States can request to be exempt from taking back applicants from other Member States. Such exceptional measures will always require an assessment by the European Commission and an authorisation from the Council. Finally, Member States can request solidarity contributions from other Member States, building on the ones foreseen in the Asylum and Migration Management Regulation.<sup>55</sup>

The political agreement of December 2023 on these five instruments was a major breakthrough which was achieved through gradual, yet persistent, work by the co-legislators who mobilised resources and rallied the necessary political will. Prior to this agreement, a number of key components of the pact had been already agreed on, including:<sup>56</sup>

- A revised Reception Conditions Directive to further harmonise reception conditions throughout the EU and to reduce the incentives for secondary movements, while also increasing applicants' self-reliance and integration prospects.<sup>57</sup>
- A Qualification Regulation to foster greater convergence in recognition rates and forms of protection across EU countries, introduce stricter rules to sanction secondary movements and strengthen incentives for integration.<sup>58</sup>
- A new EU Resettlement Framework to replace existing ad hoc schemes and provide legal and safe pathways to the EU, set common rules for resettlement and humanitarian admissions; contribute to global resettlement initiatives; and support third countries hosting many persons in need of international protection.<sup>59</sup>
- A recommendation on an EU mechanism for preparedness and management of migration-related crisis through an early warning and forecasting system.





- A recommendation on improving cooperation among Member States in managing private vessels involved in search and rescue activities and guidance on the non-criminalisation of search and rescue humanitarian operations.
- A regulation on the establishment of the EUAA, which entered into force in January 2022, transforming the European Asylum Support Office (EASO) into an agency with a broadened and enhanced mandate.
- The appointment of a Return Coordinator in March 2022 to increase effectiveness, convergence and coordination between the EU and Member States on returns, including of rejected asylum applicants.
- A Voluntary Solidarity Mechanism which was established in June 2022 with the agreement of 23 EU+ countries to support Member States under pressure, including through relocations and financial contributions. The mechanism set the pace toward more permanent solutions which are foreseen in the Asylum and Migration Management Regulation.<sup>60</sup>

Following provisional agreement at the political level, the co-legislators continue to work at the technical level to finalise the details of the new regulations before they are adopted and enter into force. In February 2024, the Permanent Representatives Committee (COREPER) endorsed, on the Council's behalf, the final text of the proposed instruments, with the European Parliament following in April 2024.<sup>61</sup> Apart from the five regulations mentioned earlier, COREPER also agreed on a regulation establishing a return border procedure.<sup>62</sup> This instrument incorporates elements formerly included in the Asylum Procedures Regulation and the Crisis and Force Majeure Regulation and aims to simplify and harmonise the return border procedure for third-country nationals whose application is rejected in the asylum border procedure. The expected entry into force of the instruments is June 2024, but there will be a 2-year period before the entry into application in summer 2026, except for the EU Resettlement Framework which applies immediately.

In March 2024, in light of the political agreement on the new pact, the European Commission issued a communication taking stock of key achievements in developing a durable, fair and firm migration and asylum system, that is both effective and humane in line with European values.<sup>63</sup> The communication presents the achievements made by the EU and its Member States by showing agility and resilience in navigating challenges. A two-track approach was key in catalysing progress by pursuing sustainable structural reform and targeted operational support.

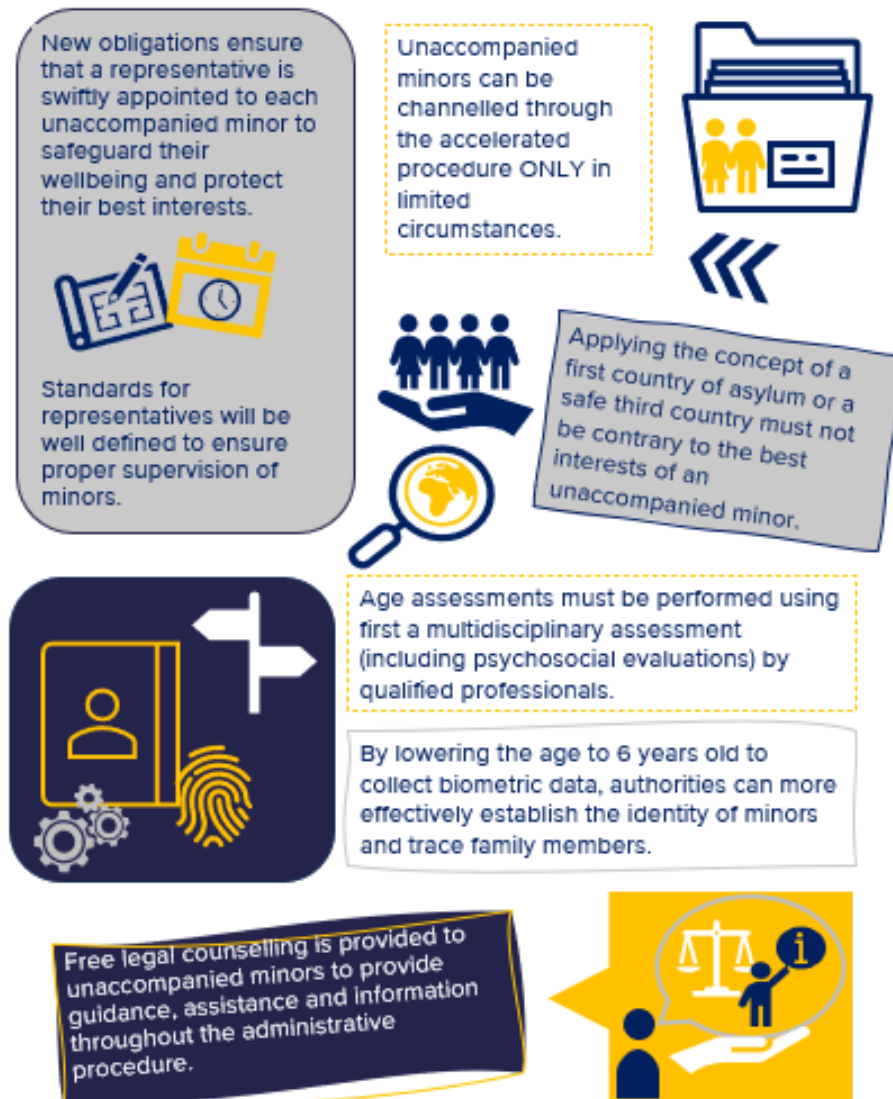
The communication provides a brief overview of the changes the pact will bring in more secure external borders; faster and more efficient procedures for asylum and returns with stronger individual safeguards; and a fair and more effective system of solidarity and responsibility. It also stresses the need for effective implementation of the new framework, including through technical, operational and financial support by the European Commission and EU agencies. Equipped with the experiences and the expertise of the past years, the EU has expanded its range of tools to respond to changing migratory patterns, irregular movements and the smuggling of migrants. The communication emphasises the important role of EU agencies in supporting effective implementation of EU policies and frameworks, including with processing asylum claims, border control and returns.



In 2023, a number of stakeholders continued issuing their commentaries on the European Commission's proposals, identifying possible areas of risk. Commentaries addressed effective access to the procedure and the provision of essential safeguards to this end; what was seen as an expanded and mandatory use of special procedures; the codification of the 'instrumentalisation' concept in EU law; safeguarding the right to effective remedies; and maintaining a fair balance in responsibility-sharing. They urged the European Commission and the co-legislators to ensure that the risks are addressed and that the new procedures and rules do not entail a negative impact on the fundamental rights of people seeking protection in the EU.<sup>64</sup>

## Box 1. Safeguards for minors and families with children

The Pact on Migration and Asylum significantly enhances protection for unaccompanied minors and families with children by introducing safeguards and reinforcing existing measures.





Minors should not be detained, except as a last resort.

Minors in detention will have access to education.



Through the instruments of the Pact on Migration and Asylum, minors will have:

- ▶ Safer, adequate accommodation and continuity of care which caters to the specific needs of unaccompanied minors and families with minors.
- ▶ Access to more child-friendly information.
- ▶ Access to education in an age-appropriate manner.
- ▶ Better access to healthcare, similar to the access of nationals.



Unaccompanied minors should be exempted from the border procedure, unless they pose a national security threat.

The examination of applications by accompanied children will be prioritised for processing within a border procedure.

Minors will have the right to request and obtain the template to facilitate the family reunification procedure.







## 2.2. Responding to the arrival of displaced persons from Ukraine



The Russian invasion of Ukraine in February 2022 created protection needs for millions of people who sought refuge in neighbouring European countries. The EU and its Member States provided immediate support, allocated significant resources and put in place the necessary structures and procedures to provide access to protection. The activation of the Temporary Protection Directive in March 2022 allowed for a systematic, uniform, predictable and easily-accessible solution. Over 4.3 million people forcibly displaced from Ukraine are currently beneficiaries of temporary protection in EU+ countries.

The key parameters of an orchestrated European response were sketched by the European Commission shortly after the Russian invasion through a 10-point action plan for Ukraine.<sup>65</sup> The Solidarity Platform has provided the space for the coordination of the operational and policy responses of key stakeholders, including the European Commission, Member States, Schengen Associated Countries, the European External Action Service (EEAS), the EUAA, the European Border and Coast Guard Agency (Frontex), Europol, the International Organization for Migration (IOM), UNHCR, Ukrainian and Moldovan authorities, and civil society organisations.<sup>66</sup>

The EU Migration Preparedness and Crisis Blueprint Network has served as the forum for the exchange of information to inform coherent migration management responses. Ukraine also joined the EU Civil Protection Mechanism, which has further streamlined the channelling of assistance to the country.<sup>67</sup>

To catalyse close coordination among international donors and financial organisations, in January 2023 the European Commission set up a Multi-Agency Donor Coordination Platform. The platform brings together officials from the EU, G7 countries, Ukraine, financial institutions (such as the European Investment Bank, the European Bank for Reconstruction and Development, the International Monetary Fund and the World Bank) and other international donors to ensure that support is provided in a coherent, transparent and accountable manner. Overall, between February 2022 and December 2023, the EU, its Member States and its financial institutions made available EUR 40.6 billion to support Ukraine's economic, social and financial resilience. This support has taken the form of macro-financial assistance, budget support, emergency assistance, crisis response and humanitarian aid. The EU has also implemented military assistance measures of around EUR 27 billion.<sup>68</sup>

To systematically address the devastating consequences of Russia's aggression on Ukraine's people, economy and infrastructure, in June 2023 the European Commission proposed the creation of a dedicated facility to support Ukraine's recovery, reconstruction and modernisation.<sup>69</sup> This is a medium-term financing instrument that will provide Ukraine with coherent, predictable and flexible support for the period 2024-2027.<sup>70</sup> The total amount foreseen for the facility is EUR 50 billion.<sup>71</sup>

In September 2023, following the European Commission's proposal, the Justice and Home Affairs (JHA) Council agreed to extend temporary protection for people fleeing Russia's aggression against Ukraine from March 2024 to March 2025, thus offering stability and predictability to millions of beneficiaries.<sup>72</sup> Reaffirming the European long-term commitment to peace, security, stability and prosperity in the region, in December 2023, following a



recommendation by the European Commission, the European Council decided to open accession negotiations with Ukraine.<sup>73</sup> In January 2024, a first meeting was held with Ukrainian authorities and the explanatory phase of the analytical examination of the EU *acquis* ('screening') started.

UNHCR launched a Regional Refugee Response Plan to offer a multi-sector response to cater to the needs of displaced Ukrainians and assist host countries. The strategic objectives of the Regional Refugee Response Plan for 2023 included:

- Ensuring refugees' access to protection and assistance on a non-discriminatory basis;
- Paving the way toward solutions and expanding access to social and economic opportunities to facilitate the social inclusion of refugees in host countries;
- Ensuring that refugees with specific needs continue to have access to targeted support and assistance; and
- Advancing social cohesion among refugee and host communities.<sup>74</sup>

UNHCR and its partners have provided diverse support, including immediate humanitarian assistance and material aid; legal, psychological and information support; identification and referral of people with vulnerabilities; capacity-building and training; vocational training, language courses and employment support; and contributions to recovery efforts in Ukraine.<sup>75</sup> UNHCR also operates multi-service protection centres in Ukraine which provide free legal aid to help people restore civil and property documentation, which is of essence in accessing social protection services.<sup>76</sup> UNHCR has also highlighted specific protection-related risks for displaced Ukrainians, including access to services for people with vulnerabilities;<sup>77</sup> human trafficking; and the disruption of education for displaced children and youth.<sup>78</sup> In June 2023, UNHCR updated its position on returns to Ukraine<sup>79</sup> and, in July 2023, elaborated its position on the voluntary return to Ukraine of refugee children without parental care, including unaccompanied children and children evacuated from care institutions in Ukraine.<sup>80</sup>

In October 2023, the European Council on Refugees and Exiles (ECRE) provided its updated recommendations to the EU and its Member States on the EU's response to displacement from Ukraine. ECRE's assessment was that the EU's response was largely positive; however, it identified areas where changes can be made to better support displaced people and to ensure that asylum systems continue to function.<sup>81</sup>

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

### 2.3.1. Asylum and migration on the EU policy agenda



With displacement hotspots increasing around the world, and the European Commission and the two Presidencies of the Council working toward a breakthrough in the negotiations on the Pact on Migration and Asylum, protection remained high on the EU policy agenda. In her State of the Union address on 13 September 2023, the President of the European Commission, Ursula von der Leyen, raised several key points concerning migration, including the extension of the Temporary Protection Directive. The President highlighted the historic opportunity to finalise the Pact on Migration and Asylum, which aims to strike a



balance between protecting borders and protecting people, between sovereignty and solidarity, and between security and humanity.<sup>82</sup>

Reflecting the importance accorded to issues related to asylum and migration, both Presidencies of the European Council included relevant priorities in their programmes. In January 2023 before the Presidencies assumed their mandates, UNHCR offered its recommendations and underlined the importance of a renewed focus by EU institutions on the adoption of the Pact on Migration and Asylum. UNHCR urged the two Presidencies to use this opportunity to set up a framework to ensure access to fair and efficient asylum procedures and create functioning solidarity and responsibility-sharing mechanisms without resorting to derogations. UNHCR also recommended that, while catalysing progress toward the adoption of the pact, the two Presidencies should facilitate discussions to ensure that global solidarity is reflected in EU policies when working with third countries, including in regions where most forcibly displaced people live.<sup>83</sup>

In the area of Justice and Home Affairs, apart from advancing negotiations on the Pact on Migration and Asylum, the Swedish Presidency (January-June 2023) focused on ensuring more operational and coordinated cooperation with third countries and effective implementation of migration-related actions within the framework of the EU's external action, while continuing to address the consequences of Russia's invasion of Ukraine.<sup>84</sup> Under the Swedish Presidency, the Council agreed on a general approach on the Regulation on Asylum and Migration Management and the Regulation on Asylum Procedures, while it focused on implementing the action plans for the Central Mediterranean and the Western Balkan routes.<sup>85</sup>

In its programme for the second semester of 2023, the Spanish Presidency placed special emphasis on humane, responsible, solidarity-based and effective management of migration flows and protecting the Schengen area. The Presidency also sought to maintain unity among Member States and international partners in support of Ukraine. It was under the Spanish Presidency that political agreement was reached between the Council and the European Parliament on the five key instruments of the Pact on Asylum and Migration, while in December 2023 the Council decided to remove air and maritime internal border controls with Romania and Bulgaria, thus bringing the two countries closer to their integration into the Schengen area. The Spanish Presidency also led the negotiations on the revision of the directive on preventing and combating trafficking in human beings, which was meant to update the 2011 directive.<sup>86</sup>

Overall, in 2023, five formal and two informal [meetings](#) of the JHA Council took place, in which ministers worked together on a number of inter-related points in the area of migration and asylum, including:

- progress in the trilogue negotiations on the pact;
- management of external borders;
- implementation of action plans on different migration routes;
- implementation of interoperability of EU information systems;
- coordination in the area of search and rescue activities, including the relaunch of the European contact group on search and rescues;
- the overall state of the Schengen area and priority actions;
- global migration flows and the EU's cooperation with external partners to manage migratory pressures;
- development of a more strategic and sustainable visa policy;
- improving the system of returns for rejected applicants for protection;



- temporary protection for persons fleeing Ukraine and security issues related to Russia's aggression against Ukraine; and
- the conflict in Gaza and its implications for EU policy.<sup>87</sup>

An overview of key developments in these areas during 2023 is provided in the following sections.

Asylum and migration were also included in the limited number of areas for which the European Commission proposed additional funding in June 2023. Faced with a series of unprecedented challenges, including a global economic crisis, Russia's invasion of Ukraine, an acceleration in inflation and interest rates, and global supply chain disruption, the European Commission presented a proposal for targeted reinforcement in the EU budget to address the most urgent challenges. Relevant elements in the European Commission's proposal were the creation of a facility for Ukraine based on grants, loans and guarantees, with an overall capacity of EUR 50 billion over the period 2024-2027 to cater for Ukraine's immediate needs, recovery and modernisation on its path towards the EU; and an overall reinforcement of the EU budget with EUR 15 billion to address internal and external dimensions of migration, as well as needs arising from the global consequences of Russia's war of aggression in Ukraine; and to strengthen partnerships with key third countries.<sup>88</sup>

In September 2023, the Platform for International Cooperation on Undocumented Migrants (PICUM) and ECRE published a policy note analysing the European Commission's proposal, unpacking the migration component of it and offering their own recommendations to ensure that available resources contribute to the building of sustainable asylum and migration systems in Europe.<sup>89</sup> The updated budget was ultimately adopted by the European Parliament in November 2023.

### 2.3.2. Migration routes and management of the EU's external borders

#### Pressure and support to frontline Member States



In 2023, the external borders of the EU continued experiencing increased pressure, with the highest number of irregular border crossings since 2016. According to data collected by Frontex, 385,000 irregular border crossings were detected at the EU's external borders, representing an increase of 18% compared 2022.<sup>90</sup> The **Central Mediterranean route** was the most frequently used with 158,000 detections, accounting for 41% of all irregular entries in 2023. The second-most frequently used route into the EU, representing 26% of all irregular border crossings, was the **Western Balkan route** with 99,000 detections, a 31% decrease compared to the year before.

The **Eastern Mediterranean route** experienced a significant increase of 55% with around 60,000 detections in 2023 and was the third-most used route into the EU. The number of detections also increased in the **Western Mediterranean** (16,900) and **Western Africa** routes, with the latter experiencing a remarkable increase of 161% and its highest annual figure to date (40,400). Finally, throughout 2023 the number of detections in the **Eastern Land Border** kept declining, with the 5,600 detections representing a decrease of 12%.<sup>91</sup>

To help address the situation at the external borders and to support Member States, the European Commission continued to provide financial and operational assistance in coordination with EU agencies, international organisations and other relevant stakeholders. As in previous years, assistance was provided in managing arrivals; improving reception



structures; implementing relocations and other transfer mechanisms at the EU level; ensuring efficient asylum and return procedures; improving border management; protecting unaccompanied minors and other groups with vulnerabilities; implementing integration policies for legally-residing, third-country nationals; and creating partnerships against human trafficking networks.<sup>92</sup> A Task Force on Migration Management, which was set up within the European Commission's Directorate General for Migration and Home Affairs (DG HOME), covers a wide range of coordination and support activities for Member States, both in the eastern and southern external borders.<sup>93</sup>

The Voluntary Solidarity Mechanism continued to provide assistance to Member States which are the most affected by migratory flows, albeit not at the desired pace in terms of relocation numbers. Pending agreement on the legislative instruments included in the Pact on Migration and Asylum, and in particular the Asylum and Migration Management Regulation which foresees a permanent relocation mechanism, the Voluntary Solidarity Mechanism served as a forum for practical cooperation among Member States and provided useful lessons for the permanent mechanism. The EUAA actively supported the functioning of the mechanism, for example by identifying and proposing candidates for relocation.

### Addressing pressures across key migration routes

Overall, in 2023 the EU made significant efforts to address migratory pressures across different routes and optimise the management of external borders through a combination of ad hoc measures and long-term initiatives. In September 2023, the President of the European Commission, Ursula von der Leyen, and the European Commissioner for Home Affairs, Ylva Johansson, visited Lampedusa, the Italian island that experienced a rapid increase in the number of arrivals in 2023. To alleviate the pressure, they presented a 10-point plan to reduce irregular migration and provide immediate EU assistance to the Italian authorities, in accordance with fundamental rights and international conventions. The plan foresees:

- reinforced support to Italy by the EUAA and Frontex;
- support in transferring arriving migrants out of Lampedusa;
- efficient returns of people not in need of protection;
- the establishment of operational partnerships on anti-smuggling with countries of origin and transit to decrease arrivals;
- stepping up surveillance at sea and in the air, including through Frontex and by exploring options to expand naval missions in the Mediterranean Sea;
- measures to limit the use of unseaworthy vessels and actions against people-smugglers;
- increasing operational support provided by the EUAA to apply swift asylum and return procedures;
- increasing awareness and communication campaigns to disincentivise dangerous crossings, while continuing to offer alternative pathways to the EU;
- stepping up cooperation with UNHCR and the IOM; and
- supporting the implementation of the Memorandum of Understanding between the EU and Tunisia that was signed in July 2023 (see Section 2.4).<sup>94</sup>

To address ongoing needs along the Central Mediterranean and Western Balkan routes, the implementation of the respective action plans, introduced at the end of 2022, proceeded. The Action Plan for the Central Mediterranean comprises measures to reduce irregular and unsafe migration, provides solutions to emerging challenges in the area of search and rescue activities and fosters solidarity balanced against responsibility among Member States.<sup>95</sup> The



Action Plan for Western Balkans includes operational measures to strengthen cooperation on migration and border management between the EU and Western Balkan countries, which have a unique status as countries in the EU accession process.<sup>96</sup>

To complement these existing initiatives and provide a holistic approach, in 2023 two more action plans were presented by the European Commission to address the Western Mediterranean, Atlantic<sup>97</sup> and Eastern Mediterranean routes.<sup>98</sup> The Action Plan on the Western Mediterranean and Atlantic routes comprises 18 targeted operational measures to help Member States enhance migration management along these routes, working closely with key partner countries.<sup>99</sup>

The Action Plan for the Eastern Mediterranean route came at the request of the European Council to alleviate the pressure on the most affected Member States along this route and effectively prevent irregular arrivals by strengthening the EU's partnership with key countries of origin and transit.<sup>100</sup> This Action Plan includes 29 operational measures to combat migrant smuggling, reinforce border management, strengthen cooperation on returns and readmission, and improve asylum and reception systems in partner countries.<sup>101</sup>

### **Calibrating a European Integrated Border Management**

In conjunction with the four action plans, the European Commission launched other initiatives to ensure effective control of the EU's external land and sea borders as part of a comprehensive approach to migration and asylum, as well as a way to safeguard the functioning of the Schengen area. A key precondition for having a Schengen area without internal borders is, indeed, the effective management of the EU's external borders.<sup>102</sup> In response to pressures experienced over the past years, the EU has upgraded existing information systems on borders and security, while ensuring their interconnection and interoperability. The key objective has been to address any existing information gaps about third-country nationals arriving or staying in the EU as a means to combat irregular migration.<sup>103</sup>

To this end, on 7 March 2023, the upgraded Schengen Information System (SIS) entered into operation which was enhanced to include new features and functionalities and catalyse effective coordination among relevant authorities. Together with the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS), it is a key part of the interoperability architecture. More complete and reliable information will allow national authorities to enhance security and border management, while protecting vulnerable persons and deterring irregular migration.<sup>104</sup>

The application of data protection rules within SIS is supervised by respective national authorities, and the European Data Protection Supervisor monitors the application of protection rules in the central system.<sup>105</sup>

Following extensive consultations with the European Parliament and the Council, on 14 March 2023 the European Commission adopted a communication establishing a multiannual strategic policy for European Integrated Border Management (EIBM).<sup>106</sup> The communication set out the first 5-year strategic policy cycle of European integrated border management and provides the framework for steering the daily work of national border authorities and Frontex. Key priority areas in this framework include:

- Border control, supported through large-scale IT and inter-agency cooperation to enhance migration governance and crisis preparedness;



- Improved coordination and timely and full information-sharing in the area of search and rescue activities;
- A common EU system for returns with better coordination between national authorities and European agencies;
- Cooperation with third countries to build operational capacities in the areas of border control, risk analysis, return and readmission, and anti-smuggling; and
- Full respect for fundamental rights, while protecting the EU's borders.<sup>107</sup>

Along with the 5-year plan, the European Commission also presented a recommendation on the mutual recognition of return decisions, after changes to SIS came into force.<sup>108</sup> With the upgrade of SIS, Member States have immediate knowledge of a return decision issued in another Member State, enabling swift implementation from anywhere in Europe. The recommendation followed a policy document presented by the European Commission earlier in January 2023, which emphasised the importance of a unified, comprehensive and effective EU system on returns and an efficient, streamlined process for their implementation.<sup>109</sup> An IT return case management system will allow for closer links between asylum and return authorities. The recommendation also provides guidance on preventing absconding and alternative measures to detention. It also offers guidance on different measures and structures Member States can put in place to incentivise voluntary returns, including through return counselling. Frontex provides operational support for the implementation of the recommendations, while the European Commission works closely with Member States to support the practical implementation.<sup>110</sup>

In alignment with the above initiatives toward effective border management and acknowledging that an estimated 90% of people who cross the external EU borders irregularly do so with the assistance of migrant smugglers,<sup>111</sup> in November 2023 the European Commission presented new legislative proposals to prevent and fight migrant smuggling. First, a proposed directive aims to lay down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the EU.<sup>112</sup> The five objectives of the proposed directive include:

- To effectively prosecute organised criminal networks, with a clearer definition of what the smuggling offence includes;
- To increase and harmonise penalties reflecting the seriousness of the offence;
- To improve and extend the jurisdictional reach of Member States to more effectively target criminal networks, while saving lives;
- To reinforce resourcing for and capacities of Member State; and
- To improve data collection and reporting.<sup>113</sup>

In addition to the directive, the European Commission proposed a regulation to reinforce Europol's role and inter-agency cooperation in the fight against migrant smuggling and trafficking in human beings.<sup>114</sup> The Europol Centre against Migrant Smuggling will be elevated to the European Centre against Migrant Smuggling to monitor trends in migrant smuggling and trafficking in human beings, produce analytical and strategic outputs, conduct threat assessments and offer situational updates, as well as perform investigative and operational actions. The centre, which will have reinforced financial and human resources, will be supported by Member States, Eurojust, Frontex and the European Commission. The regulation



also expands the possibilities and modalities for Europol deployments to provide operational support, including in third countries.<sup>115</sup>

To supplement these initiatives the European Commission held a high-level conference in November 2023 to strengthen international cooperation against migrant smuggling.<sup>116</sup> At the conference, the European Commission launched a call to action on a Global Alliance to Counter Migrant Smuggling, sketching out a series of actions for governments, international organisations and online platform providers to form a strong, united and global response to address the phenomenon.<sup>117</sup> Earlier in June 2023, the European Commission had also presented a toolbox addressing the use of commercial means of transport to facilitate irregular migration to the EU. The toolbox is meant to help Member States counter the progressively increasing phenomenon of criminal networks using commercial means of transport for migrant smuggling activities.<sup>118</sup>

### **Search and rescue operations and fundamental rights at external borders**

The effective management of external borders should also allow for safe and effective access to territory and the asylum procedure. The IOM has estimated that from 2014 to January 2024 close to 29,000 people have died or went missing while attempting to cross the Mediterranean Sea to reach Europe in pursuit of safety or a better life.<sup>119</sup> Protecting and saving lives at the EU's external border is a priority for the EU and an integral part of border management.

Throughout 2023, the EU and its Member States continued to render assistance through search and rescue operations to people and vessels in distress. It is estimated that between 2015 and April 2023 approximately 615,100 lives have been saved on the Mediterranean and Western African routes by EU naval operations, EU agencies and non-governmental organisations (NGOs).<sup>120</sup> Frontex contributes to search and rescue operations in the Mediterranean Sea to save lives and combat migrant smuggling. The naval military operation Irini, the mandate of which was extended until March 2025, also contributes to the disruption of the business model of migrant smugglers on the high seas off the coast of Libya.<sup>121</sup> In a related case, in September 2023, the General Court of the CJEU [rejected](#) the action for damages brought by Syrian refugees against Frontex after they were returned from Greece to Türkiye. The court ruled that the role of Frontex is only to provide technical and operational support to the Member States in return operations. However, it is a Member State alone that is competent to assess the merits of return decisions and examine applications for international protection.

The European Integrated Border Management identifies search and rescue operations as a key policy priority and provides strategic guidelines to enhance cooperation among national authorities and with key third countries and international organisations. It identifies the European Contact Group on Search and Rescue as the forum to improve coordination and cooperation among relevant authorities.<sup>122</sup> The contact group convened three times in 2023 to discuss initiatives falling within the following areas: improving situational awareness, including a pilot project on the Mediterranean route; safety aspects relevant for search and rescue operations at sea; increased knowledge of and cooperation on existing laws and policies for private vessels carrying out search and rescue as a predominant activity; enhancing operational cooperation; and working with third countries on capacity-building and training activities in the field of search and rescue activities.<sup>123</sup>





Nevertheless, in 2023 the Mediterranean route continued to be the most dangerous migration route in the world with the highest fatality rate.<sup>124</sup> Tragedies like the capsizing of a boat carrying migrants off the coast of Greece on 14 June 2023, which resulted in the death of hundreds of people, highlighted the pressing need for a structural solution for search and rescue operations, including a regional disembarkation and redistribution mechanism. Following the tragedy, the EU Agency for Fundamental Rights (FRA) conducted a mission to Greece to gather information about the circumstances in which it occurred. Knowledge acquired through the mission fed into a set of recommendations on what the EU and its Member States can do to prevent and respond to deaths at sea, with concrete measures falling within six areas:

- Prompt, effective and independent investigations by Member States of incidents at the external borders;
- Improved search and rescue operations at sea;
- Clear disembarkation rules and solidarity in taking charge of rescued people;
- Better protection of shipwreck survivors (e.g. acknowledge survivors who apply for asylum as a category of applicants with special needs);
- Establish independent mechanisms to monitor respect for fundamental rights at the borders; and
- Increase legal pathways to the EU and make them more accessible.<sup>125</sup>

In addition, in October 2023 FRA published a review report of the European Border and Coast Guard Regulation (EU) 2019/1896 with the aim of improving the fundamental rights situation at the EU's external borders. The European Border and Coast Guard is composed of both Frontex and national authorities responsible for border management and returns. The FRA report highlights six key areas where evidence suggested that legislative amendments might be the most appropriate solution to address gaps in fundamental rights and enable the EU and its Member States to fully live up to the obligations of the Charter of Fundamental Rights of the EU.<sup>126</sup>

Throughout 2023, EU institutions and agencies, UNHCR, and international and civil society organisations scrutinised policies and practices in some EU+ countries – including the criminalisation of search and rescue operations by NGO vessels. They expressed concern about possible violations of fundamental rights at the EU's external borders and called on both national governments and the European Commission to ensure respect for fundamental rights and adherence to the principle of *non-refoulement*.<sup>127</sup>

An initiative, described as innovative and experimental by the Italian authorities, that sparked discussion in 2023 was the protocol on strengthening cooperation in migration matters between Italy and Albania. The protocol defines a mechanism and the conditions under which Italy would carry out the processing of asylum applications in designated areas of Albania for third-country nationals originating from the list of safe countries and who are rescued through search and rescue activities by Italian military vessels. Italian authorities stated that the protocol sets up a mechanism that is in respect of relevant legislation and guarantees for asylum seekers. The protocol raised questions among EU institutions,<sup>128</sup> international<sup>129</sup> and civil society organisations<sup>130</sup> about the applicable legal framework; the categories of people to whom it would apply; the details of the identification and screening phases; specific modalities of the procedure and ensuring effective access to fundamental rights; reception conditions; and the freedom of movement. The European Commission stated during a press briefing that



after a preliminary assessment it appeared that Italy fulfils its obligations under EU and international law and actions carried out outside of the territory of the Member State go beyond the scope of the EU asylum *acquis* (see Section 3.1.2.1).<sup>131</sup>

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



In addition to legislation, policies and practices that focus on internal processes and structures, a modern and well-functioning migration and asylum system requires cooperation with external partners, including countries of origin and transit. In the JHA Council of September 2023, Ministers reiterated this premise and supported the need to strengthen the external dimension of the EU's migration policy to manage migratory challenges that the EU shares with other continents and countries. An effective system requires a coordinated combination of development assistance to address the root causes of migration, action against migrant smuggling, the strengthening of existing and development of further legal pathways as an alternative to illegal migration, and a sustainable return and readmission policy.<sup>132</sup>

### Addressing root causes of irregular migration



Effectively preventing irregular migration and forced displacement requires addressing its root causes. To this end, the EU provides development aid and promotes fundamental rights around the world. Multi-annual indicative plans (MIPs) define the policy area and objectives and outline the overall basis of cooperation with different countries and regions. Such programmes may have geographic foci by country or a thematic, horizontal scope: focusing on human rights and democracy; strengthening civil society as an independent actor of good governance and development; promoting peace and stability and preventing conflict; and addressing global challenges, including climate change, with a view to sustainable development.<sup>133</sup>

Examples of such actions are the Team Europe Initiatives on Migration in Africa, namely the Team Europe Initiative on the Atlantic/Western Mediterranean route (AWMed TEI) and the Team Europe Initiative on the Central Mediterranean route (Central Med TEI). These initiatives aim to strengthen coordination, coherence and complementarities of actions funded by the EU and Member States on migration and forced displacement along these migration routes.<sup>134</sup>

### Developing legal pathways to protection in Europe



Providing safe and legal pathways to protection to those in need, thus enabling the most vulnerable refugees to access Europe without resorting to perilous journeys or falling victims to smuggling networks, is a key priority for the EU. It is also a way to show solidarity with non-EU countries which host large numbers of refugees.

Since 2015, more than 119,000 people have found protection in the EU through resettlement schemes, in addition to the approximately 40,000 Syrian refugees who were resettled from Türkiye. In addition, since 2021 Member States have reported almost 47,000 humanitarian admission arrivals.<sup>135</sup> Putting resettlement high on the asylum agenda, Commissioner Johansson in 2021, 2022 and 2023 organised respectively three high-level resettlement fora with the participation of Member States, international partners, civil society organisations,



UNHCR and the IOM to encourage Member States to contribute to this effort.<sup>136</sup> In 2023, the European Commission provided EUR 246 million to Member States to support people admitted through resettlement and humanitarian admissions in 2022-2023.<sup>137</sup>

While attending the Global Refugee Forum in December 2023, Commissioner Johansson announced the EU's resettlement pledges for 2024-2025.<sup>138</sup> The collective pledge from Member States reached a total of 61,000 places for resettlement and humanitarian admissions for people in need of protection.<sup>139</sup> The announcement was also complemented by an expressed commitment to promote complementary pathways to the EU and community sponsorship schemes.

In July 2023, UNHCR offered its recommendations to the EU on resettlement needs, complementary pathways and key priorities for 2024:

- Maintain ambitious resettlement targets with the participation of more Member States;
- Preserve the right to family unity and enhance access to family reunification process;
- Expand access to skills-based complementary pathways by making use of and creating awareness about already-existing structures and processes;
- Carry on humanitarian admissions, in addition to and not in the place of resettlement;
- Step up community sponsorship programmes; and
- Help address barriers refugees may face in obtaining travel documents.<sup>140</sup>

### Support for protection worldwide



A key component of the external dimension of the EU's asylum and migration policy centres on providing protection solutions across the world, with the EU being a leading international donor in situations of forced displacement. In 2023, the European Commission allocated most of its humanitarian budget of EUR 1.7 billion to projects addressing the needs of forcibly displaced persons and their host communities.<sup>141</sup> The projects aim to help displaced populations access shelter, protection, food and basic services, including healthcare, nutritional assistance, safe water, sanitation and education. EU assistance is reaching, among others, Syrian refugees in Türkiye, Lebanon and Jordan; Afghan refugees in Iran and Pakistan; Somali refugees in Kenya; Congolese refugees in the Great Lakes region; Venezuelan refugees and migrants in South America; Rohingya refugees in Bangladesh; and unaccompanied minors and other vulnerable groups of refugees, internally displaced persons, migrants and asylum seekers in North Africa. EU humanitarian aid also targets internally displaced persons in Ethiopia, Iraq, Nigeria, South Sudan, Syria and Yemen.<sup>142</sup>

In the design and delivery of protection solutions, the EU cooperates with various stakeholders, including civil society organisations, international and intergovernmental bodies, and governments. It is a key contributor to the Global Compact on Refugees, as reflected in the multiplicity of EU pledges announced at the 2023 Global Refugee Forum.<sup>143</sup> The EU actively participates and contributes to a number regional platforms, such as the Comprehensive Regional Protection and Solutions Framework (MIRPS) for Central America; the Intergovernmental Authority on Development (IGAD) in Africa; and the [Support Platform of the Solutions Strategy for Afghan Refugees](#). Between July 2022 to December 2023, the EU also held the Presidency of the [Platform on Disaster Displacement](#), a state-led initiative working towards better protection for people displaced in the context of disasters and climate change.<sup>144</sup>



A hotspot which the EU is continuously monitoring is Palestine, being the largest international donor of humanitarian assistance (EUR 1.1 billion) since 2000 to help meet the needs of Palestinian people. Between 2014 and 2020, over EUR 2.2 billion was allocated to development support, while another EUR 1.18 billion was allocated under the Neighbourhood, Development and International Cooperation Instrument (NDICI)–Global Europe for 2021–2024.<sup>145</sup> Hamas’ terrorist attacks against Israel in October 2023 and the subsequent intense Israeli bombardment of the Gaza Strip by air, land and sea resulted in extreme civilian casualties, displacement and destruction.<sup>146</sup> In light of these developments, the EU quadrupled humanitarian assistance to over EUR 100 million in 2023 and allocated another EUR 125 million to support humanitarian organisations in both Gaza and the West Bank in 2024. The EU has launched the Humanitarian Air Bridge operation in aid to the people affected by the crisis by facilitating the delivery of humanitarian cargo supplied by partners.<sup>147</sup> To support the Palestinian population across the region, in March 2024 the European Commission decided to allocate an additional EUR 68 million to be implemented through international partners like the Red Cross and the Red Crescent.<sup>148</sup>

### Combating smuggling networks



Systematic cooperation with partner countries to combat smuggling networks continued in 2023, as part of the action plan against migrant smuggling 2021-2025<sup>149</sup> and in the frames of ongoing operational anti-smuggling partnerships with third countries.<sup>150</sup> Coordinated action against migrant smuggling is essential to save lives, prevent migrants from becoming victims of violence and exploitation, and protect their fundamental rights.

As presented earlier in this section, in 2023 the European Commission introduced a package of initiatives against migrant smuggling, including a proposed directive to prevent and counter smuggling, a proposed regulation to reinforce Europol’s role to this end, the launching of the Global Alliance to Counter Migrant Smuggling, and a toolbox to address the use of commercial transport to facilitate irregular migration.<sup>151</sup> Tackling migrant smuggling and safeguarding the fundamental rights of migrants can only be a collaborative effort with international partners, countries of transit and origin. Accordingly, reference is made to this collaboration in the different components of the package.

Both criminal justice responses and preventive mechanisms, including research, education programmes and measures to raise public awareness, may be implemented in cooperation with third countries. The new European Centre Against Migrant Smuggling, coordinated by Europol, will be able to identify cases of migrant smuggling that may require cooperation with non-EU countries, including by exchanging personal data on a case-by-case basis.<sup>152</sup>

### Working with partner countries on migration and border management



Addressing mixed migratory movements and performing effective border management require joint work with partner countries through bilateral agreements and arrangements. To achieve this end, status agreements between Frontex and third countries enable the agency to deploy personnel and provide operational support to manage migratory flows, counter illegal immigration and fight cross-border crime under the command of the host country. In line with the European Border and Coast Guard Regulation, these agreements include provisions for compliance monitoring and the protection of fundamental rights, including access to the



asylum procedure and respect for human dignity, as well as paying particular attention to vulnerable groups.<sup>153</sup>

In 2023, the EU concluded a status agreement with North Macedonia,<sup>154</sup> which was added to the already-existing agreements with Albania, Moldova, Montenegro and Serbia.<sup>155</sup> Negotiations have also ensued for a status agreement with Bosnia and Herzegovina. In addition, following the launch of the EU Action Plan on the Western Balkans, upgraded status agreements were signed in 2023 with Montenegro and Albania.<sup>156</sup> With the new agreements, Frontex is able to support Albania and Montenegro through the deployment of personnel to their respective borders with their neighbouring Western Balkan partners, in addition to the countries' borders with the EU.

The new and updated agreements were well-received at the annual EU-Western Balkans Ministerial Forum on Justice and Home Affairs, which took place in Skopje in October 2023. Ministers from the EU and Western Balkan countries acknowledged the progress made on the implementation of the EU Action Plan on the Western Balkans, especially on aligning policies in the Western Balkans with the EU visa policy. They also highlighted that migratory pressure in the Western Balkan route was lower compared to 2022 as a result of the coordinated action.<sup>157</sup>

With Tunisia being a key country of departure for migrants crossing the central Mediterranean route, the EU placed an emphasis in intensifying bilateral cooperation with Tunisia in a number of areas, including migration. Following a joint expression of willingness for broader cooperation in April 2023,<sup>158</sup> and a joint declaration in June 2023,<sup>159</sup> in July 2023 the EU signed a Memorandum of Understanding with Tunisia to enhance relations by strengthening their economic and trade partnership and increasing cooperation in combating and reducing irregular migration and saving human lives.<sup>160</sup> In September 2023, in line with the 10-point plan for Lampedusa, the European Commission announced EUR 60 million in financial support for Tunisia and an operational assistance package on migration of around EUR 67 million. Priority actions in the field of migration include fighting smuggling networks, building the capacity of the Tunisian law enforcement authorities, enhancing the protection of migrants in Tunisia in cooperation with UNHCR, and supporting voluntary returns and the reintegration of migrants in their countries of origin in cooperation with the IOM.<sup>161</sup> Some concerns were raised, including by members of the European Parliament, expressing uncertainty about the legal basis of the memorandum. They argued that broader consultations could have taken place prior to its conclusion and that a stronger commitment to promote human rights in Tunisia could have been expressed.<sup>162</sup> These questions were addressed in writing by the European Commission.<sup>163</sup>

The EU's cooperation with Türkiye has been a key collaborative effort, the basic parameters of which were set in the [EU-Turkey Statement](#) in March 2016. Nevertheless, EU assistance to enhance the protection of refugees in Türkiye preceded the agreement. Since 2011, the EU has mobilised around EUR 10 billion to assist Türkiye in its significant efforts in hosting and addressing the needs of more than 4 million refugees, as well as their host communities.<sup>164</sup> The main focus areas are humanitarian assistance, education, health, municipal infrastructure and socio-economic support. The Facility for Refugees in Turkey is the mechanism to coordinate the mobilisation of resources made available under both the EU budget and additional contributions made by Member States; the EUR 6 billion budget of the facility was fully committed and contracted by 2023.<sup>165</sup> By June 2023, over 2 million refugees had received support from the facility for their basic needs, close to 770,000 refugee children had



been enrolled in school and over 2.7 million individuals had benefited from facility-funded protection services.<sup>166</sup>

This collaboration has contributed to the overall decrease of irregular arrivals from Türkiye to the EU compared to 2016. Nevertheless, in 2023 irregular arrivals from Türkiye increased significantly and the pace of returns remained slow, with the number being much lower than the number of resettlements of Syrian refugees from Türkiye to the EU. Since the 2016 agreement, approximately 40,000 Syrian refugees have been resettled from Türkiye, while only 2,140 irregular migrants and asylum seekers, whose applications were declared inadmissible crossing from Türkiye to the Greek islands, have been returned.<sup>167</sup>

The devastating earthquakes of February 2023 amplified protection needs in the country. The EU and its Member States provided swift support. This included the activation of the EU Civil Protection Mechanism and the deployment of search and rescue teams from 21 Member States, as well as the organisation of a donor's conference in March 2023 which raised a total of EUR 7 billion in pledges in support of people in affected areas, included 1.7 million refugees.<sup>168</sup>

Streams of cooperation with Türkiye in a number of migration-related areas, such as the fight against migrant smuggling, will also continue under the European Commission's Action Plan for the Eastern Mediterranean route. For example, a new common operational partnership project (SCOPE II) aims to support operational law enforcement and judicial cooperation with Turkish authorities, while other sets of actions will support the implementation of Türkiye's Integrated Border Management Strategy.<sup>169</sup>

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



As the guardian of EU law, the CJEU ensures that “in the interpretation and application of the Treaties, the law is observed” (Treaty on the European Union, Article 19(1)). As part of its mission, the CJEU ensures the correct interpretation and application of primary and secondary EU laws; reviews the legality of acts of EU institutions; and decides whether Member States have fulfilled their obligations under primary and secondary laws. The CJEU also provides interpretations of EU law when requested by national judges. The court, thus, constitutes the judicial authority of the EU and, in cooperation with the courts and tribunals of Member States, ensures the uniform application and interpretation of EU law.<sup>170</sup>

In 2023, the CJEU issued more than [20 judgments and orders](#) interpreting various provisions of CEAS, including political opinion as a ground for refugee protection, derived international protection to family members and the concept of a subsequent application.



## Effective access to the asylum procedure

In *European Commission v Hungary* (C-823/21), the CJEU **decided** in an infringement procedure on the right to effective access to the asylum procedure. The court held that Hungary failed to fulfil its obligations under Article 6 of the recast Asylum Procedures Directive (APD). The CJEU ruled that Act LVIII, which requires third-country nationals to travel to an embassy outside of Hungary to express their wish to apply for asylum, was contrary to the recast APD's objective of ensuring effective, easy and rapid access to the asylum procedure. Furthermore, the CJEU ruled that Hungary could not justify the restriction with the objective to fight the spread of COVID-19, because the restrictions in place were not appropriate and proportionate with that objective.

## Dublin procedure

In 2023, the CJEU examined six cases on the interpretation of the Dublin III Regulation. Clarifying procedural aspects, the CJEU **decided** that the obligation to provide information through the common leaflet and the obligation to hold an interview applied both in the context of a first application for international protection and a take charge procedure pursuant to Articles 20(1) and 21(1) of the Dublin III Regulation, as well as in the context of a subsequent application for international protection and a situation capable of giving rise to take back procedures as provided under Articles 17(1), 23(1) and 24(1) of the Dublin III Regulation. The CJEU held that the absence of an interview usually resulted in the annulment of the transfer decision, unless the interview was possible at the judicial stage, whereas the absence of the common leaflet only led to an annulment of the transfer decision if the provision of a leaflet would have led to a different outcome of the procedure. The CJEU reasoned that Article 17(1) was discretionary and therefore did not require a court to declare the Member State responsible on the ground that it disagrees with the assessment of the requested Member State about the risk of *refoulement*. Excluding a situation of systemic flaws in the asylum procedure and reception conditions, the court is not allowed to examine whether there is a risk of infringement of the principle of *non-refoulement* in the requested Member State.

In *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid) v B., F. and K.* (Joined Cases C-323/21, C-324/21 and C-325/21), the CJEU **decided** on the interpretation of Articles 27(1) and 29(2) of the Dublin III Regulation in cases in which third-country nationals lodged an application for international protection successively in three Member States. The CJEU ruled that, after the expiry of the 6-month time limit for a Dublin transfer, the responsibility for examining the application is transferred to the second Member State, even if in the meantime the applicant lodged a new asylum application in a third Member State. This is not the case if the responsibility was transferred to the third Member State due to the expiry of the time limit for lodging a take back request. According to the CJEU, the third Member State could file a timely take back request to the second Member State but had to grant access to an effective remedy, enabling the person to rely on the transfer of responsibility to the second Member State if the time limit pursuant to Article 29(1) and (2) expired.

*L.G. v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)* (C-745/21) concerned the Dublin transfer of a pregnant applicant whose spouse had a residence permit in the Netherlands. The CJEU **ruled** that the dependency link provided in Article 16(1) of the Dublin III Regulation did not cover the relationship between an applicant for international protection and the spouse, nor the relationship between the applicant's unborn child and the spouse who was also the parent of the child. However, the CJEU held that



Article 17(1) did not prevent a Member State from adopting legislation that requires the authorities to consider the best interests of the child in cases of a pregnancy, even if another Member State was responsible according to the Dublin III Regulation.

In *E.N., S.S., J.Y. v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)* (C-556/21), the CJEU **decided** on whether Articles 27(3) and 29 of the Dublin III Regulation allowed national legislation to grant an interim measure which suspends the transfer time limit of a Dublin decision at the request of the competent authority and in a second instance proceeding. The CJEU ruled that, in the absence of relevant EU law, a Member State could introduce such an interim measure until the second instance appeal has been concluded. However, to avoid an abusive delay of the transfer deadline, the CJEU held that that this was only possible if the transfer time limit was already suspended during the first instance appeal.

In *S.S., N.Z., S.S. v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)* (C-338/21), the CJEU **stated** that it was compatible with the Dublin III Regulation for a Member State to exercise discretion and give a suspensive effect to an appeal against a rejection of a residence permit for victims of human trafficking, in order to prevent a Dublin transfer. However, such an appeal, which was not directed against the transfer decision itself, could not be regarded as an appeal within the meaning of Article 27(3) or (4) of the Dublin III Regulation and therefore could not suspend the transfer deadline pursuant to Article 29(1).

Lastly, in *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid) v E., S.* (C-568/21), the CJEU **confirmed** that a diplomatic card issued under the Vienna Convention on Diplomatic Relations was a 'residence document' within the meaning of Article 2(1) of the Dublin III Regulation, because the issuance of such a card reflected the Member State's acceptance for the holder to stay in its territory. Following the opinion of the Advocate General, the CJEU held that the Dublin III Regulation would be undermined if it did not apply to those with privileges and immunities under the Vienna Convention.

### **Duty to cooperate, burden of proof, length of procedure and credibility**

The CJEU **assessed** the duty to cooperate, the burden of proof, the length of the procedure and credibility in asylum procedures. On the duty to cooperate, the CJEU ruled that Article 4(1) of the recast Qualification Directive (QD) included the obligation of the examining authority to obtain up-to-date country of origin information (COI) and a medico-legal report on the applicant's mental health if there was evidence of mental health problems and if such a report was necessary for the assessment of international protection. A breach of such a duty to cooperate could lead to an annulment of the decision, if the applicant proves that the decision may have been different without the breach.

The court held that Articles 23(2) and 39(4) of the recast APD had to be interpreted as meaning that an extended time between the asylum application and the decision could not be justified by national legislative amendments made during this period. However, the excessive duration of the administrative or judicial proceedings did not justify the annulment of the negative decision, since the applicant had to prove that the extension affected the outcome of the decision.





In the same proceedings, the CJEU further decided that, in light of Article 4(5e) of the recast QD, the general credibility of an applicant was not to be rejected alone for a false statement during the initial asylum application, which was explained and withdrawn by the applicant at the first available opportunity.

### **Political opinion as ground for refugee protection**

Following a referral of the Supreme Administrative Court of Lithuania (C-280/21), the CJEU **decided** that, following Article 10(1e) of the recast QD in connection with the relevant UNHCR Handbook, Article 11 of the EU Charter and case law of the European Court of Human Rights (ECtHR) on Article 10 of the European Charter of Human Rights (ECHR), the concept of political opinion had to be interpreted broadly to include attempts by an applicant to legally defend personal interests against illegally-acting, non-state actors, where those actors may exploit, through corruption, the criminal justice system of the country of origin.

The CJEU further **clarified** the content of political opinion as a ground for refugee protection under Article 10(1e) and (2) of the recast QD. According to the CJEU, a fear of persecution due to political opinion is well-founded if the applicant could have attracted or may attract the negative attention of the actors of potential persecution in the country of origin. However, the CJEU decided that opinions did not have to be so deeply rooted that the applicant could not refrain from manifesting them upon a return.

### **Derived international protection to family members**

The CJEU ruled in two cases (C-614/22 and C-374/22) concerning appeals brought by two Guinean nationals against the Belgian Commissioner General for Refugees and Stateless Persons (CGRS) against negative decisions on international protection on the ground that they had one or more children in Belgium with refugee status. The CJEU ruled that, regardless of whether Article 23 of the recast QD was correctly implemented and whether the family existed before or after arrival in Belgium, the recast QD did not provide for a derived right to international protection to family members who themselves did not meet the conditions for this status.

### **Assessment of subsidiary protection**

In *X, Y and their six children v Staatssecretaris van Justitie en Veiligheid* (C-125/22), the CJEU **clarified** the rules when assessing whether an applicant is entitled to subsidiary protection. The CJEU held that under Article 15 of the recast QD, all relevant factors, relating both to the individual position and personal circumstances of the applicant as well as the general situation in the country of origin, had to be examined before identifying the type of serious harm that the factors may potentially substantiate. A failure to conduct all relevant examinations leads to a breach of obligations under the recast QD.

Secondly, the CJEU specified that, when assessing the requirement of a real risk of suffering a type of serious harm pursuant to Article 15(c) of the recast QD, the national authority had to consider factors relating to the individual position and personal circumstances of the applicant other than the mere fact of coming from an area of a given country where, according to the ECtHR judgment in *NA. v the United Kingdom* (No 25904/07), “the most extreme cases of general violence” occur.





Thirdly, the CJEU stated that Article 15(b) of the recast QD had to be interpreted as meaning that the intensity of the indiscriminate violence occurring in the applicant's country of origin is not capable of weakening the requirement of individualisation of serious harm.

### **Assessment of protection provided by UNRWA**

The CJEU [ruled](#) on a preliminary question on the interpretation of Article 12(1a) of the recast QD, which excludes a third-country national or a stateless person from refugee protection if they receive protection from a UN agency other than UNHCR. The CJEU stated that protection or assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) must be considered to have ceased when UNRWA failed to provide access to medical care and treatment to a stateless person of Palestinian origin who falls within the protection of UNRWA if the person runs a real risk of imminent death or a serious, rapid and irreversible decline of health or a significant reduction in life expectancy without such care.

### **The concept of a subsequent application**

Following a referral by the German Administrative Court of Minden, the CJEU [held](#) in *J.B., S.B., F.B. v Bundesrepublik Deutschland (Federal Republic of Germany)* (C-364/22) that Article 33(2d) of the recast APD allowed the rejection of a subsequent application as inadmissible when the applicant had returned to the country of origin after the asylum application was refused, irrespective of whether that return was voluntary or forced, and when the decision on the previous application did not concern the granting of subsidiary protection. This was the case if the examination of grounds prohibiting removal was comparable to the examination carried out with a view to granting subsidiary protection.

### **Effective remedy in accelerated procedures**

The CJEU [decided](#) in *Y.N. v Slovenian Republic* (C-58/23) on the interpretation of Article 46(4) of the recast APD concerning a rejection of an application for international protection as manifestly unfounded as part of an accelerated procedure, for which a time limit of 3 days was given to appeal. The applicant had been notified of this decision the day before a weekend containing a public holiday. The CJEU ruled that Article 46(4) of the recast APD, read in conjunction with Article 47 of the ECHR, precluded such national legislation if the period restricts the effective exercise of the rights guaranteed in Articles 12(1b), 12(2), 22 and 23 of the recast APD.

### **Family reunification**

The CJEU [ruled](#) in *X, Y, A, B v Belgian State* (C-1/23 PPU) on the interpretation of Article 5(1) of the Family Reunification Directive in conjunction with Articles 7 and 24(2) and (3) of the EU Charter and concluded that EU law precluded national legislation which requires that family members, in particular those of a recognised refugee, must appear in person at the competent diplomatic or consular post of a Member State for the purpose of family reunification, especially if this was impossible or excessively difficult. However, the CJEU held that the Member State could ask family members to appear in person at a later stage of the application procedure.





## Refusal or revocation of international protection for committing a serious non-political crime

In three cases ([C-402/22](#), [C-8/22](#) and [C-663/21](#)), the CJEU interpreted Article 14(4b) of the recast QD and clarified the conditions for a refusal or revocation of international protection for third-country nationals convicted of a crime. The CJEU held that a crime was ‘particularly serious’ if it undermined the legal order of the community, considering all circumstances such as the nature of the crime, the penalty provided and imposed for the crime, any aggravating or mitigating circumstances, the intentionality, the harm caused and the nature of the procedure.

The CJEU further determined that Article 14(4b) required two conditions: the third-country national was convicted by a final judgment of a particularly serious crime and it was established that the third-country national constitutes a danger to the community.

Finally, the CJEU ruled that the competent authority should determine, taking into account all the circumstances of the case, whether the third-country national represented a genuine, present and sufficiently serious threat to the fundamental interests of the society and whether the revocation or withdrawal of refugee status was proportionate considering the danger posed by the person to the fundamental interest of society. The court highlighted that the proportionality test did not have to consider the extent and nature of the measures to which the person would be exposed if returned to the country of origin.

## Return

In 2023, the CJEU further developed its case law on the interpretation of the Returns Directive (RD) in relation to international protection. In *Federal Republic of Germany v G.S.* (C-484/22), the CJEU [ruled](#) that Article 5(a) and (b) of the RD required that the best interests of the child and family life had to be protected in proceedings leading to the adoption of a return decision in respect of a minor, and it was not sufficient for the minor to rely on these two protected interests in subsequent proceedings relating to the enforcement of the return decision. It further added that Member States must carry out an in-depth assessment of the situation of the minor.

In *A.L. v Swedish Migration Agency (Migrationsverket)* (C-629/22), the CJEU [interpreted](#) Article 6(2) of the RD and clarified the steps of return proceedings in cases in which a third-country national was staying illegally in a Member State despite holding a residence permit or permission to stay in another Member State. In these cases, before adopting a return decision, Member States are required to request the third-country national to leave voluntarily, irrespectively of whether the authorities considered it likely or not that the national will comply with the request. The CJEU noted that Article 6(2) had a direct effect. If the national authority failed to fulfil the obligations set out in Article 6(2), the competent national authorities and courts were required to take all necessary measures to remedy the failure.

In *Association Avocats pour la défense des droits des étrangers (ADDE) and others v Ministry of the Interior (France)* (C-143/22), the CJEU [decided](#) on whether a Member State which reintroduced internal border controls may adopt a decision to refuse entry at the border solely on the basis of the Schengen Borders Code, without complying with the RD. The CJEU held that a decision to refuse entry could be adopted based on the Schengen Borders Code, but the removal of the person had to be in compliance with the RD. The CJEU clarified that the RD could apply even before crossing a border, provided that the border-crossing point was on the territory of the Member State.





In *CD v Ministry of the Interior of the Czech Republic, Asylum and Migration Policy Service (Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky)* (C-257/22), the CJEU [held](#) that Article 9(1) of the recast APD, read in light of Recital 9 of the RD, provided that from submission of the application until adoption of a first instance decision a third-country national's stay could not be regarded as 'illegal' and therefore a return decision pursuant to Article 6(1) of the RD could not be adopted, irrespective of the period of residence to which that return decision referred.





## Section 3. Functioning of the Common European Asylum System



This section provides an overview of developments in legislation, policy, practice and case law in EU+ countries throughout 2023. Concerns about aspects of national asylum and reception systems are included from authorities, civil society organisations, UNHCR and other international organisations.

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

**3.1. Access to procedures** presents developments surrounding access to territory and the first steps of the asylum procedure, including making, registering and lodging an application.

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

**3.3. Special procedures to assess protection needs** presents new practices around border procedures, the safe country of origin concept, accelerated procedures, admissibility procedures and subsequent applications.

**3.4. Processing asylum applications at first instance** addresses new approaches, measures, working methods and policies, such as prioritisation policies. It presents legislative amendments, technological developments and improvements to the quality of the procedure.

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

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

**3.7. Aspects of detention involving asylum applicants and former applicants** provides an overview of changes in detention capacity, conditions, duration and alternatives to detention.

**3.8. Access to information** details new initiatives in information provision throughout the different stages of the asylum process, including information on the procedure and information on everyday life and rights.





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

**3.10. Interpretation services** presents amendments and concerns around the provision of interpretation, including institutional changes and policy updates.

**3.11. Country of origin information** briefly describes developments in country of origin (COI) research and production.

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

**3.13. Content of protection** presents initiatives taken for the integration of recognised beneficiaries of international protection based on the recast QD.

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





## Box 2. Temporary protection for displaced persons from Ukraine

As the military aggression against Ukraine persisted into its second year, millions of people seeking refuge continued to arrive in the EU throughout 2023. By 31 October 2023, over 4.3 million non-EU citizens who left Ukraine had received temporary protection in EU+ countries, with the main hosting countries being Germany, Poland and Czechia.<sup>171</sup>



Temporary protection was initially activated until 4 March 2023. It was subsequently extended on two occasions, covering the period until 4 March 2025.<sup>172</sup> Throughout 2023, all EU+ countries began to prolong the validity of residence permits issued to beneficiaries of temporary protection or an equivalent status.<sup>i</sup> In addition, some countries – namely Croatia, Czechia, Estonia, France, Germany, Italy and Portugal – allow temporary protection status to be converted into residence permits for employment or family reunification.<sup>173</sup>

UNHCR continued to support several EU+ countries in coordinating responses to inflows from Ukraine.<sup>ii</sup> The Blue Dot Hubs, managed in cooperation with the United Nations Children’s Emergency Fund (UNICEF), remained active in 2023 and engaged in providing information and assistance to persons fleeing Ukraine across Bulgaria, Hungary, Poland, Romania, Slovakia and Slovenia, as well as outside of the EU in Belarus and Moldova.<sup>174</sup>

Changes in policies and procedures governing temporary protection were introduced in 2023 in several EU+ countries. The scope of the temporary protection status was extended in 2022 in many countries to Ukrainian nationals who were already outside Ukraine when the military aggression began.<sup>175</sup> In 2023, the Constitutional Court in Austria confirmed that temporary protection applies to Ukrainian nationals who left the country shortly before 24 February 2022 but in principle were residing there.<sup>176</sup>

In contrast, measures to delimit eligibility for temporary protection were implemented in some countries in 2023, including at the appeal stage. In Finland, for example, third-country nationals who resided in Ukraine on the basis of a temporary residence permit are no longer granted temporary protection.<sup>177</sup> This was already the case in the Netherlands in 2022, but the Dutch Council of State [ruled](#) in 2024 that the State Secretary cannot end temporary protection for third-country nationals who had resided in Ukraine on a date different than specified in the EU directive. Thus, temporary protection for this group in the Netherlands ended on 4 March 2024, instead of 4 September 2023. However, after the Dutch Council of State referred questions to the CJEU for a preliminary ruling, the legal consequences of ending temporary protection on this date were frozen. This does not mean that this group continues to fall under temporary protection, but they may continue to use facilities as if they were.<sup>178</sup>

In *Applicant v State Secretariat for Migration*, the Swiss Federal Administrative Court [ruled](#) that temporary protection was not to be granted to Ukrainians who have EU/EFTA+ citizenship. Similarly in Norway, Ukrainians who have citizenship in a safe country no longer receive temporary collective protection,<sup>179</sup> while those who return to Ukraine may risk having their protection status revoked.<sup>180</sup>

<sup>i</sup> Denmark, Iceland, Norway and Switzerland are not bound by the Temporary Protection Directive but have implemented similar national protection provisions. More information can be found on [Who is Who: Temporary protection for displaced persons from Ukraine](#)

<sup>ii</sup> For more details on UNHCR’s activities in EU+ countries, see Who is Who in International Protection: [UNHCR](#).



The Administrative Court of Munich in Germany [decided](#) in *Applicant v Immigration Office* (M 4 S 23.2442) that unmarried partners of Ukrainians were not eligible to receive temporary protection. The court came to the same conclusion in the case M 4 K 23.2440. This latter decision was reversed by the Bavarian Higher Administrative Court on 31 October 2023, with the decision in case 10 C 23.1793.



### Data on decisions granting temporary protection

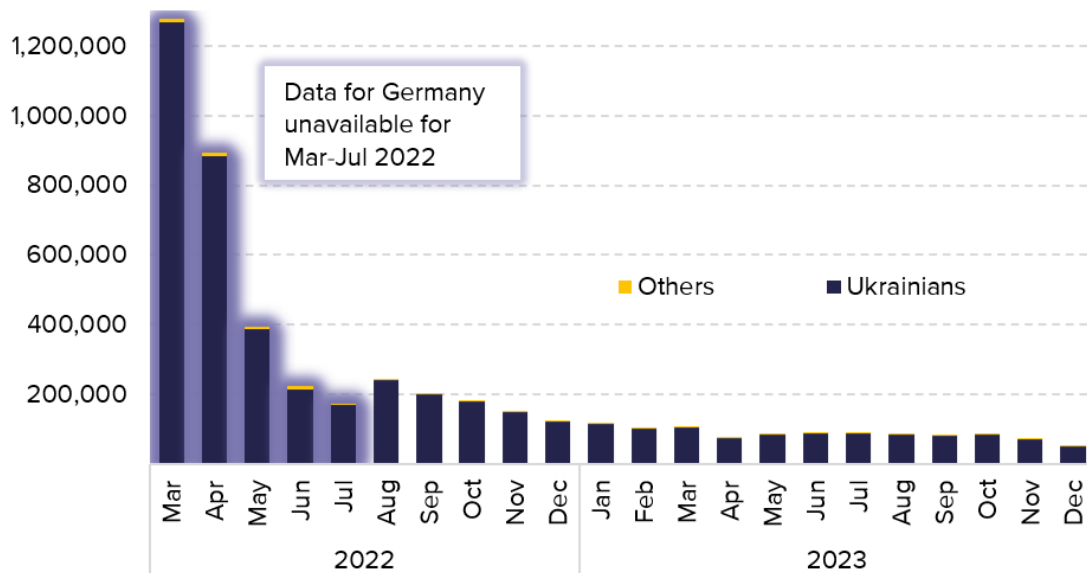
The number of decisions granting temporary protection in EU+ countries is used as a proxy for data on the number of persons registering for temporary protection.

In 2023, EU+ countries issued over 1 million decisions that granted temporary protection.<sup>iii</sup> Since the high levels at the outset of the war, decisions granting temporary protection have been declining and remained relatively stable at a lower level as of the summer of 2023 (see *Figure 1*).<sup>iv</sup>



### Number of decisions granting temporary protection declined and have remained relatively stable

**Figure 1. Number of decisions granting temporary protection in EU+ countries, March 2022–December 2023**



Source: Eurostat [[migr\\_asytpfm](#)] as of 5 February 2024.

<sup>iii</sup> Eurostat “Decisions granting temporary protection by citizenship, age and sex – monthly data”, data at the end of December 2023 (last update on 5 February 2024). Data for December 2023 were missing for Switzerland. [[migr\\_asytpfm](#)]

<sup>iv</sup> The number of decisions on temporary protection from March–July 2022 is underestimated because data for Germany were only available as a total number. Germany started reporting monthly data on decisions on temporary protection as of August 2022.



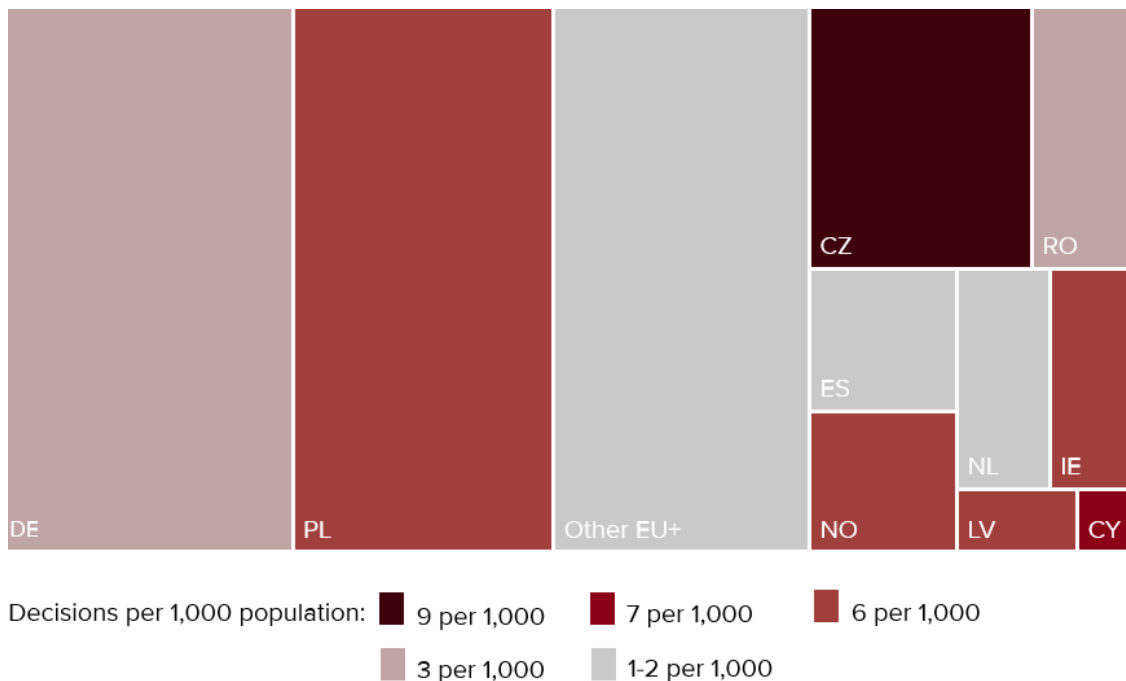
Germany (264,000) and Poland (234,000) issued the most decisions granting temporary protection in 2023, jointly accounting for almost one-half of all decisions issued in EU+ countries (see Figure 2). Many registrations were also carried out in Czechia (99,000), Romania (49,000), Spain (34,000), Norway, the Netherlands and Ireland (33,000 each) and Slovakia (30,000).

The most decisions per capita were granted by Czechia and Cyprus (9 and 7 decisions for every 1,000 inhabitants, respectively). They were followed by Estonia, Ireland, Latvia, Norway, Poland and Slovakia (with 6 decisions for every 1,000 inhabitants each).



## Germany and Poland accounted for almost one-half of all decisions granting temporary protection

**Figure 2. Decisions granting temporary protection by EU+ countries with most decisions in absolute values (rectangles) and most decisions per capita (legend), 2023**



Source: Eurostat [[migr\\_asytpfm](#)] as of 5 February 2024.

As in 2022, Ukrainians received 99% of all decisions granting temporary protection. In total, over 1 million Ukrainians were granted temporary protection, compared to just 15,000 applications for international protection over the same period.

In much smaller numbers, temporary protection was also granted to Russians (2,100, mainly in Spain and Germany), Nigerians (820, mainly in Portugal, Germany and Finland), Moldovans (680, mainly in Germany, Romania and Spain) and Moroccans (540, mainly in Portugal, Germany and Spain).<sup>y</sup>

While women and girls were a minority among applicants for international protection in EU+ countries, they received about three-fifths of all decisions granting temporary protection in 2023. Over one-quarter of all decisions granted temporary protection to minors (26%), practically all of whom were Ukrainian nationals.

<sup>y</sup> The nationality was unknown for approximately 680 beneficiaries of temporary protection.

## Housing

Article 13 of the Temporary Protection Directive establishes that Member States must ensure that beneficiaries have access to suitable accommodation, social welfare, medical care, employment and education. The rapid implementation of the directive or comparable schemes across EU+ countries in early 2022 facilitated the regularisation of Ukrainian nationals' residence under simplified procedures and their access to rights associated with the temporary protection status.<sup>181</sup> As the military aggression continued in 2023, new challenges emerged in terms of ensuring longer-term solutions for the protection and integration of displaced persons from Ukraine.

Housing continued to be a pressing topic, and accommodation programmes and allowances were extended in Bulgaria,<sup>182</sup> Romania<sup>183</sup> and Slovakia,<sup>184</sup> while new structures and solutions to facilitate access to accommodation were introduced in Czechia,<sup>185</sup> Cyprus<sup>186</sup> and Germany.<sup>187</sup> In Lithuania, the IOM allocated funding to partially cover the rent of beneficiaries of temporary protection.<sup>188</sup> High occupancy rates and mounting pressure on the reception system in Norway<sup>189</sup> led to increased requirements to access housing.<sup>190</sup> Norway also announced enforcing additional measures in the existing integration programme (valid for all persons who receive some form of international protection) in order to support Ukrainians in finding employment rapidly to allow them to support themselves during their stay in the country.<sup>191</sup> The Irish government amended the accommodation offering for new arrivals in December 2023.<sup>192</sup>

## Employment

The labour market integration of Ukrainian nationals gained increased attention throughout 2023. National labour authorities in Finland,<sup>193</sup> Italy,<sup>194</sup> Romania<sup>195</sup> and Slovakia<sup>196</sup> published studies and statistics focused on the rate of employment and fields of work of displaced persons from Ukraine.

Beneficiaries of temporary protection are generally allowed to work without the need to obtain a separate work permit, facilitating the procedural aspects of their integration in the labour market. However, the demographic composition of displaced persons from Ukraine has posed additional challenges. Almost one-half of temporary protection beneficiaries in the EU are adult women, while children account for almost one-third.<sup>197</sup> The burden associated with care responsibilities and the unavailability of appropriate childcare were indicated as potential restrictions to Ukrainian women's prospects to take up employment in host countries.<sup>198</sup>

There are also indications that Ukrainians often take on lower-skilled positions.<sup>199</sup> Lengthy procedures for the recognition of diplomas or qualifications, particularly in the fields of health and education, were cited as one of the reasons why temporary protection beneficiaries often resorted to lower-level jobs.<sup>200</sup> In 2022, the European Commission issued a recommendation advising Member States to streamline recognition procedures for academic and professional qualifications of displaced persons from Ukraine.<sup>201</sup> Some countries began to implement measures to update the recognition system, including by accepting qualifications on a declarative basis for non-regulated professions.<sup>202</sup>

## Education

Other measures to support the social and economic integration of Ukrainian nationals were put in place throughout 2023, including in the field of education. Spain implemented scholarships to support language training of temporary protection beneficiaries in the reception system.<sup>203</sup> In Lithuania, following announcements that displaced persons from Ukraine will be required to pass a language examination as of March 2024,<sup>204</sup> the IOM committed to provide free language lessons.<sup>205</sup> Facilitating access to education of both children and adults became a priority in Romania<sup>206</sup> and Slovakia.<sup>207</sup>



## Healthcare

Language barriers may also pose obstacles in terms of access to healthcare, which combined with pressure on health systems could restrict beneficiaries' possibilities to effectively use medical services in the host countries. New information provision initiatives, including information on access to medical care, were launched by national authorities and the IOM in Bulgaria, Lithuania and Norway.<sup>208</sup>

With the aim of improving healthcare for beneficiaries of temporary protection in Bulgaria, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia, the European Commission launched a dedicated project within the EU4Health programme. Together with the IOM and the World Health Organization (WHO), the European Commission aims to reinforce the capacity of national health systems to cope with increasing inflows, improve access to public health services and extend coverage.<sup>209</sup>

While the extension of the temporary protection status until 2025 was a welcomed development, UNHCR reiterated its appeal to increase efforts to integrate people with vulnerabilities. The agency warned that obstacles to access accommodation, healthcare and employment, as well as administrative barriers to obtain documentation, may prompt vulnerable people to return to Ukraine.<sup>210</sup> Their second Position on Voluntary Return to Ukraine<sup>211</sup> urged host countries to ensure that effective mechanisms for vulnerability identification and referral are in place. In this regard, initiatives to provide information on services available to people with disabilities were launched by civil society organisations in Poland<sup>212</sup> and Slovakia.<sup>213</sup>

Efforts towards a better understanding of the needs of displaced persons from Ukraine persisted in 2023. The EUAA, together with the OECD, continued to implement the Surveys of Arriving Migrants from Ukraine (SAM-UKR) and published two fact sheets in June<sup>214</sup> and October<sup>215</sup> 2023. The surveys show moderate satisfaction with support services and map urgent needs perceived by displaced persons in terms of language learning, financial support and employment. Similar surveys were launched by various stakeholders in Germany,<sup>216</sup> Lithuania,<sup>217</sup> Poland<sup>218</sup> and Sweden.<sup>219</sup>

## Information provision

National authorities, international organisations and civil society organisations continued to tailor information and web pages specifically for displaced persons, for example on registering for temporary protection, accessing the labour market and attending school.

The Directorate for Immigration (UDI) in Norway launched a "New in Norway" [website](#) targeted at newly-arrived displaced persons from Ukraine. The website is available in several languages, including English, Norwegian, Ukrainian and Russian. In addition, the Norwegian Organisation for Asylum Seekers (NOAS) launched a new [website](#) for displaced persons from Ukraine (available in Norwegian and Ukrainian). The information relates to their initial arrival, how to access services and about travel to other countries.

Likewise, the National Institute of Public Health (NIJZ), UNHCR, the World Health Organization (WHO) and the IOM published practical tips on living in Slovenia in Ukrainian.<sup>220</sup> The Legal Centre for the Protection of Human Rights and the Environment in Slovenia has been providing [private consultations](#) to Ukrainians on their rights and duties and the procedure for temporary protection.

The Federal Agency for Reception and Support Services (BBU) in Austria provides information in counselling centres about assisted humanitarian returns to a country of origin for third-country nationals who fled Ukraine. The BBU and the IOM are supporting and preparing these individuals for their onward journeys.<sup>221</sup>



## Box 3. Digital innovation in 2023

In December 2023, the European Parliament and the European Council reached political agreement on the new Artificial Intelligence (AI) Act, as put forth by the European Commission.<sup>222</sup> The aim is to regulate AI systems which are used in migration, asylum and border control management and to support competent authorities in accurate, non-discriminatory and transparent decisions. AI systems should respect fundamental rights, such as non-discrimination and the protection of personal data and private life, and comply with the recast QD and other EU legislation. The act provides a classification of high-risk AI systems, such as ones used in the context of migration and asylum, and defines the requirements for their use.



At the country level, digitalisation initiatives continued throughout 2023 to enhance the efficiency and quality of asylum processes. For example, in Greece, the Ministry of Migration and Asylum upgraded the Greek Asylum Service's unified information system for reception and asylum to "Alkyoni II" in May 2023. With the upgrade, several services for asylum seekers and refugees are provided in multilingual and digital formats, such as registering applications, booking interviews and submitting documents. Users can also renew the International Protection Applicant's Card and the Uniform Format Residence Permit, in addition to requesting travel documents.<sup>223</sup> Refugee Support Aegean expressed concern when technical glitches resulted in the suspension of services from May-August 2023, exposing some applicants to the risk of detention and deportation.<sup>224</sup>

A preliminary study on the reform of the Aliens Act in Finland concluded that the immigration and asylum systems need to be further digitalised to better serve clients and uphold fundamental and human rights.<sup>225</sup> The most urgent reform by the Ministry of the Interior is to simplify and streamline the residence permit system. The initiative forms part of a pilot project funded by the European Commission to formalise an EU regulation on a digitalised EU residence permit card, with a 2D barcode including biometric data.<sup>226</sup> In addition, the Ministry of the Interior granted EUR 11.4 million of funding from the Asylum, Migration and Integration Fund (AMIF) to digital innovation projects to improve the capacity and efficiency of the asylum procedure.<sup>227</sup>

The first project is a study carried out by the Finnish Immigration Service on the use of a transcription tool to improve the quality and efficacy of asylum interviews. Minutes of the interview would be produced through speech-to-text, allowing to clarify matters during the interview and shortening the duration of the procedure. A second project on Predictive Country Information, "ENNACOI", aims to create a new working process in the Country Information Service which produces COI. The system will anticipate and prepare for fluctuations in the number of asylum applicants.

The Swedish Migration Agency noted that administrative processes and the risk of incorrect payments were reduced with the introduction of the digitalised LMA card, which certifies that an asylum seeker has the right to stay in the country and is entitled to healthcare and medicine. The digital card was introduced in 2022 and resulted in savings of approximately SEK 6.5 million in 2022.<sup>228</sup>



The digitalisation of appeals in international protection cases continued throughout 2023 through remote hearings, while shortcomings were identified by civil society organisations. In Norway, a legislative proposal was made in March 2023 for the possibility to hold remote hearings at the UNE.<sup>229</sup> In April 2024, NOAS commented on this proposal, noting that it agrees with the ministry that



decisive factors to hold remote meetings are that the applicant's legal certainty is safeguarded and the person consents to participate using teleconferencing technology.<sup>230</sup>

### ***Displaced persons from Ukraine***

The Ministry of the Interior and Community (BMI) in Germany, in partnership with BAMF, the company [Wunderflats](#) and a non-profit social enterprise [ProjectTogether](#), developed a housing mediation platform ("Helfende Wände") for displaced persons from Ukraine, which is available in German, English and Ukrainian. To ease the burden on municipalities, the platform provides offers of private housing to beneficiaries of temporary protection. It complements the wide-ranging information for displaced persons from Ukraine provided by the central portal of the Federal government through BAMF, "Germany4Ukraine."<sup>231</sup>

The Migration Department of the Lithuanian Ministry of the Interior began to issue digital residence permits to beneficiaries of temporary protection from Ukraine. The digital temporary residence permit, which includes biometric data, is issued in a PDF format in English and Lithuanian through the Lithuanian Migration Information System (MIGRIS). This has resulted in savings in cost, time and staff availability, in addition to accelerating the extension of the permits. Limitations reported by the Migration Department were linked to technical issues, the lack of digital literacy, and interoperability and standardisation of a digital document across Member States.<sup>232</sup>



## Section 3.1. Access to procedures



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

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

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

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

The time limit for the examination of a claim for international protection starts elapsing when the application is lodged and all formalities have been completed. The provisions of the recast APD apply to all applications for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of Member States.

In 2023, EU+ countries continued to experience pressure at the borders and challenges related to the high number of arrivals persisted.<sup>233</sup> The impact of the Russian invasion of Ukraine kept pressure on the EU's external eastern borders, while countries in the Mediterranean region struggled with the continued arrival of migrants by sea. Countries experiencing movements along the Balkan route ramped up their efforts to control the borders. Pressure was also felt in central European countries, which faced an increasing number of applications.

Against this backdrop, EU+ countries focused on the reduction and prevention of irregular migration into the EU, which at times risked impacting effective access to territory. With public debate continuing on the 'externalisation' of asylum procedures, in June 2023 the CJEU handed down a [judgment](#) on Hungary's embassy procedure, which had been the subject of criticism for several years.



Some countries maintained a state of emergency, applying rules which allowed for derogations from the regular procedure, and started investing in the use of technology to maintain border security.<sup>234</sup> To effectively address the increased workload due to the higher number of applications, some countries made adjustments to registration and lodging processes and changed their institutional setups.

### 3.1.1. Access to territory

The main trends related to the interplay between border protection and access to territory remained similar to 2022, with EU+ countries – whether at the external borders of the EU or not – strengthening cooperation with third countries and aiming to prevent irregular migration and smuggling.

EU+ countries reinforced policies and legal frameworks to reduce irregular arrivals. For example, cooperation agreements concluded with third countries in 2023 and early 2024 included objectives to reduce irregular migration, such as Germany with Georgia,<sup>235</sup> Spain and the EU with Mauritania,<sup>236</sup> Spain with Senegal,<sup>237</sup> and Italy with Albania.<sup>238</sup> Many countries intensified or extended border checks, for example Czechia,<sup>239</sup> Germany<sup>240</sup> and Slovakia.<sup>241</sup> Continuing with targeted information campaigns like in previous years, Belgium set up a campaign to combat irregular migration from Guinea in response to their increased number of applications. According to the Belgian authorities, three-quarters of the Guineans who apply for international protection appear, after an assessment, to have no need for such protection.<sup>242</sup>

Austria reported a decrease in the number of applications received between January-July 2023 compared to January-July 2022. The authorities attributed this to consistent border controls; cooperation with Hungary, Serbia and Montenegro to fight smugglers and traffickers; countering trafficking networks inside Austria so that traffickers avoid Austria; faster asylum procedures; and successful international cooperation with countries of origin to ensure returns.<sup>243</sup>

The impact of the Russian invasion of Ukraine and the situation along the borders with Belarus continued to put pressure on the EU's eastern borders. Countries responded by amending certain laws to formalise existing practices at the border. Lithuania maintained the state of emergency as it continued to experience increased pressure at the external borders related to the instrumentalisation of migrants by the Belarusian regime.<sup>244</sup> To this end, Frontex provided on-the-ground support by contributing personnel to assist Lithuanian border guards.<sup>245</sup> Lithuanian border guards continued to help Latvian counterparts to ensure the protection of the border with Belarus, and the two governments agreed on closer cooperation to address increased secondary movements from Latvia to Lithuania.<sup>246</sup>

In Estonia, the Police and Border Guard Board (PBGB) signed a cooperation agreement with UNHCR in August 2023, which aims to ensure that the treatment of refugees arriving in Estonia complies with all applicable rights. Through the agreement, the PBGB will identify people in need of international protection and ensure their access to Estonian territory and to the asylum procedure.<sup>247</sup>

In Poland, the Ministry of the Interior and Administration extended controls at the border with Slovakia until 2 March 2024 (controls ended at midnight that day). Crossings were possible at designated areas only.<sup>248</sup> The Ombudsperson in Poland submitted comments to the



authorities on several instances, stating that the regulations allowing the return of third-country nationals at the Polish border with Belarus were contrary to international, EU and Polish laws. The authorities replied that the regulations addressed a migration threat, they ensured the necessary guarantees of human rights protection, and listed the considerations taken to balance ensuring state security and upholding fundamental rights.<sup>249</sup> Concerns were also raised by the UN Special Rapporteur on the human rights of migrants,<sup>250</sup> as well as civil society organisations.<sup>251</sup>

The Helsinki Foundation for Human Rights, a civil society organisation, presented its opinion before the Council of Europe's Committee of Ministers on Poland's implementation of the ECtHR judgment in the case of *M.K. and Others v Poland*. A common submission was also made by the Association for Legal Intervention and the Rule of Law Institute.<sup>252</sup> All three organisations urged Poland to introduce procedural guarantees to access the asylum procedure.<sup>253</sup>

The Voivodship Administrative Court in Białystok allowed the action brought by a Yemeni national against the Polish border guard after he was returned to Belarus. The court **noted** that the lack of evidence in the case was a consequence of the actions of the border guard.

The Voivodship Administrative Court in Warsaw confirmed that the authorities should register an application for international protection within 3 working days. The case concerned an applicant who had orally expressed the wish to apply for international protection but whose application was only registered by the Border Guard in Lesznowola over 3 weeks later.<sup>254</sup> The Border Guard noted that an applicant has the right to interpretation, as well as the right to request an attorney. For rare languages, when few interpreters are available, the registration time may need to be prolonged to ensure the availability of the interpreter. Similarly, registration activities are adjusted to accommodate the availability of the attorney.

Arrivals continued by sea and through the land border in the Mediterranean region. On the 10<sup>th</sup> anniversary of the Lampedusa shipwreck, UNHCR urged for further efforts to strengthen cooperation in search and rescue activities; provide life-saving assistance; end criminalisation, obstruction or deterrence of those providing humanitarian assistance; and establish effective regular pathways to seek asylum.<sup>255</sup>

In Greece, a shipwreck off the coast of Pylos in June 2023 resulted in the deaths of more than 80 persons with hundreds missing.<sup>256</sup> The Greek Ombudsperson opened an official investigation into the incident, raising questions on the action of the Greek Coast Guard.<sup>257</sup> The Ombudsperson's announcement was welcomed by the Council of Europe's Commissioner for Human Rights.<sup>258</sup> Forty survivors of the shipwreck filed a criminal complaint against all responsible parties before the Naval Court of Piraeus.<sup>259</sup>

The Greek National Commission on Human Rights (GNCHR) presented the first results of the Recording Mechanism of Incidents of Informal Forced Returns in January 2023. The Recording Mechanism, established in 2021 by the GNCHR, aims to monitor, record and report incidents of informal forced returns of third-country nationals from Greece to other countries, through personal interviews with the alleged victims and through a common, transparent and scientific recording methodology.<sup>260</sup> In its report, the Recording Mechanism recorded 50 incidents of informal forced returns from Greek territory between April 2020 and October 2022, according to statements by alleged victims.<sup>261</sup> This initiative was supported by UNHCR and welcomed by the IOM, FRA and the Fundamental Rights Officer of Frontex.<sup>262</sup> The Ministry of Migration and Asylum established an individual complaints mechanism under the Fundamental Rights





Officer, who must handle and examine, at a preliminary stage, complaints of alleged violations of human rights with access to territory, in reception or during asylum procedures in Greece.<sup>263</sup>

In 2023, the CJEU General Court actions for damages brought by Syrian refugees against Frontex in two separate cases (see [here](#) and [here](#)) after they were returned from Greece to Türkiye. At the same time, a civil society organisation reported obstacles to access the territory and highlighted discrepancies between declarations made by Greek authorities and reports by civil society organisations and people involved in different capacities in the asylum process.<sup>264</sup>

In the eastern Mediterranean region, similar allegations were made concerning practices in Cyprus that could lead to chain *refoulement*. International and civil society organisations cautioned against sending asylum seekers back to Lebanon, where they are commonly deported back to Syria unlawfully and, thus, are exposed to inhuman and degrading treatment and torture.<sup>265</sup>

In the central Mediterranean region, there were a number of developments in Italy, starting in February 2023 with the renewal of the Memorandum of Understanding between Italy and Libya.<sup>266</sup> The agreement outlines their continued cooperation with training, equipment, funding and other technical support being provided to the Libyan authorities in the field of migration. Civil society organisations, however, claimed that the agreement, through which Libyan authorities receive equipment and training, may encourage indirect *refoulement* to Libya.<sup>267</sup>

A new law in Italy increased the penalty for facilitating irregular migration and a new crime of “death or injury as a consequence of crimes in the field of illegal immigration” was introduced. A person would be punished even when the death or injury of another occurs outside the national territory. UNHCR made recommendations on the law, excluding the criminal provisions,<sup>268</sup> and a number of civil society organisations complained to the European Commission that the new legislation violates EU law and the obligations of EU+ countries in search and rescue activities at sea.<sup>269</sup> Italian authorities noted that these concerns remained at the level of political observations so far and no concerns were raised at the judicial level yet.

The ECtHR and national courts ruled on practices and procedures in place in Italy and highlighted that they may inhibit effective access to territory.<sup>270</sup> National authorities underlined that these judgments happened against the background of Italy remaining one of the EU+ countries with the highest number of applications and compared the high number of registered applications with the low number of judgments finding breaches.

Cooperation continued between Italy and Malta in the prevention of irregular migration and combating migrant smuggling.<sup>271</sup> At the same time, Malta intensified its efforts to enhance cooperation with third countries, particularly with Libya, which received training on maritime border management and law enforcement.<sup>272</sup> Civil society organisations continued to allege that Malta ignored distress calls from boats at sea.<sup>273</sup> The Maltese authorities continued to strongly rebut any allegations of arbitrary delays in responding to distress calls. Malta stressed that it abides with international obligations and responded to all distress calls in its Search and Rescue Region, whereby all notifications are investigated, assessed, prioritised and actioned accordingly.





In the western Mediterranean region, Human Rights Watch stated in June 2023 that there had been no credible investigation or justice for the victims of violence and the deaths of asylum seekers and migrants at the border between Morocco and the Spanish enclave of Melilla in 2022. The organisation called on Spain to take the lead in pushing for an approach that respects rights, including safe and legal routes, accountability for border abuses and human rights as conditions for cooperation with other countries.<sup>274</sup> A number of actors continued to express concern about effective access to the procedure at the border with Morocco.<sup>275</sup>

In Croatia, the Office of the Ombudsperson published a report in April 2023, which states that in 2022 there was a decrease in the number of complaints with allegations of pushbacks, but it still received a large number of notifications from third-country nationals who were already on Croatian territory and wished to submit an application for international protection.<sup>276</sup> The report for 2023 was published in March 2024, with similar conclusions.<sup>277</sup> Civil society organisations continued to report on collected testimonies of asylum seekers who were allegedly prevented from entering the territory and seeking international protection.<sup>278</sup> Concerns about pushbacks and access to the procedure led to debates in other countries about transferring applicants to Croatia under the Dublin III Regulation, with courts taking different approaches (see *Section 3.2.5.2*).

The Croatian Ministry of Internal Affairs continued with the implementation of its project on the “Independent Monitoring Mechanism for the Protection of Fundamental Human Rights” in 2023. The project observes the actions of police officers of the ministry who work on border protection, illegal migration and international protection.<sup>279</sup> The project was funded earlier by the European Commission under direct funding (emergency assistance), while in the current financial period it was moved under the Croatian Border Management and Visa Instrument programme. The Independent Monitoring Mechanism (IMM), which focuses on monitoring actions related to border surveillance, is based on a cooperation agreement between the Ministry of the Interior and the Croatian Academy of Medical Sciences, the Croatian Academy of Legal Science, the Centre for Cultural Dialogue, the Croatian Red Cross and Prof Iris Goldner Lang. The mechanism has served as a blueprint, and the Croatian Ministry of Internal Affairs highlighted that this is the first and currently only such monitoring mechanism in the EU.

The ECtHR ruled on practices in Hungary. In *Alhowais v Hungary*, the ECtHR found violations of Articles 2 and 3 of the ECHR when the national authority failed to protect the life of a migrant during a river disembarkation from Serbia to Hungary and failed to conduct an effective investigation into the events.

In the Netherlands, the Court of the Hague *referred* questions to the CJEU concerning the effective date of a residence permit issued to refugees in relation to the date of application for international protection.

## 3.1.2. Access to the asylum procedure

### 3.1.2.1. Access during a state of emergency

In 2023, several EU+ countries maintained their previously declared states of emergency to manage high numbers of arrivals. In the face of a remarkable increase in irregular arrivals, in April 2023 Italy also declared a state of emergency, initially for 6 months and renewed in October 2023 for another 6 months.<sup>280</sup> In addition, the Italian government reached a bilateral





agreement with Albania to disembark and host up to 3,000 applicants on Albanian territory, pending the assessment of their asylum application.<sup>281</sup>

In a press briefing, the European Commission stated that it appeared that Italy intended to apply national legislation in a manner that ensures full respect of its obligations in terms of international law and the actions carried out outside of the territory of the Member State go beyond the scope of the EU asylum *acquis*.<sup>282</sup> The European Commission further clarified that it is understood that the agreement will apply to migrants rescued in international waters by Italian vessels. UNHCR reiterated that the transfer agreement of asylum seekers and refugees must respect international refugee law.<sup>283</sup> The Council of Europe's Commissioner for Human Rights reacted with concern, stating that the agreement "adds to [the] worrying European trend towards externalising asylum procedures".<sup>284</sup> Similar concerns were expressed by civil society organisations, particularly in relation to procedural guarantees, the risk of detention and reception conditions.<sup>285</sup> The Italian Parliament approved the law ratifying the Protocol on 15 February 2024.<sup>286</sup> The Constitutional Court of Albania ruled that the agreement between Italy and Albania does not harm the territorial integrity of Albania and the agreement may proceed for parliamentary approval.<sup>287</sup>

The CJEU delivered its judgment on Hungary's 'embassy procedure' (see *Asylum Report 2023 for the description*). The court ruled that Hungary failed to fulfil its obligations under Article 6 of the recast APD, limiting effective access to the asylum procedure when it introduced the requirement for persons seeking international protection to submit a declaration of intent in person in a Hungarian embassy. The procedure continued to be implemented in Hungary, despite the CJEU's ruling.

Related to transit zones which were in place from 2015 to 2020, in *S.S. and others v Hungary*, the ECtHR held that a country cannot deny entry to an asylum seeker or remove them – even if it is assumed that the person could enter the country through other means – without a proper evaluation of the risks. The court found a violation of Article 3 of the ECHR because the national authority failed to examine whether the applicants would have access to an adequate asylum procedure when returned, in line with the principle of *non-refoulement*. In another case, the ECtHR ruled that Hungary had subjected an unaccompanied minor to a collective expulsion to Serbia in violation of the ECHR and had not provided effective remedies.

The Lithuanian Ministry of Internal Affairs submitted draft legislative amendments to the State Border Act to clarify that illegally crossing the border during a state of emergency does not constitute access to the territory.<sup>288</sup> At the same time, the ministry submitted draft amendments to the Law on the Legal Status of Foreigners, allowing applications for asylum irrespective of whether a third-country national entered the territory legally or illegally.<sup>289</sup>

Despite calls by the Council of Europe's Commissioner for Human Rights to reject draft amendments to the Law on the State Border and Protection,<sup>290</sup> the Lithuanian parliament adopted the amendments which allow border guards to return migrants who cross into Lithuanian territory irregularly during a state of emergency.<sup>291</sup> Civil society organisations continued to criticise the authorities and initiated proceedings before the ECtHR to challenge denials of access to the procedure and instances of *refoulement*.<sup>292</sup> The Seimas Controller also found concerns about the way foreigners were held by the State Border Guard Service (SBGS) at border checkpoints without being immediately provided with the minimum standards required by law.<sup>293</sup> In the context of a third-party intervention<sup>294</sup> in the communicated case of *COCG and others v Lithuania*,<sup>295</sup> the civil society organisation Human Rights Monitoring Institute, citing monitoring data collected by the Lithuanian Red Cross



Society,<sup>296</sup> stated to the ECtHR that effective access to the asylum procedure was hindered in Lithuania and that persons seeking asylum at international border checkpoints faced serious obstacles.<sup>297</sup>

In Latvia, the parliament approved legislative bills that amended the State Border Law and the State Border Guard Law, building on Order No 518 of the Cabinet of Ministers on the Declaration of an Emergency Situation, which was adopted in 2021. The law provides the Cabinet of Ministers with the authority to declare a situation of emergency when it considers that there is a disproportionately high number of cases of illegal or attempted crossings of the state border. Prior to the adoption of the laws, UNHCR recommended that the proposed amendments “be revised to prevent collective expulsions and guarantee effective access to protection against *refoulement* by admission to the territory and individual assessments of personal circumstances and possible risks in accordance with international and EU legislation”.<sup>298</sup> Following the parliament’s adoption of the amendments to the State Border Law and the State Border Guard Law, UNHCR issued a statement to express concern that the changes effectively authorise pushbacks and may lead to individuals not being granted effective access to the territory and the right to seek asylum. The changes do not specify how an assessment should be conducted and the assessment would be undocumented.<sup>299</sup> The Ministry of the Interior and the State Border Guard have repeatedly emphasised that third-country nationals can apply for asylum at official border-crossing points. Nonetheless, a civil society organisation in Latvia criticised some practices (such as the use of sound canons) to deter persons from crossing the Belarusian-Latvian border, stating that this practically prohibits people from applying for asylum.<sup>300</sup>

The Polish Border Guard underlined that a foreigner who crosses an external border in violation of the law will receive a decision and an order to leave the territory. The authority noted the primacy of the international protection procedure and highlighted that if the foreigner expresses the wish to apply for international protection, the Border Guard officer must acknowledge this intent and abandon all activities related to returning the person to the state border line, so that the application for international protection can be processed according to the law. The Border Guard underlined that domestic law does not allow a Border Guard officer not to acknowledge the intent to apply for international protection.

### **3.1.2.2. Impact of the increase in applications for international protection**

As in 2022, many EU+ countries received an increased number of asylum applications. This led to countries taking measures to try to decrease the numbers and to adjust or speed up asylum procedures to better manage the situation. However, some countries continued to face challenges which included delayed registration processes which sometimes impacted other aspects of the asylum procedure, such as access to material reception conditions (see *Section 3.6.2*) or the appointment of a legal guardian for unaccompanied minors (see *Section 4.6.2*).

In the Netherlands, there was a backlog of asylum seekers awaiting identification and registration. To address the situation, additional staff were deployed for identification and registration processes and reception arrangements were adjusted to accommodate more applicants.<sup>301</sup> The Expo Hall in Assen, which was previously used as an emergency shelter, was converted into a waiting area for newly-arrived asylum seekers in Ter Apel until October 2023 (see *Section 3.6.1.2*).<sup>302</sup> The Dutch authorities also made adjustments to the application process for family members arriving in the Netherlands through family reunification



with a beneficiary of international protection, with reunified family members required to register at Zevenaar and no longer in Ter Apel.

Issues relating to delays in accessing the asylum procedure were noted in Belgium, where the first instance Tribunal of Brussels ruled in several cases that the Belgian state violated its obligation to effectively ensure the right of a third-country national to present an application for international protection as soon as they express the wish to do so. The tribunal [ordered](#) the authorities to ensure access for asylum applicants to present and register their application without any delay, subject to financial penalties.

In Germany, authorities agreed to start implementing plans to limit the timeframe within which asylum applications are submitted. Both the federal government and Länder governments agreed on the necessity of early registration and prompt forwarding of applications to the Federal Office for Migration and Refugees (BAMF). According to this new approach, future applications for international protection would have to be filed within 2 weeks and a BAMF personal interview must be held within 4 weeks.<sup>303</sup>

A new asylum and immigration law was discussed in France throughout 2023, with several proposals suggesting changes and adjustments for a more efficient registration process. The law was promulgated at the beginning of 2024.<sup>304</sup>

UNHCR considered it a good practice in Greece that all new arrivals at off-border locations were transferred to the Reception and Identification Centre (RIC) in Malakasa. Civil society organisations continued to state that asylum seekers were prohibited from direct access to the Asylum Service to register a claim as they must first report to the RIC and the Greek authorities did not consider the registration of appointments through their online platform as constituting a ‘making’ of an application.<sup>305</sup> Administrative Courts of First Instance in Athens again confirmed that the submission of a request to register an asylum application on the online platform operated by the Ministry of Migration and Asylum establishes a person’s status as an asylum seeker, despite the contrary practice that the ministry continued to apply.<sup>306</sup>

The Spanish Ombudsperson’s report highlighted that accessing the asylum procedure had become more difficult due to the increase in applications, with waiting times lasting months for registration and additional months for formalisation in many provinces. This particularly affected people with special needs and sea arrivals transferred from the Canary Islands to the mainland. Changes were introduced to stop the buying and selling of appointments for registration, but the Ombudsperson observed that these measures led to unequal access across the provinces.<sup>307</sup> Civil society organisations observed that appointments were still sold on an online platform at the end of 2023.<sup>308</sup>

In Italy, barriers in accessing the asylum procedure were noted in various regions of the country, while national courts in several cities continued to instruct authorities to formalise applications for international protection.<sup>309</sup> Italian authorities noted that this happened against the background of a significant increase in the number of registered applications for international protection (+63% compared to 2022, see *Section 3.1.3*) and competent authorities were working with all available resources. Courts in [Rome](#), [Milan](#) and [Naples](#) scrutinised the adequacy of the booking system to access the asylum procedure. Immigration Offices in different locations continued to request additional administrative documents for the registration of an application, such as proof of domicile and proof of parental tie in the case of families, a practice that reportedly impacts timely access to the procedure.<sup>310</sup> Italian authorities



underlined that such practices were condemned by courts in a small number of cases compared to the high number of registrations in 2023 (136,000, see *Section 3.1.3*).

The European Commission welcomed the progress made since March 2023 when the pilot projects for asylum and return procedures were started in Bulgaria and Romania. Through the project, the EUAA assisted with the registration of asylum applications in Romania.<sup>311</sup>

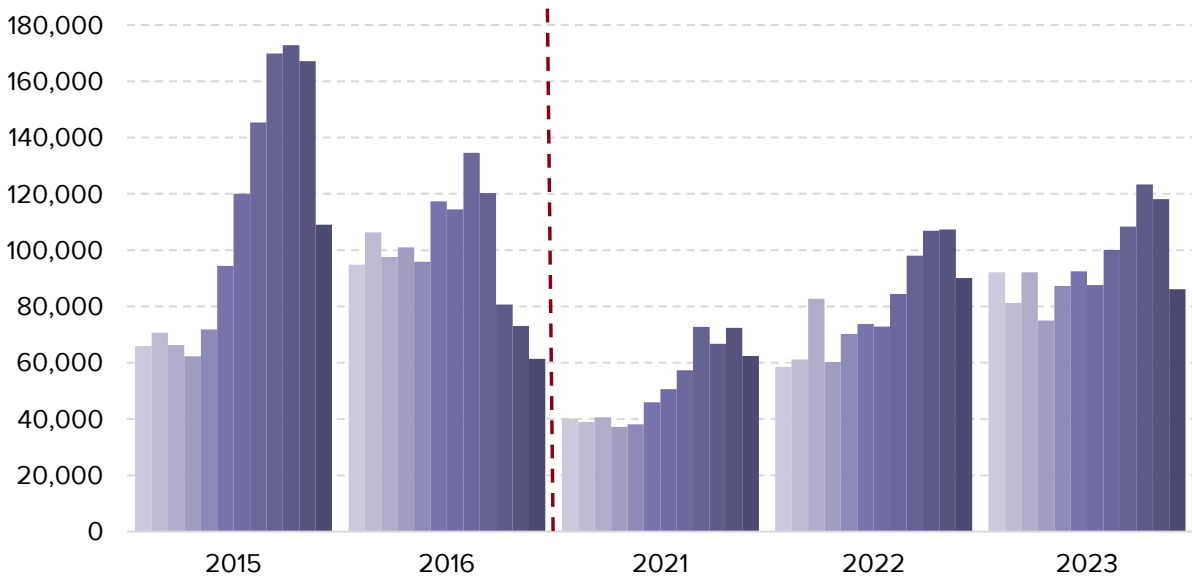
In May 2023, the Romanian authorities approved legislative changes through an Emergency Ordinance to better manage irregular migration and reduce secondary movements. The changes limited a foreigner’s right to remain in Romania until the asylum procedure is completed, compared to past legislation allowing 15 days after the completion of the regular procedure.<sup>312</sup>

In Czechia, a new information system *IS AZYL III* was developed to manage the registration of applications for international protection and related information. The main users of the system are the Department of Asylum and Migration Policy of the Ministry of the Interior, the police, the courts and other relevant stakeholders.<sup>313</sup>

### 3.1.3. Data on applications for international protection

Over 1.1 million applications for international protection were lodged in EU+ countries in 2023, the most since the refugee crisis in 2015-2016.<sup>vi</sup> In fact, in the last quarter of 2023, the number of applications lodged exceeded 2016 levels (see *Figure 3*). The number of applications lodged each month in 2023 was almost always higher than in 2022 and over 90% were first-time applicants as in 2022.

**Figure 3. Number of asylum applications by month (January-December 2023) in EU+ countries, selected years**



**Note:** Data were not available for Portugal for October-December 2023.  
*Source:* EUAA Early Warning and Preparedness System (EPS) data as of 1 February 2024.

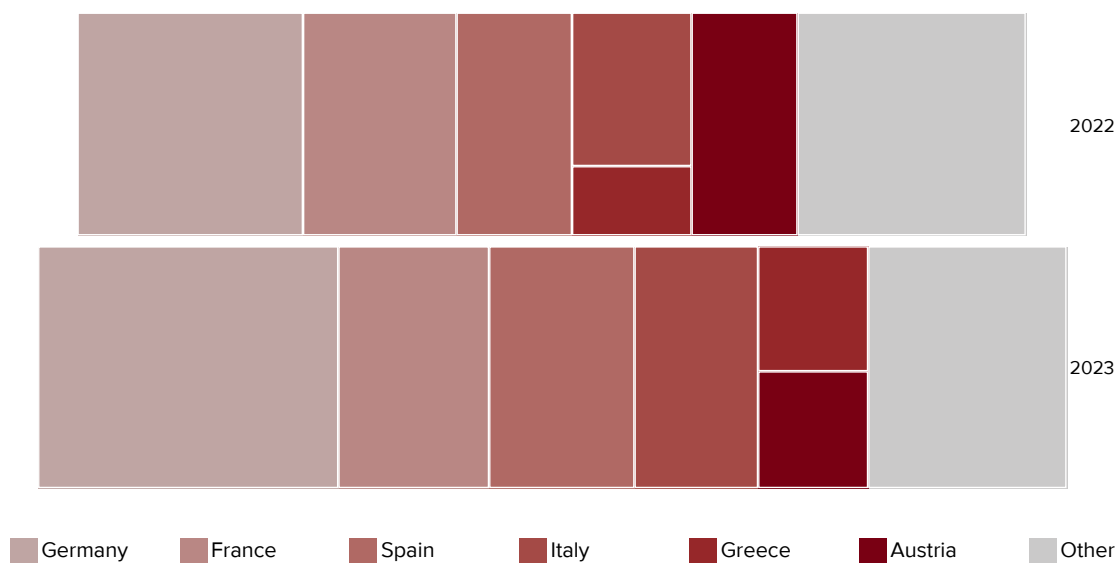
<sup>vi</sup> Data were not available for Portugal for October-December 2023.



In addition to the rise in applications, around 1 million decisions granted temporary protection to people fleeing Ukraine.<sup>vii</sup> In total, over 4.3 million people were under temporary protection by the end of 2023.<sup>314</sup>

The overall increase in 2023 masked diverging developments across receiving countries. Among the 29 EU+ countries, applications increased by more than 5% in 12 countries but decreased by more than 5% in another 11. The increases recorded in the top receiving countries had the largest impact on the EU+ trend (see *Figure 4*). Once again, Germany topped the list in terms of the number of applications received (334,000, +45% from 2022) and accounted for about 30% the total. This is a substantial share, but less than in 2016, when Germany received almost three-fifths of all applications.

**Figure 4. Asylum applications in 2022 and 2023 by main receiving countries in 2023**



**Note:** Data were not available for Portugal for October-December 2023.  
**Source:** EUAA EPS data as of 1 February 2024.

The next three top receiving countries jointly accounted for 41% of applications, with record numbers in each:<sup>viii</sup> France (167,000 applications, +7% increase), Spain (162,000, +38%) and Italy (136,000, +63%). In 2016, their combined share was below one-fifth. At far lower levels, Bulgaria, Slovenia, Estonia, Luxembourg and Latvia (in descending order) also received unprecedented numbers of applications, while the Netherlands and Switzerland received the most since 2015.

In contrast, applications in Austria declined substantially by 46% compared to 2022 (with 59,000 applications received in 2023). Decreases at lower levels were also seen in Sweden, Cyprus, Romania, Denmark, Croatia and Czechia (in descending order).<sup>ix</sup> These declines may be partially attributable to several developments ranging from changes to visa-free policies in

<sup>vii</sup> Based on data by Eurostat: Decisions granting temporary protection by citizenship, age and sex – monthly data, data at the end of December 2023 (last update on 5 February 2024). Data for December 2023 were missing for Switzerland.

<sup>viii</sup> Since at least 2008, based on a combination of data from Eurostat (2008-2014; last [update](#) on 18 January 2024) and EPS (since 2015).

<sup>ix</sup> Only countries with at least 1,000 applications lodged in 2023 were considered.





neighbouring third countries,<sup>315</sup> the introduction of certain temporary internal border controls, changes in routes of irregular entry and onward travel, and the activation of the Temporary Protection Directive in 2022 which led to fewer Ukrainians lodging asylum applications in 2023.

Syrians, Afghans and Turks continued to apply the most for international protection, accounting for over one-third of all applications lodged in EU+ countries. The highest share of their applications was lodged in Germany. Nationals of Syria, who accounted for about one-sixth of all applicants, lodged 181,000 applications, which was a 38% increase compared to 2022 and the highest level since 2016. They were followed at a distance by Afghans, with 114,000 applications, who applied in lower numbers than in the previous year (a decrease by 11%). With 101,000 applications, Turks applied in record numbers<sup>x</sup> and maintained their position as the third-largest applicant group. This was an 82% increase compared to 2022, nearly surpassing the number of applications by Afghans.

Record high numbers of applications were lodged by many other citizenships as well (see *Figure 5*). Venezuelans and Colombians, who ranked fourth and fifth, applied in record numbers for the second consecutive year. At lower levels, nationals of other Latin American countries also lodged record numbers of applications in 2023, including Peru, Cuba, Brazil, Ecuador, Argentina and Paraguay (in descending order).<sup>xi</sup> These increases were on top of a previous surge in 2022, as the region continues to face one of the largest population displacements in its history.<sup>316</sup> Almost 8 in every 10 applications by Latin Americans in the EU+ in 2023 were lodged in Spain.

Shifting the focus to Africa, about 273,000 applications for international protection were lodged in 2023 from 55 African countries of origin as conflict, humanitarian and economic crises persisted in several parts of the continent.<sup>317</sup> There was a sharp increase in applications by nationals from the top countries of origin in this region, namely Moroccans, Egyptians, Guineans and Ivorians (in descending order), which jointly accounted for more than one-third of all applications. All four applied in unprecedented numbers, as did nationals of the Democratic Republic of the Congo, Sudan and Cameroon.<sup>xii</sup> In addition, there was a six-fold increase in applicants from Burkina Faso (6,900) compared to 2022.

In contrast, the largest decline in absolute terms was in applications by nationals of India, likely a reflection of the change in the visa-free policy of Serbia at the start of 2023. At the same time, this was partially offset by a rise to unprecedented levels of applications by citizens from neighbouring Bangladesh, Sri Lanka and Nepal (in descending order).

Applications by Palestinians<sup>xiii</sup> rose in the summer of 2023 and they increased further following the escalation of the Israeli-Palestinian conflict in October 2023. In fact, Palestinians applied for asylum in record numbers in 2023.<sup>xiv</sup> About three in every five applications by

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<sup>x</sup> Since at least 2008, based on a combination of data from Eurostat (2008-2014; last [update](#) on 18 January 2024) and EPS (since 2015).

<sup>xi</sup> For this analysis, Latin America includes Central America, South America and the Caribbean. Only citizenships with at least 1,000 applications in 2023 were considered.

<sup>xii</sup> Other African applicant groups applying in record numbers include nationals of Angola, Benin, Chad, Congo, Rwanda, Sierra Leone, Uganda and Zimbabwe. Only citizenships with least 1,000 applications in 2023 were considered.

<sup>xiii</sup> Palestine is not recognised as an independent state by all countries globally and across the EU. This leads to different approaches in the statistical recording and reporting of Palestinians, who may be reported as stateless or of undetermined nationality. As such, available EPS data on Palestinians should be considered underestimated.

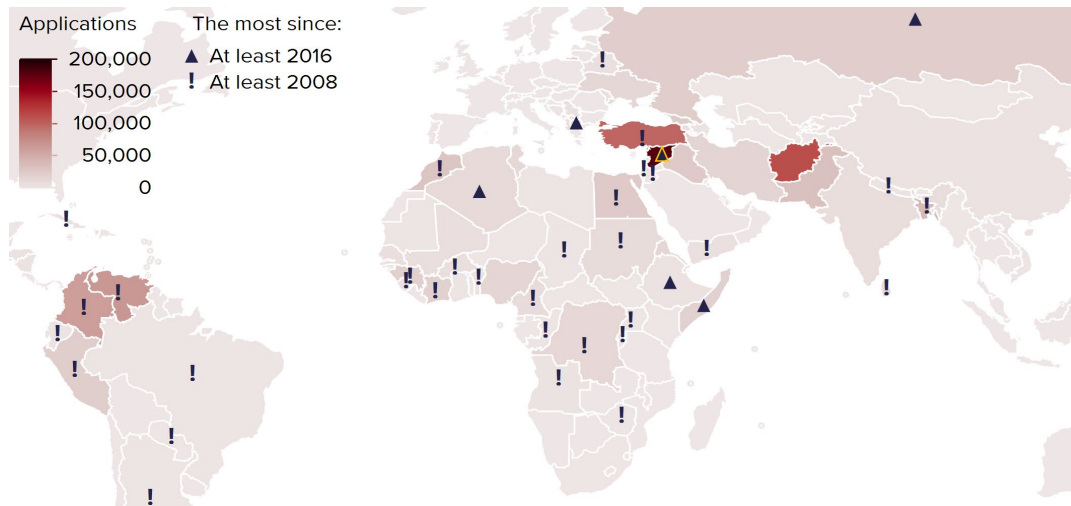
<sup>xiv</sup> At far lower levels, applications for international protection by Israelis (283) were also at a record high in 2023.





Palestinians were lodged in Greece, contributing to the sharp rise in the total number of applications in the country. As a result, Greece received the third-highest number of applications per capita across EU+ countries in 2023, almost as many as Austria, which was in second place after Cyprus. A high number of applications was also recorded in Belgium, which received an additional 28% of the EU+ total.

**Figure 5. Applications for international protection in EU+ countries by country of origin, 2023**



**Notes:** Data were not available for Portugal for October-December 2023. The boundaries in the map do not imply official endorsement or acceptance by the European Union.

*Source:* EUAA EPS data as of 1 February 2024.

### 3.1.4. Data on relative pressure related to asylum



Typically, analyses of asylum-related migration focus on the magnitude of asylum applications in absolute terms, overlooking important differences in scale between EU+ countries. In addition to the number of asylum seekers, other factors can exert additional pressure on national authorities in the context of asylum. For example, additional resources are required to provide beneficiaries of international protection a range of support services (such as housing, healthcare and education) and integration and cultural orientation programmes, as established in the recast QD, Articles 20-35. Additionally, the removal of rejected asylum seekers from the host country generate administrative and procedural costs.

This section analyses the pressure exerted on national authorities by using three categories: asylum applications per capita, positive decisions at first instance per capita (i.e. the number of beneficiaries) and negative decisions at first instance per capita (i.e. the number of rejected asylum seekers). To account for differences in the size of countries, the indicators are weighted by population size (per 1 million inhabitants). Displaced persons seeking or receiving temporary protection are excluded from the calculations.

Any mention of 'pressure' on asylum and reception systems in EU+ countries should not be construed as referring to a situation of 'migratory pressure' as defined in the forthcoming Asylum and Migration Management Regulation, whereby it implies disproportionate obligations and might lead to solidarity contributions.

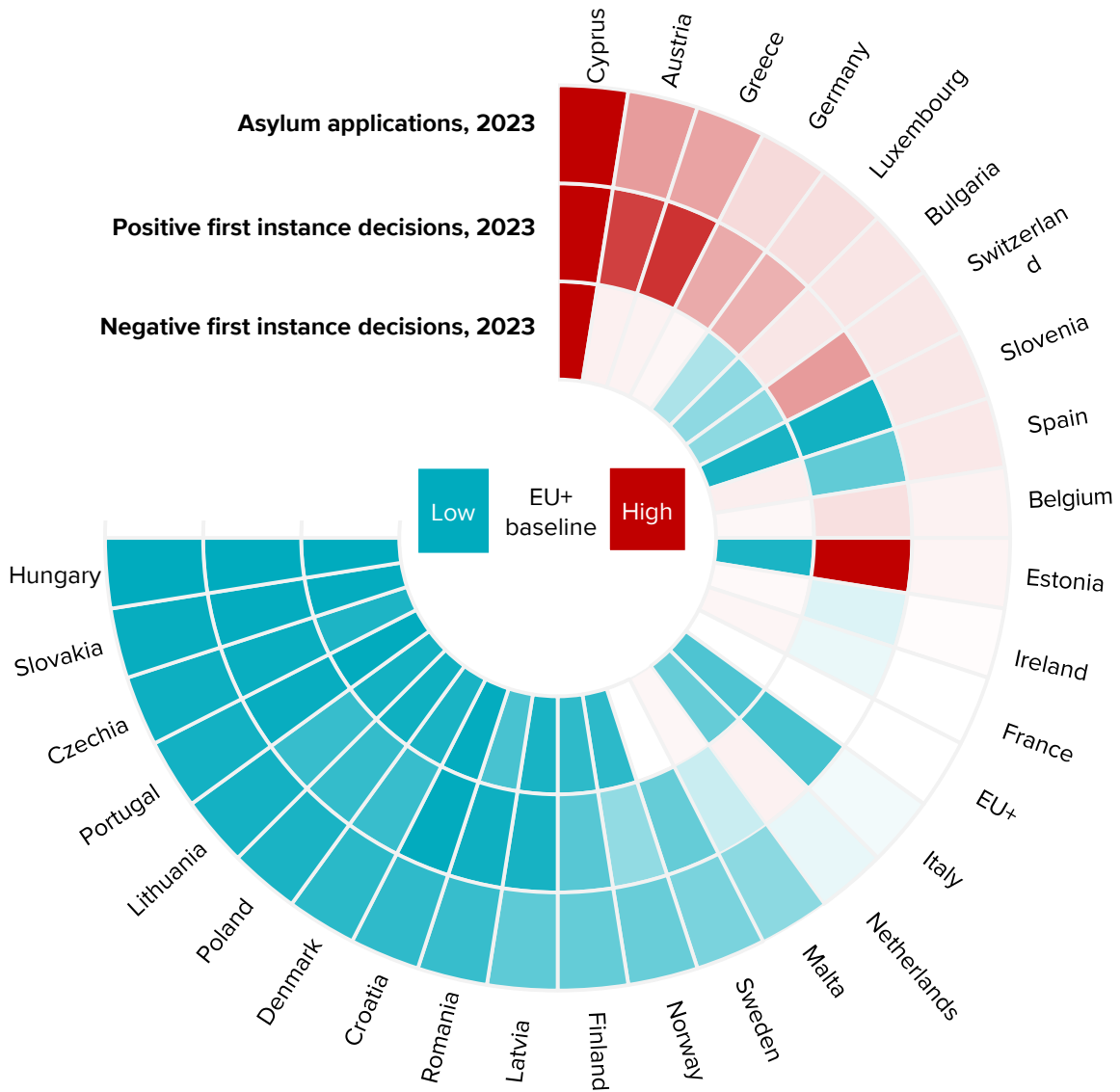
### 3.1.4.1. Asylum applications per capita

When considering asylum applications in relation to population size (see Figure 6, outer circle), on average about 2,400 applications per 1 million inhabitants were lodged across EU+ countries in 2023. In total, 12 out of 29 countries received more applications than the EU+ average.



**Cyprus, Austria and Greece received the most asylum applications per capita**

**Figure 6. Number of asylum applications and number of positive and negative first instance decisions issued per capita by EU+ country, 2023**



**Note:** Data were not available for Portugal for October-December 2023.

Source: EUAA EPS data as of 1 February 2024 and Eurostat [demo\\_gind](#) as of 22 December 2023.



Cyprus topped the list with around 13,000 applications lodged per 1 million inhabitants. While this was by far the highest value across EU+ countries, it represented roughly one-half of the level of 2022 (see *Figure 7, left panel*) and was marginally lower than in 2021. Other countries that experienced significant levels of pressure from the inflow of asylum applications included Austria (6,500 per 1 million inhabitants), Greece (6,200), Germany (4,000), Luxembourg (3,800), Bulgaria (3,500), Slovenia and Switzerland (3,400 each). Pressure from asylum applications in Austria halved compared to 2022, yet remained at the third-highest level on record, whereas the level of pressure in Greece was the highest in 4 years. In Germany, asylum applications per capita rose to a level not seen since 2016, while in Bulgaria, Estonia and Spain they rose to the highest on record.

Conversely, in 2023, in 17 out of 29 EU+ countries, asylum applications relative to population size were on par or lower than the EU+ average. Among these, pressure from asylum applications in Italy rose to the most on record, whereas in France it remained similar to 2022, which was higher than in previous years. As in 2022, Hungary, Slovakia and Czechia (in ascending order) received the least asylum applications per capita (less than 130 applications per 1 million inhabitants each). Values were also relatively low for Portugal, Lithuania and Poland (under 260 per 1 million inhabitants).

#### **3.1.4.2. Beneficiaries of international protection and rejected asylum seekers per capita**

The estimated pressure from beneficiaries of international protection (see *Figure 6, centre circle*) includes people who received decisions granting refugee status or subsidiary protection at first instance in 2023. Pressure from this category of people intensified from 2022 in most EU+ countries. The increase was the largest in Cyprus and Estonia (see *Figure 7, middle panel*) with the highest number of positive decisions per capita on record, and notable in Austria, Greece and Switzerland.

When considering the administrative costs generated from rejected asylum cases per capita (i.e. people who received negative decisions or national forms of protection at first instance in 2023) (see *Figure 6, inner circle*), Cyprus again stood out as facing the highest pressure. The country's negative decisions per capita in 2023 were the highest on record, generating pressure similar in scale to that from asylum applications received per capita.<sup>xv</sup> At lower levels, Spain, Austria and Greece (in descending order) also faced pressure from this category.

Other countries that issued a relatively high number of negative decisions per capita in 2023 included France, Germany, Malta, Belgium and Ireland. In contrast, Croatia, Hungary, Portugal and Slovakia were at the other end of the spectrum.

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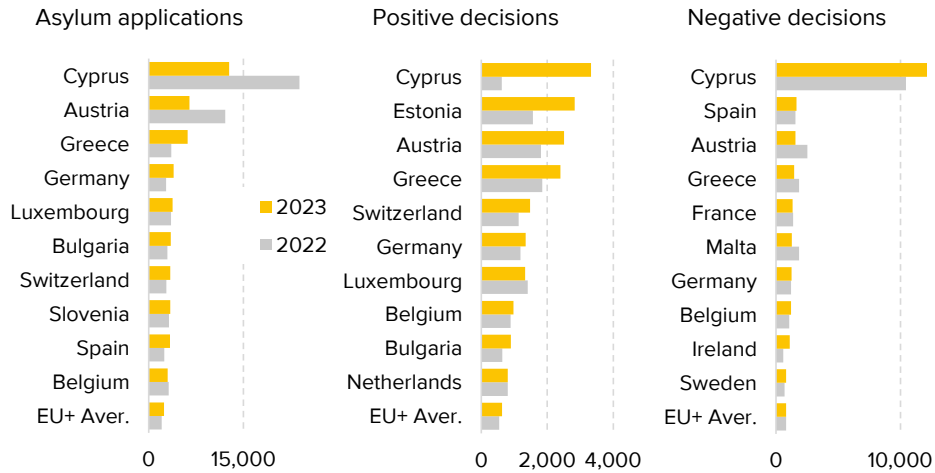
<sup>xv</sup> Repatriations of rejected asylum seekers rose to 11,000 in 2023. Info Migrants, [Cyprus turns tide on migrant arrival trend](#), 22 December 2023.





## Additional factors add pressure on asylum and reception systems

**Figure 7. Top 10 countries receiving the most asylum applications per capita, 2023 compared to 2022, and Top 10 countries issuing the most positive and negative first instance decisions per capita, 2023 compared to 2022**



Source: EUAA EPS data as of 1 February 2024 and Eurostat [demo\\_gind](#) as of 22 December 2023.

## Box 4. The principle of *non-refoulement*

The principle of *non-refoulement* is a core principle of international and EU laws to ensure that an applicant is not returned to a country where they will face persecution (recast QD, Recital 3). It constitutes an essential and crucial safeguard throughout the asylum procedure (including access to the procedure, assessment of the application on first instance, appeal and return). Accordingly, Member States must respect the principle of *non-refoulement* in accordance with their international obligations (recast QD, Article 21).



The principle of *non-refoulement* secures the right of an applicant to remain in the host country when applying for international protection, including during a Dublin procedure and while awaiting a decision by the determining authority, in accordance with the procedures at the administrative level.

It ensures that Member States must allow applicants to remain in the territory to exercise the remedy of a right to appeal and, when such a right has been exercised, pending the outcome of the appeal. It must be observed by courts and tribunals when ruling whether an applicant may remain in the territory of the Member State.

It also protects against a return or an extradition decision which may result in direct or indirect *refoulement*, in violation of international and EU obligations of that Member State. In accordance with the Geneva Convention, the respect for the *non-refoulement* principle must be assessed in the application of safe country concepts. The respect of the *non-refoulement principle* during the



international protection procedure is one of the most common elements that undergo a judicial review.

### **Indicative list of recent case law beyond CJEU rulings related to the principle of *non-refoulement***

**European Court of Human Rights [ECtHR], *W.A. and Others v Italy***: The ECtHR ruled that Italy did not breach its duty to offer effective guarantees to protect the applicant against arbitrary *refoulement* to Sudan.

**European Court of Human Rights [ECtHR], *A.E. and Others v Italy***: The ECtHR held that Italy breached Articles 3 and 5 due to inadequate conditions in which Sudanese nationals were held during their arrest and transfers, and ill treatment of one of the applicants.

#### **Access to the asylum procedure**

**Italy, Supreme Court of Cassation – Civil Section [Corte Supreme di Cassazione], *Applicant v Ministry of the Interior***: The Court of Cassation annulled a detention order of a Tunisian national who disembarked in Lampedusa and claimed an infringement of the prohibition of collective expulsions and *refoulement*. The court noted that he had not been duly provided with information on the possibility to apply for international protection.

**Italy, Civil Court [Tribunali], *Applicant v Ministry of the Interior, Ministry of Foreign Affairs and Ministry of International Cooperation***: An Afghan unaccompanied minor claimed violation of his rights on the ground of *refoulement* when he was denied access to the asylum procedure in Italy and illegally pushed back to Greece. The Tribunal of Rome condemned the denial of access to the procedure and ordered the authorities to allow the entry to apply for protection.

**Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral – FAC], *A,B,C,D,E,F,G v State Secretariat for Migration (Staatssekretariat für Migration – SEM)***: The Federal Administrative Court upheld an appeal and ordered the SEM to issue humanitarian visas to an Afghan family who applied for protection at the Swiss embassy in Pakistan. Country of origin information showed that since the beginning of 2023 Pakistani authorities had increasingly returned Afghans to Afghanistan, exposing the applicants to risks.

#### **Within the Dublin procedure**

**Ireland, High Court, *R.G. v International Protection Appeals Tribunal and Anor***: The High Court rejected an appeal by an applicant from Georgia who contested his transfer from Ireland to France due to a fear of being deported back to Georgia. The court noted that the applicant failed to present proof that he would be subjected to inhuman or degrading treatment due to his medical condition and there were inconsistencies with his experiences in France.

**Germany, Higher Administrative Court [Oberverwaltungsgerichte/Verwaltungsgerichtshöfe], *Federal Republic of Germany v Applicants***: The Higher Administrative Court of Lower Saxony confirmed a Dublin transfer of an Iraqi family to Croatia, who feared pushbacks and chain *refoulement* from Croatia. The court did not find any systemic deficiencies for Dublin transfers and reiterated the principle of mutual trust on sufficient protection within CEAS.

**Germany, Higher Administrative Court [Oberverwaltungsgerichte/Verwaltungsgerichtshöfe], *Federal Republic of Germany v Applicants***: The case concerned an Afghan family. The Higher Administrative Court of Lower Saxony decided that there were no systemic deficiencies in the asylum system in Croatia for Dublin returnees despite information on pushbacks.

**Germany, Higher Administrative Courts [Oberverwaltungsgerichte/Verwaltungsgerichtshöfe], *Applicants v Federal Republic of Germany***: The Higher Administrative Court of Baden-Württemberg decided that there was no real risk of inhuman or degrading treatment in Croatia for a Kurdish family of Iraqi nationality to be transferred in the Dublin procedure.

**Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant (II) v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)***: The District Court of The Hague seated in Middelburg rejected the appeal against a Dublin transfer of a Syrian national, stating that there was insufficient evidence to prove that Dublin returnees were at risk of pushbacks in Romania.

**Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant v State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)***: The Court of The Hague seated in Roermond rejected an appeal against a Dublin transfer to Denmark and stated that, despite different protection policies towards





Syrian applicants, the applicant can present arguments in the asylum procedure and complain before the ECtHR in the case of deportation.

**Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant v State Secretary for Justice and Security [Staatssecretaris van Justitie en Veiligheid]*:** The Court of The Hague seated in Arnhem rejected an appeal of a Syrian national with two minor children against a Dublin transfer to Denmark. The court stated that the principle of interstate trust could be relied upon and the applicant had not proven that there was a risk of indirect *refoulement*.

**Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicants v State Secretary for Justice and Security [Staatssecretaris van Justitie en Veiligheid]*:** The District Court of The Hague found that there was insufficient evidence to claim that there was a real risk of indirect *refoulement* if the applicant was transferred to France. However, the court annulled the Dublin transfer decision because there was a real risk for the applicant and her 9-month-old baby to become homeless upon a return to France.

**Austria, Constitutional Court [Verfassungsgerichtshof Österreich], *Applicant v Federal Office for Immigration and Asylum (BFA)*:** The court annulled a Dublin transfer to Bulgaria, stating that the lower court had failed to sufficiently investigate the reception situation and the risk of chain *refoulement* from Bulgaria.

### **Within the return procedure**

**Germany, Higher Administrative Court [Oberverwaltungsgerichte/Verwaltungsgerichtshöfe], *Applicant v Federal Republic of Germany*:** The Higher Administrative Court of Lower Saxony decided that, although the country information on Ethiopia conveyed an alarming humanitarian situation, the applicant failed to substantiate that any returnee would be exposed to a real risk of a violation of the ECHR, Article 3 and the requirements for a deportation ban for humanitarian reasons were not met. The court therefore rejected the leave to appeal as inadmissible and unfounded.

**Germany, Higher Administrative Courts (Oberverwaltungsgerichte/Verwaltungsgerichtshöfe), *Applicant v Federal Republic of Germany*:** The Higher Administrative Court of Mecklenburg-Western-Pomerania ruled that an Afghan applicant of Hazara ethnicity and of Shiite-Muslim faith would not be at risk of treatment contrary to the ECHR, Article 3 if returned to Afghanistan.

**Germany, Higher Administrative Courts [Oberverwaltungsgerichte/Verwaltungsgerichtshöfe], *Applicant v Regional Council*:** The Higher Administrative Court of Baden-Württemberg decided that an Iranian who was convicted of a particularly serious crime had his refugee status revoked by BAMF, which noted that there was a ban on deportation of supporters of PDKI to Iran. The court stated that a deportation order was illegal if it is clear from the outset that enforcing the obligation to leave the country is impossible for an unforeseeable period of time.

**Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Secretary of State for Justice and Security [Staatssecretaris van Justitie en Veiligheid] v Applicant*:** The Council of State decided that the possibilities of departure to Venezuela played no role on the applicability of an alternative protection in Venezuela and the applicant, a Venezuelan and Syrian national, failed to substantiate that she would be exposed to a real risk of persecution or that a return would amount to a violation of the ECHR, Article 3.

**Austria, Federal Administrative Court [Bundesverwaltungsgericht – BVwG], *Applicant v Federal Office for Immigration and Asylum (BFA)*:** The court annulled the BFA's decision and granted subsidiary protection to an applicant with Hodgkin's disease who would face a real risk of serious, rapid and irreversible deterioration of his health if returned to India.

**Austria, Supreme Administrative Court [Verwaltungsgerichtshof – VwGH], *Austrian Federal Office for Immigration and Asylum (BFA) v Applicant*:** The court decided that a revocation of refugee or subsidiary protection should not be combined with a return decision if it was clear that the removal was not permitted due to the prohibition of *refoulement*.

**Poland, Supreme Administrative Court [Naczelny Sąd Administracyjny - NSA], *A.Y. v Commander of the Border Guard*:** The court ruled that the principle of *non-refoulement* must be considered when issuing a return decision to people apprehended after illegally crossing the border, regardless of whether they have applied for asylum.

**Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicants v State Secretary for Justice and Security [Staatssecretaris van Justitie en Veiligheid]*:** The court overturned a negative decision, stating that the State Secretary has the duty to dispel doubts raised by the Iranian applicant that he would face a risk contrary to the ECHR, Article 3 if returned.





**Cyprus, Administrative Court for International Protection [Διοικητικό Δικαστήριο Διεθνούς Προστασίας], *E.A.S.H. v Republic of Cyprus through Senior Director of the Department of Population and Immigration Records, Ministry of the Interior***: The case concerned a Palestinian applicant who was granted a supplementary protection status in Cyprus, but he subsequently committed crimes. He was detained and issued a deportation order to an unspecified country. The court annulled the return decision for procedural deficiencies and for lacking a specific country in order to examine the risk of *refoulement*.

**Italy, Civil Court [Tribunali], *Applicant v Ministry of the Interior (Ministero dell'interno)***: The Tribunal of Salerno granted refugee status in a subsequent application to an applicant from Senegal who claimed persecution based on his sexual orientation if returned, based on the Senegalese Criminal Code that punishes such acts.

**Latvia, District Administrative Court [Administratīvā rajona tiesa], *Applicant v Office of Citizenship and Migration Affairs***: The court annulled an expulsion order for a homosexual applicant from Iran whose subsequent application was accepted for examination on substance.

Read more in the [EUAA Case Law Database](#).



## Section 3.2. The Dublin procedure



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

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

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

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

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

In 2023, the European Commission and EU+ countries focused on enhancing the effectiveness of the Dublin III Regulation. The Roadmap on Improving the Implementation of Transfers under the Dublin III Regulation (the Dublin roadmap) was endorsed by EU+ countries at the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) meeting on 29 November 2022. In addition, in March 2023, seven countries – Austria, Belgium, Denmark, France, Germany, the Netherlands and Switzerland – called for strengthened cooperation on the Dublin procedure and reaffirmed their commitment to reform the Dublin system through the Asylum and Migration Management Regulation and the Asylum Procedure Regulation.<sup>318</sup>

To support efforts linked to the roadmap, the EUAA revised guidance on the implementation of Dublin transfers<sup>319</sup> and developed a number of information tools designed to increase applicants trust in the procedure. Working in collaboration with the European Commission, the EUAA created a factsheet template to allow Member States to report on the situation in their countries related to information on procedural elements and the rights of applicants subject to a Dublin transfer.<sup>320</sup>





Countries started to apply the practical solutions defined in the roadmap to overcome the main obstacles in the Dublin procedure in 2023. These included, for example, recruiting and training staff, revising workflows and standard operating procedures, and embarking on or continuing with digitalisation initiatives.

The different measures yielded promising results, improving communication among Dublin units, overcoming obstacles in the implementation of Dublin transfers, increasing resources to allow for improved Dublin procedures and strengthening compliance with EU law and court rulings.<sup>321</sup> The European Commission presented a number of good practices from EU+ countries in its working document published at the end of 2023.<sup>322</sup>

Many Dublin units remained under pressure in 2023, due to the increasing number of applicants. Under its operational plans, the EUAA provided support to Dublin units in Bulgaria, Cyprus, Greece, Italy, Malta, Romania and Slovenia. The impact of the invasion of Ukraine on Dublin units decreased compared to 2022 but continued to affect the tasks and workload in many units.

The EUAA published new recommendations on family reunification within the Dublin procedure.

As discussions on solidarity and responsibility-sharing continued at the EU level (see *Section 2*), ECRE provided an overview of the debates related to solidarity over the past 2 years and examined different alternatives to the current system.<sup>323</sup>

As in previous years, the CJEU delivered several preliminary rulings on the interpretation of the Dublin III Regulation. Many EU+ countries noted that the implementation of some of these judgments – for example, [Joined Cases C-323/21, C-324/21 and C-325/21](#) – raised additional practical questions, and discussions within the European Commission's Contact Committee or the EUAA's networks provided useful platforms to find solutions to these challenges.

### 3.2.1. Initiatives for more efficient implementation

Following the endorsement of the Dublin roadmap in November 2022, Member States launched several initiatives to increase the efficiency of their Dublin units and procedures. Some good practices were summarised in a European Commission working document, which was published in November 2023.<sup>324</sup>

#### **Institutional structure and recruitment initiatives**

Following the increased workload of Dublin units since 2022, the recruitment and training of new staff continued in several countries in 2023 to increase capacity– for example in Austria, France, Germany, the Netherlands, Norway and Poland. A shortage of staff still remained an important issue in Austria, Croatia, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Romania and Slovakia. To address this issue, a new initiative was launched in Luxembourg to train more staff on conducting Dublin interviews. In Norway, staff members with expertise on the Dublin procedure from other units provided support in delivering training to new colleagues. Case officers from other services provided additional support in Slovenia for the implementation of the Dublin III Regulation, after following EUAA training. Capacities at the airport were increased in Austria to accommodate more incoming transfers from other EU+ countries. Swedish authorities were anticipating an increase in the number of Dublin





cases and recruited new staff accordingly, but in the end the case load substantially decreased. Newly-recruited employees were offered other positions within the Swedish Migration Agency (SMA) in an effort to keep their knowledge and expertise should the number of Dublin cases begin to increase again.

As the number of staff substantially increased throughout 2022, the Belgian Immigration Office's Dublin unit was restructured in 2023, creating additional sub-divisions and further dividing tasks. The Greek Dublin unit created a dedicated policy sub-division, tasked with the provision of expertise and advice on the interpretation of the relevant legal framework and suggesting improvements to the procedure. The Dublin unit in Luxembourg was also restructured, and responsibilities and tasks were redistributed. Re-organisation within the Luxembourgish police allowed for more efficient planning and implementation of transfers. In Bulgaria, staff members in the Dublin unit were assigned specific tasks instead of each staff member following up on all aspects of the Dublin procedure in general.

### **Changes for more efficient administrative practices**

Member States revised their working methodologies for improved efficiency. The Greek Dublin unit undertook a mapping of internal workflows and standard operating procedures in order to establish a standardised workflow, for example for the training of new staff. To this end, the EUAA continued to provide support for the referral of Dublin cases from the Reception and Identification Service (RIS) to the Greek Dublin unit.

The Cypriot Dublin unit, with the support of the EUAA, also worked on a workflow to ensure that files reach the Dublin unit from the Pournara reception centre in a timely manner. It was identified that a digitalised system for case management was needed to achieve a significant improvement in the workflow.

The Dublin unit in Germany adapted to the increased workload by adjusting its workflows and prioritising certain tasks and cases. In Finland, the Dublin unit, in cooperation with the police and the border guard, analysed the European Commission's Roadmap and the EUAA's updated recommendations. As a result, its instructions and practical tools were updated. The French Dublin unit produced new guidelines for booking flights and a tool to have a better overview of the different restrictions, in an effort to support local Dublin units and the border police in implementing transfer decisions.

Dutch authorities set up a pilot project whereby a special team processes the cases of applicants with a certain profile, including those with disruptive behaviour in the Dublin procedure. The IND processes their cases in an accelerated manner and the Repatriation and Departure Service (DT&V) prioritises their Dublin transfers.<sup>325</sup>

Belgian authorities noted the significant impact of the comprehensive measures introduced in 2022, including a new reception facility accommodating some applicants in the Dublin procedure,<sup>326</sup> which have reduced the length of the Dublin procedure and increased the implementation rate of transfers.

In order to limit absconding during the Dublin procedure, the Law on International and Temporary Protection was amended in Luxembourg. It includes a list of circumstances when the authorities can presume that there is a significant risk of absconding when deciding on the detention of an applicant based on the rules of the Dublin III Regulation.<sup>327</sup>





## Digitalisation

Several countries continued to explore the potential of digitalisation in making the Dublin procedure more efficient. The Bulgarian Dublin unit participated in a study visit to Greece, facilitated by the EUAA, to exchange with Greek counterparts about their experiences in recently introducing a set of tools and digital systems for case management for the implementation of the Dublin III Regulation. The Greek authorities were in the process of transitioning to the new Alkyoni II digital case management system.

The German Dublin unit was working on an IT project which aims to support the workflow of outgoing requests and transfer procedures. In Italy, the Dublin unit started working on an IT solution to improve the workflow of outgoing transfers and transfer decision appeals, which could assist with the clearing of the current backlog. The Estonian Dublin unit planned to develop a case management system in 2024. The Irish Dublin unit updated security certificates and the IT infrastructure to maintain DubliNet access.

The Dublin unit in Spain was faced with temporary issues in accessing databases of the national police at the beginning of 2023, causing delays in their case load. However, a new asylum database was deployed in 2023, which is also applicable for Dublin cases, and in 2024 the unit plans to adapt the Dublin forms for it.

## 3.2.2. Practical implementation

### 3.2.2.1. Impact of the invasion of Ukraine

Dublin units continued to be affected by Russia's invasion of Ukraine in various manners, although the impact diminished slightly compared to 2022. In a few countries, such as Bulgaria and Luxembourg, staff from the Dublin unit continued to be re-assigned to help with the registration of persons requesting temporary protection, leading to an increased workload for other staff in the Dublin unit. Dublin unit staff in Luxembourg were also involved in preparing and notifying about the renewal of temporary protection certificates.

In Spain, Dublin unit staff were tasked with processing and managing temporary protection, as well as relocations, while the number of staff remained the same. Slovak Dublin unit employees assisted displaced persons fleeing from Ukraine in registration centres. The Norwegian Dublin unit was faced with an increased workload involving Ukrainian nationals throughout 2023.

### 3.2.2.2. Cooperation and communication among Member States

Improving communication between Member States was one of the objectives of the Dublin roadmap, and several countries undertook initiatives with this aim in 2023. Greece initiated a pilot project with Germany for the implementation of transfers.

Austria and Romania concluded a bilateral agreement in October 2023 to facilitate cooperation between the two countries in the implementation of the Dublin III Regulation.

Cooperation in the implementation of the Dublin III Regulation was also one of the focus topics during the visit of a delegation from the Austrian Federal Office for Immigration and the Ministry of the Interior to the Bulgarian State Agency for Refugees (SAR).<sup>328</sup>





Throughout 2023, authorities in Austria and Hungary reported that they were often faced with situations where transfers were announced to them by sending EU+ countries but were not implemented in the end, and the cancellations were sent late or not at all. These situations created a high administrative workload, especially in Austria.

### 3.2.2.3. Interpreting definitions in the Dublin III Regulation

The Court of the Hague referred questions to the CJEU for a preliminary ruling in 2021, inquiring whether the interests of an unborn child should be taken into account when deciding on the Member State responsible for an asylum application.<sup>329</sup> The CJEU **found** that the dependency link mentioned under the Dublin III Regulation, Article 16(1) does not cover the link between an applicant for international protection and their spouse who is legally resident in the Member State where the application was lodged, nor the link between the unborn child and the applicant's spouse (the father of the child) (see *Sections 2.5 and 4.6*).

Ruling on another referral from the Dutch Council of State,<sup>330</sup> the CJEU **held** that diplomatic cards issued under the Vienna Convention on Diplomatic Relations are regarded as residence documents under the Dublin III Regulation. The court underlined that the issuance of a diplomatic card reflects the Member State's acceptance of a person's stay on its territory. In addition, the regulation does not exclude persons with a legal status governed by the Vienna Convention from the scope of its application (see *Section 2.5*).

The Polish Supreme Court **examined** whether the provisional document issued to an applicant by Italian authorities in connection with an international protection procedure could be regarded as a residence document within the Dublin III Regulation. It concluded that the document was issued to prove an application for international protection, and thus, it was not a residence permit.

### 3.2.2.4. Time limits

As in previous years, in 2023, courts – both the CJEU and national instances – continued to deliberate on various aspects related to the calculation of time limits in the Dublin procedure.

A legislative proposal related to time limits was put forth only in Belgium, where the Council of Ministers approved a reform package on a fair and controlled migration model which would codify in national law that the Immigration Office may extend the transfer period from 6 to 12 months when the transfer cannot take place due to detention in a penal institution, and to 18 months when the person has absconded.<sup>331</sup>

The CJEU **pronounced** a preliminary ruling at the request of the Dutch Council of State, underlining that national courts hearing a case at second instance may adopt an interim measure which allows authorities not to take a new decision on the case pending the outcome of the appeal and suspends the transfer time limit until that outcome. However, this is only possible if the implementation of the transfer decision was already suspended at the first appeal instance, in line with the Dublin III Regulation.

In an accompanying case, the CJEU **ruled** that national legislation may allow the implementation of a transfer decision to be suspended when the applicant requested the review of a rejection of a residence permit on grounds of being a victim of human trafficking, but it may not provide for the suspension or the interruption of the transfer time limit (see *Section 2.5*). The Dutch Council of State delivered its **judgment** based on these rulings and confirmed that the transfer time limit had expired.





The CJEU also **ruled** on a preliminary ruling submitted by the Dutch Council of State in 2021 on the application of the informal ‘chain rule’ to determine the Member State responsible in cases when an applicant applied for international protection in more than two Member States<sup>332</sup> (see *Section 2.5*). Several Member States have been faced with diverse challenges in implementing the judgment, for example, for cases when an acceptance had already been received, with the calculation of time limits, and the need to inform other Member States of the shift of responsibility from one Member State to another due to the expiration of the transfer time limit.

The Danish Refugee Appeals Board **referred** a question to the CJEU for a preliminary ruling, inquiring about the start of the 6-month transfer time limit in cases when a transfer decision was referred back for reconsideration to the national authority by the appeal instance and the authority took another transfer decision after the initial 6-month period expired.

The Dutch Council of State changed its previous practice and **decided** that the starting point for calculating the time limit for a Dublin procedure is when the IND provides the cover letter (*loopbrief*) during a pre-registration phase, as it indicates a wish to apply for international protection and the national authority is informed.

Court decisions related to time limits in the Dublin procedure also impacted other areas of international protection. The Dutch first instance administrative court in Roermond **considered** a case when the transfer time limit had expired, and the applicants were required to submit a new application for international protection and then were granted protection with effect only from the date of the subsequent application and not the first one. On appeal, the Dutch Council of State **ruled** that the IND should not require the applicant to submit a second application for international protection after the responsibility shift. The former application should be considered not to have been definitively closed. If the application is approved and the applicant is granted international protection, the starting date of the resulting permit should also be the date of this application.

In Germany, the Regional Administrative Court of Gelsenkirchen **underlined** that an applicant must still be absconding, with the authorities confirming that their whereabouts are unknown, at the time when the authorities notify another Member State about the extension of the transfer time limit. In this case, the applicant was not found in his room but was undoubtedly present in the reception facility when the notification about the extension was sent. The Regional Administrative Court of Dresden **held** that absconding required more than a brief, temporary absence.

The Regional Administrative Court in Giessen **ruled** on the impact of the expiry of the transfer time limit on the responsibility to pay the costs of the proceedings in an appeal. The applicant unsuccessfully appealed the transfer decision, but due to the fact that BAMF was solely responsible for the expiry of the time limit, it became also responsible to cover the cost of the proceedings. The court found that BAMF had the duty to oversee the implementation of the transfer, even though it was not executing it. In addition, the applicant could not have lawfully entered the Member State responsible without the involvement of German authorities.

The Finnish Supreme Administrative Court **concluded** that the suspensive effect of an appeal related to the deadline for a Dublin transfer is specifically linked to an appeal of a transfer decision. Thus, an individual complaint before a UN body cannot be considered as an appeal against a transfer decision and the time limit is not suspended.



### 3.2.2.5. Procedural safeguards and remedies

The CJEU [joined](#) five requests for a preliminary ruling from Italian courts and clarified that national authorities must provide information according to the modalities set out in the Dublin III Regulation and must hold a personal interview, both for first-time and subsequent applications. A failure to do so may lead to the annulment of the transfer decision in certain circumstances.

Throughout 2023, EU+ countries continued to seek suitable practical solutions to implement the CJEU's judgment in [C-19/21](#) from 2022. Accordingly, an unaccompanied minor should be granted the right to appeal if the requested Member State refuses to take charge of examining the application when the request was sent on the grounds of Article 8(2) (reuniting an unaccompanied minor with a relative residing in another Member State).

The assessment of an applicant's medical conditions and trauma gave rise to several court decisions across EU+ countries when deliberating on the possibility to implement a transfer.<sup>333</sup>

## 3.2.3. Decisions on outgoing Dublin requests



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

In 2023, 176,000 decisions were issued in response to outgoing Dublin requests,<sup>xvi</sup> according to provisional data which are regularly exchanged between the EUAA and 29 EU+ countries.<sup>xvii</sup> This represented an 8% increase compared to 2022, resulting in the highest annual total since at least 2016. The number of monthly Dublin decisions was persistently above the 14,000 mark between July and November 2023 as a consequence of the rise in asylum applications in EU+ countries during the same period.

Overall, the annual ratio of decisions received on Dublin requests to asylum applications lodged was 15%, similar to 2022. Although some decisions on Dublin requests concerned family reunion cases, the stable ratio of decisions to applications suggests that in 2023 an increased number of asylum seekers moved from the first country of arrival to another to lodge a new application (referred to as secondary movements), impacting asylum caseloads overall.

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

<sup>xvii</sup> EPS data were not available for Czechia from March-December 2023, for Greece from July-December 2023 and for Portugal from September-December 2023.

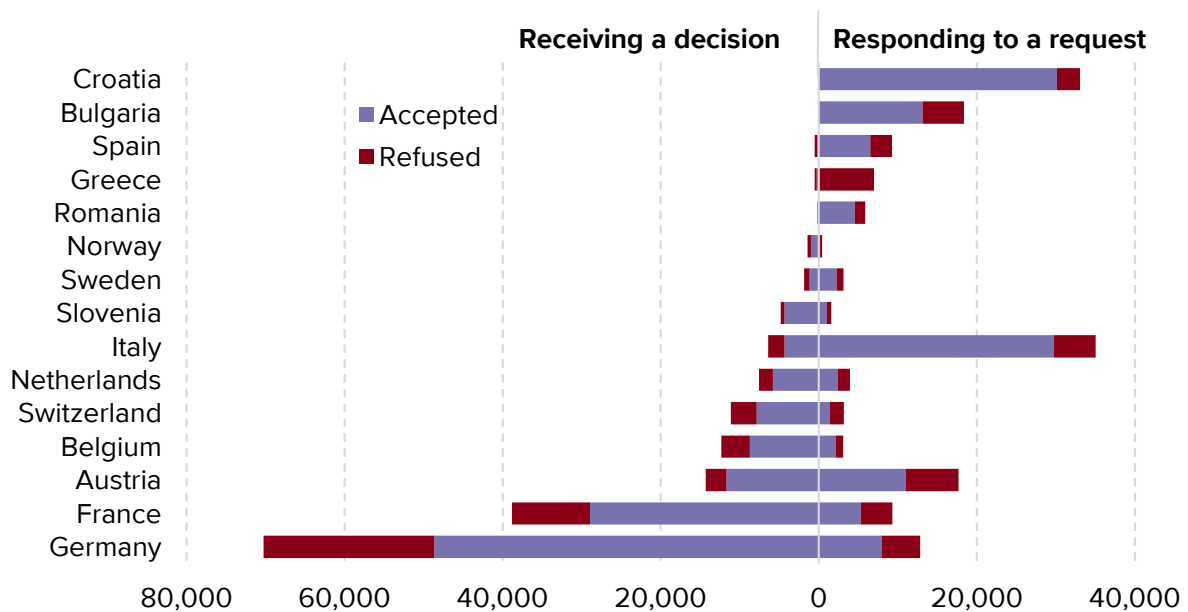
At the country level, Germany and France continued to receive the most decisions in response to their requests (see the left side of Figure 8), jointly accounting for around three-fifths of the EU+ total. Germany received one-sixth more responses than in 2022, whereas responses received by France remained stable compared to the previous year. Several other countries received more responses in 2023, with the most notable relative increases in Cyprus, Switzerland, Slovenia, Norway, Luxembourg and Italy (in descending order).<sup>xviii</sup> In contrast, some countries received fewer responses in absolute terms, most notably Belgium and Croatia.

As in previous years, Italy issued the most decisions overall on Dublin requests. However, for the first time on record, Croatia emerged as the second country issuing the most decisions (see the right side of Figure 8). While Italy issued one-third more decisions than in 2022, reaching the highest level since 2018, decisions issued by Croatia almost tripled compared to the previous year, rising to the most on record.<sup>xix</sup> Decisions issued by Bulgaria, which had risen to an all-time high in 2022, remained stable at an exceptionally high level, positioning Bulgaria as the country issuing the third-most Dublin decisions in 2023.



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

**Figure 8. Decisions on outgoing Dublin requests by selected countries receiving a decision (left) and responding to a request (right), 2023**



**Note:** The selection of countries includes the Top 10 countries receiving decisions and the Top 10 countries responding to requests. The figure does not include decisions issued and received in 2023 with a reported 'unknown' legal basis, which accounted for less than 1% of all decisions received and issued. For each Member State, received decisions are self-reported, while reported replies are based on data from receiving countries. EPS data were not available for Czechia from March-December 2023, for Greece from July-December 2023 and for Portugal from September-December 2023.

Source: EUAA EPS data as of 1 February 2024.

<sup>xviii</sup> Only countries which received at least 200 decisions in 2023 were considered.

<sup>xix</sup> Since the start of the EPS data exchange in 2015.

At lower levels, important relative increases also took place in Latvia, Slovakia, Portugal and Belgium (in descending order).<sup>xx</sup> Latvia issued over twice as many decisions as in 2022, decisions by Slovakia increased by two-thirds, and decisions by Portugal and Belgium increased by around one-third and one-sixth, respectively. In contrast, fewer decisions were issued by several countries, including Greece,<sup>xxi</sup> Spain, Austria, Poland, Lithuania, Slovenia and Hungary (ordered from largest to smallest absolute decrease).

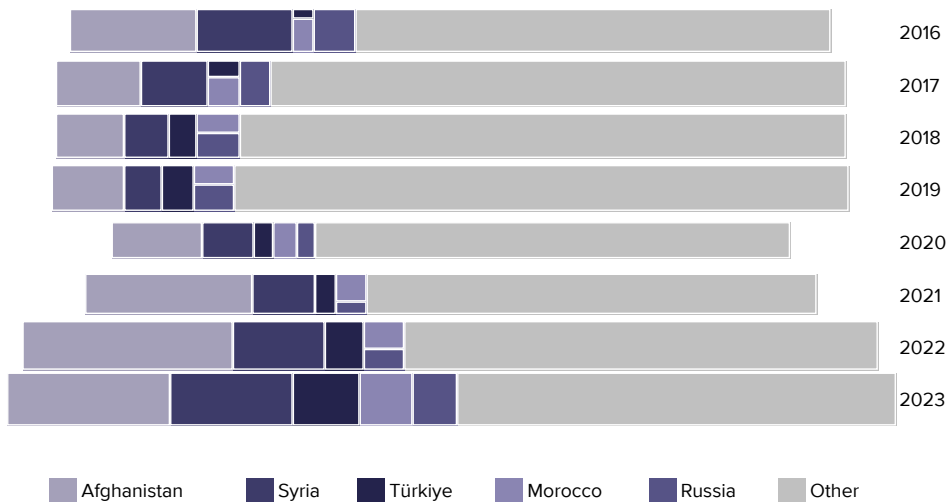
### 3.2.3.1. Citizenship of applicants in the Dublin procedure

Despite declining by around one-fifth from 2022, Afghan citizens continued to receive the most decisions on Dublin requests in 2023, accounting for one-fifth of all decisions in EU+ countries (see Figure 9).<sup>xxii</sup> Decisions for nationals of Syria followed, increasing by two-fifths from the previous year and reaching, yet again, an unprecedented level.

A significant rise in decisions on Dublin cases took place for other nationalities as well. Decisions for Turkish nationals increased by four-fifths from the previous year, and for Moroccans and Russians, the number more than doubled. For all three nationalities, this was the most on record.

One-fifth of decisions on Dublin requests concerned Afghan citizens

**Figure 9. Top 5 nationalities receiving decisions on Dublin requests, 2016–2023**



**Note:** The size of the bars is proportional to the number of decisions issued during the year. EPS data were not available for Czechia from March-December 2023, for Greece from July-December 2023 and for Portugal from September-December 2023. Source: EUAA EPS data as of 1 February 2024.

<sup>xx</sup> Only countries which received at least 500 decisions in 2023 were considered. Data for Portugal were missing for October–December 2023; therefore the comparison is limited to the first 9 months of the year.

<sup>xxi</sup> Data for Greece were missing from July-December 2023; therefore the comparison is limited to the first 6 months of the year.

<sup>xxii</sup> Citizenship was not reported in <1% of decisions. Until the third quarter of 2022, France did not report the legal basis and the citizenship of applicants who received decisions. This explains the lower level of unreported citizenships at the EU+ level compared to 2022 (6%) and may account for some of the increases observed for several nationalities.



At lower levels, all-time highs in decisions were recorded for citizens of Algeria, Guinea, Bangladesh, Côte d'Ivoire, Tunisia, the Democratic Republic of the Congo, Burundi, Egypt, India, Cameroon, Angola and Sri Lanka (in descending order).<sup>xxiii</sup> In contrast, decisions for Pakistanis declined from 2022 by one-fifth, for Iraqis by one-half and for Moldovans by around two-fifths.

### 3.2.3.2. Acceptance rate for Dublin requests

The acceptance rate for decisions in response to a Dublin request measures the share of decisions accepting responsibility (explicitly or implicitly) for an application out of all decisions issued. The overall acceptance rate in 2023 was 72% (12 percentage points higher than in 2022), increasing to the most since 2017.

At the country level, the acceptance rate remained stable or increased from the previous year in most countries. The most notable increases were in Poland (+23 percentage points), Czechia (+16 percentage points) and Romania (+13 percentage points).<sup>xxiv</sup> Acceptance rates varied from over 91% in Croatia and Lithuania to 2% in Greece.

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



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

A Member State may send a take back request (Articles 18(1b-d) and 20(5)) asking another Member State to take responsibility for an applicant who applied for international protection within the reporting country but had already applied in the requested Member State or because the requested Member State previously accepted responsibility through a take charge request.

About 69% of all decisions (with a reported legal basis) issued in EU+ countries in 2023 were in relation to take back requests.<sup>xxv</sup> The share of decisions on take back requests declined for 2 consecutive years and was 8 percentage points lower than the peak level in 2021. However, marked differences persisted at the country level. In particular, the share of decisions received on take back requests was relatively low for Cyprus (3%) and Greece (7%) and above the EU+ average for Slovenia (96%), Italy and Ireland (both 89%).<sup>xxvi</sup>

<sup>xxiii</sup> Only citizenships which received at least 1,000 decisions in 2023 were considered.

<sup>xxiv</sup> Only countries which responded to at least 500 requests in 2022 were considered.

<sup>xxv</sup> Until September 2023, EUAA EPS data did not contain information on the specific article of the Dublin III Regulation which was used as a basis for sending a request but only distinguished between responses to take charge and take back requests.

<sup>xxvi</sup> Only countries which received at least 500 Dublin decisions in 2023 on take back and take charge requests altogether were considered.

The acceptance rate for take back requests in 2023 was 69%, 12 percentage points higher than in 2022 and at the highest level in 6 years. The increase in the acceptance rate for take back requests was partly driven by more positive decisions issued by Croatia (four times as many as in 2022) and fewer negative decisions by Greece.

The EU+ share of accepted take charge requests stood at 80% (up by 13 percentage points from 2022 and the highest since 2017). This increase was due to many more positive decisions by Italy (almost double from 2022) and Croatia.

### 3.2.4. Use of the sovereignty clause



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

In the context of the sovereignty clause, a partner country is the country to which a take charge or take back request could have been sent before invoking the clause.

Article 17(1) was invoked about 7,500 times in 2023, increasing by three-fifths from 2022 to the most in 5 years. It was applied most frequently by Belgium, followed at a distance by Germany, France, the Netherlands and Switzerland (in descending order). The discretionary clause was used mostly for Afghan, Burundian and Palestinian citizens in Belgium; Turks, Afghans and Syrians in Germany; Guineans and Afghans in France; Syrians and Iraqis in the Netherlands; and Turks in Switzerland.

Italy and Greece were identified as the main partner countries to which requests could have been sent, mostly in relation to Eritrean and Guinean applicants in the former and Turks and Syrians in the latter. They were followed by Croatia, for which the discretionary clause was evoked mostly in relation to Burundian applicants. Other commonly identified partner countries included France, Spain, Austria, Germany and Bulgaria (in descending order).

### 3.2.5. Assessing the implementation of transfers to specific countries

#### 3.2.5.1. Differences in protection policies

The Dutch Council of State [overruled](#) its series of judgments from 2022,<sup>334</sup> noting that the policy of Danish authorities had changed. There were no longer obvious and fundamental differences between the two countries' protection policies. First instance administrative courts in the Netherlands followed this reasoning when assessing transfers to Denmark.<sup>335</sup>

The Finnish Supreme Court [referred](#) questions for a preliminary ruling prompted by the case of a Syrian applicant who had been given subsidiary protection in Denmark, which was not extended after a change in the policy of the Danish authority.



### 3.2.5.2. Access to the asylum procedure and *non-refoulement*

In five joined cases in Italy, the CJEU underlined that national courts in the requesting Member State can assess whether there are systemic flaws in the asylum and reception systems in the requested Member State, but in the absence of such flaws, they cannot determine the risks of indirect *refoulement*. It is for the courts of the requested Member State to assess and determine this risk.

The situation at the Croatian border remained the topic of appeals in many EU+ countries in the context of the Dublin procedure. For example, the Danish Refugee Appeals Board **confirmed** transfers to Croatia, on the condition that Croatian authorities provide guarantees that the applicants would have access to the asylum procedure.

The Slovenian Supreme Court rejected several appeals against decisions to transfer an applicant to Croatia, noting that general claims about shortcomings in the asylum procedure and the reception system would not substantiate that there was an individual risk for an applicant who is transferred to Croatia under the Dublin III Regulation.<sup>336</sup> The German Higher Administrative Court of Lower Saxony **came** to a similar conclusion, noting that there was not sufficient evidence of systemic deficiencies specifically for applicants transferred to Croatia under the Dublin III Regulation.

The Swiss Federal Administrative Court cited jurisprudence from Germany and followed comparable argumentation when delivering its **reference judgment** on transfers to Croatia. Other cases related to transfers to Croatia followed in line throughout 2023.<sup>337</sup>

The Dutch Regional Court in Amsterdam **annulled** a transfer since the national authorities did not investigate sufficiently the situation of applicants transferred to Croatia under the Dublin procedure. The court also reasoned that, the fact that reports did not mention that migrants who are pushed back may also be Dublin returnees, did not mean that they were not. The Dutch Regional Court in Roermond **ordered** an interim measure not to implement a Dublin transfer to Croatia, while awaiting the CJEU **ruling** on the indivisibility of mutual trust in the Dublin procedure. In September 2023, the Council of State noted the letter sent by the Croatian authorities to the Dutch State Secretary and underlined that recent reports from various organisations did not show that the testimonials and issues concerned Dublin returnees. Thus, it **ruled** that the possible shortcomings in the asylum system in Croatia do not mean that all Dublin returnees in general or the applicant in this case specifically would face a real risk of treatment in violation of the EU Charter, Article 4 and the ECHR, Article 3 in transferred.

The issue of Dublin transfers from Slovenia to Croatia featured at the centre of Slovenian civil society organisations' interests, with Amnesty International Slovenia taking the lead in demanding to stop the transfers several times throughout 2023.<sup>338</sup> In its reply, the Slovenian Ministry of the Interior provided information which suggested that applicants were not systematically denied access to international protection and it referred to the court's evolving jurisprudence.<sup>339</sup>

While it did not make an assessment of the situation in Slovenia, the Higher Administrative Court of Lower Saxony underlined that a difference should be made between applicants transferred back under the Dublin III Regulation and applicants taken over informally between Austria or Italy and Slovenia. It **found** that the lower court incorrectly assessed that applicants transferred to Slovenia would automatically be at risk of a chain return from Slovenia to Croatia, and finally to Bosnia and Herzegovina, without the possibility to apply for international protection. The Slovenian authorities agreed to take back the applicant.



In March 2023, the Dutch Regional Court in Arnhem and the Austrian Constitutional Court both ruled that national authorities failed to sufficiently investigate the risk of chain *refoulement* for applicants transferred to Bulgaria, as well as their reception circumstances.<sup>340</sup> But in August 2023, the Dutch Council of State **confirmed** a transfer decision, finding enough information to substantiate that instances of indirect pushbacks happened only at sea, and thus, the situation of those asylum seekers could not be compared to that of applicants transferred back under the Dublin procedure. The Belgian Council for Alien Law Litigation (CALL) **confirmed** the transfer decision to Bulgaria in September 2023, underlining that the CGRS duly reasoned and analysed the case before concluding that there would not be a risk of violation of the ECHR, Article 3 for the applicant.

The Dutch Regional Court in Middelburg **did not find** sufficient evidence that Dublin returnees were at risk of pushbacks in Romania. The Regional Court in Rotterdam **confirmed** a transfer to Spain as the applicant did not demonstrate that he would not have access to the asylum procedure or reception conditions. The Regional Court in Den Bosch **suspended** the implementation of a transfer to Lithuania, noting that it was questionable whether pushbacks were still conducted and whether they were also directed at Dublin returnees. The Belgian CALL **concluded** that the CGRS did not diligently examine the allegations related to a risk of violating the ECHR, Article 3 for an applicant who contested his transfer to Lithuania due to his experience when trying to submit an asylum application there and the poor conditions in reception.

The Dutch Council of State held that sufficient grounds did not exist to conclude that Romania systematically applied the readmission agreement with Serbia to applicants who were transferred back from another EU+ country, without the possibility of applying for international protection.<sup>341</sup>

In Germany, the Regional Administrative Court of Aachen **annulled** a Dublin transfer to Hungary of a family of four. It considered that there were substantial grounds to believe that there were systemic weaknesses in the Hungarian asylum procedure due to the ‘embassy procedure’ that may pose a risk of inhuman or degrading treatment through arbitrary returns. The court also believed that the family would have difficulties in securing a minimum livelihood if transferred back.

### **3.2.5.3. Access to and quality of reception conditions in the country responsible for an application**

Italy notified other Member States in December 2022 that it would not accept incoming transfers due to a lack of reception places.<sup>342</sup> Jurisprudence from several EU+ countries reflected this change.<sup>343</sup> Nonetheless, in the Netherlands, lower courts still came to divergent conclusions for confirming or not transfers to Italy at the beginning of 2023.<sup>344</sup> The Council of State **found** that the Dutch authorities could not rely on the interstate principle of mutual trust in April 2023. The council rejected the argument that Italian authorities indicated merely a pressure on the reception system and not a complete lack of places, and that the impediment to the implementation of the transfer should be regarded as temporary. It concluded that the applicant put forward objective information providing the basis to assert that there were systemic errors in reception in Italy. The court underlined that this did not mean that Italian authorities were indifferent to the situation of the applicant. However, there was a real risk, that applicants would find themselves in material deprivation, preventing them from meeting their most important basic needs upon a transfer.<sup>345</sup>



Jurisprudence remained divergent in Germany. Courts allowed appeals in several cases against transfers to Italy.<sup>346</sup> However, the German Federal Administrative Court ruled that the lack of willingness of Italy to take back an applicant did not automatically mean that there were systemic deficiencies in the country's reception system.<sup>347</sup> The Regional Administrative Court of Würzburg ruled that healthy, employable applicants should be able to support themselves through legal work and meet their basic needs.<sup>348</sup>

The Portuguese Supreme Administrative Court also **confirmed** a transfer of an applicant with health issues, noting that deficiencies in the provision of health care and unsatisfactory access to accommodation still did not meet the high threshold of systemic flaws.

During 2023, the situation in Italy resulted in an increasing number of cases where the responsibility shifted to the requesting EU+ country and this added to the high pressure on many countries' asylum and reception systems. Against this background, for example, German authorities needed to inform their Italian counterpart of the postponement of the next interview mission under the Voluntary Solidarity Mechanism, established in 2022 and coordinated by the European Commission.<sup>349</sup>

The regional court in the Netherlands cancelled a transfer decision for a single mother with a baby to France due to risk of homelessness.<sup>350</sup> The transfer of a mother with her child to Bulgaria from Austria was **cancelled** as the Constitutional Court found that the lower court failed to sufficiently investigate the reception situation in Bulgaria, specifically for vulnerable applicants.

The lack of reception places in Belgium also led to the annulment of transfers, for example from Denmark<sup>351</sup> and the Netherlands.<sup>352</sup> However, in March 2024, the Dutch Council of State **concluded** that shortcomings in the Belgian reception system did not mean that the principle of inter-state mutual trust cannot be relied upon for the country. Italian courts annulled transfers to Malta,<sup>353</sup> Romania<sup>354</sup> and Slovenia,<sup>355</sup> finding that reception conditions would have been inadequate for the specific applicants if returned in the Dublin procedure.

#### **3.2.5.4. Use of detention**

The German Regional Administrative Court of Karlsruhe **considered** at first that further clarifications were necessary to establish whether applicants transferred back to Lithuania under the Dublin procedure would be at risk of systematic deprivation of freedom of movement amounting to detention. Following updated information, the court decided that applicants can be transferred to Lithuania and there was no risk of inhuman or degrading treatment.

The Danish Refugee Appeals Board **concluded** in a specific case that a family with a minor child could be transferred to Poland when the Danish authorities obtain guarantees from the Polish authorities that the family has access to the asylum procedure, reception and accommodation conditions. The Polish authorities respond on an ongoing basis to requests for information from other Member States about reception and procedural conditions. Each case is assessed individually, with importance given to: if the application for international protection has already been submitted, legal status resulting from the previous procedure, and the health condition of the foreigner. It is also possible, if necessary, to submit a request for individual guarantees to ensure that the provisions of the reception and procedural directives are applied after a transfer to Poland. In the past, Poland has sent these requests for individual guarantees to Member States that the European Commission recognised as struggling with a migration crisis.




The Belgian CALL [suspended](#) the implementation of a transfer to Malta, concluding that the applicant in that specific case would be at risk of detention and removal.

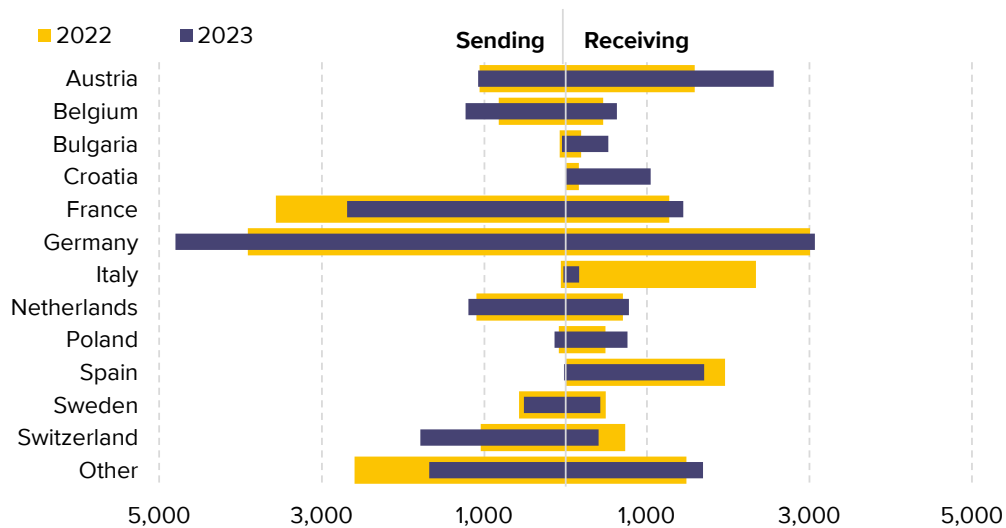
### 3.2.6. Implementing Dublin transfers

In 2023, the number of implemented Dublin transfers (15,000) remained stable compared to 2022, but still well below pre-COVID-19 levels (over two-fifths fewer than in 2019).<sup>xxvii</sup> The implementation of Dublin transfers was partially hampered by the increased strain on asylum and reception authorities caused by the sharp rise in irregular arrivals throughout the year.<sup>356</sup>

Nonetheless, several countries bound by the Dublin III Regulation implemented more transfers than in 2022 (see Figure 10, left panel), in fact reaching the highest levels in several years). For instance, Belgium, Cyprus and Slovakia carried out the most transfers on record,<sup>xxviii</sup> whereas Switzerland and Norway the most since 2016. The increase in Belgium and Switzerland was due to many more people transferred to Austria, Croatia, France and Germany. Conversely, transfers implemented by France declined to the lowest level in 6 years.

 **Belgium implemented the most transfers on record, while Austria and Croatia received the most transfers on record**

**Figure 10. Number of outgoing Dublin transfers implemented by sending (left) and receiving (right) country for selected countries, 2023 compared to 2022**



**Note:** Data were missing for Croatia and Denmark as a sending/reporting country. Data were missing for Bulgaria for December 2023, for Czechia between March-December 2023, for Greece between July-December 2023, and for the Netherlands and Portugal for October, November and December 2023. For each Member State, implemented transfers are self-reported, while received transfers are based on data from all other receiving countries.

Source: EUAA EPS data as of 1 February 2024.

<sup>xxvii</sup> Data for 2023 were not available for Croatia and Denmark. Data were missing for Bulgaria for December 2023, for Czechia between March-December 2023, for Greece between July-December 2023, and for the Netherlands and Portugal for October, November and December 2023.

<sup>xxviii</sup> At least since 2016 based on available annual EUAA EPS data.

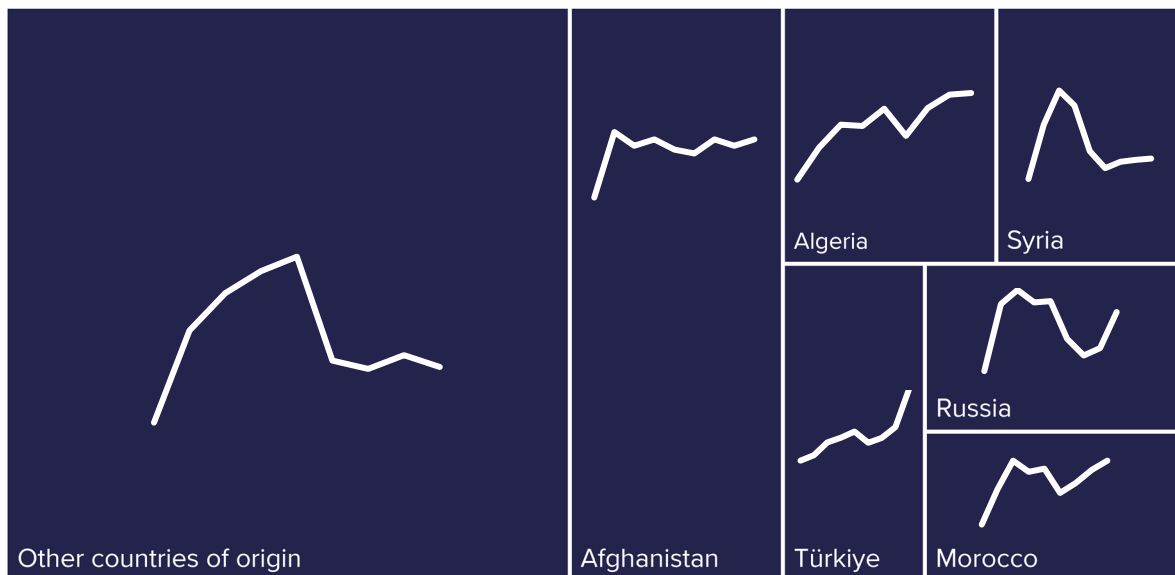
On the receiving side (see *Figure 10, right panel*), transfers to Austria and, at lower levels, Croatia and Bulgaria rose to all-time highs, whereas those to Italy dropped markedly compared to 2022 (-93%) due to the temporary suspension of incoming Dublin transfers by several countries (see *Section 3.2.5.3*). Transfers to Switzerland (-44%) also declined.

In 2023, the transfer of Afghan applicants rose to the most since at least 2016, while those of Algerians and Turks reached an all-time high (see *Figure 11*). The main transfer corridor for Afghans and Turks was from Germany to Austria, whereas Algerians and, at lower levels, Moroccans were most frequently transferred from the Netherlands to Germany. There was also an increase in transfers of Russians (the most since 2019), largely from Germany to Poland. At the EU+ level, four-fifths of all transferees were men, and minors represented about one-eighth of the total.



### All-time highs for the transfer of Algerians and Turks and long-term records for Afghans and Moroccans

**Figure 11. Main countries of origin of Dublin transferees in 2023 and trendlines from 2015-2023**



**Note:** Data were missing for Croatia and Denmark as a sending/reporting country. Data were missing for Bulgaria for December 2023, for Czechia between March-December 2023, for Greece between July-December 2023, and for the Netherlands and Portugal for October, November and December 2023.

Source: EUAA EPS data as of 1 February 2024.

## Section 3.3. Special procedures to assess protection needs



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

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

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

In addition to special procedures, countries may also introduce policies to process specific categories of cases with priority and ahead of other pending cases (see [Section 3.4](#)).

Legislative changes in 2023 ranged from proposals to introduce the border procedure for the first time to changes to the conditions for applying the procedure and to the competent court for examining appeals. Once again, concerns were raised on the application of the border procedure.

Several EU+ countries amended their lists of safe countries of origin and designations as safe third countries, while others started working on the adoption of such lists. The referral made by the Greek Council of State about the designation of Türkiye as a safe third country remained undecided by the CJEU in 2023, while the ECtHR provided interim measures to applicants for whom Türkiye is deemed as a safe third country.

Applications lodged after secondary movements continued to trigger inadmissibility decisions, while the CJEU is expected to rule in 2024 on the processing of applications lodged by people who have received international protection in another Member State but cannot be transferred back due to a risk of inhuman or degrading treatment.





New legislation and amendments were passed relating to subsequent applications, defining procedural rules and clarifying already-existing provisions. Meanwhile, national courts ruled on the designation of applications as subsequent and on the respective obligations of national authorities.

### 3.3.1. Border procedures

Legislative changes to border procedures in 2023 included proposals to introduce the procedure in Finland and changes to the conditions for applying the procedure in Italy. In Czechia, a different court was assigned for appeals for this procedure, while the procedure itself remained the same. Furthermore, concerns were raised on the application of the border procedure in Greece and Spain.

The Finnish Ministry of the Interior launched a new legislative process to introduce a border procedure. A similar law proposal had already been initiated by the previous government, but it lapsed due to the elections. The new proposal suggests the general introduction of the border procedure, while the previous one planned its use only in the event of large-scale instrumentalised arrivals.<sup>357</sup>

Law No 50/2023 in Italy allows for the accelerated processing of applications at the border or transit zones for applicants coming from safe third countries or who attempted to evade border checks. These applicants may also be detained at the border (see *Section 3.7*). The authorities must decide on their application within 7 days.<sup>358</sup> UNHCR agreed with these changes, acknowledging the need to protect the quality and efficiency of the asylum system. However, it recommended that the procedure be used only for applications that appear manifestly unfounded during the initial stages of screening and the accelerated border procedure should not be applied when serious reasons are invoked to believe that in the specific case an applicant from a safe country of origin may be at risk.<sup>359</sup> Furthermore, the establishment of a first centre for accelerated returns at the border was announced in Italy for applicants arriving from safe countries of origin, in line with the provisions of the new Law No 50/2023.<sup>360</sup> Detention measures adopted for applicants in the border procedure were scrutinised by the Court of Catania, and the Court of Cassation sent a question for a preliminary ruling to the CJEU (see *Section 3.7*).

Responsibility was transferred from the municipal court to the Regional Court in Prague for appeals against decisions on applications made in the transit area of the international airport to ensure a more balanced distribution of the workload. Despite the different name, the two courts are at the same level in the judicial hierarchy. The procedure itself, including further appeal for cassation, remained the same.<sup>361</sup>

Greece's border procedure gave rise to questions by members of the European Parliament, especially on the use of the border procedure at locations outside border points and transit zones and on the examination of the merits of an application beyond the scope described under the recast APD, Article 31(8).<sup>362</sup> Commissioner Johansson confirmed in her reply that the European Commission was aware of the issues and its services were analysing and monitoring the situation.<sup>363</sup>

The Spanish Commission for Refugees (CEAR) in Spain observed that there were significant delays in accessing the procedure at the Madrid Barajas Airport, noting that some people had to wait more than 20 days to formalise their application. The organisation highlighted that this



situation had an impact on receiving reception and detecting vulnerable persons.<sup>364</sup> The Office of the Spanish Ombudsperson also noted gaps in reception due to the delays and offered recommendations to address the situation.<sup>365</sup> UNHCR issued a public statement on the conditions at the airport in February 2024.<sup>366</sup>

In 2023 national courts examined several cases concerning the conditions for resorting to detention in the border procedure (see *Section 3.7*).

### 3.3.2. Safe country concepts

As part of the European Commission's pilot project, Bulgaria started working toward the adoption of two lists with designated safe countries of origin and safe third countries.<sup>367</sup>

Changes to the national lists of safe countries of origin took place in Belgium, which removed Georgia,<sup>368</sup> and in Denmark, which removed Russia<sup>369</sup> from their lists. In Czechia, Ukraine and exceptions for Abkhazia, South Ossetia and Transnistria were removed from the list, while Armenia, the United Kingdom and the whole of Georgia and Moldova were added as safe countries.<sup>370</sup>

Greece proceeded with an annual review but concluded that no changes were needed.<sup>371</sup> However, in the framework of a request for an annulment of the provisions designating Türkiye as a safe third country,<sup>372</sup> the Greek Council of State **referred** questions to the CJEU for a preliminary ruling. Greek national courts rejected the presumption of Türkiye as a safe third country for several individual cases throughout 2023.<sup>373</sup>

In Germany, Georgia and Moldova were added to the list of safe countries of origin. The reasoning of the draft underlined that the recognition rate for both countries was below 0.1% in 2022 and the first half of 2023, and over 10% of all rejected applicants came from these countries.<sup>374</sup>

Italy added Côte d'Ivoire, Georgia, Nigeria and The Gambia to the list of safe third countries by Decree of 17 March 2023.<sup>375</sup> The Association for Juridical Studies on Immigration (ASGI) expressed concerns about the designation of Nigeria, underlining that the recognition rate amounted to 41% based on data for January-September 2022.<sup>376</sup> Tunisia remained on the list and a joint declaration by civil society organisations drew attention to their findings on the increased repression of political opponents, civil society organisations and minorities in the country.<sup>377</sup> In individual cases, the tribunals in **Catania** and **Florence** found that Tunisia could not be considered as safe based on updated COI.

For a full overview of EU+ countries which implement the concepts of safe country of origin, safe third country and European safe third country, please consult the Who is Who in International Protection in the EU+: Countries Applying the Concept of Safe Countries in the Asylum Procedure – [interactive data visualisation](#) and [report](#).





The Dutch IND examined whether several countries can be considered safe third countries. In January 2023, the IND considered that Colombia in general cannot be regarded as a safe third country due to the combination of a weak asylum system and the fact that the rights of asylum seekers and recognised refugees cannot be sufficiently guaranteed in practice.<sup>378</sup> In March 2023, the IND concluded that Mauritania can be regarded as a safe third country, given that the country has a functional asylum system, no cases of *refoulement* had been reported in recent years, and asylum seekers and refugees have the right to work and the same rights to social services, education and healthcare as Mauritanian citizens.<sup>379</sup> In October 2023, the IND decided that Djibouti can be regarded as a safe third country by concluding that there is access to the asylum procedure, where UNHCR acts as an observer in the processing of applications, and rights of access to education and healthcare are provided.<sup>380</sup>

### 3.3.3. Admissibility procedures

In 2023, legislative changes took place in Iceland in 2023. An NGO in Greece continued to raise concerns about the application of the admissibility procedure based on the safe third country concept. In addition, national courts examined the conditions for considering that international protection was obtained and is effective in another Member State, with the Dutch Council of State referring questions to the CJEU for a preliminary ruling on secondary movements and the risk of being exposed to inhuman treatment in the Member State that provided international protection.<sup>381</sup>

In Iceland, amendments to the Aliens Act prescribe what constitutes delays in case processing attributable to applicants.<sup>382</sup> Previous legislation stated that both the admissibility decision and the transfer to another country needed to be completed within 12 months. The decision to reject an application as inadmissible (in cases when another country is responsible for the application based on the Dublin III Regulation; another Schengen country had already granted international protection; or the applicant has a connection to a safe third country where it can be considered reasonable that they stay there) is now automatically appealed to the Immigration Appeals Board, unless the applicant specifically expresses the intention not to appeal the decision. The amendments also aimed to enhance clarity on the processing of cases related to safe third countries.<sup>383</sup>

Equal Legal Aid noted that people who are rejected through the admissibility procedure in Greece based on the safe third country concept are in a situation of a legal limbo, lacking documentation, access to adequate reception conditions and in particular healthcare. The organisation also noted that their situation is exacerbated by difficulties in accessing legal aid at the appeal stage before the Appeals Committees and the administrative courts.<sup>384</sup> In this context, an Afghan family, whose application was considered to be inadmissible as Türkiye was deemed a safe third country for them, was **granted** interim measures by the ECtHR in August 2023 and the Greek authorities were ordered to immediately transfer them from Lesbos to Athens for adequate medical care.



## Box 5. Case law related to secondary movements in 2023

### CJEU

The Dutch Council of State [referred](#) questions to the CJEU for a preliminary ruling in August 2023 on the processing of applications lodged by persons who had received international protection in another Member State but cannot be transferred back due to a risk of inhuman or degrading treatment. On a similar issue, the CJEU Advocate General Medina's opinion, issued on 25 January 2024, held that Member States are not bound to recognise refugee status granted in another Member State if the person cannot be returned to that Member State due to a risk of inhuman or degrading treatment.<sup>385</sup>



### National courts

The National Court of Asylum (CNDA) in France [examined](#) the necessary elements to determine the existence of international protection obtained in another Member State. It held that, in the absence of an official document from the authorities of the Member State who granted protection, the existence of such protection can be ascertained on the basis of consistent evidence from the case file and comparing the applicant's fingerprints taken at the time of submitting his application in France (in accordance with Article 9(1) of the Dublin III Regulation) with those taken previously in another Member State. The court further added that the applicant's statements on the granting of international protection must also be considered. In the individual case, the CNDA concluded that there were no systematic and general deficiencies in Hungary that would reach the particularly high level of severity in the reception of applicants and beneficiaries of protection, although there were difficulties with the integration of refugees due to language barriers, lack of interpreters, access to accommodation, a lack of integration programmes for employment and a lack of coordination between state authorities.

The Dutch Council of State ruled on the risk of indirect *refoulement* when returning Syrian nationals to Denmark. The Council of State [held](#) in September 2023 that an obvious and fundamental difference in protection policies no longer existed between the Netherlands and Denmark for this profile of applicants.

Furthermore, the Court of the Hague seated in Groningen [dismissed](#) an Eritrean national's appeal who had been granted subsidiary protection in Poland, as it considered that her rights would be guaranteed by Poland in accordance with the interstate principle of mutual trust. The same court [rejected](#) an appeal from a Syrian national who claimed that he would be at risk of inhuman or degrading treatment in Bulgaria where he held subsidiary protection. The Council of State [confirmed](#) this approach in general for persons with refugee status in Bulgaria.

### 3.3.4. Accelerated procedures

In 2023, Bulgaria and Romania participated in the European Commission's pilot project on fast-track procedures and returns.<sup>386</sup> In Bulgaria, a circular was adopted while waiting for the adoption of the amendment of the Law on Asylum and Refugees and officers were trained to facilitate the implementation of the accelerated procedure.<sup>387</sup> Romanian authorities tested the enhanced use of the accelerated procedure, with good practices emerging on the fast



identification of both eligible cases and applicants with vulnerabilities, who were then exempted and further referred for support.<sup>388</sup>

Regarding the personal scope of applying the accelerated procedure, the Belgian CALL **confirmed** that the procedure could not be applied to an applicant who could barely communicate with the officers and was not assisted by a sworn interpreter during the interview and, thus, was not even aware of the country in which she was.

On procedural safeguards to be provided in the accelerated procedure, the Administrative Court of Appeal of Piraeus in Greece **upheld** the appeal of an Iraqi national as she was not provided procedural guarantees when her asylum application was channelled, due to her vulnerabilities, from the accelerated procedure to the regular procedure. The court specified that these guarantees included a longer timeframe, the opportunity to obtain legal aid, an examination by an Asylum Service vulnerability officer and an interview conducted in accordance with the standards of the regular asylum procedure.

Practical difficulties were noted by Arca di Noe Società Cooperativa Sociale in Italy, which observed that shorter time limits in the accelerated procedure were not respected mainly in the first phase of the procedure, from the formalisation of the application through the C3 form to the stage of the interview before the Territorial Commission and the notification of the decision. However, the civil society organisation noted a significant decrease since October 2023 in the number of applications which were examined in the accelerated procedure because women were included in the category of vulnerable persons and channelled to the regular procedure.<sup>389</sup>

Regarding appeals in the accelerated procedure, in January 2023 the Administrative Court of the Republic of Slovenia **decided** to refer a question to the CJEU for a preliminary ruling on the time limit for an appeal in accelerated procedures and the right to an effective remedy. The Slovenian legislation provides 3 calendar days to lodge an appeal in an accelerated procedure, starting from the notification of the manifestly unfounded decision and including weekends and public holidays. On 27 September 2023, the CJEU **ruled** that Article 46(4) of the recast APD, read in conjunction with Article 47 of the EU Charter, precluded such national legislation if the period restricted the effective exercise of the rights guaranteed in Articles 12(1b), 12(2), 22 and 23 of the recast APD. The Ministry of the Interior is preparing amendments to the national act on international protection, which will take account of the CJEU ruling.

### 3.3.5. Subsequent applications

New legislation and amendments were passed in Iceland and Italy in 2023, while Cyprus took measures to tackle its backlog of subsequent applications.

A new procedure was introduced in Iceland for subsequent applications. These applications can now be dismissed, unless new information is available that increases the applicant's probability of being recognised as a beneficiary of international protection. Appeals on the rejection of a subsequent application may be decided by the Chairperson or the Vice-Chairperson of the Appeals Board instead of a panel of committee members.<sup>390</sup>

Amendments in Italy specify that a subsequent application may only be considered admissible if external circumstances prevented the applicant from submitting new elements earlier. The





applicant must explain and prove the reasons for the delay. In addition, the suspensive effect of an appeal is no longer automatic when a first subsequent application has been considered as inadmissible or a negative decision was issued on the merits.<sup>391</sup>

The Cypriot Asylum Service intended to reinforce its staff who handle subsequent applications to eliminate a backlog of approximately 1,000 cases.

Courts also examined the application of the subsequent application procedure and the obligations of national authorities. The CJEU [held](#) in *J.B., S.B., F.B. v Bundesrepublik Deutschland (Federal Republic of Germany)* (C-364/22) that Article 33(2d) of the recast APD allowed the rejection of a subsequent application as inadmissible when the applicant had returned to the country of origin after the asylum application was refused, when the decision on the previous application did not concern subsidiary protection (see *Section 2.5*).

In February 2024, the CJEU (C-216/22) [interpreted](#) the concept of ‘new elements or findings’ for a subsequent application and ruled that its judgments, which significantly add to the likelihood of an asylum seeker qualifying as a beneficiary of refugee status or subsidiary protection, can constitute a new element justifying a fresh examination of the substance of the asylum application.

In Portugal, the Supreme Administrative Court [ruled](#) in November 2023 that an application, presented by an asylum applicant who had already had an application assessed and rejected in another Member State, cannot be classified as subsequent when it was not based on new facts and did not make any express reference to changes in the country of origin. The court also noted that it was not for the authorities, of their own motion, to verify the emergence of changing conditions in the country of origin. The court referred to the CJEU judgments in Cases C-18/20 and C-921/19 to note that the presentation or emergence of new elements or evidence in the context of a subsequent application always refers to elements adduced by the applicant and not elements collected or added by the determining authority.

The Polish Supreme Administrative Court [ruled](#) in March 2023 that the obligation to provide a full *ex nunc* examination applies to subsequent applications. The court noted that the determining authority should conduct a preliminary examination of subsequent applications to assess the circumstances considered during the first application and if new evidence or factual or legal circumstances have been added in the subsequent application that would significantly increase the likelihood of granting international protection. In the absence of new elements, the subsequent application would be considered inadmissible. The court cited Article 46 of the recast APD to note that Member States should ensure that effective remedies provide a full *ex nunc* consideration of both facts and legal elements, including international protection needs in line with the recast QD and concluded that these provisions also apply to subsequent applications. The court also noted that a full *ex nunc* examination carries an obligation to assess new circumstances that emerged since a decision was issued and the circumstances that the determining authority should have considered if these occurred after the decision was issued.





## Section 3.4. Processing asylum applications at first instance



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

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

In 2023, various measures were implemented to manage the case load and prioritise the examination of specific cases.

The reorganisation of determining authorities was initiated or finalised in 2023. Some countries proposed legislative changes to further accelerate the asylum procedure, while new working methods, prioritisation policies and recruitment of additional staff were introduced to maximise the number of decisions taken. Some EU+ countries introduced new information systems or prepared projects for the digitalisation of their systems. Determining authorities followed up on lessons learned from past quality assessment initiatives, provided more training to staff and started new quality review processes for first instance procedures and decisions.

The CJEU and national courts provided guidance on how to assess various aspects of first instance proceedings and claims from specific nationalities and profiles (for example, westernised applicants, religious persecution cases and claims of forced conscription). They also reviewed the use of electronic notifications and the protection of confidentiality during interviews taking place through Microsoft Teams, as well as the provision of a derived right to international protection. Courts also clarified the effects of applying for international protection on other ongoing procedures, namely extradition and temporary protection.

NGOs continued to raise various concerns related to delays in scheduling personal interviews, the lack of adequate training of officers carrying out interviews and the length of asylum procedures. UNHCR also expressed its position on the externalisation of asylum procedures. The use of AI in migration was also a topic of concern.



### 3.4.1. Re-organisation of first instance authorities

To enhance the effectiveness of asylum systems, in 2023 EU+ countries undertook re-organisations by creating completely new determining authorities, by merging several offices in the same institution to unify their strategy on asylum or by structuring departments according to types of asylum procedures to allow faster processing of cases.

The CGRS in Belgium created the START section, where all newly-recruited case officers will receive 6 weeks of standard training curriculum, followed by on the job training, before full integration into existing sections or units.

In Cyprus, the Ministry of the Interior published a draft bill in May 2023, proposing the establishment of a Deputy Ministry of Migration and Asylum which would place under a single institution the drawing up and implementation of an integrated strategy for migration and asylum.<sup>392</sup>

Denmark decided that the Office for Reception of Asylum Seekers will be included in the Centre for Asylum of the Danish Immigration Service as of 1 January 2024. In Finland, the Immigration Service was in the process of re-organisation until April 2024 to become more efficient and customer-friendly.<sup>393</sup>

Poland re-organised its Department of Refugee Proceedings at the Office for Foreigners according to the type of procedure to which cases are assigned, which allows for faster processing of cases.

In Portugal, the new Agency for Integration, Migration and Asylum (AIMA) started operating on 29 October 2023, taking over some of the competences of the SEF and the High Commission for Migration. The change led to the separation of police and administrative functions. AIMA is mandated – amongst other tasks – to receive and process applications for international protection and ensure reception conditions are in accordance with the law.<sup>394</sup>

By Royal Decree No 1009/2023 of 5 December 2023, which established the structure of the ministerial departments, Spain created the new Directorate-General for International Protection, which will include the Asylum and Refugee Office.<sup>395</sup>

### 3.4.2. Legislative and policy changes

Comprehensive laws and policies on international protection, as well as amendments to existing legislation, were drafted in several EU+ countries or were in the process of negotiation. They concerned the conditions to be fulfilled for a residence permit, the issuance of a negative decision on international protection jointly with a return decision, and changes to the first instance procedure.

A new asylum and immigration law was discussed in France throughout 2023, with several proposals suggesting changes and adjustments for a more efficient asylum procedure. The law was promulgated at the beginning of 2024.<sup>396</sup>

Romania changed their legislation to enable the issuance of a negative decision on international protection jointly with a return decision, while Bulgaria was in the process of amending its legislation with the same purpose.<sup>397</sup> The Romanian legislation also clarifies that





the return decision is suspended until the asylum decision remains final and that applicants benefit from their rights until the procedure is finalised.<sup>398</sup> The law was amended in Luxembourg to ensure that legislation aligns with the relevant CJEU judgment and there are now some exceptions from the automatic return decision which is included in a negative asylum decision.

New legislation entered into force in July 2023 in Czechia, amending the Act on Asylum and Foreign Nationals. It aims to streamline the asylum procedure before administrative authorities and administrative courts.

In Germany, the federal government and federal states agreed in May 2023 on speeding up asylum procedures by ensuring that all asylum applications are filed within 2 weeks and a BAMF personal interview must be held within 4 weeks. In addition, more advanced digital infrastructures would be provided to the relevant authorities.<sup>399</sup>

The Swedish Migration Agency updated its legal position on the protection needs of nationals from Yemen.<sup>400</sup>

### ***Externalisation of asylum procedures***

In 2023, several EU Member States considered the transfer of asylum applicants to third countries for the processing of their asylum claims.

UNHCR provided an advisory opinion on the proposal of two Belgian MPs in opposition, urging to refrain from establishing laws and practices externalising asylum procedures and responsibilities to third countries, which would be in violation of international obligations.<sup>401</sup>

In November 2023, Italy signed a protocol with Albania to process asylum applications of people rescued at sea who wish to apply for asylum in Italy in the following 5 years. According to the protocol, Italy would pay for Albania to build two centres where such applications would be processed and where applicants would be received, with the exception of children, pregnant women and vulnerable applicants.<sup>402</sup> However, on 18 January 2024, the Constitutional Court of Albania temporarily blocked the ratification of the protocol, which was followed by a narrow 5 to 4 decision declaring the protocol to be constitutional and paving the way for ratification in the Albanian parliament (see *Section 3.1*).<sup>403</sup> Also in January 2024, UNHCR published its analysis of the protocol, noting that personal interviews and the establishment of a regular monitoring mechanism by Italy on the transfers and the quality and fairness of the procedure were not addressed in the protocol. UNHCR highlighted that the legislation should also ensure that the implementation of the protocol does not lead to a transfer of responsibility, nor undermine Italy's legal obligations.<sup>404</sup>

### **3.4.3. Case load management and prioritisation policies**

Due to the increase in the number of applications, some EU+ countries took measures to make the examination of cases more efficient, such as introducing new working methods which include EUAA support or which maximise the number of decisions and introduced prioritisation policies for certain profiles. Other countries focused on recruiting additional staff. As noted in court cases and reports by civil society organisations, the pursuit of increased efficiency under conditions of pressure may have impacted the overall quality of processes in some cases.



### 3.4.3.1. New working methods

Romania amended legislation in May 2023 to allow for the participation of EUAA experts in the registration and analysis of the claims made in an asylum application.<sup>405</sup>

In Belgium, the CGRS launched the testing of new working methods between September 2023 and January 2024 in the pilot project “Tabula Rasa” with the purpose to maximise the number of decisions. Among several measures, it includes shortening the reasoning of decisions and the use of preliminary questionnaires to be completed in writing before the personal interview (see *Section 3.4.4*).<sup>406</sup> The CGRS also expanded the electronic exchange of documents between first instance and second instance bodies in June-July 2023.

The credibility assessment framework was under review in the Netherlands and measures relating to group policies were under development.<sup>407</sup> In addition, The Dutch National Coordinator for Security and Counterterrorism (NCTV) undertook a system check of the different organisations which cooperate in security and migration issues. The evaluation found that processes were sufficient, but improvements could be made. Following these results, the IND planned to make changes on two points. Clearer instructions would be drafted for searching the Internet, including social media, during the standard screening in asylum and family reunification processes. And an agreement would be made to guarantee minimal search enquiries. These changes aim to improve the investigation of open sources during the screening. The IND will also adapt its processes to ensure that a more extensive open-source investigation is undertaken by specialist employees when there are signs that the applicant may be a possible danger to national security. The case can be reported to the General Intelligence and Security Service (AIVD) only after this investigation. The aim of this change is to ensure that both the IND and the AIVD have the most complete picture possible when dealing with such cases. In addition, the IND continued to work on improving the quality of investigations into threats to national security when carrying out the asylum and family reunification screening processes.<sup>408</sup>

ECRE input on Bulgaria welcomed the fact that the SAR made its internal guidelines available to the public for the first time in 2023.<sup>409</sup>

### 3.4.3.2. Prioritisation policies

In Czechia, the Organisation for Aid to Refugees (OPU) reported that cases lodged by specific nationalities were decided faster.<sup>410</sup> National authorities noted that often this was not the result of a prioritisation policy, but arose rather from the fact that case officers were able to decide more swiftly as there were active conflicts in those countries.

The Finnish Immigration Service prioritised applications from third-country nationals coming from the eastern border that could be processed as manifestly unfounded.

In Ireland, the Department of Justice introduced new operating plans so that applicants from countries designated as safe countries of origin will receive decisions within 3 months instead of the current 17-24 months.<sup>411</sup>

Prioritisation continued in the Netherlands to manage the high number of applications. The IND adapted its prioritisation policy as the profile of the applicants changed throughout 2023. For example, the prioritisation policy was applied to applicants in the Dublin procedure (Track 1 procedure), applicants from safe countries of origin and applicants who were already



recognised in another EU+ country (Track 2 procedure), and applicants from countries with low recognition rates, such as Algeria and Moldova.<sup>412</sup>

### 3.4.3.3. Additional staff

Several first instance determining authorities, such as the CGRS in Belgium, the Asylum Service in Cyprus, the International Protection Office in Ireland and the International Protection Agency in Malta hired or were in the process of hiring additional staff to address the backlog of applications, reduce processing times and speed up the examination procedure.

At the same time, some new staff may not have received enough training for the role. For example, ASGI criticised the adoption of Law Decree No 20/2023 in Italy, which introduced the possibility to address staff shortages in the determining authority by using officers of the local prefecture. The organisation noted that these officers may not have specific expertise or training in the field of international protection. The Italian authorities stated that the law specifically requires new staff to be adequately trained, and accordingly, the National Asylum Commission launched a structured training programme for newly-appointed officials, with EUAA support.

## 3.4.4. Personal interview

In 2023, Member States tested changes to the procedure to reduce the length of the personal interview, while courts clarified the role of the case officer in establishing the facts at the interview stage. Courts also examined challenges related to waiving rights at the stage of the personal interview, the use of electronic notifications and the protection of confidentiality during interviews taking place through Microsoft Teams. NGOs continued to raise various concerns related to delays in scheduling personal interviews and the lack of adequate training for officers carrying out the interview.

In Belgium, the CGRS tested the use of a preliminary questionnaire in the pilot project “Tabula Rasa”. The written replies should include the reasons for requesting international protection by applicants from certain countries of origin and should enable the CGRS to prepare the file in advance so that the personal interview lasts less than the current 4 hours. The organisation ADDE expressed doubts that this declaration would significantly reduce the length of the procedure if the personal written account is limited to a short summary and the elements would be re-examined during the personal interview.<sup>413</sup>

The Dutch IND piloted a project on written interviews in 2022 but stopped the practice following a parliamentary motion. The Minister for Migration noted the impact of this decision, which slowed down the handling of cases that could previously be managed within the written procedure.<sup>414</sup>

To establish the facts during a personal interview, the Administrative Court in Slovenia [ruled](#) in February 2023 that the case officer must ask the applicant relevant (sub)questions and distinguish between the reasons that led to leaving the country of origin and the reasons which, as a result of widely-known information on the situation in the country of origin, may cause the person to fear persecution or serious harm in the event of a return. The court noted that this was particularly relevant for applicants from Iran, if their reasons for fleeing are also linked to religious reasons. In addition, from the point of view of the absolute prohibition of inhuman treatment, the court noted that the competent authority or the court of a country that



is a signatory to the ECHR is not always necessarily bound only by the reason for fear that the applicant states but must verify *ex officio* a specific reason for a justified fear.

In Czechia, the Regional Court of Brno **determined** as unlawful the practice of the Ministry of the Interior of asking applicants at the end of the interview if they wished to waive the right to comment on country of origin documents. The court noted that an effective waiver may occur only with informed consent after the applicant has been invited to familiarise himself/herself with the documents collected, and after the ministry properly instructs the applicant about the consequences of such a waiver. The ministry confirmed that the administrative practice was adjusted following the decision, and the end-of-interview waiver is no longer used. The Organisation for Aid to Refugees (OPU) noted the short time limit, 10 days, provided by the ministry to comment on COI. The organisation assessed that this did not allow to provide a good quality assessment of the evidence and often resulted in information being submitted only during a judicial review.<sup>415</sup>

Regarding the digitalisation of the notification for the personal interview, the French Council of State **ruled** in June 2023 that the implementation of an electronic process before OFPRA does not violate the principle of personal receipt of the summons having regard to all the guarantees surrounding the use of a secure personal digital space.

Protection of confidentiality during a personal interview carried out through Microsoft Teams was an issue raised on appeal in Belgium. CALL confirmed the position of the CGRS that carrying out personal interviews by Microsoft Teams ensured appropriate confidentiality considering the additional protection measures the CGRS had taken to prevent third parties from accessing personal information during the interview.<sup>416</sup>

Equal Legal Aid noted delays in rescheduling appointments in Greece following transfers from the islands to the mainland. It further noted technical difficulties in carrying interviews remotely, which significantly altered the quality of the interview.<sup>417</sup>

Fundación Cepaim noted, as it had before in 2022, that personal interviews in Spain were not carried out by the determining authority but by police officers without adequate training and in an inadequate environment. Fundación Cepaim noted the lack of sufficient consideration of individual circumstances for applicants from countries with a high influx of applicants, such as Colombia and Venezuela, for which ‘model’ decisions were used.<sup>418</sup>

In Switzerland, Asylex continued to urge the asylum authorities to use audio-recording for the interview.<sup>419</sup>

### **3.4.5. National policies and practices for specific profiles and nationalities**

Determining authorities, as well as the CJEU and national courts, provided guidance on how to assess various aspects of first instance proceedings, claims from specific nationalities and profiles of applicants (for example westernised applicants, religious persecution cases and claims of forced conscription).



The CJEU **ruled** on the interpretation of Articles 4(1) and (5e) of the recast QD on an applicant's duty to cooperate with the authorities, the burden of proof and the general credibility of the applicant (see *Section 2.5*).

The CJEU also interpreted Article 15(c) and (b) of the recast QD and **ruled** in November 2023 that, when examining the conditions for granting subsidiary protection, national asylum authorities must take into account all relevant factors relating both to the individual position and personal circumstances of the applicant and to the general situation in the country of origin, before identifying the type of serious harm that those factors may substantiate (see *Section 2.5*).

### **Applicants from Afghanistan**

Several EU+ countries had updated their guidelines on Afghan women and girls in 2022, while others, such as Denmark (following a change in the legal practice of the Refugee Appeals Board) and Switzerland (as a matter of policy) decided in 2023 that women and girls from Afghanistan can be generally granted asylum on the basis of their gender as they are victims of discriminatory legislation. Nonetheless, an individual examination of an applicant's case still takes place in these countries, without an automatic application of the policy.

In Norway, a new instruction to the UDI from the Ministry of Justice and Emergency Preparedness in May 2023 provided further guidance for the processing of applications for women and girls from Afghanistan. It stressed the need for an individual assessment of cases, while continuing to monitor developments in Afghanistan to assess if changes in practice are needed. The instruction also noted that in the current situation women and girls from Afghanistan can be recognised as belonging to a 'special social group'.<sup>420</sup>

On gender-based persecution of Afghan women and girls, the CJEU **ruled** in January 2024 that women, as a whole, may be regarded as a particular social group within the meaning of the recast QD and they may qualify for refugee protection if, in their country of origin, they are exposed to physical or mental violence due to their gender. The court also added that if the conditions for providing refugee status are not met, "women may qualify for subsidiary protection, including when there is a real risk of being killed or subjected to acts of violence inflicted by a member of their family or community due to the alleged transgression of cultural, religious or traditional norms".

In Slovenia, the Administrative Court **ruled** in February 2023 that very precise, non-selective and objective consideration of relevant information on the situation in the country of origin is necessary for applicants from Afghanistan and that the circumstance that the applicant's wife was employed in the army was a legally-relevant circumstance to establish a well-founded fear of persecution of the applicant, because he could be more easily discovered by the Taliban.

In the "Factsheet concerning the State Secretariat for Migration (SEM) policy change for female Afghan asylum seekers" of December 2023, UNHCR noted that short-term increases in asylum requests from Afghan women were mainly for subsequent applications from applicants who were already in Switzerland and the number of positive decisions had not significantly changed after the SEM policy change in July 2023.<sup>421</sup>

ECRE published an analysis of policies on subsidiary protection for Afghan applicants across the EU.<sup>422</sup>





### **Applicants from Iran**

In Belgium, CALL [allowed](#) the appeal of an Iranian woman who claimed international protection based on the situation of women and girls in Iran and the national protests against the regime following the death of Mahsa Amini.

In Cyprus, the International Protection Administrative Court (IPAC) [granted](#) refugee protection *sur place* to an Iranian woman based on her growing political engagement and opposition to the Iranian government.

### **Applicants from Niger and Mali**

The CNDA in France noted that the security crisis affecting the Sahel had escalated on account of attacks led by the Islamic State in the Greater Sahara (ISGS) and insecurity due to non-state armed groups and organised crime at the Nigerian borders. It cited reports of incidents and civilian casualties on the rise, causing hundreds of thousands of people to be internally displaced. The court thus concluded that the level of indiscriminate violence in the region of Diffa was such that the applicant, by his mere presence there, faced a serious and individual threat to his life or person, thus triggering the application of Article 15(c) of the recast QD. The CNDA [examined](#) in July 2023 the situation in the region of Diffa in Niger and in May 2023 it [examined](#) the situation in the Tillabéri region in Niger and in the Ménaka region of Mali.

### **Palestinian applicants**

In Belgium, the CGRS suspended the examination of cases and notification of decisions for applicants from Gaza and the West Bank between October 2023 and January 2024, until sufficient information is available to accurately assess the situation in the Palestinian territories. Exceptionally, positive decisions for refugee protection and inadmissibility decisions for people with a protection status in another Member State continued to be pronounced.<sup>423</sup>

In Denmark, the Immigration Service temporarily suspended the processing of asylum applications by stateless Palestinians from Gaza, after the Refugee Appeals Board suspended the cases on 12 October 2023. Following the decision of the Refugee Appeals Board on 9 February 2024, the suspension on the processing of these asylum applications was lifted.

A decision and departure moratorium was introduced in December 2023 in the Netherlands for applicants from Palestine.<sup>424</sup>

### **Applicants from Somalia**

The CGRS in Belgium published in January 2024 a new policy on the security situation in Somalia to guide the assessment of asylum applications. The CGRS noted that “the available country information shows that no region in Somalia is characterised by an exceptional situation in which the degree of indiscriminate violence is so high that there are substantial reasons to believe that a citizen, merely by his/her presence, runs an actual risk of being exposed to a serious threat to life or person as stipulated by Article 48/4(2c) of the Aliens Law. However, this does not exclude applicants from certain regions of Somalia from being granted subsidiary protection if they can prove a need for it because of their personal circumstances”.<sup>425</sup>





The CNDA in France applied the EUAA's [Country Guidance: Somalia](#) from August 2023 and noted in several judgments that, although the security situation in Benadir, Middle Shabelle and Lower Shabelle did not reach the level of indiscriminate violence prescribed by Article 15(c) of the recast QD to establish that a person faces a serious and individual threat to their life or person from their mere presence there, it is still such that a lower threshold of elements of individualisation is required for subsidiary protection to be granted.<sup>426</sup> Furthermore, the CNDA applied the Country of Origin Information Report [Somalia: Security Situation](#) from February 2023 and [ruled](#) in April 2023 that the Somali region of Hiran was experiencing a situation of indiscriminate violence of exceptional intensity.

### Persons displaced from Ukraine

The Danish Immigration Service ended the suspension of the processing of asylum applications from persons displaced from Ukraine, which was in place from 24 February 2022 to 12 October 2023. In the Netherlands, the decision and departure moratorium for applicants from Ukraine ended on 28 November 2023.

The CNDA examined the situation in the cities/regions of [Jytomyr](#), [Khmelnyskyi](#), [Kyiv](#), [Odesa](#), [Poltava](#), [Soumy](#), [Tchernihiv](#), [Vinnytsia](#) and [Volhynia](#) to determine the level of indiscriminate violence.

### Russian applicants

Russian applicants who feared military drafting requested international protection in some EU+ countries. In the Netherlands, the decision moratorium for conscripted Russian applicants was ended in 2023. CALL in Belgium [considered](#) that more information was needed on military mobilisation in Russia to decide on a Russian national's request for international protection fearing general mobilisation.

In May 2023 in Bulgaria, the Supreme Administrative Court [refused](#) a request for international protection lodged by a Russian national who fled to avoid conscription in the war in Ukraine. The court considered that the applicant did not prove that he had participated in anti-government protests and argued that there was no reason to believe that the Russian authorities were carrying out massive repression against citizens who protested against the president's policy and that there was no particular danger of being detained and repressed if returned to the country of origin. The court also added that there were no grounds for application of the principle of refugee *sur place*. After this refusal by the Supreme Administrative Court, the applicant, who is a well-known critic of the Russian war in Ukraine, lodged another application with SAR. A media source reported that SAR allowed the application and provided international protection.<sup>427</sup>

In France, the Grand Chamber formation of the CNDA [ruled](#) in July 2023 that Russian nationals who flee conscription for the war in Ukraine or those who deserted may obtain refugee status, as a Russian national called up as part of this mobilisation must be regarded as being led to commit, directly or indirectly, war crimes given the very purpose of the mobilisation, the impossibility of refusing a mobilisation order and taking into account the conditions in which the armed conflict unfolded, marked by the large-scale commission of war crimes by the various units of the Russian armed forces, whether in the territories controlled by Ukraine or in the territories currently under the control of the Russian authorities. Relying on the EUAA's Country of Origin Information Reports, [The Russian Federation - Military service](#) and [The Russian Federation - Political opposition](#), published on 16 December 2022, the court





held that it was not possible to avoid military service during partial mobilisation by performing alternative civilian service and that the implementation and procedures of the mobilisation had numerous irregularities. It also noted that partial mobilisation remained in force even if the authorities had announced that the mobilisation objective had been reached in 2022. It also noted that those resisting mobilisation were exposed to prosecution and criminal penalties, which were recently strengthened by Russian law. The court further noted that applicants must provide all relevant elements to establish that they are actually subject to a military obligation, as mere membership in the reserve is not sufficient to demonstrate that they would actually be led to participate directly or indirectly in the commission of war crimes.

In Germany, the Higher Administrative Court of Saxony [ruled](#) in January 2024 that a 37-year-old Russian national from Chechnya was not facing conscription for military service as he was not a reservist and had already exceeded the age of 30. Only reservists, professional soldiers and volunteers would face conscription into the military. Moreover, the partial mobilisation, which had not been carried out in Chechnya, had been completed according to a notification from the Ministry of Defence in October 2022. By moving to another part of Russia, the plaintiff could avoid the risk of a forced conscription in Chechnya.

While rulings of the lower courts have been inconsistent, Higher Administrative Courts have admitted the appeal for a higher court clarification.

In April 2023 in Latvia, the District Administrative Court of Riga [upheld](#) an appeal by a Russian national who fled Russia to evade military conscription as he opposed the war in Ukraine. The court examined the EUAA country of origin report from December 2022, [The Russian Federation - Military Service](#), and determined that the renunciation of military service in Russia was a criminal act punishable by imprisonment and there were no chances for the applicant to obtain a decision replacing military service with alternative civil service. The court also held that the authorities would consider the reluctance to complete military service as an expression of political resistance.

Besides claims of military drafting, Russian applicants also invoked a risk of persecution in their country of origin based on political opinion. The Circuit Court of Tallinn in Estonia [ruled](#) in May 2023 in favour of a Russian national, ordering the re-assessment of his case. He had moved to Ukraine as a child and had applied for Ukrainian citizenship. He argued that he would be at risk of persecution in Russia due to his support to the Ukrainian army and relief organisations and also due to the opinions that he expressed on Instagram, which criticised the Russian authorities. The court held that the applicant cannot be expected to conceal or change his political views if returned to Russia. The court indicated to the determining authority that it had to assess the consequences for the applicant if he continued to carry out the same activities in Russia, including by expressing on social media positions supporting Ukraine and criticising Russia, and continuing to provide financial assistance to the Ukrainian army and relief organisations. The Circuit Court noted that in December 2022 Russia enacted a law according to which anyone who is under external influence or receives financial support from a foreign country may be considered a foreign agent. The Circuit Court consulted the EUAA [Practical Guide on Political Opinion](#) which was published on 16 December 2022.

### **Sudanese nationals**

Several EU+ countries suspended the examination of applications lodged by Sudanese national in the aftermath of the war in Sudan. The Danish Immigration Service suspended the processing of asylum applications by Sudanese nationals after the Refugee Appeals Board







suspended the cases on 27 April 2023. The suspension was lifted following the decision of the Refugee Appeals Board on 9 February 2024. The Dutch Minister for Migration introduced a decision and departure moratorium for applicants from Sudan in July 2023 and extended this decision in December 2023 for an additional 6 months.<sup>428</sup>

In Malta, the International Protection Agency suspended the assessment of applications lodged by Sudanese nationals in May 2023. The suspension was partially lifted in December 2023 as the agency resumed the examination of applications by Sudanese nationals whose home area is outside of Khartoum and Darfur. The examination of applications by Sudanese nationals originating from these two areas is still on hold.

In Norway, the UDI suspended the examination of applications lodged by Sudanese applicants.<sup>429</sup>

The Swedish Migration Agency suspended enforcements to Sudan due to the situation in the country.<sup>430</sup> UNHCR expressed concern about the forced displacement in Al Jazirah State, southeast of Khartoum and about an escalation of the conflict in the Darfur Region.<sup>431</sup>

The CNDA in France ruled in several judgments pronounced between July and December 2023 that the regions of West Darfur and Khartoum in Sudan were experiencing a situation of indiscriminate violence which was such that the applicants, by mere presence there, faced a serious and individual threat to life or person. The CNDA highlighted that the conflict taking place since April 2023 caused the security situation to deteriorate further. It also noted that around one-fourth of the population of West Darfour were internally displaced persons, with many living in camps where the humanitarian situation was deteriorating. Finally, it underlined the lack of infrastructure, police, justice and humanitarian aid, which prevented sustainable peace and the return of inhabitants.<sup>432</sup>

### **Applicants with a 'westernised' profile**

In Belgium, CALL **ruled** in April 2023 that, despite not constituting a particular social group, westernised Afghans may be granted international protection on the grounds of religion and political conviction. In July 2023, CALL **granted** refugee protection to a westernised Afghan applicant of Tajik ethnicity on the grounds of an imputed religious opinion. The cumulative factors taken into account included the length of the applicant's stay in Europe, his behaviour, his lack of religious practice, the conversion to Christianity that could be attributed to him in view of his tattoo and his Tajik ethnic origin. In October 2023, CALL **granted** refugee protection to an Afghan accompanied minor on the ground of his political opinion, highlighting the reasonable likelihood that he would be perceived as westernised upon a return, as he spent his formative years in Europe.

In contrast, in November 2023, CALL dismissed a request for international protection based on alleged persecution due to having lived in Belgium and **ruled** that Afghan applicants who stayed in Europe but cannot demonstrate that they would be perceived as westernised or transgressing or violating religious, moral and social norms cannot justify a well-founded fear of persecution based on these grounds.

In France, the CNDA **ruled** in July 2023 that the mere fact of travelling and staying in Europe was insufficient to establish that an Afghan applicant had a westernised profile that would expose him to persecution by the Taliban upon a return to his country of origin.





With regard to applicants from Iraq, the Regional Administrative Court of Hannover [held](#) in June 2023 that the 'western lifestyle' had to significantly characterise the identity of the applicant in the form of a serious and lasting inner conviction. In the case of the applicant, the court provided refugee protection as it concluded that she had developed a 'westernised identity' over the past few years, which was of central importance to her and which she would not be able to discard upon a return to Iraq.

### **Applicants who claim religious conversion**

In Austria, the Supreme Administrative Court overruled in September 2023 two judgments of the Federal Administrative Court in the cases of Iranian applicants who claimed to have converted to Christianity and would risk persecution upon a return to the country of origin. The court ruled that the Federal Administrative Court had erred when it had repeatedly defined expectations about the behaviour and knowledge of a (newly) converted believer without explaining how it had developed these principles and had assessed the evidence in an unjustifiable manner that impaired legal certainty. According to the Supreme Administrative Court, the Federal Administrative Court had failed to consider the very personal and therefore different approaches of people to their religious beliefs.<sup>433</sup>

### **Applicants who claim persecution due to the risk of forced military recruitment**

The Federal Administrative Court in Austria [decided](#) in August 2023 that forced recruitment for military service in Syria was not an asylum-relevant persecution in the case of an applicant who could avoid conscription by paying an exemption fee and who had the legal and factual means to pay the exemption fee. The court highlighted that the "moral or political reasons of objection to payment did not have any asylum-relevant significance." The Federal Administrative Court concluded that the applicant was neither forced to commit war crimes, nor to refuse military service which would lead to subsequent asylum-relevant detention conditions. While the Supreme Administrative Court has rejected some cases appealing similar decisions,<sup>434</sup> it has not yet dealt with the issue on the merits and the nexus to convention grounds. The Constitutional Court briefly dealt with this [issue](#) and held that the lower court should have assessed if the applicant could pay the exemption fee upon a return to Syria.<sup>435</sup>

Also in Austria, the Constitutional Court [decided](#) in June 2023 that there was a risk for a stateless Kurdish applicant to be recruited for military service by the Syrian authorities in the government enclaves in Qamishli in the province of Al-Hasakah. Based on COI, the court ruled that there were Syrian authorities in the government enclaves in Qamishli who were responsible for arrests and recruitment of conscientious objectors and that the practice of filtering out conscripts during road checks or at one of the numerous checkpoints was widespread.

After the Federal Administrative Court in Germany [overturned](#) several judgments on military draft evasion in January 2023 and ruled that the authorities must assess the plausibility of a strong presumption that refusing to perform military service is related to persecution in light of all circumstances of the case, the Higher Administrative Court of Mecklenburg-Western Pomerania [confirmed](#) a negative decision for an applicant from western Ukraine who refused to perform military service. The court stated that there was no indication that he would be forced to commit a war crime during military service in Ukraine as no systematic violation of international law of war by the Ukrainian armed forces could be identified.





The ECtHR rejected interim measures twice for a Russian applicant who applied for international protection in Hungary on grounds of his political opinion and fear of being drafted into the military against his will. The Hungarian Helsinki Committee commented on this practice, highlighting the need for more clarity on the elements that the applicant should have substantiated to be granted interim measures.<sup>436</sup>

### 3.4.6. Derived right to international protection

On 23 November 2023, the CJEU ruled in two cases referred by the Belgian Council of State (C-374/22 and C-614/22) that Articles 20 and 23 of the recast QD must not be interpreted as obliging Member States to grant the parent of a child who is recognised as a refugee in a Member State a derived right to international protection (see *Section 2.5*). Before these CJEU judgments, on 15 November 2023, the German Federal Administrative Court ruled that third-country family members of a child who was born after leaving the persecuting state and who was granted refugee protection in Germany were not entitled to refugee protection as a derived right, even when the marital partnership of the parents or the entire family already existed in the persecuting state.

For married persons, in February 2023 the German Higher Administrative Court of Lower Saxony decided on whether a derived right to asylum can be granted in the case of a proxy marriage which had taken place according to religious rites before an imam, without state registration. The court held that this would depend on whether a violation of public order occurred, which is not the case when merely the issuance of the declaration of marriage was done by proxy, contrary to the situation where a third person decides on the choice of the spouse.

The CNDA in France ruled in July 2023 that an applicant could not benefit from the principle of family unity to be granted international protection, although his wife was granted refugee status. She faced a serious risk of persecution, having filed a complaint in France against the applicant due to domestic violence, an attitude that would be regarded by the society and the authorities of her country of origin as transgressive with regard to social norms and customs.

More generally, the Swedish Migration Court of Appeal held that the principle of family unity does not entail a separate right to refugee status, when a new examination according to Chapter 12, Section 19 of the Aliens Act was granted to a third-country national who is a family member of a refugee but who has no such reasons of his own.

### 3.4.7. Exclusion from international protection

Through judicial reviews, courts provided guidance to determining authorities on various complex issues that may arise when assessing exclusion from international protection. In July 2023, the CJEU clarified in three cases the conditions for refusal and revocation of international protection for third-country nationals who were convicted of a crime (see *Section 2.5*).<sup>437</sup>

In Finland, the Supreme Administrative Court held that, although the acts of an applicant amounted to an aggravated non-political crime, he should not be excluded from international



protection considering his young age, uneducated background and the environment in which he had grown.

Courts also provided clarification on the right to an oral hearing in exclusion cases. The Supreme Administrative Court of Finland [ruled](#) in December 2023 that the lower court should have organised an oral hearing in which the applicant would be given the opportunity to provide additional explanations about the serious non-political crime he had committed. The Supreme Court of Slovenia [rejected](#) an appeal in March 2023 in a case concerning exclusion due to involvement in terrorism, holding that the first instance court, during the oral hearing, fully disclosed classified information to the plaintiff and gave him the opportunity to oppose. The court noted that the applicant could read the version of the judgment which contained classified information, although he was only served a version of the judgment without classified information.

In Lithuania, the Migration Department, in consultation with the State Security Department, the SBGS and the police, used a questionnaire to screen citizens of Belarus and Russia on their attitudes on the war in Ukraine and information on former employers and services to identify possible threats to state security and cases in which exclusion clauses would be applicable.

In Italy, the Tribunal of Bologna [referred](#) questions to the CJEU for a preliminary ruling in July 2023 in the context of criminal proceedings initiated against a Congolese applicant for international protection for assisting in the entry and stay of third-country nationals in an irregular situation and the use of forged documents.

In Norway, the Supreme Court [annulled](#) the decision of the Court of Appeal in December 2023, agreeing with the arguments of the government that for active acts of participation, unlike for omissions, to reach the threshold of participation liability it cannot be required that participation had “resulted in a difference in the main act”, as the Court of Appeal had assumed.

## 3.4.8. Case processing at first instance

### 3.4.8.1. Case closures in relation to the number of asylum applications

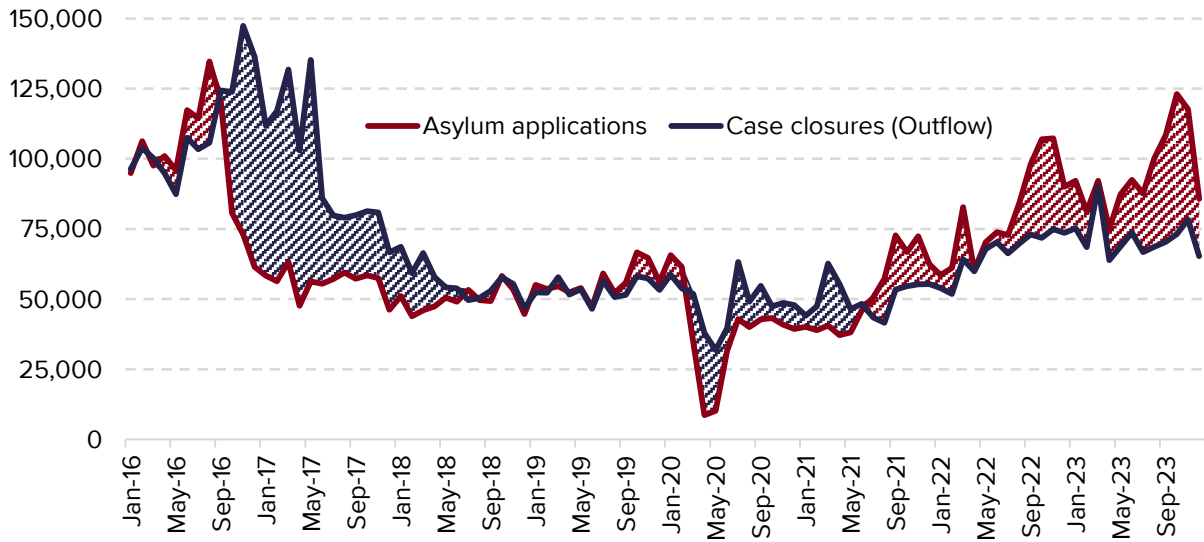
In 2023, EU+ countries issued about 677,000 first instance decisions, the most since 2017. However, decisions on asylum applications are just one way to close an asylum case. Discontinuations and other case closures also contribute towards the overall outflow at first instance. In 2023, the overall number of cases exiting the asylum system at first instance (combining first instance decisions, discontinuations after withdrawals and other closures) also reached the highest level in 6 years (at about 863,000).

To accurately depict the level of pressure on national asylum systems, the number of applications lodged (inflow) should be juxtaposed with all case closures (outflow). This reveals that the gap between the inflow of applications for international protection and the outflow of cases exiting the asylum system at first instance continued to widen to be the largest in 5 years. In other words, in 2023, the asylum system at first instance absorbed approximately 280,000 cases more than it managed to process. This marked a caseload accumulation increase by 66% from 2022, which contributed to the continuation of the trend visible since mid-2021 whereby the inflow consistently exceeded the outflow (see *Figure 12*).



## Growing gap between applications received and case closures

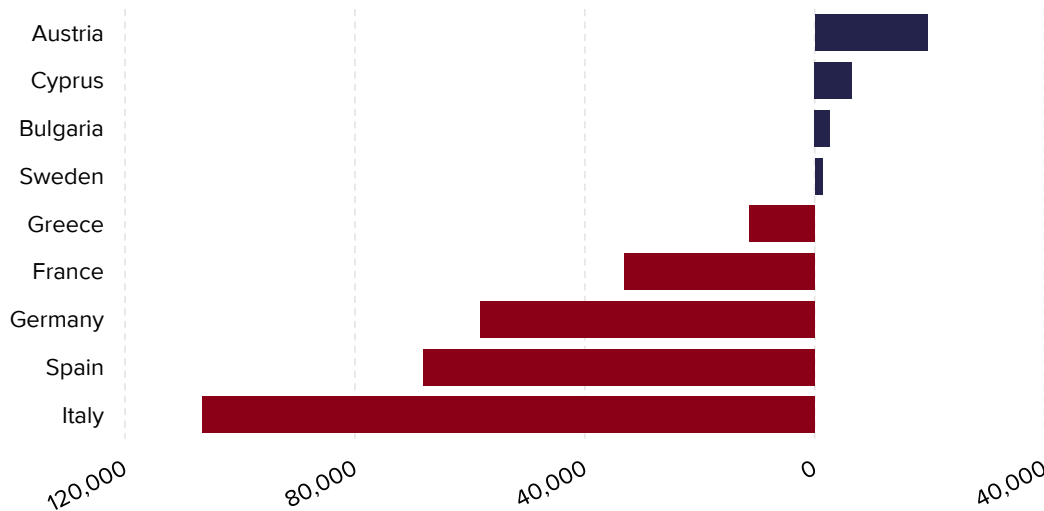
**Figure 12. Applications and case closures (first instance decisions, discontinuations after withdrawals and otherwise closed cases) in EU+ countries, January 2016–December 2023**



**Note:** Data were not available for Portugal for October-December 2023.  
**Source:** EUAA EPS data as of 1 February 2024.

Italy and Spain – where the first instance decision-making output declined the most in absolute terms in 2023 – were also the countries with the largest gaps between the inflow and processed cases at first instance (see Figure 13), i.e. they received significantly more applications than they managed to process. Other countries with much higher inflows than outflows were Germany and France (in descending order), both consistently among the main receiving countries of asylum applications in the EU+.

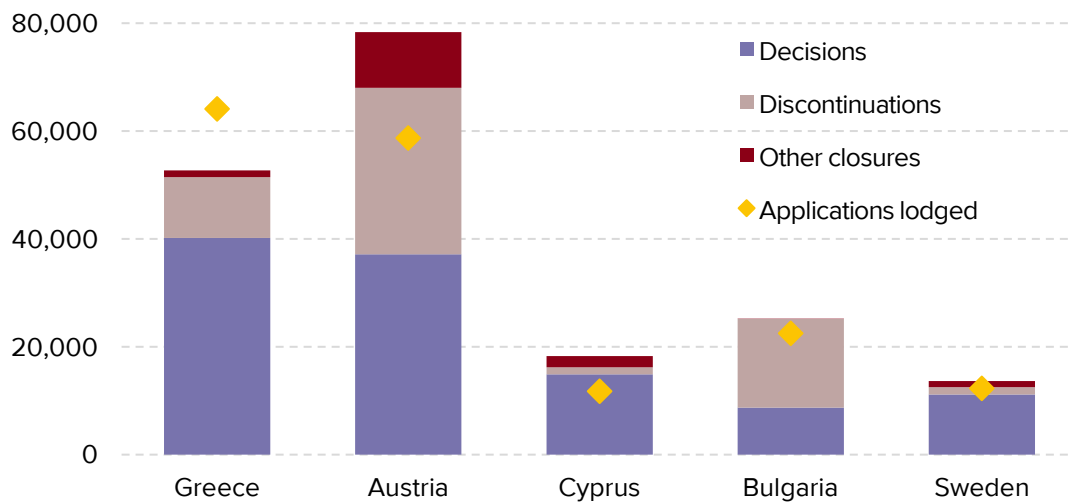
**Figure 13. Disparity between inflow and outflow at first instance in EU+ countries with the largest gaps, 2023**



**Source:** EUAA EPS data as of 1 February 2024.

At the other end of the spectrum, Austria, followed at a distance by Cyprus, Bulgaria and Sweden (in descending order), closed more cases at first instance than applications received. However, only Cyprus and Sweden did so primarily because of decisions issued at first instance (see Figure 14). In Austria, two-fifths of case closures pertained to discontinuations due to implicit withdrawals, and in Bulgaria, implicit withdrawals accounted for two-thirds of case closures. In both cases, this was related to onward movements within EU+ countries. Furthermore, in Austria, Cyprus and Sweden, otherwise closed cases – mostly in Dublin procedures – accounted for roughly one-tenth of all case closures.

**Figure 14. Case closures by type (first instance decisions, discontinuations after withdrawals and otherwise closed cases) and number of asylum applications lodged in selected EU+ countries, 2023**



Source: EUAA EPS data as of 1 February 2024.

### 3.4.8.2. Number of decisions on first instance applications

In 2023, the output of first instance decision-making authorities across EU+ countries remained stable (+5%), while applications rose by 18%.

For the second successive year, Germany continued to issue the most decisions among EU+ countries (around 219,000, accounting for one-third of the EU+ total). It was followed at a distance by France (133,000) and Spain (90,000). These three countries jointly issued two-thirds of all first instance decisions. But trends differed: while Germany recorded the largest absolute increase in decision-making among EU+ countries compared to 2022 (+21,000), the opposite occurred in Spain (-13,000). In the meantime, decision-making remained stable in France.

At somewhat lower levels, many decisions were also issued in: Greece (40,000), Austria (37,000), Belgium and Italy (26,000 each), the Netherlands (20,000), Switzerland (17,000) and Cyprus (15,000). In the latter two, decision-making rose notably in relative terms, as it did in Bulgaria, Estonia, Ireland and Norway (roughly twice as many decisions as in 2022 in all) as well as in Denmark (up by more than two-thirds).



### 3.4.8.3. Citizenships receiving first instance decisions

For the third successive year, most decisions were issued on applications submitted by Syrians (132,000 decisions) and Afghans (89,000), jointly accounting for one-third of all decisions in the EU+. While decisions for Syrian applicants increased by one-fifth in 2023, decisions for Afghans remained stable.

In addition, notable absolute increases in decisions issued were also seen for nationals of: Türkiye (38,000 first instance decisions), Venezuela (45,000), Morocco (16,000), Georgia (23,000), Russia (10,000), the Democratic Republic of the Congo (11,000), Eritrea (12,000) and Ukraine (10,000).<sup>xxix</sup>

Among the citizenships with at least 10,000 decisions issued at first instance in 2023, just five received significantly fewer decisions than a year earlier: Iraqis (21,000), Colombians (21,000), Pakistanis (16,000), Somalis (14,000) and Nigerians (13,000).

### 3.4.8.4. Discontinuations after withdrawals

In 2023, there were 102,000 discontinuations in EU+ countries, the second-highest level in 7 years. This represented a slight decline by one-tenth from 2022. As in the past, most discontinuations were due to implicit withdrawals, accounting for almost 9 in every 10.

Nearly one-half of all discontinuations were jointly recorded in Austria (31,000, albeit a decrease by over one-quarter from a year earlier) and Bulgaria (16,000, reaching an all-time high). At a lower level, a sharp increase in discontinuations took place in Latvia (1,100 or seven times the number recorded in 2022, mostly due to implicit withdrawals).

In 2023, 1 in 10 applications in EU+ countries was discontinued. This stayed roughly in line with the ratio of the previous years. The highest ratios were in Austria (more than 5 discontinued cases for every 10 applications lodged) and Greece (roughly 2 for every 10 applications lodged). Discontinuations were also common in some EU+ countries with relatively fewer applications received. In Croatia, for instance, the number of discontinued cases actually exceeded that of applications lodged (13 for every 10).<sup>xxx</sup> High ratios were also recorded in Bulgaria (7 for every 10), Latvia (6 for every 10), Portugal (almost 5 in every 10) and Lithuania (4 for every 10). In several of these countries, discontinuations exceeded applications in the first and last quarter of 2023, whereas in the middle of the year the trend reversed.

### 3.4.8.5. Other closures

Closed cases for other reasons increased by roughly three-fifths from 2022, reaching a 6-year record (83,000, the majority of which were in Dublin procedures). After a considerable increase in such cases (up by four-fifths from a year earlier), Germany accounted for over one-half of all otherwise closed cases, primarily due to closing cases lodged by Afghans and Syrians.

<sup>xxix</sup> Only citizenships with at least 10,000 first instance decisions issued in 2023 were considered.

<sup>xxx</sup> When the number of discontinuations (after withdrawals) exceeds the number of applications lodged (as was the case in Croatia in 2023), this implies that some of the applications discontinued in 2023 were lodged in 2022.

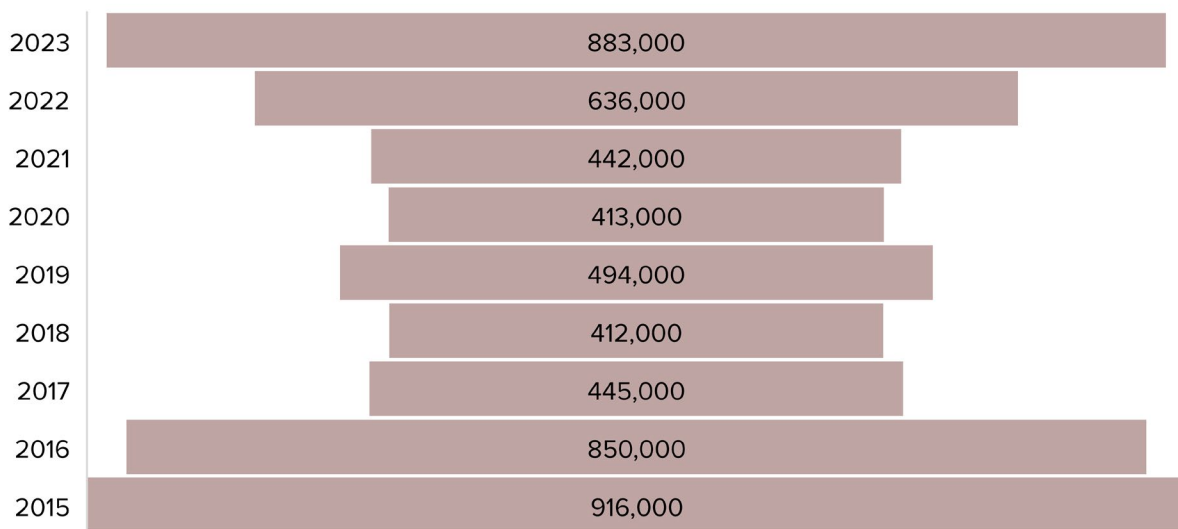


### 3.4.8.6. Pending cases at first instance

The continuously widening gap between applications and case closures led to the highest number of pending cases in the last 8 years, second only to the levels recorded in 2015 (see *Figure 15*).<sup>xxxi</sup>

At the end of 2023, approximately 883,000 cases were awaiting a decision at first instance (a rise by two-fifths from the end of 2022). The caseload concerned a wide array of citizenships, but the largest number pertained to Syrians and Turks. One-half of all cases in the EU+ were pending for more than 6 months.

**Figure 15. Number of pending cases at first instance in EU+ countries at the end of the year, 2015–2023**



**Note:** Data were not available for Portugal for October-December 2023.

*Source:* EUAA EPS data as of 1 February 2024.

The countries with the largest gaps between applications lodged and case closures (Italy, Spain and Germany, in descending order) also had the highest caseloads at first instance. Germany (240,000) accounted for 27% of the total and had the largest absolute increase in pending cases compared to the end of 2022 (up by three-quarters). The caseload also rose in Spain (183,000, up by one-third) and Italy (162,000, almost doubled). Jointly, these three countries accounted for two-thirds of all cases pending at the end of 2023.

Other large absolute increases took place in the Netherlands (44,000, up by two-fifths) and Greece (30,000, up by almost three-quarters). At much lower levels, the pending caseload more than doubled in Latvia (600, +116%) and Slovenia (1,100, +129%).

In contrast, only 10 EU+ countries managed to reduce their caseload in 2023. Among them were Austria (23,000, down by over two-fifths), Cyprus (27,000, down by one-tenth) and Sweden (5,200, down by two-fifths).

<sup>xxxi</sup> Data were missing for Slovakia. Due to missing data, data were imputed for: Cyprus, January 2016 data were used for December 2015; Lithuania, January 2022 data were used for December 2021; Portugal, September 2023 data were used for December 2023.





### 3.4.9. Quality assurance of first instance procedures and decisions

Providing procedural safeguards and an adequate reasoning in first instance decisions are guarantees of legal certainty to ensure that the standards provided in CEAS are respected by national authorities. In 2023, determining authorities followed up on lessons learned from past quality assessment initiatives, provided more training to staff and started new quality review processes for first instance procedures and decisions.

In several EU+ countries, such as Bulgaria, Denmark and Iceland, training efforts were vamped up to ensure the continued professional development of staff working in international protection,<sup>438</sup> sometimes in line with the increase in the number of staff. Denmark provided for the first time an advanced course on interviewing techniques.

In Poland, asylum officials took part in about 50 workshops and training sessions on various topics, including courses in the EUAA Training Curriculum and EUAA tailor-made training. Asylum case officers and COI experts attended 10 workshops on the situation in different countries of origin, which were delivered by Polish experts. For newly-recruited staff, a special on-boarding programme was prepared and delivered.

In Finland, the Immigration Service commissioned an external audit of the application of its guidelines, which concluded that they comply with the law, but they are too open to interpretation.<sup>439</sup> The Dutch IND piloted additional quality checks on positive decisions.<sup>440</sup> Furthermore, the Dutch IND published its second Performance Update and assessed it reached the limits of feasibility. Next to the high number of applications for international protection, applications increased from highly-skilled and labour migrants, as well as from international students. In addition, the decisions are required to be reasoned in a more detailed manner, and this requires extra time and care from staff. The update highlighted, for example, that the number of penalty cases were increasing for applications decided beyond the deadlines. The IND assessed that penalties did not contribute to faster decisions, as there was no lack of will from the organisation's side, but rather there was not enough capacity. In addition, processing default notices and appeals against late decisions also require time from staff.<sup>441</sup>

In Cyprus, the IPAC [rejected](#) complaints of alleged violations of the procedure by the Asylum Service when an EASO officer was involved in the procedure by providing a recommendation. The court stated that the provision of assistance and support to the Asylum Service by an EASO officer in examining the application took place within the framework of existing national and European legislation, while the operational plan had already been signed and entered into force between EASO and Cyprus.

In Czechia, the Organisation for Aid to Refugees (OPU) welcomed the development by the Ombudsperson and the Ministry of the Interior of a new template for asylum decisions, announced in November 2023 and to be tested in the ensuing months.

In Norway, an independent investigation into the quality of the UDI's asylum interviews concluded that the interview model and quality were largely in compliance with recognised standards for investigative interview methods, while also recommending that the UDI should reduce variations in the conduct of interviews, update certain standards and guidelines for asylum interviews, and further investigate the role of the interpreter during the interview.<sup>442</sup>



Fundación Cepaim noted the lack of assessing individual circumstances in Spain when model decisions were used for applicants from countries with high arrivals, such as Colombia and Venezuela. The NGO further added that there were deficiencies in notifying rejected applicants about negative decisions, as notifications were done without certification of delivery or to non-designated addresses, leading to missing the time limit to appeal.<sup>443</sup> The Asylum and Refugee Office (OAR) worked with UNHCR (in the regular framework of UNHCR's protection work and through a specific consultancy) to enhance the quality of the asylum procedure and to develop operating procedures to expedite decision-making for well-founded cases.

UNHCR urged the Luxembourgish government to establish a continuous quality control mechanism when assessing requests for international protection.<sup>444</sup>

### 3.4.10. Length of the asylum procedure before the determining authorities

Several Member States reported that more efficient and faster asylum procedures were implemented for specific profiles of applicants or specific nationalities. For example, in Austria, nationals of Bangladesh, India and Morocco were channelled through the accelerated procedure, based on an individual assessment. The Swiss SEM initiated a pilot project in Zürich to process applications from Algerian, Libyan, Moroccan and Tunisian nationals, which are predominantly considered to be unfounded, in an accelerated manner within a 24-hour period. In 2024, it was announced that these procedures were to be expanded nationwide.<sup>445</sup>

Nonetheless, the excessive length of the asylum procedure at first instance was raised in several EU+ countries. The Lithuanian Red Cross noted that the Lithuanian Seimas Ombudsperson repeatedly found that the Migration Department failed to issue decisions within the legal time limit. On this topic, the Supreme Administrative Court **ruled** that an applicant's right to have a decision on her asylum application within the legal deadline was violated, resulting in non-pecuniary damage. The acknowledgement that the applicant's rights had been violated was a sufficient form of compensation. The same court also **ruled** that the Migration Department's arguments concerning the migration crisis at the border with Belarus and the mass influx of persons displaced from Ukraine were not sufficient to justify delays beyond 6 months to provide an administrative decision on asylum requests.

In a case in which the Lithuanian Migration Department had argued on appeal that it was unable to examine the asylum application within the 6-month time limit due to staff shortages, an unsuccessful search for additional employees, insufficient internal resources, the influx of migrants from Belarus and displaced persons from Ukraine, the Vilnius Regional Administrative Court **ordered** the Migration Department in June 2023 to issue a decision on the asylum application within 1 month of the court ruling taking effect, as the Migration Department did not provide in its decision the grounds for extending the 6-month time limit.

UNHCR noted that challenges still remained in Luxembourg concerning the reasonable length of the procedure. It recommended that the government ensures that decisions to provide or refuse protection respect reasonable time limits.<sup>446</sup>

The high number of applications also led to the extension of the 6-month time limit to pronounce a decision at first instance. To determine the conditions in which national



authorities may extend this time limit when “a large number of third-country nationals or stateless persons simultaneously apply for international protection”, the Dutch Council of State [submitted](#) questions to the CJEU for a preliminary ruling on the interpretation of point (b) of the third subparagraph of Article 31(3) of the recast APD.

Civil society organisations observed lengthy asylum procedures in several countries,<sup>447</sup> but reported that some countries had slight (for example, France, Germany and Ireland) or even significant (for example, Sweden) decreases in the waiting times for a final decision.<sup>448</sup>

### 3.4.11. Digitalisation

In 2023, EU+ countries created new information systems or prepared relevant projects to digitalise their systems, while others adjusted the submission of documents by electronic means. The use of AI in migration was also a topic of concern.

Slovenia was in the process of updating and upgrading its information system in the asylum field, while Bulgaria also worked towards digitalising its asylum system by developing a draft concept for establishing a database.<sup>449</sup>

In Czechia, the Ministry of the Interior created a new information system, entitled IS AZYL III, which is funded through AMIF, for the registration of applicants and the management of information in the field of international protection. The system allows the exchange of information between the Department of Asylum and Migration Policy of the Ministry of the Interior, the Czech police and the courts.<sup>450</sup>

In Ireland, the Minister for Justice published the International Protection Modernisation Programme 2023-2024, which includes recommendations on the development of IT systems, exploring the use of robotic process automation to replace manual data entry tasks, and the wider use of video-conferencing for interviews. In addition, a customer service Chatbot was introduced for international protection queries, freeing internal resources to deal with more complicated customer queries.<sup>451</sup>

The CGRS in Belgium adjusted its procedure for the submission of documents as of 1 March 2023. The new procedure enables applicants to submit documents in support of an application for international protection by e-mail.<sup>452</sup> Furthermore, the eDossier digitisation and automation project is being developed by the CGRS to process applications.

The Center for Legal Aid-Voice in Bulgaria published an opinion on the use of AI in migration, stating that AIs which are categorised as posing an unacceptable risk should not be used in migration (for example systems to predict and stop irregular migration flows, systems to individually profile and assess migrants, automated lie detectors and AI systems that remotely collect and assess biometric data in public places). AIs posing a high risk should be subjected to increased monitoring (for example border surveillance by drones and facial recognition cameras for the collection and processing of migrants' biometric data, and systems for the assessment of evidence related to migration procedures).<sup>453</sup>





### 3.4.12. The interplay between international protection applications and other procedures

Courts clarified in 2023 the effect of applying for international protection during other ongoing procedures, namely extradition and temporary protection.

In Bulgaria, the Supreme Administrative Court [ruled](#) in a cassation appeal on the termination of international protection procedures for applicants from Ukraine and the application of temporary protection.

In Spain, the Supreme Court [ruled](#) in April 2023 that temporary protection cannot be granted to beneficiaries of another form of international protection. The applicant had challenged the decision by which he was provided subsidiary protection and not refugee protection, arguing that he should also be provided temporary protection. The Supreme Court rejected the claim, stating that subsidiary protection and temporary protection could not be cumulated.

In Spain, the Supreme Court [ruled](#) in April 2023 that international protection proceedings, including the application for international protection, suspend the execution of an extradition decision but not the extradition procedure itself.





## Section 3.5. Processing asylum applications at second or higher instances



Under the rule of law, anyone alleging a violation of their rights is entitled to fair procedures in line with international human rights law and an effective remedy, which includes the right to appeal before the national authorities.

The EU-level legislative framework to appeal a decision in an asylum procedure is outlined in the recast APD, Chapter V. Article 46 obliges Member States to ensure that applicants have the right to an effective remedy before a court or tribunal to contest a decision issued on a first instance application. The right to an effective remedy includes a full and *ex nunc* (i.e. which is valid for the future) examination of both facts and points of law, including an examination of the need for international protection as defined by the recast QD, in an appeals procedure before a court or tribunal of first instance to guarantee adequate substantive and procedural safeguards.

EU law does not prescribe a specific organisation or structure of courts and tribunals adjudicating asylum cases. Each EU+ country follows its own national system, so appeals in asylum cases may be lodged before general courts which adjudicate other matters in addition to asylum or specialised asylum courts which adjudicate only appeals in asylum cases. In addition, some EU+ countries have a system of non-judicial complaints that must be exhausted before lodging an appeal with the courts.

Developments in 2023 focused on the right to access the appeal procedure and the competent bodies which should examine an appeal. The scope of appeals in international protection cases and the suspensive effect of an appeal were the subject of legislative changes and judicial review. Legislative amendments were also introduced to strengthen the right to a hearing before an appeal body, and several judgments highlighted the importance of this procedural safeguard on appeal. In addition, relevant judgments were pronounced by courts on the possibility to be provided with a same-sex interpreter, interviewer or judge on appeal.

As every year, appeal bodies suspended the examination of cases on appeal for specific profiles of applicants or they updated their practice guidelines in line with developments in countries of origin.

The length of asylum appeals was an aspect of concern for national authorities, with civil society organisations providing recommendations to several EU+ countries to render a decision within reasonable time limits.

Lastly, the digitalisation of appeals in international protection cases continued throughout 2023 through remote hearings, while additional shortcomings, despite the allocation of substantial funds, were identified by civil society organisations.





### 3.5.1. Access to the appeals procedure

The right to access the appeals procedure in asylum cases was changed in several EU+ countries which amended the time limits to challenge first instance decisions, additional rights were provided to applicants prior to lodging an appeal and changes were introduced to the remedies that should be followed by applicants. Courts also interpreted the right to access a fair appeal as a remedy for procedural failures at the administrative stage.

In Czechia, Act No 173/2023 amended Section 32 of the Asylum Act to make some minor modifications to the time limits to lodge an appeal. The provision notes that: an appeal may be lodged within 15 days against a decision rejecting an application as manifestly unfounded, a decision on the suspension of proceedings and when the applicant is detained or not allowed to enter the territory; 1 month in all other cases; and 2 months when instructions on how to appeal were missing, incomplete or incorrect.<sup>454</sup>

In Switzerland, the Federal Council repealed the COVID-19 ordinance with effect from 15 December 2023. The cancellation of this ordinance meant that the time limit in the accelerated procedure resumed to 7 working days (instead of 30 days during the pandemic) for an appeal against a decision and requests for interim rulings must be submitted again within 5 days (instead of 10 days).<sup>455</sup>

Additional rights were provided to applicants in Italy, where Law No 50/2023 provided that, before filing an appeal, lawyers may access the video recording of the applicant's hearing before the Territorial Commission.<sup>456</sup>

Legislative changes were introduced in May 2023 in Romania for first instance decisions, which impacted the appeal proceedings to be followed by applicants. The legislative changes provide that a return decision is issued at the same time with a decision rejecting the request for international protection.<sup>457</sup> The National Council for Refugees (CNRR) reported that applicants must follow two simultaneous judicial proceedings, which poses practical challenges for effective access to appeals procedures; the first appeal to be accessed is against the negative decision, for which the court of first instance is competent, and the second, against the return decision, for which the Court of Appeal is competent, which is not confidential and is subject to a stamp fee. CNRR noted that this was a complex situation to navigate for people who already encounter difficulties due to their lack of legal training and legal assistance, socio-cultural backgrounds and language barriers.<sup>458</sup>

In addition, CNRR noted that the legislative change overburdens the Courts of Appeal with additional cases, as some courts suspend the procedure until there is a final decision on the asylum request, which leads to a longer procedure than before the amendments and with cases where a person who receives a form of protection may also receive a final return decision.<sup>459</sup> CNRR highlighted that this situation does not respect the European Commission Recommendation (EU)2023/682 of 16 March 2023, which states that Member States should provide the possibility to lodge an appeal against the negative decision on international protection and the return decision at the same time before the same court or tribunal, or for the possibility to appeal both decisions within the same timeframe.<sup>460</sup>

In Ireland, the High Court granted certiorari in a case where the International Protection Office erred by claiming that the applicant had not submitted the required documentation. The court **ruled** that the availability of a fair appeal, in which documents could be translated and made available to the judge, does not remedy the absence of a fair first instance decision.





### 3.5.2. Institutional changes in appeal bodies

Several EU+ countries introduced changes to the bodies competent to examine asylum appeals, adapting the competent bodies to the number of appeals pending at second instance or changing the criteria for appointment as a member in the appeal body to ensure that sufficient candidates apply for positions open at second instance.

In the context of a project financed by the EU and the Council of Europe to modernise the courts, Cyprus announced in January 2023 the establishment of an independent court service for administrative support to judges, leaving more time for judges to focus on judicial duties.<sup>461</sup>

In Latvia, a new local court was afforded the competence to receive asylum appeals.

In Lithuania, the practice of distributing appeal files to several regional courts, which had been applied in 2021 and 2022 due to an increase in the workload, was discontinued, and the Vilnius District Administrative Court was again assigned to asylum cases.

Changes were also introduced in the court system of Slovakia, in effect since 1 June 2023. Three new administrative courts were created in Bratislava, Banská Bystrica and Košice. Two of the administrative courts have jurisdiction over administrative actions in matters of asylum, detention and administrative expulsion, namely the Administrative Court in Bratislava for the territorial districts of the Bratislava Region, the Nitra Region, the Trenčín Region and the Trnava Region; and the Administrative Court in Košice for the territorial districts of the Banská Bystrica Region, the Košice Region, the Prešov Region and the Žilina Region.<sup>462</sup> The Supreme Administrative Court of the Slovak Republic decides on cassation complaints filed against the decisions of these administrative courts.<sup>463</sup>

To deal with the increased volume of appeals and requests before IPAC, in May 2023, Cyprus amended the Law on the Establishment and Operation of IPAC. This allowed the Supreme Judicial Council to appoint people with the necessary qualifications to judge appeals pending before the court, alongside IPAC judges, temporarily for the period provided in the amendment.<sup>464</sup>

Legislative proposals were also made in Norway in March 2023 to appoint members of the grand jury of the UNE in the same way as other committee members, lowering the requirements due to the lack of sufficient candidates and providing that the appointment would not be done by the ministry.<sup>465</sup> In April 2023, NOAS expressed its disagreement with this proposal, noting that the change would lead to a weakening of the grand jury of the UNE and possibly reduce the quality of the decisions of the UNE.<sup>466</sup>

The appeal authority was changed in Poland from the Head of the Office for Foreigners to the Commander-in-Chief of the Border Guard for decisions of the Border Guard authorities in cases of obligation of the foreigner to return, extension of the time limit for voluntary departure, revocation of the re-entry ban, the granting of a residence permit for humanitarian reasons and a permit for tolerated stay, withdrawal of humanitarian residence permits and permits for tolerated stay. The second instance authority in matters of international protection did not change, and the Refugee Board remained the second instance administrative authority that examines appeals against negative decisions at first instance issued by the Head of the Office for Foreigners in matters of granting international protection. The Polish Helsinki Foundation for Human Rights commented that the change related to appeals in return proceedings raised the issue of an effective and fair right to appeal, as now decisions in first



and second instances are issued by branches of the same institution which follows a strong hierarchical model.<sup>467</sup> The Border Guard underlined that the Commander-in-Chief of the Border Guard has extensive experience in adjudicating administrative cases as a higher-level authority in a number of cases conducted by commanders of Border Guard posts and branches, and as an appellate body, it has experience, developed jurisprudence and performs actions with the participation of qualified officers and employees who are specialised in applying the provisions of the Law on Foreigners.<sup>468</sup>

In Czechia, the Organisation for Aid to Refugees (OPU) reported that the judicial review provided by courts remained affected by the lack of specialisation and training in asylum, insufficient time, lack of staff allocated to asylum cases and limited knowledge of English to access European and international human rights law, COI and relevant comparative jurisprudence. The organisation further observed that the austerity measures announced by the government were expected to impact the financial situation of the courts, which have already become stricter in reviewing the financial means of applicants who request free legal aid. Despite the challenges, the NGO noted a positive example of comprehensive reasoning which took into account international law and COI in a [judgment](#) pronounced by the Regional Court in Ostrava, concerning a trafficked woman from Nigeria.<sup>469</sup>

### 3.5.3. Scope of an appeal in international protection cases

The scope of an appeal in international protection cases was the subject of legislative changes and judicial review in EU+ countries, including the requirement to provide an *ex nunc* examination of both facts and points of law (as provided in Article 46 of the recast APD) and on the suspensive effect of an appeal.

In Czechia, an amendment introduced by Act No 173/2023 aligned legislation with long-standing practice and the law now specifically mentions that, when assessing an appeal, the court must also consider new, important facts that have arisen after the administrative decision, if they relate to possible persecution or the threat of serious harm. The court must cancel the administrative decision and return the case to the administrative body for further proceedings if the facts have an effect on the administrative body's decision on the merits.<sup>470</sup>

In November 2023, the Supreme Administrative Court of Czechia applied the CJEU *Torubarov* judgment and [ruled](#) that the court can, in certain circumstances, provide international protection on appeal, even though national law does not otherwise confer such power on the administrative court.

In Italy, Law No 50/2023 provided that for appeals registered before 31 December 2021 and still pending, a motion may be presented by the lawyer to prioritise the assessment of the right to special protection before the assessment of the right to international protection. If special protection is granted, the need for international protection is no longer assessed.<sup>471</sup>

Despite the Supreme Court's judgment which ruled that a rejected applicant had the right to remain in Spain pending a final decision, CEAR and Fundación Cepaim reported that nonetheless an urgent interim measure before a court must be requested for a suspensive effect – which can be refused. However, the two organisations stated that in 2023 the national police started documenting 'applicants with a pending appeal' who had been granted





the interim measure of suspending a return. They further reported that there were delays in issuing this documentation, which prevented applicants from having rights to reception.<sup>472</sup>

### 3.5.4. The right to an oral hearing on appeal

Legislative amendments were introduced to strengthen the right to a hearing before an appeal body. Several judgments pronounced by courts in 2023 highlighted the importance of this procedural safeguard on appeal, as well as the presence of an interpreter at the hearing.

In Norway, the Ministry of Justice and Emergency Preparedness amended the Immigration Regulations in September 2023 to strengthen the right to a hearing before the UNE in specific cases. These include when a court already annulled a decision of the UNE, when a court indicates that another decision was not correct, if the decision of the court would be applied to it, and by request of the Norwegian Civil Ombudsperson.<sup>473</sup>

In three judgments pronounced on 26 September 2023, the Supreme Administrative Court in Austria annulled lower court judgments for failing to uphold the right to be heard after the applicants raised new arguments in subsequent applications or in appeal proceedings. The court held that the Federal Administrative Court could only refrain from an oral hearing if all facts had been ascertained in full by the administrative authority and all facts were still up-to-date and complete. The court noted that an oral hearing must take place if the applicants showed any facts that contradicted or went beyond the result of the official investigation procedure.<sup>474</sup>

Equal Legal Aid raised several concerning practices in Greece, including denying legal representatives the possibility to submit oral observations, unwarranted requests to have applicants physically present during the appeal examination and the dismissal of appeals as manifestly unfounded if applicants were not physically present.<sup>475</sup> On this topic, the Administrative Court of Thessaloniki [decided](#) on 30 June 2023 to refer questions for a preliminary ruling to the CJEU, including whether it is consistent with the right to an effective remedy to lay down an obligation to appear in person before an appeal committee and, if the applicant does not appear, to dismiss the appeal as manifestly unfounded without a full and *ex nunc* examination.

The High Court of Ireland [rejected](#) an appeal filed by an applicant from Kosovo, ruling that, to submit additional material, the applicant's lawyer had no reason to wait to receive the notice of an oral hearing. The court noted that the material is submitted in writing, and thus, there was no obstacle to submit it.

The right to an interpreter during the oral hearing was examined in Belgium, where the Council of State [ruled](#) that the right to a fair trial was breached. The court annulled CALL's decision which had been pronounced after rejecting the applicant's request to have an interpreter present at the hearing.



### 3.5.5. The possibility to have a same-sex official in the appeal procedure

Two relevant judgments were pronounced in Austria and Belgium on the possibility to have a same-sex interpreter, interviewer or judge to ensure a fair trial in appeal procedures.

In a case in which a female applicant alleged the risk of being subjected to a forced marriage in Syria, the Federal Constitutional Court of Austria **ruled** that a judgment pronounced on appeal by a male judge could violate the applicant's right to a fair trial, if the applicant claimed a violation of sexual self-determination before the Federal Office for Immigration and Asylum (BFA). This was irrespective of whether the statements of the applicant were credible.

The Council of State in Belgium **ruled** that the possibility for an applicant to have a personal interview with the decision authority led by a person of the same sex and assisted by a same-sex interpreter, as provided by Article 15 of the recast APD, does not apply to appeal procedures, but these guarantees must be complied with on appeal if the applicant was not given this opportunity before the determining authority.

### 3.5.6. Examination of appeals lodged by specific profiles of applicants

Several EU+ countries suspended appeal cases due to developments in various regions or third countries and updated their practice guidelines for specific profiles of applicants. For example:

- Due to the volatile situation in the Gaza Strip, the Danish Refugee Appeals Board decided in October 2023 to suspend deportations of stateless Palestinians to Gaza.<sup>476</sup>
- In April 2023, the Danish Refugee Appeals Board suspended the examination of asylum applications from Sudanese nationals.
- In May 2023, the UNE in Norway suspended the examination of appeals lodged by Sudanese nationals due to the outbreak of war in Sudan. The examination of appeals and the suspension of the obligation to leave for Sudan were lifted in November 2023.
- From 24 February 2022 to 12 October 2023, the examination of asylum applications from Ukrainian nationals was suspended by the Refugee Appeals Board and cases were sent back to the Danish Immigration Service for a new first instance decision.<sup>477</sup>

In addition, in Norway, the UNE updated its practice note on the assessment of persecution based on sexual orientation.<sup>478</sup>

The Dutch Minister for Migration decided to impose a decision and departure moratorium for several countries (see Section 3.4.5) and the examination of appeals lodged by applicants from those countries was discontinued, as the IND revoked the decisions.

Under the UNHCR Legal and Protection Policy Research Series, the University of Copenhagen carried out a study on how religion-based asylum claims related to *sur place* conversion were adjudicated across the appeal levels in Denmark, Norway and Sweden. The study concluded



that there were differences in the legal reasoning and among individual decision-makers within the same asylum system. The differences related to inclusion of COI, references to international law, regional and national jurisprudence and guidance, credibility indicators and weight accorded to different types of evidence.

The study emphasised that these types of cases were prone to bias and inconsistency that risk impacting fair and objective decision-making. The report provided recommendations for assessing religious conversion claims, such as conducting risk assessments with an emphasis on up-to-date COI, methods to ensure effective disclosure in conversion cases, quality interpretation and dialogue with religious institutions.<sup>479</sup>

### 3.5.7. Length of the appeals procedure

The length of asylum appeals was an aspect of concern for national authorities, with national evaluations of appeal procedures taking place in 2023. Civil society organisations criticised the excessive length of appeals procedures in several EU+ countries and provided recommendations to render a decision within reasonable time limits.

The Italian Constitutional Court [upheld](#) that the general rules applied to appeals in international protection cases and judicial proceedings which last less than 3 years at first instance were not in breach of reasonable duration and do not give rise to compensable damage.

CNRR noted the longer appeal procedure in Romania following the legislative changes of May 2023, which led to applicants having to follow judicial proceedings before two different courts.<sup>480</sup> Also, Fundación Cepaim noted the excessive duration of the appeals procedure in Spain.<sup>481</sup>

The Swedish Refugee Law Centre noted that there were considerable differences in processing times of appeals between different courts, where some processed appeals within a couple of months and others within a few years.<sup>482</sup>

Aditus Foundation and Humanists Malta noted in their submission to the 4<sup>th</sup> Universal Periodic Review that Malta should adopt a long-term plan to reduce the duration of judicial procedures in general, including by appointing additional judges and allocating adequate resources to courts.<sup>483</sup>



## Section 3.6. Reception of applicants for international protection



The recast Reception Conditions Directive (RCD) sets the standards for the conditions which must be met for the reception of an asylum applicant and aims to ensure that applicants' rights and obligations are harmonised across all Member States.

The reception of applicants for international protection encompasses rules on material reception conditions (such as housing, food and clothing which are provided in kind, through financial allowances or in vouchers – or a combination of these three – and a daily expense allowance), freedom of movement, access to health care, education for children, access to the labour market, language instruction and socio-cultural orientation. The directive applies to all applicants throughout the whole asylum procedure from the moment an application is made and for all types of procedures until they are allowed to remain on the territory.

The recast RCD describes the conditions and processes under which applicants need to be informed about reception benefits and duties (see *Section 3.8*). The directive also outlines the circumstances when Member States may reduce or exceptionally withdraw material reception conditions.

Member States must have appropriate guidance, monitoring and controls to ensure that the EU standards are upheld. They also need to provide suitable staff training and allocate sufficient resources. Member States are required as well to take into account the specific situation of vulnerable applicants (see *Section 4*). Furthermore, the directive lists the criteria, guarantees and conditions for the detention of applicants (see *Section 3.7*). The standards in the directive, however, can be imposed differently in national laws, and thus, variations exist in reception conditions across countries.

Challenges from previous years continued with the reception of applicants for international protection in 2023. Reception authorities in the majority of EU+ countries were still concerned with providing suitable accommodation for each applicant, as reports of homelessness, destitute or sub-standard living conditions, and the lack of support services were frequent by international organisations, national human rights institutions, ombudspersons and civil society organisations. The situation continued to negatively impact applicants with special needs and vulnerabilities, such as children, women, LGBTIQ applicants or applicants with disabilities, including both physical and mental health issues (see *Section 4*). Courts continued to be called upon frequently to ensure access to material reception conditions and dignified conditions for all applicants.



The European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) requested a study on reception conditions across the EU, which summed up the EU's legal framework, implementation of the current legal framework, EU support provided to Member States, and showcased some of the good practices identified. The final report built on information from several editions of EUAA's Asylum Report, among other sources.<sup>484</sup>

In 2023, the European Commission sent letters of formal notice to Belgium, Greece, Portugal and Spain for having incorrectly transposed certain provisions of the recast RCD.<sup>485</sup>

Next to addressing urgent needs, national authorities in several countries continued their quest for structural solutions to ensure flexible and sustainable reception systems. This entailed changes, for example, to the institutional set-up, funding structure and cooperation agreements with other stakeholders. The environmental sustainability of facilities gained more importance as reception systems had to cope with increased demand and higher energy costs, as presented in a dedicated EUAA [situational update](#).<sup>486</sup>

The pressure on the reception system also caused a revision in and stricter application of the rules on the entitlement to reception conditions. Legislative revisions generally clarified the end of reception. As in previous years, the outflow from reception centres often stagnated or even slowed down, as recognised beneficiaries of international protection faced challenges in finding their own accommodation in social housing or in the private market (see *Section 3.13.4.4*). Policy proposals aimed to facilitate this transition from reception to own accommodation and to allow faster access to the labour market.

While challenges will likely remain, national authorities will continue to look for flexible and sustainable solutions in reception to efficiently adapt to the changing numbers and profiles of applicants and reception residents. Under its reinforced mandate, the EUAA will provide guidance and support, in dialogue with all stakeholders with relevant expertise, including civil society organisations.

## 3.6.1. Organisation and functioning of the reception system

### 3.6.1.1. Adapting reception systems

National authorities kept addressing immediate reception needs throughout 2023, but some simultaneously revised their reception models to implement structural changes.

For example, the reform of the Lithuanian reception and accommodation system continued in 2023 and draft amendments were approved by the government. Under the Ministry of Social Security and Labour, an agency would be in charge of the reception of and support for applicants at the Refugee Reception Centre, while other reception-related tasks would remain with the SBGS under the Ministry of the Interior.<sup>487</sup> UNHCR welcomed the proposal and underlined that the creation of the agency is key in ensuring a successful reform of the reception system.<sup>488</sup> Another amendment to the law stipulates that the decision for an applicant's accommodation must be made by the Migration Department. Applicants must be accommodated without restriction of their freedom of movement, if certain conditions are met. When assessing restrictions on the freedom of movement, the authorities must also assess the applicant's age, health, family situation and other relevant circumstances. The



amendments also establish the process to appeal the decision on accommodation within 14 days before the district court.<sup>489</sup> Concerns on the emergency provisions allowing applicants to be placed in closed centres were raised by UNHCR and civil society organisations (see *Section 3.7*).

The Lithuanian Red Cross Society observed that the number of residents in the Foreigners' Registration Centre decreased at the beginning of 2023 and services were assessed overall to be of good or sufficient quality. However, the organisation pointed out that the number of residents increased again in summer 2023, and as all newly-arrived people were quarantined, other parts of the centre were transformed into quarantine facilities where the organisation's employees could not enter.<sup>490</sup>

The Greek Emergency Support to Integration and Accommodation (ESTIA) II scheme, which was designed for the accommodation of vulnerable applicants,<sup>491</sup> ended on 31 December 2022 and residents were transferred to larger mainland structures.<sup>492</sup> The civil society organisation Refugee Support Aegean noted that government-managed facilities were the only form of accommodation offered to applicants and only persons in reception camps were eligible for financial support, but the facilities were often established in remote, isolated areas without organised transportation, making it difficult for applicants for example to attend asylum interviews.<sup>493</sup>

In addition, the Committee of the Ministers of the Council of Europe continued to monitor the execution of the *M.S.S. v Greece judgment* from 2011. The government submitted a communication detailing the efforts made in 2022 and the first quarter of 2023 to improve living conditions for applicants, underlining that it had taken "serious steps in effectively dealing with issues raised in the M.S.S. group of cases".<sup>494</sup> The Committee of the Ministers welcomed these improvements and noted that there had not been any reports of overcrowding by civil society sources, but concerns were expressed about the quality of services offered. The committee also noted that a serious lack of psychosocial and medical staff was observed on the islands, food and water were reported to be of poor quality, and on certain occasions, basic necessities were missing. The committee based these findings on a detailed report of the situation of reception in the Aegean islands, published by Refugee Support Aegean and ProAsyl.<sup>495</sup>

The ECtHR found again a violation of the ECHR, Article 3 in several cases due to inadequate reception conditions, for example, for pregnant women who had arrived in Samos in 2019 and 2020, an HIV-positive applicant who had arrived to Lesbos in 2019, and a group of 67 people staying in the Moria camp in Lesbos in 2017-2019.<sup>496</sup> The securitised character of Closed Controlled Access Centres (CCACs) continued to cause concern, for example for the European Ombudsperson,<sup>497</sup> UNHCR<sup>498</sup> and several civil society organisations.<sup>499</sup> In light of increased arrivals over summer 2023, 25 civil society organisations sounded the alarm over the lack of reception services on sea entry points, including those that lacked a dedicated reception facility, for example in Rhodes.<sup>500</sup> In December 2023, the ECtHR granted interim measures to two Afghan women and their five children due to the conditions in the CCAC in Kos.<sup>501</sup>

The Finnish Immigration Service decided to terminate the municipal model for reception at the end of 2023, which had been a temporary response to the exceptional situation caused by the aggression of Russia against Ukraine in the spring 2022. The reception system was expanded since then and considered to be sufficient to cope with the current situation.<sup>502</sup>



Institutional changes were undertaken in some countries to reflect a clearer division of tasks and more efficient cooperation among stakeholders. For example, the Spanish Directorate General responsible for reception changed its name and became the General Directorate for the Management of International and Temporary Protection Reception Systems (DGGSAPI) to reflect its responsibility for managing reception centres for persons with temporary protection. The civil society organisation CEAR took stock a year after significant changes were introduced to the organisation and funding of the Spanish reception system.<sup>503</sup> It welcomed the more stable and transparent functioning of the system, which efficiently addresses changes in the number of applicants in need of reception.<sup>504</sup>

In Luxembourg, the responsibility for reception-related tasks moved under the Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees following the general elections at the end of 2023.

The draft Migration Code presented by the Belgian State Secretary at the beginning of 2024 includes the act on reception as an integral part of migration and aims to modernise and adapt current provisions to the actual context and practices. For example, the code aims to clearly include tasks that Fedasil has already been carrying out, such as providing support to find employment or resettlement (see *Section 3.6.3.2*).<sup>505</sup>

Criteria to distribute applicants across regions of a country were addressed. The criteria to redistribute applicants among Italian regions was revised due to a significant increase in arrivals.<sup>506</sup> In the Netherlands, discussions were ongoing in the Dutch parliament and senate about a new Distribution Act, which would proportionally divide the responsibility for reception places among municipalities. When occupancy is low, the places could be used for other target groups in need of accommodation, such as students, migrant workers or the homeless.<sup>507</sup> The Central Agency for the Reception of Asylum Seekers (COA) and other stakeholders, such as the Association of Dutch Municipalities and the Interprovincial Consultation, expressed their strong support for the new law and urged its adoption.<sup>508</sup> COA carried out an application test of the draft implementation legislation, the results of which fed into the discussions on improving the law.<sup>509</sup> The Council of State delivered its opinion on the draft legislation in January 2024 and suggested further clarification on the differences between an application facility and an application centre, the roles of chain partners and the definition of the minimum number of reception places.<sup>510</sup> The act entered into force on 1 February 2024.<sup>511</sup>

In addition, to find structural solutions to the Dutch reception crisis, the Council of Ministers agreed to more stable funding for the reception agency, allowing COA to maintain a fixed reception capacity of 41,000 places.<sup>512</sup> Previously, the organisation was funded based on occupied places.

To further improve the provision of material reception conditions, the Dutch COA undertook a satisfaction survey with its residents, an exercise that will be regularly repeated every 2 years. The survey covered both regular and emergency shelter locations. The results were deemed to be satisfactory, but the details would be discussed with COA staff and residents at specific locations.<sup>513</sup> The agency also conducted a survey of employees' psychosocial workload and work experiences. 84% of employees were (very) satisfied to work at COA. However, around 75% employees were faced with undesirable behaviour from a resident at least once, and 29% experienced some form of undesirable behaviour from a co-worker.<sup>514</sup>





As part of its Innovation Agenda, COA continued to look for new concepts, products, services and forms of collaboration in accommodation for the future.<sup>515</sup>

Temporary changes in funding were introduced in Austria, where federal provinces were granted additional reimbursement for their costs for beneficiaries of material reception conditions from October 2022 to March 2023 to cover for the impact of inflation and higher living costs. Operators of collective reception facilities and hosts of private accommodation were granted increased reimbursements per person.

In order to ensure a systematic evaluation of reception conditions, Standard Operating Procedures were developed in Romania for the implementation of an assessment process, based on the EUAA's Practical Tool for the Assessment of Reception Conditions (ARC).

By increasing funding, Fedasil continued to encourage municipalities to open local reception initiatives (ILA) for applicants with high chances of being recognised.<sup>516</sup>

In France, the asylum directorate launched in March 2023 the revision of the national scheme for the reception of asylum applicants and the integration of refugees for the period 2024-2027. Several thematic meetings with all stakeholders of the reception system were held to discuss the current challenges, the need for improvements and the way forward for the following years. Questionnaires were also sent to local state representatives and operators of all reception facilities to collect information and opinions on the French reception system.

In Sweden, the Supreme Administrative Court [interpreted](#) the provisions on the reimbursement of costs for municipalities when renting extra school premises for asylum applicants. The facts of the case related to the situation in autumn 2017, and the court concluded that the costs did not have to be linked to a particular child's special support.

### **3.6.1.2. Adjusting reception capacity and impact on reception conditions**

The significant pressure on the majority of reception systems throughout 2023 had an impact on the conditions in reception. The reasons for challenges were multifaceted and not always caused by a simple increase in the number of applicants.

In some EU+ countries, such as Croatia, Czechia, Slovakia and Slovenia, more applicants arrived but many of them also continued their route after a short time. In others, bottlenecks appeared between different levels of the reception system, for example between the federal state and the federal provincial level in Austria or between the federal and cantonal levels in Switzerland.<sup>517</sup> Increased occupancy in Greek mainland structures slowed down transfers from the islands.<sup>518</sup> Slow outflow from reception centres was a major issue in many countries, including in Belgium, France, Ireland, Luxembourg and the Netherlands, due to longer asylum procedures, difficulties for recognised beneficiaries of international protection to move to private housing or challenges in implementing Dublin transfers or returns.

The Belgian government and Fedasil continued to look for and adopt measures to ease the pressure on the reception system. In spring 2023, the Council of Ministers approved an increase to reception capacity through the use of EUAA containers, a continued search for new sites, the creation of additional emergency places in Brussels and financial incentives to create small-scale accommodation (ILA/LOI) through social services (CPAS/OCMW). Staff recruitment continued throughout 2023 as well. Exits from reception centres were sped up for rejected applicants and people who had been in the reception system for more than 3 years.







The government confirmed that three new public contracts were awarded to private operators and temporarily extended another contract until 15 September 2023.<sup>519</sup>

Still, at the end of August 2023, the State Secretary decided to temporarily not accommodate single men in the reception network, anticipating the increase in the number of families and children seeking international protection<sup>520</sup> – a decision which was shortly afterwards **suspended** by the Council of State as contrary to national legislation. In September 2023, Fedasil needed to resort to emergency accommodation in hostels for families as well.<sup>521</sup> In order to address these challenges, the Council of Ministers established a special task force with the objective of finding and opening at least 2,000 new temporary places, in addition to the initiatives that were foreseen in the Winter Plan.<sup>522</sup> By the end of 2023, over 2,500 asylum seekers were waiting to be included in the reception network.<sup>523</sup>

In Croatia, the reception centre in Zagreb worked over capacity and was overcrowded, while the centre in Kutina – originally established to care for applicants with special needs – started to accommodate applicants with other profiles as well. Containers were set up to prepare for emergencies. Authorities planned to open new centres in 2024, including one near the border and under the management of the border police. Reception staff were often overburdened, so the Croatian Red Cross organised a dedicated workshop on the mental health of helpers.<sup>524</sup>

Expanding reception capacity and improving living conditions were objectives of the Cypriot Ministry of the Interior's migration management plan, including building a new accommodation and pre-departure centre in Limnes (within 24 months with a capacity of 800-1,000 places) and expanding the centre in Kofinou.<sup>525</sup> The Pournara First Reception Centre was upgraded throughout 2023 with funding from the European Commission, including maintenance, new prefabricated housing units and new equipment.<sup>526</sup> In its input to this report, ECRE highlighted the urgent need for these works, as reception conditions continued to raise concerns and many applicants remained at risk of destitution and homelessness.<sup>527</sup>

France opened 4,900 additional reception places in 2023. In its instruction published on 19 April 2023, the Ministry of the Interior determined its priorities: to open as soon as possible the new places created by the budget law, to guarantee the availability of all operators of state-financed places and to reduce the undue presence of beneficiaries of international protection or rejected applicants in the reception system.<sup>528</sup> The National Assembly noted that nearly 20% of reception places were occupied by residents who should not be accommodated there.<sup>529</sup> Informal settlements continued to exist in several parts of the country, where both applicants and undocumented migrants gathered. The 2024 national budget foresees a further increase in reception places and a reduction in the unauthorised presence of other groups of residents.<sup>530</sup> To alleviate the pressure in certain regions, additional ad hoc places were created in 2023, with a total capacity of 500 places.<sup>531</sup>

The Finnish Immigration Service tendered 17 new reception centres in two rounds in autumn and spring 2022, and decided to end the contract with centres in summer 2023.<sup>532</sup> The Oulu reception centre was transformed into a registration centre and used by the security authorities due to the situation at the Eastern border (see *Section 3.1*), so displaced Ukrainians needed to be moved to other reception centres. The agency acknowledged that the move was organised on a tight schedule and there were some inconveniences to residents, affecting distance to school and employment for example.<sup>533</sup>



In Germany, the Association of Cities and Municipalities underlined that many cities and municipalities exceeded their limits to provide accommodation and care for applicants,<sup>534</sup> while media sources repeatedly reported on overcrowding and alarming conditions in reception facilities in various federal states throughout 2023.<sup>535</sup>

In its input to this report, ECRE noted that emergency facilities needed to be used for longer periods in some places.<sup>536</sup> The German authorities underlined that in some cases the available capacity in both the state reception centre and the municipal collective accommodation was temporarily exhausted, making it necessary to consolidate accommodation and create or set up emergency accommodation at short notice. Not all emergency accommodation places could fulfil the standards of collective accommodation, but these were generally used only for a few days until suitable accommodation was found. The enormous efforts of the federal states and local authorities were emphasised, in addition to the willingness of the general population to provide support, especially to displaced Ukrainians.

The Irish government paused the provision of emergency shelter for adult asylum applicants in the City West transit hub in January 2023.<sup>537</sup> The Irish Human Rights and Equality Commission (IHEC) assessed that the state was in breach of its human rights obligations.<sup>538</sup> UNHCR called for urgent action to avoid that many applicants end up being homeless and destitute.<sup>539</sup> In an effort to provide a quick solution to the lack of reception places, the government established an Accommodation Working Group to assist the authorities in the agile delivery of accommodation.<sup>540</sup>

The Irish High Court [declared](#) that failure to provide accommodation to a minor applicant was a breach of the country's obligations under the recast RCD and the EU Charter of Fundamental Rights, Article 1. The court underlined that even when reception capacities are saturated, the government must find alternative measures. The IHEC intervened in two other cases in front of the High Court, underlining the government's obligation to ensure that the basic needs of applicants are met.<sup>541</sup>

The Irish Refugee Council published a report on homelessness among international protection applicants and reported that almost 1,400 applicants did not receive accommodation upon arrival between 24 January 2023 – when the government decision entered into force – and 4 June 2023.<sup>542</sup> In October 2023, UNHCR highlighted that hundreds of applicants continued to be accommodated in tents and underlined that long-term planning for accommodation did not seem to meet the needs.<sup>543</sup> The International Protection Integration Fund continued to support local initiatives which aimed to integrate applicants, and in 2023, 70 projects received EUR 1.2 million,<sup>544</sup> compared to 67 projects receiving EUR 1.6 million in 2022.<sup>545</sup>

Arrivals increased again in Italy, and the Lampedusa hotspot was particularly under pressure.<sup>546</sup> In order to facilitate the opening and operating of hotspots and government reception centres in Italy, Law No 50/2023 allows for the derogation of certain laws, such as some provisions on public procurement, until 31 December 2025 (similarly to the opening and management of return and repatriation centres (CPRs), see *Section 3.6*). As part of the derogation from the general legal framework, the law also allows the Italian Red Cross to manage the Lampedusa hotspot. To alleviate pressure on hotspots, the law foresees that foreigners can be transferred to similar facilities on the national territory to undergo identification and registration. When government reception centres are full, the prefect may identify temporary reception facilities.<sup>547</sup> UNHCR expressed concern about the measures and providing adequate reception conditions under the derogations.<sup>548</sup>



Due to the pressure in reception, Italy kept its notification from 2022 on not accepting Dublin transfers throughout 2023 (see *Section 3.2*). The ECtHR [found](#) violations of the ECHR, Articles 3 and 13 for an applicant who was transferred from Sicily to the Cona reception centre in May 2016, which was overcrowded, lacked basic facilities such as heating and hot water, and access to medical care, legal and psychosocial support lacked. Civil society organisations, such as the International Rescue Committee, reported on an increased number of homeless applicants staying in informal settlements at the north-east border.<sup>549</sup>

Reception structures in Luxembourg reached near full capacity at the end of 2023 and a waiting list was established for single men. Access to accommodation is evaluated by priority criteria, with applicants with special needs to be included in the reception system with priority. Those on the waiting list are oriented to other social support structures.<sup>550</sup>

To respond to growing arrivals, a new reception centre was opened in Alūksne, Latvia, with a capacity of 252 places. The new centre accommodates single people, while the already-existing one, with 450 places, is intended mainly for families.<sup>551</sup> In Bulgaria, the construction of a third safe zone for unaccompanied children started in the Harmanli reception centre (see *Section 4.6.5*), without increasing the overall capacity of the centre.<sup>552</sup>

Challenges persisted in Luxembourg, mainly because recognised beneficiaries of international protection could not find accommodation on their own. Several new reception structures were opened throughout 2023, both for applicants for international protection and persons with temporary protection.

The need for reception places continued to significantly grow in the Netherlands as well. Based on the forecast at the end of 2023, COA needed to arrange for 96,000 reception places by 1 January 2025, including more places for unaccompanied children (8,000). As many emergency places were set to close, the forecast meant that COA needs to create 52,900 reception places by the end of 2024. COA noted that the expected increase was not necessarily due to a corresponding increase in the number of new applications for international protection, but rather residents staying longer in reception as there was an important backlog in the processing of applications (see *Section 3.4*). In addition, the number of beneficiaries of international protection stuck in reception was also expected to rise, to approximately 21,000 persons. The COA director noted that an important acceleration of outflow would be required.<sup>553</sup> The agency started a live blog in September 2023, in order to document the new arrivals and the arising needs for reception places as they happened, focusing on the situation at the Ter Apel application centre, where asylum seekers are directed to complete the first steps of the procedure.<sup>554</sup>

The pressure was especially hard on the central reception facility in Ter Apel, at times 700 people waiting for the identification and registration process.<sup>555</sup> Following up on the highly-mediatised tragedy when a baby died at the emergency shelter at Ter Apel, the Health and Youth Care and the Justice and Security Inspectorates found that a relationship could not be established between the conditions in the sports hall where the family was accommodated and the baby's death. The report also underlined that there was no connection to the care provided or access to care. The Justice and Security Inspectorate also indicated that COA employees did everything within their capabilities.<sup>556</sup> In June 2023, a waiting room was opened in Assen to accommodate new arrivals and relieve the pressure on Ter Apel.<sup>557</sup> Deteriorating reception conditions in emergency reception facilities raised alarm throughout the year.<sup>558</sup>



Difficulties in implementing Dublin transfers contributed to bottlenecks in the Netherlands, and several measures were undertaken to speed up procedures (see Sections 3.2 and 3.4). New process availability facilities (*proces beschikbaarheidslocaties*, PBL) were piloted to swiftly process Dublin cases and efficiently implement transfers.<sup>559</sup>

Scaling up the reception capacity continued in Norway, and agreements were concluded for additional ordinary reception centres and emergency accommodation places.<sup>560</sup> To reflect changes in administrative practices, the Ministry of Justice and Public Security issued new instructions to the UDI on applicants' accommodation. The document outlines the roles and responsibilities of the different authorities involved in the reception process and highlights the need to provide suitable accommodation as part of an efficient and flexible reception system.<sup>561</sup> Expanded reception capacity required more training, both for UDI staff acting as contact points for reception centres and staff employed in reception centres.

The Portuguese Santa Casa de Misericórdia de Lisboa (SCML) provides second-line reception for applicants, and the organisation observed increasing difficulties in ensuring accommodation for applicants in 2023, especially in urban areas. When contracted reception places are full, the organisation provides material reception conditions in cash, but due to a shortage in affordable rentals in the private housing market, applicants find it more and more difficult to secure decent living conditions.<sup>562</sup>

In Romania, capacity in regional reception centres was expanded with containers, and a new centre was planned to be opened in Crevedia, Dâmbovița County, with a capacity of 500 places. Renovation works were ongoing in several centres to maintain good conditions. The Romanian National Council for Refugees, a civil society organisation, observed that capacity and conditions remained stable in 2023.<sup>563</sup> UNHCR observed an important gap in essential services to applicants, when AMIF-funded services ceased in October 2023 due to the end of the funding cycle and were expected to re-start only later in 2024 with the new funding cycle.

Authorities in Slovenia also faced challenges to provide durable reception places for applicants. Several calls were launched throughout 2023, but no suitable tenders were submitted. UNCAT recommended that authorities intensify efforts to reduce overcrowding and improve material conditions in reception facilities.<sup>564</sup>

In Spain, authorities continued to work to increase reception capacity under the network of reception centres under the Ministry of Inclusion, Social Security and Migration (centres for international protection, *centros de acogida de proteccion internacional*, CAPI). In addition, several humanitarian assistance centres were opened throughout 2023, and works started for the operationalisation of more centres in 2024. The civil society organisation CEAR welcomed these developments, as well as the rapid referrals and transfers from the Canary Islands to the mainland, which resulted in a stable situation.<sup>565</sup> Still, the Spanish Ombudsperson continued to receive complaints from applicants who were not assigned an accommodation.<sup>566</sup>

Cooperation with local municipalities has grown over the years across EU+ countries, resulting in innovative solutions for the reception of applicants for international protection.<sup>567</sup> However, authorities at times faced hostilities – extensively documented in media sources – when trying to arrange new facilities, for example in Belgium, France, Germany, Ireland, the Netherlands and Spain.<sup>568</sup>



### 3.6.2. Entitlement to material reception conditions

Challenges in ensuring reception places prompted a stricter allocation of material reception conditions.

To manage the critical situation with the reception system, Fedasil established a waiting list for applicants who could not receive a reception place immediately after registration in 2022, but this practice was condemned by the labour court both at first instance and on appeal in February and May 2023.

Following a court ruling in January 2022,<sup>569</sup> and based on the initiative of the same group of civil society organisations, the Brussels First Instance Tribunal **condemned** Fedasil and the Belgian state again in 2023 for failing to timely register applicants for international protection (see *Section 3.1*), provide material reception conditions to them and not enforce court decisions. Domestic case law has evolved since September 2022 and the courts oblige authorities to provide material reception conditions and remove the mandatory assignment of applicants to a specific accommodation place. This allows applicants to seek support from other social agencies instead of material reception conditions. The ECtHR also **condemned** Belgium under the ECHR, Article 6(1) for not executing the domestic court's order to grant the applicant material reception conditions, but dismissed the claim under Article 3, noting that a domestic remedy had not yet been seized to analyse the applicant's living conditions until he was finally given a place in reception.

The new draft Migration Code which was put forward in Belgium better defines the end of reception. It clarified that people who received a final negative decision must leave reception within 30 days. Currently, the end of reception is linked to receiving an order to leave the territory and people who launched other residence procedures could postpone the issuance of this order and stay in reception.<sup>570</sup>

The Belgian State Secretary also proposed a royal decree for discussion with the Council of Ministers, obliging applicants who work to contribute to reception costs. This possibility has existed since 2011 but in practice was not implemented. The new legislation would establish structural cooperation between Fedasil and social security to exchange information.<sup>571</sup>

Working applicants' right to material reception conditions has been subject to a series of judgments from the Ghent Labour Court. The court annulled Fedasil's two decisions on withdrawing material reception conditions for applicants who had been working for more than 6 months and had an income higher than the minimum wage, as it failed to take into account the applicant's individual circumstances: the applicant risked becoming homeless regardless of his income level, as he could hardly find accommodation with a temporary residence permit.<sup>572</sup> In another case, the decision was **annulled** as the agency failed to take into account that the applicant's situation had changed in the meantime from indefinite contract to interim work, and the agency did not hear the applicant and did not request employment and income data before taking the decision.

Amendments to the Croatian Law on International and Temporary Protection clarified that a recognised beneficiary of international protection may stay in the reception centre for 60 days following a positive decision, if within 8 days they request subsidised accommodation from the competent regional social welfare office and do not have their own sufficient funds. Requests may also be submitted after this time, explaining the reason for missing the deadline.<sup>573</sup>





In Italy, legislative amendments underlined that applicants do not have access to services provided by municipalities and prefectures in the System Accoglienza Integrazione (SAI), with the exception of resettled applicants, displaced persons from Ukraine and Afghanistan, and applicants with vulnerabilities.<sup>574</sup> It was clarified that all women should be considered as vulnerable and thus have access to SAI. Applicants were excluded from these services by law in 2018 but then included in the scope again in 2020.<sup>575</sup> ASGI highlighted that the changes meant that applicants no longer had access to psychosocial assistance, orientation or Italian language classes.<sup>576</sup>

Provisions on the revocation and withdrawal of material reception conditions were amended to better align with CJEU and national jurisprudence. In cases of serious and repeated violations of the house rules, the prefect may transfer the applicant to another facility, temporarily exclude the applicant from activities or certain services in the facility, or suspend (for a minimum of 30 days and a maximum of 6 months) or revoke financial support. The law underlines that the decision must be adopted individually, in accordance with the principle of proportionality.<sup>577</sup> UNHCR underlined that the combination of the provisions of Law No 176/2023 and the removal of psychological service, information provision, Italian lessons and integration activities, introduced by Law No 50/2023, may hinder the identification and referral of vulnerable people to competent services and impeded self-sufficiency and autonomy of applicants.<sup>578</sup>

Throughout 2023, Italian courts decided on a series of cases related to the entitlement to material reception conditions. The Tribunal of Bologna **confirmed** that authorities may not request additional documentation from applicants for the formal registration of their application and, thus, for accessing material reception conditions. The prefecture of Benevento was **ordered** to pay compensation to an applicant who breached house rules and was disproportionately sanctioned with the withdrawal of material reception conditions. In another case, the court **suspended** the decision to withdraw material reception conditions as the decision was issued before the applicant had the chance to formalise the application for international protection.

Substantial gaps were observed between registration and the formalisation of an application in many provinces in Spain. Convive-Fundación Cepaim noted that this delays access to certain support services, such as vocational training and, in some cases, to healthcare and the general education system.<sup>579</sup>

Changes were made to access the asylum procedure and material reception conditions in Luxembourg, where applicants must first lodge an application at the General Department of Immigration before they can request accommodation. The changes were made to avoid that people stay in a reception centre without asking for international protection. In addition, legislative amendments clarified the amount of food and hygiene products to be received and defined the same amount of basic assistance for all applicants, regardless of age. The same assistance applies for people with temporary protection. The new text clearly states that material reception conditions may also be given in cash.

UNHCR commented on the Swedish public inquiry from 2022, which seeks to encourage applicants to live in governmental or municipal reception facilities instead of arranging accommodation on their own. Those who would still opt for their own accommodation would not be entitled to benefits. UNHCR underlined that the proposed changes could lead to improved reception conditions and recommended adjustments to initial reception facilities to ensure that they are suitable for longer stays as well, in line with the legislative proposal.<sup>580</sup>





Iceland amended its laws to specify that applicants with a final rejection retain their reception rights for a maximum 30 days after the administrative decision becomes final. They also retain the right to emergency healthcare. However, there are several exemptions for applicants who can continue to benefit from the right to services: children and their guardians, pregnant women, seriously ill persons, and persons with disabilities who require support. In addition, the police may authorise to postpone the termination of rights when the applicant has demonstrated willingness to cooperate with authorities to return to their home country. Additionally, if the applicant has been unable to return to their home country due to reasons beyond their control, such as disability or force majeure, the police are authorised to postpone the termination of rights to services. Amendments to the law require the minister to issue a separate regulation on the reduction or withdrawal of reception rights.<sup>581</sup>

Concerning entitlements to material reception conditions in cash, the Finnish Ministry of the Interior launched a project to examine the possibility of reducing the allowance granted to applicants to the possible minimum, in accordance with the new government programme aiming to seek savings.<sup>582</sup> In 2023, the Finnish Immigration Service changed providers for the prepaid cards, which were exchanged during September-October 2023. The exchange was organised and coordinated by reception centres.<sup>583</sup>

Draft amendments were published to increase financial support for applicants in Poland, reflecting the general increase in prices. However, the law was not passed.<sup>584</sup>

The Cash for Food project continued in Luxembourg and was extended to five more reception facilities and to applicants living in private accommodation.<sup>585</sup> In Germany, following the piloting of applicant payment cards, plans were announced to extend the scheme at a federal level as well. The Federal Chancellor and the heads of government of federal states agreed on the objective of restricting cash payments to recipients of benefits under the Asylum Seekers' Benefits Act and thus minimising the administrative burden on local authorities. To this end, a payment card should be introduced.<sup>586</sup> Thus, instead of cash payments, applicants would receive their benefits on a special card.<sup>587</sup>

The Irish Refugee Council examined the situation of families and children in reception and concluded that the daily expenses allowance was insufficient to cover family needs. Financial constraints often led to children missing social activities, further delaying their integration.<sup>588</sup>

The Swedish Supreme Administrative Court [confirmed](#) that the Migration Agency can revoke or reduce the daily allowance for applicants, if it is proven that they have personal financial resources. The court underlined that lacking personal funds is a fundamental condition for being entitled to the daily allowance.<sup>589</sup>

In Austria, the Administrative Court in Vienna held that an applicant who was not immediately assigned a reception place was entitled to benefits under the province's basic services and to claim compensation for the period between being admitted to the asylum procedure and the moment of being included in the reception system.<sup>590</sup>





### 3.6.3. Applicants' daily life

#### 3.6.3.1. House rules and measures for disruptive applicants

Reception authorities have noted an increase in applicants with disruptive behaviour over the past few years, thus legislative changes and policy efforts were made in 2023 to minimise the impact of such behaviour on the functioning of reception facilities.

In Czechia, the law was amended to allow a worker designated by the reception facility operator to prevent an applicant from entering or remove them from the facility if the applicant is under the severe influence of alcohol or other addictive substances, or if the person is a threat to him/herself or to others, to the property, public order or had already caused harm.<sup>591</sup> In this case, the applicant would not be merely removed from the centre, but further appropriate steps are taken, such as bringing the applicant to a sobering centre in case of alcohol or substance intoxication. For cases when the intoxication is manageable and it is not necessary to prevent the applicant from staying on the premises of the reception facility, another procedure applies and, for example, the applicant is placed in a separate room.

A new regulation was adopted in Spain on sanctions for breaching the house rules in reception facilities. The new legislation was better aligned with the provisions of the recast RCD and ensured an improved legal certainty and proportionality of the sanctions. The behaviours leading to sanctions are defined in more detail and are categorised as minor, severe and very severe. Sanctions are adjusted to the severity of the breaches.<sup>592</sup>

The Dutch government continued to offer funding to municipalities to implement projects to prevent and manage issues caused by applicants with disruptive behaviour.<sup>593</sup> The Minister for Migration addressed the findings of the Inspectorate of Justice and Security on the enforcement and supervision location (HTL) and replied to criticism on the alleged lack of a legal basis for the use of force by special investigating officers when an unsafe situation posed a threat to the safety of employees and residents. Other recommendations from the inspectorate were swiftly followed up and COA updated its policy plan on preventing and managing aggression in reception facilities.<sup>594</sup>

The house rules in the initial reception facility were challenged, and the German Federal Administrative Court [concluded](#) that the mere entry into a room in an initial reception centre by the police for the Dublin transfer of an applicant cannot be interpreted as a 'search' under the Basic Law and did not require a prior judicial search order.

UNCAT welcomed the investigations which were undertaken on the excessive use of force and abusive treatment in Swiss federal asylum centres, but it remained concerned about continued reports on individual cases of ill treatment and instances of sexual violence.<sup>595</sup> UNHCR recommended changes to the draft law amending the Asylum Act to provide for a clear disciplinary system in case of violations of house rules in federal reception centres.<sup>596</sup> The organisation also collected information in federal reception centres to analyse the impact of the asylum system reform which was introduced in 2019, specifically on reception, and – among other recommendations – underlined the importance of training reception staff on conflict prevention and the de-escalation of violence.<sup>597</sup> The SEM recruited violence prevention and personal safety officers for each asylum region at the end of 2023, who were tasked with overseeing violence prevention mechanisms and training security staff.<sup>598</sup>







### 3.6.3.2. Employment

Several initiatives were launched in 2023 to facilitate employment, which reflected a continued trend from previous years. Measures aimed to both ensure the legal possibility of accessing the labour market swiftly and provide support in finding employment. The EMN published a study on the integration of applicants for international protection (who arrived between 2017-2022) in the labour market, noting that 11 EMN countries identified successful approaches to applicants' employment.<sup>599</sup> ECRE provided an overview of the practical challenges faced by applicants, pointing out for example that restrictions on the freedom of movement and reception facilities in remote areas impede applicants to effectively look for and travel to their work.<sup>600</sup>

The waiting period for accessing the labour market for applicants in Croatia was reduced from 9 to 3 months. Applicants still need to request an attestation on the right to work, which is delivered within 1 month. If they conclude a work contract, they have to inform the reception facility within 15 days. Once the applicant status ceases, the work permit must be returned within 15 days.<sup>601</sup>

The waiting period was also reduced to 3 months in Slovenia,<sup>602</sup> which was supported by the Ministry of the Interior. Prior to the legislative changes, Amnesty International – together with 18 other NGOs – had argued to grant immediate access to the labour market for applicants to allow them to integrate faster, while addressing shortages in the labour market.<sup>603</sup>

Since 2022, applicants in Portugal can work from the moment they apply for international protection, but the civil society organisation SCML observed several barriers in practice to enter the labour market in 2023. Employers were often not aware that applicants can work legally. Applicants faced several difficulties in having their education and qualifications recognised as well, and this issue was further exacerbated by language barriers.<sup>604</sup>

Labour market tests were abolished to facilitate access to employment in Luxembourg.<sup>605</sup> Job fairs were organised in cooperation with UNHCR in the CCACs in Samos, Kos, Lesvos and Chios, where residents were informed about employment opportunities with local, national and international companies. UNHCR welcomed the changes to reduce the waiting time for applicants to work from 6 months to 60 days.<sup>606</sup>

The civil society organisation Migrant Offshore Aid Station (MOAS) in Malta highlighted the detrimental impact of the work policy introduced in 2021 on applicants' living conditions. The policy forbids access to the labour market for 9 months after the lodging of an application (the maximum time limit allowed by the recast RCD) for applicants from safe countries of origin and those in the Dublin procedure.<sup>607</sup> Maltese authorities clarified that, as prescribed by the recast RCD, applicants falling under these two categories have access to accommodation and material aid at AWAS open centres, as well as access to healthcare.

The Irish Refugee Council observed delays in the issuance of labour market access permits due to the increase in the number of asylum applications overall. Applications for first permits took approximately 130 days to process, while renewals were processed within 8 weeks.<sup>608</sup> In one case, the Irish High Court ruled that the applicant cannot be denied access to the labour market as the delays in the procedure were not his fault. The authorities failed to arrange for an interpreter for him, and he needed to ask for several extensions to be able to fill out the questionnaire and had to arrange interpretation on his own. All the extensions were accepted by the authority.



Evaluating the situation of applicants in Ireland, the Economic and Social Research Institute and the EMN published a research paper on integration into the Irish labour market between 2017 and 2022. The report indicates a tendency for international protection applicants to be employed in jobs that may be of lower quality. The study also referenced limitations of the data, such as a lack of available data on earnings and poor data quality.<sup>609</sup>

The impact of the Austrian Constitutional Court's 2021 decision on repealing two legislative decrees which limit applicants' access to employment was analysed. It was highlighted that applicants were still rarely employed due to limited job opportunities and a bureaucratically complex system.<sup>610</sup>

The Dutch Administrative Court **ruled** in an individual case that restricting an applicant's right to work to 24 weeks per year was contrary to EU law. COA underlined that it was in favour of the abolishment of this restriction.<sup>611</sup> The Employee Insurance agency and the Ministry of Social Affairs and Employment appealed the judgment,<sup>612</sup> but the Council of State confirmed that national legislation was not in line with the recast RCD.<sup>613</sup> Following the ruling, the government confirmed that applicants are allowed to work more than 24 weeks per year and initiated the necessary changes to bring national legislation in line with the ruling.<sup>614</sup>

### 3.6.3.3. Health

Reception authorities continued to observe an overall deterioration in applicants' physical and mental health, which was also documented in civil society sources.<sup>615</sup> Still the lack of medical staff continued to be a major concern voiced by international organisations, national ombudspersons, courts and civil society organisations, for example in Bulgaria,<sup>616</sup> Croatia<sup>617</sup> and Greece (especially on the islands).<sup>618</sup>

Among national initiatives, the National Reception Office (ONA) in Luxembourg initiated four AMIF-funded projects. Three of the projects aim to improve mental health services, while one provides information and services around birth. France launched a call for proposals to provide additional healthcare support to asylum applicants in the reception system. In total, 35 projects were selected for EUR 2.6 million. The only legislative change was reported in Croatia, where applicants may now receive medical care beyond emergency situations if requested by a doctor<sup>619</sup> (see *Section 4*).

### 3.6.3.4. Orientation and education

One of the most significant legal changes coming into force in 2023 was that all applicants for international protection in Germany can have access to the BAMF language programme, regardless of their prospects for being recognised. This programme includes integration courses, as well as vocational language courses, and participants are directed to the most suitable type and level of courses.<sup>620</sup> Access to services remains contingent on capacity.

A new project was launched to improve conditions and provide social activities for reception centre residents in Bulgaria, with funding from the Norwegian Financial Mechanism.<sup>621</sup> Changing provider, the Latvian Social Integration Fund took over social counselling for applicants and beneficiaries of international protection from Caritas Latvia in December 2023.

ECRE published a policy note on "The Right to Education for Asylum Seekers in the EU", drawing attention to challenges faced by applicants to further their education during the reception phase. For example, the note highlights the interconnection between education and housing, health and employment, pointing out that delays in the allocation of a reception place for children inevitably delays their prompt access to education.<sup>622</sup>

## Section 3.7. Aspects of detention involving asylum applicants and former applicants



Detention is defined in the recast RCD, Article 2(h) as the confinement of an applicant for international protection by a Member State within a particular place where the applicant is deprived of the freedom of movement. An exhaustive list of legal grounds under which applicants can be detained during the asylum procedure, detailed procedural safeguards (for example on the length of detention and judicial review) and conditions of detention are defined in:

- [Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection](#);
- [Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection](#);
- [Dublin III Regulation](#); and
- [Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally-staying third-country nationals following a negative final decision on international protection \(although applicants are not within the scope of this directive, persons wishing to apply while in the return procedure and former applicants may fall into its scope\)](#).

In practice, detention may occur at different stages of the asylum procedure:

- At the start of the asylum procedure when an individual lodges an application for international protection, for example in order to determine or verify the applicant's identity or nationality;
- Pending the examination of a claim for international protection based on grounds set out in the EU asylum *acquis*, for instance to decide on the applicant's right to enter the territory, determine the elements of the asylum application which could not be obtained without detention, in particular if there is a risk of the applicant absconding, or organise a transfer to another Member State under the Dublin procedure; or
- Upon completion of the asylum procedure when a request for international protection was rejected and the person is detained pending a return to the country of origin.

The ECHR and international human rights conventions supplement the CEAS framework by setting additional constraints and safeguards during detention, mainly to protect against inhuman or degrading treatment and the arbitrary deprivation of liberty.



Detention practices and conditions in detention continued to be closely scrutinised by international, European and national monitoring and judicial institutions. Public discussions intensified about detention at the border of people who arrive in an irregular manner and their possibility to access the asylum procedure (see Section 3.1) or obtain counselling and legal advice (see Section 3.9). The conditions in detention at the border were often described as alarming by international and civil society organisations. Conditions and practices relating to earlier arrivals were condemned by the ECtHR, shaping and informing current policy decisions.

EU+ countries typically extended the grounds for detaining foreigners, including applicants for international protection, and increased the possible length of immigration detention. Legislative changes included the possibility to detain an applicant awaiting a transfer to another EU+ country under the Dublin III Regulation and who is at risk of absconding. The detention of applicants with special needs, especially children, gave rise to several court judgments, for example from the ECtHR (see Section 4).

Following a final negative decision on the asylum application, the detention of foreigners pending a return, the principle of *non-refoulement* and the actual possibility to implement return decisions was at the centre of attention, with a large wealth of jurisprudential developments in this area.

## 3.7.1. Recourse to detention

### 3.7.1.1. Comprehensive changes in detention regimes

The Italian Law No 50/2023 brought several changes to the detention regime. New return and repatriation centres (CPRs) may be established and maintained with a derogation from some laws – for example, rules on procurement – until 31 December 2025 to ensure that centres can be opened quickly. Applicants may be detained to determine elements on which the asylum claim is based and which cannot be established without detention, within the limits of places in CPRs. Furthermore, the circumstances indicating a risk of absconding were extended to cases when the applicant does not have a passport or when the applicant provides a false identity. UNHCR noted that applicants often lack a travel document due to the circumstances in the country of origin and the need to flee suddenly, and this may not be an indication of a person's intention to evade identity checks or a Dublin transfer.<sup>623</sup> Italian authorities stated that the new regime was compliant with the recast RCD, Article 8.

Applicants may also be detained in hotspots or CPRs when lodging an application at the border to assess their right to enter the country if they arrive from a safe country of origin or by evading relevant border checks. The law requests applicants to provide a financial guarantee as an alternative to detention. Shortly after the entry into force of the law, the Tribunal of Catania delivered a series of judgments for applicants with this profile, noting that the Questura ordered detention without a reasoned detention order and without examining the necessity and proportionality of the measure.<sup>624</sup> The Ministry of the Interior appealed against the Tribunal of Catania judgments before the Supreme Court of Cassation, which then referred the matter to the CJEU for a preliminary ruling. For applicants awaiting a Dublin transfer, the law allows their detention in CPRs if there is a significant risk of absconding, but only for the time strictly necessary for the execution of the transfer and for a maximum of 6 weeks. For immigration detention outside the asylum context, the maximum time limit was extended from 150 to 180 days.<sup>625</sup>





In Croatia, the legislation on the restriction of movement for applicants was substantially amended. The law now clearly states the grounds for applying such restrictions, including multiple consecutive attempts to leave the country during an asylum procedure. The decision on the restriction is regularly reviewed by the administrative court if it lasts longer than 1 month and if there is a change in circumstances that may affect the legality of the decision. The court also reviews the decision upon request by the applicant.<sup>626</sup>

The German Act on the Improvement of Removals, presented in 2023 and voted in the Federal Parliament in January 2024, changed the legal framework pending a return, and for example, allowed for the detention of an applicant if the grounds for detention apply when the application was lodged.<sup>627</sup> In its input to this report, ECRE underlined that this is relevant for cases when an applicant files a subsequent application to avoid an imminent removal.<sup>628</sup>

The Luxembourgish Law on International and Temporary Protection was amended to include nine reasons when a person can be detained awaiting a Dublin transfer, and the circumstances for presuming that there was a significant risk for absconding were adjusted.<sup>629</sup>

The length of immigration detention was revised in Czechia, where detention can be extended to a maximum of 180 days instead of 120 days. At the same time, there is a shorter, 15-day period to appeal this decision, instead of 30 days.<sup>630</sup> The Czech Supreme Administrative Court **underlined** that authorities cannot justify detention based mainly on the fact that the person did not apply for international protection, either in Czechia or another EU Member State. In another case, the regional court in Ostrava **confirmed** that a request to re-examine the reasons for detention should be decided within 5 days. The law does not specify this deadline, but the court noted that authorities need to decide on the legality of detention within 5 days after a person applies for international protection from immigration detention.

The Supreme Court in Poland **delivered** a landmark judgment which clarified the rules for the detention of applicants for international protection, as well as detention pending a return.

The Slovenian Administrative Court ruled that confining applicants to their rooms in the reception facility of the asylum centre (which is a special facility within the reception accommodation offering pre-reception) amounts to detention and does not qualify as an alternative to detention.<sup>631</sup> In another case, the court **noted** that the applicant's past behaviour during a one-off incident cannot justify detention. This measure must be a last resort to protect public order and security.

The Finnish Ministry of the Interior started working on amendments to the grounds and length of immigration detention. Foreigners could be detained on grounds of public order, security and having committed serious offences. The possible length of detention is foreseen to be extended to 12 months in place of the current 6 months.<sup>632</sup>

The draft of the new Belgian Migration Code spells out that children cannot be held in closed centres. This has already been the case but was not codified in national legislation.<sup>633</sup>

### **3.7.1.2. Detention at the border and during the initial phase of the asylum procedure**

Following the CJEU's **judgment**, the Lithuanian Constitutional Court **concluded** that the automatic detention of migrants who crossed the border illegally was unconstitutional. In a related case, the Supreme Administrative Court **adopted** the same line of reasoning. Similar complaints were filed with the Seimas Controller<sup>634</sup> and the ECtHR as well.<sup>635</sup>





Amendments revising detention provisions came into force in Lithuania at the end of 2023, including a new alternative to detention which allows a person to leave the assigned accommodation only with the permission of the head of facility.<sup>636</sup> UNHCR noted with concern that the law retained the emergency provisions allowing to place applicants in closed reception facilities for up to 6 months.<sup>637</sup> The Lithuanian Red Cross Society expressed its concerns over the practice to put newly-arrived applicants into quarantine buildings, where the organisation was not allowed to visit residents and no legal safeguards were in place to prevent arbitrary detention. Testimonies stated that the quarantine period may sometimes last more than a week.

In addition, the organisation received information about migrants being readmitted to Latvia without leaving the quarantine zone and there were instances of people crossing the border illegally but not being registered with the SBGS and being detained without an individual decision and access to a judicial review.<sup>638</sup> The Council of Europe's Committee for the Prevention of Torture (CPT) published the report on its visit to Lithuania in December 2021 and expressed grave concerns about the systematic nature of restrictions imposed on all applicants, including families and vulnerable persons. The committee underlined that the measures could amount to detention but without the procedural safeguards which should be ensured.<sup>639</sup>

MOAS observed that migrants arriving to Malta by boat were also held for medical clearance for at least 2 weeks. The quarantine period could be ordered for 4 weeks, which could be extended to 10 weeks. The organisation noted that according to the government this did not amount to a deprivation of liberty and detention,<sup>640</sup> but was a measure limiting the freedom of movement of an applicant on grounds of public health safety, due to the prevalence of certain communicable diseases, like tuberculosis, amongst migrants arriving by boat.

In total, 22 Greek civil society organisations issued a joint statement denouncing the automatic detention of applicants on Samos and Lesbos, following a surge in arrivals in summer 2023.<sup>641</sup> The situation gave rise to questions by MEPs,<sup>642</sup> who carried out an ad hoc visit and visited three CCACs for the first time in Lesbos, Kos and Samos.<sup>643</sup> The report on the visit was still to be published. In addition, on the mainland, the Administrative Court of Athens confirmed in several cases that the online request for an appointment to submit an application for international protection establishes a person's status as an applicant, and thus, their situation is regulated and they cannot be detained.<sup>644</sup>

In the Netherlands, a new internal guideline allowed authorities to perform screening 3 days after the registration interview in a border procedure, due to capacity issues, and maintain the detention of the applicant in the meantime. The district court in Amsterdam **found** that an applicant was unlawfully detained during these extra 2 days, as detention was only permitted for the shortest possible period, and the authority's capacity issues should not be at the applicant's risk and expense. This was overturned on further appeal, and the Council of State **concluded** that the authorities acted sufficiently quickly and underlined that the guidelines were further revised to ensure that the assessment was done the earliest possible.

The ECtHR **concluded** that three applicants in the case *A.E. and T.B v Italy* were arbitrarily detained upon their arrival in 2016, as they were not served a refusal-to-entry order, were not able to leave the hotspot and were transferred without any documentation. In *W.A. and Others v Italy*, concerning also Sudanese nationals who arrived in 2016, the court **concluded** that four out of five applicants did not sufficiently substantiate their complaints, while no violation of the ECHR, Article 3 was found for W.A. The court underlined that he was assisted





by a lawyer and explicitly stated that he did not want to apply for international protection and merely wanted to transit through the country.

The ECtHR continued to rule on complaints related to applicants' detention in transit zones in Hungary that operated between 2015 and 2020. In all three cases delivered in 2023, the court found a violation of Articles 5(1) and (4) for illegal detention. In addition, it found a violation of Article 3 for an adult applicant who was not provided with food for 6 days, for the detention of the children of a family (but noted that the severity threshold was not reached for the parents), and for a child and her mother who was not provided with adequate medical care and was at risk of suicide.<sup>645</sup> In addition, the court found in several cases throughout 2023 that applicants having arrived in 2014, 2015 and 2018 were detained unlawfully, without a sufficiently individualised justification in the detention order.<sup>646</sup>

The Italian Court of Cassation **clarified** that it is insufficient to inform an applicant about the forms of international protection; the authorities must also inform about the modalities and procedure to apply for protection. When reviewing the detention order, the Justice of Peace must investigate whether the applicant received sufficient information and was informed about the time limits. In the absence of proof, the Justice of Peace cannot validate the order.

Asylex underlined that detention in Dublin cases is ordered without a prior judicial review. Due to the short timeline between detention and the implementation of the transfer, it was noted that the files for the review of the detention order at times arrived at the court after the applicants had already been transferred to another EU+ country.<sup>647</sup>

The ECtHR **found** violations of the ECHR, Articles 3, 5(1) and (4) when a Guinean mother and her 7.5-month old baby were detained pending their Dublin transfer. The Administrative Court in Košice **annulled** the detention decision for an unaccompanied minor who was not appointed a legal guardian, in line with Slovak legislation (see *Section 4.6*).

The ENS highlighted that stateless asylum applicants were at an increased risk of unlawful and arbitrary detention due to issues surrounding identification (see *Section 3.12*).<sup>648</sup>

Courts gave indications on the use of alternatives to detention in Poland. For example, the District Court in Olsztyn, Poland underlined that authorities cannot assume that alternatives to detention would be ineffective, basing themselves only on the fact that the person crossed the border in an irregular manner.<sup>649</sup> In another case, the Warsaw Regional Court ordered reporting obligations and residency at a specific address instead of immigration detention. It emphasised that detention must be a last measure.<sup>650</sup> In a judgment of March 2023, Case No VIII SAB/Wa 6/23, the Voivodship Administrative Court in Warsaw examined the case of an asylum seeker who had waited over 3 weeks to have his application accepted and registered. The court confirmed that the Border Guard managing detention centres is bound by the 3-day deadline to accept and register applications.<sup>651</sup> The Border Guard stated that the 3-day deadline does not apply to foreigners placed in detention centres, the law provides for a 3-day deadline in cases cited in Article 28(1) and (3) of the Law on Granting Protection to Foreigners on the Territory of the Republic of Poland. In addition, the authority noted that the legislator provided in Article 28(5) a 10-day deadline in the case of a mass influx of foreigners.

The Supreme Administrative Court in Lithuania **found** a reporting obligation to be appropriate for a person whose return was pending after five unsuccessful international protection applications. The court underlined that the person's reluctance to return did not justify



detention, when overall he was not hiding, cooperated with the authorities, had a child, owned an apartment, and had connections to persons residing in the country.

The civil society organisation Center for Legal Aid – Voice in Bulgaria published a practical guide on the application of alternatives to immigration detention, including for applicants for international protection.<sup>652</sup>

At the beginning of 2024, the Belgian CALL referred questions to the CJEU for a preliminary ruling on the compatibility with EU law of Belgian rules on the detention of applicants during a border procedure.<sup>653</sup>

### 3.7.1.3. Detention pending a return

The Czech Supreme Administrative Court **reiterated** the provisions of detention pending a return and the assessment of the principle of *non-refoulement*, even in cases when the person did not apply for international protection.

The rules on the duration of detention pending a return changed in Poland in April 2023. After the expiration of the 6-month period of a foreigner's stay in a guarded centre or detention centre for foreigners, the stay may be extended for a specified period of time, not exceeding another 12 months if there is a reason to believe that the period for the execution of the decision on the foreigner's obligation to return will be extended, if the person under the obligation to return does not cooperate with the Border Guard authority in implementing the decision, or if it is temporarily impossible to implement the decision due to delays in obtaining documents from a third country. The decision to extend the period of stay may be issued for a maximum of 3 months. These timeframes do not include the period of stay of a foreigner in a guarded centre or in custody for foreigners in connection with the application for international protection. Each extension is subject to control by the centre's authority and by the court, which considers the cases on an individual basis and informs the foreigner in an understandable language about the reasons for the prolongation.<sup>654</sup> Still under the previous legislative framework, the ECtHR **condemned** Polish authorities for the unlawful detention of a mother with three children pending their return. The length of the detention indicated that it was not a measure of last resort. In addition, the extensions of the detention measure were only communicated orally and were not sufficiently explained, thus the family did not have a fair opportunity to challenge the legality of their detention.

In Greece, an administrative court **ordered** the release of a rejected applicant who was detained pending a return to Türkiye, which was deemed to be a safe third country for him. The court found that there was no reasonable prospect of a removal in his case (see *Section 3.3.2*).

In Sweden, the Migration Court of Appeal **confirmed** the Migration Agency's decision to detain a foreigner pending a return under the provisions of the so-called "probability detention", even though the period for appealing the rejection of his application for international protection was still running, as the conditions for detention were otherwise met.

The District Court of Frankfurt am Main **concluded** that, despite the existence of grounds for detention, the detention order was unlawful as the local court failed to sufficiently investigate the medical opinions and the severe deterioration of the mental health of the person's wife as a result of her husband's detention prior to deportation.





The Regional Court in Košice **concluded** that a foreigner's detention pending a return was unlawful, as the authorities did not sufficiently investigate the consequences of a return to the country of origin, which included potential violations of the ECHR, Article 3. In another case, the same court **recalled** that a detention pending a return requires not only an enforceable return decision but also prospects for implementing the return.

### 3.7.2. Detention capacity and impact on detention conditions

The Maltese Detention Service was transformed into an Agency.<sup>655</sup> The refurbishment programme of all detention facilities has been ongoing since 2021.<sup>656</sup> In 2023, works continued in the Hal Far centre and renovations finished in the Safi detention centre. A new clinic was launched to house the Migrant Health Service, independent from the Detention Service Agency (DSA), providing primary care services to detainees. The DSA also refurbished an area at the Hal Far Initial Reception Centre where a medical clinic was set up for the Migrant Health Service to conduct the initial assessment of all boat arrivals and to serve as a clinic for residents of the centre. Nurses are on-site full-time and detainees' health information is recorded electronically, which facilitates the transfer of information between different services. To improve overall conditions, the training of detention staff continued in 2023, focusing on emergency first aid, cultural sensitivity and security. In addition, the Welfare Officer continued various activities, for example, by organising weekly football practice based on a cooperation agreement with the Malta Football Association.

Despite improvements, the ECtHR **ordered** interim measures and **found** violations of several ECHR articles for self-claimed minors in Malta due to their illegal detention and the conditions in detention (see *Section 4.6*). The First Hall Civil Court **granted** access to a journalist to the prison and administrative immigration detention centres to investigate allegations about the conditions. The court noted that denying entry to this particular person was dictated by personal arbitrariness. Following this court judgment, the Maltese authorities confirmed that, while the court decision to grant access to a journalist to the immigration detention centres is in the appeal phase, all requests for visits by individuals inside the detention centre are considered by the DSA administration on a case-by-case basis.

The CPT report on its visit to Lithuania in December 2021 acknowledged the Lithuanian authority's efforts to quickly increase capacity but assessed that "several months after their arrival, foreign nationals were yet to be provided with dignified living conditions".<sup>657</sup> The Lithuanian government replied in a detailed document and noted that the reform of the reception, accommodation and detention systems was underway (see *Section 3.6*).

The CPT published the report of its visit to Latvia in May 2022 and noted that the material detention conditions in both centres were of a good standard in general. While the delegation did not receive any allegations of ill treatment by the centres' staff, detainees related several accounts of ill treatment by the special police forces patrolling the border area, relating to incidents from August 2021 to March 2022.<sup>658</sup>

The CPT also published in 2023 the findings of its visit to the Netherlands that took place in 2022 and found overall good conditions in facilities used for immigration detention but noted very poor conditions in the facilities in Aruba and Curaçao. The council underlined the need to speed up the planned legislative reform, which would provide specific rules for immigration



detention to reflect its administrative character.<sup>659</sup> The government replied that the draft was before the Senate but needed new amendments to be passed by the House of Representatives. The bill was not foreseen to be enacted before the end of 2024.<sup>660</sup>

UNCAT expressed concerns about the conditions in temporary holding centres for immigrants and detention centres for foreign nationals in Spain, and invited the authorities to investigate possible abuse and acts of violence in these facilities.<sup>661</sup> For Slovakia, UNCAT reiterated that families with children should only be detained as a measure of last resort, for the shortest period of time, including for the implementation of a Dublin procedure.<sup>662</sup> UNCAT suggested the revision of Romanian legislation to ensure that children and other vulnerable persons are identified and thus not detained.<sup>663</sup>

Cyprus planned to expand the capacity of the pre-departure detention centre in Limnes, as part of its overall plans to manage migration. The CPT visited Cyprus in May 2023,<sup>664</sup> but the publication of the report on the visit was still pending.

The ECtHR delivered a series of judgments condemning the conditions in the Lampedusa hotspot in Italy for applicants who arrived between 2017 and 2019, and noted in all cases that a clear and accessible legal basis was missing for their detention in the hotspot.<sup>665</sup>

For Greece, the Committee of Ministers of the Council of Europe concluded that information available suggested that the conditions in detention were suitable and overcrowding was not reported. However, the committee felt that a clear and coherent description of the precise conditions in these pre-removal detention centres was missing. The committee also lacked information about the average length of detention. Based on civil society sources, the committee was informed that a high number of migrants were detained in police stations and medical and interpretation services were insufficient in some pre-removal detention centres.<sup>666</sup>

The ECtHR **concluded** that Croatian authorities did not protect a detainee's life from a foreseeable danger and did not properly investigate the incident when fire broke out in 2015 at a police station where migrants (having arrived in an irregular manner) were detained. The court found several shortcomings in the monitoring of detainees and concluded that the organisation and the state of the facilities were inadequate and the staff were not prepared. Croatian authorities noted that the action plan for the execution of the judgment was being developed.

On instructions from the government, the Swedish Migration Agency presented plans to increase detention capacity by approximately 100 places in total, in the regions of West and North Sweden.<sup>667</sup> The Swedish Ombudsperson conducted an unannounced inspection at the Mölndal detention centre in January 2023 and identified a number of shortcomings in the qualification and training of the personnel and the lack of detailed standard operating procedures and working methods.<sup>668</sup> The authorities replied that the visit happened shortly after the opening of the centre and many of the gaps observed were remedied since then, including special training for employees and the establishment of workflows.

The Prison and Probation Service in Denmark has been improving its procedures and the conditions in Ellebæk Detention Centre since 2020. Admission procedures were updated to allow for a timely, systematic and standardised identification of psychiatric conditions and suicide risk, with a swift referral for further treatment. The facility was also modernised. Civilian



staff was employed to increase the number of recreational and educational activities and cooperation with NGOs was strengthened as well.

The Polish Ministry of Foreign Affairs submitted a letter to the Council of Europe, following a communication by the Helsinki Foundation for Human Rights on the execution of *Bistieva and Others (Russia) v Poland*. The letter details the initiatives which were undertaken to improve conditions in detention, especially for minors. The ministry acknowledged that time spent in detention increased, following a rise in migration in 2021 and 2022.<sup>669</sup>

Throughout 2023, the ECtHR communicated cases against Poland, for example concerning the detention of a pregnant woman with two children,<sup>670</sup> a family with two children,<sup>671</sup> and a family with children at the Polish-Belarusian border.<sup>672</sup> The Border Guard submitted information to the court about the care of the children, who were provided with special medical and psychological support due to their vulnerabilities. The authority also underlined that the average area per person is between 5-11 m<sup>2</sup> and rooms are equipped with beds, tables with chairs, wardrobes and a television. The Border Guard stated that the family had access to public rooms and other facilities. In September 2023, the detention centre in Lesznowola opened a new building dedicated to families with children, with a capacity of 200 places and the old centre was closed. A civil society organisation observed that the staff in the old centre were reported to be more experienced with families (see *Section 4*).<sup>673</sup> The Border Guard underlined that officers receive full training in specialised training centres, including working with vulnerable groups and children.

The Supreme Court in Estonia [declared](#) unconstitutional the full ban on access to mobile phones and the Internet in immigration detention centres. The court underlined that the specific security environment of prisons could not automatically be applied to detention centres.



## Section 3.8. Access to information



Persons seeking international protection need information on their situation in order to be able to fully communicate their protection needs and personal circumstances and, in turn, have them comprehensively and fairly assessed.

To ensure effective access to the asylum procedure, the recast APD and the recast RCD oblige Member States to ensure that applicants have access to free legal and procedural information, for example on where and how applications for international protection may be lodged or what their rights and obligations are in reception. Obligations also include the provision of information to potential applicants who are in detention facilities and at border-crossing points.

Effective access to information is a primary constituent of procedural fairness. Applicants have the right to be informed so that:

- they understand the different stages of the process;
- they know their rights and obligations in each of these stages, and the possible consequences of not complying or cooperating;
- the timeframe for each stage of the procedure is clearly communicated; and
- they are aware of the means available to them to exercise their rights and fulfil their duties.

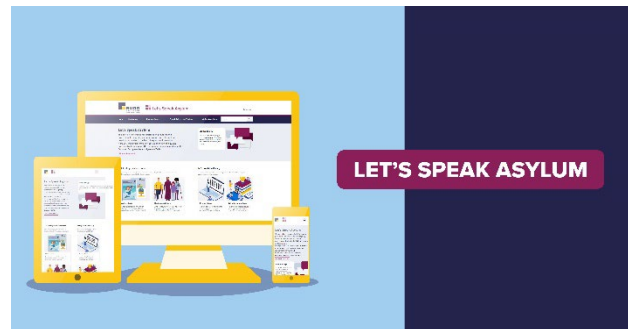
For applicants with pending cases, it is crucial to receive information, because a lack of clarity can be a contributing factor to absconding and secondary movements.

National authorities and other stakeholders continued to strive for information to be available more readily and in various formats and languages. Some countries produced tailored information for specific audiences, such as minor applicants and displaced persons from Ukraine.

After several years of work, the EUAA launched a comprehensive new portal, [Let's Speak Asylum](#), where recommended methodology and practical tools are available to stakeholders working on information provision in the asylum system.

### 3.8.1. Let's Speak Asylum portal

In 2023, the EUAA launched the [Let's Speak Asylum](#) portal, which showcases a range of resources on information provision throughout the asylum procedure, the Dublin procedure, the reception pathway and the resettlement process. The portal helps to support the harmonised implementation of CEAS and improve the quality of asylum and reception processes.



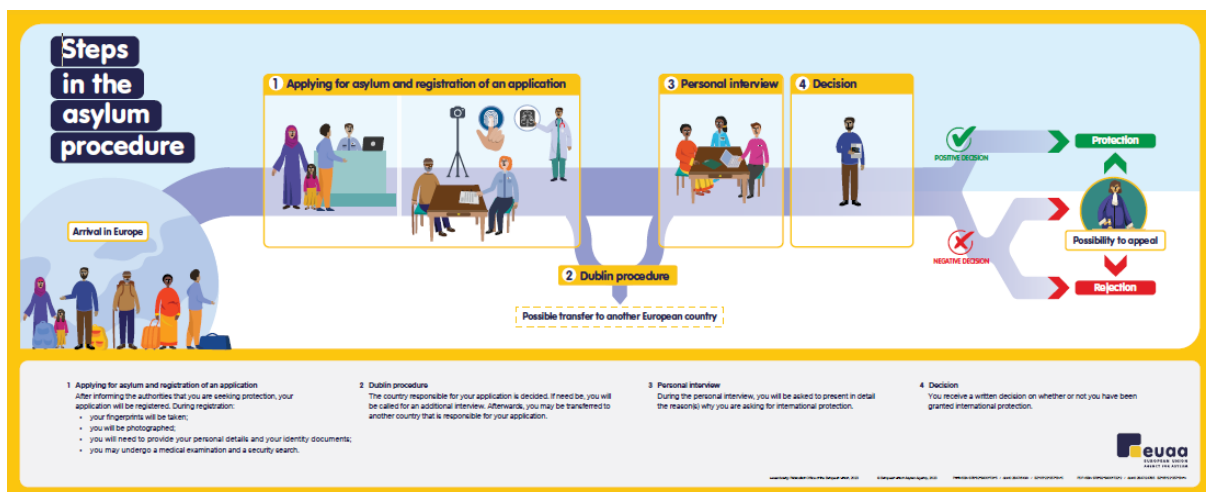
The portal offers toolboxes, recommended methodology, guidance and practical tools to help national authorities and other stakeholders communicate with and provide information to applicants for international protection. The portal also supports other practitioners, such as researchers and journalists, to better understand and explain how international protection works in the EU.

Audio-visual and digital [material](#) was developed by the EUAA to relay information to vulnerable and illiterate applicants. Each product is accompanied by a how-to manual and material related to reception also includes a script for facilitators. Translations are gradually being made available. The portal contains [illustrations and icons](#) so that countries can develop their own material based on existing resources. All these were tested with applicants.

A unique, searchable [library](#) offers a selection of products developed by various authors to inform about steps in the asylum procedure and life in the reception system. The library serves as a source of inspiration and can be searched by thematic area, country, target group (such as children or vulnerable applicants) and format (for example, video, animation, brochure, etc.). Users are invited to [submit](#) other products which could serve as a source of inspiration.

The Let's Speak Asylum portal will be continuously updated as more thematic content and material become available.

**Figure 16. Steps in the asylum procedure**



Source: EUAA, <https://lsa.euaa.europa.eu/templates/poster-steps-asylum-procedure-0>

Through direct [operational and technical assistance](#), the EUAA also supported some countries under severe pressure with the provision of information during the asylum procedure. For example, the EUAA and the Ministry of the Interior of Slovenia developed a support tool on information provision within the asylum procedure in several languages.

## 3.8.2. Information on the asylum procedure

### 3.8.2.1. Enhanced availability and accessibility of information

During the year, national authorities introduced some temporary measures, made institutional changes and published additional information on the asylum procedure. Civil society organisations also continued to support the authorities in the provision of information.

Following a public tender, the UDI in Norway awarded a 4-year contract to Caritas Norway to provide information and guidance to newly-arrived asylum seekers as of 1 June 2023.<sup>674</sup> This meant that the Information and Guidance Programme, which was run by NOAS, ended on 31 May 2023, after 20 years of operation.<sup>675</sup>

The Fedasil Info Point, which was closed in 2022, was reopened in 2023 next to the Bordet reception centre in Belgium. The centre has expanded tasks to support applicants residing outside of the reception network, migrants in transit and people without a legal residence. Caritas International is in charge of the initial welcome and information provision, while several stakeholders then provide more in-depth information.<sup>676</sup>

In Estonia, UNHCR and partners continued to provide information and legal counselling to new arrivals and refugees about asylum procedures, access to temporary protection and access to rights and services to facilitate their inclusion and integration.<sup>677</sup>

The second Performance Update of the Immigration and Naturalisation Service (IND) in the Netherlands indicated that information provision in the asylum process was outdated. To address this, the service plans to modernise the digital system so that the latest information is rapidly available, such as the status of an application and when a decision is expected.<sup>678</sup>

In Portugal, AIMA plans to create 10 more contact points for asylum seekers and a call centre to address queries in 2024.<sup>679</sup>

New material, services and platforms related to information provision which were made available during the year are presented in Table 1.


**Table 1. New material, services and platforms related to information provision, 2023**

Stakeholder	Development	Type
<b>National authority (Slovakia)</b>	A project was initiated to provide improved instructions for asylum seekers, using pictograms and translations in several languages.	Information material
<b>National authority, UNHCR Slovakia and Human Rights League</b>	A <a href="#">leaflet</a> was produced in various languages on what steps asylum seekers can take once they arrive in Slovakia.	Information material
<b>Human Rights League (Slovakia)</b>	A series of Frequently Asked Questions were published to provide information on the authorisation to remain when administrative expulsion is not possible. <sup>680</sup>	Information material
<b>National authority (Malta)</b>	<p>In March 2024, the IPA, with assistance of the EUAA, published a detailed booklet about the asylum procedure and a booklet specifically for unaccompanied minors. These booklets are given to all applicants who lodge an asylum application in Malta.</p> <p>The IPA, with assistance of the EUAA, also produced three videos related to the asylum procedure, namely on information on the asylum procedure for adults, information on the asylum procedure for unaccompanied minors and the rights and obligations of an asylum seeker in Malta.</p> <p>All these products were translated into different languages.</p> <p>The IPA is currently also working on the development of its own website.</p> <p>UNHCR and the Ministry for Home Affairs developed an information leaflet to be made available at all immigration and reception centres.</p>	Information material
<b>JRS Romania, in collaboration with Terre des Hommes (Romania)</b>	Three videos were produced which explain in detail the obligations of asylum applicants during the asylum procedure, the accommodation system in Romania and the forms of international protection that may be provided to asylum applicants.	Information material
<b>OFPRA (France)</b>	Welcome booklets for beneficiaries of protection were updated. <sup>681</sup>	Information material
<b>SAR (Bulgaria)</b>	SAR presented a child-friendly video, which was produced by UNICEF Bulgaria, to unaccompanied minors. The video addresses the social services which are available, and it is available in Arabic, Bulgarian, Dari, English and Pashto. <sup>682</sup>	Information material
<b>Legal Centre for the Protection of Human Rights (PIC) (Slovenia)</b>	PIC published information videos on complementary pathways, sponsorship schemes and family reunification. <sup>683</sup>	Information material
<b>Asylum Office (Spain)</b>	A new website was launched: <a href="https://proteccion-asilo.interior.gob.es/es/inicio/">https://proteccion-asilo.interior.gob.es/es/inicio/</a>	Information material



<b>Directorate of Immigration (Iceland)</b>	A new web application was launched to provide information to asylum applicants. Frequently Answered Questions were made available and additional queries can be sent through a web form. <sup>684</sup> In response to a high number of inquiries, the directorate published information on residence permits for family members in Palestine. <sup>685</sup>	Platform
<b>National authority (Luxembourg)</b>	A new <a href="#">website</a> with information for asylum applicants was launched in February 2023 (it is only accessible from within the country). Information is available in several languages, with a read-aloud function. It contains information on first-time applicants, the Dublin procedure for those who have already applied elsewhere, reception, social benefits and returns.	Platform
<b>Office for Foreigners (Poland)</b>	An online portal was launched, which is available in several languages, to help beneficiaries of international protection to fill out residency applications. <sup>686</sup>	Platform
<b>Ministry of Asylum and Migration (Greece)</b>	The authority's website was enhanced to make content accessible to persons with disabilities, such as dyslexia and visual impairments. <sup>687</sup>	Platform
<b>Central Government Information Portal (Ireland)</b>	A new website was launched with information on international protection, such as statistics, types of protection and procedures to follow. <sup>688</sup>	Platform
<b>Swedish Migration Agency (Sweden)</b>	As of October 2023, expanded services are available in more service offices. The offices are administrated by the state and provide information from several government agencies in one place. Staff assist applicants with digital services, completing the application correctly, printing and sending documents, and explaining processes. <sup>689</sup> In addition, information services are now offered in more locations. <sup>690</sup>	Services
<b>National authority (Cyprus)</b>	An information kiosk was set up in Pournara where applicants can seek information on the status of their file and ask questions about the asylum procedure in general.	Services
<b>Office for Foreigners (Poland), in collaboration with the IOM</b>	The office continued to organise "Information Saturdays" on the regularisation of stay. Third-country nationals can receive information on the content of and process for regularisation, receive letters and summons, submit declarations and use the document personalisation service. <sup>691</sup>	Services
<b>IOM Lithuania</b>	A new one-stop information hub was opened for migrants and refugees to help with any challenges upon arrival. The services include legal advice, psychological counselling and career guidance. <sup>692</sup>	Services
<b>Ministry of Asylum and Migration (Greece)</b>	To immediately assist the families of the victims of the Pylos shipwreck, the ministry opened a hotline to provide information.	Services
<b>National authority (Croatia)</b>	When required, information is provided orally to illiterate applicants.	Services





### **Prevention and voluntary returns**

Some countries focused efforts on deterring nationals from countries with low recognition rates from undertaking perilous journeys to the EU, only to have their application rejected. For example, with the aim of preventing irregular migration and the risks of exploitation, the Belgian State Secretary for Asylum and Migration launched an information campaign in Guinea, raising awareness of the dangers of irregular migration, local employment opportunities and legal migration channels and informing locals that there was a low chance of receiving protection in Belgium. This was in response to an increase in asylum applications by Guineans in 2023, while 75% of the claims were rejected.<sup>693</sup>

Similarly, the authorities in Cyprus launched the “[Let's talk truth about Cyprus](#)” campaign in September 2023, aiming to discourage irregular migration from sub-Saharan countries, such as Cameroon, Congo and Nigeria. The campaign’s objective is to debunk myths about Cyprus and provide accurate information on the realities of asylum in the country.

Some national authorities raised awareness among rejected applicants about the possibility of a voluntary return to the country of origin. To this end, the UDI in Norway launched an application process for organisations to receive grants (NOK 1 million in total) to inform illegally-residing individuals who reside outside of the reception system about assisted returns.<sup>694</sup> In Finland, a new Decree on Assistance for Voluntary Returns aims to encourage rejected asylum seekers to leave the country quickly and refrain from appealing the decision.<sup>695</sup>

#### **3.8.2.2. Existing challenges**

The diverse profiles of a rising number of applicants for international protection and displaced persons from Ukraine generated new needs in the provision of information, both for the content and the media used. Despite efforts by national authorities to address the needs, international and civil society organisations in some countries reported that insufficient information, at times in a language not understood by the asylum seeker, hindered their taking informed decisions on processes that affect their future.<sup>696</sup>

Based on a study carried out in Luxembourg in summer 2023, a new UNHCR report recommended that more information should be made available to unaccompanied minors on the functioning of the asylum system, and the ONA’s webpage directed at minors should be updated.<sup>697</sup>

The Greek NGO Equal Legal Aid reported that gaps in the provision of information were created when legal services were withdrawn from reception facilities in March 2023.<sup>698</sup> In addition, several NGOs contributed to the Ombudsperson’s Strategic Inquiry in February 2023, stating that civil society organisations faced obstacles in providing information due to the closed nature of reception centres, poor Internet connectivity in the CCACs and the requirement for NGOs to be registered.<sup>699</sup>

The Helsinki Foundation for Human Rights in Poland and the Association for Legal Intervention commented that concerns continued about the lack of information provided to migrants crossing the Polish-Belarusian border or asylum seekers in detention.<sup>700</sup> Polish authorities underlined that the possibility to apply for international protection is a basic information element during a stay in a centre, in addition to communicating information boards and brochures.



Forum réfugiés reported on cases of a lack of information in waiting zones at the border about requesting entry into France to submit an asylum application and the obstacles in contacting UNHCR or NGOs to seek information and assistance.<sup>701</sup>

In March 2023, the Human Rights Monitoring Institute, together with the Global Detention Project, submitted a report to the UNCAT on follow-up actions in the implementation of the Committee's recommendations which were provided in its fourth periodic review of Lithuania. Among various observations, the two organisations pointed out that migrants and asylum seekers were not adequately informed of their rights, both at the registration centre and when placed in a detention centre. The motives for the decision on an application are often communicated only in Lithuanian and applicants were not aware of their right to state-guaranteed legal aid. For example, an information document in the Kybartai Centre states that migrants have the right to free legal aid, but they are not informed how to request this help. In some registration and reception centres, there was a lack of information on internal procedures and the status of the application, leading to uncertainty among applicants.<sup>702</sup>

To this end, the Lithuanian Ombudsperson called on the Migration Department to improve processes in the asylum procedure. The Ombudsperson noted that applicants had not received any information on the status of their application nor any timeframe for a decision to be rendered.<sup>703</sup>

In its Staff Working Document on improving the effectiveness of the Dublin III Regulation, the European Commission called for better information on transfers and the applicant's obligations to be provided to Dublin transferees in order to limit absconding. It emphasised providing individualised information and open communication channels throughout the procedure.<sup>704</sup>

Due to blocked emails and the illegibility of digital documents, temporary measures were implemented by the CGRS in Belgium from March to May 2023. During this time, Immigration Office staff assisted applicants during the initial interview by providing an inventory list of the documents to be submitted. By May 2023, the possibility to submit documents by email was reinstated.<sup>705</sup>

The UN Committee against Torture (CAT) provided recommendations to Slovenia after its fourth periodic report. It stressed that the authorities should inform those entering the country immediately about their right to seek asylum in a language that they can understand.<sup>706</sup>

The European Network of Migrant Women recommended that, while countries work on improving information provision, they should also ensure to provide information directly to female members of asylum-seeking families about their rights and freedoms within the EU. The organisation mentioned that frequently information is given to the male head of the household.<sup>707</sup> Furthermore, the organisation noted that many non-EU languages do not have a literal equivalent for some terms or concepts, so the quality of translations should be reviewed carefully. Poor translations of information material can exclude migrant women from being aware of their legal rights and health services that are available.



### 3.8.2.3. Case law related to the provision of information

While some common challenges persisted which hindered access to information, appeals led to courts interpreting EU and national laws and defining appropriate practices.

In February 2023 the ECtHR [reiterated](#) that asylum seekers must be provided sufficient information. In the case, the court stated that not only had a mother and her three children been unlawfully detained when transferred from Germany to Poland, they were not sufficiently informed of several extensions of the detention measure when the Border Guard only informed them orally. Thus, the legal basis and the reasons for detention were not sufficiently explained to the applicants, who then did not have a fair opportunity to challenge the legality of the detention. Likewise, the Court of Cassation in Italy [annulled](#) a detention order and stated that the Justice of Peace should have investigated if the third-country national received sufficient information on the right to apply for asylum.

In July 2023, the Tribunal of Rome [condemned](#) the illegal pushback of an Afghan minor from Italy to Greece, citing various violations such as the lack of information provision and access to the asylum procedure. In addition, in November 2023, the Court of Cassation First Civil Section stressed<sup>708</sup> the requirement to provide information on the possibility to apply for asylum, with documents in the person's language or an interpreter, in line with EU and national laws.

In May 2023, the Ghent Labour Court in Belgium [annulled](#) a decision by Fedasil to remove an asylum applicant from the reception centre due to his higher income and held that more information and assistance should have been provided to avoid homelessness. The applicant had not received adequate information on the services provided by the public social services centres (CPAS) or any assistance in the transition to private housing.



## Section 3.9. Legal assistance and representation



Legal assistance is fundamental to inform applicants of their rights and obligations during the asylum process. A legal representative can ensure that the applicant fully comprehends the process and fully complies with the relevant obligations.

The provision of legal aid in the early stages of the asylum procedure increases the efficiency of the entire process by allowing case officers to assess a complete and accurate file, reducing the burden on decision-makers, reducing the rate of appeals and safeguarding the right to *non-refoulement*. EU legislation requires Member States to make free legal assistance and representation available on request and under certain conditions during appeal procedures.<sup>709</sup>

In 2023, many EU+ countries continued to improve access to and the quality of legal assistance in all stages of the asylum procedure. Developments included institutional changes, specialised training and amending the eligibility criteria to work as a legal assistance provider in the field of international protection.

Nonetheless, challenges were reported on accessing legal aid, particularly at the borders or in detention. For example, the lack of communication with a lawyer and an effective right to legal assistance for asylum seekers in detention was raised within different fora. Some countries amended national provisions to reinforce the right of detained asylum seekers to be in contact with family members, legal counsellors and relevant organisations.

With displaced persons continuing to arrive from Ukraine, some EU+ countries continued to provide legal information on and assistance with the temporary protection procedure.

### 3.9.1. Access to legal aid during the first instance procedure

In 2023, institutional and organisational changes aimed to reform legal aid systems and enhance the quality of services. However, some challenges were observed with access to legal aid and the provision of legal assistance in certain procedures, namely the accelerated and Dublin procedures. In some cases, national jurisdictions scrutinised the compatibility of legal norms related to the provision of legal aid with constitutional requirements, whereas other courts ruled on the possibility to choose a lawyer, the importance of having assistance since the initial stages of the procedure and the right to be assisted during the personal interview.



Along with the reform of the reception system in Lithuania (see *Section 3.6*), amendments to legislation came into force, namely the “Law of the Republic of Lithuania on the Legal Status of Foreigners”, Article 71(1)(4) and the Law on State-Guaranteed Legal Aid. Following the changes, the Ministry of Social Security and Labour, or an institution authorised by it, will replace the Migration Department in the organisation of state-guaranteed legal aid for third country nationals.<sup>710</sup> UNHCR welcomed the reform of the legal aid system, which aims to enhance the access of asylum applicants and beneficiaries of protection to quality legal assistance.<sup>711</sup>

The Croatian government amended the [Law on International and Temporary Protection](#), which clarified the existing provisions on visits to reception centres by legal advisers, UNHCR, family members and the right to orally receive information on legal aid in a language the applicant can understand, when such information cannot be provided in writing.

Following a report by the Swedish National Audit Office in 2022, the Swedish Ministry of Justice initiated a review to amend the requirements for public counsels who are legal aid providers in matters related to the mandate of the Swedish Migration Agency.<sup>712</sup> The overall aim is to strengthen legal certainty in the migration process, and the proposals within the review were subject to a consultation process. The proposed changes will tighten the eligibility criteria for being appointed as a public counsel and ensure that public counsels are replaced without undermining the quality of the services and irrespective of the applicant’s choice of the provider.<sup>713</sup>

In Austria, the Constitutional Court [raised](#) concerns about the constitutionality of the act governing the functioning of the BBU, which is the agency tasked with the provision of legal advice and representation for applicants for international protection.<sup>714</sup> The BBU published an opinion on the case, which examined the legal conformity of its legal advice and representation services with Constitutional provisions, and stated that the legal services and the training offered to legal professionals were conducted in an independent manner, without external interference or instructions.<sup>715</sup> On 14 December 2023, the Constitutional Court [considered](#) that independence was not fully ensured, in view of the fact that the BBU management is bound by instructions from the Ministry of the Interior. The court gave the legislator until 30 June 2025 to amend the BBU establishment act to include the necessary safeguards to secure independent legal services, and thus be compliant with Article 47 of the EU Charter.<sup>716</sup> The BBU welcomed the Constitutional Court decision by stating that legal assistance remains an important service of the agency and the legal changes will further secure the independence of the legal services provided to asylum seekers.<sup>717</sup> The ruling was also commented on by civil society organisations and legal experts.<sup>718</sup>

UNHCR and ASGI commented on the reform introduced in Italy by Decree Law No 20/2023, converted into Law No 50/2023,<sup>719</sup> which has a twofold impact on access to legal assistance: i) asylum seekers are no longer accommodated in reception and integration centres (SAIs) which usually offer more services, including legal aid; and ii) legal assistance is excluded from the services offered in extraordinary reception centres (CAS) where asylum seekers are usually accommodated.<sup>720</sup> UNHCR recommended that the national authorities ensure procedural guarantees, including legal assistance and an effective remedy.<sup>721</sup>





According to the civil society organisation Equal Legal Aid, after the IOM withdrew its services in reception centres in Greece, the number of requests for legal assistance significantly increased. There was insufficient handover or follow-up on asylum cases, especially for referrals of vulnerable applicants.<sup>722</sup>

The Irish Refugee Council expressed concern over access to legal aid in the accelerated procedure with an applicant requiring complying within shorter deadlines.<sup>723</sup>

In Switzerland, UNHCR highlighted the open legal advice counter within the premises of the federal reception centre in Bern as a good practice. The counter provides legal and procedural information and easy access to legal assistance.<sup>724</sup>

The Swiss Federal Administrative Court **rejected** an appeal submitted by an Afghan national who claimed that his procedural rights were violated because his legal representative was not present during the Dublin interview. The court reiterated that legal assistance is not mandatory in the Dublin procedure. It then noted that the applicant had contact with the legal counsel prior to the Dublin interview, the legal representative informed the SEM of the intention not to take part in Dublin interviews unless it concerned vulnerable applicants and the SEM was in contact with the legal representative until he resigned. In contrast, Asylex mentioned that state-funded legal representatives no longer accompany asylum applicants during Dublin interviews, sometimes being reportedly denied access to it.<sup>725</sup>

The Icelandic Immigration Appeals Board **ruled** that the request of the applicant to be appointed a specific advocate to represent her in the proceedings to review a negative decision and request for a new interview must be re-examined in view of the principle of non-discrimination and legality. The board stated that the applicant must be given the opportunity to request a specific advocate at the start of the proceedings before an advocate is appointed, as long as the chosen advocate fulfils the conditions for appointment.

The Tallinn Administrative Court in Estonia **annulled** a negative decision given to a vulnerable asylum applicant. The court stated that there were procedural irregularities and recommended that applicants should be advised to seek legal support from the Estonian Human Rights Centre during the administrative procedure. In a similar case, the same court **found** procedural irregularities, including a violation of the applicant's right to be assisted by his lawyer during the interview.

As a UNHCR partner, the Croatian Law Centre continued to offer legal assistance in 2023 to asylum applicants, beneficiaries of international protection and persons with temporary protection. The work is carried out under the project "Access to the territory and the asylum system in Croatia - Legal support and capacity building".<sup>726</sup>

The Lithuanian Red Cross signed a cooperation agreement with a law firm to ensure better legal support as it did not have enough capacity to do so during situations of crises.<sup>727</sup>

Upon request by the European Commission to review national programmes under AMIF and the Integrated Border Management Fund, FRA underlined that access to legal aid must be ensured, in particular related to returns, detention and border procedures.<sup>728</sup>





### 3.9.2. Access to legal aid during appeals

In appeals, the provision of legal aid was extended in certain jurisdictions and legislative amendments were adopted to include specific rights for hearings. In addition, national courts clarified deadlines and procedural requirements to access legal aid in appeals.

In Norway, the government proposed changes to the Immigration Act to include a permanent legal provision allowing the personal interview and hearings to be conducted remotely before the Immigration Appeals Board (UNE) (see *Section 3.5*).<sup>729</sup> While the standard procedure will continue to require the applicant, the lawyer, the interpreter and the decision-maker to be physically present, the Chair can decide that a board meeting is to be held as a remote meeting unless there are particular reasons for applying the standard procedure. In addition, the Ministry of Justice and Public Security proposed to amend the Immigration Act to incorporate an extended right of the lawyer and the applicant to be personally present and provide oral input during hearings before the Grand Board. The Ministry will also increase the number of hours for free legal advice. The proposal will include rules for civil society organisations (such as NOAS and others) to have access to hearings before the Grand Board. NOAS highlighted that the presence of the applicant and the lawyer to present oral submissions before the UNE and the Grand Board will strengthen their rights.<sup>730</sup>

In Greece, the government adopted a decision in January 2023 which defines practical aspects related to Law No 4939/2022 (the Asylum Code<sup>731</sup>),<sup>732</sup> specifically access to free legal aid in the appeals procedure, functioning of the Registry of Lawyers, lawyers' tasks, obligations and payment.<sup>733</sup>

The Ministry of the Interior in Cyprus welcomed discussions in the House of the Representative on professional ethics' violations by some lawyers engaged in asylum cases, through abusive conduct not sanctioned by the Disciplinary Council of the Bar Association. The Ministry of the Interior recommended to enhance cooperation among relevant stakeholders to comply with current regulations and adopt good practices for procedures related to asylum applications.<sup>734</sup>

According to changes to Law No 176/2023 in Italy, people whose application was denied at the administrative stage under the accelerated procedure lose the entitlement to legal aid in some situations if their interim request for the suspension of the decision is denied.

In a case concerning the naturalisation of an beneficiary of international protection, the Austrian Constitutional Court **allowed** a legislative review of Section 8a of the Federal Act on Proceedings of Administrative Courts (VwGVG)<sup>735</sup> which stipulates access to legal aid in an appeal concerning fundamental rights, pursuant to Article 6 of the ECHR or Article 47 of the EU Charter.

The Supreme Administrative Court of Lithuania **allowed** an appeal submitted by a vulnerable applicant who missed the 3-month deadline to contest a negative decision. The court found that the applicant was not notified of the negative decision, did not understand the decision due to a language barrier and was not provided state legal aid. The Supreme Administrative Court ruled that such circumstances showed the applicant's dependency on support from the Migration Department and assistance from a lawyer, who was able to submit an appeal once assigned to the case through the state-guaranteed legal aid system. The court assessed these circumstances as grounds for missing the appeal deadline beyond the applicant's will.



### 3.9.3. Legal aid at the borders or in detention

For detained asylum seekers, access to legal aid is necessary not only for aspects related to the asylum procedure but also to ensure procedural guarantees related to the lawfulness of the detention measure. Few countries have amended their legislation to comply with international obligations and human rights standards. Recurrent challenges related to accessing legal aid in detention or at the border included: difficulties to communicate and have contact with a lawyer, insufficient legal and procedural information or interpretation, restrictions in accessing detention facilities, a lack of knowledge or experience of legal counsels, or delays in procedures.

As in previous years,<sup>736</sup> UNHCR recommendations for the upcoming Presidencies of the Council of the European Union included ensuring access to legal aid at the border by international and civil society organisations.<sup>737</sup>

The Croatian government presented detailed measures in the Action Plan concerning the execution of the case *M.H. and Others v Croatia*, including instructions for police authorities on effective provision of information on legal aid and unhindered communication with the lawyers as well as preparations to amend the “Rules on accommodation in reception centres for foreigners”.<sup>738</sup> The Center for Peace Studies requested in their submissions changes to the rules for visiting detention centres in order to ensure an effective access to legal aid.<sup>739</sup> By decision of 19-21 September 2023, the Committee of Ministers requested the government to present their measures until June 2024.<sup>740</sup> The Ordinance on accommodation in the reception centre for foreigners and the methods to calculate costs was amended and includes rules aiming to improve lawyers’ access to detainees.<sup>741</sup>

Similarly in Lithuania, the Human Rights Monitoring Institute and the Global Detention Project submitted a joint report to the United Nations Committee against Torture (CAT) in which they underlined that detained migrants and asylum seekers were not adequately provided with information on and access to state-guaranteed legal aid.<sup>742</sup> In addition, the Protecting Rights at the Border initiative reported in September 2023 that detainees could not communicate externally and legal aid was not available at the border or in detention. It added that similar concerns were raised about minors having access to the asylum procedure, legal representation and state legal aid.<sup>743</sup> The Danish Refugee Council reported on the lack of access to legal aid at the borders in Lithuania<sup>744</sup> and in Poland<sup>745</sup> in the context of monitoring pushbacks. Concerns about access to legal aid at the Polish borders were also expressed by the UN Special Rapporteur on Human Rights of Migrants.<sup>746</sup>

Following a visit conducted in Latvia in 2022, the CPT published a report in 2023 and noted that in one detention centre detained asylum seekers alleged major difficulties to communicate with lawyers. The CPT recommended for the Latvian authorities to consult with the Bar Association and ensure access to and effective free legal aid to detained foreigners in all proceedings. The CPT also recommended authorities to facilitate the access of NGOs to immigration detention centres to provide legal aid to asylum seekers.<sup>747</sup>

According to Asylex, access to legal aid for detained asylum applicants remained a challenge in Switzerland. Because legal aid is organised at the regional level, there are allegedly few lawyers assigned to cases, and those appointed lack knowledge or experience in administrative detention. As a result, detained asylum applicants have difficulties to challenge detention orders or to benefit from a judicial review.<sup>748</sup> The UNCAT also underlined in its





periodical review report of December 2023 that administrative detainees, including asylum seekers, must be provided access to legal counselling while in detention.<sup>749</sup>

Jesuit Refugee Service (JRS) Malta reported hindered access to legal aid in detention due to the visitor's policy, which requires pre-registration 72 hours in advance. JRS Malta stated that this system renders visits by NGOs difficult, and thus detained applicants may not receive sufficient legal and procedural information.<sup>750</sup> Maltese authorities confirmed that the visitors policy was amended and visitors are now required to send their request by email at least 48 hours before a visit. The policy allows for emergency access in case of legal and procedural needs. The authorities underlined that UNHCR has unlimited access to all asylum seekers in detention.

Similarly, in Poland, the Helsinki Foundation for Human Rights mentioned that contact with lawyers remained a challenge for detained asylum seekers due to practical limitations on visits to detention facilities.<sup>751</sup> The Polish authorities noted that the right to free legal aid is guaranteed by law. The decision on visits to a centre is made by the head of the facility in order to organise the rules of residence. The authorities underlined that the decision depends on several factors, including the time and conditions in a facility, which determine the possibility to visit by a certain number of NGOs. The authorities noted that the number of visits on a certain day must not have an adverse impact on residents' rights under the rules of residence and on the order of the day. The authorities highlighted that NGOs and individuals, with the approval of the centre administration, may visit foreigners 7 days a week.

In Czechia, the Organisation for Aid to Refugees (OPU) noted that the Government Council on Human Rights and its Committee on the Rights of Foreigners recommended that legal providers and civil society organisations should have access to detention facilities, irrespective of funding from the Ministry of the Interior.<sup>752</sup>

The organisation Border Violence Monitoring documented that detained asylum seekers in Greece lacked legal support due to delays in the scheduling system to lodge an asylum application, resulting in a lack of access to necessary documents and services.<sup>753</sup> Likewise, two other organisations, Mobile Info Team and Refugee Legal Support, interviewed a sample of 19 applicants, who all stated to be without legal information or legal support to navigate the procedure and to understand the reasons for their detention.<sup>754</sup>

The Hungarian Helsinki Committee continued to lack access to border-crossing points, open reception facilities and detention facilities in 2023, even though it has been the only NGO providing free-of-charge legal counselling and representation on the asylum procedure.<sup>755</sup>

In the case *A.M.A. v the Netherlands* of 24 October 2023, the ECtHR [found](#) a violation of Article 3 of the ECHR on procedural aspects related to the removal of the applicant to Bahrain and the assessment of ill treatment claims in his last-minute application for asylum. The court noted that the applicant did not have access to a lawyer in the proceedings for his last-minute application, and there was no indication in the file that the applicant had access to contact and consult a lawyer or that legal assistance was offered to exercise an effective legal action against the decision or to submit an interim measure claim.



### 3.9.4. Supporting lawyers working on international protection cases

Legal professionals involved in the asylum procedure continued to receive specific training to better support asylum applicants and vulnerable persons, in addition to enhancing the quality of services. In certain countries, the remuneration of state lawyers was scrutinised.

In France, the Office for the Protection of Refugees and Stateless Persons (OFPRA) published specific information dedicated to lawyers working on asylum cases, on their role during the interview, the access to the case file and payment of expenses.<sup>756</sup>

In 2023, some civil society organisations arranged training for lawyers and other professionals providing legal assistance in the international protection procedure. For example, in Sweden the Refugee Centre conducted certified digital training in line with the guidelines of the Bar Association on the best interests of the child, examination of asylum cases with a focus on Afghanistan, and the revocation and termination of protection.<sup>757</sup> The Foundation for Access to Rights in Bulgaria organised a series of events to mark their 10<sup>th</sup> anniversary, including training and discussions among legal practitioners on current aspects related to refugee law.<sup>758</sup>

With the aim to better support children in the procedure for international protection, people involved in assisting unaccompanied minors, including lawyers, received specific training related to safeguards in Bulgaria<sup>759</sup> and on matters concerning guardianship in Poland.<sup>760</sup>

In Switzerland, UNHCR recommended specialised training for providers of legal assistance and representation to guide them on the identification and referral of applicants with special needs.<sup>761</sup>

The National Romanian Council for Refugees (CNRR) mentioned that asylum seekers have frequently reported on the poor quality of services provided by state legal aid lawyers. Since a lack of training and motivation were identified as root causes for the deficiencies, CNRR provides annual informative sessions for all lawyers working in the field of international protection.<sup>762</sup>

In Switzerland, state-funded lawyers are remunerated based on a lump-sum compensation system. Asylex criticised this system, which has been in place since 2019, as having a demotivating effect for lawyers working on asylum cases because they are paid approximately CHF 2,000, irrespective of whether an appeal is submitted against a negative or an inadmissibility decision. A reform was suggested by introducing remuneration based on performance and the possibility for the applicant to choose a legal representative.<sup>763</sup> In addition, the UNCAT expressed concerns about assigned lawyers ending their mandate if they deemed an appeal had no prospects of success.<sup>764</sup> According to information received by the UNCAT, one-third of appeals submitted without a lawyer's assistance are successful, which raises doubts on the objectivity of the assessment done by a lawyer, also because they are demotivated to submit appeals due to the payment system.<sup>765</sup>

With regard to the right of civil society organisations to access reception facilities for counselling reasons, the German Federal Administrative Court [clarified](#) that the right presupposes an express will of the asylum applicant to receive the assistance and a prior mandate allowing access to the premises. The court stated that neither national nor European legislation provides access rights for NGOs without prior authorisation by an asylum seeker. In



addition, the court reiterated that the rules for access to reception premises are justified by a need to ensure safety and security of the asylum seekers.

### 3.9.5. Continued legal assistance following an international protection procedure

The need for legal assistance remains relevant in the asylum procedure when the outcome is not favourable for an applicant. For example, in Norway it was noted that the provision of legal aid can support rejected asylum seekers to obtain long-term residence, whereas in Switzerland the lack of state-guaranteed legal support for rejected Afghan asylum seekers can hinder their access to a legal status.

In Croatia, the Ministry of the Interior launched a call for lawyers to provide legal assistance in the return procedure, covering the period 2024-2027.<sup>766</sup> The contract was signed in April 2024.

Based on observations for 2022, NOAS noted that 73% of their cases had a positive outcome as a result of their legal aid and engagement on cases concerning rejected asylum seekers and stateless persons with a long residence in Norway. NOAS considered this outcome as an indication for the need to ensure access to legal aid and presence during the personal interview.<sup>767</sup>

As in previous years,<sup>768</sup> Asylex raised a particular concern about the lack of automatic access to state-sponsored legal aid for Afghan asylum seekers for whom the Swiss SEM has reconsidered its policy<sup>769</sup> so that rejected asylum applicants can request the reconsideration of their case.<sup>770</sup>

In July 2023, the CPT published a report on Frontex-supported return operations from Belgium and Cyprus to the Democratic Republic of the Congo following a visit conducted in November 2022. For Belgium, the CPT noted that removed persons generally had access to a lawyer, but a late notification of an imminent removal could make it difficult to contact a lawyer. The CPT recommended that Belgian authorities ensure that all returnees can contact a lawyer up to the moment of boarding.<sup>771</sup>

### 3.9.6. Specific aspects of providing legal aid for displaced persons from Ukraine

In 2023, legal support for beneficiaries of temporary protection remained one of the core activities of organisations and lawyers in Europe. This was particularly the case in Ukraine's neighbouring countries to where displaced Ukrainian nationals continued to flee.

European lawyers discussed matters related to legal aid provision for displaced persons from Ukraine during the joint seminar held by the Council of Europe's Project "[HELP \(Human Rights Education for Legal Professionals\) for Ukraine, including during wartime](#)",<sup>772</sup> the European Commission and UNHCR, in cooperation with the Slovak Bar Association.<sup>773</sup>





With the extension of temporary protection to displaced person from Ukraine beyond 4 March 2023, civil society organisations and law clinics continued efforts to provide legal assistance and information in Bulgaria, Czechia, Estonia, Latvia and Poland.<sup>774</sup> For example, the Danish Refugee Council in Poland launched a cross-border digital legal aid [platform](#) in cooperation with Danish Refugee Council in Ukraine to address an increased need for legal aid provision for displaced persons and organised a training session for Polish lawyers.<sup>775</sup>

The Foundation for Access to Rights implemented the project “Establishing an accessible network for legal assistance to displaced persons from Ukraine in Bulgaria and prevention and counteraction of human trafficking”. The aim was to share knowledge and effectively address needs related to the provision of legal aid.<sup>776</sup>

In Czechia, the Supreme Administrative Court [ruled](#) that the provision of legal assistance in matters of international protection, as enshrined in national legislation under Article 35(5) of the Civil Code, must be interpreted as including aspects related to the application of temporary protection.



## Section 3.10. Interpretation services



Interpreters play a key role throughout the asylum procedure to ensure that the exchange of information between an applicant and the asylum authority is accurate and understood by both parties. They are pivotal in enabling applicants to tell their story in their own words. Thus, skilled interpreters can reflect the nuances of a dialect and address the specific needs of applicants with vulnerabilities. Interpretation helps to reduce misunderstandings and cultural biases, and promotes mutual understanding and respect.

The support of interpreters is important not only during the personal interview but also in providing information at the first stage of an asylum application and during daily life in reception. While the recast APD sets out the legislative provisions for interpretation, the recast RCD calls for information on reception conditions to be given in a language that the applicant understands or is reasonably supposed to understand. It does not, however, mention interpretation for other purposes. Therefore, in practice, the quality, availability, integrity and efficiency of interpretation services may differ country by country. In the absence of adequate services, the result of the final decision could be affected.

Some Member States have invested in establishing interpretation services with qualified and experienced interpreters covering several aspects of applicants' everyday life, while others may have limited resources or capacity to provide these services. This can lead to disparities in the quality of interpretation services, which can have a significant impact on the fairness and efficiency of the asylum process. In addition, the integrity and impartiality of the professionals are crucial for an accurate interpretation and a fair asylum procedure.

In 2023, national authorities, courts and tribunals, civil society organisations and service providers pursued efforts to enhance access to and the quality of interpretation in asylum procedures and the reception system. Across EU+ countries, increasing applications led to growing interpretation needs. In some countries, where the profiles of applicants remained similar, the impact on the provision of interpretation was limited; in others which received applicants with diverse profiles, additional challenges were noted. On the whole, shortages in certain languages, the unavailability of interpretation for certain services and heterogeneous standards continued to impact applicants' procedural rights and access to services, such as healthcare.

### 3.10.1. Access to interpretation

The CJEU and national courts have recalled the significance of the right to interpretation in the asylum procedure. In relation to regular procedures, the Belgian Council of State **highlighted** that, in at least one hearing, applicants should be heard by an officer and assisted by an interpreter of the same sex in order for the procedure to comply with Article 15 of the recast APD.

In accelerated procedures, the CJEU **found** in *Y.N. v Slovenia* that the time limit for an appeal, in this case 3 days including a weekend and a public holiday, did not allow the applicant to procure interpretation services and concluded that it amounted to a violation of the applicant's right to an effective remedy. For its part, the Belgian CALL **ruled** that the accelerated procedure should have not been applied as the applicant was not assisted by an official translator during the personal interview, but only by a nephew over the phone.

#### 3.10.1.1. Improving access

In 2023, several EU+ countries adopted new legislation on the provision of interpretation services: Bulgaria amended its national asylum legislation to allow EUAA interpreters to support the registration and assessment of applications for international protection (5 EUAA staff and 28 interpreters)<sup>777</sup> and Belgium prepared updates to its laws on the recruitment and status of interpreters, including improved remuneration. In other countries, recruitments initiatives were renewed or reinforced. For instance, Belgium used LinkedIn Recruiter to identify interpreters and Germany published vacancies on social media for interpreters of languages which are rare or in high demand.

EU+ countries also resorted to non-registered interpreters, case officers, cultural mediators, NGOs, students, other applicants, persons under temporary protection and international organisations to fulfil the need for interpretation in asylum procedures and reception.

Finally, in an attempt to alleviate the continued lack of interpreters, EU+ countries, such as Lithuania<sup>778</sup> and Malta, have increasingly used remote interpretation. This was used extensively during the COVID-19 pandemic and persisted to temporarily address the availability of interpretation.<sup>779</sup> Malta equipped new facilities for legal professionals with a phone line system to access interpretation services remotely.

#### 3.10.1.2. Challenges in providing interpretation

Despite these efforts, challenges remain in ensuring applicants' right to interpretation. The first and most evident obstacle in the provision of interpretation services in the asylum procedure is the lack of interpreters in rare languages, and challenges were reported from an increasing number of EU+ countries. For example, Belgium, Croatia and Switzerland notably reported difficulties in finding Kirundi-speaking interpreters. The Lithuanian Red Cross Society reported that, although interpretation services were fully operational at the beginning of 2023, the influx and changes in profiles of applicants, combined with a decrease in EUAA translators, led to shortages in certain central and eastern Asian languages.<sup>780</sup> The Finnish Immigration Service also reported challenges in finding interpreters for example for Ganga and Luo. In other countries, civil society organisations reported shortages of interpreters in particular locations, such as the Lampedusa hotspot in Italy<sup>781</sup> or the Sofia police station in Bulgaria.<sup>782</sup>



In 2023, funding issues, delays in payments or the absence thereof led service providers to stop a number of operations. Equal Legal Aid reported that METAdrasi, the primary interpretation provider in Greece, halted many of its tasks for similar reasons.<sup>783</sup> In November 2023, however, METAdrasi declared that the Greek Ministry of Immigration and Asylum had addressed their concerns and announced the restoration of interpretation services in reception centres and the asylum service.<sup>784</sup>

As a result of these impediments, many applicants were not able to access their right to interpretation, which negatively impacted their experience in the asylum procedure and reception system. Consequences varied from delays in the procedure to being denied access to healthcare. For example, one civil society organisation, Border Violence Monitoring Network, described the case of a minor applicant who could not get medical information or treatment due to the lack of interpreters in Corinth, Greece.<sup>785</sup>

## 3.10.2. Quality of interpretation

It is not sufficient for applicants to simply have access to interpretation; the services must be of such quality that they allow for an informed and impartial decision-making process.

### 3.10.2.1. Enhancing quality

Throughout 2023, EU+ countries invested in the development of interpretation services, notably by offering training to relevant professionals, for example in Cyprus and Spain (with the support of the EUAA). In Belgium, training sessions on deontology, gender and terminology were held in cooperation with the University of Mons, and training courses on interpreting for minors were organised internally, in cooperation with the CGRS coordinator for minors.

In some countries, the authorities' training initiatives were supplemented by activities conducted by civil society organisations. In Romania, for example, the CNRR organised specific training for their network of interpreters,<sup>786</sup> while non-registered interpreters and cultural mediators received training from universities in Slovakia (with support from UNHCR) and Malta,<sup>787</sup> respectively.

EU+ countries carried out other initiatives as well to improve the quality of interpretation in the asylum context. These included the development and publication of information leaflets and terminology lists, for example in Germany<sup>788</sup> and Romania.<sup>789</sup> In Italy, the National Commission for the Right to Asylum (NAC), in cooperation with UNHCR and the EUAA, produced a training package including a handbook for interpreters containing information on core concepts of international protection and their role in the proceedings.<sup>790</sup> In Germany, language experts carried out random quality checks of interpretation and translation services in the asylum procedure.

The Finnish Immigration Service tendered the use of interpretation services in 2023. Particular attention was paid to ensure the quality of the service (through training and experience). In addition, an AMIF-funded project to train interpreters on asylum interviews was started.

Polish authorities initiated a quality check of interpretation. An online questionnaire on satisfaction and professionalism of interpreters was sent to case officers. The results of the survey were analysed and discussed with the case officers. In addition, a project initiated by





the Office for Foreigners at the end of 2022 continued throughout 2023. This project aims to develop language macros for the automatic translation of mandatory components of asylum decisions in 25 languages, such as: specification of the legal basis of the decision, ruling, and instruction on whether and according to what procedure the decision may be appealed. This functionality is intended to help case officers who draft asylum decisions to eliminate errors in the translation of the components of the decisions and support the process of standardisation of mandatory and permanent parts of decisions issued by the Department for Refugee Proceedings in the Office for Foreigners.

Some countries updated their code of ethics for interpreters, such as Belgium and Germany.<sup>791</sup> In Sweden, a commission appointed by the government recommended the introduction of competence requirements for interpreters and translators working in migration matters, provided that certain requirements are met.<sup>792</sup>

### **3.10.2.2. Raising the standards for interpretation services**

EU+ countries continued efforts to improve services, while the quality of interpretation in certain cases varied across EU+ countries, within countries and among applicant profiles.

In various countries, civil society organisations were notified by applicants who questioned the accuracy of the interpretation provided and reported that their interpreter displayed bias and inappropriate behaviour.<sup>793</sup> In Czechia, the civil society organisation OPU assessed that these concerns were linked to a lack of training of interpreters on sensitive issues, such as gender-based violence and LGBTIQ claims.<sup>794</sup> Other concerns against interpreters were brought up by civil society organisations in Switzerland, where several Eritrean interpreters were suspected of working as spies for the Eritrean regime.<sup>795</sup> Lacking confidence in interpretation may make applicants reluctant to share their stories for fear of being misinterpreted, leading to an incorrect assessment of their personal circumstances and impacting the authority's decision on their asylum claim.<sup>796</sup>

The quality of interpretation was examined by national courts in individual cases. For instance, the Supreme Administrative Court in Finland **considered** that serious doubts on the accuracy and content of interpretation during the oral hearing of an appeal at an administrative court had a detrimental effect on the understanding of the applicant's statements and assessment of the circumstances in one case, leading the court to annul the negative decision. The Hradec Králové Regional Court **adopted** a similar decision in Czechia. In contrast with the court rulings in Czechia and Finland, the Supreme Administrative Court of Poland **held** that official languages of a country of origin can be presumed as being known by its nationals, thereby adopting a more restrictive approach towards interpretation in asylum procedures.





## Section 3.11. Country of origin information



Country of origin information (COI) refers to up-to-date, reliable information on countries of origin, habitual residence, and transit or return countries which is used to assess an application for international protection.<sup>797</sup> COI reports can address various topics in a specific country, for example the socio-economic, legal, political, human rights and humanitarian situation at a given time.

The recast QD, Article 4(3a) specifies that the assessment of an application for international protection must take account of all relevant facts about the applicant's country of origin. Along the same lines, the recast APD, Article 10(3b) stipulates that precise and timely information on the general situation in countries of origin of applicants and, where necessary, in countries through which they have transited is to be obtained from various sources, such as the EUAA, UNHCR, the Council of Europe and other relevant international organisations.

Key developments in the production of COI in 2023 centred around improving methodologies; enhancing cooperation through bilateral, international and European frameworks, as well as with civil society organisations; increasing accessibility to COI by making reports and resources publicly available; and widening the scope of information by addressing specific areas in greater detail.

### 3.11.1. Improving methodologies and practices

COI units continued to follow the EUAA recommended methodology. Following EASO's transition into the EUAA, the [COI Report Methodology](#)<sup>798</sup> and the [Writing and Referencing Guide for COI Reports](#)<sup>799</sup> for researchers who co-draft EUAA COI reports were rebranded by the EUAA.

Several methodological updates were implemented in 2023, without any major institutional changes to national COI units. For example, Austria's methodology was revised, including new specifications for reporting.

Poland developed several templates for short thematic COI reports, with specific terms of reference and short guidelines for COI researchers and experts, to ensure important subjects are not overlooked and relevant topics are included. In response to the growing data on the Armed Conflict Location and Event Data Project (ACLED) in 2023, the Polish COI unit also created an application to facilitate data navigation.

Sweden made efforts to improve its methodology for developing COI on countries that are considered to be safe. They also developed a checklist for COI reports on conflict and the security situation, as well as standardised texts describing some common sources of data on



conflict that are included in the reports.<sup>xxxii</sup> Additionally, internal guidelines on writing, style, and referencing were produced by the Swedish Migration Agency, Unit for Migration Analysis.

The Netherlands continued developing a Geographic Information System (GIS) programme with the dual objective of implementing a new, scalable and shareable GIS software and building a European network of COI verification through geodata. In addition, the Office for Country Information and Language Analysis (OCILA) of the IND started drafting factsheets on the availability of adequate shelter in countries of origin for rejected minor applicants for international protection.

The potential use of AI tools for COI research and analysis for the provision of COI was explored in Norway, which intends to establish a small team to understand better and use the potential of AI in their work.

A challenge that seemed to persist across COI units in the production of COI, included staff shortages and high turnover which resulted in fewer reports being produced.

Several countries reported challenges in conducting COI research and obtaining accurate information on various topics. These challenges were attributed to armed conflict, security concerns, and political issues, such as authoritarian leaderships or regime changes, where the international community has limited access. Such countries include Afghanistan, Belarus, Eritrea, Iran, Nicaragua, Russia, Sudan and Ukraine.

Additional challenges included the increased workload and the ongoing difficulty of responding to numerous requests and providing information to handle emergency situations in the least amount of time, as well as providing information in the most succinct and clear manner.

### 3.11.2. Collaborating on accurate information

Collaborative efforts were at the forefront of 2023, and various training sessions, study visits and meetings on specific countries were organised between COI units and immigration authorities in other countries. Through the EUAA's specialised networks, asylum authorities continued to cooperate with other authorities and exchange experiences with COI.

COI units in Germany and Poland increased cooperation with other EU+ countries. In addition, they embarked on further international cooperation with COI experts in the framework of the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), which includes several EU+ countries as members, in addition to Australia, Canada, New Zealand, the United Kingdom and the United States.

In the framework of the Bilateral Mentoring System (BMS),<sup>xxxiii</sup> COI experts in Germany cooperated with counterparts in France and Greece. Subsequently, Germany and France published a joint report on Guinea on levirate and sororate marriages.

In addition to strengthening cooperation with all actors involved in the international protection procedure, the focus was on expanding cooperation with academia, civil society organisations

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<sup>xxxii</sup> The sources used are mainly ACLED and Uppsala Conflict Data Programme (UCDP).

<sup>xxxiii</sup> Bilateral Mentoring System (BMS) is an initiative of Member States, which is supported by the EUAA, to strengthen the expertise and cooperation of COI experts in the EUAA specialist networks.





and the interested public. Among civil society organisations, initiatives to foster cooperating and build stronger networks of COI experts continued. Asylos, a UK-registered charity, chaired informal quarterly check-ins with COI experts, where members of the group exchanged best practices, challenges, new publications, peer reviews and collaboration opportunities.<sup>800</sup>

### 3.11.3. Increasing access to COI

There were extensive efforts in 2023 to make COI more accessible. To reach more users, several countries invested in new technologies. For example, the COI unit in Denmark invested in new channels of communicating information and developed new products, such as podcasts, newsletters and webinars.

Poland introduced small changes to the functioning of its internal electronic COI system, while simultaneously working on establishing a publicly accessible COI portal (accessible since early 2024). Throughout 2023, Poland shared short thematic COI reports with the public through the EUAA COI Portal. As part of a realignment of their product portfolio, Germany's enhanced networking with various stakeholders led to an increase in publicly-accessible products, such as country reports and fact sheets. In this context, endnotes were added to the externally distributed briefing notes.

In an effort to make COI more available to EU+ countries, Austria's Country of Origin Information–Content Management System (COI-CMS) now offers the possibility of translating COI reports into 24 different languages through the translation tool "DeepL". Additionally, Austria's COI Unit (*Staatendokumentation*) established a socio-economic survey panel in North Africa and the Middle East. Quantitative surveys are conducted on an annual basis to assess the socio-economic situation of households. These reports are publicly available.

In upholding its commitment to foster knowledge and expertise in COI research, Asylos developed a [Thematic COI Sources Toolkit](#) for COI researchers. This free resource contains a wealth of relevant sources organised by topic and assists researchers to select relevant sources.<sup>801</sup> In addition, Asylos launched a new initiative to make their research publicly available. The aim is to contribute to fair and evidence-based decision-making in as many asylum cases as possible.<sup>802</sup> In cases when this was not possible, civil society organisations that offer legal assistance and representation to applicants advocated to have access to COI cited in decisions concerning their clients.<sup>803</sup>

### 3.11.4. Regions of focus

As in previous years, COI units continued to focus on the most common countries of origin of asylum applicants in Europe, namely Afghanistan, Syria and Iraq. The EUAA also published detailed reports on [Afghanistan](#)<sup>804</sup> and [Syria](#),<sup>805</sup> the security situation in [Syria](#),<sup>806</sup> and Arab tribes and customary law in [Iraq](#).<sup>807</sup>

EU+ countries also monitored developments in Latin America, as interest on the region increased. For example, Sweden published a report on [Nicaragua](#)<sup>808</sup> and focused more on Latin America than in previous years due to higher arrivals from Colombia, Nicaragua and Peru. The EUAA published a report on [Venezuela](#).<sup>809</sup>



In addition, COI research concentrated on Africa; some countries, such as Czechia and Finland, focused on the continent as a whole, while others on specific regions. Sweden's work covered mainly the Horn of Africa, with a special focus on Ethiopia, Eritrea and Somalia. France conducted extensive research on the Sahel region and produced several notes on Burkina Faso, Mali and Niger.

Due to their geographical location and the instrumentalisation of migration, Poland, and Lithuania focused on Belarus. With a high number of applicants from Central Asia and an absence of available information, their COI research naturally focused on countries of this region as well.

Following the outbreak of conflict in Gaza in October 2023, Sweden turned its attention to the Middle East, focusing on Israel, Palestine and neighbouring countries. Work in Czechia had concentrated on the region throughout 2023.

Many COI units conducted desk research, while others, such as Landinfo in Norway, conducted fact-finding missions with other COI units. Austria and Switzerland organised a joint fact-finding mission to Somalia and Somaliland. Other countries to conduct fact-finding missions included Denmark, Finland, Poland and Sweden. Danish authorities conducted one fact-finding mission to Türkiye, and three fact-finding missions to Ukraine. In addition, two COI reports were published in 2023 based on fact-finding missions conducted in Iraq and Lebanon at the end of 2022.

Following the Russian invasion of Ukraine, COI needs on the security situation in Russia and Ukraine increased significantly. This trend persisted in 2023, and national COI units produced focused outputs on the two countries.

Civil society organisations contributed to increasing and widening the scope of available information on specific countries of origin. Asylos focused on specific topics, such as incidents of violence by police or other state actors in [El Salvador](#),<sup>810</sup> the treatment of United Democratic Forces members and individuals who refused civic service in [Rwanda](#),<sup>811</sup> and the situation of Banyamulenge (Tutsi or Banyarwanda) in the [Democratic Republic of the Congo](#).<sup>812</sup>

In addition, Asylos sought to address information gaps in COI, particularly on [statelessness focused COI](#)<sup>813</sup> (see [Section 3.12](#)) and COI on children and young people. A COI report on the situation of children and young people in Sudan and a Principles Document for conducting research on children and young people were published in early 2024, which was followed by an updated training handbook and a series of training webinars in the spring of 2024.<sup>814</sup>

#### **3.11.4.1. Medical country of origin information (MedCOI)**

A general trend was noted toward conducting more research on medical country of origin information (MedCOI), with Switzerland increasing its capacity to handle medical-related topics. The EUAA published reports on the provision of healthcare in [Bangladesh](#),<sup>815</sup> [Ghana](#)<sup>816</sup> and [Vietnam](#),<sup>817</sup> alongside topical publications on [pulmonary disease](#) and [Diabetes Mellitus](#) in Ghana.<sup>818</sup> Additionally, Asylos published a report on schizophrenia and autism in [Bangladesh](#).<sup>819</sup>



### 3.11.4.2. COI and the LGBTIQ community

Another topic of increased interest in 2023 was COI on the LGBTIQ community. The EUAA rebranded its practical [COI Research Guide on LGBTIQ](#) for COI researchers.<sup>820</sup> The Asylum Research Centre published a series of query responses that presented COI on the situation and treatment of LGBTIQ persons in [Egypt](#), [Tunisia](#) and [Uganda](#).<sup>821</sup> In addition, Asylos published reports on the treatment of homosexual men and their relatives in [Kenya](#)<sup>822</sup> and on the situation of homosexual people in [Togo](#).<sup>823</sup>

### 3.11.4.3. Jurisprudence on COI

According to Article 4(3a) of the recast QD, determining authorities need to consider information on an applicant's country of origin. When authorities fail to do so, courts may intervene to emphasise how crucial it is to examine COI before making a decision on an asylum claim.

In November 2023, in the case of *X, Y and their six children v Staatssecretaris van Justitie en Veiligheid*, the CJEU [interpreted](#) Articles 15(c) and (b) of the recast QD. The ruling stated that national asylum authorities must consider all relevant factors, including the general situation in the country of origin, before determining the risk of serious harm when examining the need for subsidiary protection.

The Regional Court of Brno in Czechia [determined](#) that the Ministry of the Interior had asked a Moldovan applicant from Transnistria in an irregular way whether he would like to waive his right to comment on the COI documents, which he did. The court indicated that, while waiving the right to comment on COI is a possibility, according to the Administrative Code an effective waiver can occur: i) only after the applicant has been invited to familiarise himself/herself with the documents collected and ii) if the ministry properly instructs the applicant about the consequences of such a waiver. The Ministry of the Interior adapted its procedures reflecting the elements of the ruling.

At the beginning of 2024, the High Court in Ireland [ruled](#) in *M.B. v International Protection Appeals Tribunal & Anor* that the tribunal should, at a minimum, engage in some analysis of COI submitted by the applicant and provide an explanation for why it was rejected or why it preferred to use other COI, if that was the tribunal's stance.



## Section 3.12. Statelessness in the context of asylum



Statelessness is a legal anomaly which affects people who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully exercise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.

The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone “who is not considered as a national by any state under the operation of its law”.<sup>824</sup> Nationality is the legal bond between a person and a state, and international law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law, for example by being non-discriminatory and non-arbitrary, avoiding statelessness and ensuring gender equality.

Nationality is generally acquired at birth by descent (*jus sanguinis*), place of birth (*jus soli*) or later in life based on residence, marriage or adoption. A person may be born stateless if the law in their country is discriminatory and does not grant nationality to certain ethnic groups or allow women to pass on nationality to their children. Children born into migrant communities may also be at risk of statelessness when the country they are born in does not grant nationality based on the principle of *jus soli* and they are unable to obtain the nationality of their parents. One reason for this may be that their parents are refugees who cannot approach the embassy of their country of origin to request nationality for their children out of fear of persecution. People may also lose their nationality later in life. This may be as a result of discriminatory laws or challenges acquiring a new nationality after state secession.

To eliminate statelessness in the EU, it is important that Member States have procedures in place to ensure that stateless persons are recognised and that a specific path exists for them to become citizens of the country in which they reside.

While stateless persons and refugees are two distinct categories in international law, a person can be both a refugee and stateless. In the context of asylum, statelessness may also be relevant to the determination process for an asylum application as in many instances the reasons why a person left their country are linked to reasons why they are stateless. It is therefore important that both claims are assessed and both statuses addressed explicitly. In instances where international protection is not granted on one ground, statelessness may comprise another ground based on which the person may still necessitate international protection.



Statelessness remained a topic of importance on the EU agenda. This was particularly the case as statelessness-related considerations were relevant to the two major areas of conflict in 2023: Palestine and Ukraine. In its “Annual Report on the Situation of Fundamental Rights in the European Union – 2022 and 2023”, the European Parliament noted with concern the large number of stateless persons in the EU, especially children being born stateless. Highlighting the need for a Europe-wide strategy to address statelessness, the European Parliament called for the development of a comprehensive action plan to this end. The report also called on Member States to properly identify, recognise and protect stateless people, addressing the specific vulnerabilities of stateless persons.<sup>825</sup>

In 2023, about 2,300 asylum applications were lodged in EU+ countries by stateless persons, which is in line with 2022. The main receiving countries were Austria, France, Germany, Sweden, Greece and Switzerland (in descending order). During the year, just over 1,200 decisions were issued at first instance to stateless applicants. Most decisions were taken in France, Sweden, the Netherlands, Germany and Switzerland (in descending order). At the end of 2023, 1,900 cases of stateless applicants were pending at first instance in EU+ countries.

The recognition rate of stateless applicants was 53% in 2023, relatively similar to the past few years but much lower than during the refugee crisis of 2015-2016 (when nearly 9 in 10 decisions were positive). Among the countries issuing most decisions, the recognition rates were highest in Switzerland (89%), the Netherlands (78%) and Germany (64%) and lowest in France and Sweden (30% and 29%, respectively).

At the national level, EU+ countries approved and adopted legislative amendments affecting stateless persons, including stateless asylum seekers and beneficiaries of international protection, as well as their children. Amidst positive developments, civil society organisations emphasised that more work needs to be done to identify and defend the rights of stateless people.

To increase awareness of the situation for stateless asylum seekers and refugees, civil society organisations developed briefings, held webinars, posted insights about challenges faced by stateless asylum seekers, wrote open letters and produced reports, including submissions to human rights commissions. In addition, a new trend emerged in filling information gaps pertaining to statelessness and COI.

### 3.12.1. Changing legislation and improving the situation of stateless asylum seekers and refugees

The recognition as being stateless can be difficult for asylum seekers and beneficiaries of international protection depending on national legislation, practices and policies. The European Migration Network (EMN) published an updated inform on the situation of statelessness in the EU and Norway. Among other key findings, the inform found that there was no harmonisation among EU+ countries on the procedures they use to determine statelessness, which include:

- dedicated administrative determination procedures;
- general administrative procedures or within another administrative procedure;
- ad hoc administrative procedures; and





- judicial procedures (for example in Belgium for cases when the applicant is not a legal resident in the country).<sup>826</sup>

Several legislative developments to increase recognition and ensure that the rights of stateless persons are protected were introduced in 2023. The Council of Ministers in Belgium approved a reform on 9 March 2023 that enables stateless persons who are already residing in Belgium to apply for a 5-year temporary residence permit. Following the reform, a permanent resident visa may be issued if the individual still fulfils the requirements after 5 years, while currently stateless people can only rely on a residence permit for humanitarian reasons.<sup>827</sup>

In addition, the reform would also introduce a right of residence for stateless persons who do not qualify for international protection status. This new procedure, which will come into force during 2024, will provide greater legal certainty for this group of people.<sup>828</sup> UNHCR welcomed the proposals but noted that the law in its current form risked weakening protection by adding a statelessness determination procedure in parallel to the residence permit procedure, and thus introducing additional criteria.<sup>829</sup> Nansen and the ENS agreed that the hybrid character of the proposed procedure may give rise to several legal questions and suggested the swift introduction of an information campaign for all stakeholders.<sup>830</sup>

In the absence of a definition of stateless persons in national law, the SMA in Sweden issued a new [legal position](#) on 27 March 2023 to increase consistency and predictability. It clarifies how statelessness should be defined and how the SMA should investigate this aspect in connection with the determination of an applicant's identity.<sup>831</sup> Without a statelessness determination procedure in place, the legal position offers guidance on how an assessment of statelessness should be conducted.

In June 2023, the Dutch Parliament passed a legislative package pertaining to statelessness, which has been in the works since 2014. The first bill, the [Statelessness Determination Procedure Act](#), established a new statelessness determination procedure. The second [bill](#), which amends the Dutch Nationality Act, provides stateless children born in the Netherlands with a pathway to Dutch nationality. This was seen as a positive development for many children who are born to applicants or beneficiaries of international protection and who are unable to inherit citizenship from their parents.<sup>832</sup>

An [amendment](#) of the Act on the Residence of Foreigners in Czechia, which went into effect in July 2023, provides a definition of a stateless person and includes relevant provisions concerning recognition, procedures and the content of protection.<sup>833</sup> Similarly, the Portuguese Parliament passed a [law](#) in August 2023 that defines a stateless person and recognises that those who meet the criteria of the 1954 Convention are entitled to both stateless status and a travel document. The law amends existing provisions of the Asylum Act and the Immigration Act.

While national authorities took steps to eradicate the situation of statelessness, international and civil society organisations advocated for clearer measures and offered their insights on existing limitations and possibilities for further improvements.<sup>834, 835, 836, 837</sup> For example, at the launch of its [report](#) "Mapping Statelessness in Ireland" and in line with its campaign to end statelessness, UNHCR called on the Irish government to introduce a new procedure to recognise the rights of stateless persons in Ireland.<sup>838</sup> In addition, during her visit to Denmark, the Council of Europe's Commissioner for Human Rights [underlined](#) the rising number of stateless persons and invited the authorities to facilitate access to citizenship for children and







young people who were born or grew up in Denmark.<sup>839</sup> The UNCAT recommended for Slovenia to establish a stateless determination procedure and follow-up on its expressed commitment to ratify the Convention on the Reduction of Statelessness,<sup>840</sup> and in December 2023 during the Global Refugee Forum, Slovenia pledged that it would accede to the 1961 Convention.<sup>841</sup>

The ENS continued to organise the [#StatelessJourneys](#) Campaign, which calls for full access to rights and support for stateless refugees.<sup>842</sup> As part of the campaign, the ENS published a series of [thematic briefings](#) designed to assist refugee response actors on different aspects of the asylum process and statelessness<sup>843</sup> and hosted a series of [webinars](#) on "Identifying and Addressing Statelessness in the Refugee Context".<sup>844</sup>

Under the umbrella of the Stateless Journeys Campaign, the [#DesplazamientosApátridas](#) campaign sought to enhance the rights of stateless refugees in Spain by collecting [stories](#) from affected communities. The stories highlight the protection needs and everyday challenges faced by stateless refugees in Spain and across Europe.<sup>845</sup>

The Bhutanese Refugee Community in Denmark urged for action on statelessness. The Association of the Bhutanese Community (ABC Denmark) published an [open letter](#) to the Danish government, released a comprehensive [report](#) on resettled Bhutanese refugees in Denmark,<sup>846</sup> and together with the ENS published a [video](#) providing an intimate look into the daily challenges faced by the community.<sup>847</sup>

Aditus Foundation, the ENS and the Institute on Statelessness and Inclusion made a [joint submission](#) to the Human Rights Council for Universal Periodic Review on the right to nationality and human rights challenges related to statelessness in Malta, including the challenges faced by asylum seekers and migrants.<sup>848</sup> Maltese authorities underlined that individual cases are decided on a case-by-case basis, while they were currently examining the possibility of setting up a formal determination mechanism to identify stateless persons. The authorities also highlighted that all births in Malta were registered, both for Maltese and foreigners.

In the context of Russia's invasion of Ukraine, UNHCR estimated that there were at least 35,000 stateless people in Ukraine,<sup>849</sup> while other sources suggested that there may be many more.<sup>850</sup> Stateless people fleeing the conflict in Ukraine faced additional challenges in obtaining temporary protection, as they lacked citizenship or documentation, making it difficult to prove their link to Ukraine.<sup>851</sup> In addition, under the Temporary Protection Directive, Member States are not required to extend temporary protection to all categories of stateless persons and practices varied across countries. Namely, pursuant to the Council Decision activating the Temporary Protection Directive, temporary protection applies to stateless persons who were beneficiaries of international protection in Ukraine before 24 February 2022 and stateless persons who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who are unable to return in safe and durable conditions to their country or region of origin.



## 3.12.2. Stateless Palestinians

One of the largest and longest-lasting statelessness hotspot globally is among Palestinians, reflecting a complex and intricate situation.<sup>852</sup> Following the outbreak of the war in Gaza and the resulting volatile and unpredictable situation, EU+ countries put on hold the processing of asylum applications from stateless Palestinians from Gaza.<sup>853</sup>

Prior to the war in Gaza, courts were called on to determine facts of law of UNRWA protection for Palestinians applying for international protection. In *OFPRA v SW*, the CJEU [ruled](#) on the cessation of UNRWA assistance when a lack of access to medical care and treatment resulted in the stateless person of Palestinian origin running a real risk of imminent death or a real risk of being exposed to a serious, rapid and irreversible decline of their state of health or a significant reduction in their life expectancy.<sup>854</sup>

At the national level, the Council of State in the Netherlands, [clarified](#) the application of Article 1D of the Refugee Convention in cases when the applicant voluntarily departs from UNRWA's area of operations.<sup>855</sup>

## 3.12.3. COI and statelessness

At times, there seems to be a gap in comprehensive information on statelessness and nationality rights in COI.<sup>856</sup> This information is essential to effectively assess protection needs, as an applicant's stateless status in the country of former habitual residence may be wholly or partially linked to their fear of persecution.

To this end, Asylos, a UK-registered charity, launched a [project](#) to address information gaps on statelessness-focused COI.<sup>857</sup> Asylos developed a [Principles Document](#)<sup>858</sup> to share key research and a training [handbook](#) to guide COI researchers on statelessness.<sup>859</sup> Asylos also partnered with [Asylum Aid](#) to bring a series of [training workshops](#) on statelessness-focused COI.<sup>860</sup>

At the national level, the COI unit in Denmark has supported work on statelessness within the Danish Immigration Service. This includes the identification of stateless groups and, in particular, children born to single mothers who cannot transfer citizenship to their children. In addition, the Danish Immigration Service published a report on access to health services for stateless Palestinians in Lebanon.<sup>861</sup>



## Section 3.13. Content of protection



Recognised refugees are granted certain rights and obligations, as outlined by the Geneva Convention. The recast QD outlines the content of international protection to harmonise what a recognised beneficiary of international protection can expect under national policies. Its provisions shape the integration of beneficiaries of international protection through standards on residence permits, employment, education, social welfare and health care. Relevant articles of the directive also outline the criteria for the cessation and revocation of refugee status.

In 2023, legislative and policy changes focused on family reunification and national forms of protection, while countries continued developing integration policies and strategies adapted to the profile of refugees and beneficiaries of subsidiary protection in a particular country, with the support of civil society organisations.

It has been 20 years since the Family Reunification Directive entered into force, and the occasion prompted publications and recommendations to improve the implementation of the legislation. The CJEU and national courts continued to deliver guidance on its practical application, clarifying related rules on its scope and criteria.

Several initiatives related to the establishment and adjustment of rules and criteria for national forms of protection. In order to avoid a legal limbo, many EU+ countries granted residence permits based on humanitarian or medical considerations in an effort to safeguard the best interests of the child or the principle of *non-refoulement*. Consequently, courts were faced with legalities about national forms of protection, especially concerning related rights.

Many integration initiatives in 2023 continued to be targeted at beneficiaries of temporary protection, for instance in terms of educational support. However, some integration strategies were also put in place or further developed for beneficiaries of international protection.

The reality and the challenges faced by refugees and beneficiaries of subsidiary protection in their daily life showed the key role that civil society organisations play in providing and complementing the support offered by local communities. Many projects and initiatives to welcome and support beneficiaries proliferated during the year. The main challenges were related to insufficient measures or lack of support to find accommodation.



### 3.13.1 Granting international protection: Recognition rates at first instance



The recognition rate refers to the number of positive outcomes as a percentage of the total number of decisions on applications for international protection. For reporting in the Asylum Report, positive decisions calculated in the recognition rate include EU-harmonised statuses only (i.e. refugee and subsidiary protection). At times, the recognition rate which includes national forms of protection may be presented for countries where there is a considerable difference with the recognition rate of EU-harmonised statuses.<sup>xxxiv</sup>

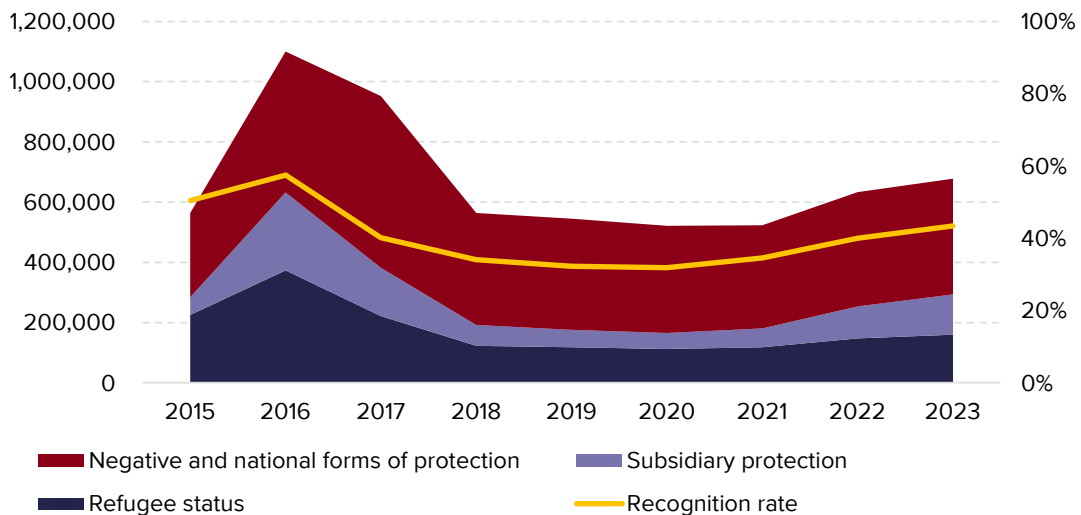
The recognition rate for specific nationalities of applicants can indicate which citizenships are granted protection more or less frequently.

In 2023, the recognition rate at first instance for EU-regulated forms of protection climbed to 43%, increasing for the third year in a row (see Figure 17). This was the highest rate since 2016 (when 57% of decisions granted refugee status or subsidiary protection). The rise was mostly driven by increased recognition rates for Afghans, Iraqis, Palestinians and Ukrainians and by more decisions issued to Syrians.



#### Recognition rate climbs to highest in 7 years

**Figure 17. First instance decisions by type of outcome (left axis) and overall recognition rate (right axis) in EU+ countries, 2015–2023**



**Note:** Data were not available for Portugal for October-December 2023.

Source: EUAA EPS data as of 1 February 2024.

<sup>xxxiv</sup> People granted authorisation to stay for humanitarian reasons are defined by Eurostat: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum\\_decision](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum_decision)



Of the 294,000 positive decisions issued in 2023, 134,000 granted subsidiary protection, representing 46% of total positive decisions. This was an increase by 4 percentage points compared to 2022 and by 14 points compared to 2020. It was also the most ever in relative terms since at least 2014. Over one-quarter of negative decisions for EU-regulated types of protection granted some form of national protection instead. Almost all of these decisions were issued in Spain and Germany.

### 3.13.1.1. Breakdown by citizenship

Several citizenships<sup>xxxv</sup> received record high recognition rates in 2023. Table 2 provides the countries of origin with the highest recognition rates at first instance.

**Table 2. Highest recognition rates by citizenship of applicants, 2023**

Country of origin	Recognition rate (in %)
Syria	94
Ukraine*	92 (+6% than in 2022)
Palestine*	87 (+22% than in 2022)
Yemen	84
Eritrea	83
Belarus	81 (-8% than in 2022)

**Note:** \* Denotes highest on record.

Among the nationalities with a recognition rate above 50%, many jumped to unprecedented levels. For example, that was the case for nationals of Sudan (67%, +19% from 2022), Burkina Faso (67%, +11%) and Nicaragua (53%, +28%). Other citizenships with rates over 50% showed marginal increases, which still led to record-high levels, particularly Malians (72%, +2%) Somalis (63%, +4%) and Chinese (63%, +2%).

In contrast, recognition rates were below 5% for one-fifth of the citizenships which were issued the most decisions in 2023 and below 10% for one-third of them. As in the past, this group with low recognition rates comprised applicants from visa-exempt countries in South America (Brazil, Colombia, Peru and Venezuela), the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo,<sup>xxxvi</sup> Serbia and North Macedonia), the EU Eastern Partnership (Armenia, Georgia and Moldova), North Africa (Algeria, Egypt and Morocco) and countries belonging to the Indian subcontinent (Bangladesh, India and Nepal). The lowest recognition rates were for nationals of North Macedonia (0%), India, Moldova, Nepal and Serbia (1% each).

Despite low recognition rates, applicants from South American countries often received a national form of protection. This was the case for 92% of all decisions for Venezuelans, 75% for Colombians, 69% for Peruvians and 49% for Brazilians.

<sup>xxxv</sup> Only citizenships which received more than 1,000 decisions in 2023 were considered, unless otherwise specified.

<sup>xxxvi</sup> The designation Kosovo is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.



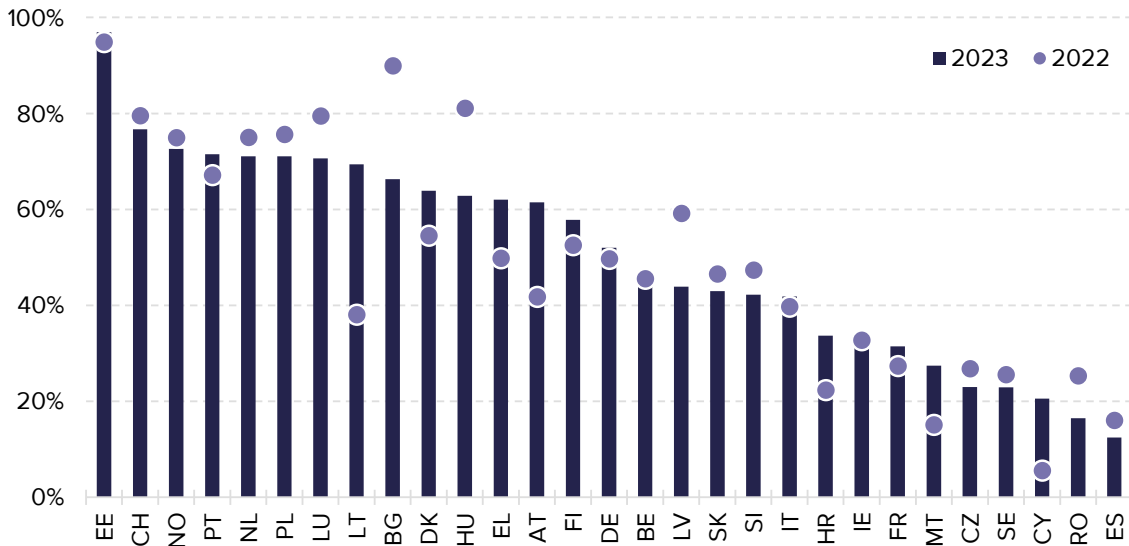
### 3.13.1.2. Breakdown by country

As in previous years, considerable differences can be found with recognition rates for decisions issued at first instance across EU+ countries (see *Figure 18*). At the two extremes of the spectrum, almost all decisions issued by Estonia were positive (97%, the highest share ever), while just 12% of those in Spain and 16% of those in Romania granted some form of international protection. Other EU+ countries with high recognition rates included Switzerland (77%), Norway (73%), Portugal (72%, a record high), Poland, the Netherlands and Luxembourg (71% each).

The variation across EU+ countries can be partially explained by the citizenships dominating the caseload. For example, Estonia had a high recognition rate because almost all decisions were issued to Ukrainians, whereas the low rate in Romania was largely attributable to the prominence of nationals of Bangladesh. Nonetheless, the complexity of an asylum application and its examination cannot be reduced to a single measure such as the nationality of the applicant. Differences in the underlying profile of the applicant, national jurisprudence and policies, and the application of certain legal concepts also come into play and can result in different recognition rates.

 **Great variation is found in recognition rates across EU+ countries**

**Figure 18. Recognition rates across EU+ countries, 2023 compared to 2022**



**Notes:** Data were not available for Portugal for October-December 2023. Positive decisions in the recognition rate include EU-harmonised statuses only (i.e. refugee status and subsidiary protection). National forms of protection are considered as negative decisions.

Source: EUAA EPS data as of 1 February 2024.



As seen in the past, recognition rates for applicants from the same country of origin sometimes differed significantly across EU+ countries. When considering the Top 10 citizenships in 2023,<sup>xxxvii</sup> the differences were evident in most cases.<sup>xxxviii</sup> For example for Afghans, recognition rates ranged between 34% in Belgium and 100% in Italy, while for Venezuelans, they spanned from 0% in Spain and 4% in Germany to 99% in Italy. While these discrepancies may partly reflect several objective factors that can lead to variations in recognition rates, their magnitude is largely the sign of a lack of convergence across EU+ countries.

### 3.13.1.3. Divergence in recognition rates

Variations in recognition rates can be used to analyse the extent of convergence or divergence among decisions to grant international protection in different EU+ countries. This is calculated using the standard deviation of recognition rates across EU+ countries for a given citizenship. Figure 19 presents the monthly evolution of this variation for the Top 5 nationalities of applicants – Syrians, Afghans, Venezuelans, Turks and Georgians (in descending order) – who were issued the most decisions in 2022 and 2023.<sup>xxxix</sup>

In general, a variation score between 0 and 0.1 is considered to be low, between 0.1 and 0.25 as medium, and above 0.25 as high.<sup>xl</sup> As seen in Figure 19, Venezuela had the highest variation in recognition rates in the past 2 years, as the monthly scores always remained above 0.42 and were often above 0.45. Nationals of Türkiye also had continuously high variation in recognition rates, with the standard deviation oscillating around 0.3.

More convergence in decision-making was seen for Syrians and Georgians. While decisions were more divergent for Syrian applicants in the second half of 2022, this changed in 2023, particularly in the last 4 months of the year. For Georgian applicants, variation was minimal in a consistent way until April 2023 (with the monthly scores almost always falling below 0.1). Variation in decisions on their applications then fluctuated around a medium level for the remainder of the year.

<sup>xxxvii</sup> Top citizenships include those which were issued the most first instance decisions in 2023.

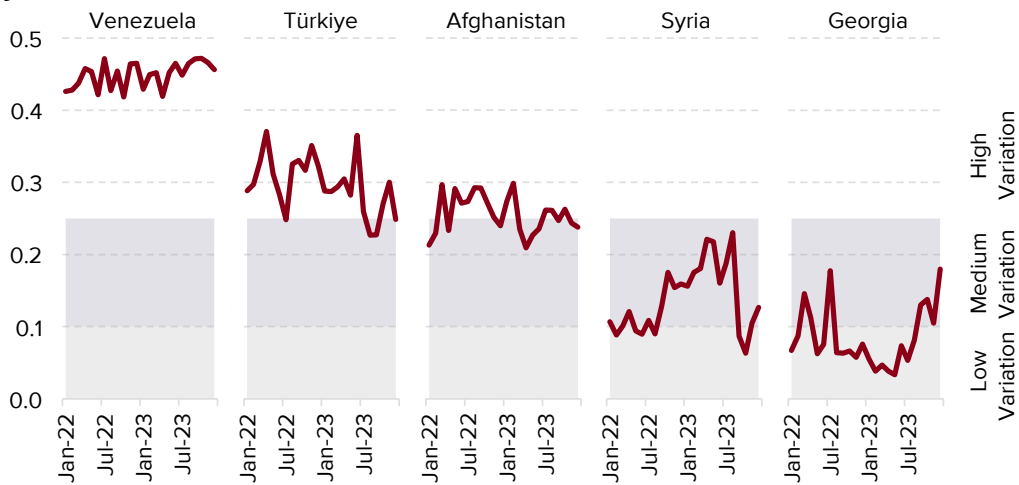
<sup>xxxviii</sup> Only EU+ countries where more than 200 decisions were issued to a certain citizenship in 2023 were taken into account.

<sup>xxxix</sup> Only EU+ countries that issued at least 200 decisions for the five citizenships in both 2022 and 2023 were considered. Countries that issued fewer than 17 decisions (200 divided by 12 months) on a monthly basis were excluded.

<sup>xl</sup> Variation is measured on the scale from 0 to 0.71, whereby a standard deviation of 0 denotes no variation in recognition rates among the countries in the given period and 0.71 denotes the maximum extent of variation in recognition rates among the countries. Theoretically, scores up to 0.71 are possible but in practice such a score could only be reached if there would be only two countries in the sample – one with a recognition rate of 100 % and the other one with a recognition rate of 0 %. Hence, the actual score could hardly reach a value higher than 0.6. This consideration has informed the way the categories for low/medium and high deviation were set.



**Figure 19. Monthly variations in recognition rates (standard deviation) across EU+ countries for the Top 5 citizenships receiving the highest number of first instance decisions issued, January 2022–December 2023**



**Note:** The lines in the figure represent variations across national recognition rates in different months. Higher variation is associated with lines closer to the top of the chart, while lines closer to the bottom represent low variation levels (see left axis for explanation of variation levels). Data were not available for Portugal for October–December 2023.

Source: EUAA EPS data as of 1 February 2024.

## 3.13.2. Building perspectives: Legal status and family reunification

### 3.13.2.1. National forms of protection

Initiatives related to national forms of protection have been increasing in recent years, and 2023 saw particularly many developments on the criteria to qualify for such protection and related rights.

In Italy, an amended law revised the criteria for national forms of protection, which can now be granted to: victims of domestic violence or forced marriage (for 1 year which can be converted into a work or study permit), victims of exceptional calamities by natural disaster (for 6 months and renewable for another 6 months, which cannot be converted into another permit), victims of labour exploitation (for 1 year which can be converted into a work permit), people whose life is exposed to danger in preventing public or private damage (for 2 years which can be converted into a work permit) based on the principle of *non-refoulement* (which cannot be converted into a work permit) and on the ground of constitutional and international obligations. The new law amended the criteria for the recognition of national (special) protection and cancelled the wording of the ECHR, Article 8 (considerations for private and family life). However, this national (special) protection may be granted in cases where international and constitutional obligations occur. Unaccompanied minors turning 18 are now issued a residence permit with a maximum duration of 1 year.<sup>862</sup> The Tribunal of Bologna clarified that an application for a special permit must be formalised even when the requesting person lacks a passport or other identity documents.





The Opportunity Residence Act came into force in Germany on 31 December 2022 and will remain valid until 30 December 2025 to allow tolerated persons (persons with Duldung) who have lived in the country for 5 years and who meet further conditions – first and foremost establishing their own identity – to obtain a special residence permit.<sup>863</sup>

Third-country nationals whose application for international protection was rejected can no longer acquire permanent residence in Czechia by having lived in the country for 4 years.<sup>864</sup>

In Denmark, the Special Act for Persons having Assisted Danish Authorities etc. in Afghanistan was extended until 1 December 2025, meaning that the residence permits – if extended – are valid until the end of 30 November 2025. The Special Act was initially adopted in 2021 and originally granted a 2-year residence permit for Afghans who qualified for a temporary residence permit pursuant to the Special Act.<sup>865</sup>

The Swedish government proposed to remove the possibility of obtaining a residence permit based on particularly distressing circumstances. Residence permits could only be granted based on exceptionally distressing circumstances. The proposal would align the legal requirements for children and adults to be granted a permit, but in practice, the particular circumstances for children to qualify do not have to have the same level of seriousness and severity as for adults. The Swedish Migration Agency assessed that the change would make the legislation less complex and welcomed the proposal.<sup>866</sup>

National courts increasingly reviewed the criteria to grant national forms of protection in cases when applicants did not qualify for international protection, but their return to the country of origin was not possible either.<sup>867</sup> The Administrative Court of Sofia [referred](#) questions to the CJEU for a preliminary ruling on the legal situation of these applicants.

The Icelandic Immigration Appeals Board [ruled](#) that the fact that a person under humanitarian protection travelled to the country of origin twice is insufficient in itself to conclude that she availed herself of the protection of the country of origin. The authorities established that she only travelled because her husband was unable to get visa at the time and joined her later, while residing regularly in Iceland afterwards.

In Malta, the Court of Appeal [decided](#) that, when renewing residence permits under the Specific Residence Authorisation Policy, the authorities should consider the criteria that were in force at the time of the first application. For example, the more restrictive criteria of the new, revised policy cannot be applied for extensions of permits granted under the previous policy.

The Swiss Administrative Court [ruled](#) that an Afghan with temporary admission cannot be required to obtain a passport from his country of origin, and thus, a foreign national passport must be issued to him.

### 3.13.2.2. Review, cessation and revocation of international protection

Legislative amendments in Italy specified that a short-term return to the country of origin is enough for the cessation of international protection status, unless the travel takes place for serious and proven reasons for strictly the necessary period.<sup>868</sup>

The CJEU clarified in three judgments the conditions for refusing to renew or revoking international protection from persons who were convicted of a crime (see *Section 2.5*).<sup>869</sup> The Cypriot Administrative Court for International Protection [referred](#) questions for a preliminary ruling on the interpretation of the concept “danger to the security of the Member State”.





The Swedish Migration Agency updated its legal position based on these judgments and clarified that the need for a new personal interview before the decision on revocation must be decided individually, based on the specific circumstances of the case.<sup>870</sup>

The Finnish Ministry of the Interior started working on legislative amendments to make residence permits based on international protection temporary. A permit based on refugee status would be valid for 3 years and a permit based on subsidiary protection for 1 year, with the possibility to extend it by 2 years. In addition, the proposal suggests withdrawing a person's international protection status and their residence permit based on that status if the person commits a serious offence in Finland that endangers public order and security or if the person endangers national security.<sup>871</sup>

The French Council of State **confirmed** OFPRA's decision to revoke protection from a refugee who was found guilty of participating in a criminal group to organise a terrorist act and finance a terrorist undertaking. In another case, the council **underlined** that the CNDA could not annul OFPRA's decision to revoke protection from a person who was convicted of a serious, non-political crime in another Member State, noting that the CNDA was not competent to question the qualification used by the other court.

The CNDA **confirmed** OFPRA's decision to revoke international protection from a young adult who received refugee status on the principle of family unity, but later on, after turning 18, he broke all dependency ties with his father. The court observed that the circumstances which justified his recognition ceased to exist. The cessation of refugee status was also **confirmed** when the son's status was based on family unity, but the serious crimes he committed against his mother altered the family ties and the principle of family unity could not be applied anymore in accordance with its purpose.

The Lithuanian Administrative Court **upheld** the decision to revoke refugee status from a Russian national as he was considered to be a threat to national security due to his statements on the mandatory questionnaire of the State Security Department that he supported Russian military action in Ukraine.

The Austrian Supreme Administrative Court **ruled** that the revocation of international protection should not be combined with a return decision if it was established that the removal was not permitted due to a prohibition of *refoulement*.

### 3.13.2.3. Family reunification

Marking the 20<sup>th</sup> anniversary of the Family Reunification Directive, ECRE published an overview of the right to family reunification for beneficiaries of international protection.<sup>872</sup> The Red Cross formulated recommendations to enhance the family reunification procedure, based on experiences of the national Red Cross and Red Crescent Societies while delivering support to separated families.<sup>873</sup>

The draft Belgian Migration Code also foresees changes to the family reunification rules. The planned changes apply to all and are not specific for, but will impact, beneficiaries of international protection. For example, family reunification with a Belgian child is only possible if the parent can demonstrate that he/she is involved in the daily care of the child and the parent can lose the right to residence if they no longer participate in the daily care. When a municipality declares the child's acknowledgement as not genuine, this is registered at the national level. In addition, the cascade ban is extended to spouses of a Belgian or an





EU citizen, meaning that the person being reunited with their partner cannot initiate a new family reunification with another partner within 2 years.<sup>874</sup>

In Sweden, new regulations within the area of family reunification entered into force on 1 December 2023. The age limit for when a residence permit on grounds of personal ties can be denied has been raised from 18 years to 21 years. The possibilities for exemption from the maintenance requirement in family member immigration for persons eligible for subsidiary protection was also limited.<sup>875</sup>

The Bulgarian SAR issued new instructions on the family reunification procedure for beneficiaries of international protection, noting that both the submission of the family reunification request and the subsequent registration of the family members must be carried out in the same registration and reception centre where the decision to grant international protection was issued to the beneficiary.<sup>876</sup> The civil society organisation Foundation for Access to Rights published detailed recommendations on legislation, policies and practices to improve the Bulgarian family reunification system. For example, the organisation suggested that the maximum length for the procedure and the roles and responsibilities of each stakeholder should be included in law.<sup>877</sup>

Czech law now allows adult applicants to be reunited with their parents or a close relative in the ascending line if they applied for international protection as a minor and the family reunification is requested within 3 months of the decision on the asylum application.<sup>878</sup>

Similarly to 2022, the Finnish Immigration Service announced that there were backlogs in processing a share of family reunification applications in 2023 as well. The majority of applications were still processed on time, 60% within 3 months and 75% within 6 months. The delays were due to a significant increase in the number of family reunification requests in recent years (50% compared to 2021).<sup>879</sup> Overall, the length of processing family reunification requests decreased from an estimated 9 to 6 months, and the time for the extension of family reunification residence permits stabilised at an estimated 6 months instead of 4-7 months.<sup>880</sup>

Following the CJEU [judgment](#) in 2022, CALL [held](#) that the Belgian authorities could not take into account a minor child's civil status (the fact that she was married) when examining the right to be reunited with the parents.

In line with recent CJEU case law, the French Council of State [ruled](#) that the age of the child is determined by the date when the request for the family reunification visa is made, irrespective of the date that the authorities register the request. When a first request is rejected and a second application is made, the date of the second request should be taken into account. When the parent is a beneficiary of international protection and the child reached the age of majority between the application for international protection and the application for family reunification, the child should be considered as a minor for the purposes of the family reunification procedure, provided the request was submitted 3 months within the granting of international protection.

The Spanish Administrative Court in Barcelona [referred](#) questions for a preliminary ruling on the circumstances and procedure to provide reunited family members with an autonomous residence permit.

In Finland, the Supreme Administrative Court stated that legal certainty requires that a final and binding decision cannot be overturned. However, in a specific case and in light of the CJEU interpretation provided after the national decision, the court [found](#) that the erroneous





application of the law – the fact that the person was considered to be an adult instead of a minor – could not be corrected by a new application. Thus, the court annulled the final decision and ordered the authorities to process the request again, considering the sponsor's son as a minor.

Finnish courts continued to rule on substantial cases related to family reunification. In one case, the Supreme Administrative Court **ruled** that the Finnish Immigration Service may reject a family reunification request, assess the possibility of a return and issue a return decision for the purposes of that request, even when the same person's application for international protection was still pending an appeal. In another case the court **confirmed** that a permit based on family reunification may not be extended when the relationship broke and the spouses divorced. However, in another case, the court **underlined** that, when the person's situation is particularly difficult after the end of the relationship due to domestic violence, denying a permit would be unreasonable. In that case, the applicant had been in Finland for 4 years with her children.

The ECtHR **assessed** cases of people who could have qualified for family reunification as refugees but they were granted temporary admission in Switzerland, as their refugee status arose from their own actions after departing their country of origin. Thus, these people were not entitled to family reunification but needed to meet certain criteria, including self-sufficiency and non-reliance on social assistance. The court concluded that, in three of the cases, the Swiss authorities did not strike a fair balance between the applicants' and the state's competing interests, while in the fourth one, it confirmed that the domestic court had not overstepped in its decision when it considered the person's lack of initiative to improve her financial situation.

In another case, the ECtHR **found** that the Swedish authorities struck a fair balance between the applicant's and the state's interests when they rejected a refugee's request to be reunited with his first wife and children from that marriage. The applicant was under an exemption for 3 months from recognition to fulfil the requirement to have enough funds to maintain the reunited family members, but he submitted his request afterwards. The court also **upheld** its previous jurisprudence and ruled that the temporary suspension of family reunification requests by beneficiaries of subsidiary protection in Sweden was not a violation of the ECHR, Article 8.

The Dutch Council of State ruled in three cases that a temporary policy measure to restrict family reunification, introduced in 2022,<sup>881</sup> was against national and EU laws.<sup>882</sup>

The Brussels first instance tribunal **submitted** an urgent request for a preliminary ruling at the beginning of 2023, and the CJEU **ruled** that it was contrary to EU law to require everyone without any exception to submit an application for family reunification before the competent diplomatic representation (see *Section 2.5*). The court specifically examined the particular situation of refugees and underlined that the requirement without any derogations may render family reunification for them impossible in practice.

The Belgian CALL **analysed** when exceptions from family reunification rules could be applied to beneficiaries of international protection. The case concerned a refugee who had already been residing in Belgium under a different residence right before receiving international protection. The court confirmed that the exceptions applied in this case, and the person should not be required the proof of medical insurance for the whole family.





In Ireland, the High Court **underlined** that family reunification is governed by Irish law and the rules of the Family Reunification Directive, as interpreted by the CJEU, are not applicable in the country. Thus, when considering the age of the children of a beneficiary of international protection, the date of the recognition is applicable, not the date of the application for international protection.

The Dutch first instance administrative court **noted** that the policy on young dependent adults was correctly applied by the authorities, but then they failed to weigh the interests of the state and of the applicant based on the ECHR, Article 8, when examining if the link between the father and his son should still be protected under that provision.

### 3.13.3. Integration plans and their evaluation

#### 3.13.3.1. Developing and updating integration strategies

Although in 2023 many initiatives continued to be targeted at beneficiaries of temporary protection (see *Box 1*), some integration strategies were also put in place or further developed for beneficiaries of international protection.

In Luxembourg, the new law on intercultural living entered into force in January 2024. The notion of ‘intercultural living’ replaced the term ‘integration’ to broaden the objectives and the scope of people at whom the policy is aimed (applicants, beneficiaries of international protection, residents in the country and cross-border workers). Intercultural living (*Biergerpakt*) refers to the process by which people living in Luxembourg live, work and decide together based on the principles of mutual respect, tolerance, solidarity and social cohesion, with the aim of developing an intercultural society.<sup>883</sup> A national plan, communal and citizen’s pacts, and a municipal commission would be created for its effective implementation.<sup>884</sup>

The new Spanish Strategic Framework for citizenship and inclusion and against racism and xenophobia was published for the period of 2023-2027. It has a specific section on support to applicants and beneficiaries of international protection.<sup>885</sup>

Launched in 2022, the programme *Accompagnement global et individualisé des réfugiés* (AGIR) continued in France in 2023 by including 26 additional departments. The programme proposes an individualised and comprehensive maximum 24-month integration pathway to beneficiaries of international protection and forms one of the priorities of France’s integration policy which was defined in 2022.<sup>886</sup> The completion of the deployment of the AGIR programme to all hexagonal departments is targeted for the second quarter of 2024.<sup>887</sup>

In Slovenia, an integration strategy was adopted for foreigners who are not EU citizens. The strategy defines knowledge of the Slovenian language as a pre-condition for successful integration and suggests measures for the efficient implementation of language courses.<sup>888</sup>

A public consultation was launched on the second integration policy and national action plan for the upcoming 5 years in Malta.<sup>889</sup>

In Italy, a new call for 750 grants under the project Percorsi 4 was launched in December 2023, with applications to be received during the first semester of 2024. The General Directorate for Immigration and Integration Policies’ project is implemented by Anpal Servizi Spa and it is available for initiatives related to integration pathways for unaccompanied





minors, including the provision of support services for skills development f to participate successfully in work and society.<sup>890</sup>

In January 2024, a new Department of Social Integration was established in the Polish Ministry of Family, Labor and Social Policy. The department is responsible for defining the direction of activities and implementing tasks in the field of integration of foreigners, preparing standards in this area and monitoring the implemented solutions.

In addition, the ministry continued to work on increasing the number of Integration Centres for Foreigners. A call was announced for Voivodeship Marshals to create a network of Integration Centres for Foreigners based on the one-stop shop model. Ultimately, a network of 49 centres is to be established in Poland by 2025. The first six centres were opened in two Voivodeships (Wielkopolskie and Opolskie) in March 2022, as part of the ministry's cooperation with regional partners and the implementation of the integration component of an AMIF project, "Building structures for the integration of foreigners in Poland - Stage II – Piloting of Foreigners' Integration Centres". The task of the centres is to provide comprehensive integration assistance to foreigners residing in a given region, including providing information on social assistance benefits, family benefits, vacancies in the labour market, education, as well as the implementation of integration activities, such as Polish as a foreign language courses and adaptation courses.

To contribute to the objectives of the UNHCR Global Compact on Refugees, a memorandum on the social and economic integration of refugees in Italy and the protection of their fundamental rights was signed by the National Council of Notaries and UNCHR. The agreement aims to provide advisory services in various administrative areas, the dissemination of multilingual information material on areas of competences for Italian notaries and to carry out joint communication initiatives.<sup>891</sup>

Following the temporary suspension of the integration support for beneficiaries of international protection and temporary protection (Helios) project in Greece, the extension of the project and the resumption of its services until the end June 2024 was announced in January 2024.<sup>892</sup>

### **3.13.3.2. Fostering cooperation among stakeholders**

Information provision for beneficiaries of international protection continued to be an area where different stakeholders worked together (*see Section 3.8*).

UNHCR continued its initiatives to make Italian cities welcoming and friendly for refugees, asylum applicants and statelessness persons with the opening of a new multifunctional centre in Naples.<sup>893</sup> The centre, known as Spazio Comune, is part of the Charter of the Integration of Refugees project, which was signed in February 2022,<sup>894</sup> and serves as a hub for citizens, associations and institutions working on the integration and inclusion of applicants and beneficiaries of international protection.

In November 2023, the Henryk Wujec Civic Fund in Poland launched a competition to support local activities which are initiated and led by refugees to support the integration and inclusion of other refugees. The activities include creating support groups, strengthening refugees' self-organisation, cooperating with local partners and neighbours, and carrying out of civic activities.<sup>895</sup>





Similarly, the MindSpring programme was launched in Estonia between March and December 2023. The programme aims to support refugees with adapting their life to the new country and focuses on three target groups: parents, youth and children, with activities adapted to the needs of each of them.<sup>896</sup>

The Nordic Council of Ministers launched a call for projects in Denmark, Iceland, Finland, Norway and Sweden that promote the integration of refugees and migrants. Projects that are eligible must support ongoing initiatives, share Nordic knowledge and bring together multiple stakeholders, including official agencies and civil society organisations.<sup>897</sup>

In Bulgaria, a forum on “Social adaptation, inclusion and integration of persons granted international protection” brought together representatives of the national administration, civil society and international organisations working on integration to present challenges and practices.<sup>898</sup> A similar forum was organised under the UNHCR-funded project “Advocacy for the Integration of Refugees in Bulgaria” in October 2023 to share experiences and good practices, and call for continued cooperation in the field of migration and social integration.<sup>899</sup>

Integration programmes continued in Malta for beneficiaries of international protection, such as information sessions by the Migrant Advice Unit at AWAS, workshops by the Migrant Women’s Association, activities organised by KOPIN, collaboration with JobsPlus for language learning, heritage skills information sessions by the Restoration and Preservation department and community programmes organised by Spark15.

In France, following the inclusion of the AGIR programme to the AMIF country programming, an international conference was organised in December 2023 to take stock of the lessons learned from the first 2 years of implementation of the programme, in the context of generalising contractual schemes between the state and local authorities in the field of integration.

Building on the experiences of various organisations in the field of asylum and migration, as well as on the responses to the conflict in Ukraine, the Federation of Non-Governmental Organisations for Children (FONPC), in partnership with Care France, the International Council of Voluntary Agencies and Eurochild, organised an international conference on the role of civil society organisations in the integration of refugees across Europe.<sup>900</sup>

## 3.13.4. Supporting integration

### 3.13.4.1. Daily life and administrative procedures

National initiatives in 2023 aimed to facilitate administrative procedures that beneficiaries of international protection face every day in their new countries. Focusing on long-term perspectives, ECRE analysed the Long-Term Residence Directive and its proposed recast, and it welcomed the inclusion of the asylum procedure’s period in the calculation of the length of residency required to obtain the long-term resident status for beneficiaries of international protection.<sup>901</sup>

In Czechia, administrative fees for a residence card or replacing a damaged, lost or stolen card were reduced for beneficiaries of international protection.<sup>902</sup> Legislative amendments clarified that refugees are entitled to a travel document, while beneficiaries of subsidiary





protection or humanitarian asylum (a national form of protection) can be issued a foreigner's passport.<sup>903</sup>

In France, a task force was created to facilitate administrative procedures for newly-recognised beneficiaries of international protection. Interministerial meetings were organised to sensitise administrations to the specific challenges that beneficiaries of international protection may encounter in their integration pathways.

The Austrian Constitutional Court declared that, when assessing a request for a foreign passport, the authorities need to examine if the rejection would be proportionate with regard to the person's freedom to leave the country. If the assessment finds that the issuance of the passport is required by fundamental rights, it should also be considered to be in the interest of the country.<sup>904</sup> The court also ruled on the requirement to ascertain identity for the naturalisation of a beneficiary of international protection.

The Irish government decided to extend the suspension of the Council of Europe's Agreement on the Abolition of Visas for Refugees for an additional 12 months. The original decision came in 2022, after an increase in the number of applicants who had already been granted international protection in another EU Member State.<sup>905</sup>

A new helpdesk for social integration for beneficiaries of international protection was launched by the Directorate of Social Integration of the Greek Ministry of Migration and Asylum. The service will respond to requests about rights and obligations, such as access to Greek language courses, job counselling, housing, tax identification number and social security number.<sup>906</sup> In addition, a new guide providing essential information about life in Greece and the first steps after the granting of protection, work, housing, education and healthcare was published by the Greek Department of Socioeconomic Integration of the Ministry of Migration and Asylum, in collaboration with UNHCR.<sup>907</sup>

In Romania, around 1,500 people participated in national integration programmes in 2023. Information sessions on financial rights and psycho-social counselling were organised for applicants and beneficiaries of international protection.<sup>908</sup>

A programme for newly arrived mothers, including applicants and beneficiaries of international protection, was launched in Denmark. The 'Kringlebakken' programme includes aspects related to health, such as access to free healthcare and the assistance of nurses, and social orientation support, such as group-based activities to develop a social network.<sup>909</sup>

The Foundation of the National Bank of Slovakia launched a call for short-term projects to increase the level of financial literacy and the quality of financial education among vulnerable groups, including beneficiaries of international protection.<sup>910</sup>

### ***Challenges raised by civil society organisations***

Civil society organisations raised concern about administrative barriers that affected the access of beneficiaries of international protection to social benefits. For example, the European Network for Migrant Women expressed that there was confusion about which services can be accessed by female beneficiaries and there was a need to improve information provision, raise awareness of rights and promote existing support systems.<sup>911</sup>

CEAR cited administrative barriers, such as unjustifiable bank commissions and requirement for additional documentation by Spanish administrations, as impediments to refugees and







beneficiaries of subsidiary protection from accessing their basic rights, such as opening a bank account.<sup>912</sup> The complaint of requiring additional documentation was voiced by several organisations in different countries.<sup>913</sup>

Refugee Support Aegean and ProAsyl documented barriers for beneficiaries of international protection to access their socio-economic rights in Greece, due to lengthy and bureaucratic procedures before they can start to receive benefits in practice.<sup>914</sup>

The Romanian CNRR raised concerns about the challenges faced by applicants and beneficiaries of international protection to access the national public health programme, social benefits, school enrolment and other public services. Onerous bureaucratic procedures and the lack of guidance and support from public servants formed part of the obstacles.<sup>915</sup>

### **3.13.4.2. Education and language learning**

EU+ countries continued to focus on initiatives to support education among beneficiaries of temporary protection, while some new programmes expanded their scope to include refugees and beneficiaries of subsidiary protection. Countries also invested in language programmes, recognising the importance of knowing the national language in effective integration into the society. Despite the efforts, civil society organisations continued to report on a lack of support in integration in many countries.

Several initiatives to provide support for education in Slovakia were launched during 2023. In July 2023, UNHCR's Albert Einstein German Academic Refugee Initiative (the DAFI scholarship programme) offered refugees and beneficiaries of temporary protection scholarships for undergraduate degrees in Slovak universities. The allowances cover accommodation, food, local transportation and study materials. In some cases, registration, tuition and study fees can also be covered.<sup>916</sup> UNICEF and UNHCR also launched the programme "Cash for child development and education" which covers costs for education and childcare for refugees, temporary protection beneficiaries, applicants for international protection and stateless persons who are parents or guardians.<sup>917</sup>

The European Network for Migrant Women continued to report about challenges related to children's education in many EU+ countries. Issues related to enrolment in educational institutions, adaptation to the new curricula, learning methods, language instructions and communication difficulties with the schools.<sup>918</sup>

Knowledge of the national language is a key component of integration policies and strategies, closely linked with employment opportunities and full integration into local communities. In 2023 changes to national laws were introduced to set new requirements. The Flemish region of Belgium introduced an obligatory, standardised Dutch language test for newcomers, including beneficiaries of international protection, as part of civic integration courses. The evaluation focuses on writing and readings skills at A2 level.<sup>919</sup>

The Ministry of Culture published a draft regulation which outlines the conditions for Estonian language courses for beneficiaries of international protection. The regulation states that beneficiaries of international protection who fail to fulfil the commitments made when registering for language courses must assume the costs.<sup>920</sup> The Estonian Refugee Council expressed concerns about the lack of free language courses provided by the government since the end of 2023.<sup>921</sup>



In a similar context, the Dutch Administrative Jurisdiction of the Council of State addressed the CJEU for a [preliminary ruling](#) on a measure in the new Civic Integration Law, which came into force in January 2022, and its compatibility with the recast QD. The measure states that the minister can impose a civic integration obligation for beneficiaries of refugee status and impose a fine in the case of non-compliance.<sup>922</sup>

Beneficiaries of international protection, applicants and other third-country nationals have been given the legal right to apply for the Overall Language Programme of the German federal state. The programme consists of integration courses, language courses that include knowledge of the legal system, German culture and history, and vocational language courses to improve chances of integration into the labour market.<sup>923</sup>

Despite continued and new initiatives, civil society organisations cited the lack of language courses and insufficient support were the main barriers for beneficiaries of international protection in accessing administrative procedures, employment and healthcare.<sup>924</sup> The European Network for Migrant Women further reported that certifying language knowledge was a challenge, referring to Afghan women living in Italy who highlighted that private language courses may not hold the same level of recognition as certificates obtained from public institutions.<sup>925</sup>

Child beneficiaries of international protection in Greece can now access the e-learning language platform, Akelius, which was launched by the Akelius Foundation and UNICEF. The platform supports language development and builds self-confidence through a variety of games.<sup>926</sup>

### **3.13.4.3. Employment**

EU+ countries continued to focus on the swift employment of beneficiaries of international protection in 2023.

The Danish government and social partners (representatives of employers, organisations and trade unions) concluded an agreement to extend the Efficient Job and Training Programme (*Integrationsgrunduddannelse*) for an additional 4 years until 2028. The training programme offers paid internships and training for beneficiaries of international protection, which is complementary to public schemes that offer work placements, wage subsidies and mentoring. The new agreement also includes new target groups, such as reunified family members between the ages of 18-50 years, people evacuated from Afghanistan and beneficiaries of temporary protection from Ukraine.<sup>927</sup>

A new study from the Rockwool Foundation Research found that reform-induced, large transfer cuts led to an increase in employment rates in the short run, especially for male workers. Although overall labour supply effects were initially considerable in magnitude – close to 15 percentage points on average – they decreased significantly relative to the initial effects and remain statistically insignificant after about 5-6 years.<sup>928</sup>

The Swiss Pre-Apprenticeship for Integration (PAI) became a permanent integration programme and its scope was extended beyond beneficiaries of international protection to any adolescent or young adult who arrived to Switzerland from the EU, EFTA or third countries.<sup>929</sup>



In Bulgaria, SAR signed an agreement with the New Bulgarian University to offer training and courses for beneficiaries of international protection on language and the organisation of the Bulgarian state and society, with a focus on helping them finding employment.<sup>930</sup>

The Spanish State Secretary for Migration signed an agreement with the group of companies Tragsa and other third sector entities to facilitate access to the labour market for migrants arriving mainly from Central and South America.<sup>931</sup> Although the project targets migrants in general, job offers will be sent mainly to beneficiaries of international protection. The first families to benefit from this project were Nicaraguan refugees who arrived to Spain from Costa Rica under the national resettlement programme in December 2023.<sup>932</sup>

With the aim to integrate beneficiaries of international protection who do not speak German fluently into the labour market more quickly, the German federal government launched the programme 'Jobturbo'. The programme is supported by the Federal Ministry of Labour and Social Affairs (BMAS), the Federal Employment Agency, trade unions, business associations and job centres.<sup>933</sup>

A significant increase in the number of beneficiaries of international protection registered in the Lithuanian Public Employment Service was observed in 2023 (1,430 more than in 2022). Although most of them were from Ukraine, other nationalities included Afghans, Belarusians, Iraqis, Russians, Syrians and Tajikistanis.<sup>934</sup> Initiatives to promote their integration in the labour market were launched during the year. For instance, the Refugee Fellowship Initiative connected companies with beneficiaries of international protection with professional profiles of their interest. The initiative was set up by UNHCR, receives support from the Lithuanian Diversity Charter and the Lithuanian Red Cross, and is run in cooperation with international companies and organisations.<sup>935</sup>

In Estonia, a Refugee Employability programme was launched to welcome beneficiaries of international protection who want to access the labour market or change jobs.<sup>936</sup>

#### **3.13.4.4. Housing**

A limited or lack of social housing alternatives and a shortage of low-cost housing in local markets created impediments for beneficiaries of international protection to find accommodation.

In the Netherlands, COA moved a ship to Rotterdam to convert it to a transfer location for a maximum of 1,500 beneficiaries of international protection.<sup>937</sup> A dispersal mechanism for beneficiaries of international protection was implemented, with several challenges related to delays in obtaining the citizen service number (BSN number) and documents from the IND. A mismatch between the offer of accommodation in municipalities and the beneficiary's needs contributed to significant challenges in reception (see Section 3.6).<sup>938</sup> Initiatives from previous years to facilitate finding accommodation for beneficiaries of international protection continued, such as the Hotel and Accommodation Regulation.<sup>939</sup>

The German Association of Cities and Municipalities was alarmed by the growing challenge of integrating an increased number of beneficiaries of international protection. The organisation highlighted that municipal services for reception (see Section 3.6) and integration were already overstretched, and for example, argued for changes to the financing of local integration activities.<sup>940</sup>





France launched two calls for projects from civil society organisations to offer innovative and experimental solutions for cohabitation and support for beneficiaries of international protection.<sup>941</sup>

Following previous initiatives implemented by different regions, the Belgian Interfederal Center for Equal Opportunities introduced new initiatives to detect and penalise discrimination within the housing sector, including those affecting beneficiaries of international protection. The initiatives will focus on comprehensive training for real estate agents and the introduction of mystery checks as of 2024.<sup>942</sup>

Among local initiatives, the city of Zagreb introduced amendments to its rules on social housing units and included refugees as potential beneficiaries, if they meet the conditions applied to other citizens of Croatia who are residents of Zagreb.<sup>943</sup>

Civil society organisations in Spain raised concerns about challenges in accessing accommodation by applicants and beneficiaries of international protection, mainly based on the lack of a housing policy which takes into consideration the specific circumstances of refugees, the impossibility of receiving tax deductions for renting a habitual residence to entities that will receive beneficiaries of international protection and the administrative barriers to register in the town census.<sup>944</sup> In this sense, CEAR highlighted that, despite the adoption of Law No 12/2023 on the Right of Housing in May 2023,<sup>945</sup> discriminatory behaviours continued in the housing market causing difficulties to find accommodation and contributing to the number of homeless among beneficiaries of international protection.<sup>946</sup>





## Section 3.14. Resettlement and humanitarian admissions



Resettlement means the admission following a referral from UNHCR of third-country nationals or stateless persons from a third country to which they have been displaced to the territory of a Member State, and who are granted international protection and have access to a durable solution in accordance with EU and national laws.<sup>947</sup>

Resettlement and complementary pathways for admission are an expression of international solidarity, involving several national and international stakeholders. EU resettlement schemes are based on national pledges corresponding to the number of third-country nationals that Member States commit to admit. They aim to manage migration based on predictable timelines and ensure common grounds for eligibility, while carrying out rigorous security checks.

In 2023, EU+ countries strived to fulfil their resettlement commitments while facing particular challenges at the national level. Priorities needed to be reshuffled amid a shortage of accommodation places to host resettled refugees. At the same time, emergency situations struck third countries in which refugees at risk were waiting to be transferred, such as the earthquake in Türkiye and changes imposed by the Taliban in Afghanistan.

The role of civil society organisations continued to be important in the implementation of resettlement and complementary pathways, including humanitarian admission programmes. The organisations participated in the referral of refugees, contributed to the success of evacuations of refugees at risk and supported in the safe transfer of selected refugees, depending on the agreements signed with EU+ countries. In 2023, their role in the provision of reception services, in particular housing, was key to ease pressure on reception systems in some countries.

### 3.14.1. National commitments for resettlement and humanitarian admissions

EU resettlement schemes are based on national pledges corresponding to the number of third-country nationals that Member States commit to admit yearly. To support resettlement efforts, every year the European Commission launches a pledging exercise through AMIF,<sup>948</sup> by which countries commit to receive a certain number of refugees as part of resettlement and humanitarian admission programmes. Although not all EU+ national commitments are connected to AMIF funding, pledges submitted to the European Commission give an idea of



the overall number of refugees to be received in the EU under these programmes in the following year.

### **3.14.1.1. Annual pledging exercise**

Following the High-Level Forum on Legal Pathways to Protection and Resettlement Cooperation held at the end of November 2022, the European Commission published the breakdown of resettlement and humanitarian admission pledges. In total, 17 EU countries committed to receive around 29,000 refugees as part of their national programmes in 2023.<sup>949</sup> The vast majority of the pledges were made by Germany (6,500 resettlements and 12,000 humanitarian admissions), followed by France (3,000 resettlements) and, to a smaller scale, by Spain (1,200 resettlements) and Finland (1,050 resettlements).<sup>950</sup> Sweden reduced its annual quota for 2023 and pledged to receive 900 refugees, compared to the 5,000 pledged in previous years since 2018.<sup>951</sup>

In May 2023, the European Commission kicked off the new pledging exercise but this time for a 2-year period (2024 and 2025), inviting countries to submit their national commitments. At the Global Refugee Forum in December 2023, the European Commission announced 61,000 new places as pledged by EU countries for resettlement and humanitarian admissions in 2024 and 2025. Of these, 31,000 are for resettlement, to be implemented in close cooperation with UNHCR, and 30,000 are pledges for humanitarian admissions.<sup>952</sup>

Slightly fewer – 14 EU countries – pledged to receive refugees in 2024, with notable changes.<sup>953</sup> For example, under the new migration and asylum policy of the new Finnish government, the parliament decreased the pledge from 1,050 refugees in 2023 to 500 refugees per year for the next 4 years, with priority given to children, women and persons with disabilities.<sup>954</sup> The Swedish government continued to pledge a quota of 900 refugees for 2024.<sup>955</sup>

Spain introduced humanitarian admission pledges for the first time. The Spanish government committed to receive 3,400 people under humanitarian admission programmes for 2024 and 2025, in addition to the yearly quota of 1,200 places under resettlement programmes.<sup>956</sup>

Together, 45 civil society organisations called leaders of EU Member States to ambitiously expand safe pathways to international protection and step up resettlement efforts.<sup>957</sup>

Outside of the EU commitments, Norway and Switzerland also committed to resettling refugees. Norway decided to resettle 1,000 refugees in 2024, which is 1,000 less than in 2023. However, 247 places from the 2023 quota were transferred to 2024, meaning that the total quota for 2024 is 1,247. Although Switzerland suspended all operations related to resettlement in April 2023 due to the pressure on its asylum system, the Federal Council still approved a new resettlement programme for 2024 and 2025 to admit 1,600 refugees. Implementation of this programme will depend on the number of spontaneous arrivals and reception capacities in the cantons.<sup>958</sup>



### 3.14.1.2. Implementing pledges

#### 3.14.1.2.1. Data on resettlement activities in 2023

In 2023, about 15,000 people arrived in the EU+ from third countries in the context of resettlement or humanitarian admissions.<sup>xii</sup> The number of resettled persons peaked in 2021 but dropped by around one-fifth in 2022 and then again by one-quarter in 2023. In fact, resettlement figures in 2023 reached their lowest level since 2016, for the exception of the level in 2020 when transfers were severely hindered due to the COVID-19 pandemic.

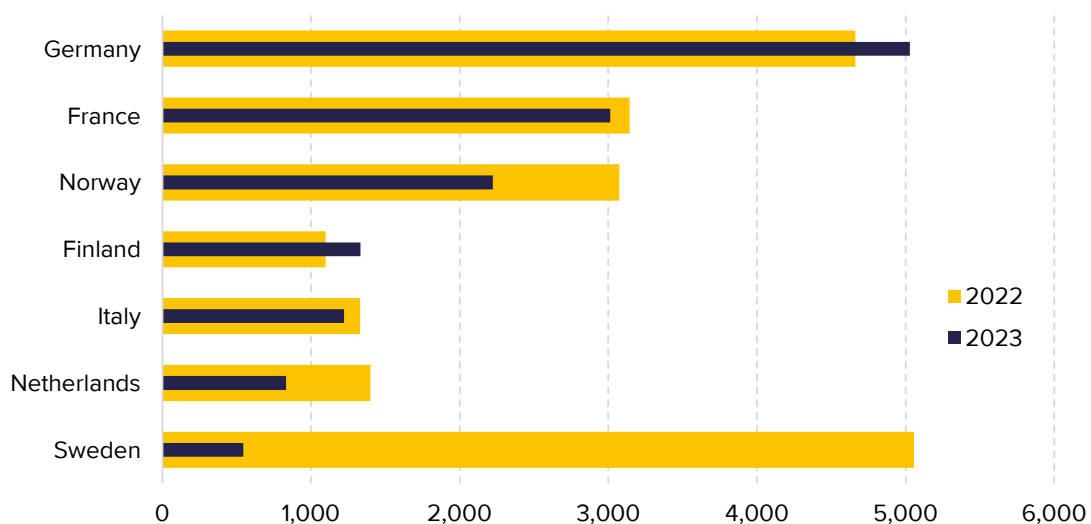
Germany and France were the main receiving countries (in descending order), accounting for over one-half of all resettlements (see *Figure 20*). In Sweden, which was the top receiving country from 2017 to 2022, the number of resettled persons significantly dropped from 5,100 in 2022 to 540 in 2023.<sup>xiii</sup> Notable decreases also took place in Norway, the Netherlands and Switzerland (in descending order).

In contrast, Finland and Romania resettled the most refugees on record,<sup>xliii</sup> and the number of resettled people more than quadrupled in Belgium, nonetheless remaining at lower levels than in the past.



#### Continued declining rates of resettlement in 2023

**Figure 20. Top EU+ countries receiving resettled persons, 2023 compared to 2022**



Source: EUAA EPS data as of 1 February 2024.

<sup>xii</sup> Both resettlement and humanitarian admissions are within the scope of the indicator on resettlement arrivals which is collected under the EUAA EPS data exchange. The data currently gathered, however, do not allow to establish accurately to which extent reporting countries provide data on resettlement or humanitarian admissions.

<sup>xliii</sup> Since 2018, Sweden has been resettling around 5,000 refugees every year. However, in 2023, the government proposed a smaller quota of 900 refugees to arrive in Sweden in the context of resettlement (see *Section 3.14.1.1*).

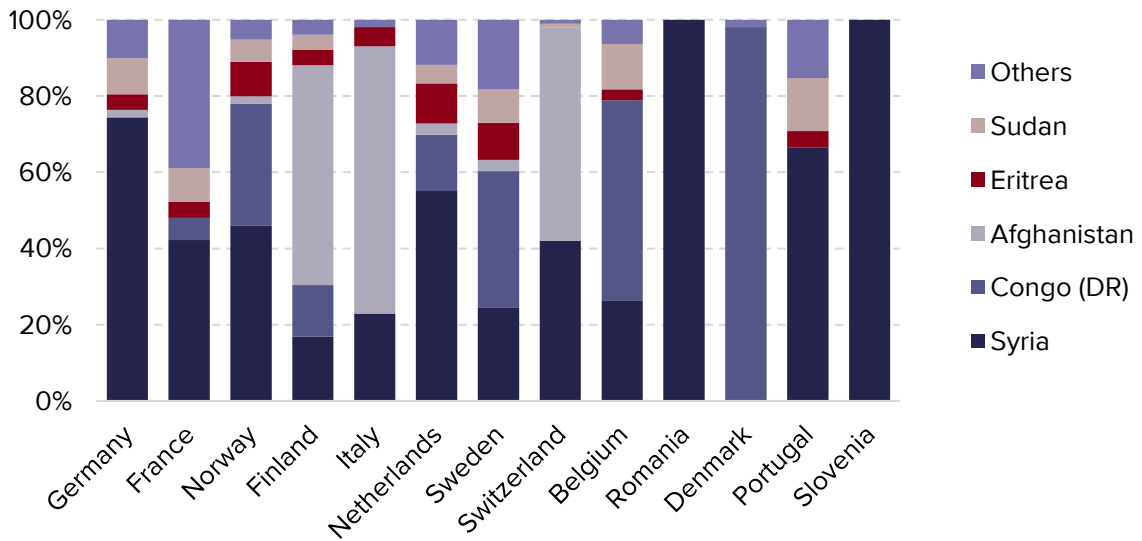
<sup>xliii</sup> Since at least 2016.



Syrians (7,600 in total) were resettled the most, accounting for one-half of all resettlements. In previous years, Syrians were the top resettled group in almost every EU+ country. However, in 2023 there was more variation: Afghans (2,000) were resettled the most in Finland, Italy and Switzerland and nationals of the Democratic Republic of the Congo (1,700) were the main resettled group in Sweden, Belgium and Denmark (in descending order) (see Figure 21). While the number of resettled nationals from Syria and the Democratic Republic of the Congo dropped by around one-third from 2022, Afghans were resettled more frequently than in the previous year.

**Syrians accounted for one-half of all resettlements to EU+ countries**

**Figure 21. EU+ countries of resettlement by main citizenship of resettled refugees, 2023**



**Note:** Countries are ordered by highest to lowest to receive resettled refugees.  
**Source:** EUAA EPS data as of 1 February 2024.

Eritreans (810) and South Sudanese (350) were less frequently resettled than in 2022. At lower levels, there were other notable relative decreases for: Yemenis (74, down by over one-half), Ethiopians (64, down by four-fifths to the lowest on record), Burundians (51, down by around two-thirds), Egyptians (48, down by around two-thirds), Iraqis (36, down by four-fifths to the lowest on record), Nigerians (17, down by nearly 90%) and stateless persons (31, down by four-fifths).

Conversely, other nationalities were resettled more frequently, including nationals of the Central African Republic (530, the most on record), Somalia (360, more than double from 2022), Lebanon (153, previously no more than 7 had been resettled annually), Rwanda (98, the most on record) and Chad (70, the most on record).

In terms of countries of previous residence, two-fifths of all resettlements to the EU+ came from Türkiye and Lebanon, followed by Egypt (11%), Rwanda and Iran (8% each). Most Syrians came either from Türkiye or Lebanon, most Afghans came from Iran, and most nationals of the Democratic Republic of the Congo came from Rwanda.





In 2023, females and males were resettled in equal numbers.<sup>xliv</sup> Women and girls were most prominent among resettled Afghans (57%) as well as for Congolese (DR), South Sudanese and Somalis (52% each).<sup>xlv</sup> Nearly one-half of all resettled refugees were minors,<sup>xlvi</sup> of whom four in every five were under the age of 14. The share of resettled minors was the highest among Lebanese (67%), followed by nationals of South Sudan and the Democratic Republic of the Congo (54% each). The shares of females and minors suggest that mainly families were resettled.

### 3.14.1.2.2. National developments and challenges

As governments faced challenges in fulfilling their prior commitments, several new trends were noted. For example, carrying over a part of the quota from the previous year continued to be a common practice in some countries. In Sweden, around 400 of the 900 refugees for the 2023 quota were from the 2021-2022 backlog. Women, girls and vulnerable groups, including LGTBIQ people, were priorities for the remaining quota of 500 refugees.<sup>959</sup>

Eligibility criteria play a pivotal role in the success of a refugee's reception and integration in the country of resettlement. These criteria often include the degree of vulnerability, the existence of family members already in the country of resettlement and the ability to integrate based on professional and language skills. In this context, Sweden introduced integration criteria in 2023 for the assessment of cases. The criteria include entrepreneurial spirit, skills, education, work experience and values that would facilitate integration into Swedish society.<sup>960</sup>

### Geographical coverage

Resettlement and humanitarian admissions from Türkiye remained a priority for EU countries, as witnessed by approximately 4,200 pledges in 2023. In addition, countries accelerated admissions from areas affected by the earthquakes in Türkiye and Syria in February 2023. For example, Spain received two groups of refugees in response to the emergency situation. In March 2023, a first group of 89 Syrian refugees were resettled from Türkiye to Spain. A second group of 36 family units (161 Syrian refugees in total) arrived in May 2023.<sup>961</sup> Additional smaller groups of arrivals to the country throughout 2023 brought the total number to 302 persons from Türkiye.<sup>962</sup>

The first group of 23 Syrian nationals arrived to Slovenia in December 2023, as part of a project implemented in cooperation with UNHCR, following the government's decision in December 2022 to accept 50 Syrian or Afghan citizens from Türkiye.<sup>963</sup> The second group of 27 Afghan nationals arrived in January 2024.<sup>964</sup> In the immediate aftermath of the earthquake in Türkiye, France organised two additional resettlement missions in February 2023 and transferred 300 more Syrian refugees than initially planned.

New geographical areas of interest emerged in 2023, such as Central and South America. Finland pledged to receive Venezuelan refugees from Peru as of 2024,<sup>965</sup> while Spain admitted Nicaraguans hosted in Costa Rica. In this context, in May 2023, the Spanish Council of Ministers adopted a decision to expand the national resettlement programme, which initially included a yearly quota of 1,200 refugees,<sup>966</sup> with a complementary and additional route that would authorise the resettlement refugees from Central and South America during 2023-

<sup>xliv</sup> For 8% of cases, the sex of the resettled person was unknown.

<sup>xlv</sup> Only citizenships with at least 100 resettled persons were considered.

<sup>xlvi</sup> For 8% of cases, the age group of the resettled person was unknown.



2025. The profile of the refugees to be resettled will be determined according to their ability to integrate into Spanish society based on their employability.<sup>967</sup> The first families arrived in Spain in December 2023 as part of a pilot project.<sup>968</sup>

### **Continued challenges**

The volatile security situation in some countries (such as Lebanon and Pakistan) and high exit fees in some countries of first asylum<sup>969</sup> made it more difficult to transfer selected refugees. Many countries continued to face a crisis in reception and issues with integration. In addition, French authorities highlighted the challenge that local authorities issued exit permits for refugees with long delays.

As a result, national priorities were shifted in some EU+ countries and changes were made to practical aspects of implementing resettlement programmes. For example, Belgian national authorities took action to address accommodation shortages and ensure the continuity of resettlement programmes.<sup>970</sup> As the authority marked its 10<sup>th</sup> anniversary of offering resettlement programmes, a new reception facility to host up to 115 resettled refugees opened in Alveringem in September 2023.<sup>971</sup>

The Dutch government decided to resume resettlements from Türkiye in the framework of the EU-Turkey Agreement in September 2023 following some measures which were implemented in reception (see *Section 3.6*). The Netherlands will resettle 500 Syrian refugees from Türkiye annually (1,000 refugees in 2024-2025 pledging exercise) starting from January 2024.<sup>972</sup>

In contrast, pressure on the Swiss asylum system and a lack of housing pushed the Swiss Federal Department of Justice and Police (FDJP) to suspend resettlement programmes as of April 2023. The decision was based on recommendations by the Special Asylum Task Force and consultations with cantons. Nevertheless, a few months later, the government approved a new quota for 2024; however, the government indicated that the programme will be only activated after consulting cantons and municipalities and based on sufficient conditions in the reception system.

The Red Cross EU Office emphasised the importance of ensuring access to safe pathways to Europe, including through resettlement, humanitarian admissions and other complementary pathways. In this context, Red Cross published a “Handbook on safe avenues to access protection in Europe”, which highlights the activities it carries out and good practices and existing challenges.<sup>973</sup> Additionally, in May 2023 the Red Cross presented seven recommendations to EU+ countries, namely: ensuring the use of other instruments as complementary to resettlement; avoiding their use as a tool to leverage third country cooperation; investing in high-quality reception conditions and access to services; ensuring adequate financial, logistical and capacity-building support programmes; enhancing the involvement and financial support of civil society organisations; capitalising on the grassroots elements of community sponsorship and support its sustainability on migration management; and establishing clear criteria for eligibility for community sponsorship.<sup>974</sup>

## **3.14.2. Complementary pathways for admission**

Complementary pathways are safe and regulated avenues that complement resettlement programmes by providing a lawful stay in a third country where international protection needs are met. They are additional to resettlement and do not substitute the protection afforded to



refugees under the international protection regime. Programmes are diverse by nature and can benefit refugees in a variety of ways depending on their specific objectives.<sup>975</sup>

Humanitarian admission programmes are complementary pathways to international protection through which a country, following a referral from the EUAA, UNHCR or another relevant international body, admits third-country nationals or stateless persons from a third country to which they have been forcibly displaced to the territory of the Member State. The selected refugees are granted international protection or a humanitarian status under national law which provides them rights and obligations equivalent to those of beneficiaries of subsidiary protection, which are defined in the recast QD, Articles 20 to 34.<sup>976</sup> Different practices prevail at the national level in the implementation of these programmes and new developments emerged in 2023.

In December 2023, the Italian Ministry of the Interior, Foreign Affairs and International Cooperation signed a new memorandum of understanding with the National Institute for the Promotion of the Health of Migrant Populations (INMP), UNHCR, the Community of Saints Egidio, Federation of Evangelical Churches and ARCI to admit 1,500 refugees living in Libya over a 3-year period. The agreement is a continuation of a previous one, but with the addition of 500 more beneficiaries.<sup>977</sup>

With the continued security situation in Afghanistan, EU+ countries continued to admit Afghan nationals who were evacuated from Afghanistan or had fled to neighbouring countries, such as Iran, Pakistan and Türkiye.

As a general trend in the EU, countries transitioned from emergency-led evacuations to mainstreaming various programmes, including resettlement, humanitarian admissions, humanitarian corridors, humanitarian visas and family reunification programmes. Nonetheless, evacuation operations continued to be used by some countries.

As in previous years, the highest number of Afghans were resettled through the German Federal Admission Programme for Afghans, which has been implemented since October 2022 and intends to admit 1,000 Afghan nationals per month.<sup>978</sup> Ad hoc programmes were also introduced in 2022 and 2023 by some German landers, for instance the Hessian State Admission Programme (LAP) which came into force in June 2023 for the family reunification of Afghan nationals already living in Hesse.<sup>979</sup> Similar programmes were also launched by the Free State of Thuringia (until December 2023),<sup>980</sup> the Free Hanseatic City of Bremen<sup>981</sup> and the Land of Berlin which introduced a joint programme for the family reunification of Afghan, Syrian and Iraqi refugees with relatives in Berlin (valid until December 2024).<sup>982</sup>

Co-financed by AMIF, in May 2023 Italy initiated a new pilot project, Work Corridors, to transfer Afghans under the EU Passworld Project. The humanitarian corridor was carried out in collaboration with Caritas, which was responsible for the identification of beneficiaries, their transfers and the provision of material reception in Italy; and Consorzio Communitas, which acted as a contact point with companies, job training and tutoring.<sup>983</sup>

In France, the UNIV'R pilot project was extended in 2023 to include non-French speaking refugees and Afghan refugee women. This pilot project was launched with UNHCR and the Agence universitaire de la Francophonie (AUF) in 2022. It aims to provide higher education to refugee students who are under the protection of UNHCR in a third country. French authorities underlined that the programme had so far benefited 38 refugee students and had been well received by all stakeholders.



## Community sponsorship programmes

Community-based sponsorship programmes are gaining ground as an alternative to support refugees arriving to EU+ countries. This type of programme allows individuals, private companies and organisations to directly engage in the financial, emotional and practical support of refugees who are resettled in their communities.<sup>984</sup>

In January 2023, the Finnish Red Cross launched a community-sponsored pilot project to promote the integration of refugees who have arrived in municipalities as quota refugees. The European-funded project, which does not add an additional quota, aims to improve outcomes by involving communities in the integration process of resettled refugees. The programme will run until the end of 2025. Around 15 municipalities in Finland have already been involved.<sup>985</sup>

Alongside the Community Sponsorship programme, which has been running in Belgium since 2020, Fedasil launched in 2023 an initiative to find new partners to provide reception support, including housing, to resettled refugees. These new partnership models are open to any non-profit association, city or municipality with experience in welcoming refugees. Various partnerships were signed in 2023, and the process of finding new partners continued in 2024.<sup>986</sup>

In France, the Humanitarian Corridors in Lebanon with faith-based organisations (Sant'Egidio and Federation d'Entraide Protestante) have been maintained in 2023 despite some operational challenges due to the security situation in Lebanon.

After its 3-year pilot phase, the Neustart im Team (NesT) programme in Germany became permanent as of January 2023.<sup>987</sup> The programme is in addition to governmental humanitarian admission programmes, which offered up to 200 places in 2023, with increases planned for subsequent years. The NesT programme is based on support provided by sponsorship groups (consisting of at least individuals) who jointly finance and provide accommodation, as well as non-material settlement and integration support to refugees participating in the programme.<sup>988</sup>

BAMF's Research Centre published its evaluation of the pilot phase of the NesT programme in June 2023.<sup>989</sup> The evaluation focuses on the recruitment and schooling of sponsors, the matching process between refugees and sponsoring teams, the first year after arrival in Germany, and the relationship between refugees and sponsors. Positive findings included the high commitment of sponsorship groups to support refugees and the willingness of most refugees to participate in the programme despite its voluntary nature. Challenges were also identified, such as the provision of housing by sponsorship groups and the long waiting periods for sponsorship groups up to the arrival of the refugees.

A multi-stakeholder pledge was announced at the Global Refugee Forum in December 2023. The pledge will contribute towards an increase in the number, scale and diversity of community sponsorship programmes which are implemented globally and will enhance refugee integration through strengthened communities.<sup>990</sup> Several EU+ countries were a part of this commitment, for instance the Portuguese Refugee Council (CPR) through the programme ComUnidade<sup>991</sup> and the Irish government which pledged to continue supporting community sponsorship programmes with civil society organisations, such as Open Community, the Irish Red Cross, the Irish Refugee Council and Nasc.<sup>992</sup>

## Section 4. Children and people with special needs in the asylum procedure



EU legislation contains provisions to address the special needs of applicants who may be considered particularly vulnerable in the asylum system. These provisions ensure that vulnerable applicants receive adequate support to benefit from their rights and comply with the obligations which are defined under CEAS so that they can be on an equal footing with other applicants.

The recast APD, Article 2(d) defines applicants in need of special procedural guarantees as those with a limited ability to benefit from rights and fulfil the obligations granted in the directive due to individual circumstances. Recital 29 gives examples of these circumstances: age; gender; sexual orientation; gender identity; disability; serious illness; mental disorders; consequences of torture, rape or other serious forms of psychological; and physical or sexual violence.

The term ‘unaccompanied minor’ refers to “a minor who arrives on the territory of the Member State unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not taken into the care of such a person. It includes a minor who is left unaccompanied after he/she has entered the territory of the Member State”.

The recast APD, Article 24 outlines the special procedural guarantees for applicants in general, and Article 25 specifies the guarantees for unaccompanied minors. Member States are required to assess within a reasonable time whether there is a need to implement these guarantees for individual applicants and provide adequate support.

The recast RCD defines applicants with special reception needs. It also lists examples, which are non-exhaustive, but they cover a slightly different scope. It explicitly mentions unaccompanied minors, single parents with minor children, victims of human trafficking and victims of female genital mutilation. It does not refer explicitly to gender, sexual orientation or gender identity, but special reception needs often arise based on these considerations. Detailed provisions are listed in the recast RCD, Chapter IV and require Member States to take into account the specific situation of a vulnerable applicant, assess vulnerabilities within a reasonable period and ensure that the needs are addressed. Chapter IV also lists specific provisions for minors, unaccompanied minors and victims of torture and violence. Article 11 lists the conditions for detaining vulnerable persons and applicants with special reception needs.

All instruments of the EU asylum acquis must be applied and interpreted by taking into consideration the Charter of Fundamental Rights of the European Union, as it is part of primary EU law. Article 24 of the Charter concerns the rights of the child and specifies that children have the right to protection and care as necessary for their well-being. The right to express their view freely and have them taken into consideration are also guaranteed. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child has the right to maintain a personal relationship and direct contact with both parents on a regular basis, unless it is contrary to the child's interests.

In 2023, several EU+ countries reported a continued high number of applicants with special needs, ranging from applicants with physical or mental disabilities to victims of gender-based violence and children arriving to the EU alone. While waiting times for a decision on an asylum application often lengthened (see *Section 3.4*) and the dramatic situation in reception remained (see *Section 3.6*), governments continued to look for solutions to ensure dignified conditions and security to those in the most vulnerable situation. At times, this led to legislative and policy changes which allowed for a derogation from higher standards, while international and civil society organisations highlighted the risks of this for the longer term. ECtHR judgments pronounced in 2023 which related to situations in 2018-2020 serve as a reminder that gaps in identification and support to applicants with special needs may have a dramatic impact on their lives.

National authorities undertook initiatives to improve asylum and reception systems for applicants with diverse sexual orientation, gender identity or expression, and sex characteristics (SOGIESC). Nonetheless, the courts overturned several negative decisions on asylum applications to ensure protection for this profile of applicants.

Combating the trafficking of human beings remained at the forefront of discussions in 2023. The continued arrival of displaced persons from Ukraine triggered further prevention and protection measures in 2023.

## **4.1. Comprehensive approaches to identify and support applicants with special needs**

Authorities in countries with high numbers of simultaneous arrivals often faced difficulties in appropriately identifying and assessing special needs. For example, Slovenian authorities noted that many applicants quickly left reception centres before staff could address their special needs. To support staff with the process, a tailored, fast screening tool for the identification of vulnerabilities and special needs was piloted in the reception facility in Logatec.

The European Commission's pilot project in Romania was assessed to be particularly successful in improving the identification of vulnerable applicants through the establishment of standard operating procedures for vulnerability screening, starting already at the preliminary interview stage. The evaluation of the pilot found that the referral system for unaccompanied children and the appointment of guardians have also improved.<sup>993</sup> The civil society organisation Romanian CNRR confirmed these findings but suggested improving staff training on identifying vulnerabilities that may be harder to detect.<sup>994</sup>

The Spanish State Secretariat for Migration issued a new instruction to improve the identification of applicants with special reception needs by establishing indicators on vulnerabilities.<sup>995</sup>

Changes to the German legislation on counselling in the asylum procedure had an impact on the identification of vulnerabilities. Providers of the counselling sessions are allowed to transmit the personal data of an applicant to the authorities if it arises during the discussion that the person is in need of special procedural guarantees or has special needs in reception, provided the applicant consents to this transfer of information.<sup>996</sup> Civil society organisations



argued that increased funding would be necessary to ensure that the legal changes are implemented adequately in a harmonised manner across all federal states.<sup>997</sup>

The Italian Ministry of the Interior issued guidance on the identification, referral and support of applicants with special needs in an effort to harmonise territorial practices,<sup>998</sup> as suggested by Save the Children and UNHCR.<sup>999</sup> The Norwegian UDI is developing guidelines on identifying victims of torture. In addition, several authorities across the EU+ observed an increase in the number of people with special needs due to a rise in health issues.

The Lithuanian Red Cross Society conducted a study on the challenges faced by applicants who chose to live outside of reception facilities. Gaps included access to a vulnerability assessment procedure when not staying in the reception facility.<sup>1000</sup>

## 4.2. Protecting women and girls

The Istanbul Convention entered into force in respect of the EU on 1 October 2023, including the provisions relating to asylum and *non-refoulement*.<sup>1001</sup> At the country level, efforts focused on the prevention of violence against women and girls and support for female victims of violence. Comprehensive mappings still revealed many gaps in asylum and reception systems, risking the safety of women and girls. These gaps and their detrimental impact were also captured and adjudicated by courts.

The Finnish Immigration Service announced at the beginning of 2023 that it changed its guidelines on applications submitted by Afghans in December 2022, and all Afghan women and girls were granted refugee status, based on COI on their deteriorating rights.<sup>1002</sup> The legal practice on Afghan women was also updated in Denmark at the beginning of 2023. The Refugee Appeals Board changed its practice so that Afghan women and girls are granted asylum based solely on their gender as a starting point. Following this change, the Refugee Appeals Board **granted** international protection to an Afghan woman and her daughter who were previously denied the status. Swiss authorities also changed their approach, following the ruling of the Federal Administrative Court (see *Section 3.4.5*).

Austrian authorities launched an information campaign to fight violence against women. Posters and multilingual brochures on different forms of violence and ways to seek help were made available for female beneficiaries of international protection and displaced women from Ukraine in 21 BFA locations, the Federal Administrative Court in Vienna, Graz, Linz and Innsbruck, and the nine integration centres of the Austrian Integration Fund.<sup>1003</sup>

The Maltese AWAS created the role of Gender-Specific Welfare Officer at the Initial Reception Centre. This officer primarily assists women, especially single and expecting mothers, by providing tailored healthcare and support services. AWAS also continued to use a Special Needs Vulnerability Assessment tool that includes information on the referred individual's medical, psychological and social well-being. It also assesses indicators of vulnerability related to their background and experiences, including female genital mutilation/cutting (FGM/C) and sexual and gender-based violence.





In Ireland, the government approved the creation of a statutory agency to tackle and reduce domestic, sexual and gender-based violence. The agency will be tasked with overseeing accommodation and support to victims, including applicant and beneficiary of international protection victims.<sup>1004</sup>

Following up on a 2022 collaboration in the implementation of the protocol on the prevention and response to violence against women, in 2023 the Spanish Secretary of State for Migration and UNHCR announced the extension of their collaboration to develop a standard operating procedure for the prevention of and response to violence against women in humanitarian reception centres and temporary reception centres (CETI) in Ceuta and Melilla.<sup>1005</sup> The procedures were developed by authorities working together with UNHCR, NGOs managing first-line reception centres for sea and land arrivals, the two CETI in Ceuta and Melilla and the EUAA.<sup>1006</sup>

Amendments in Italy included all women in the definition of vulnerable applicants in terms of reception conditions, who must be exempted from accelerated and border procedures.<sup>1007</sup>

The CJEU [clarified](#) that women may be considered as belonging to a particular social group, and they may qualify for refugee status if they are exposed to physical or mental violence, including sexual and domestic violence, in their home country on the account of their gender. If the conditions for refugee status are not met, they may qualify for subsidiary protection when there is a real risk of being killed or subjected to acts of violence inflicted by a member of their family or community due to the alleged transgression of cultural, religious or traditional norms. The court underlined the need to interpret the recast QD in line with the Istanbul Convention

UNHCR submitted a statement in the context of a preliminary ruling pending before the CJEU on the relevance of westernised/non-conforming behaviours (especially for women and girl applicants), membership of a particular social group and assessing the best interests of the child in the asylum procedure.<sup>1008</sup>

The Finnish Supreme Administrative Court [held](#) that an internal flight alternative was not available to a mother and a child from Russia, originally from Chechnya, who were victims of domestic violence.

The Belgian CALL [sent back](#) a case to the CGRS for re-examination. It involved an Iranian woman who would be at risk since the changed political, social and security situation for women in the country following the protests since autumn 2022 prompted by the death of Mahsa Amini. The UN Committee on the Elimination of Discrimination against Women [found](#) violations of the Convention for an Iranian woman, victim of domestic violence by her father and brother, who fled the country in 2015 and arrived to Switzerland in 2016, where her application for international protection was rejected. The committee underlined that the Swiss authorities incorrectly rejected the claim on the lack of protection by Iranian authorities, basing themselves only on the fact that the woman never requested protection, not considering other elements of the case.

The ECtHR [concluded](#) that reception conditions in Italy for a girl victim of forced marriage and sexual abuse amounted to inhuman treatment. Despite disclosing to the authorities that she went through sexual abuse, reiterating this to the psychologist and the mediator, and her representative having made five requests for a transfer to a suitable centre, she was still







accommodated in a centre without separation between adults and minors and was again sexually abused for 8 months.

The Danish Refugee Council noted a change in the approach in the Refugee Appeals Board's reasoning following [criticism](#) from the UN Committee on the Rights of the Child (UN CRC) in 2022. The Refugee Appeals Board [decided](#) to grant a residence permit to a family in which the daughter would have been at risk of FGM/C if returned to Somalia.

The French CNDA examined several applications due to a fear of FGM/C and concluded the existence of a particular social group of non-mutilated girls, teenagers and women in [Sierra Leone](#), [Sudan](#), and women and girls of the Mossi community exposed to FGM/C in [Burkina Faso](#).

For an elderly woman from Odesa Oblast, the court [concluded](#) that the situation of indiscriminate violence prevailed, but its intensity did not reach the level where the woman's mere presence would entail a real risk of serious harm. However, taking into account the woman's great vulnerability due to her old age, medical conditions and the absence of family members in Odesa, the court concluded that she would be at a real risk of serious harm and granted subsidiary protection.

Considering the reception conditions on the Greek islands for pregnant women who arrived in 2019 and 2020, the ECtHR [found](#) that the applicants were subjected to ill treatment in violation of the ECHR, Article 3.

The European Network of Migrant Women comprehensively summarised the challenges faced by female applicants during the asylum procedure and in reception. The organisation highlighted the need for establishing female-only spaces, both in reception and during activities related to the asylum procedure (such as identification and registration) to ensure dignity and safety, which must be accessible without a waiting period and for free.<sup>1009</sup>

At the country level, the Council of Refugee Women in Bulgaria, with support from UNHCR, published the results of a survey gender-based violence among refugees. The study underlined that the concepts of gender-based violence and consent should be at the core of enhanced awareness-raising activities.<sup>1010</sup> The Belgian Nansen presented a practical guide and a tool on international protection and gender-based violence to support legal practitioners.<sup>1011</sup> The Swedish Refugee Law Centre mapped the challenges of women throughout the asylum procedure in Sweden and made recommendations for improvements, noting also good examples from the case studies.<sup>1012</sup>

Recommendations on further improving asylum and reception systems came from the concluding observations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) for Germany,<sup>1013</sup> Iceland,<sup>1014</sup> Slovakia<sup>1015</sup> and Spain.<sup>1016</sup>



## 4.3. Applicants with disabilities and special health needs

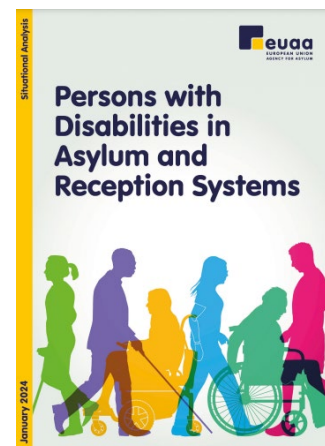


People with disabilities comprise a diverse group, and factors such as sex, age, gender identity, sexual orientation, religion, race, ethnicity and economic situation affect their experiences in life and their medical needs.<sup>1017</sup> Addressing disability in the context of asylum is a complex challenge. Disabled people seeking international protection can often be under-identified or not identified at the onset of the asylum procedure.

To fill an information gap and disseminate information among EU+ countries, the EUAA published a report, [Persons with disabilities in asylum and reception systems: A comprehensive overview](#), in January 2024. The findings were based on two surveys on the latest information on policies, practices, legislation and activities related to asylum applicants with disabilities in EU+ countries. The surveys were addressed to national authorities and other stakeholders, including EU institutions, international organisations, civil society organisations and academia.

The report finds that most EU+ countries refer asylum applicants to a medical facility or national healthcare system to evaluate special needs in general and to assess any potential impairments, both physical and intellectual. The report identifies substantial data gaps as EU+ countries do not generally collect or register data on vulnerabilities, in large part due to data protection concerns, so it is difficult to identify the most common types of disabilities or vulnerabilities detected among applicants for international protection.

ECRE published a legal note on the rights of applicants and beneficiaries of international protection with disabilities, noting the lack of CJEU case law on the applicability of the EU Charter of Fundamental Rights, Article 26 and the UN Convention on the Rights of Persons with Disabilities (CRPD).<sup>1018</sup>



### 4.3.1. Identification of disabilities

Some EU+ countries reported that they are looking into developing adequate assessment tools and guidelines related to applicants with disabilities.<sup>1019</sup> For example, ONA in Luxembourg is testing a systematic and standardised identification and assessment tool for special reception needs, including for disabled applicants.

In Sweden, references to applicants with disabilities are made in several legal position papers and a policy published in May 2023, which conveys that all areas of the asylum procedure should include facilitation for applicants with physical, psychological, sensory or intellectual reduced abilities. The Swedish Migration Office is in discussions about developing these instruments.<sup>1020</sup>



### 4.3.2. Provision of information

Disabled applicants for international protection should receive information in a language that they can understand and which is tailored to their specific needs, for example a visual or hearing impairment. Typical information material in EU+ countries for persons with a hearing impairment include posters in waiting rooms, brochures, leaflets or similar documents on the asylum procedure.

The Committee on the Rights of Persons with Disabilities expressed concerns about insufficient information provision and the lack of qualified sign language interpretation, Braille or other measures to ensure full access to health services for refugees with disabilities. For example, the committee recommended to Austria to ensure access to disability support schemes for refugees with disabilities, including persons with disabilities under temporary protection.<sup>1021</sup>

### 4.3.3. Special procedural safeguards

EU+ countries implement special procedural guarantees when the level of disability may affect the asylum procedure of the applicant, which are decided on a case-by-case basis to ensure that adaptations are tailored to the individual.

The Committee on the Rights of Persons with Disabilities noted different procedures in place in federal states in Germany. It recommended to implement more uniform procedures, ensure the provision of adequate support to applicants with disabilities, and improve access to comprehensive health services upon arrival.<sup>1022</sup>

The Swiss Federal Administrative Court examined a [case](#) of an applicant with dementia from Alzheimer's disease. The court [clarified](#) the need to determine the applicant's ability to act in the proceedings and the right to be appointed a representative when the applicant was not able to be heard or answer the questions during the interview. The applicant was personally heard before the SEM, where he was noted to be confused and disorientated so the hearing was waived. His asylum application was rejected, but in the absence of further clarification on his state of health, the court considered that SEM was incapable of assessing the grounds for asylum, especially since the applicant's ability to judge the facts in a comprehensive way affected the finding of the facts.

In Italy, in the [case](#) of an Albanian applicant with two minor children, one of them with a disability certified by a medical committee, the Tribunal of Rome [concluded](#) that there was a well-founded risk of serious infringement of fundamental rights due to the time lapsed and being deprived of their right to register an asylum application. The applicant lodged an application for special protection before the entry into force of Legislative Decree No 20/2023 (currently Law No 50/2023) and tried unsuccessfully to formalise the application with the Immigration Office. The tribunal took into consideration the fact that a lack of formalisation deprives the applicant and her children of accessing all rights, including adequate medical services for the disabled child. The tribunal ordered the formalisation of the application for special protection within 6 days of the publication of the order.

The Supreme Administrative Court in Austria [overruled](#) a decision of the lower court stating that it failed to fully examine the possibility of a violation of the right to private and family life for a Russian applicant and her disabled husband by not holding an oral hearing. The Federal Administrative Court had failed to consider that the applicant's husband was dependent on her support because he had lost his right forearm during the Chechen war and suffered from



post-traumatic stress disorder (PTSD). While the applicant had only submitted the psychotherapist's confirmation of treatment for PTSD, it had not been sufficient to fully clarify the level of dependency. Nonetheless, the court held that the lower court should have clarified the facts by holding an oral hearing.

In another case in Austria, the Federal Administrative Court **decided** that an applicant with Hodgkin's disease would face a real risk of serious, rapid and irreversible deterioration of his health leading to intense suffering and significant shortening of life expectancy if returned to India due to the lack of adequate access to medical care. His application for international protection was based on the grounds of political persecution while he also provided evidence to require regular medical controls for his disease. The BFA has rejected his claim and issued a return decision. The court noted that adequate medical care for his illness could not be guaranteed in India within the framework of state healthcare and the applicant did not have sufficient financial resources to obtain private health insurance. The Federal Administrative Court annulled the decision of the BFA and granted the applicant subsidiary protection.

In Germany, the Lower Saxony-Bremen Regional Social Court **ruled** that the district authorities must cover the costs for necessary medical treatment for a Georgian under-age asylum applicant under the regular rules based on a fundamental right to ensure a decent subsistence level. The family's asylum applications were rejected, but the appeals were still pending. The applicant suffered from a chronic condition since birth with medical conditions such as short stature, severe bone growth disorders, a pronounced multi-dimensional misalignment of the axis in the knee joints and permanent, severe pain. According to the doctors' opinion, the applicant needed a surgical operation in a special clinic which would help him to walk without pain and aids. The competent district refused to cover the costs and alleged that the operation was not necessary in view of the applicant's obligation to leave the country, the threat of removal and temporary stay in Germany pending the outcome of the appeal. The district authorities also considered that the surgery was not essential to ensure health or cover for special needs of the children.

#### **4.3.4. Mental health conditions and needs in the asylum procedure**

Applicants for international protection are exposed to several stress factors which can place a strain on mental health and wellbeing. Providing timely access to mental health and psychosocial support is crucial for applicants since their mental state could deteriorate rapidly in the host country. This could ultimately affect their asylum procedure and how they fully engage in the personal interview. The Finnish Institute for Health and Welfare found that 80% of asylum seekers arriving in Finland experienced some sort of traumatic events in their country of origin or during their journey, such as war, torture, sexual violence or a loss of family members.<sup>1023</sup> In the host country, inadequate living conditions, uncertainty about future prospects, linguistic and cultural challenges, stigma, exclusion and difficulties in accessing mental health services are some of the stress factors that can affect an individual's mental health and wellbeing.<sup>1024</sup>

In order to address both physical and mental health needs, the World Health Assembly adopted a resolution in May 2023 to extend the [WHO Global Action Plan on promoting the health of refugees and migrants](#) until 2030. The new [Action Plan](#) calls on governments and relevant stakeholders in collaboration with the WHO to continue to improve the health of refugees and migrants worldwide and make health systems more accessible and inclusive, including for mental health issues.<sup>1025</sup>

In 2023, some courts ruled on cases related to applicants with mental health conditions. For example, an applicant from the Democratic Republic of the Congo who suffered from mental health issues had his application rejected in Greece. After assessing the healthcare system in the country of origin, especially with regard to mental health conditions, the Independent Appeals Committee **found** that the applicant would not have a support network and was at risk of serious harm if returned.

In another **case** in Greece, an application on the grounds of sexual orientation of a man from Sierra Leone with schizophrenia received a negative decision from the Regional Asylum Office of Samos. He appealed the decision which was first rejected by the committee, arguing a lack of credibility in the applicant's statements about his sexual orientation. The applicant contested the committee's decision before the Administrative Court of Athens, which found that the Appeals Committee had failed to assess the applicant's statements and the evidence he provided about his mental health condition. Therefore, the administrative court upheld the applicant's appeal and annulled the decision.

The ECtHR **found** Hungary in violation of the ECHR when not taking into consideration the mental state of an applicant. The woman, who was accompanied by a minor child, was at risk of committing suicide while being illegally detained in insufficient living conditions in the Tompa transit zone for a mother and her minor child. However, she had not received medical care. The court noted that the government had not explained why she was not examined by a psychologist in a local hospital, if there was no psychologist available in the transit zone, and that they did not provide records of medical consultations to prove that they were not aware of the medical issues raised by the applicant.

In this regard, Maltese civil society organisations raised concerns about asylum seekers with mental health problems who were detained for prolonged periods.<sup>1026</sup> Maltese authorities stated that they continued to invest in the provision of healthcare, including mental health services, at detention facilities, for example by setting up of the Migrant Health Clinic Service in 2021 and providing psychiatric care and other specialisations.

## 4.4. Providing protection and support to applicants with diverse SOGIESC



Sexual orientation, gender identity or expression, and sex characteristics (SOGIESC) are reasons to seek international protection in many cases. SOGIESC may have a direct impact on a person's experience in the country of origin, may constitute the key reason for having to flee a country (i.e. gender-based persecution) and may impact the journey through transit countries in the pursuit of safety. These aspects can also have an impact on an asylum applicant's experience in the destination country, and it should be ensured that effective protection is provided in a suitable manner for the specific context and in full respect of fundamental rights and human dignity.

In 2023, national authorities made strides in improving asylum and reception systems for applicants with diverse SOGIESC. Courts stepped in and overturned several negative decisions for protection to ensure protection for this profile of applicants. UNHCR published a stock-taking report on its progress in the protection of LGBTIQ people in situations of forced

displacement since its 2021 roundtable. The report analyses capacity development, access to the asylum procedure, safe data collection, resettlement and complementary pathways, outreach and community engagement, health and other services, economic inclusion and organisational leadership.<sup>1027</sup>

Building on its previous strategy, Malta launched its third LGBTIQ Equality Strategy and Action Plan 2023-2027. The 2018-2022 action plan achieved many results, including an information leaflet on Maltese legislation related to LGBTIQ equality and asylum procedures which is available in six languages, amendments to the Procedural Standards for Granting and Withdrawing International Protection Regulations (S.L.420.07) which extends protection to those at risk of persecution on the grounds of their gender expression and sex characteristics, and the ministry's SOGIESC Unit trained 30 staff members and 120 security and administrative personnel working for AWAS.<sup>1028</sup>

The federal government in Germany launched a new funding programme with EUR 20 million available for 2023. The programme aims to ensure that counselling during the asylum procedure, which is voluntary, is independent of the authorities,<sup>1029</sup> includes legal advice for LGBTIQ persons, victims of torture and other vulnerable groups seeking protection and better identifies vulnerable applicants who have special needs in the asylum procedure or for their accommodation because of their age, SOGIESC, disability, serious mental or physical issues, for example as a result of torture or the experiences of war and conflict in their home country.

As part of its LGBTIQ inclusion work, the Organisation for Economic Cooperation and Development (OECD) published a first country review on Germany. The report includes an overview of measures which have been taken in reception facilities of federal states to ensure the safety of LGBTIQ applicants.<sup>1030</sup>

Civil society organisations were also active in raising awareness and providing support and information to applicants with diverse SOGIESC. Ghent University in Belgium, in collaboration with NANSEN, published a practical guide which focuses on the meaning and implications of a gender-sensitive asylum procedure. The guide is accompanied by a thematic tool with legal, academic and policy information that can be used in gender-related procedures for international protection.<sup>1031</sup>

OII Europe published a flyer with information on the specific needs of intersex refugees and asylum seekers. It also presents a list of recommendations on current migration policies.<sup>1032</sup>

The European Parliament published a study which examines the progress made over the past 3 years with the implementation of the European Commission's LGBTIQ equality strategy. The study compared the key actions proposed with the key actions that have been taken until November 2023, including the protection of LGBTIQ applicants in the context of CEAS.

On the occasion of Europride 2023, the EUAA published two fact sheets on LGBTIQ applicants, highlighting recent **developments** at the EU and national levels and **jurisprudence** related to this profile of applicants.



The Italian Ministry of the Interior published a [handbook](#)<sup>xlvii</sup> on vulnerabilities which makes recommendations to ensure specialised training on SOGIESC for reception staff and safe and adequate reception and assistance measures.<sup>1033</sup>

A report from the Irish Department of Children, Equality, Disability, Integration and Youth made several recommendations to improve support to LGBTIQ applicants in accommodation centres in Ireland. The recommendations included updating house rules, training staff on SOGIESC-related issues and making a dedicated support worker available to LGBTIQ residents.<sup>1034</sup>

Greek NGO Fenix raised concerns about the policy to house SOGIESC with non-SOGIESC asylum applicants under the same roof and warned about the lack of safety and impact on their mental health. Similarly, it observed that dedicated areas for SOGIESC-specific housing within the camps could further result in isolation and stigmatisation of this group of applicants since they would be more visibly exposed.<sup>1035</sup>

#### 4.4.1. Case law related to SOGIESC applicants

The Federal Administrative Court in Austria [overturned](#) a negative decision and granted refugee protection to an Afghan national who had applied for international protection on the grounds that his sexual orientation would not be tolerated in Afghanistan. The court consulted recent COI reports and concluded that the LGBTIQ community in Afghanistan was already subjected to significant societal violence before the Taliban takeover and there had been reports of unlawful killings and physical attacks directed at the LGBTIQ community.

Similarly in Germany, regional courts decided on several cases of LGBTIQ based on consultations of recent COI reports. The Administrative Court of Leipzig [overturned](#) a negative decision and an Iraqi national, who applied for international protection on the grounds of being homosexual, was granted refugee protection. The court referred to recent COI and found that homosexuals in Iraq were subjected to human rights violations and discrimination.

Likewise, the Regional Administrative Court of Darmstadt granted international protection to a homosexual man from [Iran](#), the regional administrative court of Cottbus granted protection to a homosexual [Algerian](#) applicant, and the regional administrative court of Hamburg granted refugee status to homosexual applicants from [Ghana](#) and [Guinea](#), noting that LGBTIQ applicants were at serious risk of physical or psychological violence and being persecuted by both state and non-state actors if returned to their country of origin. The Regional Court of Saarland also granted refugee status to a woman from [Morocco](#) on grounds of her sexual orientation. The court based its decision on COI which showed that homosexuality is punishable by Article 489 of the Penal Code with a prison sentence and fine, and this is actually applied in practice.

Country of origin information (COI) plays an important role in the assessment of LGBTIQ asylum applications in EU+ countries and it is frequently used as evidence in first and second instance procedures. In 2023, the EUAA updated its [COI Research Guide on LGBTIQ](#) to assist practitioners.

<sup>xlvii</sup> The Department of the Civil Liberties and Immigration developed the handbook in collaboration with the National Commission for Asylum, Department of Public Security, Ministry of Health, the EUAA, European Commission, Frontex, UNHCR, the IOM, UNICEF, Italian Red Cross, Italian Coast Guard, Central Service for the Management of SAI and other stakeholders.





Therefore the court considered the woman to be a member of a particular social group who would be at considerable risk of prosecution and punishment if returned to her home country.

Furthermore, the Regional Administrative Court of Halle [granted](#) refugee status to a homosexual Georgian national, finding that the Georgian authorities were unwilling or unable to effectively protect LGBTIQ persons.

The CNDA in France [granted](#) refugee protection to an Iranian national due to the risk of persecution by the national authorities and the applicant's father if returned to Iran due to his sexual orientation. The court recalled that homosexuality was criminalised in Iran and could be punished by flogging, detention and the death penalty and that the persecution was not carried out solely by the national authorities but also by individuals (through honour crimes) and health institutions (with forced gender reassignment surgery and conversion therapy).

Furthermore, the CNDA [granted](#) refugee protection to an applicant from Uganda, noting the promulgation of the national Ugandan Anti-Homosexuality Act of May 2023. The court referred to COI which established that homosexual individuals were already at risk of persecution before the act was adopted. In addition, the CNDA held that homosexual persons constituted a particular social group and granted refugee status to LGBTIQ applicants from [Burundi](#) and [Myanmar](#).

The Administrative Court of Latvia [annulled](#) an expulsion order against a homosexual applicant from Iran whose second subsequent application had been accepted for an examination in substance. Based on COI, the court noted that there was a real risk of being exposed to inhuman or degrading treatment.

### ***Credibility assessments***

Credibility assessments also play a key role in determining whether to grant international protection to LGBTIQ applicants and courts scrutinised practices to ensure that persecution based on SOGIESC is accurately assessed.

An applicant from the Democratic Republic of the Congo appealed against a decision refusing international protection, arguing that, according to updated COI on LGBTIQ rights in her country, she would be forced to live her sexual orientation in a hidden manner. However, the Administrative Tribunal in Luxembourg [confirmed](#) the negative decision since the court found that the applicant's story lacked credibility and plausibility due to the contradictory versions of her statements. In addition, the claims were not subject to serious conditions originating from non-private actors but perpetuated by private actors.

The Court of the Hague [rejected](#) the appeal of a Nigerian woman due to a lack of credibility of her claims based on sexual orientation. According to the court, the applicant's assertions were inconsistent and vague, which undermined her credibility and prevented her from persuading the court that she was eligible for asylum. The asylum claim was thus rejected by the court as being unfounded.

CALL in Belgium [annulled](#) an inadmissible decision which rejected a subsequent application lodged by an Iraqi national who claimed to be a homosexual only in his fifth request and submitted evidence for this claim in his ninth subsequent application. The council stated that it cannot be inferred that an applicant lacks credibility from the fact that he did not immediately declare that he was homosexual in his initial application and showed reluctance to disclose







intimate details about his life. The council also pointed out that homosexual orientation should not be proved, but that it was sufficient to believe that it was plausible.

In Italy, the Tribunal of Salerno **granted** refugee protection to an applicant from Senegal, finding his claims about persecution due to sexual orientation to be credible. According to the court, the applicant made an effort to substantiate his statements, it considered the application to be coherent and it found that it was plausible that the applicant was reticent to report his sexual orientation during the first hearing as he had become aware of his sexual orientation only once arrived in Italy.

### ***Procedural guarantees***

Other court decisions reiterated that determining authorities must conduct procedures in a way that enables applicants to exercise their rights efficiently, including during the personal interview. For example, the Tallinn Administrative Court of Estonia **annulled** a decision of the Police and Border Guard Service (PBGS) concerning a Russian transgender applicant from Crimea on the grounds of numerous procedural shortcomings. The court ordered the authorities to reconsider the applicant's case after it found that they had failed to: indicate the factual and legal basis for their decision, assess the special procedural needs of the applicant, present their reasoning and draw logical conclusions from COI, assess the risk of persecution by private individuals besides the risk of persecution by the state authorities, assess the grounds for the application cumulatively (transgender identity, citizenship and political opinion), and assess the risk of persecution upon a return without downplaying this factor on the basis that the applicant could conceal his political opinions. Moreover, the court ruled that the mere fact of filling in a statement of vulnerability may not be sufficient to assess the special procedural needs of an LGBTIQ person diagnosed with depression.

The same court in Estonia also **annulled** a PBGB decision due to procedural violations in a case of a Russian transgender man diagnosed with autism and ADHD. The court noted that the PBGB had failed to conduct an appropriate assessment of the applicant's special needs and to provide him with the necessary support during the proceedings.

A national of Sierra Leone had applied for international protection on the grounds of his sexual orientation but received a negative decision. The Administrative Court of Athens in Greece **held** that the 17<sup>th</sup> Independent Appeals Committee had failed to assess the statements and evidence on the medical condition of the applicant suffering from schizophrenia. The court also noted that the committee had not addressed the applicant's claims about deficiencies with interpretation during his personal interview with the Regional Asylum Office.

## **4.5. Identifying and supporting victims of human trafficking**

### **EU-level developments**

Combatting the trafficking of human beings remained at the forefront of discussions in 2023. The continued arrival of displaced persons from Ukraine triggered further prevention and protection measures in 2022 and early 2023.



Following the European Commission's proposal from December 2022 to revise the Anti-Trafficking Directive,<sup>1036</sup> the European Parliament adopted its mandate for negotiations with Member States which started in November 2023 with the European Council.<sup>1037</sup> Subsequently, the European Parliament and Council reached an informal agreement on 23 January 2024 on expanding the scope of the current directive by including additional crimes, namely forced marriage, illegal adoption and surrogacy for the purposes of reproductive exploitation. This provisional agreement still needs to be formally adopted by both institutions. Once approved, Member States would have a transition period of 2 years to implement the changes when the new rules come into force.<sup>1038, 1039</sup>

ECRE stated that the proposed changes to the EU Anti-Trafficking Directive may improve understanding of the magnitude of trafficking; however, the organisation recommended that the European Commission should focus more on the rehabilitation and integration of trafficking survivors by issuing them a regular residence permit.<sup>1040</sup> La Strada International applauded that the directive now includes online trafficking activities, but it noted that the rights and protection of trafficking victims could have been improved.<sup>1041</sup>

Online exploitation, which rapidly progressed during the COVID-19 pandemic, continued and grew in 2023. In its annual report, the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) observed persisting gaps and new challenges due to the increased use of information and communications technologies.<sup>1042</sup> To shed more light on national situations, GRETA published various country reports during 2023, namely on [Greece](#), [Iceland](#), the [Netherlands](#), [Poland](#), [Slovenia](#), [Spain](#) and [Sweden](#). GRETA noted a low rate of prosecutions and convictions related to trafficking in human beings, which it believed to be linked to an overreliance on victim testimonies and the rapid return of victims to their countries of origin.<sup>1043</sup> GRETA emphasised the need for more concrete action and resources to tackle trafficking in human beings in Europe.<sup>1044</sup>

The IOM and the UN Office on Drugs and Crime (UNODC) released the first technical guidance on administrative data on trafficking in persons to support governments and other stakeholders in addressing information gaps. The guidance promotes a common approach for national data collections on human trafficking, information which would feed the development of policies and programmes to combat human trafficking.<sup>1045</sup>

The U.S. Department of State released its yearly report on trafficking in persons for 2023, with a comprehensive overview of the state of human trafficking in all EU+ countries. The report underlines the importance of working in partnerships with governments, law enforcement, civil society organisations and survivors to tackle human trafficking.<sup>1046</sup>

A report from the UN Special Rapporteur on trafficking underlines the obligation of states to ensure effective access to international protection for victims of trafficking and persons at risk of trafficking and to comply with the principle of *non-refoulement*. The report recommends the adoption of measures to prevent trafficking by expanding resettlement opportunities and complementary pathways, including humanitarian visas and family reunification.<sup>1047</sup>

## National developments

In 2023 EU+ countries introduced changes to better identify, refer and protect victims of trafficking. Some also focused on monitoring the situation by commissioning studies to analyse the latest trends.



A revised national referral mechanism for victims of human trafficking in Ireland aims to establish clear definitions for identification and to clarify the rights of trafficking victims.<sup>1048</sup> In addition to the current competent authority for identification, An Garda Síochána, other relevant authorities and registered charitable organisations will become involved in identifying victims. The Irish Ministry of Justice also launched a third national action plan on human trafficking in November 2023, which aims to provide victims with protection from removal and to increase awareness and the use of cultural mediators.<sup>1049</sup>

The Finnish Ministry of the Interior commissioned a study to examine the reflection period granted to victims of human trafficking and the impact of a suspicion of trading in sexual services on the denial of admittance or stay. The study confirmed the challenge of identifying victims of sexual exploitation and the obstacles for detection. For example, migrants selling sex may not report occurrences because they may fear being deported and receiving an entry ban.<sup>1050</sup> In addition, the Non-Discrimination Ombudsperson in Finland made a series of recommendations to the government, namely to amend the Aliens Act so that more victims can meet the conditions to obtain a residence permit.<sup>1051</sup>

The Lithuanian Ministry of the Interior published a report which includes an overview of the situation of trafficking in human beings in Lithuania and summarises measures taken by state institutions and NGOs and planned actions.<sup>1052</sup>

In the Netherlands, the Action Plan Together against Human Trafficking was launched in 2023, detailing the actions undertaken by different stakeholders as part of a joint approach.<sup>1053</sup> In addition, the Dutch Scientific Research and Documentation Centre published an evaluation of the changes introduced to the B8/3 residence scheme for victims and witnesses of human trafficking who report or cooperate in criminal proceedings. Amongst other elements, the evaluation looked into changes that impacted applicants in the Dublin procedure.<sup>1054</sup>

Italy updated its national referral mechanism for the identification, assistance and protection of victims of human trafficking and exploitation with a set of recommendations to ensure a timely identification of potential victims and through a multi-sectoral and multi-agency approach.<sup>1055</sup>

Furthermore, the Italian Ministry of the Interior published a handbook<sup>xlviii</sup> on identification, referral and care for applicants with vulnerabilities and special needs, including victims of trafficking. It provides guidance on uniform procedures to be adopted in asylum and reception systems.<sup>1056</sup>

In March 2023, the SMA in Sweden published data for 2022, which showed that the number of suspected cases of human trafficking (515) nearly doubled compared to the previous year. Forced labour continued to be the most common form of exploitation in Sweden. One-fifth of the cases involved trafficking for sexual exploitation, mostly involving women and young girls.<sup>1057</sup>

SAR in Bulgaria signed a framework agreement with the NGO Foundation A21 which will enable joint activities to implement campaigns, projects, training and other activities related to the identification of human trafficking victims.<sup>1058</sup>

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<sup>xlviii</sup> The Department of the Civil Liberties and Immigration developed the handbook in collaboration with the National Commission for Asylum, the Department of Public Security, the Ministry of Health, the EUAA, the European Commission, Frontex, UNHCR, the IOM, UNICEF, Italian Red Cross, Italian Coast Guard, Central Service for the Management of SAI and other stakeholders.





IOM Slovakia held workshops on counter-trafficking and communication with potential victims for staff from various institutions.<sup>1059</sup>

The German federal government announced further steps to develop a National Action Plan to Combat Trafficking in Human Beings. It would address all forms of trafficking and cover four fields of action, namely prevention, protection and support to trafficked persons, prosecution and cooperation at the national, European and international levels. The federal government aims to have the national action plan adopted before the end of the legislative period.<sup>1060</sup>

As part of the measures from the national action plan, the French Inter-Ministerial Mission for the Protection of Women against Violence and Human Trafficking (MIPROF) and the Ministerial Statistical Service for Internal Security (SSMSI) jointly published the results of their annual survey of victims of human trafficking who are supported by civil society organisations in France. The study revealed that 7 out of 10 trafficking victims originated from Africa in 2022, although the share of victims from European countries (17%) and Latin American and Caribbean countries (10%) increased. Nigeria was the main country of origin of victims of trafficking in human beings, accounting for 52% of trafficked victims in France.

Likewise, the German NGO Network against Trafficking in Human Beings carried out a data collection of specialised counselling centres for trafficked persons and found that the majority of victims in Germany originated from West African countries, mainly Nigeria.<sup>1061</sup>

### **Case law related to victims of trafficking**

National courts reviewed several trafficking cases involving women, mostly from the African continent. Considering COI, the courts noted that a return to the country of origin would pose a significant risk for the victims. For example, the Constitutional Court in Austria **annulled** a lower court decision and held that a mother of two children, a victim of trafficking for the purpose of sexual exploitation, would be at risk of being re-trafficked if returned to Nigeria.

In France, the CNDA **granted** subsidiary protection to a former victim from the Democratic Republic of the Congo who was trafficked by a Nigeria-based transnational sexual exploitation network.

The Court of Appeal of Palermo in Italy **upheld** the appeal of a Nigerian woman and ruled that the applicant would be at risk of stigmatisation and re-trafficking if returned. Consequently, the victim was granted refugee status and the right to remain in Italy. The Tribunal of Florence granted refugee status to a man who had been a victim of human trafficking and labour exploitation and noted his extreme vulnerability as disasters and climate change amplify the risks of falling victim to human trafficking.<sup>1062</sup>

In Czechia, the Regional Court in Ostrava **assessed** the case of a Nigerian woman whose asylum application was rejected twice. The asylum authority had considered that the woman became a victim of trafficking during her journey to Europe and could therefore safely return and get assistance in her home country. However, the regional court referred to relevant COI and international law to conclude that the woman had already fallen victim to trafficking in her country of origin, Nigeria, and not during her journey to Europe, and she could be at risk of being re-trafficked and persecuted if returned.






## 4.6. Children going through the asylum procedure

### 4.6.1. Data on unaccompanied minors

#### 4.6.1.1. Applications for international protection by self-claimed unaccompanied minors



According to the EPS data collection, the indicator on unaccompanied minors includes all asylum applicants who are recorded as unaccompanied minors at the moment of lodging their application for international protection. Generally, this is based on the claim of the applicant as age assessment procedures usually take place after the lodging of the application. However, in some countries, the assessment could be done simultaneously. The term 'self-claimed unaccompanied minors' does not indicate whether the information on age which was provided by the applicant is accurate.

In 2023, 41,000 applications for asylum were lodged by self-claimed unaccompanied minors across EU+ countries. This was similar to the level in 2022 (-5%) and the second-highest on record since 2015. The share of applications by unaccompanied minor remained stable, representing about 4% of all applications lodged in EU+ countries. However, variations were seen at the country level. For example, just 2% of applications in Italy and Spain were lodged by self-claimed minors, while they accounted for a much higher portion in Bulgaria (17%) and the Netherlands (16%).

Germany, the Netherlands and Austria (in descending order) continued to receive the highest number of applications by unaccompanied minors, but their numbers shifted to a great extent in 2023 within these Top 3 countries. With a notable increase, Germany (with 10,300 applications) hit the highest peak on record and replaced Austria as the top receiving country for this profile of applicants (see *Figure 22*). The sharp rise was driven by Syrian, Afghan and, at lower levels, Turkish unaccompanied minors, who all applied in Germany in unprecedented numbers. With 6,100 applications, the Netherlands also surpassed Austria and witnessed an all-time high of self-claimed minors due to record numbers of unaccompanied minors from Syria, Somalia, Iraq and Sudan (in descending order).<sup>xlix</sup>

At lower levels, Bulgaria (3,800) and Switzerland (2,300) received the most applications by unaccompanied minors since 2015, Spain (2,600) since 2019 and Italy (2,200) since 2018.<sup>1</sup> In contrast, applications by this profile fell significantly in several some countries. While Austria (5,100) remained in the top receiving countries, applications there and in Belgium (2,600) dropped markedly from the highs recorded in the previous year as a result of a sharp decrease in applications by Afghan unaccompanied minors.

<sup>xlix</sup> Since the start of the EPS data exchange in 2014.

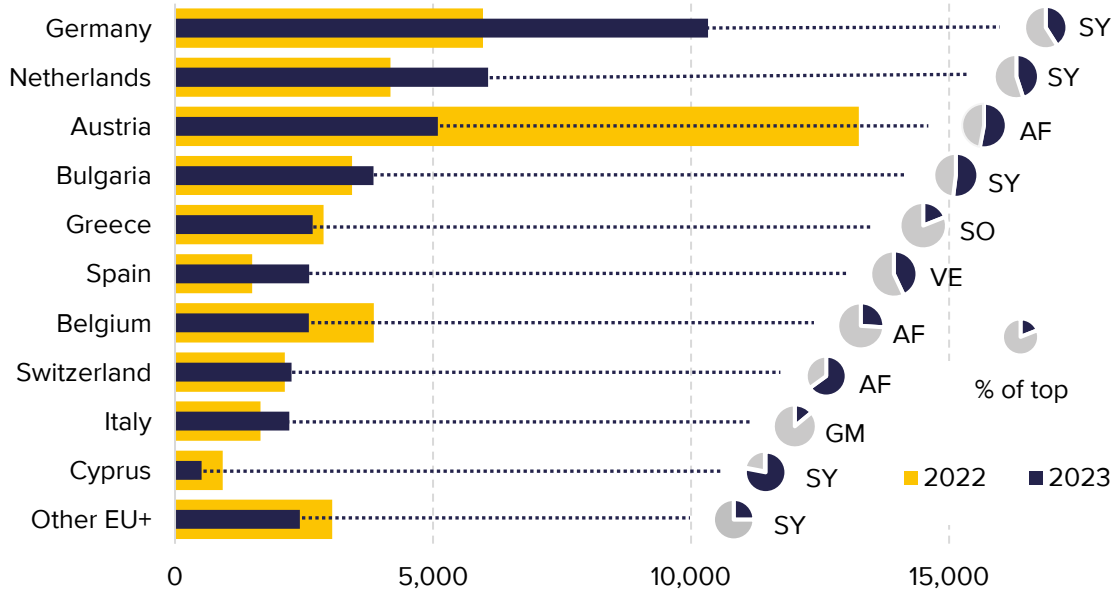
<sup>1</sup> Only countries with at least 2,000 applications by self-claimed unaccompanied minors in 2023 were considered.





## Record number of unaccompanied minors in Germany, the Netherlands and Bulgaria

**Figure 22. Top 10 EU+ countries receiving applications by self-claimed unaccompanied minors, 2023 compared to 2022 and share of applications lodged by the main citizenship of unaccompanied minors, 2023**



**Note:** Data were not available for Portugal for October-December 2023.  
**Source:** EUAA EPS data as of 1 February 2024.

### 4.6.1.2. Citizenship of self-claimed unaccompanied minors

A significant share of minor applicants originated from Syria and Afghanistan, jointly accounting for three in every five applications by self-claimed unaccompanied minors in EU+ countries. Unaccompanied minors from Syria applied the most on record in 2023, while applications by unaccompanied minors from Afghanistan dropped to the lowest since 2020.

At far lower levels, applications by self-claimed unaccompanied minors from Venezuela, Türkiye, Egypt, Colombia, Sudan and Palestine (in descending order) reached unprecedented levels. In addition, Eritrean unaccompanied minors lodged the most applications since 2016.<sup>ii</sup>

Implicitly withdrawn applications by unaccompanied minors declined by more than one-third from the peak in 2022, particularly by Afghan unaccompanied minors. This suggests there was a possible reduction of secondary movements by unaccompanied minors within EU+ countries.

<sup>ii</sup> Only countries with at least 240 applications by self-claimed unaccompanied minors in 2023 were considered.



#### 4.6.2. Legal representation for asylum-seeking children

In 2023, FRA developed a manual for trainers of guardians, which is complemented by an [e-learning platform](#).<sup>1063</sup> In addition, together with the EUAA, two practical guides were developed for guardians as an introduction to international protection and to the asylum procedure.<sup>1064</sup>

A lack of guardians for unaccompanied minor applicants was reported, for example, in Belgium, the Netherlands and Slovenia which caused delays in one being appointed. The Dutch Nidos highlighted that guardians had a high caseload, making it difficult to provide sufficient guidance for each child.<sup>1065</sup> In Slovenia, even though two public calls were launched, only a small number applied. The government planned to make amendments to address this issue. For unaccompanied minors in Slovenia, a new decree established a dedicated reception facility, which opened in April 2024.<sup>1066</sup>

The reform of the Guardianship and Care Law came into effect in January 2023 in Germany. The changes mainly impact guardianship of adults and strengthens the self-determination of adults in need of support, in line with the CRPD. In addition, the new law includes provisions to ensure high-quality professional support. Children's rights and their guardians' duties were standardised. When a permanent guardian cannot be appointed immediately for a child, the family court will appoint a temporary guardian. This can also be the youth welfare office or a guardianship association, which must then appoint a member of the association.<sup>1067</sup>

A bill proposal on guardianship and fostering children was approved by the Cypriot Council of Ministers to enhance protection and support for children in the care of the Social Welfare Services, currently the majority of them unaccompanied minor applicants.<sup>1068</sup>

Amendments to the Law on International and Temporary Protection in Croatia specified that the guardian is obliged to start family tracing as soon as possible for unaccompanied children. In addition, confidentiality must be respected when managing information on a child and the family in order to not jeopardise the child's safety.<sup>1069</sup>

The Network for Children's Rights noted that, even though a law on a national system of guardianship for unaccompanied minors was adopted in 2022 in Greece, its implementation was still not in force.<sup>1070</sup> The Greek Council for Refugees added that the procurement procedure for guardians was finalised in autumn 2023 and the first guardians were expected to be hired and trained until the end of 2023, to start in the beginning of 2024.<sup>1071</sup>

The ECtHR [found](#) a violation of the ECHR, Article 8, but not that of Article 3, for a minor who had arrived to Italy and was at first assessed to be an adult during an age assessment procedure that took place without the appointment of a legal guardian. Even though he presented a birth certificate showing his age, the authorities did not apply the presumption of minor age, which the court underlined to be an inherent element of the right to respect for the private life of an unaccompanied minor.

The Administrative Court in Košice, Slovakia [found](#) serious misconduct by the authorities for not applying for a legal guardian for a 15-year-old child who was accompanied by an older brother. The court underlined that only parents or court-appointed guardians can be considered as a legal guardian for a minor. The procedural mistakes led to the child's detention, and the court also annulled the detention decision.



In 2023, the Association for Legal Intervention initiated the project “Support system for the reception of unaccompanied minor migrants in Poland” to ensure that a sufficient number of guardians for unaccompanied minors are available. The project targets lawyers wanting to be guardians and foster care institutions admitting foreign minors.<sup>1072</sup>

#### **4.6.3. Assessing the age of an applicant claiming to be a child**

The number of unaccompanied children arriving to Italy rose throughout 2023,<sup>1073</sup> and to address this challenge, a new legislative decree allows, in the event of emergency situations (for example substantial, multiple and frequent arrivals or rescues at sea), the public security authority to order anthropometric tests or other medical examinations (including X-rays) to identify age. In these cases, the authority must give immediate notice to the Public Prosecutor’s Office at the Tribunal for Minors, which authorises the execution in writing or, in cases of particular urgency, orally and subsequently confirmed in writing. The law also foresees a detailed procedure for the drafting of the reports on the examinations and relevant appeal mechanisms. Moreover, the law amended the ordinary procedure for age assessments, providing that the assessment must be carried out by a multidisciplinary and multi-professional team of experts (composed of a paediatrician, a psychologist specialised in child development or a child neuropsychiatrist, a cultural mediator and a social assistant) and completed within a period of 60 days.<sup>1074</sup> ASGI highlighted that this is a derogation from previous legislation, when only a judicial authority was allowed to initiate the assessment, which had to be carried out by a multidisciplinary team.<sup>1075</sup> Prior to the new law, Save the Children and UNHCR presented a mapping on the identification procedure and age assessments for unaccompanied minors and suggested further efforts to harmonise divergent practices across the country and to train staff on the specific procedures.<sup>1076</sup>

A new methodology for age assessments was proposed for adoption in Bulgaria, following EUAA guidelines. The methodology is planned to be piloted from March 2024 after officers assigned for this task are properly trained.

Updated work instructions were published on the age assessment process in the Netherlands.<sup>1077</sup> In Sweden, MRI pictures of a knee joint can only be made in one location since May 2023, but this has not caused any delays in the process.<sup>1078</sup>

In Cyprus, the Refugee Law was amended to state that asylum seekers who do not consent to the medical examination for an age assessment are presumed to be adults. However, they can submit additional information at any stage of the process to establish their minority and can request the medical examination at a later stage, which cannot be disregarded by the Asylum Service.<sup>1079</sup>

The International Rescue Committee Hellas in Greece observed occasional shortcomings with the institutions accredited to do an age assessment: doctors and medical staff were not always aware of the specific legislative and policy framework.<sup>1080</sup>

The Irish Refugee Council received information from Tusla, the Irish Child and Family Agency, that a policy or internal guidelines did not exist in 2022 on age assessments for unaccompanied children who were referred from the International Protection Office or Dublin Airport. In 2023, the organisation noted that a revised policy was partially implemented.<sup>1081</sup>





#### 4.6.4. Rights of the child during the asylum procedure

FRA and the Council of Europe published guidance for border officials and other authorities on protecting children at Europe's borders.<sup>1082</sup> A report by Eurochild summarises the needs of children across European countries, including that of children in migration and child applicants and beneficiaries of international protection.<sup>1083</sup>

The Finnish Non-Discrimination Ombudsperson recommended for the new government to undertake a comprehensive reform of the Aliens Act. The recommendations suggested, for example, to clearly define in law that the best interests of the child should be prioritised and which processes should be followed. The Ombudsperson highlighted again that the income requirement for family reunification has a negative impact on children who are beneficiaries of international protection.<sup>1084</sup>

The Icelandic Law on Foreigners now specifies that authorities are obliged to take into account the minority of an applicant in the assessment of an application for international protection if the child turned 18 after arriving in the country.<sup>1085</sup>

In Greece, the General Secretariat of Vulnerable Citizens and Institutional Protection was established within the Ministry of Migration and Asylum, while the Special Secretariat for the Protection of Unaccompanied Minors was abolished.<sup>1086</sup> Among other tasks, the General Secretariat contributes to the identification of minors at risk and is responsible for their protection and care. For example, the secretariat launched a new toolkit on best interest procedures, as part of a project implemented with the EUAA and UNHCR.<sup>1087</sup> In addition, the multistakeholder National Emergency Response Mechanism continued to operate throughout 2023, and authorities highlighted some of the success stories of support among the several thousands of cases in which the mechanism contributed to the identification and accommodation of unaccompanied children living in precarious conditions.<sup>1088</sup> The Network for Children's Rights observed that the online platform of the Asylum Service was often difficult for unaccompanied minors to use and navigate, and it resulted in missing important deadlines and appointments, risking to lose their reception rights.<sup>1089</sup>

The Romanian CNRR noted that authorities were not always able to prioritise applications by unaccompanied children, as foreseen in the legislation, due to the increasing number of cases overall and a lack of staff.<sup>1090</sup> In Lithuania, the Red Cross Society identified only one case where the best interests of the child were not immediately ensured, but overall the organisation assessed that inter-institutional cooperation to address the needs of minor applicants was improved throughout 2023.<sup>1091</sup>

The CGRS in Belgium planned to increase the number of training sessions on minors for protection officers in 2024. In addition, as part of a reform package on migration, the Belgian Council of Ministers approved the creation of a separate residence right for parents when their children qualify for international protection but they themselves not. These parents currently rely on a humanitarian stay, but this form of residence was not created for this purpose.<sup>1092</sup>

The Tribunal of Rome **condemned** the national authorities in the case of a minor who was not given access to the asylum procedure and was detained in Italy, before being informally readmitted to Greece. The ECtHR **concluded** that a 16-year-old was subjected to collective expulsion from Hungary to Serbia in 2017, even though he expressed his wish to apply for international protection.



The Tribunal of Naples **granted** refugee status to a Senegalese minor on the ground of membership of a particular social group of abandoned children who are victims of persecution due to their personal condition.

The CNDA in France confirmed in a series of cases that parents could submit an asylum application for a child born after the parents' request for international protection, while the application was still being examined, and invoke specific fears for the child – such as the risk of being subjected to FGM/C. The court noted that an additional interview needs to be arranged if the child-specific reasons could not be raised during the interview for the original request. Parents can also invoke the child's fears in support of their own appeal.<sup>1093</sup>

The UN CRC published its concluding observations on Finland,<sup>1094</sup> France,<sup>1095</sup> Ireland<sup>1096</sup> and Sweden<sup>1097</sup> and made recommendations on improving asylum procedures for children.

#### **4.6.5. Children in the reception system**

The continued high number of applications from unaccompanied children across several EU+ countries prompted several changes in their reception. Many issues persisted and reception conditions for children were often sub-optimal. Legislative and policy changes aimed to speed up processes and ensure suitable support, with NGOs highlighting risks that these derogations may mean in practice.

The Austrian BBU developed and published its child protection concept to ensure a safe environment for all children in its care and ensure that a child's best interests are structurally assessed throughout their reception. The concept is implemented with the support of UNICEF, for example by supporting managers with the implementation of specific actions and raising awareness of the importance of a child-oriented reporting chain. UNICEF also cooperated in the development of an online training course on basic knowledge related to child protection, which became mandatory for all BBU staff. Child protection officers continue to receive yearly training on specific issues, such as children's self-neglect or working with a parent in the country of origin. Monthly online meetings were established to discuss specific cases and propose solutions to specific challenges.<sup>1098</sup>

In Italy, legislative amendments prescribe that unaccompanied minors are accommodated in SAI facilities, following an initial stay in a government reception facility. In the event of mass arrivals of unaccompanied children when reception cannot be provided by a municipality, the prefect must activate dedicated temporary structures for minors. When these structures are momentarily not available either, youngsters above the age of 16 may be accommodated in special sections of facilities foreseen for adults for a maximum of 90 days.<sup>1099</sup> Earlier in 2023, the Department of Civil Protection had already issued an ordinance on increasing reception capacity for unaccompanied children by derogation from capacity limits set by regional or local legislation.<sup>1100</sup>

Legislative amendments in Croatia clarified that children in reception must be offered appropriate recreational activities, including outdoors.<sup>1101</sup> Establishing specific sports activities for children in reception has been an increasing trend in recent years, and for example, in 2023 a new project was started in Bulgaria with support from the Norwegian UDI.<sup>1102</sup>

The Bulgarian SAR organised a public event with UNHCR and UNICEF to discuss emerging good practices and challenges in supporting applicant and beneficiary children, as the country has a high share of applications submitted by children (both accompanied and unaccompanied) compared to the overall number of applications.<sup>1103</sup> SAR developed a child-



friendly video to inform unaccompanied children about the social services which are available in the country. Caritas Sofia continued with its project to support children in reception, which was launched in 2022 and has offered assistance to over 900 children.<sup>1104</sup> The Council of Refugee Women in Bulgaria highlighted some gaps in the reception process, for example in a particular instance when an unaccompanied child arrived over the weekend and there were no staff to register and subsequently accommodate him and instances when transfers to residential social services took place without preparing the child.<sup>1105</sup>

Fedasil in Belgium continued to increase the number of reception places for unaccompanied children, which reached a record high of 3,500 dedicated places by May 2023.<sup>1106</sup> The agency also funded specific projects to support unaccompanied children, such as the Xtra MENA project (implemented by Caritas International since 2019). In 2023, Fedasil financed a project coordinator who worked on a new reception project for unaccompanied minors with a street profile. The intention is that the project can be operationalised in 2024. In addition, a roadmap was created with input from a special working group on disappearances of unaccompanied minors, as a result of collaboration between Fedasil, the Immigration Office, the Guardianship Service, the public prosecutor, the police and ChildFocus.<sup>1107</sup>

The Finnish Immigration Service tendered new reception units, 'group homes', for children, which started their operation in November 2023.<sup>1108</sup>

In order to accelerate the transfer of unaccompanied minors from the Greek islands to the mainland, dermatological and tuberculosis examinations prior to the departure were discontinued. The authorities noted that the lack of specialised care in public hospitals on the island created significant delays in the process, and if children tested positive for tuberculosis they risked being left on an island without specialised care.

The Danish Refugee Council-Greece expressed concern about the impact on children of the termination of the ESTIA II project.<sup>1109</sup> The organisation noted that children needed to leave familiar communities and schools when moving to a government-run reception site. The organisation was also concerned that there was a decrease in services and protection actors in reception facilities.<sup>1110</sup>

The ECtHR [found](#) a violation of the ECHR, Article 3 in the case of a minor who arrived to Greece in November 2018, but his application for international protection was only registered in May 2019, and he was homeless and without a legal guardian in the period in-between. The court acknowledged the complexity for national authorities given the high number of unaccompanied children who arrived at that time but highlighted the absolute character of Article 3 that could not absolve the state's obligations.

The Spanish Children's Platform, Save the Children and UNICEF Spain expressed concern over the conditions of unaccompanied children on the Canary islands and sent recommendations to relevant authorities to urgently improve the situation. The organisations especially underlined the need for swift and accurate identification of children following disembarkation and increased resources for their care afterwards.<sup>1111</sup> The Spanish Ombudsperson also urged authorities to double the allocated resources to improve reception conditions on the Canary Islands, especially for the proper care of children.<sup>1112</sup> CEAR in Spain reported that there were no standard procedures in place to provide information on the asylum procedure to unaccompanied minors, while their arrivals by sea were increasing.<sup>1113</sup> Currently, civil society organisations actively work with asylum seekers to inform them of their rights and prepare them for the personal interview.





More unaccompanied children than expected arrived in the Netherlands, and COA and Nidos called municipalities to arrange places more rapidly for this profile. The organisations emphasised the need for a sustainable solution. The COA director appreciated the support received from many municipalities and civil society organisations.<sup>1114</sup> The State Secretary for Justice and Security noted that a shortage of reception places for unaccompanied children and adequate support staff (guardians and mentors) remained a pressing issue throughout 2023.<sup>1115</sup> To support the provision of information for unaccompanied children in reception, COA produced a new video (in Dutch) in which staff present their daily work and describe how accommodation, daily life and support are organised for the children.<sup>1116</sup>

UNHCR published a study carried out with the participation of unaccompanied children staying in Luxembourg and through consultations with professionals. It makes recommendations to improve the reception of children in several areas, including in the initial reception system, care, access to information, training for professionals, the legal representation system, schooling, psychological support, the examination of applications for international protection, age determination and family reunification.<sup>1117</sup>

The International Protection Accommodation Services (IPAS) in Ireland published a leaflet on Internet safety which was targeted at both staff and parents of children who are housed in accommodation centres. The information note, which is available in eight languages, presents common dangers with online activities and provides contact details if immediate help is required.<sup>1118</sup>

Under the Empowering Children Foundation project, the Office for Foreigners in Poland published educational material in several languages targeted at children and parents.<sup>1119</sup> The topics include the impact of smartphones and tablets on the wellbeing of children, stress management and protecting children against sexual abuse.

The Irish High Court [allowed](#) the appeal of an Afghan minor who slept on the streets without food in February 2022, as he was believed to be an adult and thus was not offered a place in reception. In addition, the Irish Ombudsperson for Children expressed concern about access to quality mental health services for vulnerable children – including applicant children and child beneficiaries of international protection – following the publication of the Independent Review of Child and Adolescent Mental Health Services by the Mental Health Commission.<sup>1120</sup>

In Czechia, the civil society organisation Organization for Aid to Refugees (OPU) started a 2-year AMIF-funded project to support unaccompanied minors and young adults in institutional care to facilitate their integration and transition to independent adulthood.<sup>1121</sup>

Concerns around the detention of children continued in 2023 as well. The Lithuanian Child Rights Protection Controller conducted several investigations into the situation of unaccompanied minors at the border and travelling through the country, particularly noting their detention. It made several recommendations to the authorities, for example, to the SBGS on ensuring swift identification and registration of children and to the Ministry of the Interior to ensure that authorities under its responsibility align their practices with international and legal acts.<sup>1122</sup>

The Helsinki Foundation for Human Rights reported on a change in the division of roles among guarded centres for foreigners in Poland, as unaccompanied children were transferred to a new family building at a different location. While staff at the previous location had valuable experience in working with unaccompanied children, the staff at the new location





lacked experience.<sup>1123</sup> The Polish Border Guard added that all officers and employees performing tasks in guarded centres where families and unaccompanied children stay are trained on an ongoing basis and individual staff members improve their qualifications during dedicated workshops and courses to ensure that they have the most up-to-date knowledge.

The ECtHR indicated interim measures to the government of Malta to ensure that the conditions were sufficient for an unaccompanied minor, according to the ECHR, Article 3. While the Aditus Foundation interpreted the measure as ordering the authorities to release the children from detention,<sup>1124</sup> the Maltese authorities clarified that the court did not order the release of a group of people claiming to be minors. The authorities underlined that when asked, all seven applicants claimed to be adults, two presented passport copies showing they were adults and all were declared to be adults by the the Agency for the Welfare of Asylum Seekers (AWAS) in the age assessment procedure.<sup>1125</sup>

In another case, the court **found** violations of Articles 3, 5(1) and 13 for the illegal detention, detention conditions and lack of an effective remedy to challenge the detention decision for an applicant who arrived to Malta in 2021 and claimed to be a minor. It underlined that the applicant's claims to be a minor were not reasoned to be unfounded or unreasonable at the domestic level, and there were no indications to believe so, and the court considered that it was not its task to speculate about the applicant's minority at the time of his arrival. The Maltese authorities indeed highlighted after the judgment that the age assessment confirmed that the person was an adult, as concluded by the medical report. This was also confirmed at the domestic appeal stage.

The court also concluded that the ECHR, Article 3 was violated for children due to the conditions in transit zones in Hungary in cases relating to 2017 and 2018, and a violation of Articles 5(1) and (4) as the families were illegally detained there.<sup>1126</sup>

In a landmark **ruling**, the Polish Constitutional Court clarified the rules on the detention of minors and provided guidance on assessing the need for detention pending a return.

#### **4.6.6. Future perspectives for applicant children**

UNICEF and the Swiss government launched the project "Supporting integration of refugee and migrant children in host EU countries" in April 2023, with six participating countries: Bulgaria, Croatia, Hungary, Poland, Romania and Slovakia. The project focuses on supporting children fleeing the war in Ukraine by strengthening national child protection systems.<sup>1127</sup> For example, in Bulgaria, the project funds the construction of the third safe zone for unaccompanied minors in the reception centre in Harmanli.<sup>1128</sup>

Legislative amendments require the minister in Iceland to establish a regulation on the assessment of the interests of a child who has applied for international protection, but a residence permit on humanitarian consideration may still be granted.<sup>1129</sup>

In Greece, 16 civil society organisations advocated for establishing a legal residence for unaccompanied children whose applications for international protection are rejected while they are still minors. The organisations underlined that these children are often left without documents and are exposed to exploitation.<sup>1130</sup> The Spanish CEAR underlined the importance of legislative changes in 2021 which prevented unaccompanied minors turning 18 to fall into a situation of irregularity, but the organisation noted that support services should still be improved, especially to ensure that young adults do not become homeless.<sup>1131</sup>





The Dutch Education Inspectorate put forward several recommendations on family facilities that are intended for families with young children who have exhausted all legal remedies related to their application for international protection. The inspectorate highlighted that the best interests of the child should be more central throughout their stay and children should always be kept in view to ensure that the necessary information is transferred from one place to another when families need to change locations.<sup>1132</sup> COA shared many of the inspectorate's concerns and observations, but it underlined that it strongly disagreed with the conclusions designating family facilities as 'structurally unsafe' as the agency has tried to limit the number of relocations, improve contacts with schools and support a school transfer when relocation is necessary. Due to the pressure on the reception system, other target groups were also accommodated in these types of locations throughout 2023.<sup>1133</sup>

For unaccompanied children turning 18 with a residence permit, the Dutch Nidos may now offer extended care and these children may stay with their reception family or a small-scale reception facility.<sup>1134</sup>



## Box 6. Return of former applicants

An effective and humane return of rejected asylum seekers is an integral part of a credible asylum system, as is the possibility to return to a country of origin voluntarily if an application for international protection is withdrawn. For the practical functioning of CEAS, returning a rejected asylum applicant effectively to the country of origin is essential or confidence in the system may collapse.



Return options include:

- Voluntary return and departure: when a person withdraws a claim and voluntarily returns to the country of origin or a person voluntarily complies with a return decision; and
- Forced return/removal: enforcement of the obligation to return through physical transportation out of a Member State.

In many cases, returnees can benefit from return counselling prior to departure to prepare for the return. In addition, reintegration support in various forms is available after arrival to the country of return.

### Key policy developments and publications

For many years, a key challenge in the area of returns has been the large discrepancy between negative asylum decisions and return decisions on the one hand and the implementation of a return on the other, as noted by Frontex in its [Risk Analysis 2023/2024](#). This gap between decisions and effective returns seems to be widening.



Source: Frontex (2024). Annual Risk Analysis 2023/2024.

In January 2023, the European Commission published a [policy document](#) highlighting challenges and obstacles to an effective return system, such as lengthy administrative and judicial procedures and an insufficient level of cooperation with countries of origin. The European Commission emphasised the importance of a unified, comprehensive and effective EU system on returns and an efficient, streamlined process for their implementation. This was followed by a [recommendation on the mutual recognition of return decisions](#) to facilitate and expedite the return process.

FRA published its [2023 update](#) of “Forced return monitoring across the EU”, in which it noted that some countries did not monitor any forced return operations, while others did so only partially. The report also points to issues related to the independence and transparency of national bodies which monitor forced returns. A key operational challenge concerns the lack of human resources and funding of national monitors.

In 2023, UNHCR issued positions on returns to [Burkina Faso](#), [Sudan](#), [voluntary returns to Ukraine](#), and the [voluntary return of Refugee Children without Parental Care, including Unaccompanied Children and Children Evacuated from Care Institutions in Ukraine](#).

The ENS reiterated the importance of having mechanisms in place to identify statelessness in the context of return procedures in order to safeguard against the arbitrary detention of stateless people and to refer them from return proceedings to statelessness determination procedures.<sup>1135</sup>

### Developments at the national level

In 2023, initiatives to support voluntary returns were developed or implemented in Austria,<sup>1136</sup> Bulgaria,<sup>1137</sup> Finland,<sup>1138</sup> Iceland<sup>1139</sup> and Norway.<sup>1140</sup>

In Germany, the federal government adopted a draft law to improve the return procedure through more and faster returns of people with no right to stay in Germany.<sup>1141</sup> Romania amended, and Bulgaria is in the process of amending, their legislation to allow for a return decision to be issued together with a negative decision on international protection, a measure aimed to render the return process more efficient.<sup>1142</sup>

In June 2023, Croatia signed a memorandum of understanding with Frontex for the deployment of experts in the country to provide technical assistance in identification and operational assistance in the implementation of voluntary and forced returns.<sup>1143</sup> Based on this memorandum, return counsellors were deployed to provide guidance to third-country nationals from countries covered by the EU Reintegration Programme. The SMA in Sweden established five special accommodation places for people who have received an enforceable decision on rejection, deportation or transfer to another country.<sup>1144</sup>

In an example of regional cooperation, Nordic ministers responsible for migration agreed on three joint initiatives to cooperate more closely in the area of migration and returns. The proposals concern joint reintegration projects in third countries, joint Nordic return operations in collaboration with Frontex, and collaboration with the IOM on the return of migrants stranded in North Africa.<sup>1145</sup>

### Indicative jurisprudence on returns beyond CJEU

**European Court of Human Rights [ECtHR], *A.M.A. v The Netherlands*:** The ECtHR found a violation of Article 3 of the ECHR due to the failure of the Dutch authorities to adequately assess in a last-minute asylum application the risk of inhuman or degrading treatment in case of a return to Bahrain.

**European Court of Human Rights [ECtHR], *A.A. v Sweden*:** The ECtHR found no violation of Articles 2 and 3 of the ECHR concerning the return of a Libyan applicant whose asylum claim was rejected.

**Germany, Higher Administrative Courts (Oberverwaltungsgerichte/Verwaltungsgerichtshof), *Applicant v Federal Republic of Germany*:** The Higher Administrative Court of Mecklenburg-Western Pomerania ruled on the removal of an Afghan national as not being contrary to Article 3 of the ECHR.

**Iceland, Immigration Appeals Board (Kærunefnd útlendingamála), *Applicants v Directorate of Immigration*:** The Immigration Appeals Board ruled that rejected applicants should be given a period of time for a voluntary return before their removal, in line with the latest amendments to the Border Act.



**Latvia, District Administrative Court [Administratīvā rajona tiesa], *Applicant v Office of Citizenship and Migration Affairs*:** The court annulled an expulsion order for a homosexual applicant from Iran whose second subsequent application was accepted for examination in substance.





### **Best interests of the child**

**Austria, Supreme Administrative Court [Verwaltungsgerichtshof - VwGH], *Applicants v Austrian Federal Office for Immigration and Asylum (BFA)***: The Supreme Administrative Court decided that the best interests of a child must be considered as part of a return decision and children could be heard in proceedings for the purpose of taking evidence, but not merely for the purpose of obtaining their opinion.

**Germany, Administrative Court [Verwaltungsgericht], *Applicant v Federal Republic of Germany***: The Administrative Court of Augsburg granted urgent legal protection against a rejection of a subsequent application and a threat of deportation on grounds related to the best interests of the child.

**Latvia, District Administrative Court [Administratīvā rajona tiesa], *A v Office of Citizenship and Migration Affairs of the Republic of Latvia***: The District Administrative Court upheld a Nigerian woman's appeal against an expulsion decision, citing the applicant's separation from her son as a violation of Article 3 of the ECHR, Article 3 of the Convention on the Rights of the Child and Article 5 of the Return Directive.

### **Right to private and family life**

**Austria, Supreme Administrative Court [Verwaltungsgerichtshof - VwGH], *Applicant v Federal Office for Immigration and Asylum (BFA)***: The Supreme Administrative Court overruled a decision of the lower court on grounds that it failed to fully examine a potential violation of the right to private and family life for the applicant and her disabled husband by not holding an oral hearing.

**Austria, Supreme Administrative Court [Verwaltungsgerichtshof - VwGH], *Applicant v Federal Office for Immigration and Asylum (BFA)***: The Supreme Administrative Court decided that public interest in a return decision had to be balanced with the right to private and family life.

**Austria, Supreme Administrative Court [Verwaltungsgerichtshof - VwGH], *Federal Office for Immigration and Asylum (BFA) v Applicant***: The Supreme Administrative Court decided that the Federal Administrative Court had deviated from the established case law of the Supreme Administrative Court on balancing interests in return decisions, pursuant to Article 8 of the ECHR.

**Finland, Supreme Administrative Court [Korkein hallinto-oikeus], *Applicant v Finnish Immigration Service (Maahanmuuttovirasto)***: The Supreme Administrative Court stated that a pending application for international protection does not have an impact on an entry and return decision since the FIS had already made a thorough assessment of *refoulement*.

For recent jurisprudence on *non-refoulement*, see Box 3.

For more jurisprudence on asylum see the [EUAA Caselaw Database](#).



## Section 5. EUAA support in 2023



*“This Regulation establishes a European Union Agency for Asylum (the ‘Agency’). The Agency...shall be a centre of expertise by virtue of its independence, the scientific and technical quality of the assistance it provides and the information it collects and disseminates, the transparency of its operating procedures and methods, its diligence in performing the tasks assigned to it, and the information technology support needed to fulfil its mandate.”*

The mandate of the EUAA is to support Member States in applying the package of EU laws which governs international protection, known as the Common European Asylum System (CEAS). The EUAA provides support structured around three pillars to assist Member States in applying CEAS, ensuring fair and efficient asylum procedures, providing high-quality reception standards and harmonising their practices:

- **Technical support** includes information collection and analysis; the development of guidance and practical tools; the exchange of expertise and good practices; and advice on legal obligations. As of 2024, the EUAA will also be mandated to monitor the implementation of EU asylum and reception obligations by Member States;
- **Training and professional development** of national asylum and reception officials to ensure a common, high-quality application of CEAS standards; and
- **Operational support** to Member States, especially those experiencing disproportionate pressure on their asylum and reception systems.

With migratory pressures and complex protection needs persisting in Europe, the Agency expanded its operational and technical support to address evolving patterns. As an integral actor in the collective EU response in addressing the needs of millions of displaced persons, the EUAA has effectively contributed to the implementation of protection solutions across Europe. In the coming years, this role will be further calibrated, as the EUAA will be supporting Member States and EU institutions in the practical implementation of the new instruments included in the New Pact on Migration and Asylum.

*For more detailed information on the EUAA’s activities, work programme and budget, please refer to the EUAA Consolidated Annual Activity Report (CAAR) 2024. For EUAA’s governance documents, please refer to the [EUAA website](#).*



## 5.1. Asylum knowledge



To provide evidence-based information to a range of audiences, including policymakers, the EUAA collects, processes, synthesises and analyses information on specific topics, latest developments, emerging topics and forecasting in the field of asylum.

### ***COI and country guidance***

The well-established [Country of Origin \(COI\) Report Methodology](#) was updated in February 2023. Based on this, the Agency produced 10 [COI reports](#) in 2023 in close collaboration with Member States. COI was produced timely, in particular to monitor the situation in Afghanistan and Ukraine. A COI guide was also developed on interviewing sources in the context of COI research.

The Agency continued to support national COI networks, facilitated information-exchanges including through 15 Country Specialist Networks, built capacity and further generated knowledge in the area of COI, while more than 1,000 responses were provided to individual requests for Medical COI (MedCOI).

To enhance convergence in EU+ decision-making practices, country guidance was produced on Afghanistan, Syria and Somalia. The Agency also provided a platform for in-depth discussions on a joint assessment of the protection needs of applicants from the Russian Federation.

Following the [roadmap for convergence](#) of the French Presidency of the Council of the EU,<sup>1146</sup> the EUAA conducted a [pilot study](#) to analyse decision-making practices on asylum claims 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. This was a comprehensive and innovative study that delved into some pivotal questions concerning CEAS.

The study found that the variations in recognition rates resulted from the complex interplay of multiple interconnected factors, such as differences in national systems and decision-making practices which are influenced by national policies, guidance and jurisprudence. The study also highlighted that the EUAA's products and activities help to reach convergence in practices and it proposed practical actions to promote further convergence.

In 2023, the EUAA also carried out an in-depth [evaluation](#) of the use and impact of its country information and guidance products. The study, which was awarded to a consortium led by Ramboll Management Consulting, specifically considered EUAA COI reports and country guidance documents which were published between 2018 and 2022. The evaluation relied on mixed methods, combining desk research, an online survey with 423 respondents from EU+ countries, fieldwork interviews in 10 countries, and horizontal interviews with members of the COI and country guidance networks, representatives from third countries, and international organisations. The findings and recommendations were validated with stakeholders during workshops in October 2023.



The study found that both the EUAA's COI and country guidance products are widely used, the former primarily by case officers and the latter mostly by policymakers. Dissemination of these products was seen to be effective by network members and increasingly diversified in their form and target audiences. The added-value of the EUAA's products compared to national sources is their authoritativeness, the consistent use of a rigorous methodology and the level of harmonisation. The study provided recommendations to further increase, monitor and evaluate the use and impact of EUAA's products over time.

### ***Information and analysis of developments in asylum***

The EUAA continued to manage and update several databases which capture national developments in asylum and reception systems in EU+ countries, in addition to court cases related to asylum. Information was included daily into the [Information and Documentation System \(IDS\) on CEAS](#), which serves as a central source of information for policymakers in EU+ countries.

Throughout 2023 consultations were held with key stakeholders on the transition into a public version of IDS to cater to information needs of multiple audiences. Its jurisprudential counterpart, the publicly-available [EUAA Case Law Database](#), covers case law related to the implementation of CEAS issued by national courts, the CJEU and the ECtHR. In 2023, there were more than 3,000 registered cases. In addition to regular quarterly publications on case law, a thematic report was published in 2023, analysing jurisprudence related to LGBTIQ applicants.

The EUAA continued updating and expanding the public platform, [Who is Who in International Protection in the EU+](#), adding components on [civil society organisations](#) operating in the area of asylum and an overview of the [role of UNHCR](#) in EU+ countries. Through interactive visualisations, the platform presents key stakeholders and their roles in a range of areas in asylum and reception systems across EU+ countries.

### ***Data analysis and research***

In line with the European Council Conclusions of February 2023, the EUAA played a pivotal role in fostering common situational awareness on the state of asylum and reception systems in EU+ countries. Through the [Early Warning and Preparedness System \(EPS\)](#), the EUAA continued to manage the exchange of a standardised set of indicators which quantify the asylum and reception situation in EU+ countries.

Work continued on early warning and forecasting to better understand the root causes of migration and support the planning of suitable policy and operational responses. In March 2024, the EUAA, the OECD and Gradus Research released a joint report analysing the experiences and aspirations of forcibly displaced Ukrainians. The 'Voices in Europe' report relies on 1,500 testimonies from the [Survey of Arriving Migrants-Ukraine](#) and delves beyond statistics to explore the experiences and diverse needs of individuals displaced by the war of aggression against Ukraine.

The Agency's strategic analysis products, including the [latest trends](#), provide national authorities and relevant EU institutions a situational overview of asylum across Europe.



### **Advancing quality standards**

To maximise the multiplying effect of expertise-sharing, the EUAA continued fostering practical cooperation and the exchange of best practices among EU+ countries on asylum processes, reception, vulnerability, courts and tribunals, and quality management. It supported the practical implementation of CEAS through the development of common [practical guides and tools](#), guidelines and operational standards. In total, 23 practical guides and tools were developed or updated in 2023 in the areas of qualification for international protection, evidence and risk assessment, evidence and credibility assessment, cooperation with investigative and prosecution authorities in the area of exclusion, Dublin transfers, victims of torture, psychoeducation, guardianship and substance use response.

The EUAA actively engaged with experts from national authorities, international and civil society organisations throughout the year. The Agency facilitated structured interactions with the CJEU and judicial associations, for over 1,000 courts and tribunal members, who actively shared their insights across the entire spectrum of international protection law.

The [Strategy on Vulnerability](#), adopted by the Agency in January 2024, defines the overarching framework for the EUAA to provide support to EU+ countries in the area of vulnerability and aims to equip asylum and reception practitioners with a clear understanding of how to operationalise the concept of vulnerability in all aspects of CEAS. The Agency also adopted the [Strategy on Digital Innovation](#) which offers a framework to enhance the effectiveness of CEAS by supporting EU+ countries in the digital transformation of asylum processes. In cooperation with Frontex, the Agency also launched an initiative to support contingency planning in reception, asylum and border management for Western Balkan countries.

## **5.2. Training and professional development**



The EUAA supports the practical implementation of CEAS by training asylum and reception officials to have the necessary knowledge, skills and autonomy to implement efficient and fair procedures, in line with EU standards. The European Asylum Curriculum, used by the Agency in its training, includes a [wide range of modules](#) which cover the entire spectrum of international protection.

To further address existing and emerging training needs, in 2023 four new training modules were developed on gender-based violence, children in the asylum process, an introduction to reception and digital communication channels. In addition, in the context of the Agency's operational activities, three tailor-made trainings were developed based on identified needs and specific requests by relevant authorities. These covered age assessments, monitoring and evaluation in resettlement and humanitarian admissions, and slavery and severe human exploitation as persecution.

The process for developing modules was further enhanced by reinforcing the consultation phase and mainstreaming fundamental rights in the European asylum curriculum. The Agency continued ensuring the quality of its training through the implementation of the EUAA Training Quality Assurance Framework, while the work for licensing and accrediting the EUAA Academy was carried out in consultation with Member States.



In total, more than 13,000 participations in EUAA training activities were recorded in 2023, and more than 7,500 learners were trained. In the context of operational assistance, the Agency delivered a number of training sessions to Asylum Support Teams and national asylum and reception officials. Similarly, in the context of its cooperation with third countries, the EUAA organised a number of training sessions for third-country authorities at the national and regional levels to assist in capacity-building.

*For a more detailed overview of the training-related activities of the EUAA in 2023, see the [Annual Training Report](#).*

### 5.3. Operational and technical assistance



A key area of work for the EUAA is to provide operational and technical assistance to Member States with the implementation of their obligations under CEAS. This can be done at the request of a Member State or on the Agency's own initiative with the agreement of the Member State when asylum or reception systems are subject to disproportionate pressure. Following a request by a Member State, the EUAA in consultation with authorities of the

Member State and other relevant stakeholders undertakes a needs assessment to define the assistance measures that will be implemented. These measures and the means to implement them are detailed in an operational plan, which is binding on the Agency, the Member State requesting the assistance and all participating Member States. Assistance typically comprises the provision of equipment and support personnel and the implementation of activities to enhance asylum and reception capacity.

The [EUAA Asylum and Reception Operational Response Catalogue](#) provides a non-binding framework that aims to increase awareness among Member States on the different types of operational support offered by the EUAA. First introduced in 2022, the catalogue played a key role throughout 2023 in enhancing the preparedness of the Agency to meet the needs of Member States.

Overall, the EUAA provided [operational support](#) to 13 EU Member States in 2023. It successfully amended or extended six operational plans (with Austria, Belgium, Czechia, the Netherlands, Slovenia and Romania) and established two new operational plans (with Bulgaria and Lithuania). Throughout 2023, the Agency assisted Member States in a range of areas, depending on the specific measures in each plan, which may include:

- the provision of hardware and equipment to national asylum and reception authorities;
- increasing the capacity and quality of processing applications for international protection;
- increasing capacity and quality of services in national reception systems;
- supporting the functioning of the Dublin procedure;
- supporting the processing of applications at second instance, including through research and analysis;
- improving information management;
- supporting vulnerability assessments and enhancing protection for unaccompanied minors;
- providing information to applicants in the context of asylum and reception; and
- assisting with voluntary relocations.



The Agency was also instrumental in implementing the 10-point plan launched by the European Commission in September 2023 to provide immediate assistance to Italy in the context of increased arrivals in Lampedusa.

Across most countries receiving operational support, a key pillar of assistance has focused on capacity-building through EUAA training modules, focused on existing needs in each country.

The deployment of experts was coordinated by the Agency through a dedicated operational deployment system, also used to deploy experts from the newly established asylum reserve pool. To enhance quality and optimise procedures across operations, the Agency established a platform to facilitate the exchange of good practices and experiences in operations and worked on the development or revision of more than 40 operational tools, including standard operating procedures, working instructions, templates, methodological guidance, reports and leaflets.

In 2023, the EUAA continued to lead the Resettlement and Humanitarian Admissions Network, which brings together national authorities of resettling EU+ countries to facilitate operational cooperation and coordination. The Agency also supported resettlement efforts from Türkiye through its Resettlement Support Facility (RSF) based in Istanbul. In 2023, the RSF offered assistance to Belgium, Bulgaria, Finland, France, Italy, Norway, Portugal, Romania and Slovenia in the implementation of their resettlement missions. The devastating earthquakes that struck Türkiye and Syria in February 2023 had a significant impact on the work of key stakeholders, including UNHCR and the Turkish Presidency of Migration Management, thus reducing capacity to organise resettlement missions.

### 5.3.1. Assessment of EUAA operational support in 2023

The Agency has established an evaluation framework to enhance the overall relevance, effectiveness, efficiency, coherence and added-value of its programmes and actions. This reflective approach contributes to institutional learning, evidence-based change management, accountability and transparency.

In line with Article 16(4) of the EUAA Regulation, evaluations were undertaken once operational plans were concluded. In 2023, the Agency completed two internal evaluations of its operational support in Bulgaria and Lithuania for the period 2022-2023. In addition, it commissioned an external evaluation of the operational plan in Spain, covering the period January 2022 to June 2023. By the end of 2023, the Agency started the evaluation of its operational support in Czechia. Ongoing operational plans agreed with Austria, Belgium, Bulgaria, Cyprus, Greece, Italy, Lithuania, Malta, Romania, Slovenia and the Netherlands were not due for evaluation.

Under the **operational plan with Lithuania**, which ran from July 2022 to June 2023, the Agency provided support with the reception of asylum seekers. The plan envisaged support with operational activities, capacity-building and technical advice on the creation of a new national reception agency. Implementation took place in a rapidly changing environment, which saw a gradual reduction in the number of asylum seekers and shifting responsibilities at the national level in a controversial legal setting. The EUAA effectively provided most of the planned activities but faced delays with the creation of the new national reception agency. Despite some structural challenges, such as those encountered in the deployment of experts, support was provided efficiently, resulting in improved workflows. The Agency's flexibility contributed to the relevance and added-value of the activities. Structured communication





flows with internal and external stakeholders supported the coherence of the operational plan. The evaluation included a number of horizontal considerations that can be taken forward in future operational activities in other geographical settings. In addition, it made recommendations related to the need to reassess the type of Agency support that could be provided to the Member State, hand-over of interpretation support, embedding of workflow management in capacity-building and the application of preconditions in operational plans.

The 2022-2023 EUAA-**Bulgaria operational plan** initially supported the implementation of the Temporary Protection Directive and, in a later stage, reception and asylum processing. Its intended results were relevant, although there was little uptake of the planned activities in the field of temporary protection. The Agency tailored activities to specific needs, delivering training sessions, interpretation support, workshops and a study visit. The provision of interpretation and training in Bulgarian were particularly appreciated by the national counterparts. Challenges in implementation were due to internal delays, limited capacity, language barriers and changes in the national context. The deployment of external experts was particularly arduous due to a shortage of experts who were proficient in Bulgarian. As a result, some activities could not be achieved by the end of the operational plan. From a wider EU perspective, the support with migration management was timely in view of the enhanced efforts for Bulgaria to access the Schengen zone. Despite this, the added-value to Bulgaria's temporary protection, asylum and reception systems was limited to varying degrees. The evaluation concluded that a longer-term presence would bring additional benefits to Bulgaria. This experience allowed the Agency to draw lessons for future initiatives. In addition, the evaluation recommended improvements in results-based planning, collaboration with external entities, the establishment of an in-country presence, and the mobilisation of local experts.

During the 18 months up to mid-2023, the **EUAA-Spain operational plan** provided support with reception, resettlement and temporary protection. The external evaluation observed significant progress across the four measures of the plan. It noted that implementation was efficient, due to the Agency's capacity to adapt to new needs and priorities. The relevance of the operational plan was confirmed as its next iteration provides continuity for most of the measures. The majority of consulted stakeholders highlighted the complementarity of the plan with coordination between actors and strategies, particularly with activities of other international actors in fields such as information provision. Finally, the EU added-value of the plan was considered very good and the EUAA's support was valued by the authorities. It allowed proposed changes to be implemented faster and more in line with EU standards. The evaluation made recommendations for the EUAA's work in the short, medium and long term, including the need to ensure better alignment between the measures in the operational plan and the time for their implementation and the opportunity to promote a knowledge management model. It also suggested a change management approach and the expansion of the pool of external trainers.

The **EUAA-Czechia operational plan** provided support from June 2022 until the end of 2023 following a high influx of arrivals from Ukraine. The Agency provided interpretation, ICT and training support. The training provided by the Agency was expected to have positive effects beyond the plan's duration. Delays were faced in the provision of interpretation support and temporary housing. The planned delivery of 200 container units for temporary accommodation was ultimately suspended due to the decrease in arrivals. Despite this, work in the field of reception was a learning opportunity for the Agency in view of future requests. The evaluation recommended follow-up on training achievements.





In 2023, the Agency undertook for the first time an internal **meta-evaluation** that reviewed follow-up actions and findings from three horizontal reports relating to 12 operational plans implemented in 2019, 2020 and 2021, as well as horizontal conclusions from six internal evaluations conducted between May 2022 and August 2023. The meta-evaluation identified clusters of follow-up actions that required additional attention and made recommendations on the horizontal findings of the six internal evaluations. These recommendations related to the complementarity between emergency, long-term and permanent support, including with AMIF support, and enhanced preparedness for new (start-up) operational plans. In addition, it recommended improved planning and better articulation of the Agency's support through interpretation activities. It also suggested a revisit of the deployment mechanism for asylum support teams. The meta-evaluation emphasised the need for enhanced data collection and reporting of training outputs, considering the many achievements in this field.

### Selected highlights from the EUAA's operational support in 2023

- Under the Spain 2022-2023 operational plan, 1,803 stakeholders participated in training sessions with high rates of satisfaction. This was a significant increase compared to the 2021 plan, when 280 individuals were trained. In addition, the Agency contributed to the design and implementation of the temporary protection information hotline in the Centres for Reception, Attention and Transfers (CREADEs), considered by the authorities as a good practice.
- In Bulgaria, interpretation and capacity-building activities were small in scale. However, since 2023 these became more relevant from a wider EU perspective, given the prioritisation of EU migration management in Bulgaria in view of its accession to the Schengen area.
- In Lithuania, the Agency delivered 11 training sessions involving 197 participations. In addition, it provided interpretation services and vulnerability support in five reception centres. The gradual use of the special needs and vulnerability assessment (SNVA) tool and information desk by national counterparts may last beyond the duration of the operational plan.
- The Czechia plan boosted CEAS-related training. The growing collaboration generated 24 training sessions involving 214 individuals, covering topics such as the legal framework, ethics and professional standards, vulnerable groups and interpretation.

## 5.4. Third-country support



As the centre of expertise on asylum, the EUAA plays an important role in strengthening CEAS by working with third countries. The revised [external cooperation strategy](#), adopted in March 2023, provides the framework for this work, which is based on the understanding that a stable and functioning CEAS is contingent not only on improving legislation and procedures within Europe, but also on enhancing capacity in asylum and reception systems of third countries. In developing and implementing activities with third countries, the EUAA cooperates with a range of stakeholders, including EU+ countries, the European Commission, the EEAS and JHA agencies.



To continue practical cooperation on external dimension activities, in 2023 the Agency organised meetings of the Third Country Cooperation Network and the working group on cooperation with the Western Balkans, Türkiye and the Middle East and North Africa (MENA) region. Practical cooperation among EU+ countries was further facilitated through the third country support platform and the overviews of asylum and reception systems of various third countries, hosted on the Third Country Cooperation Network's website.

Cooperation with Western Balkan countries was strengthened through six roadmaps, within the framework of a EUR 6 million programme implemented in partnership with Frontex, the IOM and UNHCR. The work included aligning local asylum legislation with CEAS; introducing standard operating procedures in line with EU practices; capacity-building of local personnel, including through EUAA training modules; and direct support provided by experts from EU+ countries.

The external dimension of the Agency's work also comprises sustained cooperation with the Presidency of Migration Management (PMM) of the Turkish Ministry of the Interior. This cooperation aims to improve knowledge and capacity to manage fluctuating migration movements and to develop asylum and reception systems, with special attention to people with special needs. Following the February 2023 earthquakes in Türkiye, the EUAA-PMM Roadmap for Cooperation was partially suspended, as the PMM redirected its efforts toward emergency responses. Nevertheless, a total of 25 activities were carried out in key areas, including COI, registration, project cycle management, identification and referral of applicants with special needs, and verification of the identity and country of origin of applicants.

#### List of EUAA roadmaps for bilateral cooperation

- Albania
- Bosnia Herzegovina
- Egypt
- Kosovo
- Niger
- Montenegro
- North Macedonia
- Serbia
- Türkiye

Another component of the Agency's external dimension work concerns the cooperation with MENA countries. Through the EUAA-Egypt roadmap for cooperation, the Agency continued to support Egypt's efforts in establishing an asylum system. At the regional level, in the context of North Africa, a shortage of human resources and the military coup in Niger in July 2023 significantly curtailed the Agency's ability to deliver planned activities.





### 5.4.1. Assessment of the EUAA's third country support in 2023

The EUAA commissioned three external evaluations in 2023 covering the roadmaps for cooperation with Montenegro (2022-2023) and Kosovo<sup>iii</sup> (2022-2024) and cooperation with the [Migration, Asylum, Refugees Regional Initiative \(MARRI\)](#) established for the period 2017-2022. The Agency also internally evaluated the 2022-2023 roadmap for cooperation with the PMM in Türkiye.

The EUAA cooperation with **MARRI** was concluded in 2023. The [evaluation](#) found that MARRI's capacity improved in recent years as a result of the support provided by its donor or partner organisation and experience through project implementation. The evaluation also identified resource limitations and recommended that further cooperation be subject to an assessment of risks and potential benefits.

The Agency concluded the implementation of the 24-month-long roadmaps with **Montenegro** and **Kosovo**, ending in December 2023 and February 2024, respectively. The evaluations found that both roadmaps were of continued relevance to the needs of partner authorities, owing to their capacity to adapt to emerging needs and allow for enhanced preparedness. This was evident in the response to an unexpected influx of Ukrainian arrivals in 2022 in Montenegro. The provision of support through the development of procedures, study visits and practical guidance contributed to the strengthening of institutional and individual capacities in the administrations. While the evaluations identified some delays, in part due to limited human resources and absorption capacities, the roadmaps' benefits outweighed the costs and were coherent with EU policy and partner priorities. The evaluations recommended better alignment between the roadmaps' objectives and capacity for delivery, with clarified roles, a strengthened monitoring framework and enhanced cooperation with organisations on the ground.

The outcomes of roadmap for cooperation between the EUAA and **the PMM** aligned well with the authorities' needs and the broader framework of the Team Europe approach. Notwithstanding the ambitious number of planned results, limited resources and contextual challenges, the effectiveness of the roadmap was overall good. Activities, such as study visits, were undertaken in close collaboration with EU+ countries. The evaluation found capacity-building initiatives to be particularly relevant. The EUAA's added-value was in the coordination of activities, leading to better effectiveness and coherence. The evaluation recommended extending the roadmap's duration and widening the scope of cooperation, while focusing on fewer results, improving preparation and follow-up activities, and enhancing in-country coordination and synergies.

## 5.5. Protection of fundamental rights



The EUAA Regulation introduced provisions to ensure that the Agency's tasks fully adhere to fundamental rights, including the appointment of a Fundamental Rights Officer (FRO) who reports to the Agency's Management Board and is responsible for the development of the Agency's Fundamental Rights Strategy.

The regulation also provides for the establishment of a complaints mechanism to respond to claims of breaches of fundamental rights in the context of the Agency's operations.

<sup>iii</sup> This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.



The Agency's first FRO was [appointed](#) in May 2023. During the year, the FRO undertook three on-site visits to operational sites in Cyprus, Greece and Malta and provided his observations. He also presented the foundation for an accessible complaints mechanism, while an 'escalation process' would enable the Executive Director, after consulting with the FRO and informing the host Member State, to suspend or terminate, in whole or in part, the deployment of Asylum Support Teams when it is considered that there are violations of fundamental rights or international protection obligations by the host Member State that are of a serious nature or are likely to persist. Consultations were also held with the European Commission in view of the adoption of the mechanism, which is expected in 2024.

## 5.6. Consultative forum and civil society organisations



Civil society organisations can bring unique expertise and knowledge to the discourse on asylum and current practices. The Agency's Consultative Forum, initially established in 2011 as part of EASO, is the main channel for dialogue and cooperation with civil society organisations working in asylum at the local, European and international levels. The organisations actively participate in EUAA activities and provide feedback to publications.

Following the entry into force of the EUAA Regulation, the Consultative Forum was reinforced, it exercises its tasks independently and advises the Executive Director and the Management Board on asylum-related matters, in accordance with the Agency's specific needs in priority areas.

The activities of the reconstituted Consultative Forum increased considerably. Key priorities in 2023 included:

- Developing and agreeing to the working methods of the Consultative Forum, which were established with input provided by members themselves and through several rounds of consultations.
- Establishing thematic consultation groups on COI and persons in a vulnerable situation, with both groups convening twice in 2023 to develop their working methodologies, exchange information on activities and plan the activities for 2024.
- Establishing and maintaining cooperation with the Agency's FRO, with a number of meetings taking place to discuss the development of the Agency's Fundamental Rights Strategy and the complaints mechanism, which underlined the important role of civil society organisations in raising awareness about the complaint mechanism. The draft Fundamental Rights Strategy and accompanying Action Plan, as well as the draft rules for the complaints mechanism, were shared with the Consultative Forum for their feedback in December 2023.

Other areas of work which involved the Consultative Forum included consultations on the European Asylum Curriculum and the development of training modules; an exchange of information on the Agency's monitoring mechanism and the role of civil society organisations in sharing input; and sharing expertise in the framework of the [Let's Speak Asylum](#) project (see [Section 3.8.1](#)).

*For a more detailed overview of the EUAA Consultative Forum in 2023, see the [EUAA website](#).*

## 5.7. Monitoring the implementation of CEAS



The EUAA Regulation includes an enhanced mandate which calls the Agency to work closely with Member States to monitor how the legal obligations of the EU asylum *acquis* are applied in practice; assess Member States' capacity to manage pressure; prevent shortcomings; identify existing limitations; and assist Member States to address them.

In 2023, the Agency's work in this area focused on developing a methodology for monitoring in view of the gradual roll-out of the monitoring mechanism. A Monitoring Advisory Group, which includes Member States, the European Commission and UNHCR, was created to facilitate exchanges on technical aspects of the mechanism. In addition, the Agency held consultations with external stakeholders with relevant expertise, such as Frontex, FRA, EIGE and the Council of Europe. The methodology will be further finetuned and pilot exercises are expected to take place in 2024.

## 5.8. EUAA Presidency of the JHA Agencies Network 2023



In carrying out its mandate, the EUAA works in regular cooperation with the other eight Agencies operating in the area of Justice and Home Affairs (JHA) and addressing security, justice, fundamental rights and gender equality. In 2023, the EUAA held the rotating presidency of the [JHA Agencies Network \(JHAAN\)](#), which was established in 2010 to increase inter-agency cooperation and explore synergies in areas of common interest.

### The JHA Agencies Network

- EU Agency for Law Enforcement Training (CEPOL)
- European Institute for Gender Equality (EIGE)
- European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)
- EUAA
- European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)
- European Union Agency for Criminal Justice Cooperation (Eurojust)
- European Union Agency for Law Enforcement Cooperation (Europol)
- European Union Agency for Fundamental Rights (FRA); and
- Frontex.

Taking into account the work of the network, the mandates of JHA agencies and the overall political context, the EUAA Presidency identified five main priorities for the network in 2023:

- Digitalisation, covering issues related to the use of AI, biometrics and interoperability;
- Implementation of the EU Green Deal in JHA Agencies;
- Information provision in mixed migration situations;
- Cybersecurity; and
- Internal and external communication to increase awareness and promote the network's activities and functioning.



## Justice and Home Affairs (JHA) Network of Agencies – Priorities of the EUAA Presidency 2023

- Digitalisation
- Implementation of the EU Green Deal
- Information provision in mixed migration situations
- Cybersecurity
- Internal and external communication on the network's activities and functioning



Highlights from the EUAA Presidency in 2023 include:

A conference on **digital innovation** was organised to take stock of technological developments and related needs in the context of asylum and migration. The conference focused on challenges and opportunities in interconnecting systems at national and international levels and showcased inspiring cross-border cooperation in the field of justice and home affairs.

A survey of JHA agencies' **environmental and greening activities** was carried out to determine the current state of play, identify areas of interest for future activities, and take stock of the agencies' efforts, best practices and lessons learned. The [results of the survey](#) were published in July 2023.

Two **cybersecurity exercises** were conducted to enhance security and the resilience of JHA agencies against potential cyber threats.

A survey was developed to collect information on JHA agencies' **activities in information provision**. Two seminars were organised focusing on *how* to provide information in mixed migration contexts and *what* information should be provided in these situations.



The first-ever **Staff Exchange Programme** took place under the EUAA Presidency, which encouraged short-term mobility across agencies to foster expertise-sharing.

A [joint publication](#) on JHA agencies' contributions to the **EU's solidarity with Ukraine** was published. It provides an overview of the actions taken by the Agencies to support the EU, Member States and EU partners, such as third countries and international organisations, in view of Russia's military aggression in Ukraine.

An annual exchange of JHA agencies on the **charter of Fundamental Rights of the EU** was organised to discuss promoting these rights, both internally and externally. This was the fourth exchange since the Heads of the JHA agencies signed a joint statement on the implementation of the Charter in November 2019. It was the first time, however, that the exchange was held as a side event of the pilot process 'CharterXChange', a unique forum jointly run by FRA and the European Commission, which provides a platform for legal practitioners and other stakeholders to explore current and potential applications of the Charter and ways to drive positive change to enhance people's rights.

*For more detailed overview of activities under the 2023 EUAA Presidency of the JHA Agencies Network, see the [JHAAN Newsletter](#).*



## Concluding remarks

In 2023, European countries continued to host a record number of people in need of protection, as asylum applications climbed for the second year in a row. Conflict, persecution, human rights violations, natural disasters and degrading ecosystems kept forcing millions of people to leave their homes, with some seeking protection in Europe.

Over 1.1 million applications lodged in EU+ countries in 2023 is reminiscent of the numbers in 2015 and 2016, the years of the migration crisis in Europe. At the same time, EU+ countries issued over 1.1 million decisions granting temporary protection to displaced persons from Ukraine, with the conflict continuing and the country still experiencing the devastating results of the Russian invasion. A notable difference between the years 2015-2016 and 2022-2023 is that during the migration crisis the increased number of applications came from a few select countries, while currently applicants originate from a larger number of countries, thus necessitating higher diversity in guidance to effectively assess protection needs.

Understandably, the combined total of people seeking protection placed asylum and reception systems in Europe under extreme pressure. Protection solutions were identified due to political will in allocating additional resources and the combination of efforts and expertise by multiple stakeholders at EU, national and local levels. In contrast to 2015-2016, the past year has not been presented as a 'crisis' in public discourse, while national administrations catered to more people in need of international and temporary protection. This indicates that, despite limitations to varying degrees in the functioning of national asylum and reception systems, European countries have made progress in increasing their preparedness and are better equipped to manage a high inflow of people seeking protection.

Nevertheless, gaps and deficiencies were widespread in reception systems with frequent reports by international organisations, national human rights institutions, ombudspersons and civil society organisations about substandard living conditions, limited support services and homelessness. Asylum authorities have also reported that arriving applicants are of growingly poorer health, likely a result of the more dangerous journeys they take to reach Europe. Responding methodically and systematically to such health needs means that more resources are required. As it is evident that pressure will persist in the years to come, EU+ countries need to programme and invest accordingly to enhance processing capacity and strengthen reception systems in order to provide dignified reception conditions to people in need.

Amidst the efforts made by EU+ countries to provide effective protection and the reported limitations in the functioning of asylum and reception systems, the role of judicial institutions in interpreting the EU asylum *acquis* and guiding the practical implementation of CEAS has been decisive. Both the CJEU and national judicial institutions continued scrutinising national legislation, policies and practices in a number of CEAS-related areas, with a particular emphasis on effective access to the territory and the asylum procedure and the application of the principle of *non-refoulement*, the Dublin procedure, the assessment of applications, reception conditions (including safeguards for applicants with special needs) and detention. In response to rising applications, it is expected that attempts to externalise the processing of applications for international protection will remain on the political agenda. In this context, it will be essential that national courts carry out judicial reviews to ensure that fair and efficient asylum proceedings are provided to applicants.





With a significant share of pending cases awaiting a decision at second instance, it is expected that court decisions will increasingly define lawful practices and influence asylum policies in EU+ countries. To this end, it is essential to allocate resources to advance professional development and expertise on asylum among national judges. It is also of paramount importance that authorities follow court decisions to bolster confidence in and safeguard the integrity of CEAS.

An area that generated much discussion in 2023, similar to previous years, was the dual challenge of border management and effective access to protection for those in need. Significant steps were taken in 2023 to calibrate an integrated European border management system to effectively control external land and sea borders and safeguard the functioning of the Schengen area. This was done through interconnection and the interoperability of information systems on borders and security, closer coordination between European agencies and national authorities, and cooperation with third countries. In addition, a key component of the European integrated border management, as sketched out by the European Commission in 2023, is full respect for fundamental rights. Nevertheless, on a number of occasions reports emerged of practices inhibiting effective access to territory for people who may have been in need of protection. It is of essence for EU+ countries to put in place and sufficiently equip independent mechanisms to monitor human rights compliance at the borders, as also foreseen in the Pact on Migration and Asylum.

Undoubtedly, the political agreement on and the subsequent practical steps taken toward the adoption of the pact have been a major breakthrough in the evolution of CEAS. In its historical evolution, CEAS has always driven EU+ countries to improve their asylum and reception systems and increase protection standards. The pact intends to offer a modern asylum system that is, indeed, multifaceted and provides a variety of instruments. It aims to help countries address a complex reality within a migratory landscape defined by multiple, diverse and often unpredictable parameters. As not all possible scenarios can be accounted for, the pact aims to strengthen solutions and expand the range of possibilities through the different instruments.

Drafting common legislation, albeit important, is only one step toward a unified asylum policy and harmonised protection standards. Equally critical is the application of the rules in a converging and harmonised way. The months following the adoption of the pact will be a busy but constructive period, when countries, with guidance from the European Commission and support from EU agencies, will put in place the necessary arrangements for the practical functioning of the pact. In this process and beyond, the EUAA will continue being a vital component of the European asylum architecture, providing technical, operational and training support to EU+ countries. With its reinforced mandate, the Agency will work closely with countries to monitor how the legal obligations of the EU asylum *acquis* are applied in practice, prevent shortcomings, identify existing limitations and assist countries in addressing them.



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# Reader's guide

## Legal basis

The *EUAA Asylum Report: Annual Report on the Situation of Asylum in the European Union* is produced in accordance with the EUAA Regulation, Articles 69, 16(4), 20(7), 35(6), 50(5b) and 51(10).

Its objective is to provide a comprehensive overview of the situation of asylum in EU Member States and Iceland, Liechtenstein, Norway and Switzerland (EU+ countries), describing and analysing flows of applications for international protection, major developments in legislation, jurisprudence and policies at the European and national levels, and the practical functioning of CEAS.

The production process follows the methodology and basic principles agreed by the Agency's Management Board in 2013. Drafts are disseminated to the Management Board for their comments prior to its formal adoption and public launch.

## Qualitative information

Primary factual information presented in the report was collected by the EUAA throughout the year in the framework of its the information management activities organised around the EUAA [Information and Documentation System](#) (IDS). This involves desk research on developments related to each step of the asylum procedure and the validation of the information by representatives of national authorities. Bilateral calls were organised with IDS focal points, who are nominated representatives of national authorities, to confirm, amend and add new information to ensure an accurate and comprehensive picture of developments in 2023.

The European Commission was consulted during the drafting process, in accordance with its role under the 1951 Convention relating to the Status of Refugees, Article 35, which is reflected in EU Treaties and the asylum *acquis* instruments. UNHCR was also consulted during the drafting process, and public information produced by its experts were included in the report.

The report provides an analysis based on a wide range of duly-referenced sources of information to reflect ongoing debates at the European level. It also identifies areas where improvement is most needed (and thus where the EUAA and other key stakeholders should focus their efforts), in line with its declared purpose of improving the quality, consistency and effectiveness of CEAS. To that end, the EUAA takes due account of information already available from other relevant sources, as stipulated in the EUAA Regulation, including from EU+ countries, EU institutions and agencies (such as Frontex and FRA), civil society organisations, international organisations and academia.

An open call for contributions was launched to members of the Agency's Consultative Forum and other civil society stakeholders to share relevant publications and information on their work which is relevant to the functioning of CEAS.



Jurisprudence was collected throughout the year and added to the [EUAA Case Law Database](#), a public platform which serves as a point of reference for European and national case law related to CEAS. In addition, members of the EUAA Network of Courts and Tribunal members contributed to the report by providing relevant examples of national case law. Links to cases in the report redirect to the English summary in the EUAA Case Law Database.

The Asylum Report 2024 covers the period 1 January to 31 December 2023 but also refers to relevant developments in the year of writing. Whenever possible, information referring to 2023 was based on the most up-to-date sources available at the time of adoption of the report by the EUAA Management Board.

The report is not exhaustive and country examples presented in the report serve only as illustrations of relevant aspects of CEAS.

## Quantitative information

Quantitative information was obtained from the EUAA's [\(EPS\) data exchange](#), which comprises data collected from EU+ countries on a monthly basis (Iceland and Liechtenstein do not presently take part in the EPS data exchange). The data are submitted by ministries and national administrations, in the framework of the EUAA Regulation, Articles 5 and 6.

The data shared with the EUAA by EU+ countries are provisional and unvalidated, and therefore may differ from validated data submitted at a later date to Eurostat, according to Regulation (EU) 2020/851 amending Regulation (EC) 862/2007.

The EPS data published in this report were extracted on 1 February 2024. The EUAA EPS data cover the first instance determination process and repeated applications, only for EU-regulated international protection status.

The annual data presented in the annexes are computed as the aggregation of data submitted to the EUAA throughout the year on a monthly basis.

The following indicators are presented in this report:

- Applicants for international protection
- Asylum applicants considered to be unaccompanied minors
- Asylum decisions at first instance
- Pending cases at first instance
- Withdrawn asylum applications
- Otherwise-closed applications
- Decisions received on outgoing Dublin requests
- Implementation of accepted outgoing Dublin requests
- Use of the discretionary clause (Article 17(1) of the Dublin III Regulation).

Data of a magnitude of 5 or lower are rounded to nearest five multiple. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

All data reported to the EUAA refer to the individual person covered by an administrative event (e.g. asylum application, Dublin request, decision, etc.). All accompanying family members are thus reported individually, irrespective of the national legal requirements or administrative procedures.

Previous editions of this report were primarily based on data collected by Eurostat in the context of Regulation (EU) 2020/851 amending Regulation (EC) 862/2007. As such, figures presented in this report and last year's edition are not fully comparable.

## Accompanying products to the Asylum Report 2024

The *Asylum Report* is accompanied by various, user-friendly tools which can be used to filter information which is presented in the report.

The Executive Summary of the report is translated into all EU+ languages, in addition to Arabic, Turkish and Western Balkan languages.

A [storytelling feature](#) on the EUAA website presents a short summary of the key topics addressed in the main report.

The [National Asylum Developments Database](#) presents the legislative, institutional and policy developments which are described in the report. Updates can be searched by country, topic, year and type of development. The information is also summarised and presented in a table by country and by thematic area in a PDF document.

The report presents a selection of jurisprudential developments based on the [EUAA Case Law Database](#). The hyperlinks within the text will bring readers to the specific case in the database.

The sources used for the production of the *Asylum Report* are presented in the list of references at the end of the report. They are also available in a separate, detailed [Sources on Asylum 2024](#), grouped by type of source. Readers can easily identify whether sources are from European institutions and agencies, international organisations, national authorities, civil society organisations or think tanks and academia. A list of legislation and case law referenced in the report is also provided.



# Annex. Statistical tables

## Table A1. Number of asylum applicants in EU+ countries by reporting country and main citizenships, 2022-2023

	2022	2023	Share in EU+	Change from 2022	2023		
					First	Top three groups Second	Third
<b>Reporting country</b>							
Germany	230,918	<b>334,109</b>	<b>29.2%</b> ↑	44.7%	Syria (29%)	Türkiye (18%)	Afghanistan (15%)
France	156,568	<b>167,002</b>	<b>14.6%</b> ↑	6.7%	Afghanistan (11%)	Türkiye (7.4%)	Guinea (6.9%)
Spain	117,997	<b>162,439</b>	<b>14.2%</b> ↑	37.7%	Venezuela (37%)	Colombia (33%)	Peru (8.8%)
Italy	83,618	<b>136,138</b>	<b>11.9%</b> ↑	62.8%	Bangladesh (17%)	Egypt (13%)	Pakistan (13%)
Greece	37,386	<b>64,084</b>	<b>5.6%</b> ↑	71.4%	Syria (22%)	Afghanistan (15%)	Palestine (10%)
Austria	108,895	<b>58,686</b>	<b>5.1%</b> ↓	-46%	Syria (36%)	Afghanistan (15%)	Türkiye (13%)
Netherlands	36,119	<b>39,550</b>	<b>3.5%</b> ↑	9.5%	Syria (33%)	Türkiye (7.3%)	Eritrea (6.1%)
Belgium	36,814	<b>35,248</b>	<b>3.1%</b> ↓	-4.3%	Syria (11%)	Afghanistan (11%)	Palestine (9.2%)
Switzerland	24,534	<b>30,238</b>	<b>2.6%</b> ↑	23.2%	Afghanistan (26%)	Türkiye (23%)	Eritrea (7.0%)
Bulgaria	20,372	<b>22,519</b>	<b>2.0%</b> ↑	10.5%	Syria (55%)	Afghanistan (26%)	Morocco (11%)
Ireland	13,480	<b>13,278</b>	<b>1.2%</b> →	-1.5%	Nigeria (16%)	Algeria (11%)	Afghanistan (8.4%)
Sweden	17,598	<b>12,309</b>	<b>1.1%</b> ↓	-30%	Afghanistan (11%)	Iraq (8.0%)	Syria (7.6%)
Cyprus	21,567	<b>11,731</b>	<b>1.0%</b> ↓	-46%	Syria (53%)	Nigeria (8.0%)	Afghanistan (6.3%)
Romania	12,354	<b>10,132</b>	<b>0.9%</b> ↓	-18%	Bangladesh (28%)	Syria (19%)	Pakistan (12%)
Poland	9,892	<b>9,519</b>	<b>0.8%</b> ↓	-3.8%	Belarus (39%)	Ukraine (19%)	Russia (19%)
Slovenia	6,787	<b>7,261</b>	<b>0.6%</b> ↑	7.0%	Morocco (79%)	Algeria (6.0%)	Pakistan (1.8%)
Norway	5,531	<b>5,497</b>	<b>0.5%</b> →	-0.6%	Syria (29%)	Ukraine (23%)	Türkiye (9.7%)
Finland	5,827	<b>5,372</b>	<b>0.5%</b> ↓	-7.8%	Somalia (17%)	Syria (13%)	Iraq (12%)
Estonia	2,943	<b>3,981</b>	<b>0.3%</b> ↑	35.3%	Ukraine (95%)	Russia (1.9%)	Afghanistan (.40%)
Luxembourg	2,271	<b>2,504</b>	<b>0.2%</b> ↑	10.3%	Syria (29%)	Eritrea (16%)	Afghanistan (5.2%)
Denmark	4,546	<b>2,427</b>	<b>0.2%</b> ↓	-47%	Syria (20%)	Afghanistan (18%)	Eritrea (8.2%)
Portugal	2,204	<b>1,998</b>	<b>0.2%</b> ↓	-9.3%	Afghanistan (13%)	Colombia (8.6%)	The Gambia (8.3%)
Croatia	2,722	<b>1,747</b>	<b>0.2%</b> ↓	-36%	Russia (37%)	Afghanistan (11%)	Türkiye (10%)
Latvia	622	<b>1,701</b>	<b>0.1%</b> ↑	173.5%	Syria (21%)	Afghanistan (19%)	Iran (12%)
Czechia	1,639	<b>1,397</b>	<b>0.1%</b> ↓	-15%	Türkiye (15%)	Vietnam (9.7%)	Uzbekistan (9.2%)
Malta	1,259	<b>729</b>	<b>0.1%</b> ↓	-42%	Syria (17%)	Bangladesh (16%)	Sudan (9.9%)
Lithuania	1,051	<b>575</b>	<b>0.1%</b> ↓	-45%	Belarus (50%)	Russia (9.6%)	Syria (5.4%)
Slovakia	547	<b>416</b>	<b>0.0%</b> ↓	-24%	Türkiye (33%)	Bangladesh (15%)	Ukraine (7.7%)
Hungary	46	<b>31</b>			Russia (29%)	Unknown (16%)	Afghanistan (13%)
EU+	966,107	<b>1,142,618</b>	<b>100.0%</b> ↑	18.3%	Syria (16%)	Afghanistan (10%)	Türkiye (9%)
<b>Type of applicant</b>				<b>Countries of origin</b>			
First time	885,811	<b>1,061,699</b>	<b>92.9%</b> ↑	19.9%	Syria (17%)	Afghanistan (9.8%)	Türkiye (9.1%)
Repeated	80,042	<b>78,926</b>	<b>6.9%</b> →	-1.4%	Afghanistan (13%)	Türkiye (5.9%)	Nigeria (5.5%)
Relocated	254	<b>1,993</b>	<b>0.2%</b> ↑	684.6%	Côte d'Ivoire (2%)	Syria (19%)	Afghanistan (15%)
Unknown							
<b>Claimed unaccompanied minors</b>				<b>Countries of origin</b>			
Not UAMs	921,682	<b>1,100,644</b>	<b>96.3%</b> ↑	19.4%	Syria (15%)	Afghanistan (9.3%)	Türkiye (9.0%)
Claimed UAMs	42,786	<b>40,577</b>	<b>3.6%</b> ↓	-5.2%	Syria (30%)	Afghanistan (29%)	Somalia (5.5%)
Unknown	1,639	<b>1,397</b>	<b>0.1%</b> ↓	-15%	Türkiye (15%)	Vietnam (9.7%)	Uzbekistan (9.2%)
<b>Countries of origin</b>				<b>Reporting countries</b>			
Syria	131,791	<b>181,356</b>	<b>15.9%</b> ↑	37.6%	Germany (53%)	Austria (12%)	Greece (7.7%)
Afghanistan	129,000	<b>114,344</b>	<b>10.0%</b> ↓	-1%	Germany (44%)	France (17%)	Greece (8.3%)
Türkiye	55,446	<b>100,807</b>	<b>8.8%</b> ↑	81.8%	Germany (61%)	France (12%)	Austria (7.7%)
Venezuela	50,839	<b>67,922</b>	<b>5.9%</b> ↑	33.6%	Spain (89%)	Germany (5.5%)	Italy (2.1%)
Colombia	43,280	<b>63,123</b>	<b>5.5%</b> ↑	45.8%	Spain (85%)	Germany (5.2%)	Italy (3.4%)
Bangladesh	33,731	<b>40,332</b>	<b>3.5%</b> ↑	19.6%	Italy (58%)	France (25%)	Romania (7.0%)
Pakistan	37,295	<b>34,609</b>	<b>3.0%</b> ↓	-7.2%	Italy (49%)	France (12%)	Greece (12%)
Morocco	21,898	<b>30,877</b>	<b>2.7%</b> ↑	41.0%	Austria (22%)	Slovenia (19%)	Italy (17%)
Egypt	15,441	<b>26,512</b>	<b>2.3%</b> ↑	71.7%	Italy (69%)	Greece (9.4%)	Germany (5.6%)
Iraq	27,064	<b>26,131</b>	<b>2.3%</b> ↓	-3.4%	Germany (43%)	Greece (24%)	Netherlands (6.1%)
Other	420,322	<b>456,605</b>	<b>40.0%</b> ↑	8.6%	France (25%)	Germany (22%)	Italy (14%)

**Notes:** Data for Portugal were not available for October-December 2023. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.



**Table A2. Number of decisions at first instance in EU+ countries by reporting country and main citizenships, 2022-2023**

	2022	2023	Share in EU+	Change from 2022	2023		
					First	Top three groups Second	Third
<b>Reporting country</b>							
Germany	198,455	<b>218,547</b>	<b>32.3%</b>	↑ 10%	Syria (38%)	Afghanistan (17%)	Türkiye (8.4%)
France	129,374	<b>132,568</b>	<b>19.6%</b>	→ 2.5%	Afghanistan (15%)	Türkiye (8.2%)	Bangladesh (7.4%)
Spain	88,811	<b>90,078</b>	<b>13.3%</b>	→ 1.4%	Venezuela (45%)	Colombia (18%)	Morocco (5.1%)
Greece	38,698	<b>40,181</b>	<b>5.9%</b>	↔ 3.8%	Afghanistan (17%)	Palestine (16%)	Iraq (14%)
Austria	38,767	<b>37,161</b>	<b>5.5%</b>	↓ -4.1%	Syria (46%)	Morocco (15%)	Afghanistan (7.7%)
Belgium	22,577	<b>25,613</b>	<b>3.8%</b>	↑ 13%	Afghanistan (27%)	Syria (11%)	Eritrea (7.3%)
Italy	32,939	<b>25,558</b>	<b>3.8%</b>	↓ -22%	Bangladesh (15%)	Pakistan (14%)	Nigeria (9.0%)
Netherlands	18,759	<b>20,134</b>	<b>3.0%</b>	↑ 7.3%	Syria (40%)	Yemen (8.8%)	Türkiye (6.4%)
Switzerland	12,417	<b>17,000</b>	<b>2.5%</b>	↑ 37%	Afghanistan (38%)	Türkiye (20%)	Eritrea (11%)
Cyprus	10,002	<b>14,894</b>	<b>2.2%</b>	↑ 49%	Nigeria (21%)	Syria (14%)	Bangladesh (11%)
Sweden	9,592	<b>11,155</b>	<b>1.6%</b>	↑ 16%	Afghanistan (14%)	Iraq (9.2%)	Syria (7.7%)
Bulgaria	4,818	<b>8,739</b>	<b>1.3%</b>	↑ 81%	Syria (66%)	Morocco (23%)	Iraq (3.2%)
Ireland	4,418	<b>8,465</b>	<b>1.2%</b>	↑ 92%	Georgia (25%)	Somalia (11%)	Nigeria (8.1%)
Poland	6,602	<b>6,525</b>	<b>1.0%</b>	→ -1.2%	Belarus (45%)	Ukraine (19%)	Russia (16%)
Romania	3,859	<b>5,327</b>	<b>0.8%</b>	↑ 38%	Bangladesh (36%)	Syria (14%)	Nepal (11%)
Estonia	2,199	<b>3,987</b>	<b>0.6%</b>	↑ 81%	Ukraine (95%)	Russia (2.3%)	Belarus (6.8%)
Norway	1,419	<b>2,892</b>	<b>0.4%</b>	↑ 104%	Syria (51%)	Afghanistan (13%)	Eritrea (9.0%)
Finland	2,038	<b>1,995</b>	<b>0.3%</b>	→ -2.1%	Somalia (15%)	Iraq (14%)	Afghanistan (13%)
Denmark	805	<b>1,360</b>	<b>0.2%</b>	↑ 69%	Afghanistan (40%)	Syria (18%)	Eritrea (11%)
Czechia	1,800	<b>1,338</b>	<b>0.2%</b>	↓ -26%	Ukraine (12%)	Türkiye (12%)	Uzbekistan (8.8%)
Luxembourg	1,140	<b>1,242</b>	<b>0.2%</b>	↑ 8.9%	Syria (38%)	Eritrea (23%)	Afghanistan (7.8%)
Malta	1,138	<b>951</b>	<b>0.1%</b>	↓ -16%	Syria (22%)	Bangladesh (12%)	Somalia (9.3%)
Lithuania	885	<b>582</b>	<b>0.1%</b>	↓ -34%	Belarus (63%)	Russia (14%)	Tajikistan (4.8%)
Portugal	649	<b>330</b>	<b>0.0%</b>	↓ -49%	Afghanistan (60%)	Morocco (3.9%)	The Gambia (3.6%)
Slovenia	414	<b>301</b>	<b>0.0%</b>	↓ -27%	Morocco (37%)	Ukraine (17%)	Syria (10%)
Latvia	392	<b>269</b>	<b>0.0%</b>	↓ -31%	Russia (17%)	Afghanistan (16%)	India (11%)
Slovakia	144	<b>163</b>	<b>0.0%</b>	↑ 13%	Afghanistan (18%)	Ukraine (17%)	Russia (13%)
Croatia	94	<b>92</b>	<b>0.0%</b>	→ -2.1%	Russia (37%)	Türkiye (12%)	Côte d'Ivoire (9.8%)
Hungary	37	<b>35</b>	<b>0.0%</b>	↓ -5.4%	Unknown (23%)	Afghanistan (20%)	Russia (17%)
EU+	633,242	677,482	<b>100.0%</b>	↑ 7.0%	Syria (19%)	Afghanistan (13%)	Venezuela (6.6%)
<b>Type of applicant</b>				<b>Countries of origin</b>			
First time	474,277	<b>495,642</b>	<b>73.2%</b>	↔ 4.5%	Syria (24%)	Afghanistan (15%)	Türkiye (6.8%)
Unknown	101,241	<b>109,328</b>	<b>16.1%</b>	↑ 8.0%	Venezuela (37%)	Colombia (15%)	Syria (8.2%)
Repeated	56,604	<b>70,861</b>	<b>10.5%</b>	↑ 25%	Afghanistan (14%)	Pakistan (6.4%)	Türkiye (5.3%)
Relocated	1,120	<b>1,651</b>	<b>0.2%</b>	↑ 47%	Afghanistan (37%)	Syria (27%)	Côte d'Ivoire (8.3%)
<b>Type of decision</b>				<b>Countries of origin</b>			
Negative	281,177	<b>281,654</b>	<b>41.6%</b>	→ 0.2%	Türkiye (10%)	Georgia (7.6%)	Bangladesh (6.4%)
Refugee	147,366	<b>159,554</b>	<b>23.6%</b>	↑ 8.3%	Afghanistan (28%)	Syria (21%)	Türkiye (5.6%)
Subsidiary	106,047	<b>134,286</b>	<b>19.8%</b>	↑ 27%	Syria (66%)	Afghanistan (7.2%)	Ukraine (6.7%)
Nat. forms of pro	98,652	<b>101,988</b>	<b>15.1%</b>	↔ 3.4%	Venezuela (40%)	Afghanistan (18%)	Colombia (15%)
<b>Countries of origin</b>				<b>Recognition rate</b>			
Syria	108,801	<b>131,507</b>	<b>19.4%</b>	↑ 21%	Subsidiary (68%)	Refugee (26%)	Negative (5.9%)
Afghanistan	85,360	<b>88,510</b>	<b>13.1%</b>	↔ 3.7%	Refugee (50%)	Nat. forms of prot. (21%)	Negative (18%)
Venezuela	34,088	<b>44,924</b>	<b>6.6%</b>	↑ 32%	Nat. forms of prot. (92%)	Negative (5.8%)	Subsidiary (1.5%)
Türkiye	24,883	<b>37,841</b>	<b>5.6%</b>	↑ 52%	Negative (74%)	Refugee (23%)	Subsidiary (1.4%)
Georgia	18,844	<b>23,294</b>	<b>3.4%</b>	↑ 24%	Negative (92%)	Nat. forms of prot. (3.5%)	Refugee (2.3%)
Iraq	26,674	<b>21,206</b>	<b>3.1%</b>	↓ -20%	Negative (52%)	Refugee (38%)	Subsidiary (6.2%)
Colombia	20,541	<b>20,518</b>	<b>3.0%</b>	→ -0.1%	Nat. forms of prot. (75%)	Negative (18%)	Refugee (5.0%)
Bangladesh	19,630	<b>19,173</b>	<b>2.8%</b>	→ -2.3%	Negative (93%)	Refugee (3.7%)	Nat. forms of prot. (1.6%)
Pakistan	23,009	<b>16,394</b>	<b>2.4%</b>	↓ -29%	Negative (86%)	Refugee (7.1%)	Subsidiary (4.0%)
Morocco	10,660	<b>16,064</b>	<b>2.4%</b>	↑ 51%	Negative (71%)	Nat. forms of prot. (24%)	Refugee (4.9%)
Other	260,752	<b>258,051</b>	<b>38.1%</b>	→ -1.0%	Not specified	Not specified	Not specified

**Notes:** Data for Portugal were not available for October-December 2023. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

**Table A3. Number of decisions granting refugee status at first instance in EU+ countries by reporting country and main citizenships, 2022-2023**

	2022	2023	Share in EU+	Change from 2022	2023		
					First	Top three groups Second	Third
<b>Reporting country</b>							
Germany	40,934	<b>42,462</b>	<b>27%</b>	↕	3.7% Afghanistan (38%)	Syria (25%)	Türkiye (6.8%)
France	29,193	<b>31,511</b>	<b>20%</b>	↕	7.9% Afghanistan (38%)	Guinea (5.8%)	Türkiye (5.6%)
Greece	18,753	<b>24,332</b>	<b>15%</b>	↕	30% Palestine (26%)	Afghanistan (24%)	Iraq (21%)
Austria	11,384	<b>14,639</b>	<b>9.2%</b>	↕	29% Syria (77%)	Afghanistan (9.6%)	Somalia (3.5%)
Belgium	9,893	<b>11,054</b>	<b>6.9%</b>	↕	12% Syria (22%)	Afghanistan (22%)	Eritrea (15%)
Spain	6,831	<b>7,353</b>	<b>4.6%</b>	↕	7.6% Afghanistan (14%)	Syria (13%)	Nicaragua (11%)
Switzerland	5,428	<b>6,348</b>	<b>4.0%</b>	↕	17% Türkiye (32%)	Afghanistan (25%)	Eritrea (18%)
Italy	7,153	<b>5,160</b>	<b>3.2%</b>	↘	-28% Afghanistan (21%)	Nigeria (14%)	Pakistan (5.7%)
Netherlands	9,038	<b>4,779</b>	<b>3.0%</b>	↘	-47% Syria (29%)	Türkiye (20%)	Afghanistan (10%)
Ireland	1,377	<b>2,467</b>	<b>1.5%</b>	↕	79% Somalia (29%)	Afghanistan (22%)	Zimbabwe (6.8%)
Sweden	1,881	<b>1,982</b>	<b>1.2%</b>	↕	5.4% Afghanistan (33%)	Syria (16%)	Eritrea (8.6%)
Norway	1,005	<b>1,980</b>	<b>1.2%</b>	↕	97% Syria (68%)	Türkiye (9.0%)	Afghanistan (8.9%)
Finland	965	<b>1,084</b>	<b>0.7%</b>	↕	12% Somalia (21%)	Afghanistan (21%)	Russia (10%)
Denmark	391	<b>855</b>	<b>0.5%</b>	↕	118.7% Afghanistan (61%)	Syria (16%)	Eritrea (15%)
Cyprus	321	<b>755</b>	<b>0.5%</b>	↕	135% Palestine (17%)	Afghanistan (16%)	Somalia (15%)
Luxembourg	668	<b>625</b>	<b>0.4%</b>	↘	-6.4% Eritrea (44%)	Syria (30%)	Afghanistan (12%)
Poland	384	<b>603</b>	<b>0.4%</b>	↕	57% Belarus (38%)	Russia (19%)	Afghanistan (18%)
Romania	451	<b>455</b>	<b>0.3%</b>	↔	0.9% Syria (42%)	Somalia (32%)	Afghanistan (6.4%)
Lithuania	316	<b>403</b>	<b>0.3%</b>	↕	28% Belarus (76%)	Russia (11%)	Tajikistan (5.2%)
Portugal	436	<b>236</b>	<b>0.1%</b>	↘	-46% Afghanistan (83%)	Ukraine (2.1%)	Somalia (2.1%)
Bulgaria	100	<b>107</b>	<b>0.1%</b>	↕	7.0% Syria (68%)	Russia (13%)	Afghanistan (9.3%)
Latvia	210	<b>82</b>	<b>0.1%</b>	↘	-61% Afghanistan (40%)	Belarus (33%)	Russia (20%)
Slovenia	38	<b>76</b>	<b>0.0%</b>	↕	100% Syria (37%)	Burundi (18%)	Russia (13%)
Estonia	59	<b>59</b>	<b>0.0%</b>	↔	0.0% Russia (56%)	Afghanistan (20%)	Belarus (17%)
Czechia	92	<b>56</b>	<b>0.0%</b>	↘	-39% Myanmar/Burma (39%)	Russia (14%)	Afghanistan (13%)
Slovakia	20	<b>32</b>	<b>0.0%</b>	↕	60% Afghanistan (50%)	Russia (19%)	Cuba (16%)
Croatia	21	<b>30</b>	<b>0.0%</b>	↕	43% Russia (40%)	Côte d'Ivoire (20%)	Iran (10%)
Malta	14	<b>18</b>	<b>0.0%</b>	↕	28.6% Syria (44%)	Pakistan (11%)	Iran (11%)
Hungary	10	<b>11</b>	<b>0.0%</b>	↕	10% Unknown (45%)	Iran (18%)	Afghanistan (18%)
EU+	147,366	159,554	<b>100%</b>	↕	8.3% Afghanistan (28%)	Syria (21%)	Türkiye (5.6%)
<b>Type of applicant</b>				<b>Countries of origin</b>			
First time applicar	130,808	<b>143,123</b>	<b>90%</b>	↕	9.4% Afghanistan (28%)	Syria (23%)	Türkiye (6.0%)
Unknown	7,484	<b>8,215</b>	<b>5.1%</b>	↕	9.8% Afghanistan (14%)	Syria (13%)	Nicaragua (10%)
Repeated applica	8,095	<b>7,123</b>	<b>4.5%</b>	↘	-12% Afghanistan (43%)	Iran (10%)	Syria (7.4%)
Relocated applica	979	<b>1093</b>	<b>0.7%</b>	↕	12% Afghanistan (52%)	Syria (29%)	Eritrea (6.6%)
<b>Countries of origin</b>				<b>Reporting countries</b>			
Afghanistan	39,357	<b>44,548</b>	<b>28%</b>	↕	13% Germany (36%)	France (27%)	Greece (13%)
Syria	38,165	<b>34,162</b>	<b>21%</b>	↘	-10% Austria (33%)	Germany (31%)	Greece (7.8%)
Türkiye	9,166	<b>8,892</b>	<b>5.6%</b>	↘	-3.0% Germany (33%)	Switzerland (23%)	France (20%)
Eritrea	7,485	<b>8,204</b>	<b>5.1%</b>	↕	9.6% Germany (32%)	Belgium (21%)	Switzerland (14%)
Iraq	6,064	<b>8,083</b>	<b>5.1%</b>	↕	33% Greece (64%)	Germany (26%)	Austria (1.7%)
Palestine	3,060	<b>7,529</b>	<b>4.7%</b>	↕	146% Greece (84%)	Belgium (10%)	Cyprus (1.8%)
Somalia	5,827	<b>5,436</b>	<b>3.4%</b>	↘	-6.7% Germany (34%)	Greece (13%)	Ireland (13%)
Iran	2,855	<b>3,707</b>	<b>2.3%</b>	↕	30% Germany (49%)	France (10%)	Belgium (9.5%)
Russia	1,721	<b>3,078</b>	<b>1.9%</b>	↕	79% France (30%)	Spain (21%)	Germany (12%)
Guinea	2,515	<b>2,521</b>	<b>1.6%</b>	↔	0.2% France (72%)	Germany (15%)	Belgium (7.3%)
Other	31,151	<b>33,394</b>	<b>21%</b>	↕	7.2% Not specified	Not specified	Not specified

**Notes:** Data for Portugal were not available for October-December 2023. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

**Table A4. Number of decisions granting subsidiary protection at first instance in EU+ countries by reporting country and main citizenships, 2022-2023**

Reporting country	2023		Share in EU+	Change from 2022	First	2023		
	2022	2023				Top three groups	Second	Third
Germany	57,704	<b>71,213</b>	<b>53%</b>	⬆️	23%	Syria (94%)	Afghanistan (1.6%)	Iraq (6.9%)
France	6,219	<b>10,141</b>	<b>7.6%</b>	⬆️	63%	Ukraine (20%)	Afghanistan (16%)	Haiti (9.9%)
Netherlands	5,036	<b>9,533</b>	<b>7.1%</b>	⬆️	89%	Syria (65%)	Yemen (18%)	Eritrea (6.9%)
Austria	4,817	<b>8,213</b>	<b>6.1%</b>	⬆️	71%	Syria (71%)	Afghanistan (15%)	Somalia (7.8%)
Switzerland	4,446	<b>6,689</b>	<b>5.0%</b>	⬆️	50%	Afghanistan (70%)	Syria (7.3%)	Eritrea (5.9%)
Bulgaria	4,232	<b>5,682</b>	<b>4.2%</b>	⬆️	34%	Syria (98%)	Stateless (.60%)	Iran (.39%)
Italy	5,936	<b>5,541</b>	<b>4.1%</b>	⬇️	-6.7%	Ukraine (25%)	Pakistan (10%)	Venezuela (9.7%)
Poland	4,609	<b>4,032</b>	<b>3.0%</b>	⬇️	-13%	Belarus (66%)	Ukraine (28%)	Russia (2.0%)
Spain	7,406	<b>3,834</b>	<b>2.9%</b>	⬇️	-48%	Mali (60%)	Somalia (7.4%)	Sudan (6.3%)
Estonia	2,028	<b>3,805</b>	<b>2.8%</b>	⬆️	88%	Ukraine (100%)	Ecuador (.11%)	Haiti (.05%)
Cyprus	237	<b>2,308</b>	<b>1.7%</b>	⬆️	874%	Syria (88%)	Somalia (6.8%)	Cameroon (1.9%)
Greece	539	<b>590</b>	<b>0.4%</b>	⬆️	9.5%	Ukraine (23%)	Sudan (19%)	Yemen (16%)
Sweden	574	<b>570</b>	<b>0.4%</b>	➡️	-0.7%	Syria (58%)	Afghanistan (13%)	Yemen (10%)
Romania	527	<b>421</b>	<b>0.3%</b>	⬇️	-20%	Syria (67%)	Somalia (7.4%)	Ukraine (6.4%)
Belgium	400	<b>382</b>	<b>0.3%</b>	⬇️	-4.5%	Yemen (39%)	Somalia (32%)	Syria (14%)
Czechia	390	<b>253</b>	<b>0.2%</b>	⬇️	-35.1%	Ukraine (53%)	Afghanistan (15%)	China (5.5%)
Luxembourg	238	<b>252</b>	<b>0.2%</b>	⬆️	5.9%	Syria (98%)	Eritrea (.79%)	Somalia (.40%)
Malta	158	<b>243</b>	<b>0.2%</b>	⬆️	54%	Syria (67%)	Eritrea (21%)	Somalia (12%)
Ireland	70	<b>242</b>	<b>0.2%</b>	⬆️	246%	Somalia (54%)	Afghanistan (21%)	Ukraine (4.5%)
Norway	59	<b>120</b>	<b>0.1%</b>	⬆️	103%	Afghanistan (76%)	Colombia (9.2%)	Yemen (6.7%)
Finland	106	<b>70</b>	<b>0.1%</b>	⬇️	-34.0%	Iraq (29%)	Yemen (24%)	Somalia (20%)
Slovenia	158	<b>51</b>	<b>0.0%</b>	⬇️	-68%	Ukraine (94%)	Russia (5.9%)	
Slovakia	47	<b>38</b>	<b>0.0%</b>	⬇️	-19%	Ukraine (58%)	Afghanistan (13%)	Syria (11%)
Latvia	22	<b>36</b>	<b>0.0%</b>	⬆️	64%	Afghanistan (28%)	Ukraine (19%)	Syria (19%)
Denmark	48	<b>14</b>	<b>0.0%</b>	⬇️	-71%	Syria (36%)	Iran (21%)	Eritrea (21%)
Hungary	20	<b>11</b>	<b>0.0%</b>	⬇️	-45%	Afghanistan (45%)	Unknown (27%)	Nepal (18%)
Croatia		<b>0</b>	<b>0.0%</b>		n.a.	Libya (100%)		
Lithuania	21	<b>0</b>	<b>0.0%</b>	⬇️	-100%			
Portugal								
EU+	106,047	<b>134,284</b>	<b>100%</b>	⬆️	27%	Syria (66%)	Afghanistan (7.2%)	Ukraine (6.7%)
<b>Type of applicant</b>		<b>Countries of origin</b>						
First time applica	92,284	<b>119,576</b>	<b>89%</b>	⬆️	29.6%	Syria (67%)	Afghanistan (7.7%)	Ukraine (7.0%)
Unknown	11,366	<b>11,824</b>	<b>8.8%</b>	➡️	4.0%	Syria (65%)	Mali (19%)	Somalia (3.7%)
Repeated applica	2,310	<b>2,650</b>	<b>2.0%</b>	⬆️	15%	Syria (22%)	Ukraine (18%)	Afghanistan (14%)
Relocated applica	87	<b>236</b>	<b>0.2%</b>	⬆️	171%	Syria (55%)	Somalia (15%)	Sudan (6.4%)
<b>Countries of origin</b>		<b>Reporting countries</b>						
Syria	63,746	<b>88,929</b>	<b>66%</b>	⬆️	40%	Germany (75%)	Netherlands (6.9%)	Austria (6.5%)
Afghanistan	6,854	<b>9,693</b>	<b>7.2%</b>	⬆️	41%	Switzerland (49%)	France (17%)	Austria (13%)
Ukraine	7,434	<b>8,983</b>	<b>6.7%</b>	⬆️	21%	Estonia (42%)	France (22%)	Italy (16%)
Somalia	3,619	<b>3,516</b>	<b>2.6%</b>	➡️	-2.8%	France (20%)	Austria (18%)	Netherlands (13%)
Mali	5,504	<b>2,943</b>	<b>2.2%</b>	⬇️	-47%	Spain (78%)	Italy (18%)	Greece (2.0%)
Yemen	2,308	<b>2,680</b>	<b>2.0%</b>	⬆️	16%	Netherlands (63%)	Germany (15%)	Belgium (5.6%)
Belarus	3,501	<b>2,675</b>	<b>2.0%</b>	⬇️	-23.6%	Poland (99%)	Czechia (.41%)	Italy (.26%)
Eritrea	1,186	<b>1,631</b>	<b>1.2%</b>	⬆️	38%	Netherlands (40%)	Germany (29%)	Switzerland (24%)
Iraq	1,912	<b>1,320</b>	<b>1.0%</b>	⬇️	-31%	Germany (37%)	Italy (20%)	Netherlands (12%)
Haiti	366	<b>1,074</b>	<b>0.8%</b>	⬆️	193%	France (94%)	Spain (3.9%)	Greece (1.7%)
Other	9,617	<b>10,842</b>	<b>8.1%</b>	⬆️	13%	Not specified	Not specified	Not specified

**Notes:** Data for Portugal were not available for October-December 2023. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

**Table A5. Recognition rate at first instance for selected citizenships (Top 30), 2022-2023**

	2022		2023	
	Decisions	RR	Decisions	RR
<b>Countries of origin</b>				
Syria	108,801	94%	131,507	94%
Afghanistan	85,360	54%	88,510	61%
Venezuela	34,088	3%	44,924	3%
Türkiye	24,883	38%	37,841	25%
Georgia	18,844	4%	23,294	4%
Iraq	26,674	30%	21,206	44%
Colombia	20,541	6%	20,518	7%
Bangladesh	19,630	4%	19,173	5%
Pakistan	23,009	9%	16,394	11%
Morocco	10,660	5%	16,064	5%
Somalia	16,132	59%	14,089	64%
Nigeria	14,337	13%	12,982	14%
Eritrea	10,292	84%	11,811	83%
Congo (DR)	8,830	26%	11,074	25%
Russia	6,517	30%	10,258	33%
Ukraine	8,935	86%	10,092	92%
Guinea	8,784	31%	8,970	31%
Palestine	5,048	65%	8,969	87%
Iran	7,411	43%	8,637	46%
Albania	12,011	6%	8,461	7%
Côte d'Ivoire	8,077	26%	8,096	29%
North Macedonia	5,353	1%	6,907	0%
Egypt	5,857	7%	6,731	7%
India	8,230	1%	6,208	1%
Algeria	4,313	8%	5,104	9%
Mali	9,053	70%	5,079	72%
Peru	3,388	6%	4,922	5%
Unknown	6,182	67%	4,779	64%
Yemen	3,573	84%	4,585	84%
Serbia	3,539	3%	4,389	1%
Other	104,890	22%	95,908	26%

**Notes:** Data for Portugal were not available for October-December 2023.

**Table A6. Withdrawn applications in EU+ countries by reporting country and main citizenships, 2022-2023**

	2022	2023	Share in EU+	Change from 2022	2023			
					First	Top three groups Second	Third	
<b>Reporting country</b>								
Austria	42,412	<b>30,846</b>	<b>26.7%</b>	↓	-27%	Afghanistan (26%)	Türkiye (18%)	India (18%)
Bulgaria	14,229	<b>16,394</b>	<b>14.2%</b>	↑	15%	Syria (45%)	Afghanistan (38%)	Morocco (8.1%)
Germany	8,885	<b>12,165</b>	<b>10.5%</b>	↑	37%	Türkiye (15%)	Georgia (8.6%)	Syria (6.8%)
Greece	14,336	<b>11,254</b>	<b>9.7%</b>	↓	-21%	Syria (29%)	Afghanistan (12%)	Türkiye (10%)
Italy	7,280	<b>6,986</b>	<b>6.0%</b>	↔	-4.0%	Egypt (26%)	Pakistan (14%)	Bangladesh (10%)
Belgium	2,803	<b>4,499</b>	<b>3.9%</b>	↑	61%	Afghanistan (13%)	Moldova (11%)	Georgia (6.1%)
Spain	4,276	<b>4,216</b>	<b>3.6%</b>	↔	-1.4%	Colombia (17%)	Nicaragua (16%)	Morocco (8.9%)
Romania	8,095	<b>3,844</b>	<b>3.3%</b>	↓	-53%	Syria (23%)	Bangladesh (18%)	Pakistan (17%)
Switzerland	1,798	<b>3,244</b>	<b>2.8%</b>	↑	80%	Algeria (29%)	Morocco (18%)	Türkiye (8.6%)
Netherlands	2,207	<b>3,204</b>	<b>2.8%</b>	↑	45%	Algeria (20%)	Ukraine (10%)	Morocco (9.1%)
Cyprus	2,911	<b>3,147</b>	<b>2.7%</b>	↑	8.1%	Nigeria (23%)	Congo (DR) (17%)	Cameroon (11%)
Poland	4,658	<b>2,310</b>	<b>2.0%</b>	↓	-50%	Russia (38%)	Türkiye (7.3%)	Ukraine (6.8%)
Slovenia	3,983	<b>2,285</b>	<b>2.0%</b>	↓	-43%	Morocco (75%)	Algeria (6.1%)	India (3.7%)
Croatia	3,150	<b>2,277</b>	<b>2.0%</b>	↓	-28%	Burundi (18%)	Russia (17%)	Iraq (15%)
Sweden	2,455	<b>1,908</b>	<b>1.7%</b>	↓	-22%	Ukraine (19%)	Afghanistan (8.8%)	Syria (6.6%)
Latvia	149	<b>1,091</b>	<b>0.9%</b>	↑	632%	Syria (28%)	Afghanistan (21%)	Iran (15%)
Portugal	1,205	<b>943</b>	<b>0.8%</b>	↓	-22%	Afghanistan (13%)	The Gambia (12%)	India (9.2%)
France	922	<b>840</b>	<b>0.7%</b>	↓	-8.9%	Georgia (12%)	Albania (9.9%)	North Macedonia (6.7%)
Denmark	1,260	<b>795</b>	<b>0.7%</b>	↓	-37%	Ukraine (19%)	Afghanistan (14%)	Syria (8.6%)
Norway	393	<b>702</b>	<b>0.6%</b>	↑	79%	Ukraine (66%)	Russia (4.7%)	Eritrea (3.0%)
Malta	1,246	<b>613</b>	<b>0.5%</b>	↓	-51%	Syria (11%)	The Gambia (11%)	Sudan (10%)
Finland	319	<b>590</b>	<b>0.5%</b>	↑	85%	Russia (38%)	Ukraine (16%)	Georgia (6.6%)
Ireland	491	<b>361</b>	<b>0.3%</b>	↓	-26%	Ukraine (14%)	Georgia (13%)	Pakistan (8.9%)
Slovakia	386	<b>315</b>	<b>0.3%</b>	↓	-18%	Türkiye (49%)	Bangladesh (15%)	Pakistan (4.4%)
Czechia	435	<b>311</b>	<b>0.3%</b>	↓	-29%	Türkiye (23%)	Ukraine (17%)	Afghanistan (5.5%)
Lithuania	733	<b>250</b>	<b>0.2%</b>	↓	-66%	Iraq (20%)	Belarus (14%)	Russia (11%)
Estonia	83	<b>131</b>	<b>0.1%</b>	↑	58%	Ukraine (69%)	Russia (9.2%)	Georgia (3.1%)
Luxembourg	194	<b>95</b>	<b>0.1%</b>	↓	-51%	Syria (15%)	Türkiye (7.4%)	Algeria (7.4%)
Hungary	5	<b>0</b>	<b>0.0%</b>	↓	-100%			
EU+	131,299	115,616	<b>100.0%</b>	↓	-12%	Afghanistan (16%)	Syria (15%)	Türkiye (9%)
<b>Type of withdrawal</b>								
Implicit	105,195	<b>96,276</b>	<b>83.3%</b>	↓	-8.5%	Afghanistan (19%)	Syria (16%)	Türkiye (9.5%)
Explicit	18,007	<b>15,487</b>	<b>13.4%</b>	↓	-14%	Ukraine (10%)	Türkiye (7.7%)	Russia (5.2%)
Unknown	8,095	<b>3,854</b>	<b>3.3%</b>	↓	-52%	Syria (23%)	Bangladesh (18%)	Pakistan (17%)
<b>Outcome of withdrawal</b>								
Discontinuation	112,799	<b>102,378</b>	<b>88.6%</b>	↓	-9.2%	Afghanistan (18%)	Syria (16%)	Türkiye (9.7%)
Negative	10,314	<b>9,395</b>	<b>8.1%</b>	↓	-8.9%	Egypt (14%)	Pakistan (6.7%)	Bangladesh (4.9%)
Unknown	8,184	<b>3,844</b>	<b>3.3%</b>	↓	-53%	Syria (23%)	Bangladesh (18%)	Pakistan (17%)
<b>Countries of origin</b>								
Afghanistan	34,142	<b>18,591</b>	<b>16.1%</b>	↓	-46%	Austria (43%)	Bulgaria (34%)	Greece (7.6%)
Syria	9,361	<b>17,033</b>	<b>14.7%</b>	↑	82%	Bulgaria (44%)	Greece (19%)	Austria (17%)
Türkiye	7,664	<b>10,457</b>	<b>9.0%</b>	↑	36%	Austria (53%)	Germany (17%)	Greece (11%)
Morocco	4,323	<b>7,968</b>	<b>6.9%</b>	↑	84%	Austria (33%)	Slovenia (22%)	Bulgaria (17%)
India	10,318	<b>6,689</b>	<b>5.8%</b>	↓	-35%	Austria (82%)	Greece (3.3%)	Germany (2.7%)
Pakistan	6,124	<b>4,545</b>	<b>3.9%</b>	↓	-26%	Austria (30%)	Italy (21%)	Greece (20%)
Egypt	3,143	<b>3,988</b>	<b>3.4%</b>	↑	27%	Italy (46%)	Austria (21%)	Greece (17%)
Iraq	4,817	<b>3,634</b>	<b>3.1%</b>	↓	-25%	Bulgaria (21%)	Germany (18%)	Austria (12%)
Bangladesh	3,577	<b>2,946</b>	<b>2.5%</b>	↓	-18%	Greece (28%)	Italy (24%)	Romania (23%)
Tunisia	6,580	<b>2,909</b>	<b>2.5%</b>	↓	-56%	Austria (54%)	Italy (15%)	Germany (13%)
Other	41,248	<b>36,857</b>	<b>31.9%</b>	↓	-11%	Not specified	Not specified	Not specified

**Notes:** Data for Portugal were not available for October-December 2023. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

**Table A7. Pending cases at the end of the year in EU+ countries by reporting country and main citizenships, 2022-2023**

Reporting country	2022	2023	Share in EU+	Change from 2022	2023		
					First	Top three groups Second	Third
Germany	136,448	<b>239,614</b>	<b>27%</b> ↑	76%	Türkiye (24%)	Syria (24%)	Afghanistan (16%)
Spain	135,850	<b>182,691</b>	<b>21%</b> ↑	34%	Colombia (37%)	Venezuela (29%)	Peru (11%)
Italy	85,426	<b>162,091</b>	<b>18%</b> ↑	90%	Bangladesh (17%)	Pakistan (15%)	Egypt (13%)
France	47,156	<b>53,323</b>	<b>6.0%</b> ↑	13%	Afghanistan (15%)	Türkiye (8.5%)	Guinea (6.6%)
Netherlands	31,625	<b>43,924</b>	<b>5.0%</b> ↑	39%	Syria (36%)	Türkiye (8.4%)	Eritrea (6.0%)
Belgium	36,899	<b>39,429</b>	<b>4.5%</b> ↑	6.9%	Palestine (11%)	Afghanistan (8.9%)	Türkiye (7.5%)
Greece	17,249	<b>29,885</b>	<b>3.4%</b> ↑	73%	Syria (30%)	Afghanistan (12%)	Türkiye (8.3%)
Cyprus	29,715	<b>26,599</b>	<b>3.0%</b> ↓	-10%	Syria (48%)	Congo (DR) (13%)	Cameroon (8.4%)
Austria	40,669	<b>23,188</b>	<b>2.6%</b> ↓	-43%	Syria (47%)	Türkiye (15%)	Afghanistan (11%)
Ireland	14,101	<b>18,311</b>	<b>2.1%</b> ↑	30%	Algeria (15%)	Nigeria (14%)	Georgia (10%)
Switzerland	13,927	<b>15,567</b>	<b>1.8%</b> ↑	12%	Türkiye (36%)	Afghanistan (17%)	Burundi (4.5%)
Bulgaria	11,185	<b>11,951</b>	<b>1.4%</b> ↑	6.8%	Syria (57%)	Afghanistan (35%)	Morocco (1.6%)
Finland	6,068	<b>7,421</b>	<b>0.8%</b> ↑	22%	Russia (16%)	Iraq (14%)	Somalia (13%)
Poland	5,664	<b>6,930</b>	<b>0.8%</b> ↑	22%	Russia (43%)	Belarus (20%)	Ukraine (15%)
Sweden	8,486	<b>5,189</b>	<b>0.6%</b> ↓	-39%	Ukraine (20%)	Afghanistan (8.7%)	Iraq (7.9%)
Norway	4,109	<b>4,535</b>	<b>0.5%</b> ↑	10%	Syria (27%)	Ukraine (20%)	Türkiye (9.0%)
Luxembourg	2,281	<b>3,085</b>	<b>0.3%</b> ↑	35%	Syria (37%)	Eritrea (15%)	Afghanistan (6.6%)
Denmark	2,490	<b>2,119</b>	<b>0.2%</b> ↓	-15%	Ukraine (34%)	Syria (18%)	Eritrea (8.6%)
Croatia	1,198	<b>1,541</b>	<b>0.2%</b> ↑	29%	Russia (36%)	Afghanistan (13%)	Türkiye (8.2%)
Slovenia	501	<b>1,147</b>	<b>0.1%</b> ↑	129%	Morocco (71%)	Burundi (6.0%)	Ukraine (4.1%)
Romania	836	<b>1,062</b>	<b>0.1%</b> ↑	27%	Syria (33%)	Bangladesh (16%)	Pakistan (7.1%)
Malta	1,751	<b>832</b>	<b>0.1%</b> ↓	-52%	Syria (24%)	Sudan (12%)	Ukraine (11%)
Czechia	768	<b>673</b>	<b>0.1%</b> ↓	-12%	Russia (18%)	Ukraine (15%)	Türkiye (9.8%)
Latvia	273	<b>591</b>	<b>0.1%</b> ↑	116%	Afghanistan (13%)	Iran (13%)	Syria (9.8%)
Estonia	631	<b>354</b>	<b>0.0%</b> ↓	-44%	Ukraine (81%)	Russia (7.3%)	Israel (2.5%)
Lithuania	506	<b>346</b>	<b>0.0%</b> ↓	-32%	Belarus (48%)	Russia (17%)	Iraq (4.0%)
Hungary	28	<b>15</b>	<b>0.0%</b> ↓	-46%	Russia (33%)	Egypt (13%)	Burundi (13%)
Portugal	173						
Slovakia							
EU+	636,013	882,413	<b>100.0%</b> ↑	39%	Syria (14%)	Türkiye (10%)	Colombia (9%)
<b>Type of applicant</b>					<b>Countries of origin</b>		
First time	455,892	<b>651,874</b>	<b>74%</b> ↑	43%	Syria (17%)	Türkiye (13%)	Afghanistan (9.7%)
Unknown	147,541	<b>195,661</b>	<b>22%</b> ↑	33%	Colombia (35%)	Venezuela (27%)	Peru (10%)
Repeated	32,456	<b>33,311</b>	<b>3.8%</b> ↑	2.6%	Russia (13%)	Afghanistan (11%)	Nigeria (8.1%)
Relocated	124	<b>1567</b>	<b>0.2%</b> ↑	1164%	Afghanistan (22%)	Côte d'Ivoire (20%)	Syria (12%)
<b>Duration of pending</b>					<b>Countries of origin</b>		
More than 6 months	270,095	<b>436,995</b>	<b>50%</b> ↑	62%	Colombia (11%)	Syria (8.7%)	Afghanistan (7.7%)
Less than 6 months	353,931	<b>432,493</b>	<b>49%</b> ↑	22%	Syria (18%)	Türkiye (12%)	Afghanistan (8.0%)
Unknown	11,987	<b>12,925</b>	<b>1.5%</b> ↑	7.8%	Syria (53%)	Afghanistan (33%)	Russia (1.7%)
<b>Countries of origin</b>					<b>Reporting countries</b>		
Syria	88,388	<b>122,750</b>	<b>14%</b> ↑	39%	Germany (46%)	Netherlands (13%)	Cyprus (10%)
Türkiye	38,469	<b>83,964</b>	<b>9.5%</b> ↑	118%	Germany (68%)	Switzerland (6.7%)	France (5.4%)
Colombia	38,322	<b>76,655</b>	<b>8.7%</b> ↑	100%	Spain (89%)	Germany (3.9%)	Italy (3.5%)
Afghanistan	69,246	<b>72,496</b>	<b>8.2%</b> ↑	4.7%	Germany (54%)	France (11%)	Bulgaria (5.8%)
Venezuela	38,538	<b>58,618</b>	<b>6.6%</b> ↑	52%	Spain (89%)	Germany (4.6%)	Italy (2.9%)
Bangladesh	19,518	<b>32,946</b>	<b>3.7%</b> ↑	69%	Italy (85%)	France (9.6%)	Ireland (1.6%)
Pakistan	21,784	<b>31,739</b>	<b>3.6%</b> ↑	46%	Italy (78%)	Germany (6.4%)	Greece (2.9%)
Peru	12,237	<b>28,923</b>	<b>3.3%</b> ↑	136%	Spain (68%)	Italy (30%)	Germany (7.5%)
Egypt	11,550	<b>25,864</b>	<b>2.9%</b> ↑	124%	Italy (81%)	Greece (7.6%)	Germany (4.1%)
Eritrea	16,491	<b>19,332</b>	<b>2.2%</b> ↑	17%	Italy (48%)	Germany (15%)	Netherlands (14%)
Other	281,470	<b>329,126</b>	<b>37%</b> ↑	17%	Not specified	Not specified	Not specified

**Notes:** Data for Portugal and Slovakia were not available for December 2023. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

**Table A8. Resettled persons in EU+ countries by reporting country and main citizenships, 2022-2023**

	2022	2023	Share in EU+	Change from 2022	2023			
					First	Top three groups Second	Third	
<b>Reporting country</b>								
Germany	4,662	5,028	32.8%	↑	7.9%	Syria (74%)	Sudan (9.4%)	Somalia (4.8%)
France	3,143	3,012	19.7%	↓	-4.2%	Syria (42%)	Central African Republic	Sudan (8.8%)
Norway	3,073	2,222	14.5%	↓	-28%	Syria (46%)	Congo (DR) (32%)	Eritrea (9.1%)
Finland	1,098	1,332	8.7%	↑	21%	Afghanistan (58%)	Syria (17%)	Congo (DR) (14%)
Italy	1,330	1,223	8.0%	↓	-8%	Afghanistan (70%)	Syria (23%)	Eritrea (5.0%)
Netherlands	1,399	833	5.4%	↓	-40%	Syria (55%)	Congo (DR) (15%)	Eritrea (11%)
Sweden	5,055	544	3.6%	↓	-89%	Congo (DR) (36%)	Syria (24%)	Eritrea (9.7%)
Switzerland	611	376	2.5%	↓	-38%	Afghanistan (56%)	Syria (42%)	Sudan (1.1%)
Belgium	78	284	1.9%	↑	264%	Congo (DR) (52%)	Syria (26%)	Sudan (12%)
Romania	88	154	1.0%	↑	75%	Syria (100%)		
Denmark	150	152	1.0%	→	1.3%	Congo (DR) (98%)	Burundi (2.0%)	
Portugal	:	137	0.9%		n.a.	Syria (66%)	Sudan (14%)	Iraq (7.3%)
Slovenia	0	23	0.2%		n.a.	Syria (100%)		
Lithuania	0	0						
Bulgaria	0	0						
Estonia	0	0						
Latvia	0	0						
Luxembourg	0	0						
Malta	0	0						
Poland	0	0						
Slovakia	0	0						
Ireland	:	0						
Croatia	:	0						
Austria	:	0						
Czechia	:	0						
Greece	:	0						
Hungary	:	0						
Cyprus	:	:						
Spain	:	:						
EU+	20,687	15,320	100.0%	↓	-26%	Syria (56%)	Congo (DR) (13%)	Afghanistan (6.9%)
<b>Citizenship</b>								
Syria	11,506	7,628	49.8%	↓	-34%	Türkiye (38%)	Lebanon (38%)	Jordan (11%)
Afghanistan	1,420	2,016	13.2%	↑	42%	Iran (59%)	Pakistan (22%)	Unknown (11%)
Congo (DR)	2,615	1,686	11.0%	↓	-36%	Rwanda (59%)	Kenya (15%)	Zambia (12%)
Sudan	1,128	1,062	6.9%	↓	-5.9%	Egypt (53%)	Chad (19%)	Libya (9.4%)
Eritrea	1,349	809	5.3%	↓	-40%	Ethiopia (36%)	Egypt (23%)	Rwanda (16%)
Central African Repl.	456	534	3.5%	↑	17%	Cameroon (67%)	Chad (30%)	Benin (1.3%)
Somalia	179	364	2.4%	↑	103%	Kenya (64%)	Ethiopia (19%)	Egypt (9.3%)
South Sudan	480	351	2.3%	↓	-27%	Egypt (56%)	Ethiopia (27%)	Kenya (8.0%)
Lebanon	5	153	1.0%	↑	2960%	Syria (99%)	Lebanon (1.3%)	
Rwanda	13	98	0.6%	↑	654%	Congo (DR) (84%)	Burundi (14%)	Zambia (1.0%)
Other	1,537	619	4.0%	↓	-60%	Not specified	Not specified	Not specified
<b>Countries of departure</b>								
Türkiye	5,264	3,097	20.2%	↓	-41%	Syria (95%)	Afghanistan (4.1%)	Iraq (.32%)
Lebanon	4,108	2,890	18.9%	↓	-30%	Syria (99%)	Sudan (.24%)	Iraq (.24%)
Egypt	938	1,724	11.3%	↑	84%	Syria (38%)	Sudan (32%)	South Sudan (11%)
Rwanda	1,268	1,211	7.9%	↓	-4.5%	Congo (DR) (82%)	Eritrea (11%)	Sudan (5.5%)
Iran	196	1,185	7.7%	↑	505%	Afghanistan (100%)		
Jordan	1,747	856	5.6%	↓	-51%	Syria (95%)	Yemen (2.3%)	Sudan (1.8%)
Kenya	582	531	3.5%	↓	-8.8%	Congo (DR) (48%)	Somalia (44%)	South Sudan (5.3%)
Ethiopia	229	502	3.3%	↑	119%	Eritrea (58%)	South Sudan (19%)	Somalia (14%)
Pakistan	503	438	2.9%	↓	-12.9%	Afghanistan (100%)		
Unknown	796	436	2.8%	↓	-45%	Afghanistan (52%)	Syria (38%)	Sudan (5.0%)
Other	5,056	2,450	16.0%	↓	-52%	Not specified	Not specified	Not specified
<b>Citizenship</b>								

**Notes:** Data for Cyprus, Portugal and Spain were not available for October-December 2023. For several countries, it is unclear whether there were 0 resettlements or data were missing. Data of a magnitude of 5 or lower are rounded to nearest multiple of 5. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.





# Asylum Report 2024

As the go-to source of information on international protection in Europe, the Asylum Report 2024 provides a comprehensive overview of key developments in asylum in 2023.

The European Union Agency for Asylum (EUAA) collates information on all aspects of the Common European Asylum System. To this end, the report outlines changes to policies, practices and legislation. It presents trends in asylum, key indicators for the reference year 2023, an overview of the Dublin system which determines the Member State responsible for a case and a dedicated section on applicants with special needs, including unaccompanied minors. Examples of case law are featured to interpret European and national laws in the context of the EU asylum *acquis*.

The Asylum Report 2024 draws on information from a wide range of sources – including perspectives from national authorities, EU institutions, international organisations, civil society organisations and academia – to present a complete picture and diverse perspectives. The report, covering 1 January to 31 December 2023, serves as a reference for the latest developments in international protection in Europe.



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