



# EASO Asylum Report 2021

Annual Report on the  
Situation of Asylum in the  
European Union





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PDF	ISBN 978-92-9465-049-8	ISSN 2314-9701	DOI 10.2847/6007	BZ-AB-21-001-EN-N
HTML	ISBN 978-92-9465-048-1	ISSN 2314-9701	DOI 10.2847/692856	BZ-AB-21-001-EN-Q
EPUB	ISBN 978-92-9465-047-4	ISSN 2314-9701	DOI 10.2847/165462	BZ-AB-21-001-EN-E



# **EASO Asylum Report 2021**

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

SUPPORT IS OUR MISSION



## Foreword

This year marks the 10<sup>th</sup> edition of the agency's flagship publication, the *EASO Asylum Report*. The report has been continuously improved over the years to capture and report on the latest trends and policy discussions centred around building a harmonised Common European Asylum System (CEAS). We are proud that the *EASO Asylum Report* has evolved into the go-to source of information on asylum in Europe and reflects the growth of the agency as a centre of expertise on asylum since its founding on 19 June 2010.

Indeed, EASO's growing role is highlighted in the European Commission's new [Pact on Migration and Asylum](#), which was published in September 2020. The pact offers a fresh start to the discussion on an effective and humane management of migration and asylum in Europe. EASO stands ready to undertake an enhanced mandate as the EU Agency for Asylum (EUAA) and to serve as an integral part of the European framework to manage a complex migratory reality, in full respect of fundamental rights.

The COVID-19 pandemic had a significant impact on every aspect of life throughout the world. With the aim of mitigating the spread of the virus and keeping people safe – both those seeking refuge in Europe and the staff who work directly with asylum seekers – emergency measures and longer-term changes to procedures were implemented across all EU+ countries. This year was the first time since CEAS was established that Member States, national asylum and reception



authorities, and organisations working in the field of international protection were faced with a double-barrelled challenge: respecting the basic human right of living in safety and managing a global health crisis which could expose both migrants and receiving countries to further risk.

While national administrations were tested to their limits, EASO's activities were directly aimed at supporting Member States to ensure a continuity of services and to provide emergency assistance. Throughout 2020, the agency developed tools to enhance and align procedures, published analytical reports and trained asylum professionals. A dedicated information collection initiative provided up-to-date, comprehensive and reliable information on the impact of COVID-19 on the asylum procedure. The results showed the resilience of the EU's national asylum and reception systems, which quickly adapted modalities and turned to digital solutions to provide refuge to those in need. These innovations may be the key to increase efficiency and address similar challenges in the future while maintaining a sustainable European system.

Nina Gregori  
Executive Director  
European Asylum Support Office

## Acknowledgements



We would like to thank a number of organisations and institutions which actively contributed to this year's edition of the *EASO Asylum Report* through direct contributions, consultations or feedback during the drafting process.

In particular, we express our gratitude to asylum and reception authorities in EU+ countries for the continuous information-exchange throughout the year. From January to February 2021, EASO conducted a series of bilateral calls with experts from national authorities who form part of the EASO IDS Advisory Group to confirm primary facts and information on legislative, policy, practical and jurisprudential developments in asylum and reception which occurred during 2020. The contributions of national experts involved in EASO's thematic networks are invaluable in helping EASO maintain an accurate and up-to-date overview of asylum-related developments in Europe and beyond.

Information was also obtained from EU+ countries with the coordination of the European Migration Network (EMN). We are grateful to the European Commission for its continued support and feedback during the drafting process. Experts from the United Nations High Commissioner for Refugees (UNHCR) also provided valuable input.

Through various channels, civil society organisations, academia and research institutions provided EASO with research findings and information from the ground. To present the full picture of asylum in 2020 and take account of all perspectives, contributions from these institutions and organisations were included in this report. To this end, EASO would like to acknowledge the following organisations which contributed to *EASO Asylum Report 2021* by sharing their publications or through direct submissions and consultations:

[Abogacía Española – CGAE \(Spain\)](#)

[Accem \(Spain\)](#)

[Aditus Foundation \(Malta\)](#)

[Andalucía Acoge \(Spain\)](#)

[Are You Syrious \(Croatia\)](#)

[Associazione My Lawyer \(Italy\)](#)

[Asylex \(Switzerland\)](#)

[Asylum Protection Center \(Serbia\)](#)

[Asylum Research Centre-ARC Foundation \(United Kingdom\)](#)

[Border Violence Monitoring Network \(BVMN\) \(International - Balkans\)](#)

[Caritas Cyprus \(Cyprus\)](#)

[Centro Astalli per l'assistenza agli immigrati ODV \(Italy\)](#)

[Conseil National des Barreaux \(France\)](#)

[Consejo General de la Abogacía Española \(Spain\)](#)

[Danish Refugee Council \(Denmark\)](#)

[Defensor del Pueblo Espana \(Spain\)](#)

[DRC Greece \(Greece\)](#)

[Dutch Advisory Committee on Migration Affairs \(Netherlands\)](#)

[Dutch Council for Refugees \(Netherlands\)](#)

[Equal Rights Beyond Borders \(Greece-Germany\)](#)

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

[European Network on Statelessness \(International\)](#)

[European Trade Union Committee for Education \(ETUCE\)](#)

[Forum réfugiés-Cosi \(France\)](#)

[Friedrich Ebert Stiftung -Brussels Office \(Belgium\)](#)

[Fundación Cepaim \(Spain\)](#)

[Greek Council for Refugees \(Greece\)](#)

[Háttér Society \(Hungary\)](#)

[Helsinki Foundation for Human Rights \(Poland\)](#)

[Human Rights League \(Slovakia\)](#)

[HumanRights360 \(Greece\)](#)

[Hungarian Helsinki Committee \(Hungary\)](#)

[Legal Centre Lesvos \(Greece\)](#)

[Ludwig Boltzman Institute for Fundamental Rights \(Austria\)](#)

Lumos Foundation (USA-United Kingdom)  
Malta Refugee Council (Malta)  
METAdrasi (Greece)  
Migrant Integration Center -Brasov (Romania)  
Migration Policy Institute Europe (Belgium)  
Mobile Info Team (Greece)  
Network for Children's Rights (Greece)  
Norwegian Organisation for Asylum Seekers (NOAS) (Norway)  
Organization for Aid to Refugees (OPU) and Forum for Human Rights (joint contribution; Czechia)  
Platform for International Cooperation on Undocumented Migrants (PICUM) (International)  
Queer Base (Austria)  
Rädda Barnen-Save the Children (Sweden)  
Red Cross Europe (EU Office)

Refugee Rights Europe (United Kingdom)  
Refugee Support Aegean (Greece)  
Save the Children (International)  
Spanish Commission for Refugees -CEAR (Spain)  
Statewatch (International)  
The Swedish Network of Refugee Support Groups (FARR) (Sweden)  
Transgender Europe (TGEU) (Germany)  
University of Nicosia, MiHUB (Cyprus)  
Volontariato Internazionale per lo Sviluppo (VIS); Comitato per la promozione e protezione dei dirittumani; Don Bosco 2000; Salesiani per il Sociale; and Forum per Cambiare l'Ordine delle Cose (joint submission; Italy)

## Acronyms and abbreviations

ACSG	Asylum Capacity Support Group
AIDA	Asylum Information Database
AMIF	Asylum, Migration and Integration Fund
AVRR	Assisted voluntary return and reintegration programmes
AWAS	Agency for the Welfare of Asylum Seekers (Malta)
AZC	Asylum seekers' centre ( <i>asielzoekerscentrum</i> ) (Netherlands)
BBU	Federal Agency for Reception and Support Services ( <i>Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH</i> ) (Austria)
BVMN	Border Violence Monitoring Network
CALL	Council for Alien Law Litigation (Belgium)
CAT	UN Committee against Torture
CEAS	Common European Asylum System
CEDAW	UN Committee on the Elimination of Discrimination against Women
CEPOL	EU Agency for Law Enforcement Training
CGRS	Commissioner General for Refugees and Stateless Persons (Belgium)
CJEU	Court of Justice of the European Union
CNAIM	National Centre for Supporting the Integration of Migrants (Portugal)
COA	Central Agency for the Reception of Asylum Seekers ( <i>Centraal Orgaan opvang asielzoekers</i> ) (Netherlands)
COI	Country of origin information
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DT&V	Repatriation and Departure Service (Netherlands)
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRE	European Council on Refugees and Exiles
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EMN	European Migration Network
ENS	European Network on Statelessness
EPS	EASO's Early Warning and Preparedness System
ETCC	Employer Tailored Chain Cooperation
EU+	European Union Member States, Iceland, Liechtenstein, Norway and Switzerland
eu-LISA	European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
EUAA	EU Asylum Agency
Eurojust	EU Judicial Cooperation Agency
Europol	EU Agency for Law Enforcement Cooperation
Fedasil	Federal Agency for the Reception of Asylum Seekers (Belgium)
FGM/C	Female genital mutilation and cutting
FRA	EU Agency for Fundamental Rights
Frontex	European Border and Coast Guard Agency
GDP	Gross domestic product
GRETA	Group of Experts on Action against Trafficking in Human Beings (Council of Europe)
ICCPR	International Covenant on Civil and Political Rights
ICMC	International Catholic Migration Commission



IDP	Internally displaced person
IGAD	Intergovernmental Authority on Development
IHAP	Irish Humanitarian Admissions Programme
IND	Immigration and Naturalisation Service
IOM	International Organization for Migration
IPAS	International Protection Accommodation Services (Ireland)
IPAT	International Protection Appeals Tribunal (Ireland)
IRPP	Irish Refugee Protection Programme
JHA	EU Justice and Home Affairs
JRS	Jesuit Refugee Service
LGBTI	Lesbian, gay, bisexual, trans-gender and intersex
MIRPS	Comprehensive Regional Framework for Protection and Solutions (Central America and Mexico)
MEPs	Members of the European Parliament
MPI	Migration Policy Institute
NCPT	National Commission for the Prevention of Torture (Switzerland)
NDGAP	National Directorate-General for Aliens Policing (Hungary)
NGO	Non-governmental organisation
NOAS	Norwegian Organisation for Asylum Seekers
OAU	Organization of African Unity
OFII	Office for Immigration and Integration ( <i>Office Français de l'Immigration et de l'Intégration</i> ) (France)
OFPRA	Office for the Protection of Refugees and Stateless Persons ( <i>Office Français de Protection des Réfugiés et Apatrides</i> ) (France)
RNAVVD	National Support Network for Victims of Domestic Violence (Portugal)
SEM	State Secretariat for Migration (Switzerland)
SOGI	Sexual orientation and gender identity
SOGIESC	Sexual orientation, gender identity and expression, and sex characteristics
SRA	Specific Residence Authorisation
SSAR	Support Platform for the Solutions Strategy for Afghan Refugees
TGEU	Transgender Europe
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization

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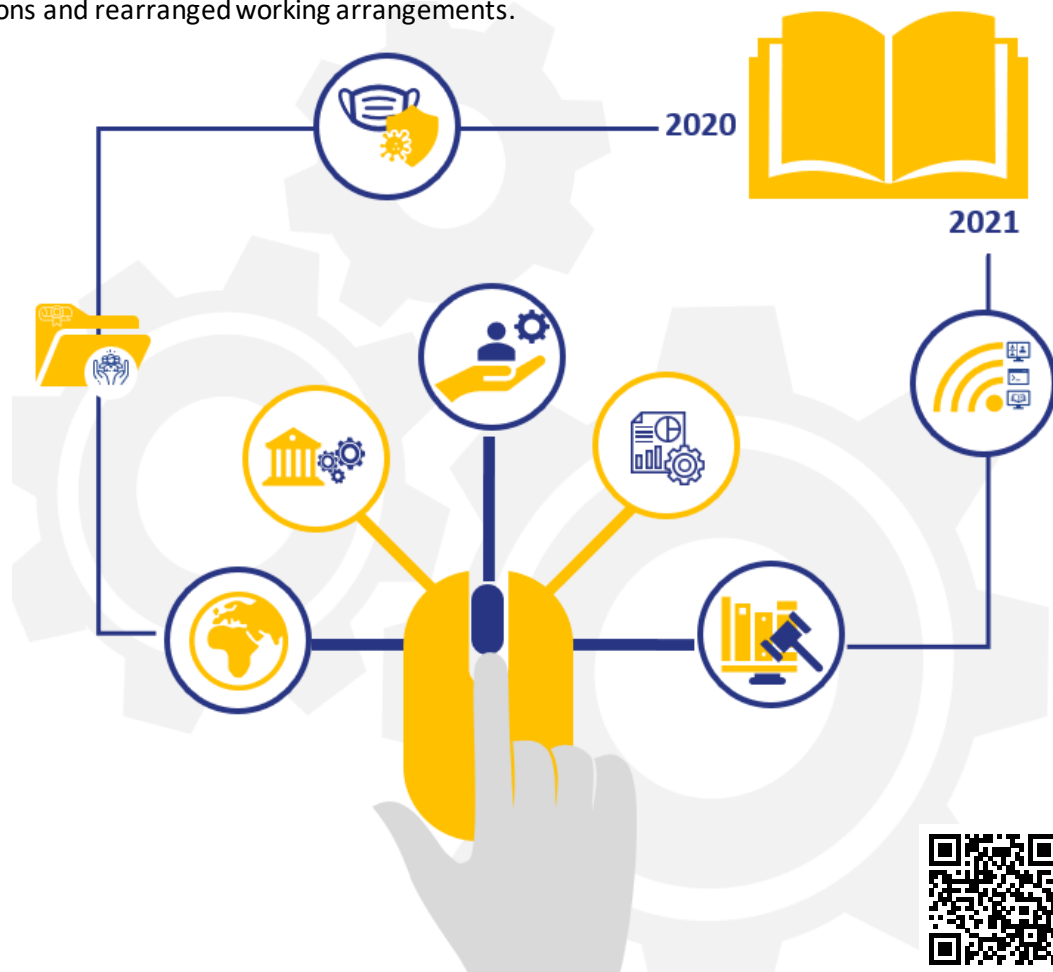
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# Introduction



*As the go-to source of information on international protection in Europe, the EASO Asylum Report series provides a comprehensive overview of key developments in asylum in European Union Member States, Iceland, Liechtenstein, Norway and Switzerland (EU+ countries). All aspects of the Common European Asylum System (CEAS) are covered step by step 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 2020 reference year which highlight emerging trends and the effectiveness of asylum systems.*

Building on trends seen in 2019, the number of asylum applications lodged in Europe continued to increase at the beginning of 2020, surpassing rates for the same period in the previous year. Most likely the rise in asylum applicants seeking refuge in Europe would have continued throughout the year if the world had not come to halt in the midst of a global pandemic. As of March 2020, the number of applications lodged in EU+ countries suddenly plummeted as lockdowns, travel bans and health measures were put in place to mitigate the spread of COVID-19. In total, almost one-third less applications for international protection were received in EU+ countries in 2020 compared to 2019. To ensure continued access to the asylum procedure, Member States responded by turning to digital solutions and rearranged working arrangements.



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 zooms in on two key topics in 2020, presenting the negative and positive secondary impacts of the pandemic: while global resettlement programmes were severely disrupted and departures delayed, the digitalisation of various steps of the asylum procedure brought long-term changes and efficiency gains for many asylum and reception systems.

Section 2 narrows in on the context in the European Union, presenting the evolution of CEAS and major developments in legislation, policy and jurisprudence at the EU level. It provides a summary of the proposals which were presented in the European Commission's new Pact on Migration and Asylum in September 2020. The section also discusses the agendas of the Presidencies of the Council of the EU in relation to migration and asylum, the impact of the UK's withdrawal from the EU and changes in migration routes to Europe.

As the centre of expertise on asylum, EASO provides technical and operational support to Member States to manage the influx of applicants and share best practices. Section 3 presents an overview of the role EASO plays in emergency assistance, building capacity and fostering the exchange of information across both EU+ and third countries. It describes the agency's role over the past 10 years in cultivating a harmonised approach across Europe to address international protection needs.

Section 4 analyses developments in each stage of the asylum procedure, including procedures for first and second applications, special procedures, the Dublin procedure, reception conditions, detention during the asylum procedure, access to the asylum procedure and to information, legal assistance, interpretation services, country of origin information, the content of protection, the return of former applicants and resettlement. Special highlight boxes are included to summarise the impacts of the COVID-19 pandemic and innovations in digitalising processes. While the overall number of asylum applications decreased significantly over the year, different stories unfolded at the country level. The key indicators which are presented help to identify and monitor trends in countries receiving asylum applicants and countries of origin. A special sub-section looks deeper into socio-economic indicators to compare the relative pressure on national systems.

The situation of minors and applicants with special needs are described in Sections 5. The section combines quantitative, qualitative and legal information, as well as key indicators, to provide an overview of current practices in regard to minors, women, victims of violence, and lesbian, gay, bisexual, trans-gender and intersex (LGBTI) asylum applicants. The section focuses in particular on unaccompanied minors, reviewing changes to reception conditions, guardianship and procedures throughout the asylum process.

To include diverse perspectives, observations by civil society organisations and other stakeholders are presented throughout the report by topic. In 2020, concerns mainly centred around the impact of the COVID-19 pandemic on asylum and reception systems, including access to Europe and the asylum procedure; scarce places and conditions in reception facilities; the need for more support for applicants with special needs; and gaps in effectively addressing the fundamental rights of stateless refugees. Throughout the sections, relevant case law is also described as courts continued to interpret a wide range of aspects related to CEAS.

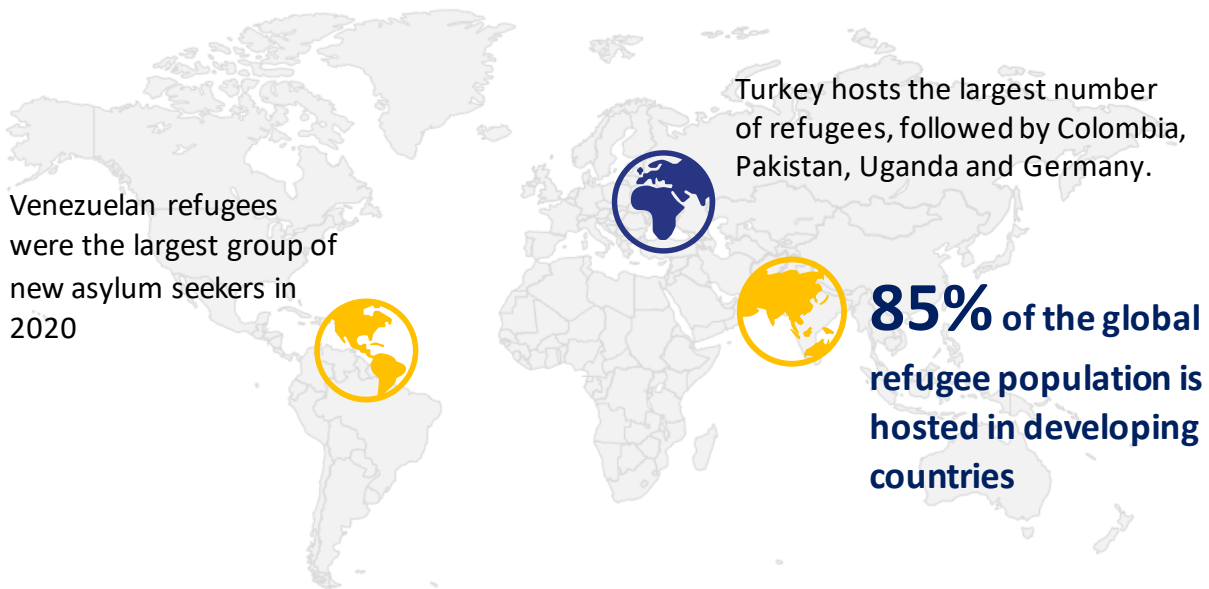
The report serves as a main reference for developments in asylum in EU+ countries. It collates a wide range of sources to provide accurate information to policymakers, national asylum authorities, researchers and practitioners involved in the field of asylum.





## Global patterns in international protection needs, 2020

5 countries account for 2/3 of the world's refugee population



The **COVID-19 pandemic** had a complex impact in creating or amplifying protection needs worldwide and impeding access to safety



**Resettlement programmes** came to near standstill due to travel restrictions during the COVID-19 pandemic



The pandemic provided the opportunity for countries to make further advances in **digitalisation** to increase efficiency in the asylum procedure

Sources: EASO and data from UNCHR



## Section 1. Global overview of asylum in 2020



*To contextualise developments in the field of asylum in Europe, Section 1 presents a global overview of forced displacement and the need for protection worldwide. It covers recent events and trends related to displacement and the international community's response to large refugee movements. Resettlement programmes and digitalisation in migration and asylum are highlighted. A glimpse at the broader landscape helps to set the scene for trends in asylum in the European Union which unfolded in 2020.*

Millions of people across the globe are affected by forced displacement due to conflict, persecution, human rights violations, natural disasters and degrading ecosystems. Those seeking protection find refuge either within their home country or by crossing international borders.

Official statistics distinguish between two groups of forcibly displaced persons: i) refugees and asylum seekers who have crossed international borders; and ii) internally displaced persons (IDPs) who are displaced within their own country. The [1951 Refugee Convention](#) provides the common definition for the first group as individuals who have 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>1</sup> and crossed an international border to seek safety.

There is no internationally-agreed definition, but according to existing guidelines IDPs are “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>2</sup> As such, IDPs legally fall under the jurisdiction of their own government and relevant national and international laws.

Both refugees and IDPs face legal protection challenges and typically need substantial psycho-social and material support, including shelter, food, safe water, health care and education. Many encounter violence, abuse and exploitation in the aftermath of displacement.<sup>3</sup> Emergency responses, as well as short- and medium-term arrangements, may provide relief, but identifying durable solutions remains a challenge, in particular with voluntary repatriation which may not even be possible due to the original causes of displacement.<sup>4</sup> At the same time, host countries struggle to integrate displaced populations, a situation which was exacerbated during the COVID-19 pandemic when fewer refugees were accepted through resettlement programmes.<sup>5</sup>

### 1.1 General overview



Major displacements have occurred over the past years due to conflict, systematic human rights violations, political instability and economic hardship.<sup>6</sup> In June 2020, a total of 80 million people had been forcibly displaced, according to UNHCR.<sup>i</sup> The

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

figure includes 26.4 million refugees under UNHCR's mandate, 4.2 million asylum seekers, 45.7 million IDPs<sup>7</sup> (as at the end of 2019) and 3.6 million Venezuelans displaced abroad.<sup>8</sup>

Two-thirds of the current refugee population, which includes displaced Venezuelans, come from five countries of origin. The largest number of refugees originated from Syria (6.6 million), followed by Venezuela (3.6 million), Afghanistan (2.7 million), South Sudan (2.3 million) and Myanmar (1 million).<sup>9</sup> Venezuelan refugees constituted the largest group of new asylum seekers in 2020.

The vast majority of displaced populations are hosted in countries and communities neighbouring the centre of a crisis. In 2020, 85% of the global refugee population was hosted in developing countries.<sup>10</sup> Turkey continued to be the top host country, accommodating 3.6 million refugees, almost all from Syria. Colombia hosted the second-largest number of refugees (1.8 million), with Venezuelans constituting the overwhelming majority. This was followed by Pakistan, which hosted a refugee population of over 1.4 million, most of whom originated from Afghanistan. Uganda hosted the fourth-largest refugee population of approximately 1.4 million. In contrast to the first three host countries where the refugee populations came mainly from one country of origin, refugees hosted in Uganda originated from a number of countries, including Burundi, the Democratic Republic of the Congo, Rwanda, Somalia and South Sudan.

The only European country to be amongst the Top 10 refugee-hosting countries was Germany which has more than 1.1 million refugees and ranked as the fifth top host country in 2020.<sup>11</sup> A common appeal expressed by countries receiving a large share of displaced populations is for greater responsibility-sharing. While this principle has been acknowledged, it has not been matched in practice on the international stage.<sup>12</sup>

Undoubtedly, the COVID-19 pandemic which hit in 2020 has had a deep and complex impact, both in creating or amplifying protection needs worldwide and in impeding or complicating access to safety. Thus, the pandemic has had an adverse effect on displaced populations, host communities and those who assisted in providing protection. The economic downturn led to a reduction in the sources of income for displaced persons who were already struggling to meet their basic needs.<sup>13</sup> The closing of borders impeded access to territory and to the asylum procedure and delayed the travel of refugees to resettlement countries through planned programmes. Restrictions in movement made it harder for people to flee persecution and increased the risk of resorting to smuggling networks and more dangerous routes to seek international protection.<sup>14</sup> The pandemic also led to a spike in gender-based violence, while many women and girls have seen their access to assistance and services minimised.<sup>15</sup> Access to education, health services and socio-psychological support overall was disrupted to unprecedented levels.<sup>16</sup>

In such a challenging context, actors involved in the provision of protection adapted their work to ensure some continuity in services. Countries receiving displaced populations introduced new modalities in registering and processing applications. There was an increase in the use of technology and digital solutions to perform tasks remotely or online. Still, the number of asylum applications worldwide dropped significantly in 2020 compared to the previous year (*see Section 2.2*).<sup>17</sup> While the pandemic in 2020 seemed to be a factor inhibiting mobility, this trend is likely to change in the future: post-COVID-19 recovery may be uneven, exacerbating imbalances between developing and more developed countries and further creating mobility from the former to the latter.<sup>18</sup>

### Global Compact for Refugees<sup>ii</sup>



Global protection needs and complex challenges require integrated actions by various stakeholders, including governments, international organisations, and civil society and community organisations. In recent years, a number of important steps have been taken to this end. The adoption of the New York Declaration for Refugees and Migrants by the UN General Assembly in 2016 set out the key elements for the [Comprehensive Refugee Response Framework](#) to ease pressure on host countries; enhance refugee self-reliance; expand solutions in third countries; and support conditions in countries of origin for safe and dignified return.<sup>19</sup> Subsequently, the Global Compact for Refugees was adopted by the UN General Assembly in 2018, and its Programme of Action set out concrete steps for responsibility, from the reception and admission of refugees to addressing their needs and supporting host communities in a sustainable way.<sup>20</sup>

To review progress made under the compact, in December 2019 the Global Refugee Forum brought together governments, international organisations, local authorities, civil society organisations, the private sector, host community members and refugees to exchange best practices, commit financial and technical support, and discuss policy changes to help reach the goals of the compact.<sup>21</sup> Many EU services and agencies, including EASO, participated in the event. Discussions at the forum centred around enhancing resettlement and complementary legal pathways to third countries, alleviating pressures on host communities, improving protection for refugees, integration, access to education for refugee children and involving refugees in policy development.<sup>22</sup> During the forum, the EU reiterated its strong commitment to providing life-saving support to millions of refugees and displaced people, as well as fostering sustainable development-oriented solutions.<sup>23</sup>

Multilateral collaboration to seek better solutions for international protection needs continued in 2020. Approximately 1,400 pledges were made at the Global Refugee Forum, which have fed into relief responses and development projects for displaced populations, and additional support has been provided to host communities. By August 2020, more than 300 progress updates from governments, organisations, businesses and other entities were received by UNHCR, with more than two-thirds reporting headway in implementation.

Projects varied in scope and nature, such as the provision of early childhood education for children affected by displacement; creation of jobs and sustainable livelihood opportunities for refugees and host communities; facilitating access to higher education; building synergies in research, teaching and scholarships; provision of legal aid and information to refugees; and efforts to address root causes of displacement through sustainable development.<sup>24</sup>

By thematic areas, progress achieved under the Global Compact on Refugees in 2020 included:



**Protection capacity:** In the aftermath of the Global Forum for Refugees, a number of mechanisms to share expertise and provide protection were created. The Asylum Capacity Support Group ([ACSG](#)) was established to strengthen capacity in countries with large displaced populations. The ACSG secretariat, along with governments and international partners such as UNHCR, have worked toward prioritising and matching support request and offers. In 2020, three offers and requests were matched between France and Chad, France and Niger, and Canada and Mexico. An online portal is under development to coordinate the sharing of information, knowledge and expertise. In the area of statelessness, a number of pledges have already been implemented,

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<sup>ii</sup> Applicable to all countries that have endorsed the Global Compact on Refugees.

including accession by countries to the UN Statelessness Conventions, the establishment of statelessness determination procedures and the adoption of national action plans to address statelessness.<sup>25</sup>



**Education:** For displaced children of school age, education may offer a life-changing opportunity and facilitate integration in host communities. Access to secondary, tertiary and vocational education can build the foundation for better labour opportunities. In 2020, projects in this area included financial contributions to increase and improve access to education; construction of schools; inclusion of refugees in national education systems; and increasing teacher expertise, especially when dealing with refugee children.<sup>26</sup>



**Durable solutions:** Even amid challenges during the COVID-19 pandemic, progress was made under the Three-Year Strategy on Resettlement and Complimentary Pathways. Some countries adapted their modalities and carried out resettlement or pledged to increase their targets in the coming years. New community sponsorship programmes emerged and complementary pathways were expanded through new partnerships with civil society organisations. Efforts were also made in the area of integration to involve refugees in national development programmes.<sup>27</sup>



**Clean energy challenge:** Initiatives in this area focus on replacing unsustainable energy with clean energy sources that can be used by households, community services and humanitarian operations in an effort to bring systemic change in areas at risk to induce displacement due to the climate and local environment. In 2020, significant contributions were made by diverse stakeholders by providing financial, political, technical and operational support to introduce and promote solutions for the sustainable management of natural resources and ecosystems in humanitarian settings.<sup>28</sup>



**Development:** Development initiatives aim to provide structural solutions to stabilise fragile regions and foster human development and economic growth. The initiatives aim for comprehensive development through integrated efforts in areas such as education, employment, energy and infrastructure, local governance capacity, preparedness in forced displacement settings, service delivery systems for refugee populations, and conflict prevention through strengthening social cohesion. UN agencies, multilateral development banks and national governments are key contributors to these projects.<sup>29</sup> The majority of the work is accomplished through three [regional support platforms](#) launched at the Global Refugee Forum: the Comprehensive Regional Framework for Protection and Solutions ([MIRPS](#)) in Central America and Mexico; the Nairobi process in East Africa and the Horn of Africa facilitated by the Intergovernmental Authority on Development ([IGAD](#)); and the Support Platform for the Solutions Strategy for Afghan Refugees ([SSAR](#)). The regional support platforms bring together a diverse alliance of stakeholders to work toward: i) galvanising political commitment for prevention, protection, response and solution; ii) mobilising financial, material and technical assistance and enhancing legal pathways to safety; and iii) facilitating coherent responses to refugee situations.<sup>30</sup> The EU is a major contributor to these projects and has been an active member of all three regional support platforms, mobilising financial support as well as expertise.<sup>31</sup>



**Health:** Naturally, the COVID-19 pandemic further highlighted the need for equitable access to health services and clean water and sanitation. In 2020, activities in this area focused on COVID-19 preparedness and response. In conjunction, steps were taken to include refugees in the national health systems of host countries, provide health insurance and improve medical infrastructures.<sup>32</sup>



**Jobs and livelihoods:** Despite the adverse socio-economic impacts of COVID-19, steps were taken to foster inclusive economic growth for refugees and host communities alike through job creation and entrepreneurship programmes. A key string of activities centred on including refugees into national labour markets, while the contribution of non-governmental organisations (NGOs) and the private sector was significant in providing employment opportunities.<sup>33</sup>

### **High-Level Panel on Internal Displacement**



The High-Level Panel on Internal Displacement, which was established by the UN Secretary General in October 2019, began its deliberations in February 2020. Members of the panel represent every geographical group and include countries directly affected by internal displacement. The panel is tasked with identifying concrete recommendations on how to better prevent and respond to the global internal displacement crisis, covering the following areas:

- Strengthening the capacity of countries, the UN system and relevant stakeholders to ensure adequate protection and assistance to IDPs;
- Advancing collaboration between humanitarian, developmental and peace organisations;
- Advancing the participation and inclusion of IDPs and displacement-affected communities in achieving the [2030 Agenda on Sustainable Development](#);
- Improving the collection, analysis and use of quality data relevant to internal displacement; and
- Identifying innovative financing and funding mechanisms to address internal displacement.

Comprising eight members, the panel is co-chaired by the former EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, and the Chair of the Global Fund to Fight AIDS, Tuberculosis and Malaria, Donald Kaberuka. It will deliver its final recommendations to the UN Secretary-General in September 2021.<sup>34</sup>

### **The European Union's role in migration and asylum**

The EU has undertaken a key role in international efforts to provide protection solutions worldwide. Since 2015, the EU has provided EUR 9 billion for the funding of refugee and migration-related programmes.<sup>35</sup> In recent years, most of the EU's humanitarian budget (80% of EUR 1.2 billion in 2018 and of EUR 1.6 billion in 2019) was allocated to projects helping the forcibly-displaced and their host communities to meet their immediate, basic needs in conflict, crisis and protracted displacement.<sup>36</sup>

The [Global Approach to Migration and Mobility](#) is the overarching framework for the EU's engagement with non-EU partners in the areas of migration, mobility and asylum. A number of tools and schemes are used to plan, coordinate and deliver protection-, humanitarian- and development-oriented solutions at bilateral, regional and multilateral levels, including the EU Emergency Trust Fund for Africa, the EU Regional Trust Fund in Response to the Syrian Crisis, the Bêkou Trust Fund, the EU Facility for Refugees in Turkey, the African-Caribbean-Pacific/EU Partnership and the EU External Investment Plan.

Work in these areas is coordinated by the European Commission and the EU External Action Service, in cooperation with relevant EU agencies and institutions. The proposed new [Pact on Migration and Asylum](#) includes a strong external dimension and sets forth a number of concrete areas of action, including protecting those in need and supporting countries which host large numbers of refugees; building economic opportunities in addressing root causes of irregular migration; assisting partner

countries in managing migration; fostering cooperation on readmission and reintegration; and enhancing legal pathways to protection in the EU (for example resettlement, complementary pathways and community sponsorship) (see Section 2).<sup>37</sup>

As the international community continues its efforts to address complex aspects of displacement globally, the focus of development may change from year to year to target areas where progress can be made to alleviate situations of displacement or where new modalities can be developed to provide protection.<sup>iii</sup> In 2020, two areas were at the forefront of the discourse on international protection, each for different reasons. **Resettlement** was among the areas that were strongly impacted by the pandemic due to travel restrictions. With the risks associated with movement during the global health emergency, the need for resettlement in providing a safe legal pathway was even more accentuated. At the same time, the pandemic provided the opportunity for countries to make further advances in the area of **digitalisation** to increase efficiency in asylum procedures.



## 1.2 Resettlement at the global level

Resettlement is one of the durable solutions for refugees who cannot return home because of continued conflict and persecution. At times, emergency resettlement – through emergency transit facilities (ETFs) – may ensure the security of refugees who are threatened by *refoulement* to the country of origin or whose physical safety is under threat in the country where they sought refuge.<sup>38</sup>

UNHCR defines resettlement as “the transfer of refugees from an asylum country to another state that has agreed to admit them and ultimately grant them permanent residence”. Not only is it an act of responsibility-sharing and solidarity with countries that host large numbers of refugees, it also has the potential of offering refugees a new life in a safe environment, where they can be organic members of the new societies. Importantly, resettlement and other complimentary pathways can provide legal and safe alternatives to perilous onward movements that may threaten the physical and psychological well-being of refugees.<sup>39</sup>

Resettlement is an elaborate process that largely comprises the following six steps:



### Identification

Individuals or families must first meet preconditions, that is, they need to have been determined as refugees<sup>iv</sup> by UNHCR and, upon an assessment of all possible pathways, resettlement must be identified as the most appropriate solution. They also need to fall under at least one of the seven resettlement submission categories: individuals with legal and/or physical protection needs; individuals with medical needs; women and girls at risk; individuals seeking family reunification;

<sup>iii</sup> Two areas which attracted increased attention in 2019 and were highlighted in the 2020 edition of the EASO Asylum Report were statelessness and human mobility due to climate- and environment-related reasons. For more information, see [EASO Asylum Report 2020](#), Section 1.

<sup>iv</sup> In exceptional cases, resettlement is considered for non-refugee stateless persons or for non-refugee dependent family members for the purposes of family reunification.

children and adolescents at risk; and individuals for whom no alternative durable solution is foreseeable. When cases are referred for resettlement, staff from UNHCR field offices or affiliated NGO staff conduct an assessment interview and a registration form is prepared.<sup>40</sup>

### ***Selection***

Countries that have agreed to host resettled refugees agree to consider a certain number of submissions by UNHCR each year. Through an established consultation process, countries determine the size and composition of their resettlement programmes and assess the resettlement registration forms submitted by UNHCR. While some states make the selections based solely on the registration forms ('dossier selection'), others perform face-to-face interviews by government officials who travel to the country of asylum to meet the candidates.<sup>41</sup>

### ***Pre-departure assistance***

Refugees selected for resettlement are offered orientation programmes on the journey and life ahead in the new host country. NGOs and the International Organization for Migration (IOM) collaborate with governments, local authorities and reception and integration authorities to ensure a successful resettlement. Candidates undergo a pre-departure health assessment to ensure that they are fit to travel and receive sufficient assistance if required.<sup>42</sup>

### ***Travel***

Travel documents need to be obtained from the embassies and consulates of the resettlement country. To help refugees prepare for the journey, pre-embarkation briefings and checks are organised. Transportation and passenger assistance are arranged for embarkation, transit and arrival.<sup>43</sup>

### ***Reception***

Upon arrival in the country of resettlement, refugees are offered a set of reception conditions provided by central government agencies, regional/local authorities and civil society organisations. Sometimes resettled refugees are accommodated in centralised reception facilities before moving to long-term accommodation in the community. Post-arrival orientation sessions assist refugees in their transition to the country of resettlement, by providing information on the local area and agencies which can provide support and assistance. The reception phase may also include a health assessment of newly-arriving refugees to verify the information received prior to arrival and, if needed, further medical care can be arranged.<sup>44</sup>

### ***Integration***

As refugees adapt to the new surroundings, they become more independent and self-sufficient. Receiving societies can facilitate the process by providing a supportive environment. Integration is a multi-level process which requires the involvement of various social constituencies to foster cohesive and equitable societies, including a secure legal status, language-learning, employment and education, in addition to a feeling of ownership and belongingness.<sup>45</sup>

Throughout all steps of the resettlement process, the IOM plays a paramount role in the coordination and implementation of activities.<sup>46</sup> EU countries, both at the national level and in the context of European Resettlement Programmes, have been consistently key contributors to resettlement efforts, accounting for 40% of all resettlement pledges worldwide.<sup>47</sup>



While resettlement is an important tool for providing protection, there has been a widening gap between the number of people in need of resettlement and the number of available places.<sup>48</sup> Overall, an estimated 1.44 million globally are in need of protection,<sup>49</sup> but only a small part of this population has the opportunity for resettlement.

In 2020, resettlement processes were disrupted due to COVID-19-related emergency measures and restrictions in international travel. By June 2020, the departure of 10,000 refugees to resettlement countries had already been delayed.<sup>50</sup> UNHCR, the IOM and partner organisations continued to process and counsel refugees, while resettlement countries adapted their working methods. In this context, a number of emergency and urgent resettlements still took place.<sup>51</sup>

Despite these efforts to continue resettlement programmes during the pandemic, the number of resettled refugees in 2020 was the lowest in almost two decades. Out of the total resettlement target of 70,000,<sup>52</sup> only 22,800 refugees were actually resettled during the year.<sup>53</sup> These developments highlighted that resettlement as a durable solution needs to be expanded to provide broader coverage and effective protection to those in need. It also became evident that resettlement processes can be resilient even through a pandemic and can be managed effectively with the necessary adaptations and digital tools.

*For more information on resettlement, see resources produced by the [European Resettlement Network](#) and the [UNHCR Resettlement Handbook](#). For information on EU efforts in the area of resettlement in 2020, see Section 2.*



### 1.3 Digital connectivity and digitalisation

The COVID-19 pandemic spurred governments and the international community in general to use new technologies in the field of asylum to ensure a continuity of service provision. It also offered a new impetus to the discussions on digitalisation and digital connectivity in migration and asylum, building on progress made over the past years. The discussion is by no means new and centres largely around two interlinked and complimentary dimensions: i) increasing efficiency in the functioning of asylum and migration systems, as well as accessibility of services to asylum applicants, refugees and migrants by introducing electronic/remotely-accessible technical solutions; and ii) promoting digital connectivity among refugees and migrants to ensure access to digital public goods and to foster an inclusive digital economy and society. Still, digitalisation can lead to unexpected impacts and, thus, disadvantages and advantages, threats and opportunities need to be further explored.

New technical solutions have been introduced over the past years in a number of steps within the asylum procedure, for example electronic registration of asylum applications, software for language assessment and dialect recognition assistance, remote interpretation during asylum interviews, electronic notifications to applicants on the status of their application, virtual counselling and legal advice, delivery of educational services to refugee children, pre-departure support to refugees selected for resettlement,<sup>54</sup> and online registration for ad hoc services, such as emergency assistance.<sup>55</sup> One of the first areas where new technologies were introduced was the provision of information to refugees and migrants to provide assistance in navigating through the – often – complex system of asylum and migration processes. To increase outreach and provide easy access, a vast amount of information on the asylum procedure was moved online, material and applications were published online in different languages and diverse audio-visual media was tailored to the needs of the intended audience.<sup>56</sup> Such information activities also target professionals and volunteers

working with populations of interest to ensure that they are better prepared to cater to the specific needs of refugees and migrants.

Governments and NGOs have also leveraged technology to optimise service delivery on integration. Online tools (websites, videos and apps) have assisted in providing access to public services, such as education, health care and housing. Technical solutions often include interactive online courses, apps to help newcomers learn the local language, employment assistance platforms, tools to assist in preparing for tests and more, with the overall aim to assist migrants and refugees in key elements of the integration process.<sup>57</sup> Digital technologies have also helped to counter xenophobia online and create positive, inclusive narratives toward refugees and migrants, promoting messages of empathy, solidarity and tolerance.<sup>58</sup>

An important precondition for digital services is for the target audience to have access to the Internet and possess the necessary digital literacy. While increasing connectivity and access to services, digital innovation may also have the potential to exclude already-marginalised groups, such as migrants and refugees, if the benefits of innovation are not equitably distributed.<sup>59</sup> Indeed, access to Internet connectivity and digital channels are not a reality for everyone. Substantive differences in the levels of access seem to exist between different areas of the world, as well as based on age, gender and the diversity of populations.<sup>60, 61</sup> Key barriers to connectivity may include a lack of access to devices, a low level of digital literacy, a lack of access to energy to power devices and an absence of cellular networks.<sup>62</sup>

Acknowledging the fast pace in which new technologies are developed and implemented and the important implications this evolution has for the ways in which societies connect at a global level, the UN Secretary-General launched a [High-Level Panel for Digital Cooperation](#) in 2018. Through multi-stakeholder consultations during 2018 and 2019, in June 2020 the UN Secretary-General presented a [Roadmap on Digital Cooperation](#), which includes recommendations for enhancing global connectivity, promoting digital public goods in an equitable way, ensuring digital inclusion for all, fostering digital cooperation and ensuring the protection of human rights in the digital era. The roadmap acknowledged that migrants and refugees are among the groups that face the risk of being left behind as digitalisation progresses. It also highlighted that prompt action is needed to ensure that current barriers to digital inclusion do not layer up on top of existing obstacles that these groups already face.<sup>63</sup>

Indeed, refugees often reside in areas that lack digital networks and infrastructure or where connectivity, when available, is expensive. Better access to the Internet and mobile services can create a multiplier effect, broadening the opportunities refugees have toward self-reliance.<sup>64</sup> Research performed under the umbrella of UNHCR's [Global Strategy for Connectivity for Refugees](#) has indicated that improved mobile networks may have a positive impact on the lives of both refugees and host communities. To this end, making connectivity affordable, for example by offering reduced prices and mobile broadband, is critical. Refugees can have better access to protection and services by leveraging technology and connectivity.<sup>65</sup> For example, under the coordination of UNHCR, the Connectivity for Refugees project engages multiple stakeholders, including refugees, host communities, local authorities and governments, NGOs, the private sector and donors to connect displaced populations and host communities in strategic investments and frameworks; provide services and affordable access to Internet connectivity; and provide legal pathways for refugees and displaced persons to access connectivity.<sup>66</sup>

Discussions have also centred around the possibility to use digital technology to establish unique, digital identities for refugees. Given the extreme circumstances under which asylum seekers are forced to flee their homes in search of safety, they often may not possess identity documents from

their country of origin. In other cases, refugees may originate from a country where state authorities have collapsed and there is no or limited capacity to acquire identity documents.<sup>67</sup> Stateless persons face the same predicament. The lack of documents creates additional challenges and delays when trying to register with national authorities or humanitarian organisations or access services, such as mobile connectivity, financial services, education, health care or employment.<sup>68</sup> Groups that are already vulnerable and marginalised, coupled with lacking a documented identity, face a plausible risk of transgressing the line between legal and illegal.<sup>69</sup>

As countries around the world proceed with the digitalisation of civil registries, opportunities arise to create legally-recognised digital identities for displaced persons living on their territory. Digital identities may increase efficiency in refugee registration and enable authorities to verify the identity and eligibility status remotely, while facilitating cross-organisational data-sharing.<sup>70</sup> It will also foster the digital inclusion of refugees, asylum seekers, stateless persons and other displaced populations, thus empowering them by facilitating access to employment, web-based economic activities, income and remittances, and online learning.<sup>71</sup> Digital identities can offer new potential for service delivery. In the context of humanitarian interventions, for example, a digital identity can allow for the dispersal of cash-based aid through mobile money platforms and relief accounts that show entitlements in a transparent manner.<sup>72, 73</sup>

While the benefits are clear, attention has been drawn to the potential of such technologies to add a new socio-technical layer that may exacerbate existing biases, discrimination or power imbalances. These concerns are related to ensuring meaningful consent from refugees on the use of their personal data; increasing trust among refugees on technical solutions to encourage their use; and addressing bureaucratic biases that may impede fair development and integration of digital identity systems.<sup>74</sup> As work toward digitalisation progresses, these concerns must be addressed accordingly.



## Section 2. Major developments in asylum in the European Union in 2020



Section 2 presents an overview of CEAS and the latest legislative and policy developments in its evolution at the EU level. The new Pact on Migration and Asylum, announced in September 2020, proposed a fresh start for the management of asylum and migration by EU+ countries. The section also provides an overview of jurisprudence by the Court of Justice of the EU (CJEU) in the area of international protection.

### 2.1 Road to a Common European Asylum System

#### 2.1.1 First and second phases of CEAS and the 2016 reform proposals



The Common European Asylum System (CEAS) is a legal and policy framework developed to guarantee harmonised and uniform standards for people seeking international protection in the EU. Based on an understanding that the EU needs to have a common approach in implementing transparent, effective and equitable procedures,<sup>75</sup> CEAS emphasises a shared responsibility to process applications for international protection in a dignified manner and ensuring fair treatment.<sup>76</sup> At its core, CEAS aims to achieve:

- ➔ A clear and functional process to determine which country is responsible for examining an application for protection;
- ➔ A set of common standards to conduct fair and efficient asylum procedures;
- ➔ A set of common minimum conditions for the dignified reception of applicants for protection; and
- ➔ Convergence on the criteria for granting protection statuses and for the content of protection associated with those statuses.<sup>77</sup>

In the first phase of CEAS (1999-2005), six key legislative instruments were adopted in order to establish minimum standards for the asylum procedure across EU countries: the Temporary Protection Directive, the Eurodac Regulation, the Reception of Asylum Seekers Directive, the Dublin II Regulation, the Qualification Directive and the Asylum Procedures Directive. During this period, EU countries had varied experiences with asylum flows, while protection standards were deemed not to be strong enough. To improve the functioning of CEAS, a number of substantive amendments were introduced to five of the key legal instruments that govern the minimum standards of the European asylum system:<sup>78, 79</sup>

- ➔ The recast [Asylum Procedures Directive](#);<sup>80</sup>
- ➔ The recast [Reception Conditions Directive](#);<sup>81</sup>
- ➔ The recast [Qualification Directive](#);<sup>82</sup>
- ➔ The recast [Dublin III Regulation](#);<sup>83</sup> and
- ➔ The recast [Eurodac Regulation](#).<sup>84</sup>

The increased – and often uneven – pressure that national asylum and reception systems in EU+ countries faced since 2015 underlined the importance of having an EU-wide framework to manage mixed migration flows<sup>v</sup> in a consistent and coordinated way. To further refine CEAS, in 2016 the European Commission presented two packages of reform proposals for core components of CEAS, including:<sup>vi</sup>

- ➔ A reform of the **Dublin system** to better balance responsibility and solidarity for processing asylum applications by EU+ countries;<sup>85</sup>
- ➔ Steps toward reinforcing the **Eurodac regulation**, including increasing the efficiency of the EU database on fingerprints for asylum applicants;<sup>86</sup>
- ➔ Strengthening the **mandate of EASO** toward a fully-fledged agency for asylum;<sup>87</sup>
- ➔ Replacing the **Asylum Procedures Directive** with a regulation directly applicable in national asylum systems to harmonise procedures across EU+ countries and achieve convergence in recognition rates;<sup>88</sup>
- ➔ Replacing the **Qualification Directive** with a regulation directly applicable in national asylum systems to further harmonise protection standards and rights of beneficiaries of international protection;<sup>89</sup>
- ➔ Reforming the **Reception Conditions Directive** to ensure that applicants for international protection benefit from harmonised and dignified reception standards and prevent secondary movements and abuse;<sup>90, 91</sup> and
- ➔ As part of the initiatives on reforming CEAS, the European Commission put forth a proposal to establish a permanent **Union Resettlement Framework** to provide legal and safe pathways to the EU, replacing existing, ad hoc schemes.

Since the proposals were set forth, progress toward their adoption was uneven. The discussions on the EU Asylum Agency, the Eurodac Regulation, the Union Resettlement Framework, the Qualification Regulation and the Reception Conditions Directive made significant headway.<sup>92</sup> At the same time, agreement on the proposals for a reformed Dublin system and an Asylum Procedures Regulation could not be reached due to fundamental political differences among EU Member States. In addition, some Member States expressed reservations in adopting one or more of the proposals separately before all were ready for adoption.

While considerable work was accomplished in policy implementation and practical cooperation among Member States during 2016-2019, the negotiations for the reform package seemed to have reached an impasse. With 2019 being a year of institutional transitions at the EU level, further advances were expected as of 2020.

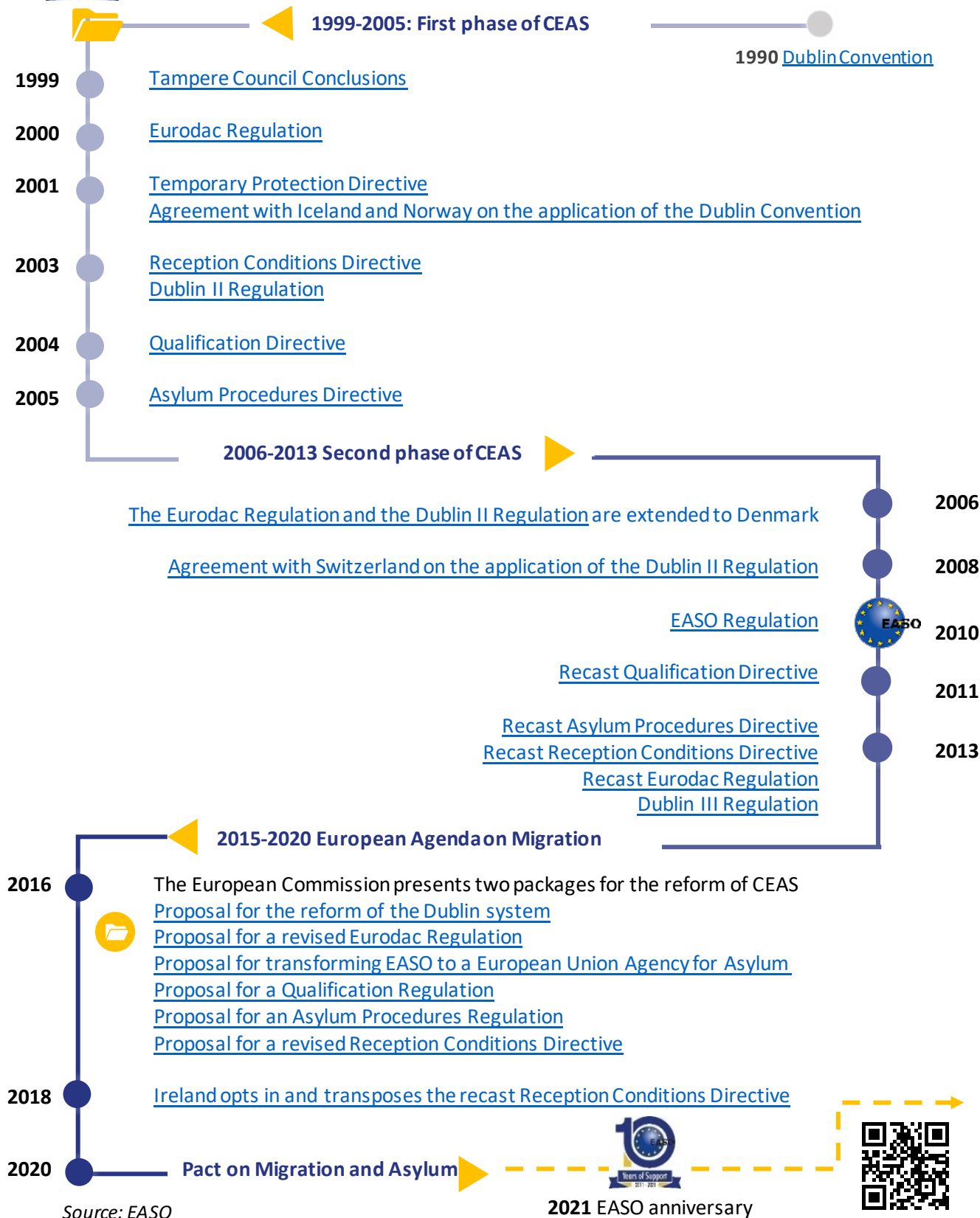
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<sup>v</sup> “Complex migratory population movement including refugees, asylum seekers, economic migrants and other types of migrants as opposed to migratory population movements that consist entirely of one category of migrants.” Definition provided in: European Migration Network. (2021, May 12). *Glossary: mixed migration flow*. [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/mixed-migration-flow\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/mixed-migration-flow_en)

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

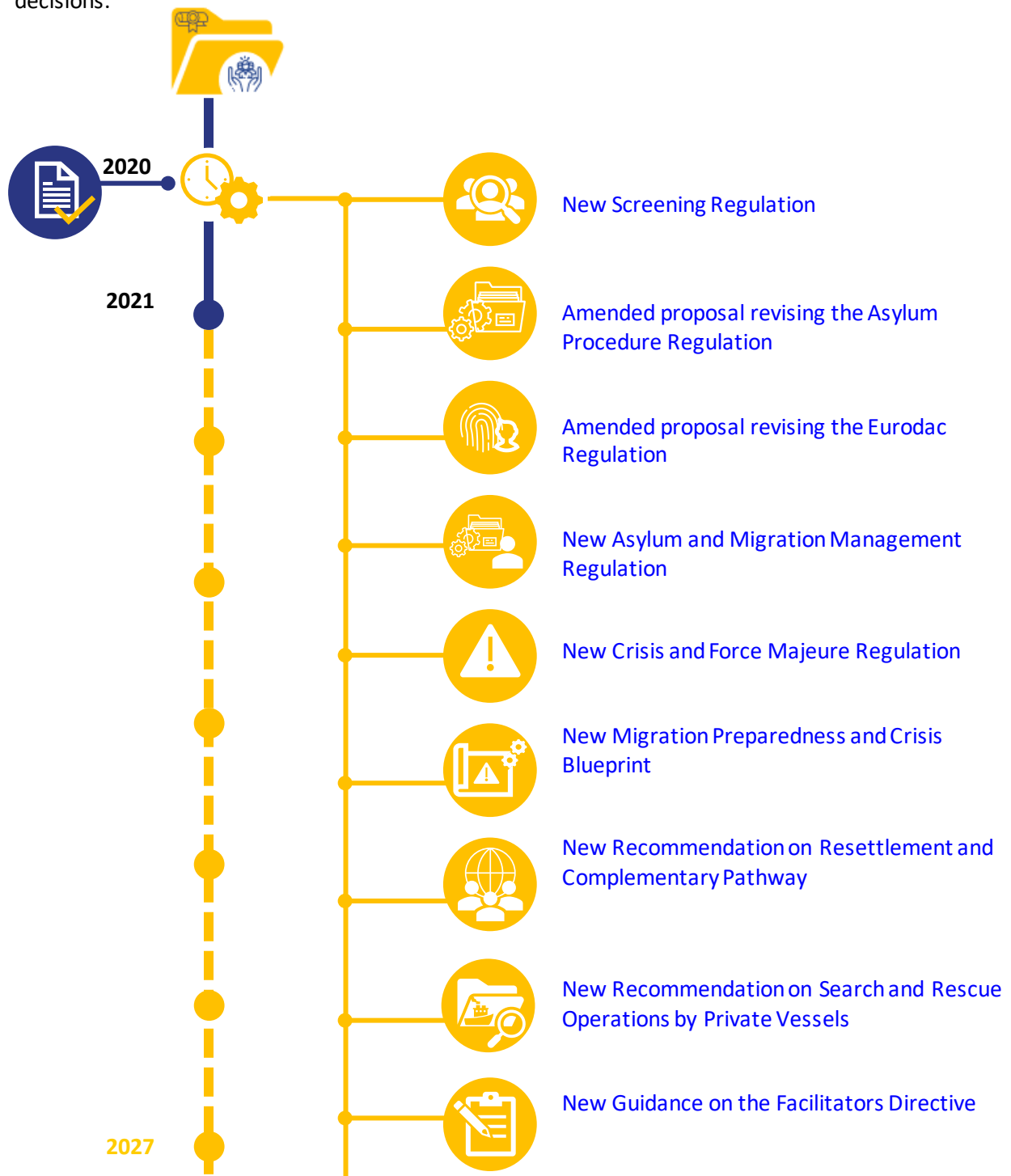


## The evolution of the Common European Asylum System (CEAS)



### 2.1.2 The European Commission’s new Pact on Migration and Asylum

Building on previous progress, in September 2020 the European Commission presented a new [Pact on Migration and Asylum](#), proposing a fresh start on addressing migration with the aim of building confidence through improved, faster and more effective procedures and striking a balance between fair-sharing of responsibility and solidarity.<sup>93</sup> The European Commission presented the pact as a durable framework for managing a complex migratory reality, which affects Member States in different ways and to varying degrees, while remaining interdependent on each other’s policies and decisions.



Source: EASO

To accommodate diverse perspectives and needs in a balanced and integrated fashion, the pact is based on in-depth consultations with the European Parliament, Member States, civil society organisations, social partners and the business sector.<sup>94</sup> It aims to provide the framework for responding to the opportunities and challenges brought by migration and asylum flows during stable times, in situations of pressure and in crisis situations. The Pact on Migration and Asylum aims to set the framework for:

- ➔ Robust and fair management of external borders, including identity, health and security checks;
- ➔ Fair and efficient asylum rules, streamlining procedures on asylum and the return of rejected applicants;
- ➔ A new solidarity mechanism for situations of search and rescue, pressure and crisis;
- ➔ Stronger foresight, crisis preparedness and response;
- ➔ An effective return policy and an EU-coordinated approach to returning third-country nationals to their country of origin;
- ➔ Comprehensive governance at the EU level to better manage and implement asylum and migration policies;
- ➔ Mutually beneficial partnerships with key third countries of origin and transit;
- ➔ Sustainable legal pathways for those in need of protection and to attract talent to the EU; and
- ➔ Effective integration policies.<sup>95</sup>

To achieve these goals, the European Commission maintained its proposals and supported the provisional agreements already reached on the Qualification Regulation, the Reception Conditions Directive, the Union Resettlement Framework Regulation, and the EU Agency for Asylum. It also called for the swift conclusion of the negotiations on the recast Return Directive. The Commission withdrew the 2016 proposal for an amended Dublin Regulation and replaced with a new proposal for an Asylum and Migration Management Regulation. In conjunction with the five proposals from 2016 and 2018 which were maintained, the pact comprises a package of nine additional instruments.<sup>96</sup>

### ***New Screening Regulation***

The [proposal](#) sets forth a pre-entry screening procedure for:

- ➔ All third-country nationals who are present at the external border and do not fulfil entry conditions;
- ➔ Third-country nationals who disembark following a search and rescue operation;
- ➔ Third-country nationals at the external borders who wish to apply for international protection;
- ➔ Third-country nationals who present themselves at border crossing points; and
- ➔ Third-country nationals who are apprehended in the territory of a Member State without fulfilling the conditions of entry and stay – with the exception of individuals overstaying their visas since they have been already subjected to border checks upon arrival.



The regulation introduces uniform rules on the procedures to be followed at the pre-entry stage to assess the individual needs of third-country nationals and the duration of information collection for identification purposes. It also creates a framework for uniform rules to screen irregular migrants who are apprehended within the territory by eluding border controls upon entering the Schengen area.

The screening consists of: i) a preliminary health and vulnerability check; ii) an identity check against information in European databases; iii) registration of biometric data in a database, if not registered already; and d) a security check through a query of relevant national and EU databases, in particular the Schengen Information System (SIS), to verify that the person does not constitute a threat to internal security.

For those intending to apply for international protection, access to the asylum procedure must be ensured by referral to the asylum authorities. During the screening, that is, during the checks to determine the appropriate procedure to follow, third-country nationals should not be authorised to enter the territory of the Member States.

Third-country nationals who apply for international protection during the screening should be considered as applicants for international protection, but the legal effects of the Reception Conditions Directive should apply only after the screening has ended. Similarly, return procedures should only start after the screening has ended. The screening can be followed by relocation under the mechanism for solidarity envisaged in the proposed new Asylum and Migration Management Regulation (*for more details see the description of the proposal below*). The proposal provides that Member States are required to set up an independent monitoring mechanism to ensure that fundamental rights are safeguarded throughout the process and compliance with the principle of *non-refoulement* is ensured.<sup>97</sup>

### **Amended proposal revising the Asylum Procedure Regulation**



The Commission proposed targeted [amendments](#) to its 2016 proposal,<sup>vii</sup> which already aimed to streamline asylum procedures with a swifter common procedure to identify those in need of protection and those who are not. In conjunction with the proposal for a new Screening Regulation, the revised Asylum Procedure Regulation aims to establish a seamless link between all stages of the process, from arrival to processing of asylum requests and, where applicable, the return of rejected applicants.

Apart from screening when the appropriate procedure to follow is already checked, the pre-entry phase will include an end-to-end border procedure for asylum and return. Following the screening, it will be determined whether an asylum application should be assessed in the border procedure without authorising the applicant's entry into the territory of the Member State or if it should be channelled into a normal asylum procedure. During the border procedure, decisions will be taken on admissibility and/or on the merits of the application. The grounds for the border procedure are the same as the grounds for the accelerated procedure (*see Section 4.3 for more information on the accelerated procedure*). Out of these, three entail a mandatory application of the border procedure: cases where the person represents a danger for the national security or public order, cases where the person misleads the authorities or cases where the person comes from a country for which the recognition rate is 20% or lower. The latter is a newly-added ground both for the accelerated and the border

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

procedure. The recognition rate is to be calculated on the basis of the latest available, annual Eurostat data on the EU-wide average and should refer to the decisions of the determining authority granting international protection.

Unaccompanied minors and minors below the age of 12 and their families will not be subject to the border procedure, unless they are considered a danger to national security or the public order of the Member State. Other exceptions concern situations involving medical reasons, persons with special procedural needs if the necessary support cannot be ensured at the border, cases where the grounds for the border procedure are not/no longer applicable (for example if it becomes apparent that for a person coming from a low recognition country the rate is not representative due to personal circumstances). A special exception is foreseen for the mandatory asylum border procedure: Member States may choose not to apply it when a rejected applicant is unlikely to be readmitted by the third country.

The foreseen duration of the asylum procedure is 12 weeks from registration (administrative stage and appeal stage). The deadline for lodging an application for international protection in the border procedure should not take longer than 5 days from registration.

The links with return are reinforced: the decision rejecting the asylum application and the return decision should be issued together and appealed together in front of the same court. The amended proposal contains specific provisions on the return border procedure. It also contains provisions aimed at reinforcing the rules to tackle abuse through subsequent applications.

The aim of the proposed amendments is to ensure that no applicant is left in protracted uncertainty, while all necessary guarantees will be put in place to ensure that each case is individually assessed, taking into account possible vulnerabilities and in full respect of fundamental rights, including the principle of *non-refoulement*. The explanatory memorandum of the amended proposal states that the proposed border procedure would be beneficial to the asylum system in general to better manage abusive and inadmissible asylum requests at the border and provide an efficient treatment of genuine cases inland.<sup>98</sup>

### **Amended proposal revising the Eurodac Regulation**



Building on the provisional agreement reached by co-legislators, the amended [proposal](#) complements these changes and aims at transforming Eurodac into a common European database to support EU policies on asylum, resettlement and irregular migration. The proposed changes include counting individual applicants in addition to applications, ensuring that all shifts in responsibility for the examination of an application within the EU are registered in the system, contributing to prevent unauthorised movements to other Member States, including relocation-related data in the system and ensuring better monitoring of returnees.

The new Eurodac database will be interoperable with border management databases towards an all-encompassing and integrated migration and border management system. It will no longer be limited to asylum applicants and those who cross the external borders irregularly but will include non-EU nationals staying illegally in the EU. The data retention period for migrants apprehended at the external borders will be extended to 5 years from the current 18 months, which will ensure that illegal immigration and secondary movements within and to the EU can be sufficiently monitored and, where applicable, facilitate the identification and re-documenting of these individuals for the purpose of return. Among the planned amendments foreseen in the 2016 proposal, it was maintained for example that minors are registered from the age of 6 to improve the safety of child migrants (for example, to detect cases of human trafficking and establish family links if a child goes missing). Finally,

with additional information available in the system, the tracking of unauthorised movements within the EU will be facilitated. Overall, the proposed amendments are meant to create a clear and consistent link between specific individuals and the procedures they should follow in order to better manage irregular migration and the detection of unauthorised movements.<sup>99</sup>

### ***New Asylum and Migration Management Regulation***



This **regulation** provides a common framework which recognises that managing irregular arrivals effectively should be founded on a comprehensive approach through integrated policy-making and not a challenge to be addressed by individual Member States. It aims to maintain the link between responsibility-sharing, solidarity and the obligations of Member States to protect the external borders, taking into account international obligations for conducting search and rescue operations and exceptions designed to protect family life and the best interests of the child.

For the implementation of the comprehensive framework, the proposal sets out a governance system built on national strategies of Member States, which will feed into a European Strategy on Asylum and Migration Management that will outline the strategic approach to managing asylum and migration at the European level and on the implementation of asylum, migration and return policies. The European Commission will also publish a Migration Management report annually that will include a short-term projection of the evolution of the migratory situation and allow for a timely response to evolving trends in migration and responses to the results of the monitoring framework. This framework will be complemented by a system of regular monitoring of the migratory situation through situational reporting by the European Commission. This work will be supported by the activities under the Migration Preparedness and Crisis Blueprint, notably the monitoring and reporting activities provided therein. This new governance design will set the path for a more integrated and crisis-resilient asylum and migration management system that will anticipate migration developments and focus on strengthening the external dimension, improve border management and provide international protection to those in need while ensuring rapid returns of others.

The proposal essentially preserves existing criteria for determining responsibility, but it strengthens family unity by extending the definition of a family member to siblings and families formed in transit, aims to clarify the responsibility of Member States following search and rescue operations, and introduces a new criterion on possessing education diplomas. The aim of the amendments is to better balance the responsibility criteria and to improve the efficiency of the system by reinforcing the responsibility of a given Member State for examining an application for international protection, once such responsibility is established, while aiming to limit unauthorised movements by removing certain rules on cessation of possibility and reducing possibilities for the shift of responsibility between Member States.

A new approach to solidarity is introduced, based on a framework that allows for a real-time assessment of the situation in Member States and procedural rules to facilitate relocation and return sponsorships as a means of solidarity. The proposal foresees the establishment of a solidarity mechanism with specific measures for Member States to alleviate migratory pressure in another Member State and measures following disembarkations after search and rescue operations, through relocation, return sponsorship or providing direct assistance to the Member State under pressure.

Each Member State's contribution is to be calculated through a distribution key based 50% on the national gross domestic product (GDP) and 50% on population size. The solidarity mechanism will be triggered when the European Commission, either on its own initiative or upon request by a Member State, assesses the situation and determines that a national system is under pressure or at risk. If pledges by Member States fall more than 30% below the total number of relocations or return

sponsorships deemed necessary, then Member States which did not pledge will be requested to cover at least half of their 'fair share' according to the distribution key.<sup>100</sup>

### **New Crisis and Force Majeure Regulation**



This [proposal](#) aims to adapt asylum and return procedures, as well as the solidarity mechanism, so that Member States can respond effectively to situations of crisis and *force majeure*. A crisis situation covers “exceptional situations of mass influx of third-country nationals or stateless persons arriving irregularly in a Member State, being of such scale and nature that it would render a Member State’s asylum, reception or return systems non-functional and which risk having serious consequences for the functioning of, or result in the impossibility of applying, CEAS and the migration management system of the Union”. The proposal also contains measures relating to *force majeure* which can be applied by a Member States or by the European Union as a whole with respect to time limits set out in the proposed Regulation on Asylum and Migration Management or the proposed Asylum Procedures Regulation.

A simplified procedure and a shortened timeframe are set out to trigger the compulsory solidarity mechanism foreseen in the Asylum and Migration Management Regulation. In situations of crisis, the proposal provides for a wider scope for relocation and reinforces a Member State’s responsibility to provide assistance in the area of return in the form of return sponsorship (e.g. instead of 8 months, the obligation to transfer an irregular migrant is triggered if the person does not return or is not removed within 4 months). The proposal includes possibilities for derogations from the asylum and return rules and, in particular, from the proposed Asylum Procedures Regulation, such as:

- ➔ The possibility to apply the border procedure to third-country nationals and stateless persons whose EU-wide recognition rate is 75% or lower;
- ➔ The possibility to extend the duration of the examination of an application under the border procedure by an additional 8 weeks;
- ➔ The possibility to apply a longer deadline of 4 weeks on the registration of applications for international protection and to extend the time limits for sending and replying to take charge requests and take back notifications, as well as to implement transfers; and
- ➔ The possibility to derogate from certain provisions related to return in the context of the border procedure when competent authorities are under strain and significant workloads.<sup>viii</sup>

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These proposed regulations are accompanied in the pact by a set of recommendations from the European Commission as ‘soft law instruments’ which suggest a course of action on various matters relevant to asylum and migration management.

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<sup>viii</sup> The maximum duration of the border procedure for carrying out a return is extended by an additional 8 weeks, and new, targeted cases are introduced when the risk of absconding can be presumed, unless proven otherwise. The timeframe for the implementation of the obligation to relocate or undertake a return sponsorship can be extended when a Member State is in a situation of *force majeure* which renders it impossible to fulfil these obligations.

### ***New Migration Preparedness and Crisis Blueprint***



The **blueprint** consolidates operational cooperation in the area of migration and monitors the migratory situation regularly to base decisions on a complete situational picture.<sup>102</sup>

The blueprint will operate in two stages. The first stage will centre on the proactive monitoring of the migratory situation in the EU, at the borders and outside of the EU, coupled with enhanced preparedness and contingency planning. The second stage will be activated in times of crisis. A Blueprint Network, with the participation of the European Commission, Member States, relevant EU agencies including EASO and the External Action Service, will facilitate swift and coordinated action, information-exchange both within the EU and with non-EU partners, informed decisions, and the monitoring of the implementation of decisions.<sup>103</sup>

### ***New Recommendation on Resettlement and Complementary Pathways***



The **recommendation** aims to bridge the transition from previous resettlement schemes to the Union Resettlement Framework. To this end, Member States are invited to achieve the resettlement targets over the two-year period 2020-2021, which were made under the 2020 pledges, consisting of 29,500 people in need of international protection from non-EU countries. Member States are also invited to scale up other forms of legal pathways and increase the number of admission places through humanitarian admissions. The smooth and swift integration of newly-arrived migrants into host societies is not the sole responsibility of state authorities but also requires integrated involvement by civil society and local communities, so the recommendation calls for the establishment and expansion of community sponsorship programmes.<sup>104</sup>

### ***New Recommendation on Search and Rescue Operations by Private Vessels***



This **recommendation** sets out a framework for cooperation and information-exchange among different actors in search and rescue operations, in particular NGOs which engage predominantly in search and rescue operations. Since 2014, thousands of people have crossed the Mediterranean Sea to reach Europe, and thousands of lives have been lost at sea. An integrated, multifaceted approach is required to provide assistance in these scenarios. Since 2015, the search and rescue capacity in the Mediterranean Sea has increased with significant contributions from coastal states and private and commercial vessels. The recommendation calls flag and coastal Member States to exchange information on the vessels involved in rescue operations and the entities that operate or own them. It also foresees the establishment of a Contact Group with the participation of Member States and the European Commission to liaise regularly with all relevant stakeholders, including private entities owning or operating vessels for the purposes of search and rescue activities. The primary aim of the Contact Group will be to increase safety at sea and to ensure that competent authorities have all the information they require to monitor and verify compliance with standards of safety and with the relevant migration management rules. Importantly, the recommendation reiterates the IMO guidelines that, when selecting a place of safety for the disembarkation of people rescued at sea, it is important to take into account a variety of factors, including avoiding disembarkation in territories where the lives and freedoms of the rescued would be threatened.<sup>105</sup>

### ***New Guidance on the Facilitators Directive***



The **guidance** provides clarification on the interpretation of the Facilitators Package<sup>106</sup> in the context of search and rescue activities conducted by non-state actors.

The Facilitator's Package is the legal framework adopted by the EU in 2002 to define the offence of facilitating an unauthorised entry, transit or residence in the EU and to set out related criminal sanctions.<sup>107</sup> The new guidance set forth by the European Commission aims to address

possible misinterpretations of the package to mean that search and rescue activities carried out by non-state actors amount to facilitating irregular entry or transit. Indeed, it clarifies that the Facilitation Directive should not be interpreted as criminalising humanitarian activities in the form of search and rescue. It further explains that the criminalisation of such activities and actors is in breach of international law and cannot be permitted under EU law. Through the guidance, the European Commission reiterated the Resolution of the European Parliament calling Member States to ‘to transpose the humanitarian assistance exemption provided for in the Facilitation Directive’<sup>108</sup> and invited Member States to use the possibility in the Facilitation Directive, Article 1(2)<sup>ix</sup> to distinguish between activities carried out for the purpose of humanitarian assistance and activities that aim to facilitate irregular entry or transit.

The nine proposed legislative instruments, in conjunction with the 2016 and 2018 proposals that were maintained, intend to calibrate a durable framework to manage a complex migratory reality. Regarding the EU’s engagement with external partners, the approach of the new pact will be based on a joint assessment of the needs and interests of both the EU and its partner countries and will centre on the following dimensions:

- ➔ Protecting refugees and people in need of protection and providing support to host countries for refugees;
- ➔ Building economic opportunities and addressing root causes of irregular migration;
- ➔ Reinforcing the capacity of partner countries on migration management and governance;
- ➔ Fostering cooperation in the areas of return, readmission and reintegration; and
- ➔ Supporting well-managed legal migration.<sup>109</sup>

Engagement with partner countries will take place at bilateral, regional and multilateral levels. Closer operational cooperation will take place through EU Home Affairs agencies, while the European Commission and the External Action Service will keep working together to ensure that cooperation with third countries is mutually beneficial and caters to the needs of both parties.<sup>110</sup>

In the area of return, the new package aims to foster a common EU system for the return of third-country nationals through a more effective legal framework, a stronger role for the European Border and Coast Guard and the appointment of an EU Return Coordinator who will be supported by a network of national representatives to ensure consistency across the EU (*see Section 4.15*).<sup>111</sup>

Acknowledging that the successful integration of accepted refugees is an essential component of an effective migration and asylum policy, in November 2020, the European Commission presented a new [Action Plan on Integration and Inclusion](#) for 2021 to 2027.<sup>112</sup> The plan aims to foster integration and inclusion and, ultimately, build more cohesive societies. The main areas of focus include: i) providing inclusive education and training; ii) improving employment opportunities and skills recognition; iii) promoting access to health services; and iv) providing access to adequate and affordable housing. The plan will be implemented with EU funding and through partnerships with all stakeholders,

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<sup>ix</sup> “Any Member State may decide not to impose sanctions with regard to the behaviour defined in paragraph 1(a) by applying its national law and practice for cases where the aim of the behaviour is to provide humanitarian assistance to the person concerned.” Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32002L0090>

involving migrants, host communities, social and economic partners, civil society organisations and the private sector.<sup>113</sup>

Finally, in its 2021 Work Programme, the European Commission included among the political priorities a number of measures on legal migration, as well as two non-legislative follow-up initiatives under the new Pact on Asylum and Migration: a new EU action plan against migrant smuggling and a new strategy on voluntary returns and reintegration.<sup>114</sup>

### **Reactions to the New Pact on Migration and Asylum**



The presentation of the new Pact on Migration and Asylum and the proposals for the associated legal instruments stimulated renewed discussions on an effective and humane migration management in Europe. The holistic approach of the European Commission in coordinating an inclusive consultation process and the effort to thoroughly integrate the linkages between different migration and asylum policy areas in one coherent approach were received positively, as was the genuine effort to accommodate the diverse needs of different EU Member States and bridge past controversies.<sup>115</sup> The proposals, which were deemed not only necessary but urgent, were largely welcomed by many Member States as an important step in the right direction in building a common approach to migration and asylum.<sup>116</sup>

In December 2020, following the final council of the EU Home Affairs Ministers under the German Presidency of the EU Council, the Presidency published a report taking stock of the progress made on key elements of the European migration and asylum policy and the discussions following the presentation of the new Pact.<sup>117</sup> The report noted that there was a broad agreement among Member States on the main pillars of the future European asylum and migration policy, as set in the new Pact: greater cooperation with third countries; the establishment of legal pathways of migration; effective protection of the external borders while respecting the fundamental rights of migrants and applicants for international protection; a consistent return policy; and reliable solidarity with Member States on the EU's external borders.

A number of specific proposals were received positively, including the proposal for an improved Eurodac database, the establishment of a new Return Coordinator of the Commission and the recommendation to establish a mechanism for preparedness and management of migration-related crises.<sup>118</sup> The majority of Member States expressed their support for the solidarity measures which are presented in a variety of forms in the European Commission's proposals, while some Member States questioned whether relocation or return sponsorship as expressions of solidarity should be mandatory in specific situations.

In a statement following the inter-ministerial meeting of the MED5 in Athens on 20 March 2021, the Ministers of the Interior and Migration of Cyprus, Greece, Italy, Malta and Spain acknowledged the complexity of the issues involved and expressed their appreciation for the commitment of the European Commission, and of the previous and current Presidencies of Germany and Portugal, to constructively work with all Member States to identify fair and sustainable solutions. In parallel, they expressed their wish to see greater emphasis on the principle of solidarity and fair sharing of responsibility in the legislative texts.<sup>119</sup>

Overall, while diverging views on certain aspects of the proposed migration and asylum policy seem to persist among Member States, with some of them advocating for stricter migration and asylum policies, the proposals set forth by the European Commission seem to provide the foundation for further constructive dialogue at a technical and political level in subsequent negotiations during the legislative process. This will nevertheless require greater collaboration and understanding among Member States.

Beyond governments and state authorities, other stakeholders also provided comments on the pact, welcoming proposals such as the call to not criminalise humanitarian actors involved in search and rescue activities,<sup>120</sup> the establishment of an independent mechanism to monitor the protection of fundamental rights during screening and border procedures<sup>121</sup> and the proposal to scale up safe and legal pathways.<sup>122</sup> Other reactions drew attention to areas where more could be achieved, including:

**Overall orientation:** The pact was seen as placing a disproportionate emphasis on the management of external borders and on return.<sup>123, 124, 125, 126, 127</sup> There was criticism of what was perceived as a possibility of using cooperation mechanisms with third countries in a way that may lead to the externalisation of the EU's migration management.<sup>128, 129</sup>

**Responsibility-sharing and solidarity:** Some believed that the essence of the Dublin system is still preserved in the pact, since the criterion that places responsibility on the first country of arrival is maintained in the hierarchy.<sup>130, 131, 132, 133</sup> In addition, it has been suggested that the complexity of the proposed solidarity mechanism may decrease its functionality, while stronger incentives may be needed for Member States to participate.<sup>134</sup> There was also concern about the possibility for Member States to opt out from participating in the relocation of applicants within the EU and, instead, provide administrative and financial support.<sup>135</sup> On return sponsorship, questions were raised regarding the legal status of migrants who – for a number of reasons – cannot be returned after they have been transferred to the sponsoring state.<sup>136</sup>

**Pre-entry screening and the border procedure:** It was suggested that caution needs to be used to ensure that adequate procedural guarantees for the protection of fundamental rights are followed for the pre-entry screening and the border procedure.<sup>137, 138</sup> This is particularly the case with the possibility to assess an application for asylum without authorising the applicant's entry in the territory of the Member State, which may be seen as having implications for full access to the right to asylum and the fulfilment of the principle of *non-refoulement*.<sup>139</sup> On the proposal to accelerate the examination of an application for applicants coming from countries with an average EU recognition rate of equal or lower than 20%, concerns were expressed that such a practice may lead to the creation of two different standards in asylum procedures depending on the applicant's country of origin.<sup>140</sup> It was also suggested that the applicable timelines for the border procedure may lead to an applicant's prolonged stay at the border with limited access to services typically provided by entities which do not operate at the borders (e.g. legal assistance and access to information). Another point of discussion was the adequacy of reception conditions for migrants and asylum seekers at the borders,<sup>141, 142</sup> while it was also noted that the suggested screening and border procedure may increase the risk of detention.<sup>143, 144, 145</sup>

**Situations of crisis and *force majeure*:** The possibility to apply the accelerated border procedure to applicants of a nationality with an EU-wide recognition rate of 75% or lower created concern, potentially increasing the use of this procedure.<sup>146</sup> The regulation allows suspending the registration of applications up to 3 months during a situation of crisis, which leads to concerns about the adequacy of reception conditions at the border and access to basic rights during that period.<sup>147</sup>

**Negative decisions, appeals and return:** Doubts were expressed if the proposed time limit for appeals is sufficient for applicants to effectively challenge a negative decision.<sup>148</sup> Questions were also raised about the availability of return counselling and reintegration support at the border.<sup>149</sup>

**Consideration of statelessness:** Despite the growing numbers of stateless people among those seeking protection in Europe, it was suggested that the pact missed the opportunity to mainstream statelessness in asylum and migration and ensure adequate law and policy responses for the protection of the rights of stateless people.<sup>150</sup>



Following the presentation of the pact, UNHCR put forth a proposal for a three-step border procedure resulting in relocation or return, with a focus on in-merits procedures instead of admissibility procedures. The proposed procedure would be based on the following key principles:

- ➔ Guaranteeing reliable access to territory;
- ➔ Maintaining fairness, efficiency and in-merit border procedures;
- ➔ Early identification and consideration of specific applicant needs; and
- ➔ Ensuring detention-related safeguards.<sup>151</sup>

The European Council on Refugees and Exiles (ECRE) also published a number of policy notes and commentaries on the European Commission's proposals.<sup>152</sup>



## 2.2 Responding to the new reality of the COVID-19 pandemic

The COVID-19 pandemic affected nearly every aspect of life across the globe. Naturally, the health emergency had an impact on both migration flows and the functioning of asylum systems. National authorities had to balance restrictive measures to stop the spread of the virus and respecting the right to asylum for people in need of protection.

Following the World Health Organization (WHO) announcement of the COVID-19 pandemic on 12 March 2020,<sup>153</sup> all EU+ countries declared either a state of emergency or some form of extraordinary situation under national law and authorities implemented specific measures to safeguard public health and safety.<sup>154</sup> At the initial stage of the pandemic, the reintroduction of internal border controls was deemed necessary by a number of countries to prevent the spread of COVID-19 across the Schengen area. External borders were also closed for non-essential travel. In March 2020, the European Commission issued a communication to this end, calling for a temporary restriction on non-essential travel to the EU, exempting persons in need of international protection and those who must be admitted to the territory of Member States for other humanitarian reasons.<sup>155</sup> The communication also underlined that any restrictions in the field of asylum, return and resettlement must be proportional, implemented in a non-discriminatory way and take into account the principle of *non-refoulement* and obligations under international law.

In line with requirements of social distancing and preventative measures, restrictions were placed on accessing facilities for the registration and lodging of an application for international protection, as well as conducting personal interviews. Services were initially suspended in some countries for a brief period of time but resumed once the necessary arrangements were in place to adjust to the new circumstances and safety requirements (for example by rearranging waiting rooms, minimising the number of people waiting, installing plexiglass in interview rooms, extending applicable deadlines and time limits, and creating special registration centres).<sup>156</sup> Measures were also introduced in collective reception facilities to ensure social distancing and hygienic conditions, with the use of protective equipment (e.g. masks), improved sanitation and disinfections. Information campaigns were key in increasing awareness about the spread of COVID-19, and a number of services, such as educational activities and counselling, were moved online to minimise physical contact.<sup>157</sup>

In second instance processes, measures were put in place in line with the general adaptations in public administrations, consisting of brief access restrictions at the initial stage of the pandemic until the reorganisation of services and adaptation of working arrangements. The reduced availability of flights and restrictive entry measures introduced by third countries disrupted both voluntary and forced return procedures.<sup>158</sup>

Emergency clauses, associated measures and possible derogations in asylum, reception and return procedures, which were justified on the basis of public health, may have had an impact, albeit temporary, on the observance of fundamental rights and freedoms. Stakeholders stressed that the measures must be temporary, proportionate and applied only when necessary.<sup>159</sup> Fully acknowledging the difficulties faced by Member States when implementing relevant EU rules during the pandemic, the European Commission issued a communication to provide guidance on ensuring the continuity of asylum and return procedures and resettlement.<sup>160</sup> UNHCR also issued a set of key legal considerations on access to territory for persons in need of international protection in the context of the COVID-19 response,<sup>161</sup> as well as a set of practical recommendations and good practices to address protection concerns.<sup>162</sup> Despite efforts made by EU+ countries to prevent the spread of COVID-19 among applicants, it was nevertheless reported that at times the conditions in reception facilities were not adequate due to overcrowding, long lines for basic services, intermittent access to tap water, a lack of personal protective equipment and hygiene products, and insufficient medical services.<sup>163, 164, 165</sup> In addition, restrictions in accessing reception facilities may have deprived some applicants of services provided by civil society organisations, such as legal counselling.<sup>166, 167</sup>

In an effort to continue to provide services while adhering to the new measures, EU+ countries digitalised many steps of the asylum procedure by developing and implementing new electronic systems. Technology was used, for example, for online registration of applications, remote interviewing and the provision of information and interpretation services, notification of decisions and information on the status of a case.<sup>168</sup> Many of these solutions may remain on a more permanent basis to increase the efficiency of asylum systems, while others may be used as methodological blueprints in case EU+ countries are called to address similar challenges in the future. At the EU level, the pandemic provided the opportunity for EU agencies to make optimal use of digital capacities and expertise to continue their operational activities.<sup>169</sup>

The European Commission presented a White Paper on Artificial Intelligence (AI) at the beginning of 2020 and ran a consultation process between February and June 2020 on the document.<sup>170</sup> This process led to the proposal of a first-ever legal framework on AI<sup>171</sup> and a new Coordinated Plan with Member States aiming to guarantee the safety and fundamental rights of people and businesses, while strengthening AI uptake, investment and innovation across the EU.<sup>172</sup> These are complemented with new rules on machinery products to adapt safety rules and increase users' trust.<sup>173</sup> The new rules follow a risk-based approach, within which AI systems used in migration, asylum and border control management were identified as high-risk systems. This means that they will be subject to strict obligations before they can be put on the market.<sup>174</sup>



## 2.3 Key developments in policy and practices at the EU level

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In parallel with the presentation of the new Pact on Migration and Asylum and EU-wide efforts to respond effectively to the COVID-19 pandemic, progress was also made in 2020 at the level of policy implementation and practical cooperation in the area of asylum.

### 2.3.1 Presidencies of the Council of the European Union



The topic of migration and asylum remained high on the EU political agenda in 2020, and both Presidencies of the Council of the European Union included relevant priorities in their programmes. The four priorities of the Croatian Presidency in the first semester of 2020, under the motto ‘A Strong Europe in a world full of challenges’, were presented as a Europe that develops, a Europe that connects, a Europe that protects and an influential Europe. In line with ‘a Europe that protects’, the Croatian Presidency focused on strengthening internal security, providing more effective control of external borders, ensuring full interoperability of IT systems and strengthening resilience to external threats. The programme reiterated the common goal of finding a comprehensive solution for a sustainable and effective migration and asylum policy.<sup>175</sup>

The German Presidency of the second semester of 2020, using the motto ‘Together for Europe’s recovery’, set the following guiding principles:

- ➔ Overcoming the COVID-19 pandemic permanently and economic recovery;
- ➔ A stronger and more innovative Europe;
- ➔ A fair Europe;
- ➔ A sustainable Europe;
- ➔ A Europe of security and common values; and
- ➔ A strong Europe in the world.

Migration-related issues were underlined and covered under the dimension of a ‘Europe of security and common values’, where emphasis was placed on Europe remaining a place where all people, regardless of their background, convictions and world view, can be free and safe. The German Presidency committed to push for a reform of the asylum and migration policy, based on the European Commission’s proposals, with the aim of updating the regulations on responsibility and solidarity; complying with humanitarian standards; preventing the overburden of individual Member States through fair distribution of those seeking protection; and effectively tackling secondary movements.

The programme of the German Presidency also made reference to the introduction of mandatory procedures at the EU’s external borders to categorise and assess asylum applications in preliminary proceedings at an early stage. Other goals included the expansion of the EU’s capacity for resettlement; the development of efficient mechanisms for effective repatriation of rejected asylum applicants; the effective protection of external borders; the expansion of partner-based cooperation with third countries; the development of a comprehensive approach to mitigate the causes of displacement and irregular migration; and the increase in capacity to analyse the European migration situation in order to create effective early-warning mechanisms.<sup>176</sup> The German Presidency also launched the Migration 4.0 process, focussing on digitalisation, migration forecasting and the use of artificial intelligence in the field of border management and asylum.

In January 2020, UNHCR offered its recommendations to the two Presidencies, which were based on five core principles:<sup>177</sup>

- ➔ **Foster responsibility-sharing and solidarity within the EU** through a fair, transparent and proportional system; ensuring family unity; and supporting a predictable disembarkation and processing mechanism.

- ➔ **Ensure access to territory and fair and fast procedures**, including accelerating the processing of manifestly well-founded and unfounded cases and investing in initial stages of the asylum procedure.
- ➔ **Support integration and efficient and rights-based return systems** through incentivising compliance with the system; investing in integration; and ensuring access to assisted voluntary return and reintegration (AVRR) programmes.
- ➔ **Invest in resettlement and complementary pathways** through the implementation of a three-year strategy for resettlement; expansion of complimentary pathways; making progress on the Union Resettlement Framework; and facilitating family reunification.
- ➔ **Addressing statelessness** through a comprehensive EU strategy and action plan, and incorporating a statelessness dimension in the context of EU enlargement.

In addition, UNHCR invited the two Presidencies to provide more support to countries which house the most refugees.

### 2.3.2 Situation at the EU's external borders and migration routes



In 2020, the EU's external borders had the lowest number of crossings since 2013, according to preliminary data collected by the European Border and Coast Guard Agency (Frontex).<sup>x 178</sup> Approximately 124,000 illegal border crossings in 2020 represented a 13% decrease compared to 2019. This decrease may be partly attributed to COVID-19-related restrictions. However, fluctuations in the number of crossings were noted across different migration routes:

- ➔ In early 2020, there was an increase in arrivals through the **Eastern Mediterranean route**. However, the number decreased drastically over the course of the year, to reach a total of less than 20,000 arrivals, representing a 76% decrease compared to 2019.
- ➔ The **Western Mediterranean route** experienced a 28% decrease, with approximately 17,000 arrivals.
- ➔ An eight-fold increase was noted through the **Western Africa route**, primarily due to the large number of arrivals on the Canary Islands (22,600).
- ➔ The number of arrivals tripled to 35,600 in the **Central Mediterranean route**, making it the most active migration route into Europe in 2020.
- ➔ The number of irregular arrivals along the **Western Balkans route** increased by 78% compared to 2019 and reached a total of approximately 27,000.<sup>179</sup>

To assist Member States in responding effectively to increased inflows, while providing protection to people in need, the EU has provided financial and practical support since 2015 to Member States, especially those which are the most affected by migratory pressure. EU support to Member States at the external borders, such as Cyprus, Greece, Italy, Malta and Spain, has included funding to enhance asylum and migration systems, security and border management, and the provision of expertise from

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<sup>x</sup> Preliminary data offered by Frontex refer to the number of detections of irregular border crossing at the external borders of the EU. The same person may attempt to cross the border several times in different locations at the external border, and thus will be counted more than once.

EU agencies and Member States through the deployment of experts under EASO and Frontex operations, when applicable.

To step up effectiveness at the external borders, two distinct but interlinked processes have been underway since 2019: the implementation of the European Border and Coast Guard Regulation,<sup>180</sup> which aims to strengthen day-to-day cooperation and improve response capacity at the borders; and the implementation of the regulation on the interoperability of IT systems<sup>181</sup> to keep track of arrivals and asylum applicants. The latter will connect all European databases on borders, migration, security and justice and will ensure that these systems communicate with each other so that information is accessible in a consolidated manner.<sup>182</sup> EU status agreements provide the framework for neighbouring countries to enhance their migration and asylum systems, including border management (*see Section 2.4 for information on EU status agreements*).

Effective border management is also meant to allow for access to territory for those in need and to safeguard the right to apply for protection. Still, throughout 2020, a number of incidents were reported at the EU external borders regarding preventing or delaying the application of the recast Asylum Procedures Directive in the territory, including at the border, in territorial waters or in transit zones of Member States and, consequently, the provision of effective access to the asylum procedure. This included incidents at the Greek-Turkish border in Evros,<sup>183</sup> the Aegean Sea,<sup>184</sup> the Western Balkan region<sup>185</sup> and the Central Mediterranean route.<sup>186</sup> It was also reported that, in a number of those incidents in the Aegean Sea, Frontex personnel was allegedly present,<sup>187</sup> resulting in the agency launching an internal inquiry into the incidents<sup>188</sup> and the European Ombudsman opening an inquiry to assess the agency's complaints mechanism<sup>189</sup> (*see Section 4.1*).

In July 2020, the UNHCR and the Mixed Migration Centre at the Danish Refugee Council published a report documenting the extreme human rights abuses suffered by migrants during their irregular journeys from East and West Africa to Africa's Mediterranean coast, which is considered one of the deadliest routes for refugees and migrants in the world. Smugglers are the main perpetrators of such abuses, while at times, security forces, military and police officials of the countries along the route are also involved.<sup>190</sup>

### **2.3.3 Pressure on the Greek borders and islands**

Existing pressures on Greek borders and on the islands, as well as the 'hotspot' model were discussed throughout 2020, with a common acknowledgement that more resources were needed to assist Greek authorities in managing the situation, while addressing the needs of migrants and asylum seekers. In an open letter to the leaders of European institutions, Greek authorities, UNHCR, the Council of Europe and the WHO, 121 organisations expressed their concern over the situation of asylum seekers in the country.<sup>191</sup>

At the end of February 2020, pressure started to mount at the Greek-Turkish border, with thousands of migrants arriving following active encouragement by Turkish actors to take the land route to Europe through Greece.<sup>192</sup> To respond effectively, the European Commission presented an action plan for the EU and Member States to provide critical support to Greece in managing the extraordinary situation at the borders (*see the detailed description of measures in Section 4.1.1*).<sup>193</sup>

To ease pressure on the Greek islands, in March 2020, Commissioner Johansson – along with the Greek Minister for Migration and Asylum, Notis Mitarachi – announced the creation of a special temporary assisted voluntary return scheme for 5,000 migrants from the Greek islands to their countries of origin. The scheme would be implemented jointly by the European Commission, Greek authorities, the IOM and Frontex.<sup>194</sup>

On 8 and 9 September 2020, fires destroyed the Moria reception camp on the Greek island of Lesbos, leaving more than 12,000 people without shelter. Following the devastating fires, the European Commission announced the creation of a dedicated taskforce to improve the situation on the island in a sustainable way. The taskforce works in close collaboration with Greek authorities, EU agencies and international organisations on the ground. With new reception facilities being a main priority, the taskforce will also take actions on:

- ➔ Ending overcrowding through the transfer of vulnerable people to the mainland and continuing to relocate unaccompanied children and families with children to other Member States;
- ➔ Improving the link between key processes, including asylum and return or integration, supported by EASO and Frontex;
- ➔ Increasing voluntary returns through the implementation of the ongoing assisted voluntary return scheme that was stalled due to COVID-19; and
- ➔ Improving safety and security for migrants and asylum seekers, fully supported by Frontex and the EU Agency for Law Enforcement Cooperation (Europol).<sup>195</sup>

In November and December 2020, the European Commission and Greece agreed on a joint plan for a new reception centre in Lesbos, as well as the construction of three smaller reception centres on the islands of Samos, Kos and Leros, all of them to be completed by September 2021.<sup>196</sup>

To ensure protection for the most vulnerable among the migrant and asylum seeker population in Greece, the European Commission launched a voluntary relocation exercise from Greece to other Member States for unaccompanied children and children with severe medical conditions and other vulnerabilities accompanied by their families. The European Commission coordinated the exercise in cooperation with the Greek Special Secretary for Unaccompanied Minors and provided financial and operational support to Greece and participating Member States. EASO, the IOM, UNHCR and UNICEF also provided support to carry out the mission.<sup>197</sup> By the end of 2020, over 1,600 persons in total were relocated from Greece to 13 Member States and 3 associated countries.<sup>198</sup>

### 2.3.4 Relocation following search and rescue operations



Since 2015, operations coordinated by the EU have contributed to the rescue of over 600,000 persons in distress at sea. Assisting these persons stands both as an obligation under international law and as a moral duty. The disembarkation of rescued people has a significant impact on migration and asylum systems, in particular on coastal Member States.<sup>199</sup>

Between January 2019 and the presentation of the new Pact on Migration and Asylum in September 2020, the European Commission, upon requests by Member States, coordinated 39 relocations to other Member States of people disembarked in Italy and Malta after search and rescue operations in the Central Mediterranean: overall 1,509 asylum applicants were relocated from Malta and 1,273 applicants from Italy by April 2021. In the absence of a permanent framework and pending the legislative reform of CEAS, these disembarkations and relocations took place – with the participation of relevant EU agencies, including EASO – in line with the standard operating procedures developed by the European Commission in 2019, which were based on the Malta Declaration signed on 23 September 2019 by the ministers of France, Germany, Italy and Malta.<sup>200</sup> These efforts have often allowed for swift disembarkations following rescue operations and demonstrated concrete European solidarity in practice, but also revealed a number of difficulties in such ad hoc formats of cooperation, including prolonged times to have agreements on disembarkations and relatively few Member States

contributing to relocation.<sup>201</sup> While the European Commission continues to provide operational support and proactive coordination, a more predictable solidarity mechanism for disembarkation and relocation is clearly needed.<sup>202</sup> The proposed new Asylum and Migration Management Regulation foresees the specific case of relocation following disembarkations after search and rescue operations, helping to ensure a continuity of support and avoiding ad hoc solutions.

Due to COVID-19-related restrictions, delays were noted in 2020 in responding to and finding a safe haven for migrants rescued in the Mediterranean Sea, including cases where migrants were quarantined in specially-equipped ships at sea prior to disembarkation.<sup>203, 204</sup> A number of stakeholders, including UNHCR and the IOM,<sup>205</sup> called for immediate disembarkations and noted the adverse effect that non-disembarkation may have on the physical and psychological well-being of rescued migrants, particularly persons with vulnerabilities.<sup>206</sup> UNHCR reiterated that legitimate health concerns due to the COVID-19 pandemic can be addressed through various measures without delaying rescues or disembarkations.<sup>207</sup> The European Commission noted delays related to COVID-19 restrictions in the subsequent steps of the voluntary relocation process, including EASO interviews, additional interviews by Member States and transfers to relocating Member States.

### 2.3.5 EU resettlement schemes



In the global context, resettlement refers to the selection and transfer of refugees from a state in which they have sought **protection** to a third state which has agreed to admit them as refugees with a permanent residence status.<sup>208</sup> In the EU context, resettlement is initiated by a request from UNHCR based on a person's need for international protection, and the third-country national is transferred from a third country and established in a Member State, where they are permitted to reside with one of the following statuses: refugee status, subsidiary protection status or any other status which offers similar rights and benefits under national and EU laws.<sup>209</sup>

Providing safe and legal pathways for persons in need of protection is a key priority for the European Commission, enabling the most vulnerable refugees to reach Europe without becoming victims of smuggling networks or undertaking dangerous journeys. The first European **Resettlement Programme** was launched in July 2015, and by December 2020, three successful resettlement programmes have assisted more than 76,000 people. Responding to a call by the European Commission, EU Member States pledged to resettle almost 30,000 refugees in 2020, representing 40% of all resettlement pledges worldwide.<sup>210</sup>

The COVID-19 pandemic disrupted resettlement initiatives due to restrictions on international travel. In its April 2020 guidance on asylum, return procedures and resettlement, the European Commission called on EU countries to continue preparatory operations to ensure a smooth resumption of resettlements as soon as possible. In addition, the European Commission encouraged Member States to consider new ways of keeping their resettlement programmes active, for example by:

- ➔ Accepting resettlement submissions on a dossier-basis and introducing video interviews and remote pre-departure orientation, including through the use of the EASO Resettlement Support Facility in Istanbul;
- ➔ Facilitating the continued arrival of persons who had already been selected for resettlement;
- ➔ Reviewing their resettlement operational plans to account for heightened health concerns;

- ➔ Making full use of the EASO Resettlement and Humanitarian Admission Network as the key forum for sharing information, developing new ways of working and jointly developing exit strategies; and
- ➔ Keeping communication channels open with sponsors about private sponsorship schemes.<sup>211</sup>

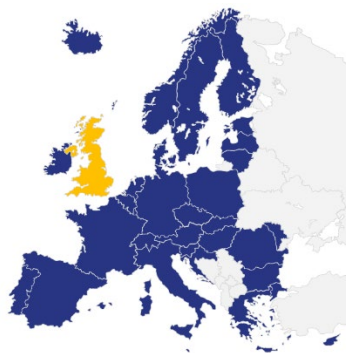
Accordingly, a number of EU+ countries adapted modalities to continue with their resettlement programmes. Throughout the year, despite the challenges caused by the COVID-19 pandemic, EU Member States remained engaged with UNHCR to identify ways to keep their resettlement programmes running.<sup>212</sup>

In this context, a total of 9,200 resettlements took place in 14 EU+ countries in 2020. 8,500 of them fell under the 2020-2021 programme, while another 770 were late arrivals from the previous scheme. The remaining 21,200 places from the 2020-2021 scheme should be filled in 2021. A targeted 'mini pledge', which will allow some Member States to top up the existing scheme, will be launched by the European Commission in 2021.

The new Pact on Migration and Asylum retained resettlement high on the agenda. It formalised the current ad hoc scheme through a new recommendation on legal pathways to protection in the EU. Apart from a call to scale up resettlement programmes, the pact places particular emphasis on humanitarian admissions and encourages the development of community sponsorship programmes through broader synergies with civil society and local communities.<sup>213</sup> This diversifies the possible pathways to provide safe access to the EU for people in need of protection. Multi-stakeholder engagement allows for integrated capacity-building in host communities to better meet the specific needs of resettled persons and facilitate integration and inclusion.

In October 2020, UNHCR issued a set of recommendations to the EU on resettlement needs and key priorities for 2021. These included steps toward solidifying the EU's position as a leader in resettlement, identification of key priorities, recommendations for a predictable and sustainable EU programme with increased collaboration among relevant stakeholders, including EASO, and steps toward expanding complementary pathways.<sup>214</sup>

### 2.3.6 UK withdrawal from the EU and its implications on asylum



Following a referendum in June 2016 when British people voted for the withdrawal of the United Kingdom (UK) from the EU,<sup>215</sup> in March 2017, the UK communicated to the President of the European Council its intention to withdraw from the EU. A negotiation process on withdrawal ensued, as foreseen in the Treaty on the European Union, Article 50.<sup>216</sup> On 17 October 2019, EU and UK negotiators reached an agreement on the [Withdrawal Agreement and a Political Declaration](#) on the future relationship. The withdrawal agreement entered into force on 1 February 2020, as of which date the UK has left the EU. The withdrawal agreement also provided for a transition period until 31

December 2020, during which EU law still applied to and within the UK. As of 1 January 2021, the UK is no longer bound by EU law and has become to all effect a third country in relation to the EU.<sup>217</sup>

Neither the withdrawal agreement nor the political declaration address irregular migration and asylum in detail. In the political declaration on the future relationship, the EU and the UK agreed to cooperate in tackling illegal migration, including its drivers and consequences, while recognising the need to protect the most vulnerable. Such cooperation includes: i) operational cooperation with



Europol to combat organised crime; ii) cooperation with Frontex to strengthen the EU's external borders; and iii) dialogue on shared objectives and cooperation, including in third countries and international fora, to address illegal migration upstream.<sup>218</sup> According to Article 155 of the withdrawal agreement, the UK will keep contributing to the EU Emergency Trust Fund for Africa and to the Facility for Refugees in Turkey. On the latter, the UK will also participate in the relevant bodies related to the facility.<sup>219</sup>

Upon the UK withdrawal from the EU, international legal instruments relevant to asylum, such as the 1951 Refugee Convention and the European Convention on Human Rights (ECHR) are, of course, still applicable in the UK. However, EU law relevant to asylum is no longer automatically applicable, unless retained in the domestic legal system.<sup>220</sup> Importantly, the Dublin III Regulation has been repealed in the UK and, as of 1 January 2021, the provisions foreseen in the regulation have ceased to apply, including the specific clause on family reunification. As a result, now under British law, family reunification is possible when the person already living in the UK has an international protection status (refugee status or subsidiary protection), which excludes reunification for asylum applicants. Moreover, unaccompanied minors will only be able to reunite with their parents and not with other family members.<sup>221</sup>

The UK can no longer return asylum applicants who travelled to the UK from an EU Member State, under the rules of the Dublin III Regulation. On 31 December 2020, the UK Home Office issued an updated guidance allowing “an inadmissibility decision to be taken on the basis of a person’s earlier presence in or connection to a safe third country, even if that particular country will not immediately agree to the persons return. More significantly, if someone is inadmissible, the new provisions permit their removal to any safe third country that will take them (not just the specific country or countries through which they travelled or have a connection)”.<sup>222</sup> The new inadmissibility rules apply to adult asylum applicants who submitted a claim after 1 January 2021 but do not apply to unaccompanied minors.<sup>223</sup>

Finally, as a consequence of the withdrawal, the UK no longer has access to EU funding for asylum and immigration initiatives, which in the past was used to support activities related to asylum, refugee resettlement, immigration enforcement and NGO-led projects focusing on integration.<sup>224</sup>

## 2.4 External dimension of EU policy



Throughout 2020, the EU continued its cooperation with external partners to manage migratory pressures through a comprehensive approach rooted in multilateralism. The new Pact on Migration and Asylum makes an explicit link between the internal and external dimensions of migration management, as close cooperation with external partners has a direct impact on the effectiveness of policies inside the EU.

The external dimension of EU policy, including return, smuggling and overall funding, is necessary for the coordinated response as these aspects may have direct impact on asylum flows and the implementation of CEAS. Balanced and tailor-made partnerships can deliver mutual benefits for the economy, sustainable development, education and skills, stability and security, and relations with diasporas.<sup>225</sup>

- Key migration-related initiatives and funding programmes strengthening cooperation in different areas include: The [Instrument for Pre-Accession Assistance](#) (IPA) focusing on potential candidate countries for EU membership;
- The [European Neighbourhood Instrument](#) (ENI) focusing on neighbouring countries of the East and the South;

- ➔ The [EU Emergency Trust Fund for Africa](#) (ETFA) involving the North of Africa, the Sahel Region, the Lake Chad area and the Horn of Africa;
- ➔ The [Bêkou Trust Fund](#) addressing existing needs in the Central African Republic in close cooperation with the national authorities;
- ➔ The [EU Facility for Refugees in Turkey](#); The [EU Regional Trust Fund in Response to the Syrian Crisis](#), which addresses educational, economic, social and health needs of Syrian refugees while also supporting local communities and their administrations; and
- ➔ The [EU External Investment Plan](#), which focuses on EU neighbouring and African countries and aims at generating more investment and development.

The aims of activities implemented under the external dimension of the EU migration policy include addressing the root causes of migration; combating smuggling networks; enhancing cooperation with third countries on returns and readmission; working with partner countries toward border management; and providing support for protection abroad. Highlights of the progress in working with third countries include:

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



Initiatives focused on reducing poverty and inequality, promoting human development, creating economic and employment opportunities, promoting democracy and enhancing local governance, calibrating peace and security, and addressing the challenges of climate change. Cooperation in education, skills and research, technology, energy and transport assist in fostering economic growth and address root causes of irregular migration overall by improving the prospects of development for millions of people. The [Africa-Europe Alliance](#) is a prime example of these initiatives.<sup>226</sup>

### **Combating smuggling networks**



Over the past decade, specialised EU agencies have increasingly supported law enforcement and border and judicial authorities to address migrant smuggling.<sup>227</sup> In 2020, efforts continued in implementing the 2015-2020 [EU Action Plan](#) against migrant smuggling and the complementary set of operational measures, with Europol's [European Migrant Smuggling Centre](#) serving as a hub to coordinate action. The new 2020-2025 [EU Security Union Strategy](#), adopted in July 2020, along with the Pact on Migration and Asylum aim to disrupt smuggling networks.

The new action plan aims to enhance cooperation and support law enforcement, building on the work of Europol, Frontex, the EU Judicial Cooperation Agency (Eurojust) and the EU Agency for Law Enforcement Training. New measures will address challenges in the areas of financial investigations, asset recovery, document fraud and new phenomena, such as digital smuggling.<sup>xi</sup> The new EU Action Plan stimulates cooperation between the EU and third countries through targeted counter-migrant smuggling partnerships, including support to countries of origin and transit in capacity-building, enhanced information-exchange, action on the ground, common operations and joint investigative teams. The role of existing Common Security and Defence missions are important, such as the EUCAP Sahel Niger and EUBAM Libya, as well as the role of Immigration Liaison Officers.<sup>228</sup>

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<sup>xi</sup> The use of modern information and communication technology can be used to facilitate migrant smuggling by advertising, organising and collecting payments online.

### **Facilitating returns and readmission**



Apart from reducing the number of irregular arrivals, a well-functioning migration management system necessitates close cooperation with countries of origin and transit toward the effective return, readmission and reintegration of persons who are not in need of protection, including voluntary return options. Overall, 24 readmission agreements and arrangements between the EU and partner countries have improved operational flows in returning migrants to countries of origin. However, results have been poor on the number of persons actually returned, as currently only about one-third of people ordered to return from EU+ countries actually leave.<sup>229</sup>

A common system for return was proposed in the new pact which, apart from stronger structures inside the EU, will necessitate more effective cooperation with third countries. Stricter implementation incentives have been proposed, linking the level of cooperation by third countries on readmission with visa policies. To incentivise and improve cooperation on return and readmission further, effective measures can be introduced in other policy areas of interest to third countries.<sup>230</sup> Key building blocks in the return system are the 2018 proposal to recast the Return Directive and the reinforced mandate of Frontex on implementing the return of third-country nationals.

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



A key element to border management is supporting capacity-building in partner countries, in addition to operational support provided by EU agencies. Frontex can provide practical support through EU status agreements.

In May 2020, the Council of the European Union adopted two decisions to conclude agreements with Montenegro<sup>231</sup> and Serbia<sup>232</sup> on border management cooperation between the two countries and Frontex. The agreements allow Frontex to carry out joint operations and deploy teams in the two countries, subject to their agreement. The first such agreement was concluded with Albania in 2019. Serbia ratified the Frontex Status Agreement in February 2021. The agreement will enter into force on 1 May and operations are expected to start later in 2021. For Montenegro, it entered into force in July 2020. Similar status agreements have been initialled with North Macedonia (2018) and Bosnia and Herzegovina (2019), but they are still pending signature and ratification.<sup>233</sup>

### **EU support for protection abroad**

Providing assistance in protecting refugees and migrants abroad has been a key theme in the external dimension of the EU's migration policy. EU support in this area comprises humanitarian aid, emergency relief and development programmes. The humanitarian evacuation of people from Libya to Emergency Transit Mechanisms in Niger and Rwanda for onward resettlement stands as an example of such initiatives.

Support has also been provided to countries and host communities affected by the conflict in Syria, including Iraq, Jordan, Lebanon and Turkey.<sup>234</sup> EUR 6 billion have been allocated to the EU Facility for Refugees in Turkey, with a focus on humanitarian assistance, education, health, municipal infrastructure and socioeconomic support. As of January 2021, more than 1.8 million refugees received support for basic daily needs; 750,000 refugee children were supported to attend school; 365 new schools were in the process of being constructed; and 177 migrant health centres were underway.<sup>235</sup>

In 2020, the EU continued to provide support to Venezuelan refugees. In May 2020, the EU and the Spanish government – with the support of UNHCR and the IOM – convened an international donors conference to support Venezuelan refugees and migrants, as well as host countries. A total of more than EUR 2.5 billion were pledged, which will be used for immediate humanitarian assistance, medium- and longer-term development assistance and conflict prevention interventions.<sup>236</sup>

In March 2020, the European Commission announced a EUR 31 million humanitarian aid package to address the needs of Rohingya refugees in Bangladesh and Myanmar.<sup>237</sup> In addition in October 2020, the EU along with the United States, the UK and UNHCR co-hosted an international donors conference, where approximately USD 600 million were pledged for humanitarian support to Rohingya refugees.<sup>238</sup>



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

As the guardian of EU law, the Court of Justice of the European Union (CJEU) ensures that “in the interpretation and application of the Treaties, the law is observed” (TEU, 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>239</sup>

In 2020, the CJEU issued several judgments mostly related to preliminary rulings, further interpreting various provisions of CEAS. The judgments covered topics related to effective access, the asylum procedure, the provision of personal interviews in inadmissible cases, forms of protection, detention, second instance procedures, non-discrimination of nationals and beneficiaries of international protection who subsequently acquired citizenship, family reunification and maintaining family unity, the return of third-country nationals and relocations, protection provided to stateless Palestinian by the UNRWA, refusal to perform military service, etc. In addition, the CJEU issued a judgment on national restrictions on funding of NGOs, affecting NGOs working in the area of international protection.

### 2.5.1 Effective access to the asylum procedure



In *European Commission v Hungary (C-808/18)*, the Grand Chamber ruled that Hungary failed to fulfil its obligations under the recast Asylum Procedures Directive, the recast Reception Conditions Directive and the Return Directive. The court held that Hungary made it virtually impossible for third-country nationals to effectively access the asylum procedure by imposing that applications can be made exclusively in one of the two transit zones, no matter where the intent to seek asylum was expressed, and by limiting the number of third-country nationals authorised to enter the transit zones each day.

The CJEU recalled that Member States must ensure that third-country nationals are able to make an application, including at the borders, as soon as they declare a wish to do so, since making an application – prior to registration, lodging and examination – is an essential step in the asylum procedure which Member States cannot delay unjustifiably. In addition, the CJEU found that Hungary did not respect the right provided by the recast Asylum Procedures Directive to remain on the territory after an application is rejected and the applicant is waiting for a decision on an appeal.

The CJEU noted that, when there is a so-called situation of mass immigration declared by Hungary, the applicant must remain in the transit zone pending appeal procedures, which is equivalent to detention and contrary to EU law. In addition, it found that, when a situation of mass immigration is not declared in Hungary, the right to remain while waiting for an appeal procedure is not clear and precise.

In *V.L. (C-36/20 PPU)*, the CJEU interpreted the concept of ‘other authorities’ which are competent to receive applications for international protection and ruled that judicial authorities adjudicating on the detention of a third-country national without a legal right of residence can receive an application for international protection even though they are not competent, under national law, to register such applications. In particular, the CJEU noted these magistrates fall within the concept of ‘other authorities’ likely to receive applications for international protection even though they cannot register such applications, within the meaning of the recast Asylum Procedures Directive, Article 6(1). In such a case, magistrates must inform the person about the specific procedures for lodging an application.

In *M.S., M.W., G.S. v Minister for Justice and Equality (C-616/19)*, the CJEU ruled on the reasons for inadmissibility, and it found that an application for international protection in Ireland was inadmissible because the three applicants benefited from subsidiary protection in another Member State, namely Italy. Ireland is bound by the recast Qualification Directive, Article 25(2a), which provides that an application may be rejected as inadmissible when an applicant has been granted refugee status in another Member State, but Ireland is not bound by the recast Asylum Procedures Directive, which allows an application to be rejected as inadmissible when an applicant has been granted either refugee status or subsidiary protection in another Member State. The CJEU held that a Member State not bound by the recast Asylum Procedures Directive but bound by the recast Qualification Directive, Article 25(2) is not precluded from considering an application to be inadmissible when the applicant benefits from subsidiary protection in another Member State.

### 2.5.2 Personal interviews in inadmissible cases



The CJEU ruled on the importance of a personal interview prior to an inadmissibility decision in the case of *Addis v Federal Republic of Germany (C-517/17)*. The applicant’s request for asylum – dating back to 2013 – was rejected as inadmissible in Germany and he was not granted a personal interview on the ground that he had entered Germany from Italy, where he had already been granted refugee status. The CJEU referenced the recast Asylum Procedures Directive, Article 14(1), which establishes the obligation to provide a personal interview, also in decisions on admissibility. The CJEU noted that failure to hear the applicant would lead to the annulment of the decision unless the applicant is provided with a personal hearing in appeal proceedings, in compliance with the requirements of the recast Asylum Procedures Directive, Article 15. Meanwhile, Germany generally holds personal interviews prior to inadmissibility decisions.

### 2.5.3 Assessment of prosecution or punishment for refusal to perform military service



The CJEU interpreted the recast Qualification Directive, Article 9(2e) and (3) in *EZ v Federal Republic of Germany (C-238/19)* and ruled that, in the context of a civil war, there is a strong presumption that a refusal to perform military service is connected to a reason which may give rise to refugee protection. The particular case concerned an applicant who fled Syria to avoid military service and fighting in the war. The Federal Office for Migration and Refugees (BAMF) in Germany granted him subsidiary protection in 2017 based on the circumstances at that time, noting that grounds for refugee status did not apply to him since he had not been persecuted in Syria. He challenged this conclusion and argued that his flight from Syria and fleeing military service would expose him to a risk of persecution.

The CJEU held that, where the country of origin does not provide a legal possibility to refuse military service, the recast Qualification Directive, Article 9(2e) does not preclude a refusal to perform military service in a conflict even if the refusal was not done formally through a procedure. Regarding the situation in April 2017, it should be assumed that, irrespective of the field of operation, military service will involve the commission of crimes if the military service is performed during a civil war which involves crimes committed systematically by the army. The court also noted that, in accordance with the recast Qualification Directive, there must be a connection between the grounds of persecution and the refusal to perform military service. According to the court, the existence of such a connection cannot be deemed to be established and an examination cannot be circumvented by the national authorities responsible for assessing the application for international protection. There was a strong presumption that the refusal of military service in the particular circumstances of the case submitted to the court relates to one of the five reasons included in the recast Qualification Directive, Article 10. The court added that the competent national authorities must ascertain, in light of all the circumstances, whether the connection was plausible.

#### 2.5.4 Safe third country concept



The CJEU examined whether the recast Asylum Procedures Directive, Article 33 precludes national legislation which allows an application for international protection to be rejected on the ground that the person arrived through a country where that person was not exposed to persecution or a risk of serious harm. In *LH* (C-564/18), the CJEU found that the Hungarian legislation did not satisfy the recast Asylum Procedures Directive, Articles 33(2c) and 33(2b) to deem an application inadmissible since the condition of having a connection to a safe third country or to the first country of asylum was not met and transit alone does not constitute a connection.

This was confirmed in *FMS and Others* (C-924/19 PPU and C-925/19 PPU), where the CJEU held again that Hungary's law that allows an automatic rejection of asylum applications due to transiting through a safe third country is not in accordance with the requirements of the recast Asylum Procedures Directive.

The CJEU noted the principles of *res judicata*, that a case cannot be pursued further by the same parties, and the authorities were not obliged to re-open the cases which had been dismissed as inadmissible based on the legal provision in Hungary. However, the authorities may consider that the legislative inapplicability constitutes a new element within the meaning of Article 33(2d) so that a repeated application for asylum would not be rejected on this basis.

#### 2.5.5 Use of detention



In *European Commission v Hungary* (C-808/18), the CJEU reconfirmed its previous finding in *FMS and Others* (C-924/19) that the obligation to remain in one of the transit zones of Röszke and Tompa, at the Serbian-Hungarian border, for the duration of the asylum procedure and for those subject to a return decision constitutes detention within the meaning of the recast Reception Directive. Asylum seekers held at the Serbian-Hungarian border cannot lawfully and freely leave the area since entry into Serbia would be considered illegal by Serbia, possibly exposing them to penalties, and in Hungary, the application would be automatically deemed as withdrawn.<sup>xii</sup> The CJEU held that, according to the recast Reception Conditions Directive, Articles 8 and 9, and the Return Directive, Article 15, an asylum applicant and a third-country national subject

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<sup>xii</sup> This finding is contrary to the ECtHR's view in *Ilias and Ahmed v Hungary* (No 47287/15) of 21 November 2019 in which the court found that restrictions in transit zones did not amount to a deprivation of liberty within the meaning of the ECHR, Article 5.

to a return decision cannot be detained solely because they cannot meet their needs and without a decision ordering detention after alternative measures or an immediate release had been considered.

Regarding the length of detention, the CJEU noted in both *FMS and Others* and *European Commission v Hungary* that the recast Reception Conditions Directive, Article 9 does not require Member States to lay down a maximum period of detention, while the Return Directive, Article 15 states that the detention of third-country nationals subject to a return decision may not exceed 18 months and can last only for the duration of removal arrangements. In addition, detention of applicants at the border may not exceed 4 weeks.

Regarding safeguards for asylum applicants, the CJEU emphasised in both *FMS and Others* and in *European Commission v Hungary* that the recast Asylum Procedures Directive and the Reception Conditions Directive require detention to be ordered and reasoned in writing, that the specific needs of vulnerable applicants must be taken into account to provide adequate support, and that minors should be placed in detention only as a last resort. These guarantees were not respected by Hungary which issued systematic and automatic detention in transit zones, applied to all applicants other than unaccompanied minors under 14 years of age.

On the reasons for detention, the CJEU noted in *Ministerio Fiscal [Spain] v V.L.* that the lack of accommodation in a humanitarian reception centre cannot justify the detention of an applicant for international protection.

## 2.5.6 Guidance for second instance procedures

### *Time limits in appeal procedures*



In *LH (C-564/18)*, the CJEU ruled on short time limits in appeal procedures against inadmissibility decisions within the requirements of the right to an effective remedy. The referring court considered that it is impossible to give a complete examination in line with substantive and procedural safeguards within a time limit of 8 days as specified in national law in Hungary, compared to 60 days in the regular procedure. The CJEU observed that the recast Asylum Procedures Directive, Article 46 does not lay down harmonised rules on time limits for decisions, but it authorises Member States to set time limits and detailed procedural rules in accordance with the principles of procedural autonomy, effectiveness and equivalence (i.e. procedural rules based on EU law cannot be less favourable than procedural rules used in analogous claims based on domestic law). The CJEU also noted that a court hearing an appeal against a rejected decision on an inadmissible asylum application must carry out a full and *ex nunc* (i.e. which is valid for the future) examination, which does not necessarily involve a substantive examination of the need for international protection.

The CJEU held that it cannot be ruled out that an 8-day time limit may be sufficient in clearly inadmissible cases but may be insufficient for the court to provide all the relevant substantive and procedural guarantees of an effective remedy, including the right to an interpreter, the possibility of communicating with UNHCR, the right to access information, the right to free legal assistance and representation, and safeguards for specific needs of vulnerable applicants. The CJEU also noted that where the time limit is insufficient, the principle of effectiveness of EU law obliges the court to disapply the national legislation that imposed the time limit.

### **The scope of appeal procedures**



In *PG (C-406/18)*, the CJEU examined the reasonable length of proceedings and the right to an effective remedy when national courts lack the power to amend an administrative decision but instead they annul it and order that a new procedure be conducted. The CJEU held that the recast Asylum Procedures Directive, Article 46(3) must be interpreted as meaning that it does not preclude national legislation giving a court the power to solely annul a decision of a competent authority in matters of international protection, while excluding the power to amend the decision. However, in the event the case is referred back to the competent administrative authority, a new decision should be adopted within a short period of time and in compliance with the assessment contained in the judgment annulling the decision. In the event that the national court decides that an applicant should be granted international protection and refers the case back to the determining authority, but the latter adopts a contrary decision without establishing new elements to justify the assessment, then the court must amend the new decision of the administrative authority by disapplying, if necessary, the national law that prohibits the court from proceeding in this way.

In addition, the recast Asylum Procedures Directive, Article 46(3), read in light of the EU Charter, Article 47, must be interpreted as not precluding national legislation which provides the court 60 days to decide as long as the court is able to ensure the effectiveness of substantive and procedural guarantees provided to the applicant by EU law. Otherwise, the court must not apply the national regulations which establish the period of adjudication and must render a judgment promptly after the period has elapsed.

### **Time limits to appeal and notice of first instance decision in subsequent applications**



The CJEU ruled on short time limits for appeal procedures in subsequent applications and on the notice of a decision when the applicant does not specify an address for notification. In *JP (C-651/19)*, the applicant, whose subsequent application was rejected as inadmissible, did not provide an address for notification of the decision in Belgium, and thus, the decision was notified through registered post to the Head Office of the Commissioner General for Refugees and Stateless Persons (CGRS). In accordance with Belgian law, the time limit of 10 days to bring an action against the decision started to run on the third working day following the day when the letter was delivered to the postal services. The applicant acknowledged receipt of the notification within the deadline, but he lodged the appeal outside of the 10-day time limit.

The CJEU held that the recast Asylum Procedures Directive, Article 46, read in light of the EU Charter, Article 47, does not in principle preclude a 10-day time limit to lodge an appeal against a decision declaring a subsequent asylum application as inadmissible. In addition, the CJEU found that, in the absence of the applicant's address, the notification sent to the head office of the determining authority is not precluded by the recast Asylum Procedures Directive, Article 46, provided that: i) the applicant is informed that the address deemed for the service of decision is the address of the head office of the determining authority; ii) the applicant's access to the head office is not excessively difficult; iii) within that period, the applicant has genuine access to the procedural safeguards granted to applicants for international protection by EU law; and iv) the principle of equivalence is respected.

### **2.5.7 Non-discrimination of naturalised beneficiaries of international protection**



In the case of *I.N. (C-897/19 PPU)*, the CJEU ruled on non-discrimination between nationals and asylum beneficiaries who subsequently become nationals of an EFTA state. The case concerned extradition proceedings of a Russian national who was granted asylum in Iceland



and subsequently became a national of Iceland. He was arrested in Croatia, and Russia sought his extradition, while Iceland requested a safe passage to Iceland as the Russian criminal proceedings were the basis on which Iceland had granted international protection.

The Grand Chamber of the CJEU held that the requested Member State must first verify the risk of the person being subjected to the death penalty, torture or inhuman or degrading treatment, or punishment. In this case, the extradition request constituted a particularly serious element. The Grand Chamber noted that, before considering executing the extradition, Croatia must inform the EFTA State (Iceland) to enable it to request the surrender of its national, provided that it is competent to prosecute the national for acts committed outside its national territory. The CJEU held that the TFEU, Articles 18 (non-discrimination based on nationality) and 21 (freedom of movement and residence for EU citizens) are not applicable as the case concerned a third-country national and not an EU citizen, but the situation in question does fall within the scope of EU law, specifically the EEA Agreement. The CJEU further held that the fact that the beneficiary had been granted asylum in Iceland constitutes a particularly serious factor in the assessment, and in the absence of developments in Russia, Croatia should refuse the extradition.

### 2.5.8 Age of minors in family reunification



*B.M.M. and Others* (Joined Cases [C-133/19](#), [C-136/19](#), [C-137/19](#)) concerned three minor children whose applications were rejected as inadmissible as they had become adults by the time a decision on family reunification was pronounced. Interpreting the Family Reunification Directive, read in light of the EU Charter, Article 47 (right to an effective remedy), the CJEU held that the date on which an application for family reunification was submitted is the date to be taken into account and not the date on which a decision was pronounced by the competent authorities. In addition, the CJEU stated that the same reasoning should be used for appeal proceedings if the minor child reaches majority during court proceedings. In the area of asylum, these cases are relevant for family reunification with beneficiaries of international protection.

### 2.5.9 Applying the Return Directive



The CJEU held that legislation in Hungary does not comply with EU law as it allows the removal of illegally-staying third-country nationals without complying with the substantive and procedural safeguards stipulated in the Return Directive. In *European Commission v Hungary* ([C-808/18](#)), the authorities had forcibly removed third-country nationals to a strip of land devoid of any infrastructure, leaving them with no other option but to return to Serbia. The court noted that a forced removal is to take place only as a last resort. The CJEU dismissed Hungary's claim that the TFEU, Article 72, allowed the removal as a derogation from the substantive and procedural safeguards established by the Return Directive.

The CJEU also interpreted the Return Directive in two cases concerning the withdrawal of social assistance and the return of third-country nationals suffering from serious illnesses. In both cases, *LM* ([C-402/19](#)) and *B.* ([C-233/19](#)), the CJEU ruled that the enforcement of the return decision should not expose the third-country national suffering from a serious illness to a serious risk of grave and irreversible deterioration of their health. In both cases the CJEU noted its previous finding in the *Gnandi* case, that an appeal must have an automatic suspensive effect when the enforcement of a return decision would entail a risk of *refoulement*.

In addition, several cases pronounced by the CJEU concerned the interpretation of the Return Directive in proceedings on the removal of illegally-staying third-country nationals and outlined principles which are relevant to former applicants for international protection who are subject to return procedures. In *WM* ([C-18/19](#)), the CJEU held that the Return Directive, Article 16(1) does not

preclude national legislation allowing detention in prison, separately from ordinary detainees, of illegally-staying third-country nationals who will be returned and who pose a genuine, present and sufficiently serious threat to the fundamental interests of society or the internal or external security of the Member State.

In *MO* (C-568/19), the CJEU ruled on the conditions for the removal of an illegally-staying third-country national in Spain. The CJEU noted that the competent national authority may not rely directly on the provisions of the Return Directive in order to adopt a return decision and, where national legislation provides for either a fine or removal in the case of an illegal stay, removal may be enforced only if there are aggravating circumstances concerning the national in addition to the illegal stay.

In *JZ* (C-806/18), the CJEU ruled on an entry ban in appeal proceedings brought by a third-country national who was sentenced to 2 months imprisonment for breaching an order to leave the Netherlands. The CJEU held that the Return Directive, Article 11 does not preclude national legislation permitting the imprisonment of a third-country national who was the subject of a return procedure and who is staying illegally with no justified ground for non-return. The CJEU highlighted that the entry ban produces effects only from the moment the individual leaves the territory of the Member State. If the third-country national has not left the territory, a punishment can be imposed only on the basis of an initial illegal stay, not on the basis of breaching an entry ban, and the national criminal legislation must be sufficiently accessible, precise and foreseeable.

#### 2.5.10 Fulfilling obligations of relocations



In *Commission v Poland, Hungary and the Czech Republic* (Joined cases C-715/17, C-718/17 and C-719/17), the CJEU upheld actions brought by the European Commission for the failure of Czechia, Hungary and Poland to fulfil their obligations within the EU relocation mechanism. The CJEU noted that the three Member States had infringed Council Decision No 2015/1601 on the mandatory relocation of 120,000 asylum applicants from Greece and Italy. In addition, the CJEU found that Czechia and Poland infringed earlier Council Decision No 2015/1523 (by which Hungary was not bound) for the voluntary relocation of 40,000 applicants from Greece and Italy.

#### 2.5.11 Restrictions on the work of NGOs



Although not related to the interpretation of the provisions of CEAS, the case of *European Commission v Hungary* (C-78/18) is important because the restrictions imposed by Hungary on the financing of civil society organisations has an impact on national organisations working in the field of asylum. The Grand Chamber of the CJEU held that Hungary had introduced discriminatory and unjustified restrictions on civil society organisations and on individuals providing them support by imposing obligations of registration and declarations and by publishing information on civil society organisations which directly or indirectly receive support from abroad. Hungary also provided for the possibility to issue penalties to the organisations that did not comply with the obligations. The measures do not comply with the free movement of capital laid down in the TFEU, Article 63 and the EU Charter, Article 7 (the right to private and family life), Article 8 (protection of personal data) and Article 12 (right to freedom of association).

## Section 3. EASO support to countries



*“A European Asylum Support Office (the Support Office) is hereby established in order to help to improve the implementation of the Common European Asylum System (CEAS), to strengthen practical cooperation among Member States on asylum and to provide and/or coordinate the provision of operational support to Member States subject to particular pressure on their asylum and reception systems.”*

*EASO Founding Regulation, Article 1*



The year 2020 marks the 10<sup>th</sup> anniversary of the establishment of EASO. On the basis of its founding regulation which entered into force on 19 June 2010, EASO quickly became operational in its main areas of work. The agency’s primary mandate focuses on improving the implementation of CEAS, strengthening practical cooperation on asylum among Member States, and providing operational support to Member States experiencing particular pressure on their asylum and reception systems. Within that mandate and under its motto “Support is our mission”, EASO delivers results which are organised around operational support, training and asylum knowledge that constitute the main pillars of its organisational structure.

To contribute to the development of CEAS, EASO gathers and exchanges relevant information on the implementation of the instruments of the asylum *acquis*, including information on the processing of asylum applications, respective legislation and case law. Throughout the year, EASO publishes reports on the situation of asylum in the EU and technical documents on the implementation of the EU asylum instruments, including guidelines and operating manuals.

Supporting practical cooperation entails the exchange of information and the identification of best practices among Member States, with the work on country of origin information aiming to foster convergence in decision-making. Training support provided by EASO targets national administrations, courts and tribunals through a dedicated asylum curriculum, while practical cooperation in the area of the external dimension promotes capacity-building in third countries and resettlement programmes.

Operational support to Member States whose asylum and reception systems are under pressure is an area of EASO’s work that has significantly expanded in scope over the last 10 years. The first operational support plan – with Greece – was signed in April 2011, and since then, operational support in various forms has been provided to Sweden, Luxembourg, Bulgaria, Italy, Cyprus, Malta (in chronological order) and finally Spain in 2020. By the end of 2020, EASO had a strong presence in all main frontline Member States, providing wide-scale support in a number of areas.

Since 2015, EASO has been engaged – alongside the European Commission and other European agencies – in carrying out the goals of the European Agenda on Migration, including providing support to the hotspots approach, ad hoc disembarkations and internal relocations.

In its daily work, EASO acts as an independent centre of expertise on asylum, working in partnership with asylum authorities in Member States, other relevant national services and European institutions and agencies. As part of the EU Justice and Home Affairs (JHA)<sup>xiii</sup> network, EASO works regularly in close cooperation with the other eight agencies in managing security, justice, fundamental rights and

<sup>xiii</sup> The JHA network of agencies includes EASO, Frontex, the European Institute for Gender Equality (EIGE), EMCDDA, the European Union Agency for Fundamental Rights (FRA), Europol, CEPOL, eu-LISA and Eurojust.

gender equality. EASO also collaborates closely with the UNHCR and other international organisations, while the Consultative Forum provides a platform to exchange information with civil society partners.

As part of the CEAS reform, the European Commission presented a proposal on 6 April 2016 for a new regulation to transform the European Asylum Support Office into a fully-fledged EU Asylum Agency (EUAA). It recommended to strengthen EASO's existing mandate to undertake additional activities related to:

- ➔ A role in developing the reference key and operating the corrective allocation mechanism under a reformed Dublin system;
- ➔ Strengthening practical cooperation and information-exchange between Member States;
- ➔ Promoting EU law and operational standards related to asylum procedures, reception conditions and protection needs;
- ➔ Ensuring greater convergence in the assessment of applications for international protection across the EU through analyses of and guidance on the situation in countries of origin; and
- ➔ Monitoring the application of CEAS and providing Member States with the necessary operational and technical assistance, in particular in situations of disproportionate pressure.

This proposal also forms part of the [Pact on Migration and Asylum](#), presented by the European Commission in September 2020, when it called for the European Parliament and Council to adopt the regulation on the EU Asylum Agency.

Since March 2020, the challenging circumstances of the COVID-19 pandemic across Europe and globally contributed to an increased need for safe, stable and robust asylum and reception systems. Despite an overall drop in applications for international protection at the EU level, some countries received a substantial number of arrivals, straining their resources. Against the backdrop of constant pressure on asylum and reception systems, EASO's activities were directly aimed at assisting Member States in the context of the pandemic. This included ensuring business continuity, carrying on a seamlessly with training activities and facilitating meetings online among Member States.

EASO launched a dedicated information collection initiative to provide key stakeholders with updated, comprehensive and reliable information on the impact of COVID-19 on national asylum and reception systems, emergency measures which were set in place, and the roll-out plan for vaccinating asylum seekers and beneficiaries of international protection. A number of thematic reports which analysed how countries coped and reacted were issued,<sup>240</sup> and information was made available to Member States through online databases. To ensure high standards in processing asylum applications during the pandemic, EASO issued practical recommendations on conducting personal interviews remotely and on conducting remote/online registrations.

In EASO's operational work, activities were swiftly adapted in line with security, health and safety protocols to limit face-to-face contact (for example, during registration and asylum interviews) and tasks were adjusted to the new reality. The health measures prompted the focus to shift to back-office workflows, such as working on the backlog of files; administrative duties in registration; producing country of origin information; providing support to appeals; capacity-building activities; improving

policy and procedures; and remotely supporting information provision and reception through helplines.

At the same time, EASO remained active on the ground and helped to relocate unaccompanied children from Greece to other Member States. Support to Spain was also agreed in late 2020 and launched in 2021 to alleviate the pressure on its reception system and develop a new reception model.

The detailed description of EASO’s activities in 2020 can be consulted in the [EASO Annual General Report 2020](#).



## 10 years of information on asylum

**EASO Asylum Report 2021**  
Annual Report on the Situation of Asylum in the European Union

**From 2011 - 2021**

10 years of information on asylum

2011 2012 2013 2014  
2015 2016 2017  
2018 2020



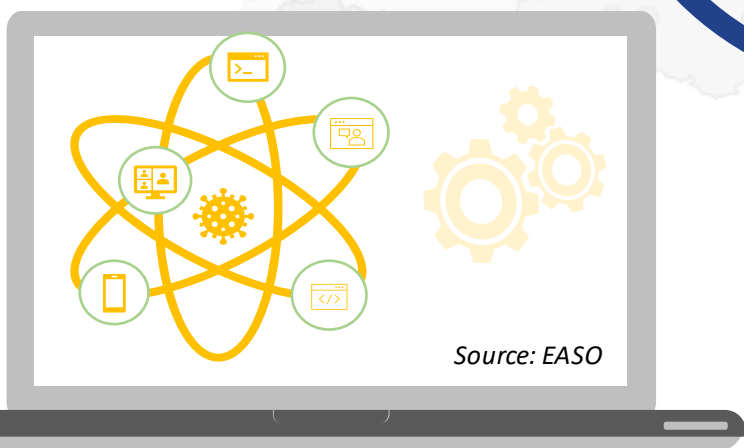
## Digitalising the asylum procedure



The COVID-19 pandemic provided an impetus for countries to further develop or introduce digital tools and adapt practices



Despite the benefits, digitalisation can entail potential risks, for example with data protection, digital literacy and connectivity



Source: EASO



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



*This section presents developments at the national level throughout 2020 and the ways in which EU+ countries shaped their legislation, policies and practices on asylum. To provide a cohesive narrative, this section is structured around the main thematic areas of CEAS, detailing each step of the asylum process. Qualitative information is integrated with the latest published data on key indicators, including the number of applications received, countries of origin of applicants, withdrawn applications, Dublin requests and transfers, decisions on applications, pending cases and socio-economic indicators which can shed light on the impacts of asylum flows on EU+ countries.*

*Achievements in improving protection standards and remaining challenges in national asylum and reception systems are presented using EASO research and input from national authorities, civil society organisations, UNHCR and other international organisations. The analysis is supplemented with selected jurisprudential references to highlight case law which guided the interpretation of European and national laws in 2020.*

*Two recurrent themes which were seen throughout the asylum procedure in 2020 – impacts of the COVID-19 pandemic and innovations in digitalising the asylum process – are highlighted at the beginning of each section.*

*The overview of the functioning of CEAS at the national level comprises the following sub-sections:*

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

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

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

*4.4 Processing asylum applications at first instance: new approaches, measures, working methods and policies are presented, along with legislative amendments, institutional changes, technological developments and projects on monitoring and quality assurance.*

*4.5 Processing asylum applications at second or higher instance: presents initiatives to make the procedures at second instance more efficient and details changes regarding the suspensive effect of appeals against first instance decisions, time limits for appeals, institutional changes for the authorities dealing with appeals, ways of tackling the backlog of cases pending on appeal and safeguards provided to applicants.*

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

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

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

*4.9 Access to information: details new initiatives in information provision throughout the different stages of the asylum process.*

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

*4.11 Interpretation services: amendments and concerns around the provision of interpretation are provided.*

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

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

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

*4.15 Return of former applicants: overviews the changes in procedures which were undertaken after a final negative decision on an application is taken.*

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



## Section 4.1 Access to the asylum procedure



Effective access to the asylum procedure implies that people seeking international protection are able to reach the authorities of a Member State and are granted access to a fair and efficient process. The EU's recast Asylum Procedures Directive guides Member States on common procedures to undertake when an asylum application is submitted in the territory of a Member State, including at the border, in territorial waters or in transit zones.

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

- ➔ Making an application: A person expresses the wish to any national authority to apply for international protection.
- ➔ Registering an application: This is a procedural step where 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.

Time limits for the examination of an application start running when the claim is lodged.



### COVID-19

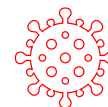
Travel restrictions during the COVID-19 pandemic significantly affected the chances of asylum seekers reaching the EU's territory. Non-essential travel to the EU was restricted until 1 July 2020 and restrictions were recommended to be lifted at the end of the year only for eight third countries and two special administrative regions.<sup>241</sup> In addition, 14 EU Member States re-introduced border checks within the Schengen area, further limiting access to territory.<sup>242</sup>

The European Commission's [guidance](#) outlined that people in need of international or humanitarian protection must be exempted from the travel restrictions. Nonetheless, many organisations and scholars noted that the restrictions impeded the journey for many to seek protection.<sup>243</sup> UNHCR emphasised that "measures should not result in closure of avenues to asylum, or of forcing people to return to situations of danger".<sup>244</sup>

National authorities were compelled to swiftly adjust to the new circumstances. Some offices suspended registrations for a short period during the first wave of the pandemic to re-organise processes and the working environment. Others did not officially suspend the process but limited registration to basic information, sometimes in written form, and proceeded with the lodging of the application after a period of quarantine or testing. Thus, these measures slightly increased the period between the two procedural steps of registering and lodging an application.

Registration capacity was directly affected by the reduction in the number of registration staff due to shift work and the re-organisation of waiting rooms and offices to ensure safe distancing between people. To limit the number of people physically present at the same time, national authorities introduced new systems to book appointments online, by e-mail or by phone. These measures could potentially increase the length of the process.

National courts were called to assess any infringement due to the newly-introduced methods. The time elapsed between expressing a wish to apply for international protection and having access material reception conditions was of particular concern.



## Digitalisation

National administrations have been gradually automating the first steps of the asylum procedure for several years, culminating with developing digital solutions quickly to ensure business continuity during the pandemic. Registration and the verification of an applicant's identity must typically be done in person, but some aspects of the identification and verification processes can involve electronic platforms, mobile phones and laptops.

The Netherlands has already been using a self-registration tool through which asylum applicants can provide personal data electronically, so registration staff become involved at a later stage more briefly for verification. Some Member States started to introduce and pilot systems to manage identification, similar to the Integrated Identity Management: Plausibility, data quality and security aspects (IDM-S) programme introduced by Germany in 2017.<sup>245</sup> Its components, such as the computer-based Dialect Identification Assisting System (DIAS) provide support in clarifying identity and citizenship. Many experts, civil society organisations and asylum authorities are closely following the developments in these innovations.<sup>246</sup>

Automated systems can, however, raise questions about an applicant's right to private life and data protection in general. The first steps of the asylum procedure often involve several national authorities, which need to exchange and store information and personal data in a secure manner. Several Member States have passed legislation in recent years to provide a legal framework for this kind of cooperation or set up pilot projects on different communication methods and information-sharing platforms.

The implementation of the proposed Screening Regulation under the Pact on Migration and Asylum would also entail that the scope of and access to relevant EU information systems should be extended, raising additional concerns by civil society organisations.<sup>247</sup> In addition, these organisations have already noted that the more extensive use of online tools can be challenging for some groups of applicants.<sup>248</sup>



Main developments in access to the asylum procedure in 2020 continued on the same path of previous years. Procedures continued to be finetuned so that authorities obtain as much information as possible at the beginning of the asylum process in an efficient manner and coordinated among the different stakeholders. The overarching goal is to better channel cases through the system and speed up the overall process.

The new proposal for a Screening Regulation based on the EU Pact on Migration and Asylum mirrors these efforts by introducing a pre-entry screening process for all people crossing the EU's external borders without permission (*see Section 2*). Academia and civil society organisations have outlined concerns about the proposal, citing some recent national experiences, for example in the hotspots in Greece and Italy.<sup>249</sup>



### 4.1.1 Arriving to the European Union: Access to territory

Challenges at the external borders of the EU continued and were reported to be exacerbated throughout 2020.<sup>250</sup> UNHCR noted the important decrease in arrivals by sea and land, but it observed an “increasing number of credible reports about pushbacks at European borders”.<sup>251</sup> At the request of the European Parliament, FRA prepared a report on fundamental rights challenges at the EU’s external borders and put forward some recommendations which could potentially improve fundamental rights compliance in border management.<sup>252</sup> Together with the Council of Europe’s Special Representative on Migration and Refugees, FRA also published guidance on the key safeguards in European law related to border management.<sup>253</sup> In addition, ECRE/ELENA drafted a legal note on securing and advancing access to asylum through international legal avenues, focusing on the principle of *non-refoulement*.

At the beginning of 2020, the Grand Chamber of the European Court of Human Rights (ECtHR) overturned the Chamber’s judgment from 2017 and **ruled** in *N.D. and N.T. v Spain* that – in this particular case - an immediate return without the possibility to challenge the removal was not in breach of the right to an effective remedy, according to the ECHR in conjunction with the prohibition of collective expulsion under Protocol No 4. However, academic sources noted that this decision does not mean that pushbacks would be allowed and noted that the judgment confirmed the principles elaborated in earlier ECtHR caselaw, namely that pushbacks remain an illegal practice under the ECHR, Article 3 and that states must guarantee effective access to the asylum procedure.<sup>254</sup> In the context of the Asylum Procedures Directive, Article 3, this is guaranteed for applications made in the territory, including at the border, in the territorial waters or in transit zones of Member States. At the end of 2020, the Spanish Constitutional Court **ruled** that the specific asylum regime for Ceuta and Melilla is constitutional, basing its argumentation largely on the judgment in *N.D. and N.T. v Spain* and noting that the legislation must be applied in compliance with human rights instruments and international protection principles.

In May 2020, the ECtHR **declared** the case of a Syrian family to be inadmissible when they applied for short-term visas at the Belgian Embassy in Beirut to submit an application for international protection in Belgium, but the Immigration Office rejected their request. The court found that the family did not fall under the jurisdiction of Belgium in the sense of the ECHR, and thus, they cannot invoke Belgium’s obligations under Articles 3 and 13. It also found Article 6 inapplicable, noting that entry to Belgium did not engage a civil right under the meaning of that article.

The ECtHR provided further guidance related to the right to asylum and the prohibition of collective expulsions in July 2020, assessing a **case** that involved Polish border guards repeatedly refusing entry for nationals of Chechnya at the Terespol border crossing point with Belarus, even though they made it clear they intended to apply for asylum. The court unanimously found violations of the prohibition of torture or inhuman or degrading treatment, the prohibition of collective expulsion and the right to an effective remedy. Academic sources analysed the case in the light of the *N.D. and N.T. v Spain* judgment earlier that year, addressing the impact of whether the applicants tried to cross at an official entry point or in an irregular manner.<sup>255</sup>

Similar complaints about access to Poland were heard by the ECtHR, involving four applicants from Tajikistan who tried to cross the Polish-Ukrainian border at Medyka several times to apply for asylum. They were refused entry and were returned to the Ukraine.<sup>256</sup> As a result of the growing concerns, a consortium of Polish NGOs set up a **website** at the beginning of 2020 which reports on the situation at the Polish-Belarusian border and the challenges encountered by potential applicants in accessing

the asylum procedure. In an effort to address the various concerns, UNHCR offered to assist the Polish authorities in meeting their obligations under EU and international laws.<sup>257</sup>

Impediments to access to the asylum procedure were also reported in other areas. Civil society organisations cited the growing number of incidents along the Spanish-French, Italian-French and Italian-Swiss borders.<sup>258</sup> The French Council of State [found](#) that the authorities had manifestly infringed on the right to asylum when both the border police and the judge on appeal refused a woman from the Central African Republic and her 5-year-old son to enter the country from Italy, even though she expressed her wish to apply for asylum. In addition, civil society organisations and media highlighted the growing number of persons attempting to cross the Channel between France and the United Kingdom.<sup>259</sup>

UNHCR reported pushbacks into Serbia from neighbouring countries.<sup>260</sup> Furthermore, civil society observed difficulties in accessing the asylum procedure at airports. For example, the National Association of Border Assistance to Foreigners in France observed the lack of information on the right to seek asylum and highlighted the important role of the police in either hampering or facilitating the process.<sup>261</sup> The Irish Refugee Council noted unclarity on the instructions related to immigration control measures which target people with false documentation arriving by aircraft, where these people may have been returned before they had the opportunity to ask for asylum.<sup>262</sup>

### ***Turkish-Greek border***

The situation at the Turkish-Greek border escalated at the end of February 2020, when several thousands of people arrived following active encouragement by Turkish actors to take the land route to Europe through Greece.<sup>263</sup> In response, the Greek government passed an urgent legislative act suspending applications for 1 month from people arriving illegally following the publication of that act.<sup>264</sup>

The presidents of the European Council, the European Commission and the European Parliament, the president of Croatia (the country which held the rotating Presidency of the Council in the first half of 2020) and the Prime Minister of Greece visited the Greek borders to gain better insight into the situation.<sup>265</sup> For rapid assistance, the European Commission presented an [Action Plan](#) for immediate measures to support Greece in managing the situation as a contribution to the extraordinary Justice and Home Affairs Council.<sup>266</sup> This involved financial assistance up to EUR 700 million for Greece, a new return programme coordinated by Frontex and appeals: i) to Member States to respond to the Civil Protection Mechanism to provide necessary supplies; ii) to EASO's call to provide 160 national experts to be deployed in Greece; and iii) to provide assets to launch two rapid border intervention operations by Frontex.<sup>267</sup> The Council of the EU in its statement underlined that: "The EU and its Member States remain determined to effectively protect EU's external borders. Illegal crossings will not be tolerated. In this regard, the EU and its Member States will take all necessary measures, in accordance with EU and international law. Migrants should not be encouraged to endanger their lives by attempting illegal crossings by land or sea. The Council calls upon the Turkish government and all actors and organisations on the ground to relay this message and counter the dissemination of false information. The EU will continue to actively fight human smuggling".<sup>268</sup>

Members of the European Parliament (MEPs) discussed the common EU response with the European Commission President<sup>269</sup> and the representative of the Croatian presidency.<sup>270</sup> The Council of Europe's Commissioner for Human Rights underlined that "(e)verything must be done to de-escalate violence in the border region, including by ensuring that law enforcement authorities refrain from using excessive force".<sup>271</sup> UNHCR called for "calm and easing of tensions on Turkey's borders with the European Union" and underlined that "(n)either the 1951 Convention Relating to the Status of

Refugees nor EU refugee law provides any legal basis for the suspension of the reception of asylum applications".<sup>272</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) urged the Greek authorities "not to resort to such a legislative measure again, even when faced by a potential increased influx of migrants".<sup>273</sup> ECRE appealed to the EU and national policy-makers to "stay calm and stay human", condemned the Greek legislative act and put forward recommendations on resolving the situation.<sup>274</sup> In a joint statement, 85 civil society organisations expressed their "deep concern" about the situation and its management.<sup>275</sup> Academia and think tanks also widely commented on the conflict, and the EU and Greek response to it.<sup>276</sup>

MEPs raised questions<sup>277</sup> on information that the crew of a Danish patrol boat, which was monitoring the Aegean Sea as part of the Frontex [Operation Poseidon](#), refused an order from the national representative to return 33 rescued migrants to an inflatable boat and escort them back to Turkish territorial waters, in fear of endangering their lives.<sup>278</sup> The order was withdrawn and the vessel was then ordered to the Greek island of Kos, where the migrants were transferred to the Greek authorities. MEPs also raised questions based on journal reports about alleged pushbacks in the Aegean Sea, putting forward six cases when Frontex was allegedly present.<sup>279</sup> Civil society organisations and academia also expressed doubts concerning the legality of the actions.<sup>280</sup>

Frontex launched an internal inquiry into the incidents,<sup>281</sup> the European Ombudsman opened an inquiry to assess the agency's complaints mechanism,<sup>282</sup> the European Commission called the agency to organise an extraordinary Management Board meeting<sup>283</sup> and the European Parliament's LIBE Committee requested the agency's director to reply to a set of questions<sup>284</sup> and debated the situation with him during a hearing.<sup>285</sup> The Frontex Management Board Working Group's final report concluded that "it has not been possible to completely resolve the incidents beyond any reasonable doubt", but it still put forward a set of recommendations to prevent any doubts of such incidents in the future.<sup>286</sup> The allegations and their follow-up were again accompanied by several comments from civil society organisations, academia and think tanks.<sup>287</sup>

### ***Hungarian-Serbian border***

The transit zones at the Hungarian-Serbian border were closed in May 2020 as a response of the Hungarian authorities to the [judgment](#) in Joined Cases C-924/19 PPU and C-925/19, *FMS and Others*,<sup>288</sup> and in December 2020, the CJEU also [ruled](#) on the infringement procedure launched by the European Commission in 2015, noting that the country "has failed to fulfil its obligation to ensure effective access to the procedure for granting international protection" (*see Section 2 and case law on the transit zones in Section 4.8*).

The Hungarian government introduced special conditions to submit asylum applications as of May 2020 until the end of 2020,<sup>289</sup> which was then extended until 30 June 2021.<sup>290</sup> According to the new rules, applicants must submit a declaration of intent at a Hungarian embassy in a non-EU country,<sup>291</sup> which is then assessed by the asylum authority. Apart from a few exceptions, this applies to all persons wishing to apply for asylum, whether arriving to or already present in the territory of the country. For example, persons who cross the border irregularly and indicate their intention to apply for asylum are directed to the nearest Hungarian embassy in a non-EU country, Serbia or Ukraine. The authority may conduct a remote interview with the applicant at the embassy and informs the embassy about the outcome of the assessment within 60 days. For a positive decision, the embassy issues a travel document which is valid for 30 days and allows the applicant to travel to Hungary, where he or she has to confirm the intention to submit an asylum application to the border police immediately when entering the country. For a negative decision, the authority informs the embassy and does not have an obligation to provide a reason for the rejection.

The National Directorate-General for Aliens Policing (NDGAP) shared that 26 persons submitted the declaration of intent at the Hungarian embassy in Belgrade up to 31 December 2020, and four people within an Iranian family unit were granted travel documents. In addition, the authority did not take a decision on the cases for 46 people who had indicated their intent, but they then disappeared before the authority received their declarations. The European Commission decided to launch an infringement procedure and sent a letter of formal notice to Hungary in October 2020, noting that it considered the new rules to be “an unlawful restriction to access the asylum procedure”<sup>292</sup> and it proceeded to send a reasoned opinion in February 2021, as it considered the reply from the Hungarian authorities not to be adequate.<sup>293</sup>

The Hungarian Helsinki Committee assessed the new legislation to be “*de facto* removing Hungary from CEAS”, as the asylum procedure can only be initiated outside of the country, and at the same time, the recast Asylum Procedures Directive does not apply to requests submitted to diplomatic representations.<sup>294</sup> UNHCR stated that “(t)his enactment further undermines the effective access to territory and asylum for those fleeing wars and persecution which had already been seriously constrained before”.<sup>295</sup>

### ***Western Balkan route***

In autumn 2020, public attention turned to the situation in the Western Balkans, when Commissioner Ylva Johansson took note of a report from the Danish Refugee Council on alleged pushbacks from Croatia to Bosnia and Herzegovina reaching a monthly high since May 2019<sup>296</sup> and assured to discuss the reported incidents with Croatian authorities.<sup>297</sup> Earlier in 2020, the Council of Europe Anti-Torture Committee undertook a five-day rapid reaction visit to the country to examine the situation of people who attempted to enter the country but were apprehended by the police.<sup>298</sup> Meanwhile, the Council of Europe’s Commissioner for Human Rights published a statement and reiterated her call to the Croatian authorities to “stop pushbacks and border violence and eradicate impunity for serious human rights violations committed against migrants by law enforcement officers”.<sup>299</sup> Civil society organisations have also published examples of incidents throughout the year.<sup>300</sup>

The Croatian Ministry of the Interior released a statement noting that it was “faced with a second wave of serious unfounded accusations against the Croatian policy” and agreed to investigate the incidents.<sup>301</sup> It added that the ministry had zero tolerance for unlawful use of coercion by Croatian police officers against any population and as zero tolerance for not prosecuting criminal or misdemeanour offences which were committed by police officers, and it strongly condemned and in no way supported such actions. The European Commission sent a senior mission to visit two border crossing points and drafted a memorandum of understanding with the Croatian authorities to work towards an independent border monitoring mechanism.<sup>302</sup>

However, the European Ombudsman launched an inquiry against the European Commission based on a complaint from Amnesty International, which claimed that Croatia did not set up a monitoring mechanism to supervise the border management operations compliance with fundamental rights and EU law, even though it received EU funding for it, and charged that the European Commission failed to follow up on how the funding was spent.<sup>303</sup>

Civil society organisations in Slovenia were concerned about the draft amendment of the Foreigners’ Act, which would allow the closing of borders and potentially prevent new arrivals to submit an asylum application in the event of a complex crisis in the field of migration.<sup>304</sup>

The Administrative Court in Slovenia **issued** a new judgment in the case of an applicant from Cameroon who claimed to have been returned with others from Slovenia to Croatia based on an extradition agreement, without the possibility to apply for asylum, and then informally returned from Croatia to Bosnia and Herzegovina. The court confirmed its initial judgment that the Slovenian police violated the EU Charter of Fundamental Rights, Articles 18, 19(1) and 19(2) during its procedures.

The court in Italy **ruled** that returns to Slovenia based on informal readmission agreements are illegal. The case concerned a Pakistani applicant who arrived in Italy through Bosnia and Herzegovina, Croatia and Slovenia, and expressed his wish to the Italian police to apply for asylum. Instead, within a few hours, he was rejected to Slovenia, then to Croatia and then back to Bosnia and Herzegovina. The court also underlined that the Italian authorities should have known, based on UNHCR and civil society sources, that readmission to Slovenia would lead to an informal readmission to Croatia and then return to Bosnia and Herzegovina and that the applicant would be at risk of ill treatment by the police in the other countries.

The AIDA report for Austria mentioned the cases of a Moroccan and a Syrian national who stated to have asked for asylum after crossing the green border between Slovenia and Austria. Instead, they were returned to Slovenia, then to Croatia and finally to Bosnia and Herzegovina. The Austrian Ministry of the Interior clarified that these persons did not express their wish to ask for asylum.<sup>305</sup>

### **Central Mediterranean route**

Deliberations continued throughout the year on search and rescue operations and disembarkation in the Central Mediterranean route. UNHCR underlined that legitimate health concerns due to the COVID-19 pandemic can be addressed through various measures and they should not be invoked to limit disembarkations.<sup>306</sup> The Council of Europe's Commissioner for Human Rights published a report focusing on the developments in the Central Mediterranean area and formulated a set of recommendations to ensure that the approach used by countries to attempt sea crossings are compliant with their human rights obligations. Among them, the Commissioner reiterated her call to review all co-operation activities with the Libyan Coast Guard and called for better cooperation with NGOs saving lives at sea.<sup>307</sup>

Delays in finding a safe haven for asylum seekers fleeing through Libya received public attention several times throughout the year, for example, in the case of approximately 180 people stranded on two cruise vessels<sup>308</sup> or three incidents involving merchant vessels.<sup>309</sup> The Council of Europe's Commissioner for Human Rights expressed her concerns over delays and non-response to search and rescue operations in a letter to the Maltese Prime Minister,<sup>310</sup> who replied acknowledging the issues which were raised but noting that due to the local situation during the COVID-19 outbreak "Malta is simply not in a *de facto* position, at present, to ensure a 'safe place' to any person rescued at sea".<sup>311</sup> Since the Armed Forces of Malta, the Malta Police Force and the Civil Protection Department were focusing on curbing the spread of the pandemic, the government assessed that the country was not in position to guarantee the disembarkation of a large number of migrants. Nonetheless, Malta continued to coordinate emergency cases by sea and provided medical attention and food to ensure the protection of lives and to preclude inhuman and degrading treatment.

The Head of the Civil Protection Department in Italy ordered in April 2020 that people who were rescued at sea or who arrived independently by sea needed to quarantine on specially-equipped ships before disembarkation.<sup>312</sup> This measure was heavily criticised by international and national civil society organisations for leaving potentially vulnerable adults and children in distress and without adequate medical and psychological support.<sup>313</sup>

The standard operating procedures developed by the European Commission in 2019 – based on the Malta Declaration signed by the ministers of France, Germany, Italy and Malta<sup>314</sup> – guided the relocation exercises following disembarkations in 2020 as a temporary arrangement.<sup>315</sup> In many cases, the voluntary relocation process contributed to facilitate disembarkations in Italy and Malta, and to demonstrate concrete European solidarity through the relocation of 1,509 asylum applicants overall from Malta and 1,273 applicants from Italy to other EU Member States. Nevertheless, academic analysis underlined the risk of this process being a “quick-fix measure”.<sup>316</sup>

### **Western Mediterranean route**

The Spanish-Moroccan border at Ceuta and Melilla continued to receive attention for limiting access to international protection and reports about incidents persisted, including after the ECtHR judgment in *N.D. and N.T. v Spain*.<sup>317</sup> As seen in the data in Section 4.1.2, arrivals to the Canary Islands significantly increased. The EU Commissioner for Home Affairs visited the island<sup>318</sup> (see Section 4.7), and the IOM and UNHCR undertook a joint visit to assess the situation.<sup>319</sup> The two organisations noted the mixed profile of persons arriving and that some flee persecution, while others leave due to extreme poverty. They underlined the challenge that this complexity adds to adequately addressing the situation.<sup>320</sup>



## **4.1.2 Data on applications for international protection**

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### **At the EU+ level**

Approximately 485,000 applications for international protection were lodged in EU+ countries in 2020, a sharp 32% drop compared to the number of applications in 2019. The decline, which resulted in the lowest number of yearly applications since 2013, can be attributed to COVID-19 restrictions which were implemented in EU+ and third countries, limiting movements across borders and within countries.

The number of asylum applications fluctuated considerably during the year. They continued to rise at the beginning of the year, with more applications lodged in January and February 2020 than in the same months in 2019 (increases of 15% and 10%, respectively). However, after the first COVID-19 outbreak in March 2020, applications plummeted, down by 43% from February, resulting in a total of about 36,000 asylum applications in March 2020.

In April 2020, the number of applications reached the lowest level, with just 9,700 applications lodged across all EU+ countries (an 85% reduction from February 2020). Indeed, as seen in Figure 4.1, the lowest number of applications were received in April and May 2020, when applications amounted to just 21% of those received in the same months in 2019.

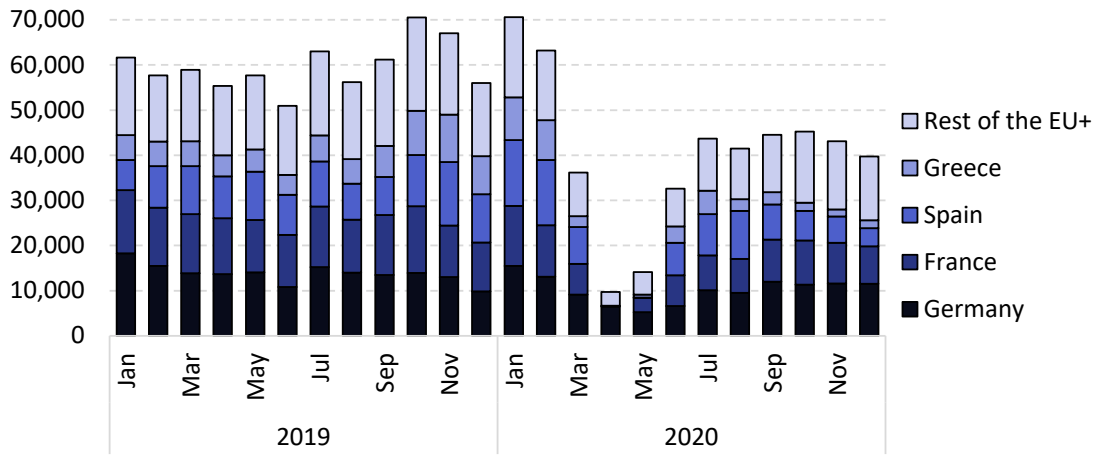
As confinement measures were gradually lifted across countries, the pace of applications resumed in June 2020, and from July onwards, remained quite stable for the rest of the year – between 40,000 and 45,000 applications per month. Nonetheless, these figures were unquestionably below pre-COVID-19 levels.

A clear pattern was seen with increased COVID-19 measures related to movement restrictions and a decrease in the number of monthly asylum applications. Figure 4.2 shows the inverse relationship, with the lowest number of asylum applications lodged in April 2020 when COVID-19 restrictions were at their most stringent.



**Significant decrease in the number of asylum applications due to the COVID-19 pandemic**

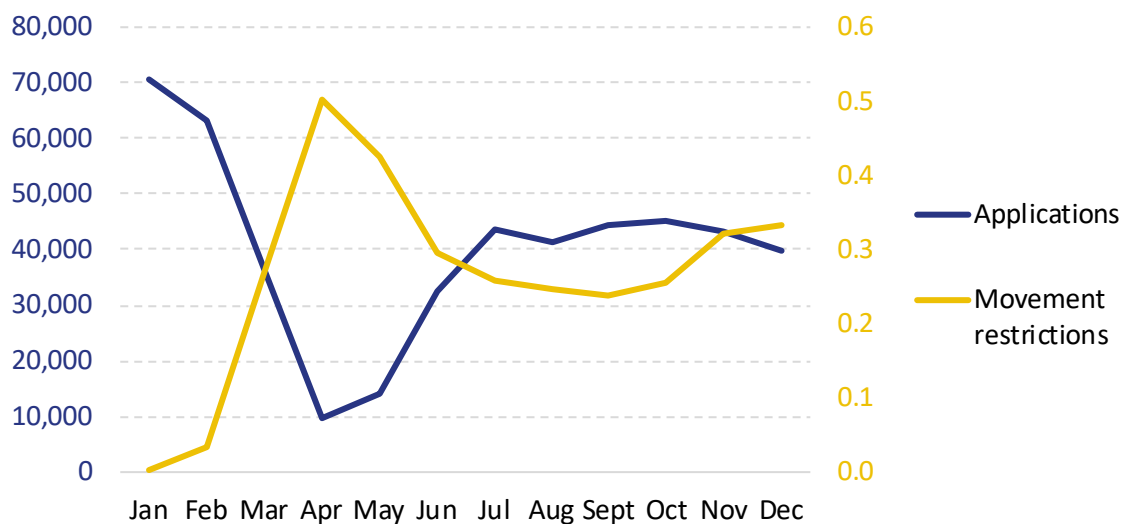
**Figure 4.1: Asylum applications by top receiving countries, by month, 2019-2020**



Source: Eurostat [[migr\\_asyappctzm](#)] as of 28 April 2021.

**Inverse relationship between COVID-19 restrictions and asylum applications**

**Figure 4.2: Asylum applications (left axis) compared to the stringency of COVID-19 measures restricting movement in EU+ countries (right axis), by month, 2020**



**Note:** The Oxford Government Response Tracker estimates the stringency of government measures using different scales. For the figure, three indicators measuring movement restrictions were given equal weight and transformed into an index on a scale between 0 and 1.

Source: Eurostat [[migr\\_asyappctzm](#)], as of 28 April 2021 and University of Oxford [[COVID-19 Government Response Tracker](#)] as of 21 January 2021.

The stringency of measures and the number of asylum applications are strongly correlated, with a coefficient of -0.96. However, when more rigid restrictions were introduced again in September 2020 in response to the second wave of COVID-19 cases, it seemed to have relatively little effect on the number of asylum applications. This could be explained by the fact that, in contrast to the initial outbreak when numerous asylum authorities drastically reduced their activities and access to their premises, by the fall most EU+ countries had adapted to the new situation and were able to maintain a certain level of services in asylum systems with the help of various protective measures.<sup>321</sup>

### At the country level



Almost two-thirds (63%) of all asylum applications in 2020 were lodged in just three countries: Germany (122,000), France (93,000), and Spain (89,000). These were followed at some distance by Greece (41,000) and Italy (27,000). However, almost all countries received fewer applications than in 2019. The largest absolute decreases were in France (-58,000, -38%), Germany (-44,000, -26%), Greece (-37,000, -48%), and Spain (-29,000, -25%). Applications roughly halved not only in Greece but also in Cyprus and Denmark. Apart from France, declines by about two-fifths also occurred in Belgium, Czechia, Italy, Luxembourg, Malta, the Netherlands, Norway and Sweden.

Countries located along the Balkan routes bucked the trend and received more applications in 2020 than in the previous year. The increase in Romania (+3,565, +138%) was the largest amongst EU+ countries in both absolute and relative terms. This was followed by Bulgaria (+1,375, +64%) and Austria (+1,320, +10%) in absolute terms. Croatia and Slovakia also received more applications compared to 2019, particularly in the second half of the year.

The impact of COVID-19-related measures on asylum applications was unevenly distributed across EU+ countries (see Figure 4.1). In countries where the asylum procedure was mostly suspended during the first wave of the pandemic, there was a notable drop in the number of asylum applications, for example by 99% in Spain and 97% in France between March and April 2020. Germany, which kept its asylum procedure open, had just a 29% decline in the number of applications received during this period. As a result, Germany received two-thirds of all applications lodged in the EU+ in April, and almost two-fifths in May 2020.

### Countries of origin



Nationals of Syria lodged the highest number of applications for international protection in 2020 (70,000), which nonetheless was a 12% decrease from 2019. This nationality accounted for one in seven applications lodged in EU+ countries.

With 50,000 applications, citizens of Afghanistan were the second top citizenship seeking international protection in Europe, followed by Venezuelans (31,000), Colombians (30,000) and Iraqis (20,000). Together, the five top nationalities accounted for over two-fifths of all applications in EU+ countries.

The top countries of origin were unchanged from 2019, although nearly all lodged fewer applications in 2020: nationals of Venezuela and Iraq lodged far fewer applications, while the decline was less striking for Afghans and Colombians (see Figure 4.3). Many applications were also lodged by citizens of Pakistan, Turkey, Nigeria, Somalia and Bangladesh (in descending order), but substantially fewer than in the previous year.

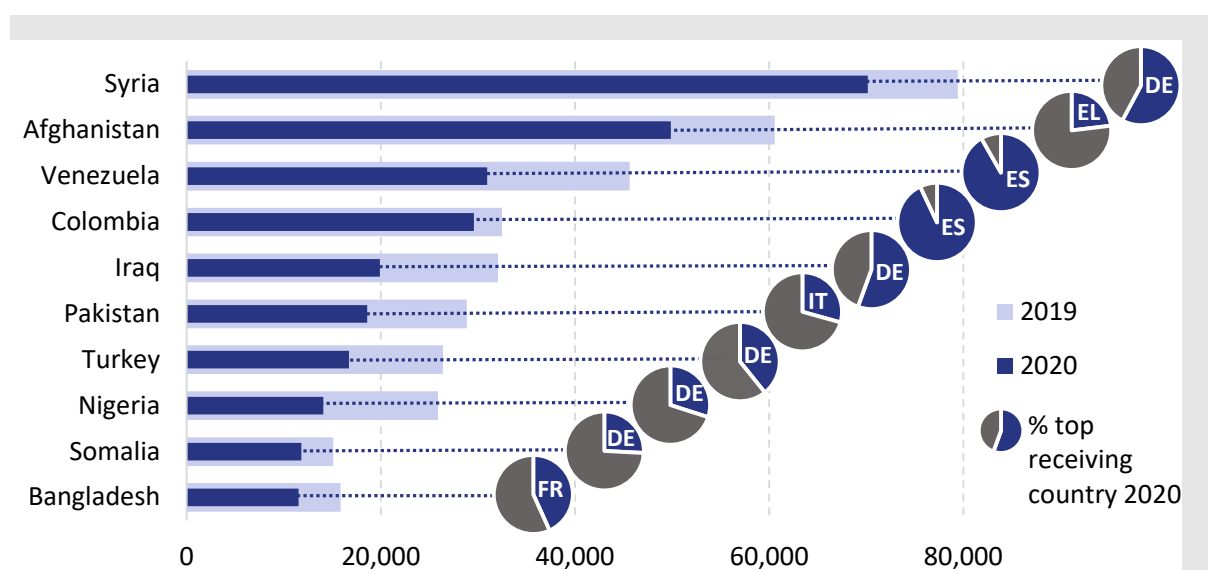
Some of the most notable declines were seen for applicants from Albania, Georgia, Iran, Nigeria, Pakistan and Turkey. In fact, among the citizenships lodging the most applications in 2020, applications only increased for Belarusians (1,335, +15%), Brazilians (1,675, +3%), Comorians (1,975, +14%) and Cubans (2,185, +7%).<sup>xiv</sup>

There is a pattern of some citizenships lodging applications mainly in a specific EU+ country. For example, Colombians and Venezuelans, as well as most other Latin Americans, lodged the vast majority of their applications in Spain. Similarly, more than one-half of all Syrians and Iraqis applied in Germany. Nationals from some francophone African countries mainly applied in France, and Iranians in Germany.

Many of the main nationalities applying for international protection were also among the top nationalities who were detected illegally crossing the EU’s external borders. In 2020, there were about four times fewer detections of illegal border-crossings (IBC)<sup>322</sup> than asylum applications. This decreases substantially to two and a half times when repeated applications and those by nationals from visa-exempt countries of origin are excluded. The implications of this are twofold. Given that there were fewer opportunities to legally enter the EU in 2020, the difference in the number of applications and illegal border crossings could mean that some illegal arrivals were not detected and that there were secondary movements within the EU. The number of asylum applications and illegal border crossings followed a similar trend from the beginning of the year until September 2020 (see Figure 4.4), with a relatively high correlation between the number of first-time visa-obliged applicants and detected IBCs (0.73) in the first three quarters of the year.

 **Nearly all citizenships lodged fewer applications, especially those with visa exemptions into the EU**

**Figure 4.3: Number of asylum applications by Top 10 countries of origin in 2020 compared to 2019, with share of applications in the top receiving country, 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 28 April 2021.

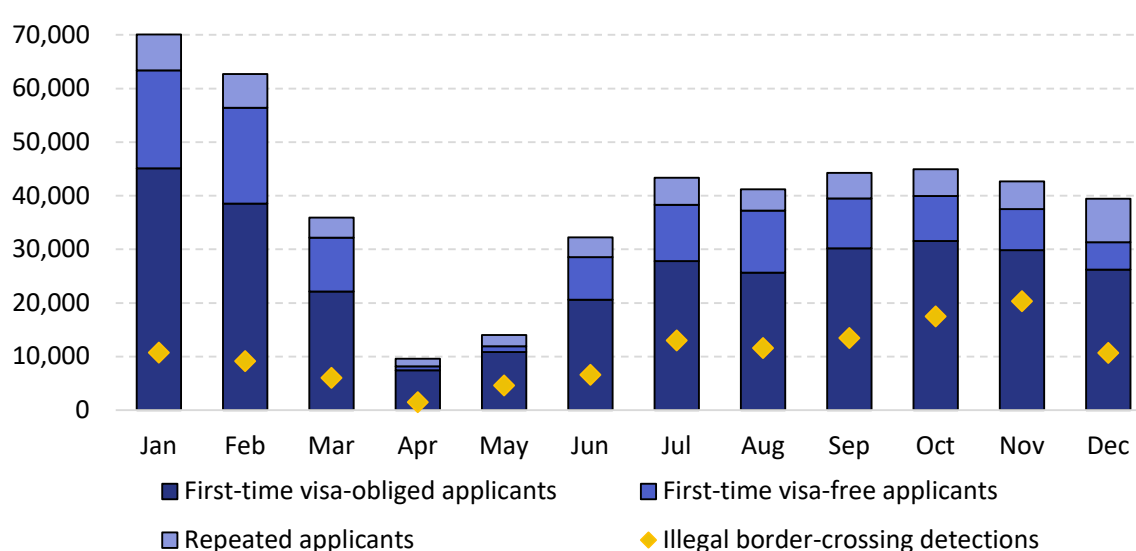
<sup>xiv</sup> Only citizenships with at least 1,000 applications in 2020 are considered.

However, the increase in IBC detections in the last quarter of the year was not reflected in the number of applications. The rise in detections can be attributed to the large increase in the number of arrivals on the Canary Islands, which became the route with the highest number of detections in the last quarter of the year. A record number of arrivals were detected on this route in 2020, about 23,000, which is eight times higher than in 2019. Discrepancies were especially large for nationals from the Maghreb. For example, Moroccans, Tunisians and Algerians (in descending order), who were among the most frequently detected nationals in 2020, lodged fewer applications than in 2019, despite a strong increase in detections of IBC compared to the previous year.

Applications from visa-exempt countries seemed to be especially affected by travel restrictions, possibly due to applicants from these countries relying more on travel by flight to reach the EU. In 2020, nationals from visa-exempt countries lodged 36% fewer applications compared to the previous year, whereas visa-obliged applications fell by 31%. About one-quarter of applicants were from countries with a visa exemption into the EU, and one-third of these applications were concentrated in the first two months of 2020, prior to the pandemic.

 **Illegal-border crossings increased at the end of 2020 compared to the number of asylum applications**

**Figure 4.4: First-time and repeated applications compared to illegal border-crossing detections**



Source: Eurostat [[migr\\_asyappctzm](#)] as of 28 April 2021 and Frontex [[Detections of illegal border-crossings](#)] as of 5 February 2021.



### 4.1.3 Socio-economic indicators to analyse the situation of asylum

The new Pact on Migration and Asylum reinforced the importance of solidarity and sharing responsibility across EU+ countries to better manage CEAS. An analysis of the situation would be incomplete without considering the interplay between asylum and socio-economic indicators in EU+ countries. It provides a perspective on the pressure placed on national asylum and reception systems. While one country may receive fewer applications than another overall, its capacity to absorb more applicants may not be comparable. This approach gives a more proportional interpretation of the situation of asylum in EU+ countries.

Figure 4.5 presents three indicators which rank the number of applications for international protection relative to the area of a country, its population size and its national GDP. These three relative measures provide a perspective on the capacity of a country to absorb applications. Countries shaded in green received a lower relative volume of applications than the EU+ baseline for each indicator, whereas those shaded in red received a higher relative volume than the EU+ baseline.

In 2020, Cyprus, Malta, Greece and Luxembourg received the most applications relative to their population size (in descending order, middle circle in Figure 4.5). This pattern was also seen in 2019, even though the number of applications lodged in each of these countries declined. In Cyprus, about 840 applications were lodged for every 100,000 inhabitants. The EU+ total was approximately 105 applications per 100,000 citizens, which decreased by almost one-third compared to 2019 (similar to the decrease in the overall number of applications lodged). In total, 18 of the 31 EU+ countries were below the EU+ level. The countries which received the least asylum applications per capita were Hungary, Estonia and Slovakia (1, 4 and 5 applications per 100,000 citizens respectively).

Relative to the territorial size of countries, most applications continued to be lodged in Malta (close to 8 per km<sup>2</sup>). At quite some distance, other countries with relatively high ratios of applications per territorial area included Belgium, Cyprus, Luxembourg and the Netherlands (inner circle in Figure 4.5). On average, 0.1 applications were lodged per square kilometre in EU+ countries.

In economic terms, the most common indicator to measure wealth is GDP. Again, Cyprus, Greece and Malta received the most applications relative to their GDP, while Hungary, Estonia and Slovakia were at the other end of the spectrum (in descending order, outer circle in Figure 4.5).

Hence, the relative pressure of the volume of asylum applications lodged in 2020 was the highest in Cyprus, Greece and Malta according to the ratio per capita and GDP. Cyprus and Malta were also most affected in territorial terms. These similarities are not coincidental, given the geographical position of these three countries on entry routes for asylum-related migration through the Mediterranean Sea. In contrast, several countries in Central Europe and Baltic countries (such as Czechia, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia) scored low on applications relative to territory, population and GDP.

A similar analysis of relative pressure can also be made by looking at the stock of pending cases at the end of the year, which provides an insight into the continuing pressure on national asylum and reception systems as well as investment therein at the outset of 2021. At the end of 2020, Malta had the most pending applications per square kilometre, followed at some distance by Cyprus. Cyprus, Malta and Greece had the most applications awaiting a decision per inhabitant, as well as in terms of GDP. Hence, the results are very similar to those derived based on the number of applications lodged in 2020.


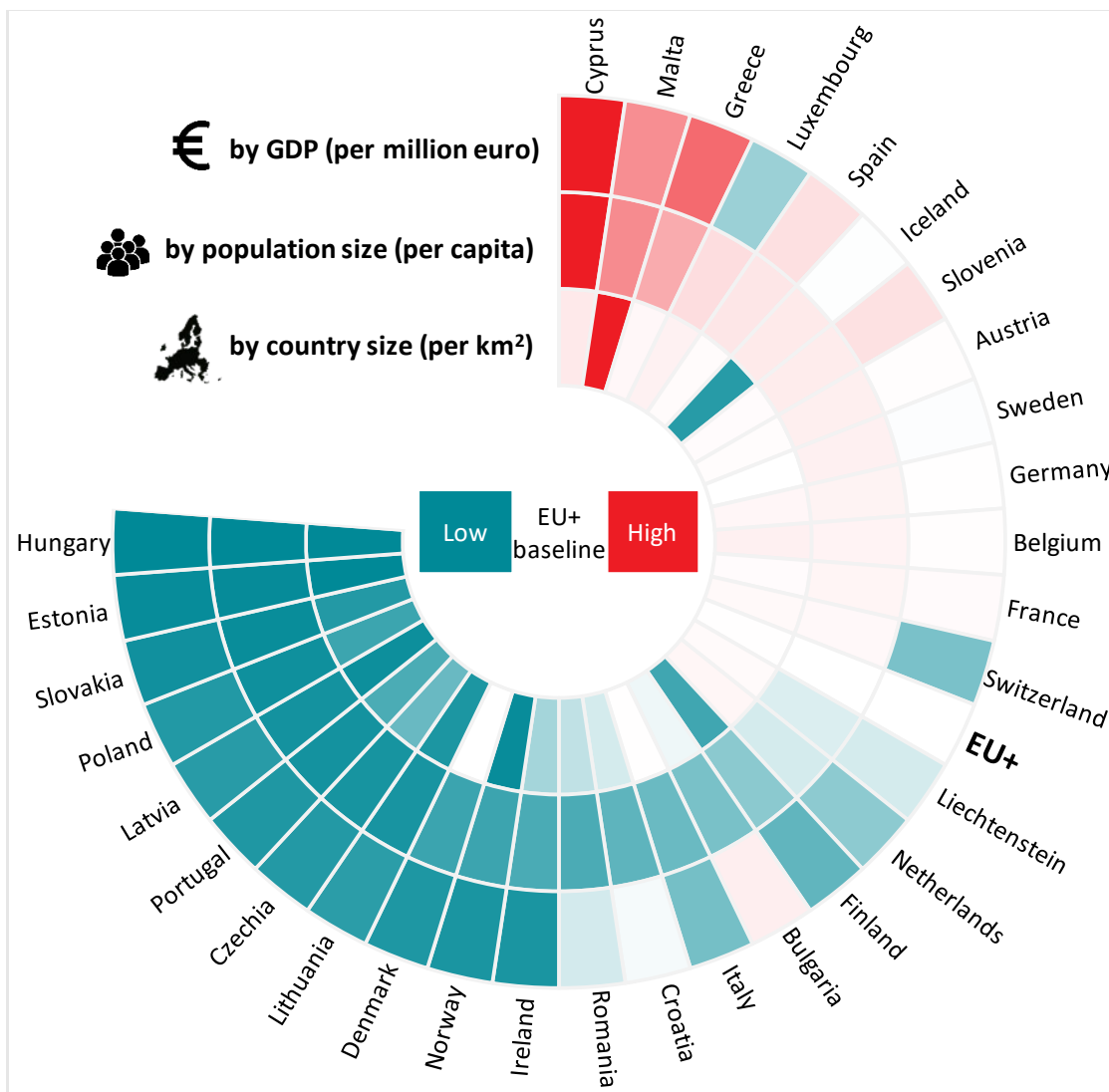
 **In relative terms, asylum and reception systems were under the greatest pressure in Cyprus, Greece and Malta**

Figure 4.5 Applications for international protection in 2020 relative to country size (2018), population (2020) and GDP (2020)



**Notes:** Countries are sorted by the number of applications received relative to population size (clockwise from highest to lowest). The shades indicate the relative number of applications received compared to the EU+ baseline (midpoint) for each of the three indicators. GDP data for Liechtenstein refers to 2018.

Source: Eurostat for asylum applications [[migr\\_asyappctza](#)] as of 18 March 2021, population [[demo\\_pjan](#)] as of 23 March 2021 and GDP [[nama\\_10\\_gdp](#)] as of 23 March 2021 and the World Bank [[AG.SRF.TOTL.K2](#)] as of 17 February 2021.

## 4.1.4 Arranging the first steps of the asylum procedure



### **Organisational structure and roles**

Some roles and tasks related to the registration process were redefined in EU+ countries over the course of the year. A CJEU judgment involving Spain provided guidance on interpreting the concept of ‘other authorities’ under the recast Asylum Procedures Directive’s article on access to procedure, and the court found that the investigating judge (*juzgado de instrucción*) fell within the concept, even if the judge was not likely to receive asylum applications. As such, it was considered that the investigating judge should inform potential asylum applicants about the procedure for lodging an asylum application (see Sections 2 and 4.8).

Following a legislative amendment in Greece, the Regional Services for Reception and Identification were considered to be competent receiving authorities for the full registration of applications for international protection.

The Danish Immigration Service took over some responsibilities of the registration process from the police. The police remains in charge of fingerprinting and registering the applicant in Eurodac, while the Danish Immigration Service staff provide information on the asylum procedure, issue the asylum ID card and record the necessary biometric data.

Luxembourg amended the law on international protection and temporary protection by extending the group of officers of the Grand-Ducal Police who are authorised to carry out the checks which are required when submitting an application for international protection. While at present, this task is exclusively undertaken by members of the judicial police service, it is proposed to expand this power to all members of the Grand-Ducal Police. .<sup>323</sup>

### **Arrival centres receiving asylum seekers**



The trend continued in 2020 to organise the first steps of the asylum procedure around the concept of initial or arrival centres, where all asylum and reception stakeholders are present in the same place. For example, a new arrival centre opened in Luxembourg City in Luxembourg,<sup>324</sup> and the arrival centre was re-organised in Norway to include multiply stakeholders within the same centre. New AnkER facilities were opened in Germany. In 2020, the model had been implemented in 8 out of 16 federal states: 7 AnkER facilities were set up in the state of Bavaria and 1 AnkER facility in each of the states of Saxony and Saarland. In addition, 7 ‘functionally-equivalent facilities’ exist nationwide. The functioning of these facilities was evaluated and the results were published in February 2021.

As a part of the health measures, Czechia introduced a quarantine centre where all new applicants for international protection undergo a PCR test, usually 5 days after arrival. This measure should ensure the full functionality of the migration infrastructure in Czechia. The Czech Organization for Aid to Refugees and the Forum for Human Rights highlighted in a joint contribution that the facility was originally a detention facility for women, families and vulnerable groups, which is difficult to access by public transport (see Section 4.7).<sup>325</sup>

### Means for early identification



Member States continued throughout 2020 with efforts to swiftly establish an applicant's identity and the circumstances of the asylum case in the first steps of the procedure. While the authorities aim to ensure the identity of an applicant, at times the new practices were questioned for violating human rights. For example, a series of amendments to the Hungarian Asylum Law and Asylum Decree gave enhanced rights to the asylum authority to seize and retain information from an applicant's electronic devices, obtain and process their personal data and cooperate with other national authorities (such as the National Security Service) to confirm identity and other facts and circumstances considered to be relevant to the asylum case.<sup>326</sup> The Hungarian Helsinki Committee provided comments on the draft and assessed that the changes breach an applicant's right to respect for private and family life and contradict the recast Qualifications Directive, Article 4(5).<sup>327</sup>

In the Netherlands, the Aliens Circular specified that an applicant is under the duty to provide all information that might potentially influence the asylum application, including one's criminal past, acts that might fall under the Geneva Convention, Article 1F, and any measures that other Member States might have imposed on the person.<sup>328</sup> In addition, a draft decree proposed to revise and shorten the regular Dutch asylum procedure from 8 days to 6 days, by dropping the first personal interview which aims to clarify an applicant's nationality, identity and travel route. This identification would shift to the registration phase where an interview would take place.<sup>329</sup>

A parliamentary initiative was put forward in 2020 to amend the Asylum Act in Switzerland that the duties of asylum applicants would include providing their mobile phones and tablets when their identity, nationality or itinerary cannot be established by other means.<sup>330</sup> UNHCR considered such an amendment to be a potential threat to the right to private life, which is not proportional to the aims of the amendment.<sup>331</sup>

The Finnish Immigration Service published a report on the duty of authorities to clarify and gather information on immigration matters in general, including for asylum applications. The report forms part of the MISEC project funded by the Asylum, Migration and Integration Fund (AMIF), which aims to strengthen the cooperation between immigration and security authorities.<sup>332</sup>

### General identification and registration



After the first wave of the pandemic, national courts stepped in to assess some of the adaptive measures which were implemented for safety. In Belgium, the online appointment system for registrations came under scrutiny. Registrations were suspended between 17 March and 4 April 2020,<sup>333</sup> then applicants had to book an appointment online for their registration between April and October 2020. The first instance tribunal of Brussels ruled that this practice was against the law, as applicants became entitled to material reception conditions only at the moment they booked their appointment, but they were effectively without reception in the period between the online booking and the appointment for registration. Hence, from 30 October 2020, registration in person started again at the arrival centre, without prior appointment.<sup>334</sup>

In another case in France, the Council of State ordered on 30 April 2020 to re-establish registration in the Ile-de-France region while respecting specific pandemic measures. Registration desks (GUDA) in the region were temporarily closed on 17 March 2020 (the GUDA in Paris closed on 27 March 2020), while the registration of vulnerable applicants continued in an emergency format, together with pre-registration of persons intending to apply for asylum by supporting associations and the first-contact orientation platforms (SPADA). The Council of State found that the emergency format cannot be



considered as the continuation of registering vulnerable applicants and underlined that registration in the region could have continued while respecting specific pandemic measures.

Adjustments were introduced to the identification and registration process in the Netherlands in the framework of the Dutch Flexibility of the Asylum Chain Programme, which included the launching of the control board (*regietafel*), setting up a front portal (*voorportal*) in the central reception centre in Ter Apel and introducing the use of a common file structure available for all stakeholders of the asylum chain.<sup>335</sup>

In Germany, the Federal Ministry of the Interior, Building and Community submitted to the Federal Cabinet its evaluation report on the Data Exchange Improvement Act, which was adopted in 2016. The act introduced a comprehensive and standardised registration of applicants in the Central Registry of Foreigners (AZR).<sup>336</sup> The report noted that in the meantime the Second Data Exchange Improvement Act, which was adopted in 2019, addressed some of the gaps,<sup>337</sup> and it listed recommendations, for example, to address shortcomings in data retention and review processes.<sup>338</sup>

The timeline of the registration process was modified in Estonia by amending the Act on Granting International Protection to Aliens. The registration time limit can now be exceptionally extended to 10 working days in emergency situations.<sup>339</sup>

Two legislative amendments were passed in Sweden to improve data processing and the identification of third-country nationals. National authorities were enabled to take a foreigner's photo and fingerprints at entry, exit or during internal checks for the Schengen Information System (SIS), if the person's identity cannot be identified in another manner.<sup>340</sup> The Swedish Migration Agency, the police and Swedish diplomatic missions abroad were also given the right to process sensitive data, as described by the Aliens Data Act, and to test and develop existing IT systems for managing the personal data of third-country nationals, for example to participate in international cooperation.<sup>341</sup>

Persisting delays were reported in Cyprus and Spain. In Cyprus, UNHCR and the Cyprus Refugee Council reported to FRA that there were delays in or lack of registration of newly-arriving asylum seekers, which prevented access to accommodation and food.<sup>342</sup> The Spanish Ombudsperson issued a recommendation to urgently adopt measures to facilitate access to the appointment system and reduce excessive delays in the various administrative procedures carried out by police units, which were seen to impede access to the asylum procedure and the reception system.<sup>343</sup> The Ministry of Inclusion, Social Security and Migration adopted an instruction on 18 March 2020 which remained in force until the end of the state of emergency on 21 June 2020. It allowed people who could not access the asylum procedure due to the COVID-19 measures to be included in the reception system.

## Section 4.2 The Dublin procedure



The Dublin III Regulation is the cornerstone of CEAS with the goal of defining a clear and workable method to determine which Member State is responsible for the examination of each application for international protection. Its objective is to guarantee that a person has effective access to the procedure for granting international protection to prevent a situation where no Member State is willing to accept responsibility for examining the application. It also aspires to prevent the misuse of the asylum system so that the same person does not submit multiple applications in several Member States with the sole purpose of extending their stay in an EU+ country.

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:

- ➔ Family considerations (protection of unaccompanied minors and family unity);
- ➔ The possession of a visa or residence permit in a Member State;
- ➔ Irregular entry into or stay in the EU territory;
- ➔ Entry into the territory of a Member State in which the need for a visa is waived for the applicant; and
- ➔ Applications made in the international transit area of an airport.

Member States may also assume responsibility based on the clause linked to dependent persons or 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.

Data presented in this section are exchanged by EU+ countries with EASO to provide timely information but they are provisional and not validated. The official statistics on the Dublin procedure are collected by Eurostat on an annual basis.<sup>xv</sup> As EU regulations foresee a three-month time limit for data transmission, the Eurostat data were incomplete at the time of writing to adequately describe developments in 2020. Therefore, EASO data were used in this section, but they may differ from validated data subsequently submitted to Eurostat.<sup>xvi</sup> The conclusions drawn from the dataset can also be considered partial, as EASO data cover only three Dublin indicators: decisions received in response to outgoing Dublin requests, decisions to apply the discretionary clause based on Article 17(1)<sup>xvii</sup> and implemented outgoing transfers. Note that reporting by the United Kingdom is not included. However, data reported by EU+ countries on cases with the United Kingdom as a partner are considered.

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<sup>xv</sup> Based on Article 4.4 of Regulation (EC) 862/2007 of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers.

<sup>xvi</sup> Iceland and Liechtenstein do not participate in EASO data exchange.

<sup>xvii</sup> Through the discretionary clauses, Member States can derogate the criteria set out in the Dublin III Regulation. According to Article 17(1) – the ‘sovereignty clause’ – any Member State with which an asylum application is lodged can decide to examine it by derogation from the responsibility criteria. According to Article 17(2) – the ‘humanitarian clause’ – a Member State can ask another Member State which is not responsible to take charge of the examination of the application in order to unite family relations.



## COVID-19

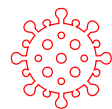
The pandemic had a transversal impact on every aspect of the Dublin procedure, prompting Member States to find solutions while respecting the legislative framework of the Dublin system.

Fewer asylum applicants were channelled into the Dublin procedure and transferred to the responsible Member State during 2020 as a direct result of COVID-19 measures: i) travel restrictions and border closures meant that a lower number of asylum seekers reached Europe; ii) registration was temporarily halted in many places so fewer applicants were identified to fall under the responsibility of another Member State; and iii) lockdowns, confinement measures and health measures such as COVID-19 test requirements limited the possibility of movement and travel for applicants. Case law suggests that pressure on health systems became an additional factor to consider when determining the Member State responsible for an asylum application.

Remote working arrangements created temporary difficulties at the beginning of the pandemic for some countries to access the electronic systems that support the identification of Dublin cases or are used for communication among Member States. In addition, working in shifts within Dublin units decreased the number of staff available and affected the efficiency of the process.

The process of implementing transfers had to be adjusted to adhere to strict health requirements, often different from one Member State to another. Border closures meant that transfers were *de facto* suspended in the spring and early summer. Once international travel re-opened, frequent flight cancellations and the overall decrease in the number of available flights meant that Dublin units had difficulties in carrying out transfers. This was coupled with police officers and border guards working in shifts, so they were not as readily available to support the implementation of transfers and needed to carefully assess and prepare arrangements for transfers due to the risk of physical contact.

The European Commission provided [guidance](#) to address some of these concerns and underlined that the transfer time limit is strict and the regulation does not allow for any derogation.<sup>344</sup> In addition, national courts delivered several – sometimes at first diverging – judgments related to the impact of the COVID-19 pandemic on the determination of the responsible Member State for an individual applicant and on transfer time limits.



## Digitalisation

The COVID-19 pandemic was not a catalyst for further digitalisation of the Dublin procedure. Support for the identification of some potential Dublin cases has already been considerably digitalised, for example through the use of Eurodac, the Visa Information System (VIS) and the Schengen Information System (SIS). In addition, communication between Member States was already done electronically through DubliNet.

While these electronic systems had already been in place, some Member States faced connectivity issues in accessing the databases when staff were teleworking, thus efforts were focused on troubleshooting.

Nonetheless, advances in digitalising other parts of the asylum procedure, notably registration, lodging an application, personal interviews and appeals, shaped the implementation of the Dublin procedure in 2020. While these steps had an impact, the greatest challenge remained the actual implementation of a transfer, a step which inherently relies on the applicant being physically present to travel from one country to another.

The legal framework for Eurodac and VIS was revised in 2020 (see Section 2) and three additional large-scale IT systems would be launched in 2022: the Entry/Exit System (EES) created in 2017,<sup>345</sup> the European Travel Authorisation and Information System (ETIAS) created in 2018<sup>346</sup> and the European Criminal Records Information System on Third-Country Nationals (ECRIS-TCN).<sup>347</sup>



The potential future of the Dublin procedure was highlighted in 2020 with the presentation of the European Commission's new [Pact on Migration and Asylum](#) and the [Proposal for a Regulation on Asylum and Migration Management](#). The pact aims to replace the Dublin system "through the establishment of a common framework that contributes to the comprehensive approach to migration management through integrated policy-making in the field of asylum and migration management, including both its internal and external components"<sup>348</sup> and it includes a new comprehensive mechanism for continued solidarity and streamlined criteria, in addition to effective mechanisms for determining the Member State responsible for an asylum application (see Section 2).

Members of the European Parliament's [LIBE Committee](#) expressed concern that the rule of first entry to the EU would remain dominant under the new proposal and that the flexibility element in the burden-sharing mechanism would undermine cooperation.<sup>349</sup> This element was also questioned, for example, by CEPS,<sup>350</sup> ECRE,<sup>351</sup> the Migration Policy Institute (MPI),<sup>352</sup> several entries on the EU Immigration and Asylum Law and Policy blog<sup>353, 354</sup> and a joint statement signed by many civil society organisations from different EU Member States.<sup>355</sup>

Among other significant developments at the European level, the discretionary clause in the Dublin III Regulation, Article 17(2) was the basis of the relocation scheme for 1,600 unaccompanied children and children with severe medical conditions and other vulnerabilities with their families from Greece to other Member States (see Section 2). This scheme is part of the [Action Plan](#) for immediate measures to support Greece,<sup>356</sup> launched in March 2020, with EASO facilitating its implementation by matching children to pledging Member States and supporting Greek authorities, along with UNHCR, in the process of assessing best interests of the children.<sup>357</sup> In addition, the Dublin III Regulation is the basis of the continued relocation efforts following ad hoc disembarkations in Italy and Malta (see Sections 2 and 4.1). For example, a total of 889 persons (420 from Italy and 469 from Malta) have been relocated to Germany within this context between 2018 and April 2021, with a total of 344 persons (219 from Italy and 125 from Malta) in 2020.

## 4.2.1 Decisions on outgoing Dublin requests



In 2020, 95,000 decisions were issued in response to outgoing Dublin requests,<sup>xviii</sup> according to provisional data which are regularly exchanged between EASO and 28 EU+ countries.<sup>xix</sup> This represented a decrease by one-third compared to 2019. The data cover all persons included in decisions received by the reporting country in response to a request

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

<sup>xix</sup> Data were not available for Cyprus, Ireland and Liechtenstein. France generally provides data with a one-month delay so the data for 2020 cover the period December 2019 to November 2020.

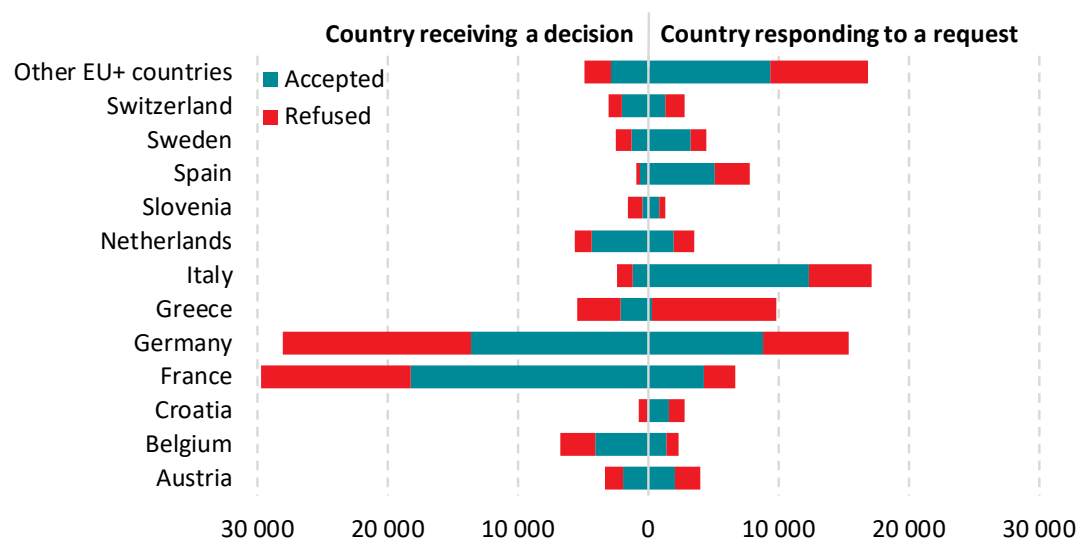
to have a partner country take responsibility for the asylum application. This does not mean that the transfer was necessarily carried out, but the partner Member State replied to the request, whether accepting or rejecting, within the time limit or there was an implicit acceptance due to the expiration of the time limit.

The drop in decisions on Dublin requests was in line with the scale of the decrease in the number of asylum applications lodged in 2020. Thus, fewer applications received meant that fewer new applicants were identified to fall under the responsibility of another Member State. While the pandemic may have affected the implementation of a transfer, it did not preclude authorities from assessing and deciding on where an application should be processed. However, remote working arrangements for Dublin units and associated technical difficulties might have affected the capacity of processing Dublin cases. The ratio of received Dublin decisions to lodged asylum applications was 20%, which is similar to 2019. This implies that secondary movements have continued during the pandemic, although some Dublin cases concerned family reunification.

At the country level, France and Germany continued to receive the most decisions on their requests for another country to take responsibility (see the left side of Figure 4.6), jointly accounting for over three-fifths of the EU+ total. Nonetheless, both countries received fewer responses than in 2019. In fact, the majority of Dublin Member States received a decreased number of responses in 2020. Exceptions were Bulgaria and Greece, which received a similar number of decisions in 2019 and 2020, as well as Croatia, Slovenia, Slovakia and Spain, which received considerably more decisions.<sup>xx</sup>

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

**Figure 4.6: Decisions on Dublin request by selected countries receiving a decision (left) and responding a request (right), 2020**



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

Source: EASO.

<sup>xx</sup> Only countries receiving at least 100 decisions in 2020 are considered.

As was the case in 2019, Italy issued the most decisions on Dublin requests, followed closely by Germany, Greece, Spain, and at some distance, France (*see the right side of Figure 4.6*). In addition, each of these countries – and most other partner countries – responded to fewer requests than in 2019. Exceptions were only Croatia, Romania and, to a lesser extent, Hungary. In fact, there was a notable increase in decisions taken by Romania (+129%), which peaked particularly in November and December 2020. More than one-half of all decisions in the last 2 months of the year concerned Afghans and Syrians.

The National Directorate General for Aliens Policing in Hungary signalled that it started to receive more requests from Germany and Austria in the second part of the year and added that this was possibly due to the fact that only two applicants remained in the country from the approximately 280 persons who were previously held in the transit zones that were closed at the end of May 2020 (*see Section 4.1*).



## 4.2.2 Acceptance rate for Dublin requests

The acceptance rate for decisions on Dublin requests measures the proportion of decisions accepting responsibility for an application (explicitly or implicitly) out of all decisions issued. The acceptance rate in 2020 was 56%, showing a continued decrease for the third successive year at the EU+ level and also in most Dublin Member States.

However, the EU+ rate masks large variations which can be found at the country level. While just 3% of the decisions issued by Greece (*see the right side of Figure 4.6*) and 4% of decisions by Hungary accepted responsibility, the acceptance rate was close to 90% or higher in Latvia, Lithuania and Portugal. The acceptance rates also differed across nationalities, which was at least partially influenced by the country issuing the decision.

Overall, nationals from Afghanistan received the most decisions on outgoing Dublin requests (13%), followed at some distance by Syrians, Iraqis, Algerians, Nigerians, Pakistanis and Moroccans (in descending order, *see Figure 4.7*).<sup>xxi</sup> While the number of decisions decreased for most nationalities compared to 2019, there were some noteworthy exceptions. In particular, Moroccans and Syrians were represented slightly more often. The increase for Moroccans was mainly linked to more decisions issued by Croatia on Slovenian requests (largely refusals) and to a lesser extent more decisions by Romania on Austrian requests (mainly acceptances). The increase for Syrians was triggered by more responses from Romania to requests from Austria and Germany (primarily acceptances), as well as more responses from Greece to requests from Germany and vice versa (mostly rejections in both cases).

The number of decisions involving Afghans and Algerians remained relatively stable. However, for many other citizenships there were significant decreases, most notably for Nigerians (-65%) and Turks (-50%).

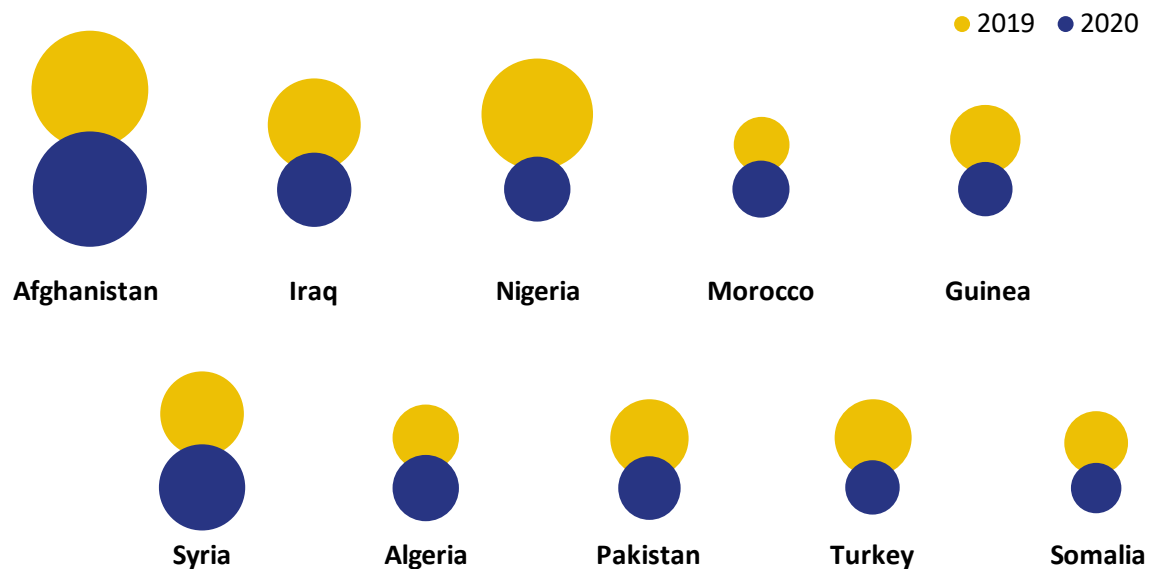
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<sup>xxi</sup> For 13% of the cases, the citizenship could not be reported.



## Dublin decisions decreased for most top nationalities with some exceptions

Figure 4.7: Decisions on Dublin requests by Top 10 nationalities, 2020 compared to 2019



Source: EASO.



### 4.2.3 Decisions on take charge and take back requests

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

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

Of the cases with a reported legal basis,<sup>xxii</sup> the majority of decisions taken in 2020 in EU+ countries were on take back requests (67%), which was very similar to 2019 (68%). However, there were some differences at the country level. In particular, countries like Bulgaria, Greece, Malta, Norway, Slovenia and Sweden received more decisions on take charge requests. Maltese authorities noted that the majority of take charge requests were relocations conducted based on Article 17(2).

The acceptance rates for both types of requests were relatively similar, but this comparison should be interpreted with caution due to the high number of cases in which the legal basis could not be verified.



#### 4.2.4 National efforts to amend the overall process

Member States did not implement any major institutional, legislative or policy changes related to the Dublin procedure in 2020. The beginning of the year suggested the continuation of 2019 trends, when relatively few legislative and policy changes happened, with the exception of countries that received a high number of applicants who would need to be transferred back to another Member State under the Dublin III Regulation or applicants who had already obtained international protection in another Member State.<sup>358</sup> Even then, for example in Belgium or the Netherlands, most of these developments were related to restricting access to material reception conditions (see Section 4.6) and did not introduce changes in the organisation of the Dublin procedure itself.

A notable institutional change happened in Denmark, where the Danish Return Agency – a new governmental agency under the Ministry of Immigration and Integration – took over the handling of Dublin transfers. This was previously the responsibility of the Danish police.<sup>359</sup>

Significant amendments to the Law on Asylum and Refugees in Bulgaria had impacts on the organisation of the Dublin procedure in the country. Some processes related to decisions on Dublin cases were clarified, with the aim to have a more efficient and timely procedure. In the Netherlands, the Aliens Circular was amended to reflect CJEU jurisprudence in [Jawo](#) and clarified when an applicant can be considered to have absconded.<sup>360</sup> Internal guidelines were amended in Germany as well in order to clarify the definition of abscondence.

Some developments touched upon remedies within the Dublin procedure. A draft law was put forward in Luxembourg, which would modify the remedy system available for decisions within the Dublin procedure and align the time limits and methods of appeal across the asylum procedure.<sup>361</sup> The Swedish Migration Court of Appeal [confirmed](#) that the Dublin III Regulation provides a remedy against a transfer decision, and Sweden's decision not to take responsibility for the examination of an application cannot be appealed.

With the formalisation of Brexit, clarifications were needed for the functioning of the Dublin procedure. For example, the Swedish Migration Agency published a legal position on the applicability of the Dublin III Regulation regarding the United Kingdom after 31 December 2020, noting that the regulation as a whole will no longer apply between Sweden and the UK,<sup>362</sup> while the Irish High Court [rejected](#) the appeal of an Iraqi applicant against his transfer to the UK, basing its reasoning on CJEU jurisprudence from 2019 on the impact of Brexit on the implementation of the Dublin III Regulation in

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<sup>xxii</sup> EASO data do not contain information on the specific article of the Dublin III Regulation which is used as a basis for sending a request, but the data are disaggregated by responses to take charge and take back requests. Data for France are not disaggregated according to the type of request.



C-661/17.<sup>363</sup> In addition, the court also noted that the applicant’s relationship with a cousin was not covered under the definition of family members, thus a cousin residing in Ireland does not oblige the authorities to take this into consideration when applying different criteria to determine the Member State which is responsible.



#### 4.2.5 Guidance and research on the application of the Dublin III Regulation

In 2020, more guidance on the application of the Dublin III Regulation and research assessing its implementation were published. For example, EASO published operational standards and indicators for the Dublin procedure in February 2020, which were developed in cooperation with national authorities with the objective to help Member States operationalise existing legal provisions and apply them in a harmonised way.<sup>364</sup>

The European Parliament’s Directorate-General for Parliamentary Research Services drew up a [European Implementation Assessment on the Dublin III Regulation](#), written by ECRE, which noted among the key findings that several evaluations between 2015 and 2019 demonstrated that “the very purpose of the Regulation (...), is in practice defeated by the length of the procedures, the lack of implementation of transfer decisions and the lack of compliance with human rights”.<sup>365</sup> In addition, ECRE published an update of its report on the implementation of Dublin III Regulation, covering 2019 and the first half of 2020, based on information from the Asylum Information Database (AIDA).<sup>366</sup>



#### 4.2.6 Concerns around clauses related to family reunification

The European Commission’s [guidance](#) issued in 2020 underlined that the family reunification procedure for unaccompanied children may continue even after the expiry of the transfer time limit, as outlined in the Dublin Implementing Regulation, Article 12(2). The Commission also made reference to the discretionary clause of the Dublin III Regulation, noting that “(t)his rule could also be applied in cases where the binding criteria concerning family reunification were applicable, but the impossibility of carrying out a transfer due to COVID-19 resulted in a failure to respect the transfer time limits”.<sup>367</sup> In practice, Member States applied divergent approaches to family reunification, a point which was brought up by many civil society organisations from Greece, in particular, where this criteria was used extensively.<sup>368</sup>

METAdrasi commended good practices by Swiss authorities to speed up the reunification of unaccompanied minors with family members and relatives, and accept requests when extended family ties linked applicants to Switzerland.<sup>369</sup> DRC Greece noted that the Swedish Dublin unit required Greek authorities to re-send a request when the 6-month deadline had expired, based on Article 17(2), involving written consent from the applicant and family members in Sweden before accepting the applicant’s transfer. However, the organisation also observed delays in some cases in the re-examination of requests related to family reunification clauses which were sent to certain Dublin units. DRC Greece reported that some requirements were especially burdensome for applicants, such as the Spanish Dublin unit requesting an additional DNA test when the autosomal DNA test was not conclusive.<sup>370</sup> Similar hurdles were mentioned by the Network for Children’s Rights<sup>371</sup> and the Greek Refugee Council, which added that it is difficult for applicants to meet deadlines for providing documentation without legal assistance and that children without guardians lack support to establish family connections under the relevant Dublin III Regulation clauses.<sup>372</sup>

Several civil society organisations were concerned about the impact of Brexit and the fact that the specific clause on family reunification could no longer be applied to relatives living in the UK. They highlighted the risk that unaccompanied children, especially those staying in France and Greece, might choose to travel on their own to be reunited with family members in the UK.<sup>373</sup>

Adjustments were introduced in the Italian process to handle family reunification cases more rapidly under the Dublin III Regulation. To this end, the questionnaire for relatives and family members was standardised.



#### 4.2.7 Use of the discretionary clause

Discretionary clauses are defined in Article 17 of the Dublin III Regulation. Article 17(1) is also commonly referred to as the sovereignty clause. Article 17(2) is the basis for voluntary relocations from Greece, Italy and Malta to other Member States, which are described under Sections 2.3.3 and 2.3.4.

Article 17(1) was invoked just over 4,700 times in 2020. The use of this discretionary clause declined sharply, by almost one-third compared to 2019. It was applied most frequently by the Netherlands and considerably more than it did in 2019. In contrast, many EU+ countries evoked the Article 17(1) clause less often than in 2019, including Belgium, France, Germany and Switzerland.

Greece and Italy continued to be identified as the main partner countries to which a request could have been sent, even though the number of such requests declined for both countries. Other identified partners included Germany, Hungary and Spain, but in a significant number of cases the potential partner was not reported.

The discretionary clause was used mostly for nationals of Syria and Turkey, followed at some distance by Afghan nationals. However, in almost two-fifths of the cases the citizenship could not be ascertained.

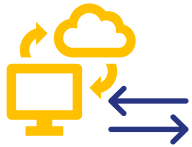
As has been seen in previous years, courts were called upon to decide on many individual cases related to the use of discretionary clauses and provisions of the Dublin III Regulation, Article 17(1). The Irish Court of Appeal [underlined](#) that Ireland cannot use Article 17(1) to re-assume responsibility after the UK became responsible under the Dublin III Regulation, Article 29(2) because the British authorities did not carry out a transfer in time upon Ireland's acceptance of responsibility for the applicant's case. In addition, the Supreme Court [clarified](#) that the Minister of Justice can exercise discretion under the Dublin III Regulation, Article 17, and this function was not transferred to the International Protection Office or the International Protection Tribunal with the amendments of the International Protection Act 2015, which moved some of the Minister's responsibilities to these two organisations.

The Federal Administrative Court in Switzerland [found](#) no reason to apply the discretionary clause to an applicant being transferred to Spain when he claimed that he would not receive adequate treatment for his mental health issues. Similarly, the Court of The Hague [concluded](#) that the Netherlands should not make use of this clause for the transfer of an applicant to Poland when the lack of free legal aid in itself cannot be considered to be contrary to the ECHR, Article 3 and the applicant did not prove that identifying as an LGBTI person entailed any problems during his two-day stay in Poland.

The UN Committee on the Rights of the Child [examined](#) the best interests of children and their right to be heard during the Dublin procedure. It found that the Swiss authorities violated both rights when they rejected to examine a family's application under the discretionary clause and tried to transfer them to Italy, without hearing the children and taking into account their traumatic experiences. The

examination of a child's best interests in the Dublin procedure was also at the core of a [case](#) in front of the Dutch Council of State, which noted that authorities cannot ask another Member State to take over responsibility without examining the child's best interests.

The Court of Cassation in Italy delivered a judgment related to the cessation of responsibilities under the Dublin III Regulation, Article 19 and [underlined](#) that, when an applicant has left the EU for at least 3 months, the subsequent application lodged must be considered a new one, which starts a new procedure to determine the state which is responsible.



## 4.2.8 Assessing transfers to specific countries: The cases of Bulgaria, Greece and Italy

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### **Bulgaria**

The Federal Administrative Court in Switzerland [delivered](#) a key judgment in February 2020 after examining the situation of applicants in Bulgaria after being returned under the Dublin III Regulation. It concluded that there were no systemic deficiencies in the asylum and reception systems that should lead to a general suspension of transfers. Each individual case should undergo a thorough examination to avoid any risk of inhuman and degrading treatment, and national authorities can request individual guarantees from Bulgarian authorities.<sup>374</sup>

### **Greece**

The European Commission published its [recommendation](#) on the resumption of transfers to Greece in 2016, yet some Member States still do not send requests to the country or send requests on a limited basis. For example, German authorities do not generally send take charge requests for unaccompanied minors and vulnerable persons to Greece, and transfers are only carried out if the Greek authorities explicitly agree and provide assurance that the applicant's asylum process and material reception conditions are in conformity with the recast Asylum Procedures Directive and the recast Reception Conditions Directive.

The Supreme Administrative Court in Finland [delivered](#) its first decision related to the resumption of transfers to Greece, stating that while the asylum and reception systems have shortcomings, the situation has significantly improved since 2011 and the deficiencies are not of a systemic nature. In addition, the Greek authorities provided guarantees that the applicant would be provided material reception conditions in line with the recast Reception Conditions Directive and there were no reasons for Finland to assume responsibility for examining the applicant's asylum application under the Dublin III Regulation, Article 17.

Nonetheless, the number of transfers to Greece in 2020 was low, with just 16 transfers reported to have been implemented by four countries. While it is possible that some countries which did not implement transfers had no Dublin cases with Greece as a partner, data presented in Section 4.2.2 show that the low number is more likely to be linked to other reasons: i) some Member States decided not to send requests to Greece; and ii) those who did send requests reported that Greece usually rejected the requests (just 3% of the decisions issued by Greece accepted responsibility).

## Italy

Courts in different Member States had divergent approaches when assessing the possibility of transferring applicants to Italy. For example, in the beginning of 2020, the Portuguese Supreme Administrative Court [noted](#) that national authorities were only obliged to obtain information on whether specific applicants would be at risk of inhuman or degrading treatment in Italy when valid reasons pointed to systemic failures in the asylum and reception systems which would amount to such a treatment. The court concluded that these applicants would not be at risk following a transfer to Italy. In contrast, the court reviewed another [case](#) in November 2020 and annulled the transfer decision because the authority had not considered the applicant's specific situation before rendering its decision.

The Dutch Council of State [confirmed](#) that transfers to Italy were possible in the case of a single woman with a child and another case of a man with a serious illness. It assessed the situation prior to the COVID-19 pandemic and held that, even though material reception conditions were reduced in Italy, the reduction was not to the extent that the applicants could not be accommodated adequately. In a third related case, the court assessed the situation in Italy after the start of the COVID-19 pandemic and found that Italy remained responsible for examining the application, even though the transfer was temporarily impossible in practice.

Courts were also called to assess the implementation of transfers to Italy in light of the significant number of COVID-19 cases in the country. In March 2020, the Austrian Federal Administrative Court referred a [case](#) of a Nigerian mother and her two children back to the BFA. The transfer decision was made in this case in February 2020, before the authority could have any detailed, accurate and reliable information on the COVID-19 pandemic. The court found that the authority only undertook a general assessment of the situation in Italy and did not mention and assess the developments in the country during the COVID-19 pandemic.

In a similar [case](#) in August 2020, the Austrian Supreme Administrative Court ruled on a transfer decision to Czechia and noted that decisions need to be taken swiftly in admissibility cases, such as Dublin cases. Thus, the Federal Administrative Court may only refer back a case to the BFA when the court cannot investigate the case by the standards established in the BFA Procedures Act, Article 21(3). However, when the court can easily research the relevant information, the case should not be referred back. In contrast, in September 2020, the Administrative Tribunal in Luxembourg [found](#) that the health situation in Italy was not so serious that it would result in a risk of inhuman or degrading treatment and noted that the situation related to the pandemic had considerably improved in Italy, which was not the case for Luxembourg at the time.



### 4.2.9 Implementation of transfers to another Member State

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Under the Dublin procedure, a transfer occurs when one Member State (partner country) accepts to take responsibility for an application for international protection from another Member State (reporting country) in line with the conditions set out in the Dublin III Regulation.

The COVID-19 pandemic and emergency measures implemented by EU+ countries made Dublin transfers difficult. Overall, about 13,600 transfers were completed, representing one-half the number

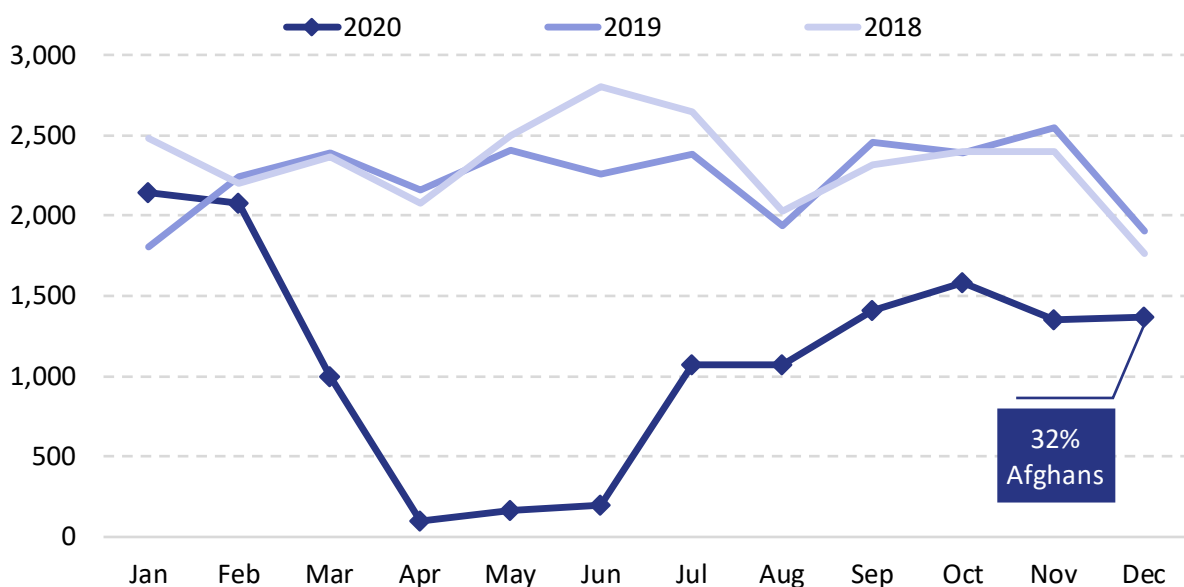
of transfers in 2019.<sup>xxiii</sup> Over different periods of the year, most Member States were either not executing or receiving any transfers at all, or only carrying out and accepting a limited number of transfers. Transfer implementation was particularly affected by travel restrictions inside the EU, reduced availability of air travel options and specific requirements, such as the need for a PCR test pre-transfer or upon arrival, quarantine upon arrival, etc.

The number of transfers decreased in March 2020 and then dropped to even lower levels from April to June 2020 (see Figure 4.8). As of July 2020, the implementation of transfers gradually started to rise, but the monthly number of transfers did not return to pre-COVID-19 levels later in the year (e.g. when compared to the same months in 2019). The decline in both accepted requests and transfers in 2020 resulted in a lower ratio of implemented transfers to accepted requests (one to four).<sup>xxiv</sup>



### Considerable decline in Dublin transfers since March 2020

Figure 4.8: Implemented Dublin transfers, by month, January 2018-December 2020



Source: EASO.

Four countries – France, Germany, Greece and the Netherlands – implemented over three-quarters of all transfers in 2020. They were also the main countries in 2019 to implement transfers albeit in a different order. All but one Member State implemented fewer transfers in 2020 (see the left side of Figure 4.9). Greece stood out as an exception, carrying out 4%<sup>xxv</sup> more transfers in 2020 than in 2019, the majority of which were in the context of the relocation scheme for unaccompanied minors and

<sup>xxiii</sup> Data were not available for Cyprus and partially missing for Denmark.

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

<sup>xxv</sup> Only countries implementing at least 50 transfers in 2020 are considered.

vulnerable families (under Article 17(2)). The largest absolute decreases in transfers were reported for Germany and France (in descending order).

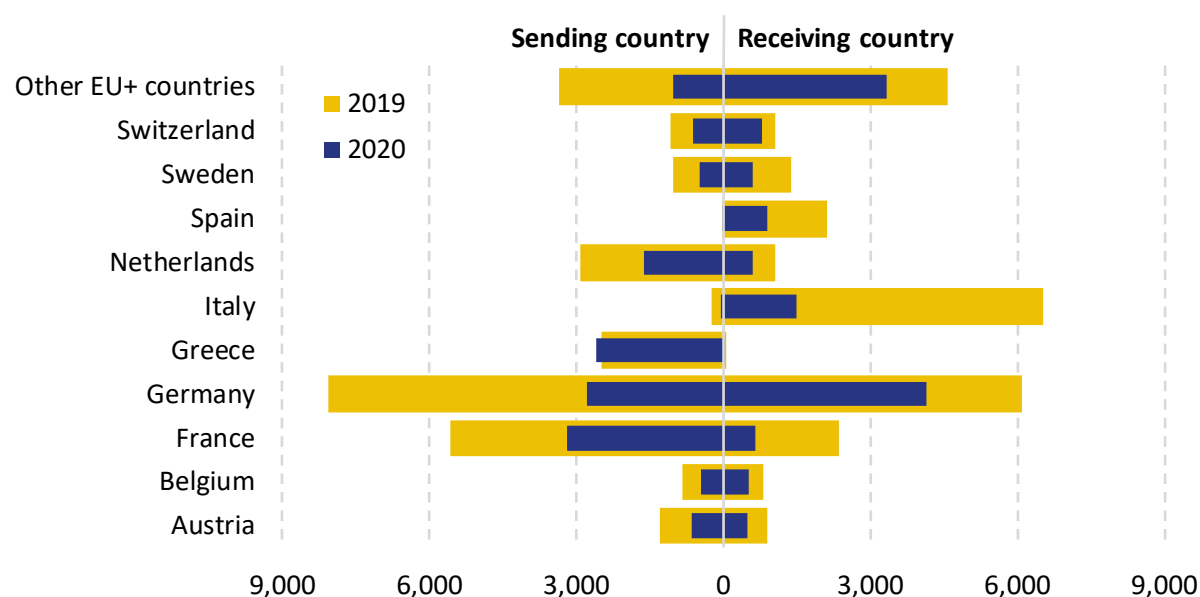
The situation was similar for countries receiving transfers. Almost all Member States received fewer transfers than in 2019 (see the right side of Figure 4.9), except for the UK (+4%).<sup>xxvi</sup> The rise in the UK may be related to Brexit, with countries (primarily Greece and France) seeking to transfer as many people as possible before the Dublin III Regulation no longer applies to the UK.

In order to facilitate the implementation of Dublin transfers, new administrative arrangements between Germany and the Netherlands came into force on 10 January 2020, introducing updated notice periods for transfers: 14 days for collective transfers, with the final list of names to be submitted 10 days before the transfer; 3 days to transfer an individual applicant; and 10 days for vulnerable applicants.<sup>375</sup>

Some transfers could not be implemented within the time limit during the COVID-19 pandemic. For example, the State Secretary for Justice and Security in the Netherlands noted that approximately 1,500 cases were added to the national case load because Dublin transfers could not be implemented. The pandemic was one of the factors, in addition to the more general issue of applicants who abscond. Many of the Dublin cases in the Netherlands had already been delayed by the time they became part of the national stock.<sup>376</sup>

 Fewer transfers implemented by almost all Member States except for Greece

Figure 4.9: Implemented Dublin transfers by selected sending (left) and receiving countries (right), 2020 compared to 2019



Source: EASO.

<sup>xxvi</sup> Only countries receiving at least 50 transfers in 2020 are considered.

Most of the transferees in 2020 were nationals of Afghanistan, accounting for 17% of all persons who were transferred. This nationality was followed at some distance by Iraqis (7%), Nigerians (6%), Algerians and Syrians (5% each). Transfers involving these nationalities decreased when compared to 2019. However, the number of Afghan transferees decreased only slightly (- 6 %), and in fact, a sharp increase in Afghan transfers was reported in the last months of 2020 (see Figure 4.8). It is noteworthy that Greece executed many more transfers of Afghans in 2020 than in 2019 (linked to relocations under Article 17(2)), particularly to France, Germany and Switzerland.

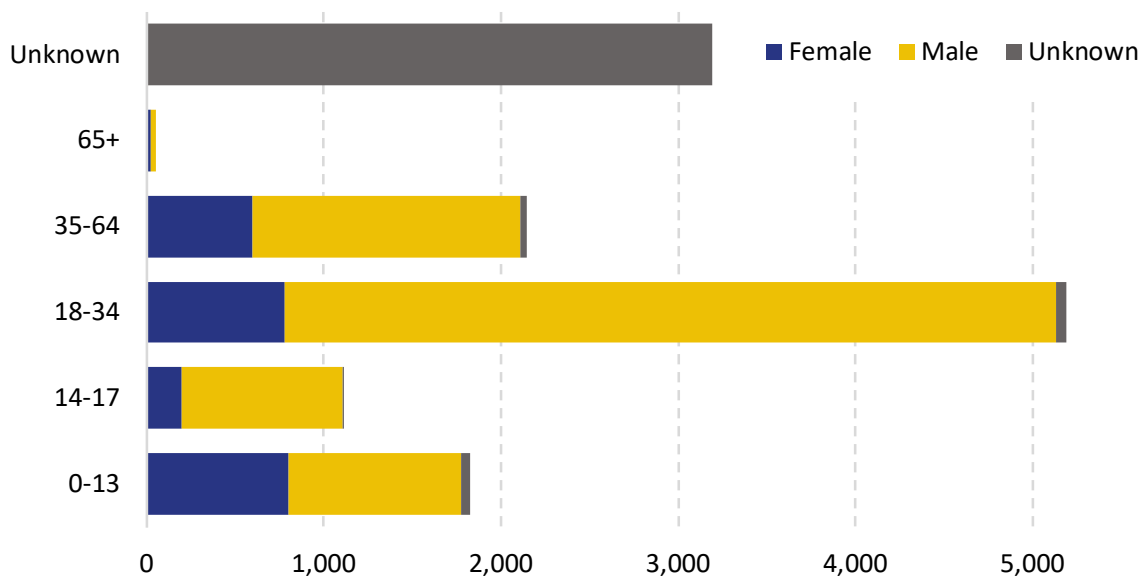
Men over the age of 18 accounted for the majority of transferees (see Figure 4.10). While the age group was not reported in 24% of transfers, minors represented at least 22% of all transferees in 2020. Although the overall number of minors who were transferred was lower than in 2019, their share of all transferees increased in 2020. Over four-fifths of minors over 14 years of age who were transferred between EU+ countries were male. In contrast, for minors younger than 14 years, the sex ratio was more balanced.

Only in transfers carried out by Greece, minors accounted for the majority of transferees, largely linked to relocations.<sup>xxvii</sup>

Most of the minors who were transferred in 2020 were Afghans. This was followed at quite some distance by Syrians, Iraqis, Russians, Pakistanis and Turks (in descending order). Transfers of Afghan minors rose considerably compared to 2019, particularly from Greece to France, Germany and Switzerland.

 **Most transferees were men aged 18-34 years**

**Figure 4.10: Transferees in Dublin procedures by age group and sex, 2020**



Source: EASO.

<sup>xxvii</sup> Only countries implementing at least 50 transfers in 2020 are considered.

National courts received many appeals related to transfer modalities and time limits. Many of these appeals related to the calculation of transfer time limits in light of the COVID-19 pandemic. For example, several applicants contested that BAMF in Germany made an *ex officio* decision to suspend the execution of Dublin transfers based on Dublin III Regulation, Article 27(4). It argued that this article allows for such a suspension – and the interruption of the transfer period, as a consequence – even without a pending appeal or review. Regional courts delivered diverging decisions on this issue. For example, in the case of an Afghan applicant’s transfer to Greece, the regional administrative court [noted](#) that the suspension based on this article must serve to enable effective legal protection and this was not the objective of the BAMF decision. Thus, the suspension was against the law and annulled the inadmissibility decision that the applicant received. The regional administrative court reached a similar conclusion in the [case](#) of a Nigerian applicant’s transfer to Italy.

Other regional administrative courts reasoned to the contrary and the case of an Iraqi national’s [transfer](#) to Austria was seen as lawful. This was also the case for an Irani applicant’s [transfer](#) to Poland and another Irani applicant’s [transfer](#) to Poland. However, higher administrative courts, in line with the European Commission’s guidance, underlined that BAMF’s suspension decision under national law cannot suspend the transfer period under the Dublin III Regulation, for example in a [case](#) decided in Lower Saxony and in another [case](#) from Schleswig-Holstein.

The Dutch State Secretary for Justice and Security reasoned in April 2020 that the court’s decisions on the expiry of transfer time limits should be adjourned, pending further guidance from the legal service of the JHA Council. However, the court [underlined](#) that the European Commission’s guidance was clear that the transfer time limits should not be extended due to the pandemic and there was no evidence on the possibility that new guidance would emerge, which would retroactively change the applicable provisions of the Dublin III Regulation. The court delivered similar judgments in the [case](#) of a Sudanese applicant’s transfer to France.

Courts in Belgium and France interpreted the notion of absconding and the subsequent prolongation of the transfer period. The Belgian CALL based its [judgment](#) on the CJEU decision in [Jawo](#) and noted that the mere fact that the applicants did not return the declaration on voluntary return within the legal deadline cannot automatically be interpreted as a sign that the applicants wanted to abscond and prevent the transfer. Thus, it cannot automatically lead to a decision on the prolongation of the transfer period. The French Council of State [noted](#) that an applicant can be considered as absconded when they were informed clearly and in a language they understand about the exact arrangements of the transfer and they deliberately did not comply with the authority’s directives for the transfer. However, the mere fact that the applicant did not arrive on time at the planned place of departure cannot automatically lead to a decision that he or she has absconded.

The Dutch Court of the Hague [ruled](#) that the Netherlands became responsible to examine an asylum application 18 months after Italy first accepted responsibility and the chain rule – that was applicable under the Dublin II Regulation and which interrupted the transfer time limit – does not apply under the Dublin III Regulation, Article 29. In this case, the applicant absconded after the Italian authorities accepted responsibility and submitted an application first in Switzerland, then again in Italy, before returning to the Netherlands and submitting a new asylum application after the expiry of the initial transfer time limit. The national authorities foresaw to further assess the implications of the court ruling.

The Supreme Administrative Courts in [Lithuania](#) and [Czechia](#) assessed the legality of an applicant’s detention in the framework of the Dublin procedure (*see Section 4.8*).





#### 4.2.10 Following an implemented transfer

The situation of applicants who were returned through the Dublin procedure raised concerns for example in Bulgaria, Hungary and Spain.

The AIDA report for Bulgaria observed that applicants who were returned to the country faced difficulties in accessing health care, even though national authorities had already implemented changes in the health care database to address the issue.<sup>377</sup>

The Hungarian Helsinki Committee noted that ‘Dublin returnees’ are not included in the list of people who can submit an asylum application in Hungary according to temporary rules which were unclear on the matter (*see Section 4.1*).<sup>378</sup> The National Directorate-General for Aliens Policing clarified that, according to the authority’s interpretation and the practice, applicants returned through the Dublin procedure have to declare upon arrival whether they intend to uphold their asylum application lodged in the transferring country, and if they do, the asylum procedure will commence.

In Spain, Fundación Cepaim reported again about the persistent issue that transferred applicants have difficulty in accessing the reception system, despite the fact that the Spanish Superior Court of Madrid ruled that they must have access<sup>379</sup> and the Ministry of Labour, Migration and Social Security issued instructions in 2019 to ensure that applicants who returned to Spain through the Dublin procedure are entitled to material reception conditions.<sup>380</sup> UNHCR Spain noted, however, that all potential applicants can be excluded from accessing a reception facility when the length of stay in the EU was considered, if they have previously abandoned a reception place and if they have exhausted the 18-month period of stay in the system.

## Section 4.3 Special procedures to assess protection needs



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

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

Cases which require special procedural guarantees should normally be processed within regular procedures, but for other categories of applicants, Member States have developed various systems based on special procedures.

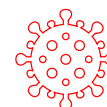


### COVID-19

COVID-19 restrictions on travel and social distancing measures affected the application of the border procedure in EU+ countries. Some countries re-established controls at their borders, imposed travel bans or implemented additional conditions for entry (for example, medical certificates).

While most EU+ countries temporarily stopped the identification, registration and interviewing of third-country nationals (see Section 4.1), they still provided an exemption to those wishing to apply at the border. Applicants at the border were required to comply with conditions of entry related to the health and sanitary precautions during the pandemic, such as mandatory quarantine. EU+ countries had to provide accommodation through adequate arrangements (see Section 4.7) and coordinate with local authorities which do not have competence for asylum procedures.

The restrictions led to a decrease in applications at the border. For instance, from 19 March to May 2020, no asylum applications had been submitted at the borders in Finland.<sup>381</sup> Because it was not possible to create a safe space for new arrivals due to the COVID-19 pandemic, Czechia paused the border procedure which is conducted only in the international airport with a dedicated reception centre



### Digitalisation

Besides the developments noted in Section 4.4, no other developments were reported by EU+ countries specifically on the digitalisation of special procedures.





### 4.3.1 Border procedures

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

#### 4.3.1.1 Border procedures in the new Pact on Migration and Asylum



One of the most important proposals in 2020 was the mandatory pre-screening procedure at the border which was included in the new [Pact on Migration and Asylum](#). The procedure would include steps to establish the identity of new arrivals, assess the risk they pose for security and public health, and identify any special needs.<sup>382</sup> New rules included in the pact also concern the asylum border procedure and return border procedure (*see Section 2*).<sup>383</sup>

The EASO publication on [Border Procedures for Asylum Applications in EU+ Countries](#) was published shortly before the presentation of the pact to inform discussions on the topic. The European Parliamentary Research Service drew up a European Implementation Assessment on asylum procedures at the border, highlighting divergences in Member States' practices and underlining concerns around fundamental rights compliance.<sup>384</sup>

#### 4.3.1.2 Different practices in applying the border procedure



Various types of border procedures, typically focusing on swift processing, were introduced or extended in 2020. In Greece, the 'fast-track border procedure' foreseen by Law No 4636/2019, in force since 1 January 2020, was applied to people arriving on the Greek Eastern Aegean islands. Staff of the Hellenic Police or the Armed Forces may register applications, notify decisions, receive appeals and exceptionally conduct interviews. In 2020, Greece also extended the exceptional border procedure that applies to third-country nationals in Reception and Identification Centres in Lesbos, Chios, Samos, Leros and Kos until 31 December 2021.<sup>385</sup>

The Greek Council for Refugees, METAdrasi and the Network for Children's Rights raised concerns about the fast-track border procedure due to the possible limitation of procedural guarantees. For example, they reported that the time limits to examine and submit documentation by lawyers during border procedures in the hotspots became even stricter and more difficult, with continued violations of safeguards for vulnerable asylum applicants.<sup>386</sup>

In Italy, the Legislative Decree No 130, which amended Law No 132 of 2018 (the Salvini Decree), entered into force on 22 October 2020 and touched upon the accelerated procedure and revoked the 18-day procedure. It provides that the 9-day procedure is applied to applications made at the border after trying to elude border checks.<sup>387</sup> Applications made from return facilities (*Centri di Permanenza per il Rimpatrio*) and those made by applicants from safe countries of origin are assessed within the 9-day accelerated procedure, while a new ground for the 5-day procedure was established for applicants convicted of serious crimes.

In 2020, the use of the border procedure was still suspended in Hungary. However, Hungary uses a *de facto* border procedure which is not in compliance with EU law, as confirmed by the European Commission in the infringement procedure against Hungary<sup>388</sup> and the CJEU. Furthermore, as a result of the CJEU judgment in *FMS and Others* (C-924/19), Hungary closed the facilities in the transit zones of Röszke and Tompa on 21 May 2020.

A new Lithuanian law foresees that those who apply for asylum at border crossing points or transit zones are not considered to have entered the territory of Lithuania until a decision to allow entrance is issued. This decision must be issued by the Migration Department within 48 hours from the registration of the asylum application. Applicants who were not allowed to enter the territory were accommodated at border crossing points or transit zones during the timeframe for lodging an appeal.<sup>389</sup>

In the Netherlands, the Immigration and Naturalisation Service (IND) published updated work instructions on the border procedure, which are applied since 14 May 2020. The instructions cover time limits, procedural aspects, refusal of entry, detention at the border and practical examples for case officers.<sup>390</sup> In France, the Council of State ruled on 8 July 2020 that COVID-19 pandemic restrictions cannot justify a refusal to register asylum applications made at the border. In Spain, the Constitutional Court ruled on 19 November 2020 that the legislation on a special asylum regime for Ceuta and Melita (Spain's two autonomous cities at the Moroccan border) was constitutional, given that there are specific legal pathways, including a judicial review by courts in border procedures. But the court noted that procedures must comply with human rights instruments and international protection principles.

#### 4.3.1.3 Accommodation and detention at the border



Due to the specificity of the border procedure, it often raises questions related to accommodation conditions provided during the procedure, and the application of detention, and conditions related to guarantees for applicants with special needs and vulnerable groups. In 2020, the European Parliament assessed the implementation of asylum procedures at the border or transit zone of Member States. It concluded that the current practice does not result in uniform and effective reviews of applications for international protection on the basis of a fair process. In particular, certain Member States apply timelines within which a serious consideration of an application is not feasible. Furthermore, applicants are placed in detention or restricted in their freedom of movement without considering alternatives and deprived of opportunities to effectively exercise their procedural rights. A number of recommendations were made to address the shortcomings in future legal and practical arrangements for border procedures.<sup>391</sup>

Replying to the recommendations of the UN Human Rights Committee on its fourth periodic report on detention at the border, Lithuania noted that its national law does not provide for the possibility to detain asylum applicants at the border, but they are accommodated in specially-equipped premises at border checkpoints or transit zones. If it is not possible to provide adequate accommodation, other places may be provided by decision of the Migration Department under the Ministry of the Interior. In addition, Lithuania provided several training sessions on asylum for its SBGS officials.<sup>392</sup>

In the Netherlands, the Law of 22 April 2020 amended the Aliens Act 2000, providing a clear legal basis for continuing detention pending an appeal during a border procedure.<sup>393</sup>

In Spain, civil society organisations expressed concerns about the application of the special border procedure in Immigration Detention Centres (*Centros de Internamiento de Extranjeros*, CIE) and specifically deficiencies in providing adequate legal assistance, identifying vulnerable applicants and the lack of specific safeguards for vulnerable persons (see Section 5).



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

Within EU law and as defined in the recast Qualification Directive, a safe country of origin is considered to be a place where the law is applied democratically, and political circumstances do not generally and consistently lead to persecution, torture, inhuman or degrading treatment or punishment, or threat by reason of indiscriminate violence in situations of international or internal armed conflict. The assessment of a country as a safe country of origin considers aspects such as: relevant laws and regulations of the country and the manner in which they are applied; observance of human rights, in particular non-derogable ones; respect for the *non-refoulement* principle; and provision for a system of effective remedies against violations of rights and freedoms. When a third country is regarded as a safe country of origin, it is usually included in a national list and presumed to be safe for applicants originating from that country, unless evidence to the contrary is provided. The procedure to designate a country as safe is guided by the recast Asylum Procedures Directive.

Developments which took place in 2020 focused on periodically reviewing the list of safe countries of origin. In Austria, the new coalition government announced in its programme for 2020-2024 a comprehensive strategy on migration, including an ongoing review of the list of safe countries of origin.<sup>394</sup> Similarly, in Estonia, the amendment of the AGIPA in June 2020 provides that the Police and Border Guard Board (PBGB) updates the list of safe countries of origin at least once a year.<sup>395</sup>

In Sweden, the government submitted a legislative proposal to parliament in December 2020 to introduce a list of safe countries of origin which would be created by the Swedish Migration Agency. The Swedish parliament adopted the government's proposal to incorporate the rules on safe countries of origin in the Aliens Act, and according to the new rules, the Swedish Migration Agency may consider an application to be manifestly unfounded if the applicant comes from a country included in the list. The driver of this change is a 2018 CJEU [judgment](#) in which the court found that Swedish law did not include any provisions on countries of origin, yet the Swedish Migration Agency had rejected an asylum application as manifestly unfounded considering Serbia as a safe country. More recently, the Swedish Migration Agency proposed eight safe countries of origin: Albania, Bosnia and Herzegovina, Chile, Kosovo, Mongolia, Northern Macedonia, Serbia and the United States of America. The new amendments and the list of safe countries of origin were foreseen to enter into force on 1 May 2021.<sup>396</sup>

Legislative changes concerning safe countries of origin also took place in Italy, where the Legislative Decree No 130 provides that the 9-day procedure is applied to applicants from safe countries of origin.<sup>397</sup> In addition, the Italian Court of Cassation pronounced an important [judgment](#) on 14 October 2020 on the retroactivity of the decree establishing a safe country of origin list while appeal procedures are ongoing. Applicants coming from safe countries who lodged an appeal before the entry into force of the decree which established the list of safe countries of origin do not need to prove the danger of the particular country.

While some countries did not make any changes to their list of safe countries of origin in the course of 2020, others introduced changes which are outlined in Table 4.3.1. In addition to the changes to the lists of safe countries of origin, Belgium modified its list of safe countries of origin to include the correct name of the Republic of North Macedonia.<sup>398</sup> In the Netherlands, the State Secretary for Justice and Security announced that, although Algeria, Brazil and Morocco remain on the list of safe countries of origin, there are profiles to which special attention should be granted. For Algeria, exceptions include persons who criticised the authorities or who do not follow Sunni Islam. For Brazil, attention should be given to LGBTI applicants and journalists who report on corruption and crime or

who criticise the government; while for Morocco, exceptions include Hirak Rif activists and journalists who reported on the situation in the Rif mountains and the demonstrations that took place there.<sup>399</sup>

**Table 4.3.1 Changes to national lists of safe countries of origin**

Country	Safe countries added (date)	Countries no longer considered safe (date)
<b>Austria</b>	UK and Northern Ireland (1 January 2021) <sup>400</sup>	
<b>Cyprus</b>	Albania, Montenegro, Serbia, North Macedonia, Bosnia Herzegovina, Georgia, India, Bangladesh, Pakistan, Sri Lanka, Vietnam, Philippines, Nepal, Morocco, Algeria, Tunisia, Senegal, Gambia, Egypt, Nigeria (8 May 2020) <sup>401</sup>	
<b>France</b>		Benin (29 September 2020) <sup>402</sup>
<b>Greece</b>	Bangladesh and Pakistan (29 January 2021) <sup>403</sup>	
<b>Malta</b>	Algeria, Bangladesh, Egypt, Morocco, and Tunisia (May 2020) <sup>404</sup>	
<b>Netherlands</b>	Armenia (March 2020) <sup>405</sup>	India temporarily suspended awaiting new assessment, Togo (30 September 2020) <sup>406</sup>

Legislative changes took place in Bulgaria and Ireland. The Law on Asylum and Refugees in Bulgaria was amended to refine the definition of the ‘safe third country’ concept and additional legal guarantees were added when applying this concept. The authorities must examine whether there is a link between the applicant and the safe third country by carrying out an individual security check. Applications where the safe third country concept is applicable are dismissed as manifestly unfounded, provided the applicant would be admitted to the respective country.<sup>407</sup> Civil society organisations raised the issue that the applicant could not have a real possibility to dispute the existence of a connection through a clearly-defined and transparent procedure.<sup>408</sup>

In Ireland, with the withdrawal of the UK from the EU, the International Protection Act 2015, Section 21(2) was amended so that an application lodged by a person arriving from a safe third country will be dismissed as inadmissible. The International Protection Act 2015 now also includes a new Section 72A that the Minister for Justice may designate safe third countries, and the UK was added to this list.<sup>409</sup>

The Grand Board of the UNE decided in October 2020 that the Norwegian Directorate of Immigration (UDI) can only refuse to examine the merits of an application for protection from someone who has been in a safe third country before coming to Norway if the applicant had legal access to the respective country (for example, through a valid residence permit or visa).<sup>410</sup> Before this decision, the Norwegian Organisation for Asylum Seekers (NOAS) noted that the Norwegian Immigration Act, Section 32(1d) **fell short** of the requirements of the recast Asylum Procedures Directive (not binding in Norway), in particular Article 38(1e). That section was initially introduced as a response to an influx of asylum applicants from Russia but was subsequently applied to nationals of Brazil, Ukraine, United Arab Emirates and EU Member States, including Greece, Hungary, Italy, Malta and Romania.

UNHCR noted that guidance on Libyan nationals and habitual residents, which was published in September 2018, remained valid. Thus, UNHCR did not consider that Libya meets the criteria for being designated as a safe third country for the purpose of disembarkation following rescues at sea.<sup>411</sup>



### 4.3.3 Accelerated procedures

According to the recast Asylum Procedures Directive, when an application for international protection is likely to be unfounded or where there are specific grounds, such as the applicant is from a safe country of origin or presented false information, Member States may accelerate the examination of the application. This can be done by introducing shorter, but reasonable, time limits for certain procedural steps without compromising the right to a fair process or the applicant's access to basic rights and guarantees. The directive allows Member States to consider an application manifestly unfounded in the circumstances that allow for the acceleration of the procedure.

In 2020, during the first stage of the COVID-19 pandemic, some countries prioritised cases under the accelerated procedure. In Belgium, cases examined this procedure and extremely urgent cases were the only ones for which hearings were not suspended by CALL.<sup>412</sup> In other countries, like Cyprus, the COVID-19 preventative measures and particularly the mandatory quarantine of 14 days led to delays related to the examination of applications in the accelerated procedure.

Several countries made changes to the time limits in accelerated procedures. In Cyprus, the amended Refugee Law, Article 12D, in force since 12 October 2020, specified that an application may be examined under the accelerated procedure and is prioritised within 30 days from the date of submission of an application. The time limit can be extended within the accelerated procedure for up to 2 months by a decision of the competent officer. At the same time, Article 16D specifies that an appeal against a rejected application which was examined under the accelerated procedure must be lodged within 15 days from the date of notification.<sup>413</sup>

To streamline the first steps of the asylum procedure and accelerate processing times, Austria managed specific cases faster than usual as of the beginning of June 2020. All essential elements of the asylum procedure are clarified and decisions are taken within 72 hours of the application being made with a focus on applicants from safe countries of origin as well as countries with a low recognition rate (manifestly unfounded applications).

In France, the validity of the certificate which is received when requesting asylum was set at 6 months for cases in the accelerated procedure, compared to 10 months in the normal procedure.<sup>414</sup> The law also provides that for cases in the accelerated procedure the Office for the Protection of Refugees and Stateless Persons (OFPRA, *Office Français de Protection des Réfugiés et Apatrides*) issues a decision within 15 days from the date of submission of an application.<sup>415</sup> Civil society organisations and lawyers noted that the 15-day time limit to take a decision in an accelerated procedure before OFPRA was unrealistic. However, OFPRA can decide to redirect cases in the normal procedure if necessary, unless the applicant constitutes a threat to public order.<sup>416</sup>

In Italy, the Legislative Decree No 130 provides that applications from centres of permanence before repatriation (*Centri di Permanenza per il Rimpatrio*) and those made by applicants from safe countries of origin are to be processed within the accelerated procedure. Specifically, applications from a safe country of origin will follow the 9-day procedure.<sup>417</sup>

In Lithuania, according to the new law, applications examined under the accelerated procedure are to be processed within 10 business days and the time limit for lodging an appeal is reduced to 7 days from the moment of notification of the decision.<sup>418</sup>

Further changes took place in Hungary in the context of COVID-19 measures. Since 1 January 2021, Decree No 570/2020 (XII. 9), Section 5 removed the possibility to request interim measures against expulsion which take place because of a violation of COVID-19 rules or when expulsion is ordered due to a risk to national security or public order. According to the Hungarian Helsinki Committee, this can lead to an expulsion after the rejection of an asylum application in the accelerated procedure, as the appeal does not have a suspensive effect.



#### 4.3.4 Admissibility procedures

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

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

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

In Lithuania, according to a new law, the decision on the procedure to be followed will now be communicated to the applicant during the interview. The time limit to take the decision is 2 working days, instead of 48 hours, and a decision on admissibility is issued within 3 business days from the moment the asylum application was registered.<sup>419</sup>

In the case of *Addis v Federal Republic of Germany* (C-517/17), the CJEU ruled on the importance of a personal interview prior to an inadmissibility decision (see Section 2.5.2).

Besides a high number of admissibility procedures for subsequent applications in some EU+ countries (see Section 4.3.5), over the past years, several countries have seen an increase in applications from persons who already have international protection in another Member State, making admissibility procedures more and more relevant. Courts have also been active in delivering related cases (see Section 4.14.2.6).



#### 4.3.5 Repeated applications

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Lodging a subsequent or repeated application has sometimes been used by applicants to prevent or delay a return decision. When an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige a Member State to carry out a new, full examination. In these cases, a Member State has the possibility to dismiss an application as inadmissible in accordance with the *res judicata* principle. In addition to cases, when an application is not examined in accordance with the Dublin III Regulation, a Member State is not required to examine whether the applicant



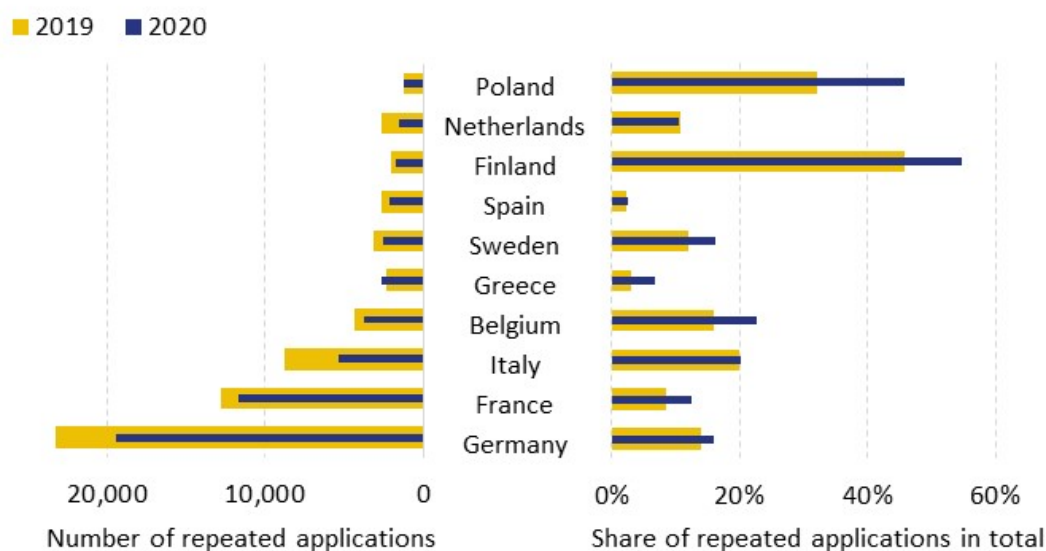
qualifies for international protection as the application is already considered to be inadmissible after a preliminary examination pursuant to the recast Asylum Procedures Directive.

In 2020, about 56,000 applications in EU+ countries were repeated applications,<sup>xxviii</sup> accounting for 12% of all asylum applications. In absolute terms, this represented a 19% decrease from 2019, although the share of repeated applications in the total number of applications overall grew by two percentage points.

Close to three-quarters (72%) of all repeated applications in EU+ countries were concentrated in four countries: Germany, France, Italy and Belgium (in descending order). However, these countries received fewer repeated applications in absolute terms than in 2019 (see Figure 4.11). In fact, the number of repeated applications declined in most countries, with notable decreases also occurring in Austria, Finland, the Netherlands, Spain, Sweden and Switzerland. Conversely, the sole country to record a substantial increase in the number of repeated applications was Greece. The only other countries with more repeated applications in 2020 than in 2019 were Czechia, Latvia, Lithuania and Portugal, although increases were moderate.

### Number of repeated applications decreased in absolute terms but increased in relative terms

**Figure 4.11: Number of repeated applications (left) compared with share of repeated applications among total applications (right) in the countries with the most repeated applications, 2020 compared to 2019**



Source: Eurostat [[migr\\_asyappctza](#)] as of 28 April 2021.

<sup>xxviii</sup> A repeated applicant is a Eurostat statistical category referring to a person who lodged another application for international protection in a given Member State after a final decision (positive/negative/discontinuation) has been taken on a previous application. The concept includes subsequent applicants but is somewhat broader. See Eurostat, Applications [migr\_asyapp], Reference Metadata, [https://ec.europa.eu/eurostat/cache/metadata/en/migr\\_asyapp\\_esms.htm](https://ec.europa.eu/eurostat/cache/metadata/en/migr_asyapp_esms.htm)

In relative terms, however, the share of repeated applications in most EU+ countries increased. The most notable proportions of repeated applications were recorded in Finland (representing 55% of all asylum applications), Poland (46%), Czechia (32%) and Belgium (23%). Some of the highest increases were reported in Czechia (+14 p.p.), Poland (+14 p.p.) and Finland (+9 p.p.).

As in 2019, applicants from Western Balkan countries and some former Soviet republics had especially high shares of repeated applications, including nationals of Montenegro, Serbia, North Macedonia, Armenia, Russia, Azerbaijan, Kosovo, Tajikistan, and Bosnia and Herzegovina (in descending order). Between 30% and 43% of the applications lodged by citizens from these countries were repeated. In addition, the proportion of repeated applications by nationals of Albania, Ethiopia, Georgia, Haiti, Mauritania, Nigeria and Sri Lanka increased by more than 10 percentage points from 2019. As a result, between one-fifth and one-third of the number of applications by these citizenships were repeats.

Some nationalities had especially high shares of repeated applications in certain countries. For instance, almost three in every five Nigerian applications in Italy were repeated.<sup>xxix</sup> Repeated applications by Russian citizens represented 61% of all Russian applications in Poland and 38% in Germany. More than one-half of all Iraqi applicants in Finland (57%) and Belgium (53%) applied repeatedly, and over two-fifths of Moldovans and Pakistanis applying in Germany did not seek asylum there for the first time. About one-third of all Albanian applications lodged in both France and Germany and 23% in Greece were repeated. One-half of the Serbian applicants in Germany and one-quarter in France were repeats as well.

EU+ countries implemented legislative and policy changes in 2020 to manage subsequent applications. Changes to the definition and the processing of subsequent applications took place in Italy and Lithuania. In Lithuania, a new definition for a subsequent asylum application was adopted in a new law on the status of aliens, which implements the recast Asylum Procedures Directive. A subsequent application is defined in the law as an asylum application lodged by a foreigner following a final decision on a previous asylum application or an application which is made after a decision to discontinue the examination of the first asylum application and there is no possibility of reopening the examination of the asylum application.<sup>420</sup> In Italy, subsequent applications are processed within the 5-day procedure, according to Legislative Decree No 130, which entered into force on 22 October 2020.<sup>421</sup>

Courts interpreted various aspects pertaining to the lodging and processing of subsequent applications. In Italy, the Court of Appeal of Rome [held](#) on 29 October 2020 that obstructions by administrative authorities and police, preventing an applicant from lodging a subsequent asylum application and to access reception, constitute violations of fundamental rights and dignity. In Finland, the Supreme Administrative Court [ruled](#) on 28 April 2020 that the denial of legal aid for subsequent applications in anticipation of the outcome should be applied exceptionally. In Ireland, the Supreme Court [ruled](#) on 13 October 2020 that the Minister for Justice and Equality does not have a legal obligation, either under national or European law, to revoke a lawful deportation order or to grant a visa to an applicant who is abroad and received consent to make a subsequent application. On 29 January 2020, the Polish Supreme Administrative Court [ruled](#) on the issue of providing an interview in subsequent applications.

Changes regarding appeals against decisions pronounced in subsequent applicants took place in Cyprus and Iceland. In Cyprus, an appeal against a decision which deems a subsequent application to be inadmissible must be lodged within 15 days from the date of notification (amended Refugee Law, Article 16D, in force since 12 October 2020).<sup>422</sup> In Iceland, on 11 April 2020, a bill proposed to amend

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<sup>xxix</sup> Only pairs of nationalities and receiving countries with at least 500 applications overall are considered.

the Act on Foreigners and the Act on the Employment Rights of Foreigners by adding Article 35a, which defines subsequent applications. Negative decisions in subsequent applications are also automatically subject to an appeal to the Immigration Appeals Board, unless the applicant specifically requests that this not be the case.<sup>423</sup>

Concerning short time limits for appeal procedures in subsequent applications, in the case of *JP (C-651/19)* the CJEU ruled that the recast Asylum Procedures Directive, Article 46, read in light of the EU Charter, Article 47, does not in principle preclude a 10-day time limit for the introduction of an appeal against a decision declaring a subsequent asylum application as inadmissible (see *Section 2.7.2*).

In Bulgaria, the Law on Asylum and Refugees was amended so that, according to Article 84(6) correlated with Article 76b(1), Item 2, the court has to decide *ex officio* or at the request of the applicant on the right to stay within the territory in a dismissed subsequent application.<sup>424</sup> In addition, in Ireland, on 31 March 2020, the Supreme Court **held** that the right to remain on the territory ceases when the determining authority makes a recommendation to dismiss a subsequent application. There was no distinction between a recommendation and a decision from the determining authority, both having the same effect to end the first instance procedure.

## Section 4.4 Processing asylum applications at first instance



CEAS is based on the principle of common standards to grant and withdraw international protection across EU+ countries in an effort to ensure fair and efficient procedures. The procedures foreseen in the recast Asylum Procedures Directive aim to ensure that decisions on applications for international protection are taken on the basis of facts and by persons with appropriate knowledge and training, after an adequate and complete examination has been undertaken without undue delay and subject to remedies. Within this framework, Member States have established their asylum systems and procedures in various ways to reflect the procedures in the directive.



### COVID-19

In 2020, processing first instance asylum applications was directly impacted by COVID-19 measures, such as physical distancing, the closure of facilities, remote working and health protocols. Every aspect of this step of the asylum procedure was affected, including personal interviews, face-to-face activities, working arrangements, time limits, the notification of decisions, case load management, training and quality assessments. Legislative and institutional changes were implemented to reflect the new practices.

From March to mid-April 2020, national determining authorities had to adapt procedures in the midst of states of emergency, lockdowns, curfews and quarantines. At first, the reception and processing of first instance applications were suspended or strictly limited in all EU+ countries with the temporary closure of national administrations. This meant that in-person interviews were often completely discontinued or postponed. Iceland stood out in this phase because they already had the infrastructure was already in place to immediately switch to videoconferencing and continue with personal interviews. Since the processing of cases was delayed in all countries, authorities often extended time limits. The notification of decisions was sometimes suspended due to delayed postal services. For in-person notifications of the decision at the office of the determining authority, special rooms were generally set up, equipped with plexiglass and following sanitary measures similar to in-person interviews (mandatory wearing of a mask, use of sanitizer, personal pen and social distancing).

From May 2020 onwards, face-to-face activities gradually resumed with new practices in place: staggered appointment times, plexiglass shields and ventilation in rooms, social distancing, frequent disinfection, temperature screening and the use of a mask. For personal interviews, interpreters and legal assistants typically joined by videoconference to avoid physical contact (*see Sections 4.9 and 4.10*). Some countries limited in-person interviews to vulnerable applicants only. In this context, it is notable that the number of decisions issued by first instance authorities in the third quarter of 2020 was similar to that in the first quarter.

During the second wave of the pandemic in October 2020, first instance procedures were affected to a lesser extent with local and regional restrictive measures, rather than nation-wide lockdowns. Nonetheless, temporary disruptions to services did occur. Overall, national authorities made efforts to maintain asylum interviews within the legal time limits despite the confinement measures.

In general, asylum authorities introduced flexible working arrangements, such as teleworking and staff rotation, to ensure the continuation of services. Some countries focused on already-pending cases to reduce existing backlogs.



## Digitalisation

To ensure the continuation of first instance procedures and compensate for the restrictions imposed on face-to-face activities, national authorities turned to digital solutions. Procedures were automated to allow applicants to book an appointment, check the status of their applications, submit relevant documents or be notified about the first instance decision online. The new e-services were effective in limiting the physical presence of asylum applicants during the first instance procedure and ensured continued communication with an applicant. In effect, digitalisation allowed for the timely notification of decisions and facilitated the right to an effective remedy.

Many EU+ countries used technological solutions to conduct personal interviews remotely through videoconferencing, with some authorities already having the systems in place before the pandemic, while others had them installed. Guidelines were also developed for best practices in carrying out remote interviews.

In addition, other IT tools were developed independently from the need to compensate for physical distancing, e.g. tools for language analysis.

Some civil society organisations, such as Caritas Vienna,<sup>425</sup> cautioned that some applicants faced difficulties in navigating the online tools and contacting authorities through email.



### 4.4.1 Setting up more efficient systems

Developments which took place in 2020 focused on making the asylum procedure more efficient overall. For example, in Austria, the new coalition government announced in its programme for 2020-2024 a comprehensive strategy on migration, based on a clear separation of migration and asylum. The plan includes a shortening of the asylum procedure which should not exceed 6 months and modernising the asylum procedure by using new technologies.<sup>426</sup>

Several countries passed amendments to national legislation to improve the asylum procedure. In October 2020, Bulgaria amended the Law on Asylum, aiming at fast and efficient processing while ensuring all guarantees for applicants and bringing national legislation more in line with the recast Asylum Procedures Directive and the recommendations of the European Commission in infringement procedures (No 2015/0363 on the recast Asylum Procedures Directive; No 2018/2123 on the recast Asylum Procedures Directive and the recast Reception Conditions Directive).<sup>427</sup> This may have contributed to the rise in decisions which were issued at the end of 2020 compared to earlier periods.

In Estonia, the Act on Granting International Protection to Aliens was amended on 27 June 2020. It now specifies that the PBGB may request assistance from EASO and, on the basis of an international agreement or an act of the EU, it may be involved in the processing of an asylum application in the territory of another state.

In France, the position of Minister Delegate for Citizenship was created under the Minister of the Interior on 6 July 2020.<sup>428</sup> The new role is responsible for asylum and integration.

In Finland, the Act on the Processing of Personal Data in the Field of Immigration Administration (615/2020) entered into force on 1 September 2020. To ensure procedural guarantees for applicants, the new act ensures that constitutional requirements for data protection are met by migration authorities.<sup>429</sup> In addition, the Ministry of the Interior started a new project to introduce legislative changes in case of a large-scale influx of migrants.

In Hungary, paragraph 8a was added under the Asylum Law, Article 32/Y to clarify the circumstances when the procedure to enforce a financial claim, which arose during the asylum procedure, ceases.<sup>430</sup>

In Ireland, the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process published in October 2020 recommended a reform of the IT system which is used for the international protection procedure. By introducing an online system by 2023, applicants and their representatives can track their case and access information.<sup>431</sup>

A new law in Lithuania provides that all decisions on asylum must be issued within 6 months from registering the application.<sup>432</sup> In addition, if the case has been returned by the court to the migration department, it must be examined within 3 months. If an asylum applicant absconds, examination of the asylum application is terminated without prior suspension.

The regular asylum procedure in the Netherlands was undergoing a revision to be shortened from 8 days to 6 days, with the possibility to extend the procedure to 9 days if it is a complex case or a case involving an applicant with special needs. The public consultation process on the draft decree ended on 20 November 2020.<sup>433</sup>

Several changes were implemented in Malta to improve the overall asylum system. On 7 August 2020, the International Protection Agency (IPA) was established to replace the Office of the Refugee Commissioner.<sup>434</sup> On the same day, an amendment to the Refugees Act was approved to align national legislation with EU Directives, also yielding consequential amendments to the Procedural Standards for Granting and Withdrawing International Protection Regulations. The amendments included changes to granting and withdrawing international protection, updates to the definition of manifestly-unfounded applications, a new provision on the lapsing of international protection (unequivocal renunciation) and adding sexual orientation and gender identity (SOGI) as a particular social group (*see Section 5*).<sup>435</sup>

A proposal was made in Slovenia to amend the International Protection Act to ensure, among other improvements, more rapid and efficient procedures while preventing abuse of the system.<sup>436</sup> Sanctions would be in place for obstructing the implementation of the procedures and non-compliance with an applicant's duties, and the grounds on which an asylum application can be rejected as manifestly unfounded were expanded.

Greece underwent institutional changes and on 15 January 2020 the new Ministry of Migration and Asylum was created.<sup>437</sup> Law No 4686, Gov. Gazette A 96 of 12 May 2020 was passed, introducing various amendments to time limits; a registry of rapporteurs and working groups on various steps of the asylum procedure; the harmonisation of procedures between the Greek Asylum Service and first reception authorities; and automating the entire asylum process. UNHCR reiterated its concerns on the reduction of safeguards that it expressed when the initial Law on International Protection was enacted.<sup>438</sup> Greece published the Joint Ministerial Decision on the procedure and criteria for the Register for Rapporteurs-Assistant Case Handlers for Asylum,<sup>439</sup> and on 25 September 2020, the Greek

Asylum Service launched the procedure to register rapporteurs in the regions of Samos, Lesvos and Chios.<sup>440</sup> A registry of rapporteurs and assistants was also created for case officers.<sup>441</sup> In December 2020, Greece adopted a new organigramme of the Ministry of Migration and Asylum.<sup>442</sup> Greece also clarified that when the applicant does not comply with the duty to cooperate, especially the duty to remain in communication with the authorities, the application or the appeal is presumed to be implicitly withdrawn. Previously, the application would have been examined under the rules for manifestly-unfounded applications.<sup>443</sup>

In Spain, the Ministry of the Interior issued a resolution to expedite asylum applications by nationals of African countries who had arrived on the Canary Islands as of 1 January 2021.

The European Commission sent a reasoned opinion to Portugal for failing to fully transpose the recast Asylum Procedures Directive, after a formal notice was sent by the European Commission in July 2019. Portugal was given 2 months to notify the European Commission of the measures taken to ensure the full transposition, and the case was closed in June 2021.<sup>444</sup> Similar infringement procedures concerned Hungary, for which the CJEU already ruled in several judgments (*see Section 4.1*).



## 4.4.2 Decisions issued on first instance asylum applications

A first instance asylum application is considered to be closed once a decision has been issued by national authorities. According to Regulation (EC) 862/2007,<sup>445</sup> there are five decision outcomes that should be reported by EU+ countries:

- ➔ Refugee status (as per the 1951 Geneva Convention);
- ➔ Subsidiary protection status;
- ➔ Authorisation to stay based on humanitarian reasons under national law (humanitarian protection);<sup>xxx</sup>
- ➔ Temporary protection status (under EU legislation);<sup>xxxi</sup> and
- ➔ A negative decision resulting in the rejection of the application.

Despite immense challenges associated with the COVID-19 situation, asylum authorities in EU+ countries issued about 534,500 first instance decisions in 2020, which was nearly as many as in 2019. Moreover, due to a dramatic drop in asylum applications, for the first time since 2017 the number of decisions issued outnumbered the number of applications lodged in EU+ countries as of

<sup>xxx</sup> Granting humanitarian protection is not harmonised at the EU level and is only reported to Eurostat by 23 of the 31 EU+ countries (Austria, Cyprus, Croatia, Czechia, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Italy, Liechtenstein, Lithuania, Malta, the Netherlands, Norway, Poland, Romania, Slovakia, Spain, Sweden and Switzerland). In addition, various forms of humanitarian protection can be granted, separate from the asylum procedure, and thus the positive decisions may not be reported to Eurostat under this indicator. More information on country-level practices are available at: European Migration Network. (2017, June 2). *EMN Ad-Hoc Query on ES Ad hoc Query on Humanitarian Protection*.

[https://ec.europa.eu/home-affairs/sites/default/files/2017.1197\\_-\\_es\\_ad\\_hoc\\_query\\_on\\_humanitarian\\_protection.pdf](https://ec.europa.eu/home-affairs/sites/default/files/2017.1197_-_es_ad_hoc_query_on_humanitarian_protection.pdf)

<sup>xxxi</sup> Based on the [Temporary Protection Directive, Regulation 2001/55/EC](#), this mechanism has not yet been used in EU countries, and therefore, it is not further analysed in this report.

spring 2020 (see Figure 4.12). In two-thirds of EU+ countries, there was a decline in decisions issued compared to a year earlier. But Greece and Spain ramped up efforts and boosted decision-making for some nationalities during the reduced inflow of applicants. These efforts helped to maintain the overall EU+ outflow of decisions at the same level as in 2019. However, UNHCR observed in Spain that most decisions were negative, issued mainly to applicants from Colombia and Venezuela, and the decisions were often automatically generated with very little individualisation in reasoning.

With regard to the characteristics of applicants, the majority of decisions issued at first instance continued to be for men, mostly in the 18- to 34-year-old age group.

In 2020, just five EU+ countries accounted for more than four-fifths of all first instance decisions: Germany (24%), Spain (23%), France (16%), Greece (12%) and Italy (8%). Nonetheless, France, Germany and in particular Italy issued fewer decisions compared to 2019. Notably in Italy there was a shift to issue more decisions to the youngest age group of applicants: about 20% of decisions in 2020 were issued to applicants younger than 18 years, compared to only 5% in 2019.

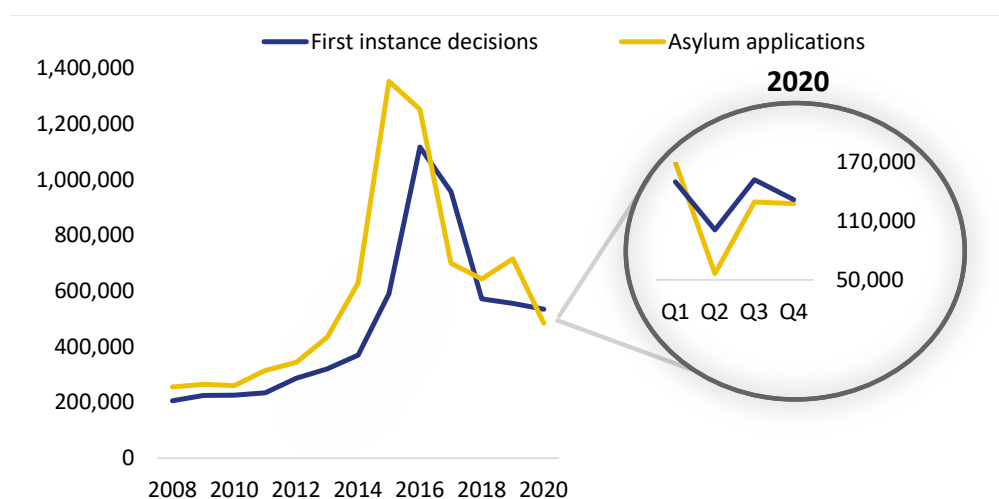
Conversely, Greece and Spain more or less doubled their first instance decision-making. Almost one-quarter of all decisions taken on international protection in Europe were issued by Spain for Colombian and Venezuelan applicants and by Greece for Afghans and Syrians. Most positive decisions issued by Spanish authorities continued to grant automatic national protection to Venezuelans, which entails a faster procedure in terms of case processing and provides a 1-year renewable residence permit for humanitarian reasons.

Following an increased inflow of asylum applications, more decisions were issued in 2020 than in 2019 by Bulgaria and Romania, both recording peaks in the last quarter of 2020. In some countries, the number of decisions issued in the last quarter of 2020 rose above pre-pandemic levels, for example in Austria, France, the Netherlands and Sweden.



**For the first time since 2017, the number of decisions issued outnumbered the number of applications lodged in the EU+ as of spring 2020**

**Figure 4.12: Number of first instance decisions issued and asylum applications lodged in EU+ countries, 2008-2020**



Source: Eurostat, [migr\_asydcfstq] and [migr\_asydcfstq] as of 28 April 2021.



Germany, Greece, Italy, Spain and Sweden had the largest differences between inflow (applications lodged) and first instance decisions issued in 2020, all closing far more cases than opening (see Figure 4.13). In contrast, Austria, Cyprus, France, Romania and Slovenia received more applications than there were closures. This suggests that in many EU+ countries the pressure on national asylum systems remained high.

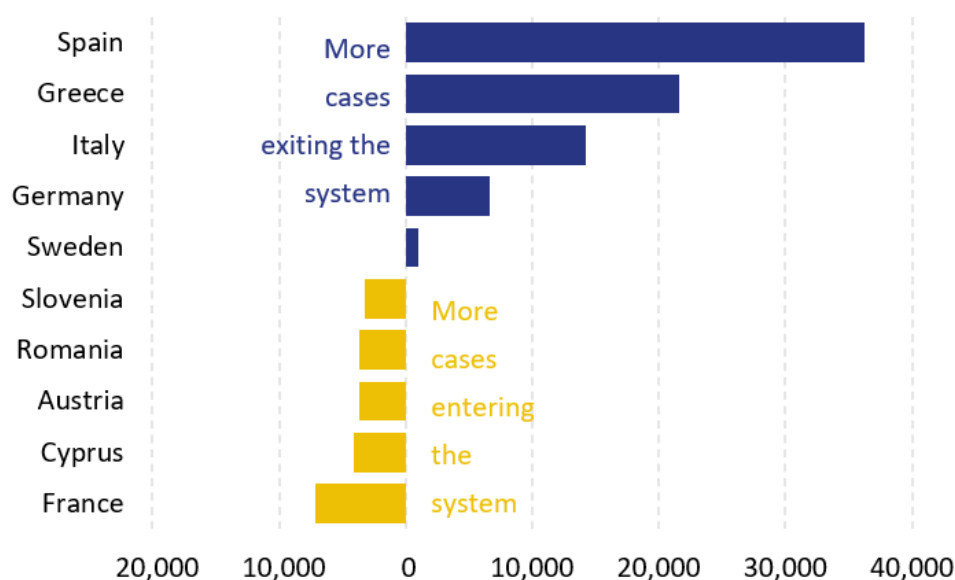
Most first instance decisions were issued to nationals of Syria, Venezuela, Afghanistan and Colombia (in descending order), receiving two in every five decisions in EU+ countries in 2020. In addition, these nationalities received more decisions in 2020 than in 2019. The most notable increase in both absolute and relative terms was for Colombian applicants, who received almost seven times as many decisions in 2020 than in the previous year. Similarly, more decisions were issued for most other Latin American nationals, continuing a steady upward trend which has been seen over the last few years.

In 2020, nationals of Turkey and Palestine received more decisions than in previous years. The rise in decisions for Turkish nationals was largely due to the number of decisions issued by Greece, the Netherlands and Switzerland. For Palestinians, the increase was explained by a rise in decisions issued by Greece and Belgium. Since fewer applications were received in the EU overall, the increase in decisions was a result of backlog managements by national administrations.

Conversely, the number of decisions issued to nationals of Albania and Georgia dropped by one-half, mainly driven by France as the decision-issuing country. At the same time, considerably fewer decisions were issued to Nigerians in the EU+ overall, particularly by Italy.

### Greece and Spain issued considerably more first instance decisions than the number of applications they received

**Figure 4.13. Disparity between the number of asylum applications and first instance decisions issued in selected EU+ countries, 2020**



Source: Eurostat [[migr\\_asydcfstz](#)] and [[migr\\_asyappctza](#)] as of 28 April 2021.

While the number of first instance decisions received by Ukrainians has decreased year over year, France and Spain issued more decisions to this nationality in the second half of 2020 than previously. Similarly, nationals of the Democratic Republic of Congo received more decisions at the end of 2020 than in each quarter during the last 3 years.

In Romania, authorities prioritised decisions issued for some nationalities resulting in new peaks of decisions issued for Afghans, Algerians, Moroccans, Somalis, Tunisians and Turks.



### 4.4.3 Managing case loads

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The drop in asylum applications in 2020 provided an opportunity to review current practices, introduce more efficient methods through digitalisation and tackle the backlog of pending cases. This resulted in a relatively stable number of decisions overall compared to 2019, and some countries such as Greece and Spain even issued more.

To reduce delays in the processing of cases, some EU+ countries prioritised clear-cut cases and applications by nationals of countries with high recognition rates, introduced new case management flows, hired additional staff and set up groups to reduce backlogs. For example, Slovenia hired additional staff to tackle its pending backlog of cases and shorten delays in the asylum procedure.

During the months when personal interviews were halted in Belgium, the focus was on caseloads for which an interview had already taken place and on cases where it was clear, based on written documents, that the applicant was in need of international protection (mostly Syrians or where a family member had already obtained international protection). Likewise, subsequent applications without any new elements received a decision without an interview. When interviews resumed, priority was given to applicants who were within the reception system of the Federal Agency for the Reception of Asylum Seekers (Fedasil) and already had a status in another EU+ Member State and Brazilian applicants who were already in the country before applying for asylum.

Depending on the claims made and available documentation, authorities in Romania prioritised applicants from Algeria, Bangladesh, India, Morocco, Pakistan and Tunisia as many of them are economic migrants who often renounce the asylum procedure. This resulted in new peaks in the number of decisions issued for some of these nationalities.

A new programme entitled "Project North" is being carried out in Greece, in cooperation with EASO, to accelerate the asylum procedure and conclude pending cases in 2021 in order to decongest the accommodation structures in northern Greece. Pending interviews of asylum applicants will be completed in a shorter time than originally planned and they will take place in specially-designed spaces inside the accommodation structures.<sup>446</sup>

In Ireland, the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process recommended that the International Protection Office should take a decision within 6 months from the lodging of an application and made further recommendations on resources and processes.<sup>447</sup> On 29 January 2021, the Irish Refugee Council raised concerns about the capability of the system to function within a lockdown after assessing the delays and shortcomings in the asylum procedure in 2020. It proposed the use of the International Protection Act 2015, Section 35 to set aside the interview when the available evidence shows that a person is a refugee. The Irish Refugee Council also expressed its support to reducing the backlog of cases by offering the permission to remain to anyone who has been more than 2 years in the system by the end of 2020.<sup>448</sup>

In Norway, the UDI introduced a new case management flow by which 70% of applicants receive a decision within 21 days of lodging an application. The tool Qlik Sense is used to assist in case load management.

In the Netherlands, to improve processing times and avoid the increase of penalty payments, the State Secretary announced in March 2020 several measures, including a task force set up as a temporary body to assist the IND in reducing a backlog of approximately 15,300 asylum applications. Written interviews were introduced on a voluntary basis for certain nationalities. The task force handled 8,200 cases by the end of 2020 and will continue to work until mid-2021 to complete the remaining backlog. To reach this objective in 2021, several measures are envisaged:

- ➔ Remote interviews through tele-conferencing, written procedures, outsourcing parts of the asylum process and central planning;
- ➔ Implementation of a ‘processing room’ (*verwerkingskamer*) to prepare files for hearings, leaving case officers to focus on decision-making;
- ➔ Tailor-made capacity deployment and tailor-made training for staff; and
- ➔ Prioritising certain nationalities or profiles of applicants (Syria, Turkey, and Yemen) and creating target groups for more complex cases, such as LGBTI applicants and religious converts.<sup>449</sup>

In addition, the Netherlands adopted the Law of 8 July 2020 which suspends incremental penalty payments for the duration of one year. Applicants who receive a formal notice from the IND after 8 July 2020 are no longer entitled to compensation when the IND does not decide on their case within 6 months.<sup>450</sup> A new legislative proposal was submitted to the parliament to definitively revoke incremental penalty payments in asylum cases.

Lastly, in Denmark, the parliament adopted a bill amending the Aliens Act to introduce the possibility of transferring asylum applicants for the processing of their asylum claims and possible subsequent protection in third countries.<sup>451</sup> The proposal was launched for public consultation and the Danish Refugee Council expressed concerns about this initiative.<sup>452</sup> UNHCR urged Denmark to “refrain from establishing laws and practices that would externalise its asylum obligations” and underlined that it “discourages national stand-alone initiatives, such as the present Danish proposal, which is not founded on solidarity and which may undermine the international protection system”.<sup>453</sup>



#### 4.4.4 Withdrawn applications

An asylum application can be withdrawn for various reasons before a final decision has been issued. For reporting purposes, withdrawn applications can be measured based on two indicators:

- ➔ ‘Explicit’ withdrawals refer to cases where the applicant no longer needs international protection and notifies the authorities to withdraw the application; and
- ➔ ‘Implicit’ withdrawals concern cases where the authorities fail to locate the applicant and therefore it is considered that the applicant has abandoned the procedure.

Data on implicit withdrawals may cover cases prior to the reference year since an applicant may have absconded long before the withdrawal was noted and reported.

In 2020, about 47,200 applications were withdrawn, the lowest number since 2013 and more than one-quarter less than in 2019. The decline in both the number of applications and the number of withdrawn applications resulted in a ratio of 1 withdrawal for every 10 applications lodged in 2020, similar to 2019. While Eurostat data do not indicate the type of withdrawal, EASO’s provisional Early Warning and Preparedness System (EPS) data<sup>xxxii</sup> suggest that most withdrawn applications in 2020 were implicit, as in previous years. Withdrawn applications, especially implicit ones, can serve as a proxy indicator of absconding and the beginning of secondary movements towards other EU+ countries. Consistent with this interpretation, most withdrawals took place in frontline Member States, such as Greece and Italy, which together accounted for more than one-third of all withdrawals.

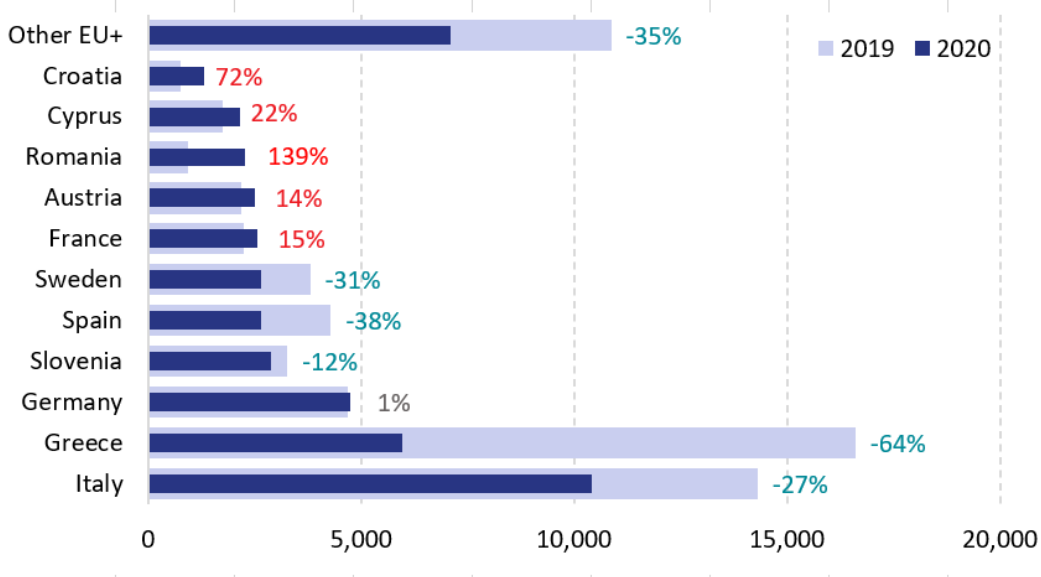
With regard to the characteristics of applicants, most withdrawn applications continued to be by young males, aged 18 to 34 years.

Although the number declined, Italy recorded the most withdrawals among EU+ countries, with around one in almost every three applications being withdrawn. Greece, which had the highest number of withdrawals in 2019, experienced a sharp drop, and the trend was stable in Germany, with these two countries accounting for around one in every 8 and 1 in every 10 withdrawals in EU+ countries, respectively.



### Italy and Greece continued to record the most withdrawn asylum applications in 2020

Figure 4.14: Changes in the number of withdrawn asylum applications in EU+ countries, 2019-2020



Source: Eurostat [[migr\\_asywitha](#)] as of 28 April 2021.

<sup>xxxii</sup> In the framework of the EASO’s EPS data exchange, the indicator on withdrawn applications is disaggregated by type of withdrawal (explicit or implicit). Direct comparison of EASO and Eurostat data is not possible. The EASO indicator refers to applications withdrawn during the first instance determination process related to first instance decision-making, while Eurostat data cover applications withdrawn at all instances of the administrative and/or judicial procedure. In addition, the reporting dates differ: EASO uses the date of the decision on the withdrawn application, while Eurostat uses the date the application is considered withdrawn. Finally, the EPS data collection does not cover Iceland or Liechtenstein.

There were fewer applications withdrawn in the majority of EU+ countries, similar to the trend for the number of asylum applications received. Nevertheless, this was not the case in every country. In some countries, more withdrawals than in previous years were recorded: Austria (with increasingly more Syrians withdrawing their applications), Croatia (with more Afghans, Iraqis and Syrians), Cyprus (with more Georgians), France, Malta (predominantly Sudanese), Portugal (with sub-Saharan Africans including nationals of The Gambia, Guinea, Guinea-Bissau, Morocco and Senegal) and Romania (with more Syrians, Afghans, Turks and Egyptians). The increases occurred especially during the second half of 2020.



#### 4.4.5 Assessing applications

New guidelines were issued for the assessment of applications in some asylum authorities. For example, new guidelines on evidence assessment were issued in Lithuania, and in the Netherlands, the IND published new work instructions with guidelines on how to implement the ECHR, Article 8 (*see Section 4.15*).<sup>454</sup> The IND also clarified in a working instruction its policy on refugees in the country with political views, adding further guidance on interpreting the element of ‘political conviction’. The IND clarified that an applicant cannot be expected to exercise restraint in fundamental political views, when the actions or expressions are particularly important for the person’s identity or moral integrity.<sup>455</sup>

The IND also published new work instructions on Palestinians<sup>456</sup> and amended its policy on Sudan by which previously-granted asylum permits will be reassessed for cases when the permit was granted due to the situation in Darfur, South Kordofan and Blue Nile.<sup>457</sup> Particularly for the assessment of subsidiary protection, the IND laid out new criteria for exceptional situations in asylum applications, referring to the most extreme cases of general violence and where there is a safety risk for applicants if they return to their country of origin. Following a [decision](#) of the Council of State, a criterion of a safety structure in the country or area of origin is added to the assessment as of March 2020.

Regarding the assessment of applications, Denmark expanded the safe area in and around Damascus and the Refugee Appeals Board upheld the decision of the Danish Immigration Service in several cases in February 2021 (for example, on [16 February 2021](#), [17 February 2021](#) and in [another case](#) on 17 February 2021). It concluded that the situation in the Rif Damascus is no longer a risk solely due to mere presence in the area.<sup>458</sup> In each case, both the Danish Immigration Service and the Board make an individual and concrete assessment of the applicant’s need for protection, as well as an assessment on whether a withdrawal or refusal of the renewal of the residence permit will be contrary to Denmark’s international obligations.

Based on country of origin information, Norway no longer grants international protection on a general basis to all applicants who are citizens of Syria. The Norwegian UDI now conducts a thorough assessment of the individual’s protection needs. However, the current security and human rights situation indicates that most asylum seekers from Syria are in need of protection.

Sweden also updated the Migration Agency’s legal governance on Syria. According to the update, a person who returns to Syria and risks being called for state military service now runs a general risk of being persecuted. Thus, the starting point in the examination is that the person under such a risk should be granted refugee status. The Migration Agency also updated its legal position on the situation

in the Tigray region in Ethiopia,<sup>xxxiii</sup> the security situation in certain parts of the Democratic Republic of the Congo (DRC),<sup>459</sup> the situation in Afghanistan,<sup>460</sup> Yemeni passports,<sup>461</sup> Palestinian 00-passports<sup>462</sup> and applications from Turkish citizens.<sup>463</sup> The Swedish Migration Agency also published its legal position on the derivative status in asylum cases.<sup>464</sup>

Under the Asylum Law, Article 15, Hungary lowered the threshold to exclude a person from subsidiary protection. There is no need to violate national security and instead it is enough if the person's stay in the country endangers national security. Further changes introduced by Hungary include a definition of a 'particular social group' under the Asylum Law, Article 64(1d). Before the change, the two elements – common characteristics and distinct identity in the relevant country – were alternative, divided by an "or", while now they are cumulative.<sup>465</sup>

New aspects included in the assessment of an application for international protection concern COVID-19 economic and health conditions in the country of origin. National courts now look beyond the available country of origin information and supplement it with information on COVID-19 restrictions in countries of origin or in specific areas from which an applicant originates, and to which he/she might normally be able to travel freely were it not for the COVID-19 travel restrictions. However, CALL in Belgium **held** on 28 May 2020 that the risks arising from the COVID-19 pandemic do not justify a need for international protection as such risks are not due to an actor of persecution. In contrast, Romania **granted** subsidiary protection to a family of Iraqi nationals with minor children, taking into consideration the political and human rights situation in Iraq as well as the difficulties of travel due to COVID-19 restrictions taken in certain areas of Iraq, including in the area from which the applicants originated.

Courts provided new guiding principles in assessing applications in first instance procedures. In Estonia, the Supreme Court **provided** guidelines in May 2020 on assessing credibility in cases concerning persecution based on sexual orientation. In France, the CNDA **ruled** in September 2020 that Somali children and adolescents not subjected to female genital mutilation (FGM) constitute a particular social group. The CNDA also **ruled** in November 2020 on the process for assessing the level of violence generated by armed conflict for the purposes of applying subsidiary protection provided in CESEDA, Article L.712-1(c).

## 4.4.6 Managing time limits and notifications



### *Time limits in first instance procedures*

Over 2020, time limits were extended in several EU+ countries due to the disruption of services. The Danish Immigration Service extended the time limit for recording biometric data by 2 months since at the height of the pandemic it was not possible to take fingerprints and facial photos when a person submitted an application.<sup>466</sup>

In line with the guidelines from the European Commission from 16 April 2020, the Netherlands prolonged the time limit by 6 months to render a decision on an application which was lodged before 20 May 2020 and not yet exceeded the original time limit of 6 months. The measure was confirmed

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<sup>xxxiii</sup> The legal position was adopted on 16 November 2020, but repealed in March 2021. The COI report, on which the legal position was based can be consulted here: Swedish Migration Agency | Migrationsverket. (2020, November 16). *Land information: Etiopien - Krisen mellan den federala regeringen och regionen Tigray* [Country information: Ethiopia - The crisis between the federal government and the Tigray region]. <https://lifos.migrationsverket.se/dokument?documentSummaryId=45362>

by the Council of State on 16 December 2020, which **held** that the pandemic led to a *force majeure* in asylum procedures, making it impossible to conduct personal interviews and leading to the extension of time limits, an aspect on which applicants must be notified in a timely manner.

On a case-by-case basis, Romania also used existing legislative provisions to extend time limits, when justified.

The NGO Human Rights League expressed concern about the disproportionate length of proceedings in Slovakia after courts overturned first instance decisions and returned the cases to the Migration Office.

### **Notification of the first instance decision**

Authorities in France started to issue the notification of decisions electronically in two regions (Bretagne and Nouvelle Aquitaine). Austria started to implement this practice, but the Supreme Administrative Court **ruled** that notifications could not be given remotely or through video. The Immigration Service in Finland gave notifications by videoconference or phone. Decisions were also sent by post if the notification did not need to be translated.<sup>467</sup>

In Cyprus, the amended Refugee Law 2020 gave the Senior Immigration Officer (the Minister of the Interior) the power to issue a decision of a return, removal or deportation order at the same time as issuing a rejection decision on an asylum application. The order has a suspensive effect until a final decision by the court is issued.<sup>468</sup>

In Estonia, the Act on Granting International Protection to Aliens, amended on 27 June 2020, stipulates that when a foreigner's location is not known to the PBGB and there is an emergency situation the administrative authority may publish the application number and the title of the decision on its website without another form of notification.<sup>469</sup> UNHCR recommended to use existing channels of notification and to publish on the website only as an additional means of communication.<sup>470</sup> The amendments to the Estonian act also clarified that a rejection decision includes a return decision and an entry ban of 3 years.

In Greece, decisions may be notified by email and the decision is considered to be notified 48 hours after it was sent to the applicant. Civil society organisations raised the issue that this 'fictitious service' (πλασματική επίδοση) of first instance decisions, introduced by Law No 4636/2019 which entered into force on 1 January 2020, poses the risk of missing the time limit for appeal if the applicant was not actually informed about the issuance of the decision.<sup>471</sup>



### **4.4.7 Organising personal interviews**

In 2020, the organisation of personal interviews was affected by COVID-19 measures so EU+ countries used remote interviews or introduced new rules for carrying out in-person interviews. The BFA in Austria conducted video interviews more frequently, with the applicant, legal advisor, interpreter and case manager attending from separate rooms. In the Netherlands, remote interviews were first introduced during the pandemic for nationals of Syria, Turkey and Yemen, an only later for other cases, as the authorities considered that not all cases are suitable for remote interviewing.<sup>472</sup> The IND combined videoconferencing with in-person interviews, using Skype with applicants connected from the reception centres, the case workers from the office and the interpreters teleworking from home.<sup>473</sup>

Similarly, the UDI in Norway carried out personal interviews using Skype as of 1 April 2020, with applicants connected from the reception centre, the UDI staff connected from the office and the interpreter connected from another location.<sup>474</sup> Likewise, Sweden resumed interviews through videoconferencing by placing the applicant and the official in different rooms within the national authority's building. In addition, a pilot project was carried out to conduct personal interviews through Videolink, as Skype could not be used due to confidentiality-related reasons.

Switzerland restricted the number of people present in the same room and combined it with the use of technical communication tools. In Denmark, a project involving interviews by videoconference with applicants accommodated at the Sandholm reception centre was initiated by the Danish Immigration Service. The authority resumed asylum interviews in person as usual since then.

To compensate for the shortage of interview rooms as a result of the COVID-19 measures, the CGRS in Belgium collaborated with Fedasil to organise personal interviews by videoconference for a limited number of applicants, initially parallel to the system of face-to-face interviews at the CGRS. The project aims, in the longer term, to have a broadly-developed structural framework for hearings to replace hearings held at the CGRS, although physical hearings are preferred. Nonetheless, the Council of State in Belgium [suspended](#) personal interviews being carried out by videoconference because the decision to organise interviews through this method was not within the competence of the CGRS and it must be done by Royal Decree. As a result, courts sanctioned changes that were introduced in first instance procedures to continue services during the pandemic because they did not have an adequate legal basis.

To avoid contamination from the exchange of objects, rules and guidelines were also put in place to limit the exchange of papers and pens. In addition, any documents submitted in paper by the applicant were not to be opened for 24 hours. In Belgium, as of 1 August 2020, the normal procedure to make observations on the interview transcript (as foreseen in the Immigration Act, Article 57/5) was reinstated. Thereby any observations must reach the CGRS within 8 working days following the notification of the copy of the personal interview notes, and the CGRS has to take these into account before issuing a decision. During the lockdown period, between mid-March and the end of June 2020, the CGRS decided not to wait until the expiration of the 8-day period before issuing a decision. Remarks by the applicants could however be made at the appeal stage with CALL. In Italy, a pilot project was implemented in Rome for video and audio recording of the interview with the prior agreement of the applicants.

To provide support, EASO issued [practical recommendations](#) on conducting personal interviews remotely, following the guidance of the European Commission to EU Member States. The practical recommendations are based on best practices from across Europe and existing EASO practical guides and tools on personal interviews. In addition, UNHCR put forward practical considerations for European countries when using remote interviewing modalities and gathered examples from different countries.<sup>475</sup>

In Greece, civil society organisations raised concerns regarding the quality of and conditions in which remote interviews are carried out in Lesvos, particularly due to delays in notifying the applicants about the interview.<sup>476</sup> In addition, NGOs providing legal aid on Lesvos were not adequately informed about practicalities of remote interviews with regard to accessing a lawyer to submit procedural documents.<sup>477</sup> Among the planned government projects for 2021, the consolidation and upgrading of electronic decision-making, tele-interviewing and tele-interpretation initiatives were foreseen.<sup>478</sup>





#### 4.4.8 Training staff

Staff continued to receive training in 2020, although some countries reported an initial postponement and some delays due to the challenges posed by the COVID-19 pandemic (for example, Finland and Slovakia). In Belgium, protection officers attended a training course on sexual orientation, and CEDOCA developed a new training programme on country of origin information (COI) in an online tutorial format (see Section 4.12).

In Bulgaria, regular quarterly workshops and training were organised for case officers from the territorial units by legal advisers from the Quality of Procedure Directorate. In addition, case officers from the territorial units were presented with case law from administrative courts to improve the quality of decisions.

Through cooperation with the office of the ombudsperson and UNHCR, training in Czechia was provided on common modules on evidence assessment, examination of cases on merit and application of the recast Qualification Directive.



#### 4.4.9 Monitoring and quality assurance

While the pandemic forced asylum authorities to amend processes, particularly turning to digitalisation, it also provided an opportunity to assess the overall structure and functioning of the asylum procedure. Over the course of 2020, countries and civil society organisations took stock of deficiencies in procedures to develop better practices in the future.

As such, the Immigration Service in Finland reviewed approximately 500 applications following the 2019 ECtHR [decision](#) in *N.A. v Finland*, in which it was found that Finnish authorities rejected an asylum application and violated their obligations under the Convention when they expelled a person to Iraq, where he was subsequently shot and killed. Ten decisions issued in 2016-2017 were found to have deficiencies, and the Immigration Service sent all ten applicants a recommendation to re-apply for asylum at their nearest police station. In addition, the personnel of the Asylum Unit received further training and instructions on assessing future risk.<sup>479</sup> It was, however, later revealed that the alleged death of the person in *N.A. v Finland* was a fraud. In February 2021, the District Court of Helsinki sentenced two persons to prison for committing forgery and serious fraud in connection with the case. Finland has requested the ECtHR to revise the judgment in the case and the outcome is currently pending. Furthermore, in 2020 the Finnish Ministry of the Interior launched a project to assess the effectiveness and the resources of the immigration administration, especially on the functioning of the Finnish Immigration Service.<sup>480</sup>

Civil society organisations expressed concern over the asylum system in Greece. On 6 August 2020, Amnesty International made a submission to the European Council's Committee of Ministers regarding the execution of the *M.S.S.* and *Rahimi* groups of cases against Greece. The organisation urged that general measures were required to prevent other similar violations in the future, particularly the reduction of substantive and procedural safeguards for asylum applicants as a result of the reforms of asylum and migration law in November 2019 and May 2020.<sup>481</sup> UNHCR issued new legal commentaries which reiterated concerns about reduced safeguards since the introduction of the new Law on International Protection.<sup>482</sup>

In Switzerland, it was decided that the legal deadline (8 days) for the State Secretariat for Migration (SEM) to pronounce a decision under the new accelerated procedure at first instance (which could be considered as the regular procedure under EU legislative terminology) can be exceeded if necessary due to COVID-19 circumstances.<sup>483</sup> The SEM presented the results of the first evaluation of the law that reformed the asylum procedure in 2019<sup>484</sup> and carried out a detailed overview and assessment

of the asylum system during the COVID-19 pandemic. The SEM concluded that despite the challenges during the pandemic, the Federal Council put in place the necessary conditions for the asylum system to continue to function so that the SEM could carry out asylum procedures that comply with the principles of the rule of law. In particular, adequate measures were taken to allow the legal representative to provide assistance to asylum applicants, and there had been no cases of infection attributable to a hearing. In addition, the SEM was able to close more than 10,000 requests under the old law (applications before 1 March 2019) between March 2019 and October 2020.<sup>485</sup> Civil society organisations, such as the Swiss Refugee Council, Amnesty International and Caritas Switzerland, welcomed that asylum applicants are not kept in a limbo for a long period of time and that their rights and special needs seem to have been taken more into account with the introduction of legal assistance for all applicants (see Section 4.10). They highlighted, however, the risks related to the strict deadlines, for example, that the quality of decisions might suffer if the asylum authority is pushed to respect the tight timeline.<sup>486</sup>

Several stakeholders had the opportunity to assess or review the use of the new procedure. The Swiss humanrights.ch concluded that human rights violations took place by using this procedure.<sup>487</sup> Similarly, Amnesty International criticised the very short time limits, the stricter regime geared towards control and security, and the risk, in the medium term, of creating a closed regime.<sup>488</sup> The new Swiss accelerated procedure was also the subject of a landmark case before the Federal Administrative Court, which held on 9 June 2020 that the SEM violated the right to an effective appeal in accordance with the Swiss Federal Constitution, Article 29a, and the ECHR, Article 13. The court noted that the SEM must carefully perform the triage provided by law to guarantee a fair accelerated procedure, as incorrectly applying this procedure instead of an extended one, despite the complexity of the case, significantly reduced the time limit for appeal (7 days in the accelerated procedure instead of 30 days in the extended one).



#### 4.4.10 Accessing case files

It is important that applicants have access to the information in their case file in accordance with the recast Asylum Procedures Directive as this ensures fair proceedings and facilitates the submission of all the necessary evidence. Since June 2020, applicants from Greece can check the status of their application and perform relevant actions online. The Ministry of Migration and Asylum and the Asylum Service are in the process of digitalising services, and some of the following procedures can now be done online: submission of the full registration (lodging) for pre-registered applicants, request to change the date of the interview, request to change personal data or contact information, request a statement on the application status, submit additional documents, application for legal aid and application for a Provisional Social Security and Health Care Number.<sup>489</sup>

Similarly, in France, applicants residing in the departments of the Brittany and New Aquitaine regions have access to all documents sent by OFPRA for the examination of their asylum application by accessing a new confidential and secure user area on the OFPRA website. The user area includes the invitation to the personal interview at OFPRA and the decision of the Director General of OFPRA. OFPRA is considering adding more online functionalities.<sup>490</sup> This pilot project implements the legislative amendments from 2018 and is foreseen to be extended gradually to the whole territory.

From spring 2020, the Migration Agency in Sweden improved digital tools to handover appeals and information to the courts. In addition, Austria's BFA is planning to establish an online platform for applicants which will digitalise the invitation to the personal interview, request for additional documents, notifications of change of address, verification of the stages of their application and notification to applicants of the decision.

## Section 4.5 Processing asylum applications at second or higher instances



The EU level legislative framework of appeals procedures is outlined in the Asylum Procedures Directive, Chapter V. Article 46 obliges Member States to ensure that applicants have the right to an effective remedy before a court or tribunal with regard to a decision issued on a first instance application. The right to an effective remedy includes a full and *ex nunc* examination of both facts and points of law, including an examination of the needs for international protection as defined by the recast Qualification Directive, at least in appeals procedures before a court or tribunal of first instance guaranteeing adequate substantive and procedural safeguards.



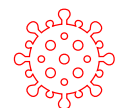
### COVID-19

Like all other phases of the asylum procedure, second or higher instance procedures were also impacted in 2020 by COVID-19 restrictions. In the beginning of the pandemic, courts and tribunals either closed to the public and worked remotely, including holding remote hearings, or they remained open but suspended most in-person hearings, usually holding only urgent hearings (for example, detention cases). Written procedures were used more often than usual, and procedural time limits on appeal were extended or suspended, which in turn affected time limits to pronounce appeal decisions. Also, decisions were notified in an adapted manner.

Internal working arrangements in courts and tribunals were gradually adjusted in line with rules imposed by governments and national judicial councils. Remote work and shifts were introduced to ensure the continuity of judicial work, and public access was limited to staff and parties to the case. Less disruption of services took place in countries where the digital infrastructure was already in place before the start of the pandemic.

Around May 2020, judicial institutions gradually resumed their activities, including asylum appeals, following new rules to limit the risk of exposure to COVID-19 for all participants in hearings (through temperature checks, use of masks, disinfectants, plexiglass panels, social distancing and reduced number of cases planned per session). Despite the advantages of remote hearings, countries continued to prefer in-person hearings, as evidenced by the fact that as soon as lockdown restrictions were lifted, courts predominantly used in-person hearings again. Generally, the cases prioritised for oral proceedings included cases where further postponement of proceedings would have negative consequences, cases pending at the final stages of the proceedings or cases with a great public interest. To decide whether hearing the applicant in a particular case was required, countries relied on CJEU case law, particularly the cases of *Moussa Sacko* (C-348/16) and *Alheto* (C-585/16).

In addition, courts and tribunals reviewed emergency measures implemented in asylum and reception systems but also measures taken at the appeal stage in asylum cases.





## Digitalisation

Digitalisation in second instance procedures continued in 2020, sometimes driven by the need to adapt to restrictive measures and ensure adequate substantive and procedural safeguards. Judicial authorities launched electronic tools for the remote submission of appeals and the delivery of relevant communication and decisions. Courts and tribunals in some countries made use of electronic or digital signatures to issue decisions.

The quality of the digital tools and security performance were also important to effectively make use of electronic means of communication. In addition, the availability of technical support and the training of judges and clerks on how to conduct hearings remotely was a challenge in many EU+ countries. Depending on national laws and practical arrangements (for example, firewalls and authentication requirements), cyber security risks could be mitigated.

The practical possibility and capacity of applicants for international protection to use videoconference and other electronic tools, as well as the possibility to access information and materials related to the case, needed to be considered in order to safeguard their rights.



### 4.5.1 Reorganising second instance bodies

From December 2020, the Refugee Reviewing Authority in Cyprus ceased its operations. All cases for appeal, including the cases submitted to the Refugee Reviewing Authority, are now examined by the Administrative Court for International Protection. In addition, the new government of Slovakia intends to reorganise the entire court system in 2021, including the establishment of new specialist administrative courts which also cover asylum.

Other institutional changes concerned panel formations or the number of judges serving, either as a permanent measure or as a temporary change due to COVID-19 restrictions. In Austria, since the COVID-19 pandemic started, both chambers dealt with asylum cases due to an increased case load. They also recruited more staff to tackle the backlog. Also due to the increased case load, the Act on Establishment of the Administrative Court for International Protection was amended in Cyprus, increasing the number of judges from 3 to 5 judges in 2020 and to 10 judges by mid-2021.<sup>491</sup>

On 7 August 2020, Malta established the International Protection Appeals Tribunal to replace the Refugee Appeals Board.<sup>492</sup> The Refugees Act (the International Protection Act, Article 5) was amended, introducing a full-time chairperson for each chamber of the International Protection Appeals Tribunal, along with two or more members on a part-time basis appointed by the President acting on the advice of the Prime Minister.<sup>493</sup>

Changes to panel formations justified by COVID-19 restrictions were reviewed by courts and tribunals. In France, the use of a single-judge formation at the CNDA, instead of a collegiate panel, for the duration of the state of health emergency was raised before the Council of State. The measure was **suspended** by the Council of State on 8 June 2020 due to operational difficulties, the share of members that could be considered particularly vulnerable to COVID-19, and the particular importance for asylum seekers to have their appeal examined by a collegiate panel.

Amnesty International issued a statement on 4 May 2020, raising concerns about the transfer of a significant share of asylum appeals to the exceptional single-judge procedure in Greece.<sup>494</sup>



## 4.5.2 Data on second and higher instances

Data on decisions taken on asylum applications which have been appealed are not disaggregated by the type of decision. Thus, it is not possible to imply in how many cases a positive final decision reversed a negative decision. As a result, the analysis of decisions issued on applications at second or higher instances should be interpreted with caution.

While the volume of decisions on applications at first instance remained relatively stable in 2020, the number of decisions issued at second or higher instances decreased by almost one-fifth: from around 300,000 in 2018 and 2019 to about 237,000 in 2020.<sup>xxxiv</sup> This decline occurred both in the number of positive decisions (from around 90,000 in 2019 to about 70,000 in 2020, representing a 23% decrease) and the number of rejections (209,000 in 2019 and 167,000 in 2020, a 20% decrease).

Similar to previous years, in 2020 three EU+ countries accounted for more than two-thirds of all decisions which were issued in appeals or review: Germany (42% of total decisions at second or higher instances), France (18%) and Italy (10%). Nonetheless, these countries issued fewer decisions compared to the previous two years, a pattern which was seen for the majority of EU+ countries. Indeed, following a longer-term decline, Denmark, Luxembourg, Norway and Spain issued an unprecedentedly low number of decisions on appeals in 2020. While Spain was amongst the top countries issuing first instance decisions, this was not the case at higher instances, with a significant gap between first and higher instance output (issuing about 125,000 first instance decisions compared to just 425 decisions at higher instances).

In contrast, Greece issued a record number of decisions at second or higher instances, nearly 24,000 or 10% of the EU+ total and almost twice as many as in 2019. This rise actually reflected an increase in negative decisions, which represented 94% of all decisions issued. The majority of nationalities involved in decisions in appeal or review in Greece received more decisions than in 2019, but the highest rises in absolute terms were seen for Pakistanis, Afghans, Syrians and Iraqis (in descending order). For example, Syrians received only 45 negative decisions at second or higher instances in 2019 but some 1,520 in 2020. Greece also roughly doubled the number of first instance decisions in 2020 compared to a year earlier. Thus, it seemed that Greece intensified its decision-making at all instances, taking advantage of the reduced inflow (i.e. a lower number of total asylum applications lodged) since the start of the pandemic.

In total, nine other EU+ countries issued more decisions at second or higher instances compared to 2019, with the most notable increases in absolute terms reported for Belgium, Poland, the Netherlands, Portugal and Croatia (in descending order). The rises were propelled by more negative decisions being issued, whereas increases in positive decisions were more modest, and in the case of Belgium, there was in fact a decrease.

In 2020, more than two in every five decisions at second or higher instances were issued to Afghans, Iraqis, Pakistanis, Syrians and Nigerians, the same pattern which was seen in 2019. All of them received fewer decisions than in 2019. While in fact most citizenships recorded declines, nationals of Albania, Bosnia and Herzegovina, China, the Democratic Republic of the Congo, Kosovo, North Macedonia, Serbia and Sri Lanka were issued the fewest decisions over the last five years. On the other side of the spectrum, nationals of Palestine, Venezuela and Colombia (in descending order) received more decisions in 2020 than in 2019.

<sup>xxxiv</sup> Data on second or higher instance decisions were not available for Iceland for 2020.

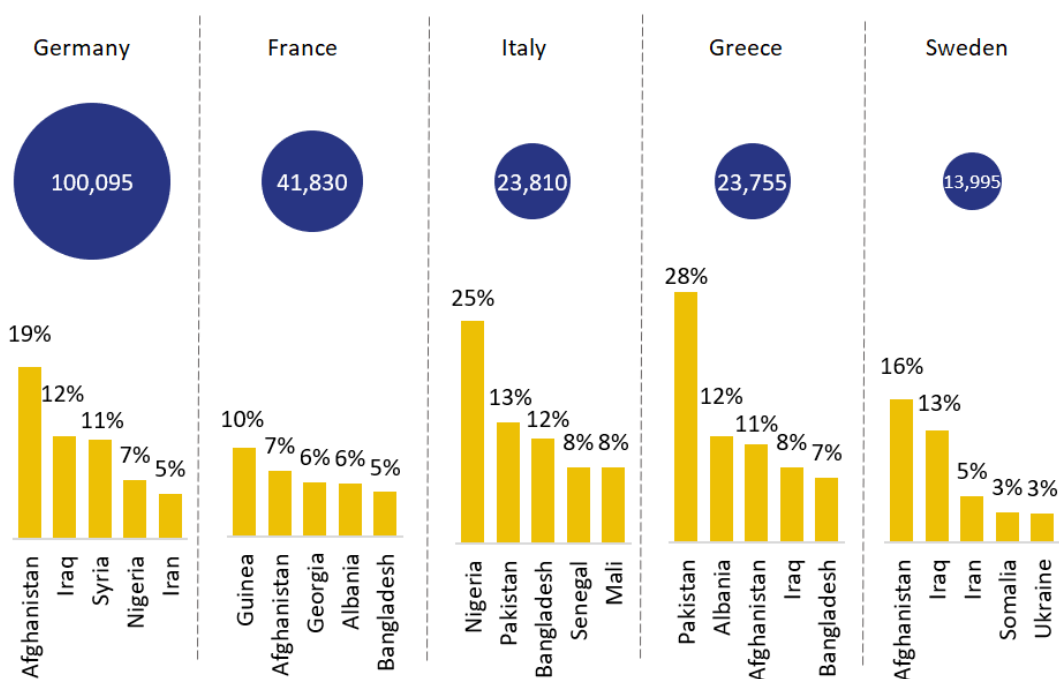
Germany continued to issue most second or higher instance decisions to nationals of Afghanistan, Iraq and Syria (see Figure 4.15). Similarly, Italian authorities continued issuing most decisions to Nigerians, Pakistanis and Bangladeshis, and Sweden to Afghans and Iraqis. While nationals of Pakistan and Albania remained the top citizenships receiving the most second or higher instance decisions in Greece, nationals of Afghanistan, Iraqi and Bangladesh received a larger share of decisions compared to 2019. In addition, appeal and review bodies in France issued more decisions in 2020 than in 2019 to Guinean and Afghan citizens, who replaced Albanian and Georgian as the top two nationalities receiving the most decisions in 2019.

With the exceptions of Finland and Portugal, all other EU+ countries issued fewer decisions at second or higher instances than at first instance in 2020. However, in some countries the authorities at first instance and those managing appeals or reviews faced comparable pressure, as indicated by the number of decisions which were issued overall (see Figure 4.16). This was the case, for example, in Austria, Sweden, Germany and Ireland, with a ratio of eight or more decisions at second and higher instances for every 10 at first instance. The opposite was the case in Spain, Bulgaria, Lithuania, Luxembourg and Romania, where the second or higher instance workload was very low in comparison with that at first instance.

When focusing on negative decisions only, the second or higher instance output was more numerous than the first instance output in several EU+ countries (namely Austria, Finland, Ireland, Norway, Poland, Portugal and Switzerland) and quite similar in a few others.

**Five EU+ countries accounted for four in every five decisions on asylum applications at second or higher instances**

**Figure 4.15. EU+ countries which issued the most second or higher instance decisions (bubbles) and top five citizenships involved in each country (bars), 2020**

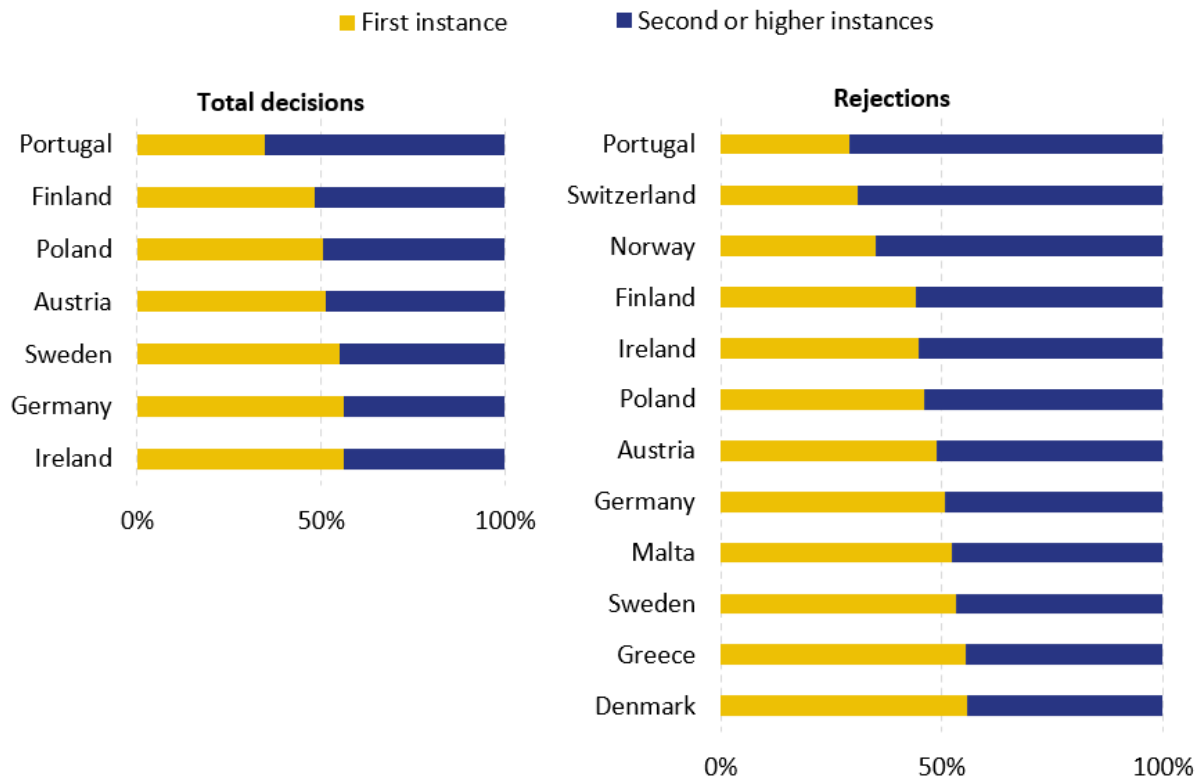


Source: Eurostat [[migr\\_asydcfsta](#)] as of 28 April 2021.



The workload at second or higher instances was similar to that at first instance in seven EU+ countries, but the number of negative decisions was higher or similar in 12

Figure 4.16. EU+ countries with more decisions in appeal or review or a similar number of decisions issued by both first and second or higher instance authorities (all decisions and rejections), 2020



Source: Eurostat [[migr\\_asydcfsta](#)] as of 28 April 2021.



### 4.5.3 Suspension of a return during an appeal

In 2020, Bulgaria, Cyprus and Estonia implemented a suspension of a removal decision when a first instance rejection decision is appealed in the regular procedure. Other countries introduced similar changes related to special procedures (see Section 4.3). In Bulgaria, the Law on Asylum and Refugees, Article 84 now provides that an appeal has an automatic suspensive effect and the court decides *ex officio* or at the request of the applicant on the right to remain on the territory when the appeal concerns a rejected subsequent application.<sup>495</sup>

In Cyprus, the Refugee Law stipulates that a return decision or deportation order is issued in a single administrative act, simultaneously with a rejection decision of an asylum application. An amendment to the law clarified that an appeal against this single administrative act has a suspensive effect until a final court decision is issued.

Similarly, in Estonia, the amendment of the Act on Granting International Protection to Aliens in June 2020 states that an appeal against a rejection decision has a suspensive effect, so that the execution of a return decision, which is now included in the rejection decision, is suspended and the applicant is allowed to stay in Estonia until a final court decision is pronounced.

In Poland, during the state of epidemic, the Refugee Board issued a resolution in the form of a recommendation based on which the execution of the decision on refusal to grant international protection should be suspended *ex officio* if a complaint is lodged with the administrative court.<sup>496</sup>

Contrary to the approach of these countries, in Greece Law No 4636/2019, Article 104, which entered into force on 1 January 2020, eliminated the automatic suspensive effect of an appeal against a first instance decision for several groups of asylum applicants. Applicants must submit a request before the Independent Appeals Committees requesting to stay in the country until an appeal decision is pronounced. METAdrasi and the Greek Council for Refugees raised concerns regarding the elimination of the automatic suspensive effect, noting that already applicants encountered several challenges when appealing a first instance decision, for example a lack of access to adequate legal assistance and suspended services at RAO Lesvos.<sup>497</sup>

A change which concerns the collegial formation that decides on a suspensive effect took place in Italy. Legislative Decree No 130, which aims to overcome some of the provisions brought by Law No 132 of 2018 (the Salvini Decree), entered into force on 22 October 2020 and provides that the procedure for a decision on the suspensive effect of an appeal in the second instance has to be taken by the court in a collegial decision. The proceedings take place in the council chamber, as is the case for all decisions concerning precautionary measures.<sup>498</sup>



#### 4.5.4 Adapting oral and written procedures

New rules of procedure for oral hearings before the Icelandic Immigration Appeals Board were published on 17 July 2020. The lawyer responsible for the case at the Immigration Appeals Board assesses whether the applicant's statement may affect the outcome of a case, and if so, the chief lawyer must present the matter to the chairperson or the vice-chairperson. The lawyer must consider whether individual circumstances were sufficiently examined by the Directorate of Immigration or whether the circumstances changed if the applicant is a single parent or an unaccompanied minor or if more than 6 months have passed from lodging the appeal.<sup>499</sup>

Due to COVID-19 restrictions, Belgium adopted an exceptional regulation<sup>500</sup> which temporarily allowed an additional procedural document to be submitted when the appeal was restricted to a written procedure. The 'plea note' replaced the opportunity to request to be heard and present oral arguments in person at CALL. The use of the written procedure was considered to be in compliance with all the procedural guarantees by CALL in a [case](#) where the applicant claimed that her access to justice, the right of defence and equal treatment were restricted due to COVID-19 measures affecting the courts' activities, namely the extension of time limits and the use of the written procedure. CALL further highlighted that, although hearings were taking place at a slower pace due to COVID-19 protective measures, by allowing a written procedure, a greater number of actions could be dealt with within a reasonable time.

The Council of State in the Netherlands [ruled](#) that, if the court received permission from both parties in a detention case, the settling of a case in writing is an acceptable temporary solution. The council highlighted the fundamental right to be heard and clarified that if the two parties do not waive the



right to be heard but agree for their representative to be heard by phone, then this is also an acceptable temporary hearing method. In addition, if the applicant or the legal representative of the party does not waive the right to be heard, the court must make every effort to personally hear the party, but it may conclude that a hearing is not possible. The council noted that the court must not take an automatic decision, but it must consider the individual circumstances, the practical possibilities to hear the parties and the fundamental rights at stake (e.g. the right to a speedy decision on the lawfulness of detention, the right to health, general public health, etc.).



#### 4.5.5 Managing time limits and the backlog on appeals

In 2020, some courts managed to clear the backlog of asylum cases on appeal (for example, Ireland<sup>501</sup>) or take advantage of a drop in appeals (for example, France<sup>502</sup>), while, in general, procedural time limits on appeal were extended or suspended due to COVID-19 restrictions. In this context, the shortening of procedures was a priority in many EU+ countries.

The Austrian Ombudsperson's Board received complaints about the length of asylum procedures on appeal. The new coalition government in Austria announced its work on a comprehensive strategy on migration, including the shortening of second instance time limits for cases in an accelerated procedure.<sup>503</sup>

In Bulgaria, the Ombudsperson gave an opinion on the amendments to the Law on Measures and Actions during the state of emergency, noting the importance of the right to a fair trial and stressing that slow justice is in practice a denial of justice.<sup>504</sup> The Bulgarian Ombudsperson urged the parliamentary committee to introduce, within a reasonable time, alternative opportunities for access to justice, such as e-justice or other appropriate measures. At the same time, the Bulgarian Law on Asylum and Refugees, Article 84 amended the time limits for an appeal. In particular, Article 84(1) now provides for 7 days to appeal against decision to withdraw protection and 14 days to appeal against a negative decision for refugee status or humanitarian protection, negative decisions for family members, decisions on family reunification under temporary protection and revocation of temporary protection.<sup>505</sup> In addition, shorter time limits on an appeal for a pre-removal detention decision were introduced in the draft bill to amend the Law on Foreigners.<sup>506</sup>

After the amendment of the constitution in September 2020,<sup>507</sup> Cyprus revised key legislative instruments and reduced time limits to lodge an appeal at first and second instance courts. Pursuant to the amended Refugee Law and the amended Act on the Establishment of the International Protection Administrative Court, the time limit to appeal against a decision, act or omission of the Head of the Asylum Service or the Refugee Review Authority was reduced from 75 days to 30 days from the date of notification. The time limit to appeal against a decision to reject an application as manifestly unfounded was also reduced from 75 days to 15 days. In addition, the time limit for lodging an appeal against a decision of the International Protection Administrative Court before the Supreme Court was reduced from 42 days to 14 days from the day of issuance of the decision.<sup>508</sup>

According to a new law in Lithuania on the legal status of aliens, adopted on 10 November 2020, a case must be examined within 3 months if it has been returned by the court to the Migration Department. In addition, the new law foresees that the time limit to lodge an appeal if an application was examined under the accelerated procedure is reduced to 7 days from the moment of notification of the decision.<sup>509</sup>

In Luxembourg, Bill No 7681 was introduced into Parliament on 16 October 2020 to amend the Asylum Law of 18 December 2015.<sup>510</sup> The bill would amend the appeal procedure against a Dublin transfer decision by reducing the time limit to pronounce a decision, from 2 months to 1 month. A suspensive effect is also provided, so that the Dublin transfer decision is not enforced until a final decision is

pronounced. In addition, a draft amendment of the Law on International Protection and Temporary Protection would introduce extraordinary appeal possibilities against a final decision on an application, as well as against a decision to withdraw international protection.<sup>511</sup>

In Switzerland, the Federal Administrative Court published its report on the evaluation of the new asylum appeals procedure after the new Asylum Act entered into force on 1 March 2019. The court concluded that the new time limits complied with the asylum appeals procedure in 70%-75% of cases, and in 8%-20% of cases the time limits were exceeded by a few days, depending on the type of procedure. In addition, an increasing rate of appeals (from 7% to 15%) were referred back to the SEM for re-assessment for not sufficiently establishing the facts or not sufficiently investigating the applicant's medical condition.<sup>512</sup> However, Asylex expressed concerns about the extremely short time limits on appeals provided in Switzerland for the accelerated asylum procedure (in principle the main rule for all asylum applications and cannot be compared to the accelerated procedure under EU terminology), ranging from 5 to 7 days. This may pose problems, for example, if a legal representative resigns after a first instance decision and leaves the applicant with few days to find another lawyer and lodge an appeal. Asylex also noted that, during the COVID-19 restrictions, the 7-day time limit to lodge an appeal was extended to 30 days, which it considered more appropriate, not only during COVID-19 restrictions. The Swiss Refugee Council noted that the increasing number of appeals and successful appeals show that the new system with strict deadlines risks pushing the asylum authorities to their limits. However, overall, the organisation welcomed that with the introduction of legal assistance to all asylum applicants (*see Section 4.10*), applicants had a better chance to appeal and the deadlines for decisions on an appeal are also met by the court in the majority of cases, meaning that applicants have to wait much less for a final decision.<sup>513</sup>



#### 4.5.6 Digitalising processes

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Digitalisation continued in 2020 with initiatives to improve the online communication of documents, IT case management systems and videoconference hearings.

In Belgium, the Council of Ministers approved a law proposal and a draft royal decree which aimed to adapt the working methods of CALL to the context of the COVID-19 pandemic. The amendments concern the electronic communication of procedural documents and the use of the written procedure.<sup>514</sup>

In Finland, the courts introduced a new case management system, HAIPA, which allows the authorities to submit all files and documents electronically to administrative courts and the Supreme Administrative Court.<sup>515</sup>

In France, the CNDA signed an agreement with lawyers' organisations to use video-hearings when examining an appeal of an asylum applicant. The video-hearings are to be rolled out in early 2021 in Lyon and Nancy.<sup>516</sup>

The digitalisation of communication between administrative institutions and courts was improved in Sweden, where appeal cases can be transferred digitally to the migration courts by the Swedish Migration Agency.

In addition, the Federal Administrative Court in Switzerland integrated a digitalisation programme, DigiTAF, into an overall organisational development project called eTAF. The aim is to gradually digitalise the functioning of the court, to simplify access to justice and optimise efficiency and effectiveness by 2025.<sup>517</sup>



### 4.5.7 Revising the notification of decisions

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In Estonia, an amendment to the Act on Granting International Protection to Aliens in June 2020 meant that courts may rule without the descriptive and reasoning parts when they were faced with a high number of cases on detention. These parts would be provided to the applicant if the decision of the court was contested.

In the Netherlands, the Administrative Division of the Council of State has used six different forms of motivation of its decisions, adding an explanatory sentence to some of these forms, since 1 January 2020.<sup>518</sup> As legal practitioners often found the short reasoning based on the Aliens Act, Article 91 to be unsatisfactory, the Council of State [confirmed](#) in several [judgments](#) pronounced on [15 January 2020](#) the use of a template which was developed to provide more context for the ground of a dismissal of an appeal.

Due to COVID-19 restrictions, in the Netherlands, public pronouncements of court decisions were suspended in favour of sending the judgment directly to the parties and providing an opportunity for the public to access the judgment through the Internet. By using these measures as alternatives to public pronouncement hearings, the Council of State [held](#) that the essence of the principle of public justice was respected given the exceptional circumstances but also underlined that the adjusted court practice must be temporary.

## Section 4.6 Pending cases



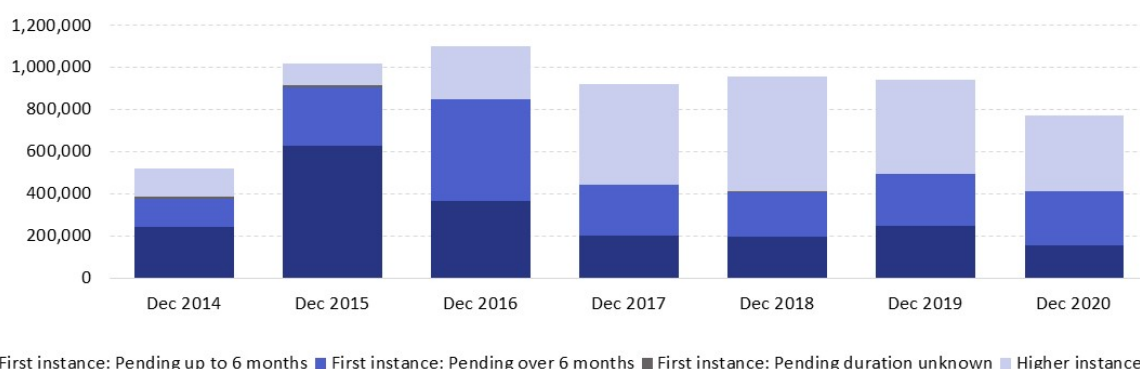
Once an application for international protection has been lodged with a national authority, the processing phase begins. The final outcome of this process is a decision at first instance, which can be followed by another decision if the decision is appealed. However, the examination of a case can be closed for other reasons, including an explicit withdrawal initiated by the applicant, an implicit withdrawal, for example in the case of no-shows/absconding, and an acceptance of responsibility by a partner country in the context of a Dublin procedure. While an application is under examination, it is part of the stock of pending cases. Pending cases are a key indicator reflecting the workload experienced by national authorities and the pressure on national asylum systems, including reception systems.

Given that there were more decisions issued than applications lodged in 2020, the stock of pending cases dropped in EU+ countries. Approximately 773,600 asylum applications were awaiting a decision at the end of 2020, representing an 18% decrease compared to 2019. Nonetheless, pending cases were still higher than in the pre-crisis level in 2014 (see Figure 4.17).

Eurostat data do not distinguish between procedural stages at which applications are pending nor the time elapsed since lodging an application. Therefore, Eurostat data are combined with EASO’s EPS data on cases pending at first instance, which can be disaggregated according to a duration of 6 months or longer. While EASO data are provisional and not validated, they are nonetheless sufficient to indicate overall trends at the EU+ level. Using Eurostat and EASO statistics together allows a deeper analysis of trends in the processing of applications. The comparison of the data highlights that at both first and higher instances the annual drop in the stock of pending cases was quite similar: the backlog was reduced by nearly one-fifth at both first and higher instances. More than one-half of the cases awaiting a decision, or over 412,600, were pending at first instance.

### The stock of pending cases reduced by almost one-fifth in EU+ countries compared to the previous year

**Figure 4.17:** Pending cases in EU+ countries at the end of each year, 2014-2020



Source: Eurostat [[migr\\_asypercentzm](#)] as of 28 April 2021 and EASO.

One-third of all cases were pending in Germany (33%). This was slightly less than in 2019, partially reflecting the fact that Germany reduced the stock of pending cases by one-fifth compared to the end of 2019 (-69,600, *see Figure 4.18*). France (-9,600 from December 2019) and Spain (-29,600) also reduced their backlogs during 2020. However, France was the only one from the three countries which – regardless of the general reduction of the backlog – had an increase of pending cases at first instance. Furthermore, a significant decrease of the general stock of pending cases – in fact, the second-largest drop among EU+ countries – took place in Greece (-43,200). Decreases were also seen in Sweden (-9,000), Austria (-5,900) and Switzerland (-4,600), among others.

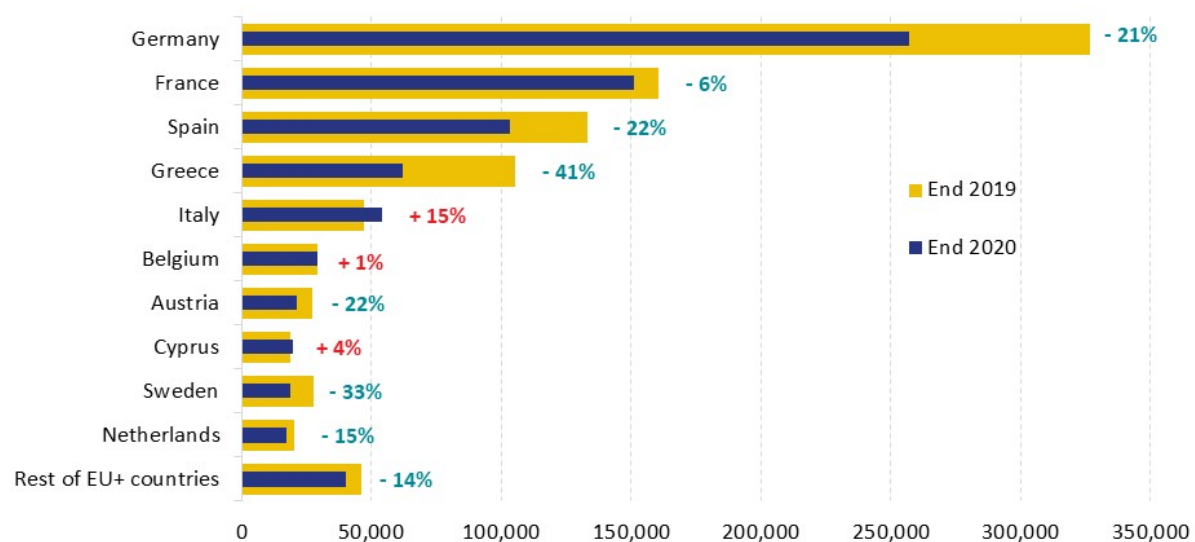
The opposite trend occurred in several countries along both the Central Mediterranean and the Eastern Mediterranean routes, as well as the Balkan route. Hence, Italy had the largest increase in pending cases during 2020 (+6,900). Increases also took place in Romania (+1,300), Bulgaria (+1,100), Malta (+900) and Cyprus (+800).

Although nationals from Afghanistan lodged fewer applications in EU+ countries in 2020, they still had the most cases awaiting a decision at the end of 2020, representing 12% of all pending cases in EU+ countries. Nevertheless, the stock of pending cases for Afghan nationals dropped by one-fifth compared to 2019 (-25,000, *see Figure 4.19*). Nationals of Syria (9% of all pending cases in EU+ countries) and Iraq (6%) also had fewer cases awaiting a decision at the end of 2020 than a year earlier (-17,300 and -17,700 respectively).

For each of the three nationalities, most cases were pending in Germany. In particular, for Syrians and Iraqis, three in five cases were pending in Germany, while for Afghans, roughly two in five cases were pending in Germany. Many Afghan cases were pending also in Greece and France (in each, approximately 20% of the total cases by Afghan nationals in EU+ countries). At the same time, Greece significantly reduced the backlog on cases for Syrian nationals (-10,500 from December 2019). As a result, one in ten Syrian cases was pending in Greece in December 2020, while in 2019 it was one in five.

### Most cases awaiting decisions were in Germany, France and Spain

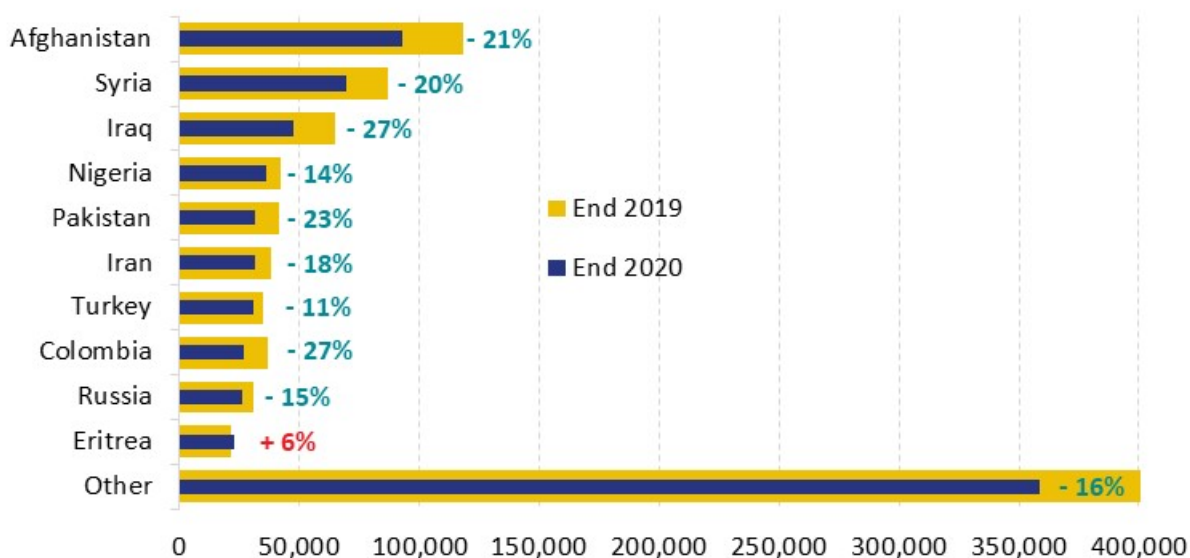
Figure 4.18: Pending cases in EU+ countries at the end of 2020 compared to the end of 2019



Source: Eurostat [[migr\\_asypentzm](#)] as of 28 April 2021.

 While the number of pending cases decreased, Afghanistan, Syria and Iraq remained the top countries of origin awaiting a decision on an asylum application

Figure 4.19: Pending cases in EU+ countries at the end of 2020 compared to the end of 2019 by Top 10 countries of origin of applicants for international protection



Source: Eurostat [[migr\\_asypercentzm](#)] as of 28 April 2021.

Other nationalities with large annual case load reductions were Venezuelan (-15,300), Colombian (-10,000), Pakistani (-9,700), Iranian (-6,700), Albanian (-6,000) and Nigerian (-5,900). In general, almost all nationalities with at least 10,000 cases pending at all instances had fewer cases pending at the end of 2020 than a year earlier. The only exception was nationals of Eritrea, who had more open cases than at the end of 2019.

# Section 4.7 Reception of applicants for international protection

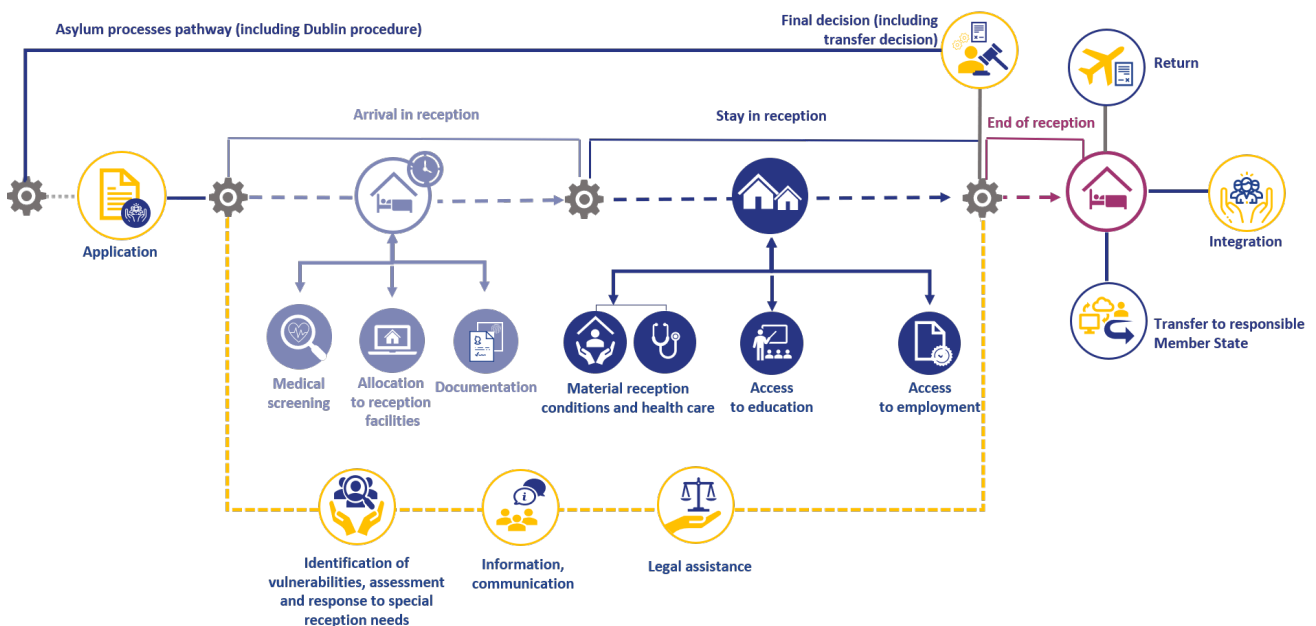


The recast Reception Conditions Directive sets the standards for the conditions which must be met during the reception phase of an asylum procedure and aims to ensure that rights and obligations are harmonised across all Member States. The reception of applicants for international protection encompasses rules on material reception conditions, financial 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 and for all types of procedures until they are allowed to remain on the territory.

The recast Reception Conditions Directive describes the conditions and processes under which applicants need to be informed about reception benefits and duties. 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 5). Furthermore, the directive lists the criteria, guarantees and conditions for the detention of applicants (see Section 4.8). The standards in the directive, however, can be imposed differently in national laws, and thus, variations exist in reception conditions across countries.



## Reception pathway



**Disclaimer:** The reception process and entitlements are intrinsically linked to the asylum procedure and pathway. The depicted three phases of reception are a simplified representation, showcasing the rights and obligations of applicants for international protection according to the EU asylum acquis. It does not necessarily cover all existing systems in EU+ countries.



## COVID-19



Policy-makers and reception facility managers had to quickly adapt the organisation and infrastructure of reception to the circumstances of the COVID-19 pandemic. Newly-arrived applicants often had to quarantine for a certain period of time or take tests. Transfers from one centre to another were typically halted during the spring, meaning for example that applicants were not able to move forward to the next phase of reception, which could potentially have a negative impact – especially for applicants with special needs who were not matched with the facility and services best suited to their profile.

Requirements for physical distancing demanded more space and re-organisation, decreasing the maximum occupancy rate of centres. Common spaces and processes need to be re-organised as well, for example the distribution of meals and financial allowances. Where the number of applicants and occupancy remained low, this challenge could be addressed more promptly. In other countries, where reception facilities were almost full even before the pandemic, the requirements for extra space put a further strain on reception authorities, management and reception staff. A few new initiatives were launched as solutions, for example by having applicants stay outside of reception centres.

In addition, the freedom of movement of applicants and the possibility to receive visitors were limited, preventing social contact in and outside of the reception centres, either due to general confinement measures or to specific measures for certain centres (*see Section 4.7*). Applicants were more likely to feel anxious and helpless, while support services were often reduced to maintain physical distancing or moved online. Staff were often present in reduced numbers due to shift work or isolation measures, adding further challenges to ensure adequate support services in a period when demand was exceptionally high. The pandemic prompted improvements to be made to strengthen the provision of health care for applicants and reinforce cooperation with health care professionals. Ensuring children's education was an overall priority, but the IT infrastructure was sometimes lacking and children could not make use of study rooms or lacked space for concentration and study.



## Digitalisation

Digitalisation has been of particular interest for reception authorities to facilitate administration, coordination, monitoring and evaluation. The rollout of reception management systems continued in 2020. These systems include a comprehensive overview of an applicant's file, including any special needs, and they allow to better assign individual applicants to the most suitable place or to plan for specific support. They also often comprise of an entry-exit system, increasing security within reception facilities. At the same time, these systems potentially raise issues of data protection and have been found to be vulnerable for data leaks. New mobile applications specifically for asylum applicants provide information on house rules and available support services (*see Section 4.9*).

The pandemic uncovered some of the issues and weaknesses with connectivity and hardware, and reception centres started to improve wifi connections and invest in more computers and laptops. This was especially important for ensuring online education. However, whenever possible, support services quickly shifted back to in-person meetings, with adapted spaces and other preventive measures, and



they are likely to remain mainly offline, as reception staff are well aware of the importance of physical presence in providing guidance, care and realistic perspectives for applicants for international protection.



In 2020, trends identified in earlier years continued, with some countries embarking on significant reforms within their reception system, including institutional re-organisation. The increased centralisation and coordination of the initial reception phase continued, and more countries moved towards the establishment of arrival centres, gathering all stakeholders of the asylum and reception process in one place.

The number of overstayers – recognised beneficiaries of international protection or former applicants – also persisted in several EU Member States, their extended stay often leading to tensions. The issue of disruptive applicants remained high on the political agenda in the Netherlands, but policy changes and case law from other countries showed that this specific challenge continued to concern other national authorities. In previous years, focus was on the rapid inclusion of applicants in employment-related training and skills assessment and development; and while this seemed to remain the main guiding principle for Member States, reduced services risked that these programmes would be less effective. Finally, some of the most worrying concerns expressed by UNHCR and civil society organisations for specific countries and situations seemed to have intensified, as this section outlines.

In its Pact on Migration and Asylum, the European Commission maintained its proposal for a new Reception Conditions Directive (*see Section 2*). However, its other proposals also impacted the area of reception. Academia and civil society organisations highlighted potential contradictions with the new Screening Regulation, as the new Reception Conditions Directive would apply only after screening has ended, but the directive itself states that material reception conditions should be provided to applicants from the moment they make an application.<sup>519</sup>



## 4.7.1 Organisation and functioning of reception systems

### 4.7.1.1 Changing institutional environments

Several pieces of legislation on new administrative bodies related to reception were adopted in 2019, with implementation beginning in 2020. For example, the new Austrian Federal Agency for Reception and Support Services (BBU, *Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH*) started its activities related to the provision of material reception conditions on 1 December 2020, while legal advice and representation, translation and interpretation services, advice and counselling on return and human rights monitoring were implemented as of 1 January 2021. Since the agency is a non-profit subsidiary company of the Federal Republic, civil society organisations expressed their concern about the independence and impartiality of the new organisation (especially regarding legal advice) already in 2019 at the time of the adoption of the new law<sup>520</sup>, and then throughout 2020, as the agency was about to become operational<sup>521</sup> (*see Section 4.10*). In Luxembourg, the National Reception Office (ONA, *Office nationale de l'accueil*) started its operations on 1 January 2020, taking over tasks from the National Reception and Integration Office (OLAI, *Office national de l'accueil et de l'intégration*).<sup>522</sup>

Some reception-related tasks in Ireland were transferred from the Minister for Justice and Equality to the Minister for Children, Equality, Disability, Integration and Youth, including the provision, withdrawal or reduction of material reception conditions, information provision, the designation of accommodation centres and the assessment of special reception needs for asylum applicants.<sup>523</sup>

The Office for Foreigners' Department of Social Assistance, the authority responsible for reception in Poland, was re-structured to now have four units instead of five. One unit now manages all reception centres.

#### 4.7.1.2 Adjusting reception capacity



Even though the overall number of asylum applications decreased in 2020, migration patterns affected Member States to various degrees throughout the year. Some Member States continued to lack reception capacity, for example, Belgium, France,<sup>524</sup> Ireland,<sup>525</sup> Luxembourg, Malta,<sup>526</sup> the Netherlands and Spain.<sup>527</sup>

Following a major increase in reception places in Belgium in 2019, the number of places slightly increased and stabilised in 2020. Fedasil reported that 15 new centres were opened throughout the year, while 3 were closed. However, the agency noted that it continued to seek additional places to increase its buffer capacity to improve the flexibility and sustainability of its reception system.<sup>528</sup>

France doubled its accommodation capacity in less than 5 years and established 107,000 places (around 99,000 places in temporary facilities) by 2020, a number which was foreseen to grow by 4,500 new places in 2021.<sup>529</sup> Still, as seen in previous years, these important efforts provided places for only around 51% of applicants, leading to issues about the quality of reception and the creation of informal camps (see hereunder).

The national authorities in Luxembourg noted a persisting issue of one-half of reception residents being overstayers, either recognised beneficiaries of international protection who should move out to more sustainable accommodation on their own or rejected former applicants.

Pressure significantly increased on the reception system in Romania in 2020. Reception places were increased from 900 to 1,100, with the opening of a new Emergency Transit Centre in Timisoara which provides temporary accommodation for beneficiaries of international protection waiting to be resettled to a third country (see Section 4.16). This freed up places in the Reception Centre for Asylum Seekers in the same city. Capacity is foreseen to be further extended by 500 places in 2021.<sup>530</sup>

The Jesuit Refugee Service (JRS) in Portugal received AMIF funding to build a reception facility in the Alentejo region.<sup>531</sup>

Some countries, such as Austria, Finland, Norway and Sweden were originally planning to close down more facilities in 2020, but due to the pandemic, they kept additional centres open to decrease the overall occupancy rate.

#### 4.7.1.3 Reorganising and adapting reception systems



Previous deliberations on re-organising reception systems and addressing weak points led to the launching of new initiatives, for example in France, Ireland, Italy, the Netherlands and Norway. Earlier efforts continued to re-shape reception in Greece, which aimed to address long-standing issues reported by UNHCR and civil society organisations,<sup>532</sup> especially after the fires that destroyed the reception camp in Moria.

The new "National plan for the reception of asylum applicants and the integration of refugees" (SNADAR) was adopted in France and planned to be implemented during 2021-2023.<sup>533</sup> The plan aims to ease the burden on the Ile-de-France region, where most of the applicants would like to stay but where reception capacity is overstretched and leaves many to sleep out of accommodations.<sup>534</sup> This

has been a persisting issue for many years, and for example, the ECtHR [found](#) in one case, where the applicants applied for asylum in 2013, that the French authorities violated the prohibition of inhuman or degrading treatment as the men were left more than 100 days without any financial or in kind support. However, in another [case](#) with facts also dating back to 2013, the ECtHR took into account the efforts of the authorities in providing the applicant family with all the necessary basic services and moving them quickly to a permanent reception structure from a temporary reception facility with tents in a parking lot. Thus, it found that there was no violation of the ECHR, Article 3, prohibition of torture and inhuman or degrading treatment, even though the conditions in general were unsatisfactory in the camp (see hereunder).

Other critical areas existed with the informal camps in northern France, for example in Lille and Calais, where potential applicants stay in hope of crossing the Channel to the United Kingdom. Police regularly evicted these sites and national authorities aim to guide applicants to formal reception facilities, but many will voluntarily return to these informal camps in order to prepare their attempt to cross the English Channel. Civil society organisations stepped in to provide support. Their activity gave rise to court cases, for example in Lille, where the court [found](#) the prefecture could prohibit the distribution of food and drinks in a certain area of the city, given that persons in need had access to an adequate amount and quality of food distributions in other parts of the city (*see Section 5*).<sup>535</sup>

Based on the findings of the report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, the reform of the reception system continued in Ireland.<sup>536</sup> In 2020, the government committed in the Programme for Government to end Direct Provision and replaced it with a new international protection accommodation policy centred on a not-for-profit approach. It also committed to publish a White Paper by the end of 2020, based on the recommendations of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, which will set out how this new system will be structured and the steps to achieving it. A White Paper to End Direct Provision and to Establish a New International Protection Support Service was published 26 February 2021.<sup>537</sup> The White Paper sets out a new model which is distinctively different from the system currently in place. The new system will be called the International Protection Support Service and will be supported by accommodation solutions provided, on a not-for-profit basis, where possible. The model is centred on a human rights approach, with key supports geared towards ensuring integration with independence.<sup>xxxv</sup> The Department of Children, Equality, Disability, Integration and Youth will lead the development of the new system, which will come into effect in a phased process between 2021 and the end of 2024. UNHCR called on the government to urgently implement key recommendations from the Advisory Group's report instead of waiting for the outcome of the White Paper process.<sup>538</sup> It especially underlined that an independent inspectorate should be established to monitor compliance with the National Standards for Accommodation Offered to People in Protection Process, which were published in 2019<sup>539</sup> and became binding on 1 January 2021.

The Italian reception system underwent again some important changes, following a previous reform just 2 years ago. The System of Protection for Beneficiaries of International Protection and Unaccompanied Foreign Minors (SIPROIMI) opened again for asylum applicants and changed its name to System for Reception and Integration (SAI). However, some differences remained in the services which were provided according to the legal status of residents: only beneficiaries of protection can

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<sup>xxxv</sup> The White Paper sets out a new model which is distinctively different from the system currently in place. The new system will be called the International Protection Support Service and will be supported by accommodation solutions provided, where possible, on a not-for-profit basis. The model is centred on a human rights approach; with key supports geared towards ensuring integration with independence.

benefit from labour orientation and professional training. The legislative amendments also allow applicants to register in the public registry, which is necessary to obtain an ID card and have access to the labour market.<sup>540</sup> The amendments follow the Constitutional Court's [ruling](#) from earlier in 2020 that declared it was unconstitutional to prohibit the registration of applicants in the public registry, noting that the measures were discriminatory, stigmatising and inconsistent with the declared objectives of the previous law. However, previous concerns about the conditions in reception centres and the lack of places persisted and were considered to be a risk for COVID-19 contagion.<sup>541</sup>

The Dutch Central Agency for the Reception of Asylum Seekers (COA) published its new multiannual strategy, which defines its measurable targets for the next 5 years. The strategy aims for more cooperation, openness and flexibility within the reception system, focusing on the development of self-reliance and resilience in asylum applicants.<sup>542</sup>

The UDI in Norway reformed its reception system, building on a number of long-term contracts which cover the basic level of capacity needs (basic reception). Additional short-term contracts may be signed to fill the gap related to fluctuations in capacity needs.<sup>543</sup> In addition, the arrival centre was reorganised to include a wider range of stakeholders, including for example the asylum authority. Applicants stay at the arrival centre for 3 weeks, where they go through the identification and registration process, health checks and the asylum interview. The UDI aims to deliver a decision within this period for at least 70% of applicants.<sup>544</sup> To support this process, the MOT system was introduced for reception administration, and it is planned to be further developed in 2021.

The Council of Ministers in Portugal adopted a resolution establishing a single system for the reception and integration of beneficiaries of international protection.<sup>545</sup> The resolution foresees the creation of a Single Operative Group to ensure coordination among the different state authorities and underlined that the provision of material reception conditions needs to be adapted to the new approach.

Following the amendments from 2019, which require adult applicants to live in an initial reception centre for a maximum of 18 months (extendable to 24 months) instead of the previously-applicable maximum of 6 months,<sup>546</sup> German reception centres started to adapt their reception infrastructure and staff numbers.

An amendment in Switzerland settled the funding of security costs of federal reception centres when they are temporarily closed. The confederation pays a lump sum for a year, even when the centre is closed.<sup>547</sup>

A project was launched in Romania, aiming to develop a monitoring and evaluation system of the reception conditions in different facilities. However, its implementation was temporarily put on hold due to the pandemic.

In Greece, the Ministry of Migration and Asylum took over the management of the accommodation component of the ESTIA II programme from UNHCR, while UNHCR continued to support the reception authorities to gradually assume the programme through a technical assistance project which is funded by the European Commission's Directorate-General for Structural Reform Support (DG REFORM).<sup>548</sup> In this framework, 67 hotel accommodation facilities were planned to be closed in Greece by the end of 2020, transferring residents to other inland structures.<sup>549</sup> However, the long-standing issues in the Reception and Identification Centres on the Greek islands persisted. The Moria reception camp in Greece was destroyed entirely by fires at the beginning of September 2020, leaving 12,362 persons, including women and children, without shelter.<sup>550</sup> The European Commission established a task force to resolve the emergency situation, involving the European Commission, EASO, Europol, Frontex, FRA and the Greek authorities and working in close cooperation with UN organisations and civil society

partners. The taskforce worked on a pilot project, together with the Greek authorities, to set up new reception facilities. The European Commission granted EUR 750,000 emergency assistance to Greece, and the country also received support through the EU's Civil Protection Mechanism.<sup>551</sup>

Unaccompanied children were transferred from Lesbos to the mainland and relocated to other EU Member States (*see Section 2*). By the end of 2020, more than 1,600 persons overall were relocated from Greece to 13 Member States and 3 associated countries, consisting of unaccompanied minors, families with children affected by serious medical conditions and families who were beneficiaries of international protection. Approximately 7,200 persons remained in temporary camps on the island.<sup>552</sup> The European Commission, EASO, Europol, Frontex, FRA and the Greek authorities signed a memorandum of understanding in December 2020 to create a new, up-to-standard reception centre on Lesbos by September 2021.<sup>553</sup> In addition, a grant agreement was signed for the construction of three new facilities on the islands of Samos, Kos and Leros.<sup>554</sup> UNHCR increased its immediate shelter support for the establishment of the temporary camp<sup>555</sup> and noted that "(t)he incidents at Moria demonstrate the long-standing need to take action to improve living conditions, alleviate overcrowding, improve security, infrastructure and access to services in all five reception centres on the Greek islands".<sup>556</sup>

The Spanish reception system is also likely to undergo major reform in the coming years. The State Secretary for Migration signed new instructions in December 2020, noting that only recognised beneficiaries of international protection can be referred to the second phase of the national reception system as of 2021.<sup>557</sup> The decision comes in response to the increasing number of arrivals from Latin America in recent years, which put pressure on the national reception system.<sup>558</sup> The growing number of sea arrivals to the Canary Islands created additional challenges to assess the mixed flows of persons who needed international protection and economic migrants who generally did not need protection.<sup>559</sup> The EU Commissioner for Home Affairs visited the island<sup>560</sup> and the European Commission announced funding of EUR 43.2 million – on top of the EUR 49.6 million allocated in 2019 – to address immediate needs, for example for shelter, food, medical care and detecting potential victims of human trafficking.<sup>561</sup>

Civil society organisations continued to report on the acute shortage of places and the difficulties of subsequent applicants to access the reception system,<sup>562</sup> especially for stateless applicants and those whose asylum application was first rejected through the fast-track border procedure implemented in Ceuta and Melilla.<sup>563</sup> Similarly to France, applicants without access to reception were typically living in informal camps which were spread across the Spanish territory, especially in and around Madrid.<sup>564</sup> However, Andalucía Acoge noted that the new system would probably decrease the autonomy of applicants as it also foresees a shift to provide material reception conditions more in kind instead of cash.<sup>565</sup>

Efforts from 2019 to enhance material reception conditions and provide more adequate reception facilities in Cyprus were slowed down due to the pandemic. The arrival centre in Pournara was converted into a closed facility for the period of confinement, and this measure was still in place at the end of 2020. Around 100 to 200 newly-arrived applicants were sheltered in tents outside the centre, as its capacities were reaching above the maximum. Vulnerable groups were moved to other accommodation units, such as hotels. However, UNHCR reported that still in June 2020 there were 47 unaccompanied minors in the camp sharing facilities with adults, and it had been alerted to incidents which could amount to sexual harassment.<sup>566</sup>

Civil society organisations raised similar concerns in Czechia, where the detention facility for women, families and vulnerable groups was transformed into a quarantine facility for new arrivals, where all new applicants for international protection needed to undergo PCR test, usually 5 days after arrival.

(see Section 4.1). The Czech Organization for Aid to Refugees and the Forum for Human Rights reported in their joint input that women, men and families were not separated within the facility and they received reports about several incidents, including one of sexual assault.<sup>567</sup> The Ministry of the Interior stated that incidents reported by NGOs were not caused by the lack of separation of men and women, as this measure was maintained, but by tensions in quarantine.

The AIDA report for Croatia presented testimonies that the self-isolation section of the reception facility in Zagreb did not provide for enough space.<sup>568</sup> The Croatian Ministry of the Interior underlined that this section was arranged based on the recommendations of the Croatian Public Health Institute and applicants were under constant medical observation. The ministry added that material reception conditions and the level of accommodation were the same in the self-isolation section as in other sections of the centre.

Italy<sup>569</sup> and Malta started using ships as quarantine facilities for persons arriving by sea for the initial quarantine period, a measure which was heavily criticised by civil society organisations<sup>570</sup> (see Section 4.1). In Italy, these facilities were later used for applicants who tested positive within a reception facility and needed to be quarantined elsewhere. Civil society organisations condemned these coercive measures, and for example, the Association for Juridical Studies on Migration (ASGI) assessed them as illegal and discriminatory.<sup>571</sup> In addition, ASGI reported that quarantine buses were used in Udine for applicants for around 20 days before other, more adequate solutions were established.<sup>572</sup>

#### 4.7.1.4 Support for the administration of reception facilities



A few Member States launched or were planning to launch IT tools to support the administration and process management of reception facilities.

The Agency for the Welfare of Asylum Seekers (AWAS) in Malta plans to improve its processes in 2021 with the introduction of an IT tool for data management in reception centres, and it strengthened the centres' administrative capacities by hiring new staff who filled previously empty posts, including several senior administrators.

AMIF funds the development of a new IT system for managing reception in Poland, while amendments to the Law on International Protection in Greece planned to develop information systems in reception structures.<sup>573</sup>

The COA in the Netherlands needed to swiftly address a serious data leak with the personal data of applicants in June 2020.<sup>574</sup>

#### 4.7.1.5 Renovation and refurbishment needs



Beyond more overarching changes, renovation and refurbishment aimed to improve the quality of reception, for example in Bulgaria and Croatia.

In Bulgaria, socio-cultural and educational spaces were developed with AMIF support at the Registration and Reception Centre in Sofia, Voenna Rampa shelter.<sup>575</sup> In addition, a new safe zone was established for unaccompanied children in Sofia, Ovcha Kupel with AMIF support and managed by the IOM.<sup>576</sup> The reception facilities in Croatia were refurbished and received various types of new equipment (ambulance, cleaning material and medical equipment) with AMIF funding.

The renovation of the reception centre's main building in Latvia was postponed to 2021 due to the pandemic.

Auditus noted that the conditions in open reception centres in Malta remained overall poor and often continued to deteriorate due to the pandemic, with run-down infrastructure, issues with access to bathrooms, limited availability of hot water and the lack of heating or air conditioning.<sup>577</sup> The Maltese authorities underlined that since March 2020 AWAS was implementing mitigating measures to prevent the spread of COVID-19 and ensured a high level of hygiene. For example, staff on the Maintenance Team was increased, centre units were created and a number of projects were launched in 2020, including the repair and maintenance of additional toilet and shower facilities, the refurbishment of the Marsa Centre and the opening of the Hangar Open Centre in Hal Far.

#### 4.7.1.6 Providing and supporting reception out of reception centres



While reception systems in the EU largely remain based on the provision of material reception conditions and support in collective reception centres, a few Member States continued or launched initiatives to encourage applicants to find accommodation on their own.

The strategy to promote living outside of reception centres continued in Poland, and applicants were reported to prefer the option of living on their own. The country had 10 centres with a capacity of 1,700 accommodation places and 3,114 persons in reception in total at the end of 2020, so almost one-half received support outside of reception facilities. Applicants living outside of reception centres can benefit from in cash support distributed by the Polish Post Services. Civil society organisations welcomed this development, since previously, applicants received the financial allowance at a reception centre or at the Office for Foreigners. However, the AIDA report for Poland noted that the date of payment became more unpredictable with this change, and when an applicant did not pick up the allowance on time from the post office, it took a long time to re-send the money, leaving the person without financial support.<sup>578</sup> The Office for Foreigners underlined the legislative framework<sup>xxxvi</sup> and the benefits of the system.<sup>xxxvii</sup> A new project on alternative accommodation which would include all reception services was under development in Lithuania with AMIF co-funding. In the meanwhile, however, residents in the Foreigners' Registration Centre were offered the possibility to reside outside of the centre but to date none had opted for this alternative. UNHCR pointed out that this was because the applicants would then be considered to have sufficient financial resources and

<sup>xxxvi</sup> In accordance with the Regulation of The Ministry of The Interior and Administration of 19 February 2016 on the amount of aid for foreigners applying for international protection, § 6.4 all cash benefits are paid by the 15th day of each month for a given month. Employees of the centers for foreigners are in constant working contact with representatives of local Post Office to determine the date of payment. This information is provided to foreigners in the form of an announcement and by phone, a helpline is also available. The general rules for making transfers via the postal operator indicate that the time for a foreigner to receive cash allowance from the date the Office sends them is 2-4 days. Unclaimed money is available at the Polish Post Office for a period of 14 days from the first unsuccessful attempt to deliver them. Additionally, each foreigner is obliged to inform the Office for Foreigners about the change of his place of stay. This must be done as quickly as possible. Otherwise, cash benefits can be sent to the previous place of stay, which is a very common reason for not receiving benefits on time.

<sup>xxxvii</sup> The main benefits of starting a system of postal money transfer of the monthly allowance to asylum seekers are: the possibility of receiving benefits at any time of the day, considering the working hours of post offices, direct delivery at the place of residence of our beneficiaries, the possibility for the head of the family to collect benefits intended for the whole family. The system does not interfere with the obligations of foreigners who have taken up employment and facilitates the process for persons with mobility impairments.

not receive support for accommodation, food and clothing. Applicants in Latvia may also opt to use their own accommodation, and this was largely opted for by Belarusian and Russian applicants in 2020.

In Belgium, more than 1,000 asylum seekers chose to stay with limited financial support with their relatives, when they previously were housed in the reception network. In Bulgaria, specific accommodation support was provided to asylum applicants who lost employment and shelter due to the pandemic.

The Council of Ministers in Cyprus decided that applicants for international protection staying in hotel units and other accommodation outside of reception centres will continue to receive an accommodation allowance. Financial support is also provided to applicants for finding their own accommodation. Vulnerable applicants and families with children can use this financial support, even if authorities have already accommodated them in hotel units and other accommodation outside of reception centres as long as the stay has not exceeded 3 months.<sup>579</sup>

Applicants are typically accommodated in reception centres in Sweden, but some of them may decide to live outside on their own. To avoid their concentration in certain areas, the so-called EBO rules entered into force on 1 July 2020, according to which applicants are not entitled to a daily allowance if they choose to reside in specific areas with high rates of immigrants and socio-economic challenges (32 municipalities listed in 2020, revised to 23 municipalities as of 1 January 2021).<sup>580</sup>

The planned new Irish reception model (*see Section 4.7.1.3*) foresees that applicants are accommodated in reception centres only for a short, 4-month period, after which they would move to accommodation within the community.<sup>581</sup>

#### 4.7.1.7 Entitlement to material reception conditions



Developments in 2020 pointed towards more restricted access to material reception conditions, either in their time limit and review, such as in Malta and Greece, or for a certain group of applicants, as in Belgium and the Netherlands. Courts were frequently faced with cases to decide on access to material reception conditions in general or on obtaining certain forms of material reception conditions.

AWAS in Malta reduced the length of contracts signed with male adult applicants for their accommodation from 1 year to 6 months, due to increased arrivals by boat since 2018. When accommodation is potentially not prolonged, AWAS reviews the specific cases with the Social Work Unit and the Psychological Support Unit to determine whether services should be extended due to the applicant's special needs or vulnerability. Aditus observed that applicants are often requested to leave before their asylum application is concluded, applicants have difficulties in securing housing and employment with temporary documents and the financial allowance was not sufficient to find a decent place to live.<sup>582</sup>

A new law in Greece stipulates that reception support in cash and in kind is terminated immediately when a person is recognised as a beneficiary of international protection and recognised residents have to leave the accommodation within 30 days.<sup>583</sup> This entailed modifications of some related ministerial decisions, for example, on the accommodation scheme called ESTIA II programme, which is carried out in cooperation with UNHCR.<sup>584</sup> Many civil society organisations noted that 30 days are not enough for newly-recognised beneficiaries to make the transition to live on their own and placed them at high risk of becoming homeless.<sup>585</sup> UNHCR found that this very short period did not allow for enough preparation to exit the reception system and make the transition to everyday life, for example, to find accommodation or employment.<sup>586</sup>



The Minister of Asylum and Migration in Belgium announced new measures at the beginning of 2020, aiming to fight against the abuse of the asylum system. After an individual assessment, Fedasil could decide not to allocate a reception place for people already benefitting from international protection in another EU Member State and for Dublin applicants who absconded and re-applied for reception after 6 months. These applicants retained the right to medical care and were provided with the necessary information on their asylum procedure and reception rights. The Council of State issued its [opinion](#) on the initiative in June 2020 and noted – referring to the CJEU judgment in [Jawo](#) – that the automatic exclusion from material reception conditions and the general refusal of reception for these groups of applicants were not permitted. In parallel, several civil society organisations launched an appeal in front of the Council of State to annul the measures.<sup>587</sup> Finally, Fedasil withdrew this policy in September 2020, as the new Belgian government was about to be sworn in and replaced it with a new instruction on the Dublin trajectory. The instruction clarified the role of Fedasil and the Immigration Office in the provision of information, counselling and reception conditions, including the allocation to a Dublin reception place within Fedasil’s reception network.

Following up on the initiative from the State Secretary for Justice and Security,<sup>588</sup> the COA in the Netherlands started to accommodate at a separate location in Budel applicants from safe countries of origin and those who had already obtained international protection in another Member State. Applicants receive only basic material reception conditions in kind, and stricter reporting obligation apply to them as they need to report daily and each time they leave or return. The location has extra security personnel. Vulnerable applicants cannot be accommodated at this location.<sup>589</sup>

The Irish International Protection Accommodation Services (IPAS) implemented a policy in respect of COVID-19 prevention which placed certain restrictions on residents staying away from their assigned accommodation overnight during periods where broader government restrictions on travel and social engagement were in place. Under this policy measures are tightened and relaxed as required in keeping with wider government efforts to control the spread of virus and in line with public health advice, with the goal of protecting all residents in IPAS centres from the worst effects of the virus. The IPAS has also created an IPAS Living with COVID Plan<sup>590</sup> for residents which explains how different levels of government restrictions may affect them. This plan has been in place since summer 2020 and is available online and advertised to all residents through the IPAS residents newsletter. Still, the Irish Refugee Council found that this policy was not communicated in a proper manner and many applicants were not aware of it. Applicants had to formally request accommodation again, and some had to wait several days without a place to stay before their accommodation was restored.<sup>591</sup>

The Hungarian Helsinki Committee pointed out the impact of the new asylum legislation (*see Section 4.1*) on an applicant’s entitlement to material reception conditions. Applicants were assumed to have sufficient subsistence means and were not offered reception when they arrived with a visa, from a visa-free country or already had a residence permit at the time of application.<sup>592</sup>

The AIDA report for Poland noted that applicants received a declaration to apply for asylum when they could not lodge an application due to the pandemic restrictions, but this document did not entitle them to health care or other reception support.<sup>593</sup> The Polish Border Guard underlined that the limitations on lodging an application were in place between 26 March and 10 May 2020 and were related to persons who had their own place of residence and thus were not in immediate need to receive health care and reception support. The authority explained that the objective of these restrictions was to minimise movements on the territory in line with the general rules applicable to all citizens. COVID-19 measures caused delays in accessing reception also for example in Romania.<sup>594</sup> NGOs stepped in to fill in the gap.<sup>595</sup> In 2020, the Ombudsperson visited the reception facility in Galati and recommended the employment of more staff in the centre, including medical staff.<sup>596</sup> The centre took note and replied to the recommendations.<sup>597</sup> In 2020 the Polish Commissioner for Children’s

Rights started to control reception conditions for children. As a result, on 17 March 2021 a post-inspection letter was submitted to the Office for Foreigners, in which the Commissioner for the Children's Rights positively assessed all the activities carried out by the Office for Foreigners.

Courts were called upon several times to assess the entitlement of applicants to material reception conditions and deliberate on the start and end of reception. The first instance tribunal in Brussels **ruled** that the online appointment system established for the registration of applications was against national law and the recast Reception Conditions Directive, as it found that applicants became entitled to reception at the moment they registered for their appointment and were without support until they could register (*see Section 4.1*).

In Czechia, the Supreme Administrative Court **issued** urgent interim measures and required the Ministry of the Interior to continue providing reception for a family with three children from Kirgizstan in view of the exceptional circumstances due to the pandemic, even though their asylum application was rejected with a final decision and they would have not been entitled for support any longer. Similarly, in Italy the court **ordered** interim measures and suspended the implementation of a decision which revoked an applicant's accommodation in a reception centre during the first wave of the COVID-19 pandemic. The court held that the situation would put the applicant in serious risk of infection and could lead to potential risks for the community as well.

In another case, the Court of Appeal in Rome **found** that the prefecture and the police violated the applicant's rights when they automatically rejected his attempts to submit a subsequent application and prevented him from access to reception, forcing him to live on the streets. In another **case**, the Administrative Tribunal of Molise noted that, following the CJEU judgment in **Haqbin**, articles of a legislative decree should be disapplied, which allowed for the full withdrawal of material reception conditions when an applicant seriously or repeatedly breached the facility's rules.

The Swedish Supreme Administrative Court **delivered** a judgment on the entitlement to reception of a person who was granted a residence permit for the purpose of secondary-level studies but was not recognised as a beneficiary of international protection, thus, was not assigned a place in a municipality. The court decided that he remained entitled to reception and remained covered by the Law on Reception of Asylum Seekers and Others. The uncertainty arose from the fact that in 2016 Sweden adopted a Temporary Law that noted that the Residence Act, which governs the redistribution of recognised beneficiaries of international protection to municipalities, does not apply to persons who were granted residence permit for secondary studies. This group mainly concerns unaccompanied minors who did not qualify for international protection but received a right to stay based on their studies. The judgment clarified that they continued to have the right to reception.

The form of providing adequate reception was considered in France and in the Netherlands. In France, the Council of State **rejected** the appeal of an Algerian family with two children who were offered material reception conditions without accommodation, and underlined that the refusal to offer accommodation is not a serious or manifest violation of the right to asylum in the light of the serious saturation of the reception system and the fact that the applicants could not established that they should be treated in priority due to their medical or psychological situation. In a similar case, it **rejected** the applicant family's request for accommodation and financial allowance, noting that they have already been cared for in an emergency accommodation and their situation was not an emergency case which required immediate intervention by the judge.

The Dutch Council of State delivered a **judgment** on the form of material reception conditions and underlined that the national reception authority is obliged to provide an adequate standard of living throughout the whole reception period, but it is not obliged to provide a certain form of reception

and the modalities of reception should also not be impacted by the length of the process. The case concerned applicants who went through a much longer rest and preparation period in 2015 – which usually takes only a few days – and continued to receive exclusively in kind support, instead of a mix of in kind and in cash support which is provided in the next reception phase. Another case was dismissed by the court as well when applicants complained that their planned transfer to another reception facility and the infrastructure of the facility itself was not compliant with COVID-19 regulations. The judge found that this type of reception facility (AZC, *asielzoekerscentrum*) did not fall under the emergency rules.<sup>598</sup>

The European Network on Statelessness reported on a case from Czechia, where the court underlined that not admitting a stateless applicant to the reception facility is unlawful.<sup>599</sup> Finally, related to appealing a decision on the entitlement to reception, the Administrative Court in Finland **found** that the notification of the reception centre's deputy director to end reception services was not an administrative act which could be separately appealed.



## 4.7.2 Applicants' daily life

### 4.7.2.1 House rules and measures for disruptive applicants

In a few Member States, such as Austria and Czechia, reception facilities updated their house rules to include some measures related to the pandemic. In Czechia, the objective of these changes was to align the house rules with national pandemic measures.

As in previous years,<sup>600</sup> the Netherlands continued with measures to address the issue of disruptive or criminal applicants. Following a serious incident, applicants in reception may now be placed temporarily in time-out, a separate, sober place within a reception facility where applicants would only be entitled to material reception conditions in kind, not in cash.<sup>601</sup> In addition, the State Secretary for Justice and Security presented a toolbox on dealing locally with disruptive or criminal applicants.<sup>602</sup> The toolbox presents 70 measures which provide support in different areas: general measures and measures within reception, for public transport, for shopping areas and for residential areas.<sup>603</sup>

The Swiss National Commission for the Prevention of Torture recommended the establishment of a complaints management system that applicants can easily trigger. The commission also saw the need to improve the training of security personnel in reception centres. The organisation received reports of several incidents when security personnel used excessive force or implemented disproportionate measures.<sup>604</sup>

The Vilnius Regional Administrative Court **deliberated** on the case of a Russian applicant who repeatedly breached the rules of the reception centre, and the State Border Guard Service requested his detention. The court assessed that the applicant's behaviour – alcohol consumption, refusing to wear a protective mask and not complying with the COVID-19 health requirements – does not pose a threat to public order or national security and, thus, found that the grounds for detention were not established.

Legislative amendments from 2018<sup>605</sup> entered into force in Switzerland, setting the legal framework for the modalities and limits of video surveillance in federal asylum centres.<sup>606</sup> Also in Switzerland, the Federal Administrative Court **held** that assigning an applicant to a special reception centre for disruptive applicants does not amount to a deprivation of liberty, as applicants have a certain degree of freedom of movement and can leave the centre under certain conditions. This special centre in Les Verrières was temporarily closed in September 2019 but reopened again in February 2021.<sup>607</sup>

#### 4.7.2.2 Freedom of movement



Courts deliberated on several occasions in cases related to the freedom of movement of applicants, and civil society organisations voiced their concerns more actively than in 2019.

The Spanish Supreme Court assessed the legality of restricting the freedom of movement of applicants in one [case](#) in Ceuta and in another [case](#) in Melilla. The court underlined that applicants have the right to freedom of movement throughout the whole territory of Spain, and they can freely establish their residence in the country, with the obligation to communicate this to the authorities. Still, Fundación Cepaim observed that authorities continued to issue documents to applicants mentioning that they were only valid in Ceuta or Melilla.<sup>608</sup> UNHCR and the IOM requested the authorities to urgently adopt measures responding to the concerning situation of applicants in Melilla, where the Centre for Temporary Stay of Immigrants (CETI) was hosting twice its intended capacity, making social distancing impossible.<sup>609</sup> The Council of Europe's Commissioner for Human Rights stated that the conditions were sub-standard, and even worse for persons placed in quarantine, and underlined that transfers to the mainland should be extended.<sup>610</sup>

The Supreme Administrative Court in Slovenia [pronounced](#) on a case where limitations were imposed on the applicant's freedom of movement and he could not leave the detention centre, as the national authority deemed he only lodged an asylum application to delay his removal. The court confirmed the lower court's factual findings that the requirements for imposing such a measure were not met and dismissed the Ministry of the Interior's appeal for an extraordinary remedy. In another case, the court assessed the consequences when the applicant left the reception centre for more than 3 days (period within which the reception place is still maintained) without explanation. The court [concluded](#) that the applicant's behaviour suggested that he had no interest in waiting for a court decision and the administrative court acted in a legal manner when it rejected the case, even though the law does not foresee this specific circumstance for rejection in an explicit manner. The Supreme Administrative Court underlined that applicants also have obligations, such as being available to the national authorities and replying to their communication.

Civil society organisations in Greece noted that entire reception facilities remained in lockdown, even though there were no COVID-19 cases and measures were eased in the country in general.<sup>611</sup>

#### 4.7.2.3 Employment



While employment-related developments are often at the forefront of legislative and policy changes, in 2020 relatively few changes happened. Several Member States, however, reported on the adverse effects of the pandemic on employment for applicants.

Among the more significant changes, the Irish government announced its intention at the end of 2020 to reduce the waiting period for asylum applicants from 9 months to 6 months to apply for a work permit. The permission's validity was to be extended from 6 months to 12 months.<sup>612</sup> The new measures were introduced in January 2021.<sup>613</sup>

The Secretary of State for Migration in Spain issued new instructions allowing unaccompanied minors between 16 and 18 years to work (*see Section 5*).<sup>614</sup>

In order to fill gaps in labour market shortages caused by the pandemic, applicants in Belgium were exceptionally exempted from the 4-month waiting period until 30 June 2020. The measures applied to applicants who registered an application before 18 March 2020. Applicants also needed to ensure that they could obtain accommodation with the employer in order to limit commuting to work.<sup>615</sup> In view of the continuing shortage of workers in some sectors due to the closing of the borders, this measure was resumed from December 2020 until 30 June 2021. The condition is, however, that the application for international protection is registered on 8 December 2020 at the latest. And as before, this derogation can only be used if the employer takes responsibility for the accommodation of the asylum seeker.<sup>616</sup>

Similarly, in Finland, the legislation governing an asylum applicant's right to work was temporarily amended on 29 June 2020 in order to facilitate access to seasonal jobs, such as berry-picking, which are typically done by migrant workers from EU countries. The act was in force until 31 October 2020. Reception centres in the country continued conducting skills assessments for asylum applicants to collect information on previous work experience, education and interests, and then organised some matching activities in reception centres and mostly helped applicants to seek these activities outside of reception centres

A report from the National Assembly in France made recommendations to promote access to the labour market and training for applicants for international protection, as it found that currently there were no specific measures to encourage applicants to search for employment.<sup>617</sup> Administrative burdens, such as the requirement to obtain a tax registration number, kept hindering applicants in Greece to have legal access to the labour market.<sup>618</sup> In Spain, the long administrative delays in receiving and renewing the necessary documents were mentioned as an obstacle for employment in particular and for accessing services in general.<sup>619</sup> The Labour Department in Cyprus encouraged applicants seeking employment to use their online system to obtain job referrals, but the Cyprus Refugee Council observed many barriers, including unfamiliarity with the system and language difficulties.<sup>620</sup> In Croatia, civil society organisations reported that, even though applicants are offered information at the beginning of the procedure, they became entitled to the right to work 9 months after lodging an application – when no first instance decision was issued – and this right ended when the decision on their application became final.<sup>621</sup>

The Austrian Supreme Administrative Court **held** that the recast Reception Conditions Directive, Article 15 on an applicant's employment provides for an effective access to the labour market, but this does not mean that all professional fields would be open without any restrictions. In the case at hand, it found that the decision to refuse access to the labour market was lawful, as the applicant requested access after a first negative decision was issued on his application for international protection.

In Ireland, the court ruled that the current regulations block applicants from obtaining a driver's license as they need to provide a full or permanent residence. The case concerned a female applicant who tried to obtain a driver's licence to be able to get to work from a remote reception facility.<sup>622</sup>

#### 4.7.2.4 Education and orientation



Ensuring the continuity of children's education has been a priority in all Member States. To facilitate distance learning, several countries launched projects to improve Internet access and the quality of wifi in reception facilities, for example in Belgium, Lithuania and Poland (with AMIF funding). The Spanish Ministry of Inclusion provided a subsidy to authorised NGOs to cover increased connectivity costs in reception centres.

Meanwhile, the European Trade Union Committee for Education (ETUCE) expressed its concern about the impact of the COVID-19 pandemic on refugee children's fundamental right to education.<sup>623</sup> UNHCR continued its campaign on education and published its report, "Coming together for refugee education", showing some inspirational examples of overcoming the challenges in refugee children's education post-pandemic.<sup>624</sup>

In Austria, social workers within federal care facilities helped students and their parents to be informed about changing rules on education and provided them support with education.

Fedasil in Belgium reported in the beginning of the pandemic that more laptops or suitable study corners with IT facilities were necessary to enable children to follow classes online and complete their homework. Leisure activities and recreational facilities keeping children occupied were also more in demand. Forum réfugiés-Cosi observed that applicant children in reception centres in France also had frequent issues in following online classes, and some missed out on education during the first lockdown phase.<sup>625</sup>

The AIDA report for Spain reported that several unaccompanied children were not able to access education on the Canary Islands while waiting to undergo an age assessment procedure.<sup>626</sup>

The State Agency for Refugees in Bulgaria prepared the framework for distance learning for children accommodated in the agency's facilities. Social workers in the facilities provided daily assistance to register and use the educational platforms. Children and educators also exchanged information through mobile applications and e-mail. When issues arose for distance learning, teachers contacted children by telephone to follow and set tasks. Activities also continued in the summer in small groups, providing classes in the Bulgarian language and literature, mathematics and a mixed module of natural sciences. The Red Cross purchased laptops with AMIF funding to support the transition.<sup>627</sup>

Are you Syrious noted that preparatory classes to learn Croatian were no longer organised due to the COVID-19 pandemic and children were expected to follow the mainstream curriculum broadcasted on television without language support.<sup>628</sup> However, the Red Cross provided support to the Croatian Ministry of the Interior to ensure that children in reception centres received support in learning the language and were able to follow online schooling and continue with their education in line with their Croatian peers.

The UDI in Norway provided special guidelines to all reception centres on preparing for education. One-year-old children in reception centres were included in the financing scheme of free, full-time care in kindergarten. Municipalities remain in charge to decide on offering this coverage, depending on their resources. So far, approximately 60%-70% of all children in the target group benefit from this service. In addition, extensive support was offered to families and children in reception centres in Finland through the method "Let's Talk about Children", which was introduced in 2019 and rolled out throughout 2020.<sup>629</sup>

Concerns persisted and deepened in Greece, where access to formal education continued to be limited, especially on the islands.<sup>630</sup>

Save the Children noted that applicant children often needed to move and change schools in Sweden, as reception centres were closing down due to decreased arrivals.<sup>631</sup>

At the same time, adult learning came under pressure. Language courses were paused, for example in Czechia, before they were partially resumed in the middle of 2020 or were substituted by online courses. The availability of courses substantially shrank in the Netherlands and Portugal due to smaller

class numbers as a result of social distancing rules. Study groups and clubs were also reduced in Finland.

Poland used this occasion to prepare a project with AMIF funding to improve remote education classes which were on offer.<sup>xxxviii</sup>

Among the more general developments, a new governmental project is planned to be implemented in Sweden in 2021, obliging applicants to attend a 1-day information session about the host society. The programme has existed for several years, but it was implemented as a voluntary 2- to 3-hour session.

The Community Centres and the Immigrant Integration Centres in the Greek Attica Region will employ intercultural mediators to facilitate communication between applicants and government agencies and support organisations.<sup>632</sup>

The COA in the Netherlands and the National Council on Swimming Safety signed the National Action Plan of Swimming Security for Asylum Seekers to ensure that they can learn basic swimming skills. Applicants were found to be more at risk of drowning and several tragedies had happened in recent years, so the plan aimed to address this occurrence.<sup>633</sup>

#### 4.7.2.5 Health



Facilitating access to health care and cooperation among reception authorities and health care stakeholders jumped to the top of priorities in reception in 2020.

A new health care project was set up in Croatia with AMIF funding, in cooperation with Médecins du Monde, to tackle the needs of applicants who have been in transit in Bosnia and Herzegovina and who suffer from chronic illnesses or are disabled. The national authorities in Croatia concluded standard operating procedures on sexual and gender-based violence with UNHCR and national NGOs towards the end of 2020, aiming to start implementation as soon as possible. Médecins sans Frontières in Belgium provided psychological support for applicants after the earthquakes.<sup>634</sup>

In Greece, the National Organisation of Public Health launched a vaccination campaign with 3,000 doses of measles-mumps (MMR) vaccine at the Reception and Identification Centre in Moria, Lesbos. Similar vaccination campaigns were planned in Leros and Kos. Vaccinations were foreseen in 14 accommodation centres on mainland Greece for more than 4,000 children.<sup>635</sup> In addition, to facilitate access to health care, the Ministry of Migration and Asylum announced that all asylum applicants were to be issued temporary insurance and a health number. Nonetheless, the Network for Children's Rights observed that practical issues to access medical care persisted.<sup>636</sup> A Memorandum of Cooperation was signed between the Ministry of Migration and Asylum and the Hellenic Red Cross for support with the provision of material reception conditions, including health services and psychological support.

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<sup>xxxviii</sup> The employees of the centres for foreigners remain in contact with schools, inform parents about the change of the form of teaching to traditional or remote education and encourage foreigners to study remotely according to the guidelines received from schools. They mobilize both students and their parents to fulfil compulsory education. Foreigners were provided with information on how to use educational platforms. Moreover, the Office for Foreigners reacts to difficulties related to the education of minor foreigners and introduced wifi access to the Internet in all centres as well.

The Cyprus Refugee Council observed that administrative requirements had been improved, as the Ministry of Health ensures access to health care for all applicants, without requiring a welfare dependency report proving the lack of sufficient means.<sup>637</sup>

The new, general medical screening protocol in Finland – developed through the AMIF-funded TERTTU project – was launched and started to be implemented in 2020.

The General Directorate for Foreigners in France launched a telephone support centre for employees of the local orientation platforms (SPADA) and reception centres.<sup>638</sup> The pandemic contributed to strengthening the ties between reception facilities and regional health agencies. In short term, this was beneficial to contain the spread of COVID-19, while in the long term, these partnerships aim to improve health care orientation and facilitate access to health care in general.

A tender was launched for new medical services for applicants in Latvia, while in Malta, a new medical centre opened in the Hal Far reception facility to better contain the pandemic.

#### 4.7.2.6 Financial support



A few countries provided extra financial support to compensate for some of the negative effects of the pandemic on applicants' livelihood. For example, Iceland paid an additional fixed amount subsistence allowance to applicants for international protection in December 2020. Applicants living in reception centres in Ireland were at first not entitled to the Pandemic Unemployment Payment, and this allowance was extended to them only in August 2020<sup>639</sup> thanks to the continued advocacy efforts of civil society organisations.<sup>640</sup> The re-admission of residents in direct provision to the Pandemic Unemployment Payment Scheme was strongly supported by the Irish IPAS and the Minister for Justice at the time. In Italy, the income and family support measures provided for in the "Cura Italia" Decree, including a EUR 600 allowance, babysitting allowance and COVID-19 special leave, were also accessible to employed applicants. UNHCR observed that some measures were introduced also in Spain to facilitate access to financial support, for example, by increasing the limits of cash-based support.

A ministerial decision in Cyprus provided an allowance for food, clothing and footwear for all applicants, which was transferred directly to applicants' accounts. Previously, applicants received food vouchers which they could use in selected shops.<sup>641</sup>

The Supreme Administrative Court in Poland ruled that excluding asylum applicants by using a regulation from governmental support programmes for citizens in general was against the constitution and that the law does not preclude asylum applicants to receive social benefits from different public sources. The Association for Legal Intervention sent a complaint to the European Commission noting that the financial allowance did not ensure the basic living needs of applicants who were residing outside of the reception centre.<sup>642</sup> The Office for Foreigners noted that this element is monitored by the employees of the Office for Foreigners and applicants are informed that they can return to the centre for foreigners.

In France, criticism continued against the payment card, which was introduced in 2019 for applicants and which limits the use of financial allowance.<sup>643</sup> However, the authorities noted that financial allowances were more widely used in general since the launching of the payment card. During the first lockdown, the asylum seeker's allowance (ADA) was extended for persons who would no longer be eligible as of March 2020. This extension of rights ended either on 31 May 2020 or on 30 June 2020 (for newly-recognised beneficiaries of international protection).



The civil society organisation Mobile Info Team saw substantial delays in the payment of cash assistance in mainland Greece due to administrative delays which establish eligibility and occur prior to enrol in the programme and underlined that a ministerial decision in June 2020 reduced the amount of cash assistance for some household sizes of applicants in reception facilities.<sup>644</sup> UNHCR clarified that cash assistance was provided on time throughout 2020, and only a few applicants experienced delays which were rather linked to initial administrative issues which affect the programme.

The AIDA report for the Netherlands found that the COA considered that applicants who had received penalty payments from the IND for delays in their asylum application had sufficient resources (*see Section 4.4*). As the COA decided to implement this approach after the applicants had received the payments, the money had often been spent already.<sup>645</sup>

## Section 4.8 Detention during the asylum procedure



Detention is defined as the confinement of an applicant for international protection by a Member State, where the applicant is deprived of the freedom of movement. The detention of asylum seekers is governed by specific provisions of EU law, namely by the recast Reception Conditions Directive, recast Asylum Procedure Directive and the Dublin III Regulation. They include an exhaustive list of grounds under which applicants can be detained during the asylum procedure, detailed procedural safeguards (e.g. regarding the length of detention and judicial review) and conditions of detention, including for vulnerable applicants.

The recast Reception Conditions Directive, Article 8 foresees a list of six grounds that may justify the detention of asylum applicants:

- ➔ To determine the identity or nationality of the person;
- ➔ To determine the elements of the asylum application that could not be obtained in the absence of detention (in particular, if there is a risk of absconding);
- ➔ To decide, in the context of a procedure, on the asylum seeker's right to enter the territory;
- ➔ In the framework of a return procedure, when the Member State concerned can substantiate with objective criteria that there are reasonable grounds to believe that the person tried to delay or frustrate a return by introducing an asylum application;
- ➔ For the protection of national security or public order; and
- ➔ In the determination of the Member State responsible for an asylum application under the Dublin III Regulation when there is a significant risk of absconding.

The recast Asylum Procedures Directive, Article 26 refers back to the grounds and the procedure outlined in the recast Reception Conditions Directive.

The Return Directive establishes common rules concerning detention as a last resort in order to prepare the return of a rejected applicant or carry out a removal process.

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;
- ➔ *Pending the examination of a claim for international protection*, based on grounds set out in the EU *acquis*, for example in order to determine or verify the applicant's identity or nationality, decide on the applicant's right to enter the territory or organise a transfer to another Member States under the Dublin procedure; or
- ➔ *Upon completion of the asylum procedure*, when a former applicant is detained pending a return.

Member States must ensure that the rules concerning alternatives to detention are defined in national law.

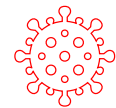
International human rights law supplements the legal framework in countries by setting additional constraints and safeguards during detention. Accordingly, international human rights bodies at the regional and international levels, for example the [ECHR](#), [CPT](#), [UN Human Rights Committee](#) and the UN Committee against Torture ([CAT](#)), remain guardians of detention practices against any arbitrary revision of international and European standards.



## COVID-19

General emergency measures and public health restrictions affected the situation of asylum seekers in detention, in particular with delays in procedures and time in detention as a result of postponed returns. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued a statement of principles which underlined that measures should not result in inhuman or degrading treatment of persons deprived of their liberty in the context of the COVID-19 pandemic. As a result of new health protocols, preventative measures were put in place in detention and services were reorganised or temporarily discontinued.

In the majority of EU+ countries, detention centres became less occupied due to COVID-19 restrictions as the removal of rejected applicants was suspended and third-country nationals were released.



## Digitalisation

No developments were reported on the digitalisation of procedures in detention by EU+ countries.



In 2020, some EU+ countries amended their legislation regarding detention in the context of mass arrivals of third-country nationals and return procedures. The main challenges continued to be recourse to detention, conditions in detention and the placement of minors in detention, while alternatives remained limited. During the year, courts analysed detention policies and practices interpreting the law in practice and setting standards.

The new proposal for the Pact on Migration and Asylum builds on the provisional agreement between the European Parliament and the European Council. Detention provisions are further endorsed in the return crisis management procedure,<sup>646</sup> asylum border procedure and the new border procedure for carrying out the return of a rejected asylum applicant.<sup>647, 648</sup> The European Parliament recently noted<sup>649</sup> that the proposal to recast the Return Directive would bring a major change to the detention of returnees by compounding the grounds for detaining a person subject to a return procedure. The directive would include a non-exhaustive list of grounds for detention and introduce new grounds for detention unrelated to the return procedure and linked to national or public security concerns. The proposal also calls for some Member States to prolong the detention period established in national law, from a maximum detention period of 3 to 6 months. It would further limit the automatic suspensive effect of the enforcement of return decisions. Civil society organisations and academia

have voiced their concerns on expanding detention practices for longer periods and with fewer safeguards, while criticising the provisions on the detention of minors.<sup>650</sup>



#### 4.8.1 Recourse to detention

Legislative amendments to immigration detention were introduced in many EU+ countries, particularly in relation to a mass influx of third-country nationals and pre-removal restrictions.

Estonia amended the Act on Granting International Protection to Aliens and the Act on the Obligation to Leave and Prohibition on Entry, transposing the Return Directive, Article 18 which allows Member States to review the requirements for detaining a third-country national during a mass influx of migrants. The PBGB or the Estonian Internal Security Service may detain an applicant for international protection for up to 48 hours without the permission of an administrative court. After this period, the authority must apply to an administrative court for permission to detain an applicant up to 7 days in the exceptional situation of mass immigration if it is not possible to begin the assessment of the case. In this context, a new surveillance measure was adopted regarding 'appearance for counselling'.<sup>xxxix</sup> The Estonian Centre for Human Rights and the Estonian Refugee Council issued an Opinion against the extensive use of detention, which should be applied only as last resort.<sup>651</sup>

Germany also introduced changes to legislation which allow 'preventive' detention in preparation for a deportation.<sup>652</sup> Similarly, Law No 4636/2019 was amended by Law No 4686/2020<sup>653</sup> in Greece to give the responsibility to the police director to issue a detention order without needing a recommendation from the Asylum Service. A judicial review is only undertaken for a prolongation of the detention order but not for the initial order. In addition, the time limits were extended from 45 days to 50 days for the maximum initial detention period, and from 3 months to 18 months for the total maximum detention period. Despite the recent abolition of protective custody (Law No 4760/2020, Article 43), children still remain under protective custody (i.e. detention) according to reports from METAdrasi<sup>654</sup> and HumanRights360.<sup>655</sup>

The new law in Greece also clarified the concept of 'closed controlled island structures' ("KEDN") as multifunctional centres envisaged for the temporary reception and accommodation of third-country nationals or stateless persons who have applied for international protection, who are in the process of return or whose removal has been postponed. In separate areas within these structures, Reception and Identification Centres (RIC/K.Y.T.), Closed Temporary Reception Structures and Pre-Departure Detention Centres for Foreigners (PRO.KE.K.A.) may operate, in addition to separate areas for vulnerable groups. The general supervision of the operations of the closed controlled island structure is under the responsibility of the Commander of the Reception and Identification Centre (K.Y.T.) that operates within it.<sup>656</sup>

The United Nations Working Group on Arbitrary Detention noted that "the new provisions appear to introduce more restrictive procedures that may compromise the general legal principle that the detention of asylum seekers is exceptional".<sup>657</sup> Along the same lines, Amnesty International stated

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<sup>xxxix</sup>The measure is addressed to persons who are under an obligation to leave who are not placed in a detention centre or who are exempt from detention. It concerns the provision of social or psychological counselling by the PBGB. If a person does not participate in the counselling without a good reason, the PBGB may consider this as a violation of surveillance measures.

that the detrimental reforms in asylum-related detention and arbitrary detention in the context of the temporary suspension of asylum in Greece featured more restrictive provisions in detention compared to previous legislation,<sup>658</sup> which was also echoed by more than 20 NGOs.<sup>659, xl</sup> The Greek Council for refugees noted that maximum time limits for the detention of asylum seekers have been significantly increased (up to a total of 36 months, with 18 months maximum for the detention of an asylum seeker and 18 months of detention in view of a return), but no alternatives to detention were examined or applied by the Greek Authorities.<sup>660</sup> Further, RSAegean raised concern on the administrative practice in the island of Kos, where newly-arrived third-country nationals are sent directly to the pre-removal detention centre.<sup>661</sup> HumanRights360 noted that detainees in long-term detention stay in police stations under unsuitable conditions and without access to basic rights for long periods of time, even more than 6 months.<sup>662</sup>

In March 2020, Greece encountered excessive and organised migratory pressure<sup>663</sup> at the Evros border (Kastanies). The temporary suspension of asylum applications<sup>xli</sup> led to criminal charges and imprisonment for migrants who entered the country illegally. The CPT questioned the practice and recommended to the Greek authorities to ensure that all public prosecutors and misdemeanour courts are fully aware of Greece's international legal obligations,<sup>xlii</sup> while urging the Greek authorities "to change their approach towards immigration detention and to ensure that migrants deprived of their liberty are treated both with dignity and humanity".<sup>664</sup> The arbitrary detention of people who entered Greece during the temporary suspension of asylum was also heavily criticised by civil society organisations, such as Amnesty International,<sup>665</sup> Human Rights Watch,<sup>666</sup> RSAegean,<sup>667</sup> etc.

Hungary amended the Asylum Law to add that there must be a risk of absconding to detain a foreigner when the person has not applied for asylum and the Dublin III Regulation (Article 24) may apply. In exceptional cases, the asylum detention can also take place in a health care institution.<sup>668</sup>

In Italy, Legislative Decree No 130, which aimed to overcome some of the provisions brought by Law No 132 of 2018 (Salvini Decree), entered into force on 22 October 2020.<sup>669</sup> The new amendments introduced two additional grounds for detention, namely when i) there is a condition for which the rejection of refugee status (for state security/public order reasons) and exclusion from subsidiary protection status is foreseen; or ii) a subsequent application is issued during the execution of a

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<sup>xl</sup> Similarly, BVMN has reported that detention, both formal and informal, has become an increasingly prevalent part of migration management in Greece. Border Violence Monitoring Network. *Input to the EASO Asylum Report 2021*. <https://easo.europa.eu/sites/default/files/BVMN.pdf>

<sup>xli</sup> Αναστολή της υποβολής αιτήσεων χορήγησης ασύλου [Suspension of the submission of asylum applications. Gov. Gaz. 45 A'/2.3.2020]. <https://migration.gov.gr/wp-content/uploads/2020/05/pnp-anastolh-ths-ypovolis-aitheon-asylou.pdf>. The act envisaged that illegal immigrants entering the country were not entitled to apply for international protection. The CPT "urged the Greek authorities not to resort to such a legislative measure again even when faced by a potential increased influx of migrants. It is imperative that all persons in need are placed in a position to effectively request asylum". Council of Europe. (2020, November 19). *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020*. <https://rm.coe.int/1680a06a86%20>

<sup>xlii</sup> Council of Europe. (2020, November 19). *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020*. <https://rm.coe.int/1680a06a86%20>. In its reply, the Greek Government informed the CPT that from 28 February 2020 to 14 March 2020 the Single-Member Court of Misdemeanours in Orestiada sentenced 103 aliens to imprisonment and pecuniary penalty for violation of Law No 3386/2005, Article 83(1a). For 19 aliens, the prison sentence was suspended and the administrative procedure of deportation followed. 84 aliens who were sentenced to imprisonment were taken to detention centres in the country.

removal order. In addition, applications submitted by third-country nationals for whom detention in a hotspot or in a repatriation centre has been ordered and applications submitted by nationals of a safe country of origin – without prejudice to the examination by an accelerated procedure – are no longer examined in priority. The decree also introduced more procedural safeguards for detained asylum seekers, such as conditions for detainees, information provision once the detention order is issued in a language which is understood or, where this is not possible, in English, French or Spanish, reduced maximum length of detention in the context of return from 180 to 90 days, and the possibility to address petitions or complaints about detention to the Ombudsperson acting as the National Guarantor, as well as the regional and local guarantors. Although it discontinued the follow-up procedure, the UN Human Rights Committee requested the Italian authorities to ensure that immigration detention is applied only for the shortest period and as a measure of last resort, while standard operating procedures must be applied in practice.<sup>670</sup>

The legal framework was revised also in Lithuania in November 2020 (in force as of 1 March 2021). The amendments included a regular review (at least once every 3 months) of the detention grounds with a view to shortening the detention, review of the framework of alternatives to detention and provisions on the conditions and procedure for the temporary accommodation of aliens detained for more than 48 hours or aliens who have been granted an alternative measure to detention in the State Border Guard Service.<sup>671</sup>

Following the *Gnandi* and *C and others* cases, the Netherlands amended as anticipated<sup>672</sup> the Aliens Act by the Law of 22 April 2020 to allow detention during the appeal phase in the border procedure.<sup>673</sup> The amendments (Articles 3 and 6) aim to establish a legal ground for detention following the rejection or inadmissibility of an asylum application, in line with the Reception Conditions Directive, Article 8(3). In the absence of these clarifications, third-country nationals could be granted access to the Dutch territory.

Following a change to the Aliens Circular (paragraph A5/2.4) in the Netherlands, the grounds for placing unaccompanied minors in detention for the purpose of a return were expanded. This expansion concerned minors who were not previously in sight of the authorities and they can be removed within 4 weeks. This policy change “aims to prevent unaccompanied minors from absconding and potentially, consequently, becoming a victim of exploitation”.<sup>674</sup>

Romania amended its regulation on accommodation centres for foreigners taken into public custody with a new chapter to regulate the General Inspectorate for Immigration’s use of personal data.<sup>675</sup>

Recourse to detention practices in Malta was strongly criticised by the CPT. As noted in the report, the restriction of movement was imposed on grounds of public health since 2018, leaving third-country nationals in arbitrary detention without procedural guarantees. Consequently, migrants are “*de facto* deprived of their liberty”<sup>676</sup> in poor living conditions that may amount to inhumane and degrading treatment contrary to the ECHR, Article 3. The deteriorating conditions were also reported repeatedly by NGOs.<sup>677</sup> In this context, the CPT urged “the Maltese authorities to take decisive steps to address the very serious issues outlined in this report and reform their immigration detention system accordingly with the support of the EU and the Council of Europe, as appropriate”. NGOs have frequently advocated for the immediate release of people held in detention arbitrarily as detention orders were issued several weeks or months after arrival, without any individual assessment.<sup>678</sup> The report was fully endorsed by the Malta Refugee Council, which recognised positive developments brought by the new Detention Services Director, and expressed hope that “these developments are merely the first steps of a major overhaul of the situation in the centres.”<sup>679</sup> In its response to the CPT report, the Maltese government reported that, since the CPT visit in September 2020, the number of

persons held in closed centres had been reduced by 79% and that measures were being taken to improve detention conditions.<sup>680</sup>

The AIDA report for Slovenia also noted that the International Protection Act was not amended following the Supreme Court's [decision](#) on the legal ground for detention in the Dublin procedure in 2020 but the Ministry of the Interior's Directorate for Migration underlined that these amendments were adopted in 2021. The report noted that applicants continued to be detained pending the Dublin procedure in 2020, based on other grounds of the law. The report also noted that applicants were detained on the premises of the Centre for Foreigners by the Migration Directorate when previously they were transferred to the Asylum Centre following a preliminary procedure.<sup>681</sup> The Ministry of the Interior underlined that this practice was only applied for a short period due to a stricter regime which was in line with the International Protection Act, and applicants had the right to legal remedy to challenge these decisions.

Stateless people were more likely to be detained in various EU+ countries linked to the fact that they often lacked proper identification or travel documents, for example in Bulgaria, France, Italy and the Netherlands, was raised by the European Network on Statelessness. In the majority of cases, prolonged detention was linked to the lack of proper statelessness determination procedures in the context of return.

Regarding the placement of asylum seekers in administrative detention, Lithuania reported positive developments to the United Nations Human Rights Committee, in line with the recommendations and concluding observations adopted by the Committee.<sup>682</sup> Lithuania reported that asylum seekers were detained in rare and exceptional cases, and the average duration was reduced to 48 days in 2019 compared to 56 days in 2018.



#### 4.8.2 Temporary practical arrangements

In general, health measures due to the COVID-19 pandemic were implemented in detention, and newly-arrived detainees needed to quarantine in designated areas, for example in Czechia, Croatia, Hungary, Ireland and Latvia. In addition, services such as meal distribution were adapted to the new requirements in Luxembourg and quarantine sectors were established in Hungary and Ireland.

In some EU+ countries, the asylum procedure for applicants in detention was temporarily discontinued, while in others, personal interviews/hearings continued through videoconference, for example in Belgium,<sup>683</sup> Czechia<sup>684</sup> (where UNHCR retained its full access) and Latvia.

The possibility to communicate with and visit detention facilities were often limited or sometimes even prohibited to all visitors and organisations due to health measures or quarantine restrictions, for example in Czechia (with the exception of legal and psychological services),<sup>685</sup> Cyprus,<sup>686</sup> Greece,<sup>687</sup> Malta<sup>688</sup>, Romania<sup>689</sup> and Sweden.<sup>690</sup> In contrast, Croatia reported that there were no restrictions imposed as measures focused mainly on prevention (health instructions were available in multiple languages at the detention centre, testing was done before entering the detention centre, etc.).

In 2020, detention centres in the majority of EU+ countries were decongested due to the suspension of removals and the subsequent release of third-country nationals, for example in Belgium,<sup>691</sup> Finland, Norway,<sup>692</sup> Spain, Slovenia<sup>xliii</sup> and Sweden. Nonetheless, some countries, like Cyprus,<sup>693</sup> Denmark<sup>694</sup> and Slovakia, retained detention. NGOs raised concerns over widespread detention, particularly in France<sup>695</sup> (where authorities emphasised that detention is only used when it is the only way to guarantee the implementation of a return and several procedural guarantees ensure the review of the measure) and Italy.<sup>696</sup> Similarly, they requested the Border Guard to use alternatives to detention or release third-country nationals in Poland,<sup>697</sup> France,<sup>698</sup> Slovakia<sup>699</sup> and Sweden.<sup>700</sup> In Switzerland, Asylex signalled restrictive practices in the cantons which were contrary to the Federal Supreme Court's [ruling](#) that detention pending deportation was unlawful since removal was not enforceable in the foreseeable future.

The CPT issued a "[Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease \(COVID-19\) pandemic](#)" on 20 March 2020, underlining that any measures should not result in inhuman or degrading treatment of persons deprived of their liberty.



### 4.8.3 Types of detention facilities and capacity

In 2020, some EU+ countries increased the capacity of detention facilities, particularly in case of a mass influx of third-country nationals and return procedures. For example, Bulgaria increased the capacity of two pre-removal facilities (Busmantsi and Lyubimets) from 700 to 1,060 persons. The increase highlights the rise in using detention after the strict COVID-19 confinement measures were lifted following the first wave of the pandemic.<sup>701</sup> In total, 1,487 new persons were placed in pre-removal facilities between July and September 2020, marking a significant increase from the 193 persons who were held in a pre-removal facility during the previous 3-month period (April to June 2020). At the end of September 2020, there was a total of 523 detainees, the majority being from Afghanistan, Iraq and Syria.

Similarly, in Czechia, regional offices of the Return Unit in detention centres in Bělá–Jezová, Balková and Vyšní Lhoty were established during autumn 2020 to ensure the swift and effective voluntary return of rejected applicants under the "Strengthening of the Ministry of the Interior's Capacities in Return" project, which is financed by AMIF.

Finland launched a project on 31 August 2020 to prepare legislative amendments on the possibility of a mass influx of migrants.<sup>702</sup> The legislative proposal, which will be submitted in autumn 2021, aims to create a flexible framework for the immediate increase of detention capacity in the event of a mass influx of migrants, among other changes.

Temporary establishments were used in Slovenia to accommodate detainees. To this end, containers outside of the Centre for Foreigners were used.<sup>703</sup>

Due to the migratory pressure in Greece as a result of the events at the Evros border, in March 2020 the Ministry of Migration and Asylum created temporary detention camps in Malakasa (Attica) and

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<sup>xliii</sup> The AIDA report for Slovenia reported that "due to a large number of detainees and the COVID-19 pandemic, the reception conditions in the Centre for Foreigners worsened." AIDA Slovenia. (2021). *Country Report: Slovenia - 2020 Update*. Edited by ECRE. Written by Legal-Informational Centre for NGOs (PIC). [https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-SL\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-SL_2020update.pdf)



Kleidi (Serres) for newly-arrived asylum seekers, which were operated as open accommodation centres later that month. The facilities accommodate third-country nationals who entered the country illegally.<sup>704</sup> Through a joint pilot project, a separated closed detention area is planned for the new Multi-Purpose Reception and Identification Centre (MPRIC) in Lesbos.<sup>705</sup>

In Poland, one detention centre (Przemyśl) was transformed from a general detention centre (for single men, single women and families with children) to a male detention centre. The authorities noted that the pandemic situation showed that not many places were needed for families with children, who were often provided with an alternative to detention.

The CPT noted that the Irish authorities need to create a designated centre for immigration detainees, specifically designed for that purpose.<sup>706</sup> Pending the opening of such a centre, the CPT requested that immigration detainees should be allocated designated cells on a quiet enhanced wing at Cloverhill Prison. In its response to the CPT report, the Irish authorities stated that work was completed on a new Block F in Cloverhill Prison which was intended to be used to accommodate persons detained for immigration purposes and to ensure they can be housed separate from other remand prisoners<sup>707</sup> - this was postponed in 2020 because the wing was used as an isolation unit for suspected cases of COVID-19. While this will address the situation in the immediate term, work is also proceeding on the consideration of a longer-term sustainable and compliant solution. Similarly, in Cyprus, the increasing use of police stations for detention purposes raised concerns as the conditions and prolonged duration of the measures were inadequate.<sup>708</sup>

Denmark plans to increase the capacity of its detention facility (Ellebæk Detention Centre) to accommodate detained asylum seekers. As noted in the government's response to CPT,<sup>709</sup> the project was postponed to 2021 because of the pandemic. Similar initiatives were announced in Belgium to construct additional centres in Zandvliet (200 places) and Jumet (120 places) and to expand the 127bis and Merksplas centres, bringing total capacity to 1,066 places.<sup>710</sup>

The Swedish Migration Agency reduced the number of detention places from 520 to just under 300 to reduce the occupancy rate in accordance with COVID-19-related requirements which were defined by the Swedish Public Health Agency. However, a new detention centre near Gothenburg was established and plans were underway for detention facilities in northern Sweden. Cyprus also reduced the capacity of the Menogeia detention centre to 128, in line with recommendations of independent national authorities and European agencies.<sup>711</sup>



#### 4.8.4 Conditions in detention facilities

The conditions in detention facilities are periodically reviewed by national and international human rights bodies. As part of its monitoring, the CPT visited Malta in September 2020 to review the conditions in facilities run by AWAS and the Detention Service. In both cases, the CPT recommended that the Maltese authorities improve the living conditions which may amount to inhuman and degrading treatment, contrary to the ECHR, Article 3. It also recommended to provide outdoor activities to detainees and take specific measures for vulnerable groups (especially families with children, unaccompanied and separated minors, and women).<sup>712</sup> The CPT called for immediate action to transfer vulnerable people to open detention centres, to stop the detention of women and children, and to renovate the detention facilities to provide an adequate environment.<sup>713</sup> The Maltese authorities embarked on a number of projects to improve the conditions, including refurbishing and renovation works, offering programmes and activities for children in line with health measures, and speeding up the transfer of vulnerable

applications from closed to open centres, with immediate referral to social workers and the therapeutic team within AWAS.

In Slovenia, the living conditions in the Centre for Foreigners in Postojna were criticised by the Ombudsperson, who stated they were not in line with the requirements set in the Reception Conditions Directive.<sup>714</sup> The report highlighted the inadequate living space, the lack of outdoor space and recreational activities, the mixing of asylum seekers with other third-country nationals, and the arbitrary extended length of stay. The Ombudsperson specified that no deviation was justified for health reasons due to COVID-19 and noted the need to ensure the timely registration of an application for international protection. Following the report, the accommodation facilities within the Detention Centre were upgraded.<sup>715</sup>

The Spanish Ombudsman raised concerns over the deteriorating conditions in the Detention Centres for Foreigners (CIEs) in Spain, calling for their immediate reform. The JRS also noted that CIEs do not guarantee respect for human rights, often fail to comply with internal operating regulations and are ineffective for their purpose resulting in disproportionate and illegitimate detentions.<sup>716</sup> In this context, the Commissioner of Home Affairs at the Senate asked the government to report annually on the situation of the CIEs and CETIs, providing information on detainees and residents, human and material resources, and the number of officers in charge of the protection of migrants.<sup>717</sup>

NGOs warned about the hindered access to legal aid in detention in Greece,<sup>718</sup> Slovenia<sup>719</sup> and Switzerland,<sup>720</sup> and about the lack of information provision in Bulgaria<sup>721</sup> and Spain<sup>722</sup> for asylum seekers in administrative detention.

The average duration of detention varied significantly in EU+ countries, ranging between 26 (Romania), 36 (Slovenia), 48 (Bulgaria) and 55 (Sweden) days to 2-6 months in Cyprus.<sup>723</sup>



#### 4.8.5 Detention of minors and applicants with special needs

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The detention of vulnerable groups, particularly children, should be a measure of last resort. UNCHR and the Council of Europe strongly support the termination of detention practices for children.<sup>724</sup> This commitment was reinstated by the Parliamentary Assembly calling all Member States to ensure that “on no account should children be placed in detention”.<sup>725, 726</sup>

The administrative detention of minors was brought into focus in Switzerland. While this measure is already forbidden for children under 15 years, a legislative proposal was endorsed by one of the two chambers of the Swiss parliament for the full prohibition of detention for minors under 18 years in deportation procedures.<sup>727</sup> However, the second chamber did not follow in March 2021 and the proposal has not come into force so far.<sup>728</sup>

The issue of the accommodation of children with detained parents was raised in Latvia. The internal regulations of the State Border Guard were revised. Following the assessment of the best interests of the child, children are accommodated together with the detained parent in the accommodation premises of the State Border Guard and the information is added to the Register of Asylum Seekers.

Civil society organisations raised concern over the use of pre-removal detention for children with families in France,<sup>729</sup> even though national authorities emphasised that the legislation clarifies that detention should be used for the shortest period of time, as long as removal arrangements are in

progress and that the best interests of the child should be of primary consideration, and alternatively, less coercive measures are considered before ordering detention. In Czechia, the OPU and the Forum for Human Rights observed challenges in the identification of vulnerable persons in detention.<sup>730</sup>

Persistent challenges in undertaking age assessments in detention were highlighted by the National Ombudsperson<sup>731</sup> in Spain, noting that inconsistencies in medical tests and excessive delays may result in the separation of families and summary expulsions.

The conditions of secure centres in Poland were examined by the United Nations Committee on the Rights of Child, noting that children follow compulsory schooling and cultural, educational and remedial activities are organised.<sup>732</sup> The Polish Border Guard noted that it is responsible for the management of secure centres for foreigners. There are six secure centres in Poland, in two of them (in Kętrzyn and Biała Podlaska) there is a possibility of placing families with children. In these centres, minors are provided with education based on the special agreements with the Municipal Commune in Kętrzyn and the Municipal Office in Biała Podlaska.



#### 4.8.6 Alternatives to detaining applicants

According to the Reception Conditions Directive, detention should be applied only if other less coercive measures cannot be applied effectively. To this end, Member States must ensure that the rules concerning alternatives to detention, such as regular reporting to the authorities, the deposit of a financial guarantee or an obligation to stay at an assigned place, are laid down in national law. To assist countries, UNHCR published a revised version of “Options for governments on open reception and alternatives to detention” with references to national practices.<sup>733, 734</sup>

In this context, Estonia established a new surveillance measure, the ‘appearing for counselling’, which was introduced in the Obligation to Leave and Prohibition on Entry Act in June 2020.<sup>735</sup> The amendment aims to provide social or psychological counselling to a person who is staying without a legal basis and who is not placed in a detention centre in order to fulfil the obligation to leave or to ensure the protection of national security or public order. The counselling service will be organised and provided by the PBGB.

Lithuania also introduced a new alternative to detention in November 2020, namely accommodation at the State Border Guard Service with the right of movement restricted only within the territory belonging to the accommodation facility. This alternative to detention applies to third-country nationals and asylum seekers whose application for international protection was rejected and they will be returned to a third country.

The Swedish Police Authority implemented alternatives extensively during the pandemic, particularly using supervision to prevent the risk of absconding.<sup>736</sup>

Civil society organisations called for a wider use of alternatives to detention in Bulgaria,<sup>737</sup> Ireland,<sup>738</sup> Poland<sup>739</sup> and Spain<sup>740</sup>. The use of alternatives to detention as a means to continue detention was raised in Malta and Cyprus by civil society organisations. In practice, the AIDA report for Malta noted that the majority of asylum seekers released from detention were subject to alternatives to detention despite the lack of a legal basis in the first place.<sup>741</sup> In a similar way, detainees from Menoyia in Cyprus were released by ordering alternatives to detention. In October 2020, the CRMD appointed an officer to examine the use of alternative measures for persons in detention.<sup>742</sup>



#### 4.8.7 Training detention staff

Efforts to train staff working in detention facilities were reported by several EU+ countries. For example, UNHCR in Bulgaria conducted training for the first time to 22 workers of Sliven Prison on access to the international protection procedure.<sup>xliv</sup> Cyprus supplemented its 13-week training programme offered to police officers appointed at Menogeia Detention Centre with regular revisional programmes.<sup>743</sup>

In contrast, the CPT recommended that the Maltese authorities recruit and train qualified staff for the Detention Service to ensure proper interaction with and support for the persons under their care.

Training on the trafficking of human beings was provided to staff working in detention facilities in Hungary<sup>744</sup> and Luxembourg.



#### 4.8.8 Overseeing the framework for detention

The CJEU has a primary role in interpreting EU law (including CEAS) to ensure that it is applied in the same way in all EU countries and to settle legal disputes between national governments and EU institutions. Inevitably, detention practices have been reviewed during relevant procedures. Similarly, the ECtHR assesses violations of the Convention regarding the reception and detention of asylum seekers, mainly in line with Article 3. In addition, the United Nations human rights bodies frequently review individual complaints about detention in the context of migration and asylum. National courts also remain at the forefront of asylum and human rights protection in EU+ countries.

Given the significant work of judicial institutions not only in identifying violations and interpreting the law, but also in setting standards, reference to recent case law sheds light on the implications of detention for asylum and return procedures at the European, international and national levels.

##### **European courts**



The CJEU held that judicial authorities adjudicating on the detention of a third-country national without a legal right of residence can receive an application for international protection, even though they are not competent, under national law, to register such applications. The court also ruled that not finding accommodation in a humanitarian reception centre cannot justify holding an asylum applicant in detention.

The CJEU ruled that administrative detention is possible when implementing a forced removal to a Member State which granted refugee status, whereas the Return Directive does not preclude national legislation which allows an illegally-staying third-country national to be detained in prison for the purpose of removal, separated from ordinary prisoners, if the person poses a security threat to society or the Member State.

Two landmark judgments (of 14 May 2020 and of 17 December 2020) on detention practices in Hungary were issued. The CJEU confirmed that asylum applicants who are forced to remain in a transit

<sup>xliv</sup> <https://justice.government.bg/home/index/f2c4e3e4-832d-4a58-9b93-8809a78bd7de>

zone for the duration of the examination of their application constitutes detention and an absence of legal guarantees (*see Section 2*). Furthermore, the court highlighted that a mass influx of asylum seekers cannot justify derogations in order to maintain public order and preserve internal security. Following the CJEU decision on 14 May, all asylum seekers – over 280 persons – were relocated from the transit zones to other reception centres in Hungary.

The ECtHR reviewed similar issues related to detention. In *R.R. and others v Hungary*, the court held that there was unlawful *de facto* detention in the transit zone due to the duration of the confinement and restrictions on free movement. In addition, the conditions in the transit zone were not deemed to be sufficient for people with special needs, and the 4-month confinement of a pregnant woman and minors exceeded the threshold of severity.

The situation of children in a detention centre was examined in *Moustahi v France*. The court found violations due to unaccompanied minors being placed in *de facto* administrative detention where they associated with an unrelated adult. There were also violations of their right to an effective remedy.

Keeping children in a closed centre for aliens while their application was being reviewed was considered as incompatible to the ECHR in *Bilalova and Others v Poland*. Following this ruling, Poland acknowledged in *A.A. v Poland* by way of a unilateral declaration that the applicant was deprived of her liberty in breach of the Convention without an effective procedure to challenge the lawfulness of her detention. In *A.B and others v Poland*, the ECtHR noted an interference with the effective exercise of the right to family life and found that the authorities failed to provide relevant and sufficient reasons to justify the applicants' detention.

Regarding the lawfulness of successive detention orders, the ECtHR highlighted in *Muhammad Saqawat v Belgium* that each decision should abide by both the substantive and procedural standards at all times. On prolonged detention, the court found in *M.K. v Hungary* that the authorities were justified in using detention to confirm the applicant's identity and nationality and ensure his presence for the asylum procedure, but the length of time taken annulled the reasons for detention.

The lawfulness of detention and the availability of a judicial review was reviewed in many cases by the ECtHR, for example in *E.K. v Greece*, *M.S. (Afghanistan) v Slovakia and Ukraine*, and *M.K. (Pakistan) v Hungary*.

### **International human rights bodies**



The Working Group on Arbitrary Detention recently found in *Saman Ahmed Hamad v Hungary* that detaining an asylum applicant in a transit zone at land borders, solely because he had submitted an application for international protection, constituted an arbitrary deprivation of liberty, in violation of several provisions of the 1948 Universal Declaration of Human Rights and Article 9 (right to liberty) of the International Covenant on Civil and Political Rights (ICCPR). The Working Group concurred with the opinion of the CJEU Advocate General that the isolation and high degree of restriction of the freedom of movement of asylum seekers amounted to a deprivation of liberty.<sup>xiv</sup> It further reinstated that all procedural guarantees should be respected (e.g. an individual assessment, a periodical review of the detention order on the basis of necessity and proportionality, and the right to a judicial review), ensuring that “detention in the course of immigration proceedings is, as it must

<sup>xiv</sup> Reference is made to cases C-924/19 PPU and C-925/19 PPU mentioned above which were pending before the CJEU at that time.

be, an exceptional measure used only as a last resort while consideration must be given to alternatives".<sup>745</sup>

### **National courts**



The freedom of movement of applicants for international protection in Ceuta and Melilla was brought before the Supreme Court in Spain. In [Eleuterio v General Police Direction \(Dirección General de la Policía\)](#), the applicant contested that geographical restrictions interfered with his freedom of movement within national territory, but the General Directorate of the Police dismissed his complaint. The Spanish Supreme Court ruled that an asylum applicant in the autonomous city of Ceuta (or in another case in Melilla) whose application is being processed has the right to enjoy free movement in Spain, even on a provisional basis. Recently, the Supreme Court [reaffirmed](#) the right to free movement for asylum applicants in Ceuta and Melilla and to establish residence in any other city within the national territory.

Regarding the prolongation of detention due to COVID-19 travel restrictions in deportation procedures, the Administrative Courts in Luxembourg concluded that the measure was legal and proportionate as the execution of the order was still reasonably expected, for example in the [cases](#) of a Moroccan and a Tunisian national. In contrast, the Swiss Federal Court [ruled](#) that the enforcement of an expulsion to Algeria could no longer be regarded as foreseeable within a reasonable period of time, so the person was released and required to report to the authorities.

The Supreme Administrative Court in Lithuania [granted](#) an alternative to detention to an applicant who requested asylum during expulsion procedures, despite the risk of absconding and that the application was lodged to delay the expulsion. In contrast, the Administrative Court for International Protection in Cyprus considered that no alternative measures to detention are appropriate to prevent an applicant from escaping when a return is pending, for example in the cases of a [Vietnamese](#) and a [Pakistani](#) national.

Several rulings by the Migration Court of Appeal clarified under what circumstances asylum applicants can be detained in Sweden. The rulings significantly reduced the reasons that an asylum applicant can be detained. The court [held](#) that there are no other conditions in the Reception Conditions Directive, Article 8(3) to detain an asylum seeker except when the rejected applicant is detained as part of a return procedure. Furthermore, the provisions in the Aliens Act do not have the same grounds for detention as the Reception Conditions Directive. The directive's grounds for detaining an asylum seeker for the purpose of determining or confirming identity or nationality or for the purpose of determining the factors on which the application is based cannot therefore be applied when there is no support for this in the Aliens Act. In order for [supervision](#) to be used as an alternative to detention, there must be a ground for detention in accordance with the Aliens Act that is compatible with EU law. If a third-country national is in custody as part of a return procedure covered by the Return Directive and submits an asylum application solely to delay or prevent the enforcement of a return decision, there are grounds for detaining the asylum seeker under the Aliens Act and the Reception Directive. When the conditions for detention in such a situation are met, there is also a basis for supervision.

The Administrative Court for International Protection in Cyprus [highlighted](#) the need for an individual assessment of detention in line with the principles of proportionality and necessity. The court also underlined that its repeated omission in most detention cases raised a serious issue concerning the obligation of the administration to comply with the decisions and instructions of the judiciary.

## Section 4.9 Access to information



Persons seeking international protection need information on their situation in order to be able to fully communicate their protection needs and personal circumstances and to have them comprehensively and fairly assessed. Under the recast Asylum Procedures Directive, Member States need to ensure that relevant information is made available to applicants, for example where and how applications for international protection may be lodged. Obligations also include the provision of information to potential applicants who are in detention facilities and at border crossing points.

Effective access to information is a primary constituent of procedural fairness.<sup>xlvi</sup> Applicants have the right to be informed so that: a) they understand the different stages of the process; b) they know their rights and obligations in each of these stages; and c) they are aware of the means available to them to exercise their rights and fulfil their duties. Accordingly, having effective access to information enables them to make informed decisions throughout the process, being aware of the consequences of each decision.

During each stage, applicants are to be informed of:

- ➔ Their rights and obligations and the possible consequences of not complying with their obligations and not cooperating with the authorities;
- ➔ The timeframe for each stage of the procedure; and
- ➔ Consequences of withdrawing an application.

For persons with pending cases, it is crucial to receive information, because a lack of clarity can be a contributing factor to absconding and secondary movement.

Following the presentation of the new Pact on Migration and Asylum and the proposal for an Asylum and Migration Management Regulation,<sup>746</sup> "the scope of information provision to applicants for international protection is enlarged and a clear cut-off deadline for providing relevant information will enable a quick assessment and decision". Special provisions on fundamental rights and better information provision to asylum seekers about their rights and obligations aim to contribute to diminishing unauthorised movements as asylum seekers will be more inclined to comply with the system.

ECRE conducted a study, "Dublin Regulation on international protection applications" on behalf of the European Parliament in February 2020.<sup>747</sup> The recommendations from the study were incorporated into the legislative proposal on asylum and migration management on how Member States can improve the provisions of the Dublin Regulation to ensure the full respect of the fundamental rights of applicants, such as the right to information, and to promote family unity and the best interests of the child.

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<sup>xlvi</sup> The right of access to information for applicants for international protection is well established in EU legislation. The recast Asylum Procedures Directive stipulates that all applicants must be informed of their rights and obligations in a language which they understand or are reasonably supposed to understand. They should be informed of the timeframe, the means at their disposal for fulfilling the obligation to submit the elements as referred to in the recast Qualification Directive, Article 4, and the consequences of an explicit or implicit withdrawal of the application. Similar stipulations are also made in the Eurodac Regulation, Article 29 and the Dublin III Regulation, Article 4.

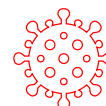


## COVID-19

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During the pandemic, access to reliable and up-to-date information on the SARS-CoV-2 virus and its spread were primordial for citizens across the world. Official information was key in ensuring that people follow the proper protocol and health measures. As such, information dissemination for asylum seekers during the COVID-19 pandemic focused especially on protection, hygiene measures, protocols to be followed, medical support and instructions to avoid contagion. The format to provide information was amended into small group sessions, by phone or virtually through online sessions or video tutorials. Guidelines were published in cooperation with health authorities in most EU+ countries, and booklets and posters were distributed across reception and accommodation centres. Information-sharing was supported by interpreters and NGOs, with translations of the new material on COVID-19 being made available in several languages (see Sections 4.9 and 4.10).

Civil society and international organisations provided information to asylum applicants through online platforms and hotlines to ensure the continuity of business during restrictions. UNCHR issued recommendations which highlighted the importance of providing information to asylum seekers, refugees and stateless persons about the COVID-19 pandemic and related measures.<sup>748</sup> In particular, it specified that language barriers, cultural preferences and online tools may impede access to this information. According to UNHCR recommendations, “the provision of information is life-saving, crucial to ensure equal and non-discriminatory access to information, health and other basic services and proposed the use for data privacy friendly solutions such as, platforms online tools and digital applications for the engagement applicants for international protection”. UNHCR also called for monitoring and responding to misinformation about the virus.



## Digitalisation

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EU+ countries strengthened and adapted their practices to ensure effective access to information for asylum applicants and procedural fairness by: making use of new technologies, establishing alternative channels for the dissemination of information and raising awareness through electronic communication tools, such as online platforms and hubs, mobile applications and social media channels. Indeed, digitalisation not only helped during social distancing, but it also enabled information to reach more people in more languages, with ease and speed. Many countries developed dedicated hotlines and built on existing websites to ensure that information was available in many languages. Some platforms were equipped with interactive nodes where questions and replies could be posted.

While the use of electronic tools is powerful in relaying information, some profiles of asylum applicants are not accustomed to digital tools. The importance of face-to-face interaction should not be overlooked.





#### 4.9.1 Providing information on the asylum procedure



Most EU+ countries developed new digital solutions or upgraded their digital communication channels to ensure that asylum seekers were provided not only with information on the asylum procedure but also on health guidelines to be followed during the processes and within the host country. New communication tools were used, such as posters, pictograms, YouTube videos, hotlines and online platforms, which supplemented or even replaced traditional face-to-face communication. Online pages with frequently asked questions on COVID-19 and updates on procedures were incorporated in government portals and official websites of national asylum administrations in Austria,<sup>749</sup> Belgium,<sup>750</sup> Cyprus,<sup>751</sup> France,<sup>752</sup> Germany,<sup>753</sup> Greece,<sup>754</sup> Iceland,<sup>755</sup> Ireland,<sup>756</sup> <sup>757</sup> Norway,<sup>758</sup> Romania<sup>759</sup> and Slovenia. The pages were regularly updated with information, legislative amendments and instructions on COVID-19 measures.

In Slovenia, the responsibility for the provision of information was handed to the asylum officers of the Ministry of the Interior in 2020, after the contract expired with an NGO which was previously given this task. The office launched a new video that informs applicants about their rights and obligations. Applicants receive information through a video before they lodge an asylum application.

Access to information for asylum seekers, including instructions and scheduling or rescheduling of appointments, was managed through remote communication channels, such as phone lines, hotlines, mobile phone applications, video calls or social media channels by Bulgaria, Poland, Portugal and Sweden.

The UNHCR office in Bulgaria launched a dedicated website, [asylum.bg](http://asylum.bg), with information on the international protection procedure in various languages. It includes a guide to refugee law, audio format and summaries of judicial decisions of national courts.<sup>760</sup>

Special leaflets on legal ways to migrate were produced in Lithuania and Poland<sup>761</sup> to specifically target Belarusian citizens. The leaflets are distributed at border crossing points.

Practical barriers and a lack of clear communication for asylum seekers placed in detention at the border were also reported by Portuguese civil society organisations.<sup>762</sup>

Germany limited the number of asylum seekers who can participate at the same time in group information sessions on the asylum procedure before lodging an asylum application. Group sessions were held online and in specially-equipped rooms to ensure the protection of staff, interpreters and applicants.

Malta discontinued some information sessions which were organised at the reception premises at the beginning of 2020 to inform applicants about the rules of the centre and their rights and obligations due to the pandemic.<sup>763</sup> An information point was established by AWAS.<sup>764</sup> In addition, the status of asylum seekers and beneficiaries of international protection in Malta was confirmed by email while the premises of the International Protection Agency were closed between 13 March and 18 May.<sup>765</sup> Once the premises re-opened, the agency started to issue or renew documents and protection certificates for asylum seekers.

In Greece, the Ministry of Migration and Asylum launched a multidimensional platform for information provision, developed an [e-service tool](#) to digitalise asylum applications, updated materials and guidelines, and launched awareness-raising campaigns through its official social media channels.<sup>766</sup> The digitalisation of information provision raised concern on the use of online tools and platforms. Civil society organisations in Greece<sup>767</sup> expressed worries about data protection and

information-sharing through the new information system for online applications which was developed by the Ministry of Migration and Asylum.<sup>768</sup> An insufficient provision of information was also observed by the Network of Children Rights in Greece with regards to unaccompanied minors.<sup>769</sup>

In Norway, information for asylum seekers was made available in 24 different languages by the official institute of public health, including through a smart phone application, [Smittestopp app](#).<sup>770</sup> Guidance to applicants was provided to a greater extent online or by telephone.

The website, [Information Sverige](#) (Information Sweden), was launched in 2009 and was made available in ten languages in 2020. Among relevant information to people who are new to the country, it offers material about the asylum procedure. The website is funded by the Swedish government on a permanent basis as of 1 January 2021 with SEK 5 million yearly and it is run by the County Administrative Boards. Save the Children in Sweden commended the improvements made by the Swedish Migration Agency to adapt child-friendly information and communication in line with the best interests of children and their situation if they return to their country of origin.<sup>771</sup> However, it raised concerns that important and relevant information were not given in a timely and efficient manner, and information which can be understood by children remained a challenge.<sup>772</sup>

Invitation letters for an interview were revised in Belgium and Ireland<sup>773</sup> to include information on COVID-19 measures, instructions for the interview, administrative arrangements, and a request for the applicant not to attend the interview in case of illness.

In Ireland, the International Protection Accommodation Service (IPAS) set up a helpline, managed by the JRS Ireland, for asylum seekers living in accommodation centres. The AIDA report for Ireland reported on a lack of transparency in the provision of information and legal assistance.<sup>774</sup>

In Italy, a national hotline number was made available in 36 languages and a digital capacity-building platform targeting refugee-led organisations was set up with the support of UNHCR and local NGOs.<sup>775</sup> A multi-lingual information portal, [JUMA MAP](#),<sup>776</sup> provided refugees and asylum seekers with access to information on COVID-19 in 15 different languages, as well as health advice, regulations on restrictions in movement, administrative procedures and services which are currently unavailable.

Austria launched the mobile application, [uugot.it TV](#), which helped refugees and migrants to access real-time and updated news from the authorities. The application also offered translations of TV content through sub-titles in different languages, such as Arabic, Croatian, Dari/Farsi (Persian), English, French, Italian, Portuguese, Romanian, Russian, Somali and Spanish, allowing for non-German speakers to follow Austrian TV and learn German. The app is supported by the Austrian government.

The UNHCR office in Cyprus incorporated a dedicated page on its official website which provides updates related to COVID-19 preventative measures and information material, translated into 13 languages such as (English, Somali, Bengali, Filipino, Georgian, Hindi, Kurmanji, Persian, Sorani, Turkish, Urdu, Vietnamese).<sup>777</sup>

Civil society organisations in France noted that an updated guide on the right to asylum for unaccompanied minors is not child-friendly and targets local authorities and practitioners working in children care instead of minors.<sup>778</sup> The guide describes the steps of the asylum procedure, appeals and the procedure at the border.<sup>779</sup>

Practical barriers and a lack of information, interpretation and legal assistance were reported by civil society organisations in Spain,<sup>780</sup> specifically for new arrivals by sea to the Canary Islands. Migrants were not receiving legal assistance for an expulsion procedure, were not informed of their rights and collective expulsions were being carried out.

In Romania, a lack of interpretation was noted at border crossing points, hindering access to information.

In Norway, civil society organisations identified challenges in ensuring an effective and timely provision of information to asylum seekers who are detained shortly after registration, applicants in detention and asylum seekers staying in private residences.<sup>781</sup> The European Network of Statelessness (ENS) continued to note for the third year a significant gap in information and resources to stateless people and those facing issues with nationality in general.<sup>782</sup> Some progress was made in providing additional material and translations on the [Stateless Journeys](#) website, but it was not clear if this information was being used to address statelessness in the asylum context.

To support EU+ countries, improve the quality of asylum processes and achieve common quality standards, EASO commenced the 'Let's Speak Asylum' project to develop methodologies and tools to support the provision of information across all stages of the asylum procedure and reception pathway. Best practices and challenges across national asylum administration and reception authorities were identified through targeted surveys. The tool, which is set to be launched in 2021, will contain digital and audio-visual material catering to the needs of vulnerable persons and illiterate applicants.

#### 4.9.2 Informing applicants about their rights and obligations in the context of everyday life



As a result of the COVID-19 pandemic, several countries adapted their practices in managing the reception of applicants for international protection. In 2020, Romania and Sweden stood out for carrying out new initiatives for providing information as early as possible in the asylum procedure. In October 2020, the Swedish Migration Agency was instructed by the government of Sweden to prepare a one-day, compulsory civic orientation session for all asylum seekers over the age of 15, which would start in October 2021. Participants will receive information about the asylum procedure, national legislation, the organisation of society in Sweden, children's rights, democracy and Swedish norms and values. Gender equality, violence and oppression, child marriage and female genital mutilation will also be covered during the introductory session. Unaccompanied minors and children in families under the age of 15 will instead receive written information. Individual talks will be held with unaccompanied minors when they are given the written information.

To facilitate communication, the Netherlands upgraded its wifi network in several reception facilities and promoted the use of [MyCOA](#) app/website to access information. Information was provided by telephone rather than face-to-face meetings, and residents in reception centres could use a toll-free number to consult with doctors. In addition, a new brochure for employers, "Newcomers on their way to work – Guide for employers", provided information to facilitate the employment of beneficiaries of international protection.<sup>783</sup>

Switzerland launched videos on COVID-19 preventative measures in asylum and reception centres which were made available on the SEM social media channel ([YouTube](#)).<sup>784</sup> In Lithuania and Switzerland, instructions about COVID-19 measures were updated regularly on boards in reception premises and made available on their official social media channels. Lithuania also introduced access to free wifi which was made available in reception premises.

Through AMIF funds, academic institutions and NGOs in Cyprus used advanced communication technologies and information management systems to collaborate with various organisations and voluntary services. Services on the Migrant Information Centre platform include the provision of information by topic, assistance to access the labour market, and assistance to cover accommodation, educational and health needs. The specific project also provides a mobile unit that will offer psychosocial services in rural areas.<sup>785</sup>

Fedasil in Belgium published a new brochure on the reception of applicants for international protection.<sup>786</sup> In addition, the Belgian Immigration Office developed posters and pictograms to inform applicants on the COVID-19 pandemic, posted health safety instructions online and adapted its COVID-19 communication to the needs of unaccompanied minors. The International Protection Office and the Immigration Service Delivery in Ireland published guidance documents on their official websites which are targeted at asylum seekers and refugees on COVID-19 restrictions.<sup>787</sup> France enhanced efforts in sharing information on COVID-19 through an online platform, [www.refugies.info](http://www.refugies.info), which is managed by the inter-ministerial delegation in charge of reception and integration of refugees (Diair), in cooperation with UNHCR and a network of NGOs.

Romania organised information sessions for applicants at regional accommodation centres for World Refugee Day to promote knowledge of and respect for cultural, ethnic, linguistic, social and democratic values.<sup>788</sup>

The Greek Ministry of Migration and Asylum launched an online helpdesk for beneficiaries of international protection.<sup>789</sup> UNHCR and the Red Cross set up an information point in Bulgaria for asylum seekers and refugees living in the urban area of Sofia.<sup>790</sup>

While EU+ countries made efforts to provide information on the rights and obligations of asylum applicants during the pandemic, civil society organisations in Slovakia<sup>791</sup> were vocal in calling for better COVID-19 information in the field of migrant integration.

Concerns were also raised by civil society organisations about the detention of third-country nationals upon arrival in Malta by sea. Based on documentation issued by the Superintendent of Public Health and handed to applicants, the freedom of movement of asylum seekers was restricted due to COVID-19 measures. The document does not contain information if this measure can be questioned or challenged.<sup>792</sup>

#### 4.9.3 Providing information about the return of rejected applicants



While navigating the impacts of the COVID-19 pandemic, EU+ countries continued to provide information to rejected applicants who will be returned to their country of origin. The newly-established Return Agency in Denmark provides advice and support to persons who will be returned or transferred within the Dublin procedure.

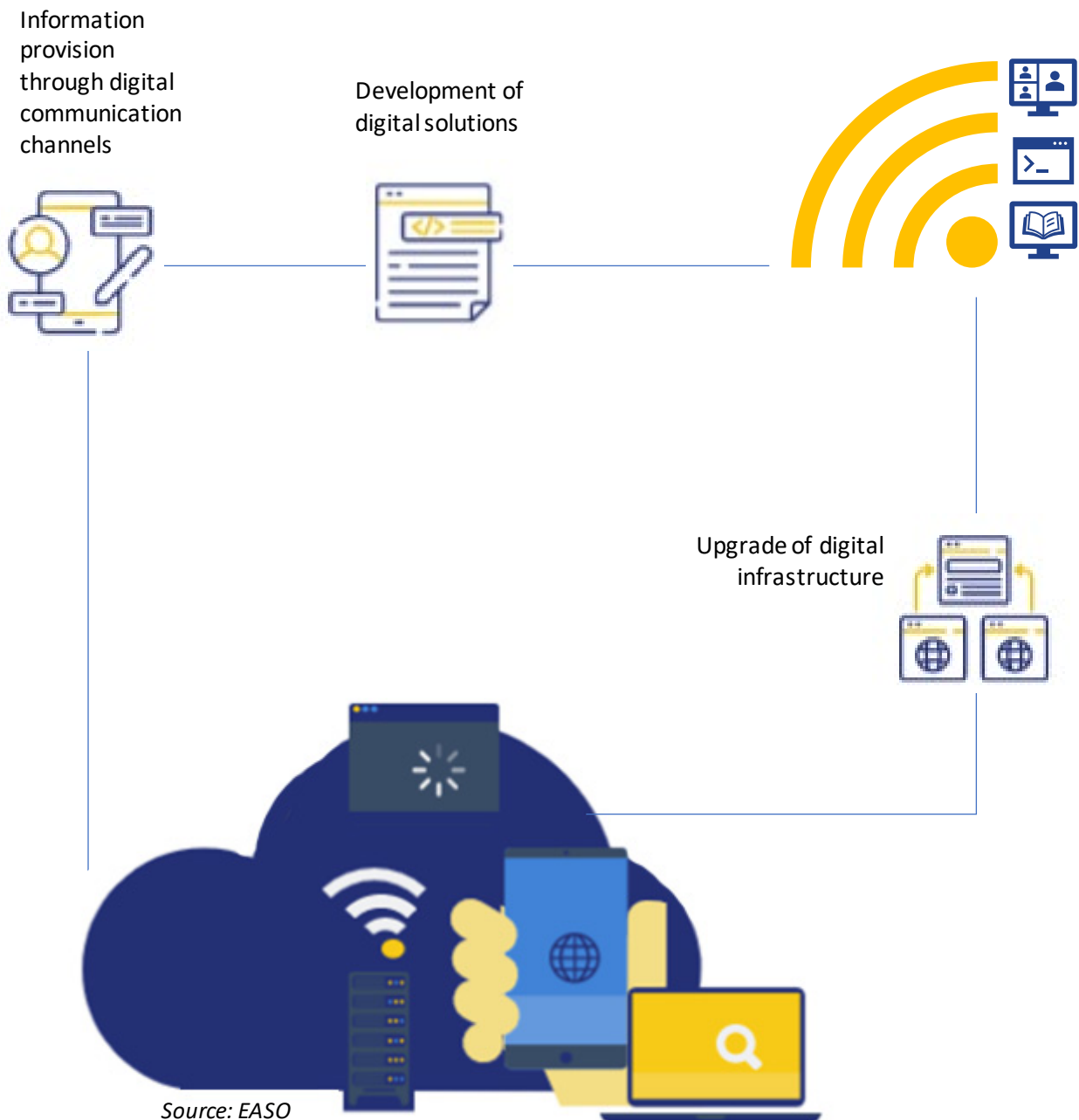
In Cyprus, the forms of notification for rejected applicants for international protection were amended to include information on their rights for an effective remedy, timelines and programmes available for voluntary and assisted return operations.

With the support of AMIF funds and the cooperation of the Strömsund municipality and the County Administrative Board of Jämtland, the Swedish Migration Agency developed a project dedicated to the best interests of the child upon return to the country of origin.<sup>793</sup> The project entails providing information material on asylum and the return procedure which are adapted for children and mainly focus on their situation when being returned. The project, which was completed in December 2020,

aims to support municipalities and organisations throughout Sweden in developing and maintaining harmonised approaches and best practices for cooperation (see Section 5).

New leaflets on return were issued in Lithuania in cooperation with the IOM, and the Netherlands<sup>794</sup> incorporated information on return on the Repatriation and Departure Service website.

Civil society organisations in Spain noted a lack of information on legal assistance to applicants who were notified of a return decision.<sup>795</sup>

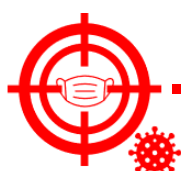


## Section 4.10

# 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 also requires Member States to make free legal assistance and representation available on request and under certain conditions during appeal procedures.<sup>796</sup>



### COVID-19

All EU+ countries adopted new practices to ensure a safe environment for legal representatives during the COVID-19 pandemic. In line with health measures (including social distancing, the wearing of masks and disinfection), countries organised information sessions on legal aid, either individually or in small groups, and many countries replaced face-to-face interaction with phone or video consultations. During the personal interview, legal assistance was provided with a reduced number of participants in the room or by having the legal representative attend from a separate room.

Due to delays from lockdowns and disruptions from postal services, negative decisions were often delivered at a later stage (see Section 4.4). In addition, as a direct result of restrictive measures, civil society organisations reported on the lack of access to legal assistance and representation at the borders and in detention and reception facilities in several countries. UNHCR<sup>797</sup> recommended adaptive measures to ensure access to legal assistance and representation and to maintain procedural fairness.



### Digitalisation

By nature, legal assistance relies on a personal connection and trust developed through physical presence, so the pandemic did not spur digitalisation in legal aid in first instance applications. For second instance procedures, however, courts were pushed to use digital communication tools to allow hearings to take place and provide access to an appeal.

Legal representatives initially worked remotely during the first wave of the pandemic, and subsequently working methods were adjusted throughout 2020 to guarantee access to and continuity of services. Despite efforts to adhere to legal safeguards during videoconferencing, some challenges were experienced with communication and nuances online.

Preference was given, when possible, to face-to-face counselling, in line with guidelines from health authorities. Face-to-face contact between the lawyer and asylum applicant remained of particular importance to build confidence and provide assistance in preparing the application, during the interview and later with any subsequent appeal.



The European Commission's new Pact on Migration and Asylum,<sup>798</sup> which was published in September 2020, builds on its 2016 proposal for a regulation establishing a common procedure for international protection.<sup>799</sup> The 2016 proposal reiterates extensive procedural guarantees which safeguard the rights of asylum applicants, including free legal assistance and representation throughout all stages of the procedure (Article 15(1)).

However, Member States can limit this right exceptionally and decide not to provide free legal assistance and representation when the applicant has sufficient resources and the application or appeal are considered not to have tangible prospects of success (Articles 15(3a), (3b), (5a) and (5b)). Member States may also decide to exclude free legal assistance and representation for subsequent applications (Article 15(3c)), and at the appeal stage, this can also be done for the second level of appeal or higher (Article 15(5c)).

In essence, the new pact places more guarantees for legal assistance throughout the asylum procedure. While welcoming the proposal, civil society organisations criticised the limitations when an appeal has no prospects of success. ECRE considered that asylum applicants may risk being deprived of legal assistance, in particular in cases where there is a presumption that the application might be rejected as manifestly unfounded and when applying the safe country concept.<sup>800</sup> UNHCR also emphasised the need to ensure legal aid and access to a lawyer and NGOs, particularly at the border, in detention and in reception facilities.<sup>801</sup>



#### 4.10.1 Organising legal assistance and representation

The French National Court of Asylum (CNDA) has a legal aid service which works autonomously. Cases are allocated to a designated lawyer after an applicant submits a request for legal aid. While requests for legal aid declined due to the COVID-19 pandemic, the number of lawyers at the CNDA increased, up to 669 lawyers registered with the service in 2020.<sup>802</sup>

Similarly, the newly-established Austrian BBU, which started its activities as of 1 January 2021, provides legal advice and representation during the asylum procedure. All legal advisers of the new agency need to meet specific requirements, such as a degree in law from an Austrian University and a completed compulsory internship in a court. No such qualification or training requirements were previously requested for the provision of legal assistance and representation in asylum procedures. According to the AIDA report for Austria, in January 2021 there were 120 counsellors providing legal assistance at all steps of the first instance procedure, except for the Dublin procedure. The agency took over representation in approximately 3,000 cases. However, civil society organisations have expressed their concern<sup>803</sup> about the independence and impartiality of the organisation since 2019 when the new law was adopted.<sup>804, 805</sup>

A Joint Ministerial Decision was adopted in Greece in March 2020,<sup>806</sup> adding additional requirements and conditions to register and certify national and foreign NGOs working in asylum, migration and social inclusion – including those which provide legal assistance to people seeking international protection. The new provision received strong criticism for disproportionate requirements, as noted also by the European Commission.<sup>807</sup>

Similarly, the CJEU ruled that Hungary had introduced discriminatory restrictions by imposing additional obligations for civil society organisations which receive financial support from abroad, including NGOs that provide free legal aid to asylum seekers. Authorities issued penalties to organisations which exceeded a specific threshold<sup>xlvii</sup> (see Section 2.5). In response, civil society organisations and academic institutions – which had criticised the legislative provision since its adoption in 2017 – welcomed the CJEU judgment and called for its immediate implementation for the law to be repealed.<sup>808</sup>



#### 4.10.2 Accessing legal aid

To mitigate the restrictive measures during the COVID-19 pandemic and to continue access to legal assistance, many countries organised information sessions on legal aid, either individually, for example in Slovakia, in smaller groups in Germany or by replacing face-to-face interaction with phone and video calls, such as in Italy<sup>809</sup> and Spain.<sup>810</sup> In Sweden, arrangements were also made to have the legal representative participate from a separate room seated with the applicant, and the interpreter or legal representatives could also choose to participate by telephone. In Switzerland, the number of participants in the same room during a personal interview was reduced, because preference was given to physical participation of the legal representative in the interview. Indeed, most countries implemented digital solutions to provide remote legal counselling and the presence of a legal representative by phone or videoconferencing during the personal interview. This was the case in Ireland, the Netherlands, Norway, Sweden and Switzerland.

In 2020, some countries also adopted new legislation or policies on accessing legal assistance and representation. Existing projects were expanded and cooperation with other stakeholders was strengthened. For example, Bulgaria aligned its national law to better reflect the recast Asylum Procedures Directive. As such, recent amendments to the Law on Refugees and Asylum, introduced by SG 89/2020<sup>811</sup>, states expressly in Article 23(2) that state authorities have an obligation to ensure access to legal aid by asylum applicants. In addition, an AMIF-funded project on providing legal aid to vulnerable applicants was extended until 31 July 2021. In 2020, 818 asylum applicants received legal aid under this project during a first instance procedure.<sup>812</sup> The project also covers the appeal phase but only after the case has been submitted to the court. For counselling, drafting and submitting an appeal, asylum applicants and beneficiaries of international protection rely on the support of NGOs, namely the Bulgarian Helsinki Committee.<sup>813</sup>

Similarly, an amendment to the Law on the Legal Status of Foreigners<sup>814</sup> in Lithuania extended the state-guaranteed legal aid during an asylum procedure, while previously-free legal aid was ensured only to appeal an asylum decision at first and second instances.<sup>xlviii</sup> A cooperation agreement was signed between the State Border Guard Service and the Lithuanian Red Cross Society for the provision of psychological, social and legal support to vulnerable foreigners, including asylum applicants.<sup>815</sup>

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<sup>xlvii</sup> Hungary's 2017 "Law on the Transparency of Organisations Supported from Abroad", called Lex NGO, requires civil society organisations that receive more than HUF 7.2 million annually from foreign sources to register as organisations 'receiving support from abroad' and to indicate this label in all their publications and on their websites. See: Venice Commission. (2017, June 20). *Hungary: Opinion on the Draft Law on the Transparency of Organisations Receiving Support from Abroad*.

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)015-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)015-e)

<sup>xlviii</sup> Previously, the law provided access to free legal aid from the state for appeal against first and second instance decisions.



An AMIF-funded project to provide legal assistance, including to vulnerable applicants and beneficiaries, was implemented in Romania in 2020 to cover all stages of the asylum procedure. The implementation continued in 2021 through another project.<sup>816</sup>

In Croatia, the AMIF-funded project, 'Providing legal advice in the process of granting international protection' ended in March 2020, and a new project was approved in July 2020. The public tender for this project was launched but had to be annulled because none of the applications met the criteria. In 2020, a new project, "Croatian Asylum network", which is financed through the STEP UP Fund, provides capacity-building to NGOs on refugee protection and inclusion, by the Dutch Council for Refugees will build a network of civil society organisations working on asylum and migration. The organisations will launch an online platform to connect all stakeholders that provide legal assistance to applicants and beneficiaries of international protection, fostering an exchange of views on legislation and practice. The project will run until April 2021.<sup>817</sup>

In Slovenia, an AMIF-funded project ended in April 2020 which enabled the Legal Informational Centre to provide legal representation for applicants in the first instance procedure. No new call for projects was launched, and the organisation continued to provide free legal aid on a smaller scale in the framework of a UNHCR project.<sup>818</sup> First instance decisions were provided by the Migration Directorate jointly with a list of legal advisors and in a few instances asylum applicants did not manage to establish contact before the appeal deadline expired.<sup>819</sup>

UNHCR supported asylum applicants in Greece by providing legal assistance in administrative detention, in reception centres and to homeless people.<sup>820</sup> The assistance was provided through a programme coordinated by UNHCR with funding from the European Commission, Directorate-General for Migration and Home Affairs and the European Economic Area (EEA) grants and aims to help Greece in building a more effective asylum system.<sup>821</sup>

Greece adopted Decision No 3686 of 24 March 2020, which clarified extensively the right to free legal aid during a second instance procedure and the activities covered by the appointed state lawyer.<sup>822</sup> In order to ensure services and adequate knowledge on international protection issues, registered lawyers must follow a training programme organised by EASO or other bodies, such as UNHCR. The same decree stipulates that lawyers can perform their duties by teleconferencing with asylum applicants. However, while both civil society organisations and state authorities tried to remedy the situation, the legal aid system in Greece continued to face serious challenges in 2020 (including the requirement to authenticate signatures by public authorities in order to authorise legal representation, which made it practically impossible for applicants lacking identity documents to seek legal aid.<sup>823</sup> There were also cases of authorities refusing to authorise signatures.<sup>824</sup>

In addition, legislative amendments to Law No 4636/2019 on "International Protection and other provisions"<sup>825</sup> and the amendments to Law No 4686/2020 on "Improvement of immigration legislation"<sup>826</sup> reduced the timelines in the asylum procedure, and civil society organisations noted that the short timeframes obstructed many applicants from consulting a lawyer in time.<sup>827</sup>

NGOs mentioned that there was insufficient communication from state authorities on the modalities to conduct remote interviews with the presence of legal representatives, in addition to unclarity about access to legal counselling in the new reception facilities in Lesvos.<sup>828</sup> HIAS Greece reported on asylum applicants accommodated in Chios and Moria being fined by police officers for violating restrictive measures while travelling to seek legal counsel from civil society organisations.<sup>829</sup>

In 2020, UNHCR continued to implement the project, “Strengthening Asylum in Cyprus”, through the NGOs Future World Centre and Cyprus Refugee Council, by providing three lawyers who assisted and represented asylum applicants and beneficiaries of international protection. Through the project, 400 persons received legal assistance out of approximately 19,000 pending applications.<sup>830</sup>

According to Decree No 2020-1717 of 28 December 2020 in France<sup>831</sup>, as of 1 January 2021 all legal aid requests, including from asylum applicants, could be submitted through an online tele-service application, “FRANCE CONNECT”. For the implementation of this measure, an Order of 19 March 2021 was adopted for the creation of the automated processing of personal data, called the “Legal Aid Information System”.<sup>832</sup>

Nonetheless, civil society organisations raised concerns over the course of 2020 about the hindered or insufficient access to legal assistance and representation, including due to COVID-19 restrictions,<sup>833</sup> at the border (for example in Croatia,<sup>834</sup> Greece,<sup>835</sup> Italy,<sup>836</sup> Poland<sup>837</sup> and Switzerland<sup>838</sup>), in detention centres in Estonia,<sup>839</sup> France,<sup>840</sup> Malta,<sup>841</sup> and Spain,<sup>842</sup> and in reception facilities and remote private accommodation in Croatia,<sup>843</sup> Cyprus,<sup>844</sup> (Pournara camp) Greece<sup>845</sup> and Portugal.<sup>846</sup>

Croatian authorities underlined that third-country nationals in a return procedure were entitled to free legal aid and noted that applicants in self-isolation could continue to communicate with their legal representative by e-mail or phone.

To address concerns and improve the situation in Portugal, the Ministry of Internal Administration, Ministry of Justice and the Bar Association signed a protocol in November 2020, which aimed to guarantee state provided legal assistance to foreigners who are refused entry to the territory at international airports. According to the protocol, the Immigration and Border Service (SEF) provides financial resources to appoint a lawyer for free at all international airports in Portugal, and the SEF makes its facilities available for the consultations between the lawyer (appointed or chosen) and the foreigner.

In Switzerland, Asylex raised concerns about the lack of legal assistance and representation for rejected asylum applicants kept in administrative detention pending expulsion, and detailed the situation in its report to the United Nations High Commissioner for Human Rights, following a call for comments on the Draft General Comment No 5 (2020) on migrants’ rights to liberty and freedom from arbitrary detention.<sup>847</sup> Similarly, as Spain faced increased arrivals of migrants on the Canary Islands in October and November 2020, the Spanish Lawyers General Council<sup>848</sup> and civil society organisations<sup>849</sup> reported on the difficulties in receiving legal assistance upon arrival and prior to return procedures to the country of origin. To overcome the challenges, UNHCR started to support the providers of free legal assistance with training and guidance on the Canary Islands in January 2021.<sup>850</sup>

Some national courts received requests by applicants for legal aid and the right to a fair trial in line with the provisions in the Asylum Procedures Directive. For example, in Sweden, the Migration Court of Appeal referred a case back to the Migration Agency for failure to provide legal assistance to minor asylum applicants. The court [stated](#) that refusing legal aid by anticipating the outcome of a case should be applied only exceptionally, especially in international protection matters.

### Temporary extensions

With the adoption of temporary COVID-19 ordonnances in Switzerland, adjustments were made to allow decisions to be taken when the legal representative could not be present at an interview for the extended procedure.<sup>851</sup> Although civil society organisations criticised the measure on the absence of representation at an interview, the State Secretariat for Migration confirmed that it was rarely used in practice and only at the beginning of the pandemic.<sup>852</sup>

In France, the time limit for requesting legal aid in an appeal against a negative decision was extended due to COVID-19 by ordonnances adopted in March and May 2020.<sup>853</sup>

During COVID-19 restrictions, Germany acknowledged the difficulties in seeking legal advice or representation in case of a negative decision and enhanced cooperation with federal states to support onsite legal assistance and access to legal remedies. When applicants had mandated legal representatives, rejected decisions were communicated directly to their lawyer who could contest it on behalf of the applicant.<sup>854</sup>



### 4.10.3 Providing legal assistance to appeal a decision

National courts adopted emergency measures to continue to provide legal aid during hearings on first instance appeals, and courts turned to digital communication for these hearings, for example in Slovakia.<sup>855</sup> Digital communication for hearings was available in Slovenia, but UNHCR noted that this option was rarely used in practice. In Croatia, access to case files was arranged by email or phone for legal representatives of asylum applicants in the appeal procedure during the period of the first lockdown. Since May 2020, the main rule is again that access to the file is granted in person.

Consultations were held between the International Protection Appeals Tribunal (IPAT) and the Legal Aid Board in Ireland as the tribunal was planning to move towards the introduction of a programme to facilitate the holding of oral hearings by Audio-Video link (AV hearing). The tribunal continues to engage with appellants through their legal representatives, including the Legal Aid Board and in wider stakeholder engagement, in respect of AV hearings.<sup>856</sup> In France, the use of videoconferencing was implemented at the CNDA for asylum seekers living in overseas territories and was extended to lawyers registered in bar associations operating within other jurisdictions in Nancy and Lyon.<sup>857</sup>

Free legal aid is normally provided in Greece by state-paid lawyers in the Registry of Lawyers in appeal procedures, while legal aid in the first instance procedure is usually covered by civil society organisations.<sup>858</sup> NGOs reported that legal assistance was unavailable to asylum applicants on multiple occasions and, consequently, hindered access to an appeal.<sup>859</sup> This situation was caused by the limited number of state-paid lawyers who were unable to cope with the actual needs of asylum applicants.<sup>860</sup> The same issue was raised by the Committee of Ministers in the context of the supervision of European Court of Human Rights judgments<sup>861</sup> and by a group of NGOs in their argumentation before the EU Commission concerning infringements of EU law.<sup>862</sup> The Greek Asylum Service has launched a call to supplement the Registry of Lawyers who provide legal aid by Decision of 25 September 2020.<sup>863</sup>

In addition, due to COVID-19 measures, deadlines for appeals were not met in May 2020 in Greece, because a significant number of negative decisions were issued by the Lesvos Regional Asylum Office after the resumption of services.<sup>xlix</sup> Similarly in Chios, the single state-funded lawyer was unable to provide legal assistance when the number of rejected decisions increased in June 2020 following the resumption of services. Consequently, many asylum applicants missed the 10-day deadline to appeal a negative decision, while the Chios Regional Asylum Service attempted to address the situation by redirecting legal aid requests to other Regional Asylum Offices.<sup>864</sup>

Swiss NGOs criticised the discretionary power of the state-paid lawyers to resign from a case and consequently not to submit an appeal when they assessed it as having low or no tangible prospects of success before the Federal Administrative Court.<sup>865</sup> Consequently, applicants were left without legal protection and encountered difficulties to find another legal counsel within the tight appeal deadline. In addition, a high rate of appeals submitted by non-state legal counsels were allowed by the Federal Administrative Court, and thus, it was considered by the coalition of legal counsels that state lawyers should have not resigned in those cases.<sup>l</sup>

The Finnish Supreme Administrative Court ruled that denying legal aid in anticipation of the outcome should be applied exceptionally and the assessment of success chances of an appeal in matters of international protection should be treated with caution when deciding on legal aid requests for subsequent applications. The Legal Aid Office must be cautious when rejecting a legal aid request because the applicant's circumstances or the security situation in the country of origin might have changed and an incorrect negative decision could have serious consequences for an asylum applicant.

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<sup>xlix</sup> After the resumption of services on 18 May 2020, the Regional Asylum Office in Lesvos issued negative decisions to 1,789 applicants for international protection and the deadline to apply for an appeal was 28 May 2020. HIAS Greece reported that the Asylum Office does not provide free legal aid to prepare an appeal and asylum applicants rely mostly on lawyers from NGOs who were not able to provide legal assistance within the tight deadline. See more here: Stonisi | Στο Νησί (2020, May 20). 1400 «απορριπτικές» αποφάσεις ασύλου «με το καλημέρα» [1400 asylum requests rejected right away]. <https://www.stonisi.gr/post/9096/1400-aporriptikes-apofaseis-asyloy-me-to-kalhmera>; Hebrew Immigrant Aid Society. (2020, May 19). *The instructions for the resumption of the operation of the Asylum Service lead to violations of the fundamental rights of asylum seekers*. [https://www.hias.org/sites/default/files/greece-statement\\_-\\_rejection\\_decisions\\_to\\_1789\\_asylum\\_seekers.pdf](https://www.hias.org/sites/default/files/greece-statement_-_rejection_decisions_to_1789_asylum_seekers.pdf)

<sup>l</sup>The analysis of the asylum system and legal assistance and representation in Switzerland following the 2019 changes was done on 75 cases included in a common database of the Coalition of Independent Legal Experts on Asylum. See: Alliance of Independent Lawyers in the field of asylum | Bündnis unabhängiger Rechtsarbeit im Asylbereich | Coalition des juristes indépendant-e-s pour le droit d'asile | . (2020). *Zur Neustrukturierung des Asylbereichs: Bilanz zu einem Jahr der Umsetzung. Analyse des Bündnisses unabhängiger Rechtsarbeit im Asylbereich (Untersuchungszeitraum: 01.03.2019– 29.02.2020) [On the restructuring of the asylum sector: Balance for one year of transposition. Analysis of the Alliance of Independent Lawyers in the field of asylum (Examination period: 01.03.2019-29.02.2020)]*. [https://xn--bndnis-rechtsarbeit-asyl-vsc.ch/wp-content/uploads/2020/09/DOSSIER\\_Rechtsarbeit\\_DE.pdf](https://xn--bndnis-rechtsarbeit-asyl-vsc.ch/wp-content/uploads/2020/09/DOSSIER_Rechtsarbeit_DE.pdf); Swiss Observatory on Asylum and Aliens Law | Schweizerische Beobachtungsstelle für Asyl- und Ausländerrecht | Observatoire Suisse du Droit d'Asile et des Étrangers | Osservatorio Svizzero sul Diritto d'Asilo e degli Stranieri. (2021). *Alle Fälle nach Aktualität sortiert [All cases in chronological order]*. <https://beobachtungsstelle.ch/de/hauptmenu/falldokumentation-3/884-2/>; Swiss Observatory on Asylum and Aliens Law | Schweizerische Beobachtungsstelle für Asyl- und Ausländerrecht | Observatoire Suisse du Droit d'Asile et des Étrangers | Osservatorio Svizzero sul Diritto d'Asilo e degli Stranieri. (2020). *Bilanz zur Neustrukturierung des Asylbereichs [Assessment of the restructuring of the asylum sector]*. <https://beobachtungsstelle.ch/news/bilanz-zur-neustrukturierung-des-asylbereichs/>.

In Switzerland, following changes implemented in 2019, the legal assistance and representation in the asylum procedure were analysed based on 75 cases which were included in a common database of the coalition of independent legal experts on asylum.<sup>866</sup>

In Portugal, concerns were raised by the Portuguese Refugee Council (CPR) on the merits test to access legal aid in the appeal procedure. In 2020, appointed lawyers continued to refuse to take on board appeals based on low chances of success and the Bar Association did not propose a replacement for the appointed lawyer. This practice has impacted mostly applicants in the Dublin system and in special procedures and is due to unclarity on the criteria of the merits test.<sup>867</sup>

The Administrative Court of International Protection in Cyprus emphasised that the burden of proof for changes of positive outcomes in appeal lie with the applicant and refused to grant legal aid in a [case](#) concerning a Somali applicant and another [case](#) concerning an Egyptian applicant where no prospects of success were demonstrated. Conversely, in [another case](#), the Cypriot court assessed that facts and evidence given as grounds for international protection were not properly investigated and there was a real chance of a positive outcome in the appeal procedure; consequently, legal aid was granted to the applicant.

Similarly, the AIDA report for Poland assessed that there was insufficient capacity to provide legal assistance and representation under the state-paid scheme for asylum applicants in the appeals procedure. In addition, NGOs lacked funding and resources to provide the necessary assistance to fill the gap. Moreover, the Association for Legal Intervention underlined that since all information is being gathered and analysed first without a legal counsel at the interview before the determining authority, it was not sufficient to only provide free legal assistance at the second instance.<sup>868</sup>



#### 4.10.4 Ensuring the quality of legal aid

The provision of quality legal assistance at an early stage contributes to the effectiveness of the entire asylum procedure. Seeking improvements, the Minister of Justice in Luxembourg proposed a general measure to increase the hourly rate for lawyers who provide legal aid,<sup>869</sup> while the Migration Agency in Sweden underlined that public legal counsels for asylum seekers should have adequate, relevant education, experience and accountability for the services provided.

In contrast, in Ireland, fees for counsellors providing legal aid in asylum cases were reduced, leading to a drop in interest from lawyers to take on asylum cases.<sup>870</sup> At the same time, the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process assessed the asylum system in Ireland and made specific recommendations to the Legal Aid Board for improvements. The proposals included the provision of legal assistance in accommodation centres, the allocation of sufficient financial resources and staffing to the Legal Aid Board, an extended number of hours for lawyers working on asylum cases and the creation of a specialised team of lawyers on international protection matters, with the possibility of career development.<sup>871</sup>

National authorities made rapid adjustments to adhere to health guidelines during the COVID-19 pandemic, and many interviews with legal representatives had to be moved online. While authorities strived to respect legal safeguards during the virtual format, FRA reported that civil society organisations identified some challenges—for example in Sweden—because nuances could be easily lost during online interpretation and legal counsel during remote interviews.<sup>872</sup>

Weakness and limitations of national legal aid systems for asylum applicants were still apparent, for example in accessing competent and qualified lawyers in Finland<sup>873</sup> and Malta<sup>874</sup> and improving procedures by allocating cases to lawyers and increasing the number of legal aid hours in asylum cases in Norway.<sup>875</sup> However, an amendments to the Finnish Aliens Act and legal aid were being processed in parliament, whereby legal aid would cover the presence of a legal representative in all asylum interviews. Legal representatives would also be remunerated according to an hourly rate as opposed to a lump sum. In Croatia, the JRS advocated for a control mechanism for lawyers who provide free legal assistance in administrative procedures, as applicants were dissatisfied with the communication with counsellors during the proceedings and its impact on the outcome of the case.<sup>876</sup> This would complete the existing legal framework and control mechanism defined under the “Ordinance on free legal assistance in the process of international protection”, Article 11.

## Section 4.11 Interpretation services



Interpreters play a key role throughout the asylum procedure to ensure that the exchange of information between the applicant and the asylum authority is accurate and understood by both parties. Skilled interpreters can reflect the nuances of a dialect and address the specific needs of vulnerable applicants. They can also help authorities in obtaining relevant information to facilitate the timely access to procedure and address any issues during reception. While the recast Asylum Procedure Directive sets out the legislative provisions for interpretation, in practice the quality, integrity and efficiency of interpretation services are indicators which must be met by Member States. In the absence of adequate services, the result of the final decision could be affected.



### COVID-19

The pandemic had a direct impact on any face-to-face services throughout the asylum procedure. EU+ countries needed to rapidly develop new strategies to provide interpretation, while ensuring the safety of employees and asylum applicants. Some countries already had remote interpretation services in place, but many had to adapt their approach on site to adhere to national health and safety guidance in order to ensure the continued provision of information in a language understood by the applicant.

Many resources in 2020 were concentrated on translating information into several languages on preventing the spread of COVID-19.



### Digitalisation

Due to the implementation of new technologies and smart organisation, Member States were able to implement a safe way to conduct interviews with interpretation. Interpretation by telephone and videoconferencing became the norm in several countries. Many EU+ countries already had systems in place for remote interviews, while other countries established online interviews for the first time. To assist, EASO and UNHCR<sup>877</sup> published guidelines on conducting remote interviews with a focus on remote interpretation.

EU+ countries updated their websites by publishing information in several languages, and some developed new platforms to facilitate language recognition and interpretation. For example, the State Border Guard Service in Lithuania acquired 12 language translator devices, Travis Touch Go, to provide quality interpretation in reception, after using online translation services to identify an applicant's language.<sup>878</sup> It was reported that the use of translation tools, such as Google Translate, increased, but users should be aware of possible inconsistencies with automated translations which can be misleading and the absence of some languages and dialects altogether.<sup>879</sup>

Civil society organisations also took initiatives to connect volunteer interpreters with asylum applicants digitally by developing applications<sup>880</sup> or contributing to the development of an automated speech recognition technology to help speakers of marginalised languages with low literacy rates<sup>881</sup>. Similarly, Germany developed an automatic language recognition tool to support identification of nationality, and Hungary is currently considering introducing a similar system.<sup>882</sup> The Migration Agency in Sweden further developed the digitalised handling of linguistic analysis by streaming voice samples to linguistic analysts, and Italy is in the testing phase of the 'Sindaca'



### 4.11.1 Providing interpretation



In 2020, some countries adopted new legislation or policies on the provision of interpretation. For example, in Greece the new Law No 4686/2020 states that an applicant must declare the preferred language prior to the interview, and a new amendment clarified that, if the provision of interpretation is not possible in the applicant's language of choice, interpretation is provided in the official language of the applicant's country of origin or in another language which may reasonably be assumed to be understood by the applicant, including international sign language.<sup>883</sup> In addition, a Ministerial Decision specified that interpretation services must be provided free of charge by the Asylum Services during meetings between an applicant and a lawyer, and these meetings should not exceed 2 hours in total.<sup>884</sup>

A previous law in Lithuania did not specify which type of document can be translated free of charge, so asylum applicants were submitting multiple documents in the original language in an effort to delay the procedure. In response, Lithuania adopted a new legislative provision specifying that an applicant has the right to oral interpretation free of charge for any issues related to the asylum application. This includes free interpretation during interviews conducted by SBGS staff and the Migration Department, during the proceedings at first instance and in communication with the providers of state-guaranteed legal aid.

The European Parliament reported that procedural guarantees foreseen in the recast Asylum Procedures Directive, such as the right to information, legal assistance and interpretation, are either not applied or only applied to a limited extent in border procedures.<sup>885</sup> For example, the ECtHR **ruled** against Slovakia after an expulsion order was issued following a double interpretation by another Afghan applicant, but found the complaints against Slovakia inadmissible and only assessed the complaints against Ukraine. The same court **noted** the lack of interpretation during an interview of a Sudanese applicant held in detention. A serious lack of interpretation services was reported also in Spanish detention centres.<sup>886</sup>

Similarly, NGOs reported on a lack of interpreters in the Pre-Removal Detention Centre in Lesvos,<sup>li</sup> and following its visit to Greece in 2019, a 2020 report by the UN Working Group on Arbitrary Detention identified gaps in the provision of interpretation and legal aid, which resulted in a lack of access to judicial remedies against detention decisions.<sup>887</sup> Similar reports were given by Equal Rights Beyond Borders<sup>888</sup> for Chios Island and the Malakasa refugee camp, in addition to impeded access to hospital services in the Attika region due to a lack of interpreters.<sup>889</sup>

The need to strengthen interpretation provision in Romania's border crossing points was highlighted by the JRS.<sup>890</sup> It also reported delays of 1 to 2 weeks in the organisation of the interview in Galati due to a lack of Afghan interpreters,<sup>891</sup> while the cases were nevertheless issued within legal timelines. Difficulties to access health care were reported in Hungary as a result of language barriers and a lack of interpreters.<sup>892</sup> A shortage of interpreters was observed in Bulgaria in both first and second instance procedures, especially for Kurdish (Sorani or Pehlewani), Pashto, Urdu, Tamil, Ethiopian and Swahili.<sup>893</sup>

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<sup>li</sup> For this reason, the individuals accommodated in the (PRO.KE.K.A.) pre-removal facility in Moria camp had limited knowledge of the reason and the timeframe of their detention. Legal Centre Lesvos. (19 January 2020). *Call for accountability: Apparent Suicide in Moria Detention Centre followed failure by Greek State to provide obligated care*. <http://legalcentrelesvos.org/2020/01/19/call-for-accountability-apparent-suicide-in-moria-detention-centre-followed-failure-by-greek-state-to-provide-obligated-care/>



In addition, the AIDA report for Bulgaria observed that the practice to omit interpretation in the Haskovo Regional Administrative Court led to undue delays in the appeal procedure.<sup>894</sup> The court systematically failed to provide interpreters in the first appeal instance to save resources in case the applicant failed to appear. The hearing would then have to be rescheduled when an interpreter was booked.

The Supreme Administrative Court in Finland **highlighted** the importance of providing procedural guarantees to vulnerable applicants, after the Finnish Immigration Service failed to use a same-sex interpreter to conduct an interview of a victim of sexual violence.



### 4.11.2 Organisations responsible for interpreters

A number of countries launched new procurement procedures following the end of contracts for interpretation. For example, the State Agency for Refugees in Bulgaria issued a call for tender for the provision of interpretation services,<sup>895</sup> and a new agreement was signed with an external interpretation company in Slovakia.

As of 1 January 2021, the newly-established BBU is also responsible for interpretation services during the asylum procedure in Austria.<sup>896</sup>

Due to an increase in translation and interpretation costs in Luxembourg, the budget was increased by 67% for “Expert, study and translation costs”.

In the Netherlands, a new programme called “Interpreting in the Future” is currently under discussion. It aims to establish a roster of interpreters to widen the pool available for the Ministry of Justice and Security. There would be periodic quality assessments to ensure quality.<sup>897</sup> In the meanwhile, the Immigration and Naturalisation Service issued new working instructions for officials who work with interpreters.<sup>898</sup>

The SEM in Switzerland faced difficulties in obtaining a sufficient number of interpreters in all its regional structures within the tight deadlines of the new asylum law.<sup>899</sup>



### 4.11.3 Improving quality

Several countries strengthened their quality assessment mechanisms throughout 2020 to raise the standards for and quality of interpretation services. In Finland, the Tulppaani project developed a quality control model for interpretation during asylum interviews, using peer-to-peer review, random checks<sup>900</sup> and new guidelines for interpreters.<sup>901</sup>

Similarly, the “Project Bridge” launched by UNHCR to support authorities in Austria seeks to improve the quality of interpretation in the asylum procedure by developing comprehensive and multi-level training and continued education for interpreters.<sup>902</sup> In addition, the Austrian Government Programme 2020-2024 includes training, monitoring and quality improvement for interpretation services, and the Quada project, developed with UNHCR, provides asylum-specific training to interpreters.

In Croatia, the AMIF-funded project, ‘Translation and expansion of the network of translators in the process of granting international protection’, was implemented to better integrate beneficiaries of international protection.

In Germany, the training programmes for interviewers and other employees using interpretation services were extended and new quality control procedures were introduced. In Belgium, targeted training was provided to voluntary interpreters within the framework of a project funded by Fedasil and implemented by the social translation agency of the ASBL Brussel Onthaal and the Brussels Institute for Applied Linguistics (BIAL) of the University of Brussels (VUB).<sup>903</sup>

A new legal position was issued in Sweden for the assessment of interpreters needed for interviews, reception and any other asylum procedure. The requirements were clearly laid out in order to procure a number of new contracts with different interpretation agencies.<sup>904</sup> Similarly, the National Commission for Asylum in Italy is considering adding new criteria into public tenders to ensure that interpreters have a suitable level of comprehension of the Italian language. This issue was also reported in Slovenia, where interpreters are not required to prove their level of knowledge of the Slovenian language or the language into which they interpret.<sup>905</sup> The Slovenian Directorate for Migration of the Ministry of the Interior added that for some languages it would be difficult to require a certified document proving a certain level of knowledge.

The State Agency for Refugees and UNHCR reported a continued lack of qualified interpreters in Bulgaria,<sup>906</sup> and the ECtHR [mentioned](#) a shortage of interpreters of certain languages in the country. Civil society organisations in Malta highlighted a lack of interpretation services in the second instance determination procedure.<sup>907</sup> Similar deviances were observed in Bulgaria.<sup>908</sup>

In Portugal, the quality of interpretation remained a challenge due to a lack of training of service providers, who are often individuals with sufficient command of a language. The Portuguese Refugee Council observed that it was difficult to secure interpreters for certain languages (Bambara, Bengali, Kurdish, Lingala, Mandinka, Nepalese, Pashto, Tamil, Tigrinya, Sinhalese, and to a lesser extent Arabic and Farsi).<sup>909</sup> Similar issues were reported in Hungary for Arabic, Eritrean dialects and Sorani<sup>910</sup> and in Slovenia, where the shortcomings can affect the application's credibility assessment.<sup>911</sup>

The Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process examined issues regarding the provision of interpretation during accommodation in the International Protection Process in Ireland and recommended to adopt a code of conduct and introduce an accreditation test for interpreters from mid-2023.<sup>912</sup>



#### 4.11.4 Making new information available

At the European level, the Council of Europe published a study which illustrates how to provide gender-sensitive interpretation.<sup>913</sup> The Council also worked in collaboration with EASO to produce an animated [video](#) on the rights and guarantees for children during an age assessment procedure, with translations available for example in Bambara, Moroccan and Wolof. This initiative which was particularly welcomed for example by the Spanish Ombudsman.<sup>914</sup>

In an effort to continue its work programme during the pandemic, EASO was involved in the first remote resettlement exercise with Swiss authorities, which used remote interpretation services.<sup>915</sup>

To provide clear information to more applicants, Member States continued to produce material in more languages over 2020. For example, Latvia published a booklet in 12 languages with relevant guidelines on the asylum procedure in 2019 and translated it into an additional language in 2020, in line with assessed needs.<sup>916</sup> In Lithuania, a website was developed for integration into the new society with information and step-by-step guides on access to the labour market, housing and access to social

services. The website is available in English, Lithuanian and Russian – and for the first time, in Arabic and Farsi.<sup>917</sup> On European Anti-Trafficking Day, Luxembourg published a new leaflet for potential victims of human trafficking in 15 languages, including Albanian, Arabic, Chinese and Tigrinya.<sup>918</sup> Similarly, in Bulgaria the IOM developed brochures on human trafficking and voluntary return, which were translated into Arabic, Dari, English, Farsi (Persian) and Pashtu.

But in 2020, the greatest efforts were addressed at translating information related to the prevention of spread of COVID-19 into various languages. For example, special announcements and leaflets for residents were translated into all spoken languages in Cyprus. Similarly, in Romania an information leaflet was made available in Arabic, Bengali, English, Hindi and other languages spoken by applicants. In Italy, the Ministry of Health in collaboration with UNHCR and ARCI opened a [portal](#) in 14 languages to inform refugees, asylum seekers and migrants living in Italy about the COVID-19 emergency,<sup>919</sup> supplemented by clarifications from cultural mediators.

In France, a new section on the immigration website included information on measures taken during the health crisis. The resources were made available in Albanian, Arabic, Dari, English, Georgian, Mandarin, Pashto and Russian, with an easy-to-read and understand tab in French (*FALC, Facile à lire et à comprendre*).<sup>920</sup>

Information leaflets on conscientious and responsible behaviour during the COVID-19 pandemic were developed by the IOM and made available at Croatian detention facilities and reception centres in 26 languages: Amharic, Arabic, Bambara, Bengali, Chinese, Edo, English, Esan-Ishan, French, Fula, Hausa, Igbo, Italian, Kurdish-Sorani, Mandinkan, Pashto, Pigeon-English, Romanian, Russian, Somali, Soninke, Spanish, Tigrinya, Urdu, Wolof and Yoruba (*see Section 4.9*).



#### 4.11.5 New working methods

Remote interviews and interpretation quickly became the preferred mode during the COVID-19 pandemic. In fact, the European Commission recommended that Member States use remote simultaneous interpretation, and where videoconferencing was not technically feasible, to explore all means possible to ensure remote simultaneous interpretation.<sup>921</sup> Asylum authorities, such as BAMF and the Swedish Migration Agency, already had the mechanisms in place and resorted to remote interpretation services to a greater extent than before. Other countries needed to establish the system for the first time.

Countries such as Germany,<sup>lii</sup> Norway and Sweden conducted personal interviews with remote interpretation using different communication software since April 2020.<sup>922</sup> Similarly, in Finland, Iceland, the Netherlands and Switzerland, interpretation was provided through videoconferencing from a different room. Swedish NGOs cautioned, however, that important nuances might get lost during remote interviews and interpretation.<sup>923</sup> To tackle this challenge, the Irish Refugee council provided training to interpreters on how to work remotely.<sup>924</sup> Slovenia was not able to purchase the technical equipment to ensure distance interpretation and videoconferencing but is currently developing such a system for the future, during the epidemic and in the implementation of interpretation for some rare languages.

<sup>lii</sup> In addition, branch offices at the operational level are instructed to book the nearest interpreters.

Authorities in Czechia used interpretation by teleconference at times since they reported a shortage of interpreters during the pandemic, which created delays in the asylum procedure. This was echoed by JRS Europe, noting that asylum interviews were delayed or postponed because interpreters would refuse to be physically present.<sup>925</sup> Issues were reported also in Hungary, where interpretation through videoconferencing was sometimes difficult due to a bad connection.<sup>926</sup>

Some countries followed a different approach. In Denmark, for example, plexiglass barriers were installed to separate the interviewer, the applicant and the interpreter. Likewise, the Danish Refugee Appeals Board also used plexiglass barriers separating board members and secretariat staff from the applicant, the interpreter, the first instance representative and the lawyer. Similarly, in France, Italy and Luxembourg, plexiglass panels were used to separate the interviewer from the applicant, the lawyer and the interpreter, while the use of a mask was mandatory.<sup>927</sup> In addition to the mask, Slovakia introduced an air purifier in the rooms and required a self-declaration to be signed by the interpreter. However, EASO operations personnel in Malta cautioned that face-to-face interviews with protective personal equipment required additional efforts by both interpreters and applicants for clear comprehension.<sup>928</sup>

## Section 4.12 Country of origin information



Up-to-date, quality information on countries of origin is an essential component to make well-informed, fair decisions on international protection and to develop evidence-based asylum policy. The recast Qualification Directive, Article 4(3a) specifies that the assessment of an application for international protection must take account of all relevant facts about the applicant's country of origin. Along the same lines, the recast Asylum Procedures Directive, Article 10(3b) stipulates that precise and timely information on the general situation in countries of origin of applicants and, where necessary, in countries through which they have transited is to be obtained from various sources, such as EASO, UNHCR, the Council of Europe and other relevant international organisations.

EASO and countries alike, at times in cooperation with research institutions and civil society organisations, continuously gather well-founded information on a wide range of topics covering various third countries.



### COVID-19

The pandemic curtailed the ability to conduct fact-finding missions in countries of origin or neighbouring countries in 2020. Most fact-finding missions took place in the first quarter of the year and only a very limited number were undertaken after March 2020. In response, EU+ countries focused on other methods to collect country of origin information (COI) and maintain contact with their sources. Most face-to-face activities, such as training on COI research, were suspended. Some COI units took advantage of the confinement to carry out in-depth work to improve the information available and to cover a wider range of themes.

In the context of teleworking, cooperation and teamwork, methodologies for internal workflows were redesigned.

With regard to case law, the Higher Federal Administrative Court of Baden-Württemberg in Germany [ruled](#) that the deteriorating effects of the COVID-19 pandemic on the return of an applicant to the country of origin could be brought up during an appeal procedure, when the deterioration in the situation happened after the oral hearing but before the first instance judgment became final.



### Digitalisation

Travel restrictions on fact-finding missions shifted the focus to other methods for collecting COI and maintaining contact with sources. This was done through remote data collection and the use of open source intelligence tools and techniques, often in cooperation with external contractors with relevant expertise. Most COI production in 2020 took place through desk research and through electronic communication between COI units and sources. The new techniques facilitated the production of new reports within shorter timeframes and made it possible to produce quick updates on previous fact-finding missions. New methods were also introduced to monitor security situations, including reviews of press and news media, by using coding systems that allow for automatic updating of information across indicators of interest to asylum authorities.

In addition, the provision of COI and COI-related training were given through tutorials, podcasts and webinars. Expert statements in courts and appeal authorities were provided through teleconferencing. Since the efficacy of the new working methods were proven, some of these solutions may remain in place once the pandemic is over.



COI plays an integral role in informing asylum-related legislation, policy and practices. Over the past years, EU+ countries have taken a number of concrete steps toward enhancing the range and the quality of the information they produce, and when necessary, adapting their methodologies for COI research, reporting and training. Key developments in COI production in 2020 centred around restructuring workflows, updating country information, collaboration and new practices.

### **Restructuring and enhancing capacity**



While no major institutional changes occurred in 2020 in national COI units, some reorganisation of the internal structure took place to maintain a more efficient and harmonised workflow, for example in Belgium and France, and more resources were allocated to enhance COI production, methodology, language and overall quality of reporting, like in Czechia and Italy.

Countries with smaller asylum administrations took steps toward establishing COI units, for example in Malta, or creating a methodology to assign certain countries of origin to case workers who update them regularly, for example in Iceland. EU+ countries continued their efforts to enhance expertise by delivering regular training on COI to professionals involved in the asylum procedure, at times focused on specific countries of relevance for case officers, such as in Belgium, Czechia, France, Iceland, Norway and Romania).

Some national administrations had challenges with limited resources, in particular for targeted, specialised requests which may require detail and expertise. To make optimal use of the resources available while addressing existing COI needs, EU+ countries introduced new processes, for example by using questionnaires to seek input from case workers on their actual needs (such as in Romania).

### **Focus of content**



In 2020, research and reporting focused on updating information on countries for which COI was already available, mainly on common countries of origin of applicants for international protection in Europe, such as Afghanistan, Iran, Iraq and Syria. Efforts were also made to gather information on less common countries of origin, for which limited or no COI existed, for example Colombia and Sri Lanka.

Production took the form of brief country reports, often in response to queries, country fact sheets, general country reports and thematic reports. National administrations also introduced or continued the practice of maintaining country files, comprising summary notes on each country related to history, geography, population and political life (for example in France). Emphasis was placed on increasing knowledge of the culture in key countries of origin, so that asylum officials can better understand and contextualise the information reported through COI products and use this knowledge for informed decision-making. Nonetheless, civil society organisations found there was an imbalance between countries of origin for which a high volume of COI reports existed and those with little, outdated or no reported information.<sup>929, 930</sup>

To assist countries and foster convergence in decision-making, EASO continued in 2020 to publish [COI and MedCOI reports](#), as well as [country guidance](#). In 2020, the Asylum Research Centre (ARC) Foundation continued to produce [COI reports](#) and offer commentaries to COI products by national authorities and EASO.<sup>931</sup> The Dutch Council for Refugees also produced a number of publications including country of origin information.<sup>932</sup>

A common challenge faced by administrations was cross-checking information shared by interlocutors under the condition of anonymity and the refusal of potential sources to share information due to a fear of repercussions by authorities in countries of origin with authoritarian regimes.

Civil society organisations noted that many COI products were not accessible in national languages, which made them inaccessible to non-English speaking audiences.<sup>933,934</sup> Likewise, COI products which are only available in national languages could not be accessed by international audiences.

An area of further improvement concerned the lack of comprehensive information on statelessness and nationality rights in countries of origin, even though some progress had been made in this regard.<sup>935</sup> At times, it was reported that COI was not always shared with legal representatives prior to issuing a first instance decision, which made it harder for representatives to prepare accordingly.<sup>936</sup> Other concerns were expressed regarding the lack of variety or sufficiency in the number of COI sources that some national administrations use to support the reasoning of their decisions.<sup>937, 938</sup>

In *Applicant (Afghanistan) v Federal Administrative Court (Bundesverwaltungsgericht, BVwG)*, the Constitutional Court of Austria [ruled](#) that up-to-date country reports, such as those produced by EASO and UNHCR, must be used to assess the conditions in a country of origin, especially for places where the security situation changes rapidly.

In July 2020, upon a request by the Minister of Migration in the Netherlands, the Advisory Committee on Migration Affairs (ACVZ) published a report on how public sources other than the official country reports produced by the Dutch Ministry of Foreign Affairs can be used in the asylum process. The ACVZ concluded that COI should be collected, used and published in a more systematic manner. It also highlighted that further investment in European cooperation clearly contributed to an improved and common use of COI within the EU.<sup>939</sup>

### **Collaboration**



Asylum authorities in EU+ countries continued to cooperate and exchange expertise in the area of COI through joint research projects and peer review, often under the coordination of EASO through its specialised networks. In parallel, cooperation also continued between authorities and research institutions and civil society organisations in a number of areas, including identification of COI sources, peer review of COI products and fact-finding missions.

## Section 4.13 Statelessness in the asylum context



Statelessness is a legal anomaly which affects those who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully realise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.



### 4.13.1 Understanding statelessness and statelessness-related trends

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>940</sup> Nationality is the legal bond between a person and a state. 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 (being non-discriminatory and non-arbitrary, avoiding statelessness, ensuring gender equality, etc.). Nationality is generally acquired at birth by descent (*jus sanguinis*) and/or place of birth (*jus soli*), or later in life based on residence, marriage or adoption. A stateless person does not have a nationality of any country, whether born stateless or having become stateless later in life.

The issue of statelessness in the field of asylum continued to draw attention in Europe in 2020. UNHCR reported an estimated 483,000 stateless persons<sup>liii</sup> in Europe, as published in its [Global Appeal 2021 Update](#).<sup>941</sup> In the EU context, questions surrounding the acquisition of nationality fall within the competence of Member States and, under international law, it is up to each Member State – having due regard to EU law and the limits set by international law – to lay down the conditions for the acquisition and loss of nationality.

The Council of the European Union adopted its first Conclusions on Statelessness in December 2015, highlighting the importance of nationality as a fundamental right and drawing on international human rights law and the TFEU. The Council underlined the precarious situation of stateless persons who are often excluded from participating in economic, social and political life in their host states or in their states of birth. This commitment was also expressed in the EU's Action Plan on Human Rights and Democracy (2015-2019) to address statelessness in relation to priority countries and focus efforts on preventing the emergence of stateless populations as a result of conflict, displacement and the dissolution of states.<sup>942</sup> The new action plan for 2020-2024 reiterated the commitment to eliminate inequalities, discrimination and the exclusion of persons in vulnerable situations, including stateless persons.<sup>943</sup>

In addition, the 2015 Council Conclusions on Statelessness tasked the European Migration Network (EMN) to establish a dedicated platform to exchange information and good practices and raise awareness about statelessness. The platform brings together all relevant stakeholders in the field: representatives of Member States, the European Commission, the European Parliament, European

<sup>liii</sup> This category refers to persons who fall under UNCHR's statelessness mandate because they are stateless according to the international definition. Data for some countries may include undetermined nationality in the total number of stateless persons.



agencies, international organisations and NGOs.<sup>944</sup> Under this initiative, in January 2020, the EMN published an inform on statelessness in the EU and Norway.<sup>liv</sup> The EU External Action Service also supports the prevention of child statelessness outside of the EU by helping partner countries to strengthen civil registration systems and by promoting birth registration.<sup>945</sup>

Stateless persons and refugees are two distinct categories in international law, but a person can be both a refugee and stateless.<sup>946</sup> In the context of asylum, statelessness may be relevant to the determination process for an asylum application. It is important that both claims are assessed and both statuses addressed explicitly. In instances where refugee status ceases without the person having acquired a nationality, this may necessitate international protection as a stateless person.

The link between statelessness and asylum is a reality across EU+ countries, especially since two of the top countries of origin of applicants in Europe – Iraq and Syria – historically have large stateless populations. They include Kurds and Palestinians in Syria,<sup>947, 948</sup> and Bidoon, Dom and Faili Kurds in Iraq.<sup>949, 950</sup> In addition, both countries retain gender discrimination in nationality laws, which can lead to statelessness.<sup>951, 952, 953</sup> Other countries of origin, such as Iran, Kuwait and Myanmar, also have large stateless populations.<sup>954</sup> As set forth in the recast Qualification Directive, Article 2(n), the country of origin for stateless persons means the country of former habitual residence and not the country of nationality, as is the case for other applicants for international protection.

According to Eurostat data, EU+ countries have received approximately 84,500 applications for international protection by stateless persons during the last decade, from 2011 to 2020 (see *Figure 4.20*). On an annual basis, the highest number was received in 2015, with about 21,100 applications lodged by stateless persons. Since then, the number has decreased.

The share of applications by stateless persons in the overall total number increased in EU+ countries from 2011 to 2014, representing approximately 0.8% to 2.5% of all applications. From 2015, the trend reversed until 2020, when the share of applications by stateless persons decreased to about 0.4% of all applications.

The share of positive decisions on asylum applications at first instance, or the recognition rate,<sup>lv</sup> for stateless persons in EU+ countries is generally high. But there has been a decreasing trend since 2015, with a 90% recognition rate in 2015 compared to 56% in 2020.

While applications lodged by stateless persons may have a relatively high recognition rate, it is important to highlight that this is the case only if statelessness is properly identified during the registration of an application. Often it is not, and these individuals are registered under the nationality of their country of former habitual residence or as having ‘unknown’ nationality. Yet, for some applicants, their statelessness in the country of origin may be wholly or partially linked to their fear of being persecuted. In addition, the recognition rate for applicants registered as of ‘unknown’ nationality was consistently lower than for applicants registered as ‘stateless’ from 2010 to 2019, while for 2020 it was slightly higher (62% for ‘unknown’ compared to 56% for ‘stateless’).

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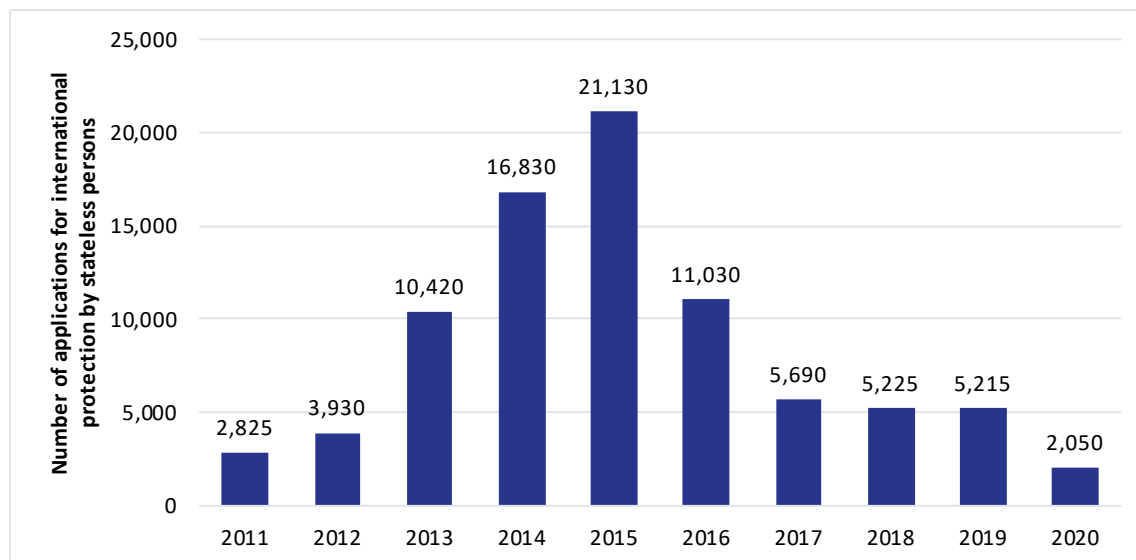
<sup>liv</sup> For a detailed presentation of the findings, see [EASO Asylum Report 2020](#).

<sup>lv</sup> The recognition rate is defined as the number of positive decisions relative to the total number of decisions issued. The recognition rate is calculated by considering refugee status, subsidiary protection and national protection schemes as positive decisions.



**Approximately 84,500 applications for international protection lodged in EU+ countries by stateless persons over the last decade**

**Figure 4.20: Number of applications lodged by stateless persons in EU+ countries, 2011-2020**



Source: Eurostat.

If not identified, statelessness and its consequences will likely not be taken into account during the asylum procedure, and the applicant’s protection needs are likely not to be fully understood and adequately addressed.<sup>955</sup> In addition, the status which is recorded during the registration of an application (e.g. national, stateless or unknown) has an impact on the nationality rights of the applicant’s children and access to processes, such as family reunification and naturalisation.<sup>956</sup> As such, identifying potential cases of statelessness and referring these cases to a statelessness determination process are of paramount importance.<sup>lvi</sup>



### 4.13.2 Changing legislation and policies

A number of EU+ countries took steps toward addressing statelessness in 2020, including acceding to relevant international legal instruments, establishing dedicated statelessness determination procedures, providing access to citizenship at birth, facilitating access to naturalisation, speeding up the statelessness determination process and updating guidance on processing applications by stateless persons.<sup>lvii</sup>

<sup>lvi</sup> For a review of the challenges associated with the identification, registration and recording of stateless persons among asylum applicants and the consequent impact on data, see European Network on Statelessness and Institute on Statelessness and Inclusion (n.d). *Stateless Journeys: Registration and screening*. Retrieved 2 April 2021 from: <https://statelessjourneys.org/main-issues/registration-and-screening/>

<sup>lvii</sup> The [Statelessness Index](#) provides detailed information on legislation, policy, and practices on the protection of stateless people in European countries.

In January 2021, Iceland acceded to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The accession followed a number of steps Iceland had taken in the past years to align national legislation with the two conventions to prevent, identify and reduce statelessness and protect stateless persons.<sup>957</sup>

In Bulgaria, which is a state party to the 1954 Convention relating to the Status of Stateless Persons but had retained a number of reservations to some of its provisions, a new law was adopted in 2020 to withdraw the reservation previously made to Article 31 of the Convention (expulsion).<sup>958</sup> Given the clearly-defined procedure for granting stateless status in the Bulgarian legislation, the reservation was deemed obsolete. In February 2021, a new legislative act amending and supplementing the Law on Foreigners in the Republic of Bulgaria was adopted by the National Assembly, introducing new grounds for refusing to grant stateless status.<sup>959</sup> This change was received with concern as it seems to reduce access to protection for possible stateless persons.<sup>960</sup> More specifically, the stateless status may be refused in cases when the person:

- ➔ holds a valid identity document or has held an identity document that could have been renewed but has not been renewed;
- ➔ is subject to coercive administrative measures under the Law on Foreigners in the Republic of Bulgaria (for example, return or entry ban); or
- ➔ meets one of the grounds under the Law on Foreigners in the Republic of Bulgaria, Article 10.

In January 2020, the Citizenship Act was amended in Estonia. According to the amendment, a minor can apply for Estonian citizenship in a simplified manner if the minor was born in Estonia and has permanent residence in Estonia, and a parent or grandparent with undetermined citizenship lived in Estonia before 20 August 1991 and the other parent is a national of another country. Moreover, if a minor is a citizen of another country, they can acquire Estonian citizenship after they present a certificate showing that they have been released from the citizenship of that other country. The decision of the Estonian government to grant citizenship takes effect on the day following the presentation of the certificate to an authorised governmental agency.<sup>961</sup>

Similarly, as of January 2020, Latvian citizenship is automatically granted to non-citizens' children born after 1 January 2020 in the country, unless the parents have agreed to grant citizenship of another country to the child. In 2020, 142 children of non-citizens were registered as citizens.<sup>lviii</sup>

Following a recommendation by the Dutch Advisory Committee for Migration Affairs,<sup>962</sup> in December 2020, a bill was submitted to the Dutch Parliament foreseeing the establishment of a statelessness determination procedure (*Wet vaststellingsprocedure staatloosheid*).<sup>963</sup> Every person who has a regular place of residence in the Netherlands and has an interest in starting the procedure would be able to request it. The drafting of the bill took place through a consultation process involving several organisations, including the Council of State, think tanks and civil society organisations.<sup>964</sup> In February 2021, the bill was declared controversial and the process has come to a standstill. In December 2020, the Dutch IND published new work instructions for the assessment of applications by Palestinians.<sup>965</sup>

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<sup>lviii</sup> UNHCR noted that “(i)n the specific context of Latvia, “non-citizens” enjoy the right to reside in Latvia *ex lege* and a set of rights and obligations generally beyond what is prescribed by the 1954 Convention relating to the Status of Stateless Persons, including protection from removal, and as such the “non-citizens” may currently be considered persons to whom the Convention does not apply in accordance with Article 1.2(ii)”.

In Czechia, a new legislative proposal was forwarded to the parliament for the establishment of a statelessness determination procedure. Since January 2019, one of the changes includes a procedure introduced into practice to determine statelessness and issue a certificate to this end. UNHCR and the European Network on Statelessness (ENS) observed that this could not be considered an equivalent to a statelessness determination procedure as no specific rights were granted as a consequence of the procedure.

Lithuania continued its efforts to reduce the number of stateless persons in the country. A new provision was added to Law No XI-1196 on Citizenship,<sup>966</sup> stipulating that a child of a stateless person lawfully residing in Lithuania is considered a citizen as if citizenship was acquired by birth, regardless of the actual place of birth. In addition, the Migration Department launched a campaign for a census of stateless persons, during which it created a list of known stateless persons and sent notifications to them, inviting them to contact the department if they would like to receive help in acquiring Lithuanian citizenship. A total of 2,158 notifications were sent and 139 individuals sought the counselling service. Subsequently, 57 of them applied for citizenship and 15 of them have already become citizens.

In September 2020, the Swedish government met with national agencies to discuss challenges related to the registration of statelessness, nationality and 'unknown' nationality. The purpose of this dialogue was to limit existing inconsistencies in the registration of stateless persons and it will meet annually. In parallel, a government inquiry on nationality, established in October 2019 and continued in 2020 and 2021, among other issues, looked into measures to limit statelessness in Sweden, including if certain children born stateless in Sweden could acquire nationality automatically at birth, instead of through or as a complement to the current simplified notification process. Moreover, the Swedish Migration Agency updated in 2020 its legal position on the assessment of cases of stateless persons who previously had their habitual residence in Qatar, Saudi Arabia or the United Arab Emirates,<sup>967</sup> but this was repealed in 2021 and was no longer valid.

In Spain, the Asylum Office worked toward reducing the stock of pending requests for statelessness determination. The backlog was reduced from 4,375 files in 2018 and 4,100 in 2019 to 1,379 files in 2020. The Spanish government also began to publish detailed disaggregated statistics on the statelessness determination procedure.<sup>968</sup>

The ECtHR was called in to rule on issues related to statelessness in EU+ countries. [\*Sudita Keita v Hungary\*](#) concerned difficulties faced by a stateless individual in regularising his legal situation in Hungary and in accessing health care and employment and his right to getting married. The ECtHR decided that Hungary was in violation of the ECHR, Article 8 between 2002 and 2017, when the applicant was ultimately granted a stateless status.

Similarly, in Czechia, the District Court of Prague 7 accepted a damage claim for an excessively lengthy procedure on stateless determination. The Ministry of the Interior was asked to pay for both immaterial damage and expenses linked to the person's previous detention. This was the first case where the ministry had to compensate someone for immaterial damage due to a lengthy administrative procedure (Decision No 12 C 2/2019).<sup>969</sup> UNHCR added that the procedure had not been functioning for several years. Moreover, the Municipal Court in Prague found that stateless persons should be allowed in accommodation centres for asylum seekers, and "the (Ministry) is hereby prohibited to continue the breach of applicants' right to housing in the accommodation centre, and the (Ministry) is also ordered to enable the applicants to use housing in the accommodation centre until the entry in force of their decision on application for a status of a stateless person" (Decision No 5A 168/2019 of 26 Oct 2020).<sup>970</sup>

In another case, the District Court of Prague found that the detention of an applicant for statelessness status was an unlawful act. The court officially stated that applicants for statelessness status cannot be detained because they are lawfully staying on the territory (Decision No 14A8/2020).<sup>971</sup>

In the case of *X (Palestine) v Commissioner General for Refugees and Stateless Persons* in Belgium, CALL ruled that, when a stateless person has multiple habitual residences, the mere fact of not being afraid in one of his or her countries of habitual residence and being able to return there is not enough to consider that the applicant benefits from sufficient protection, within the sense of the Geneva Convention.

In Spain, the Supreme Court found that the initiation of the procedure to recognise statelessness status does not require the applicant to be in the national territory: it is sufficient for the applicant to be at a border point (Decision No 2660/2020 (Appeal No 3661/2019)).<sup>972, 973</sup>

Finally, in December 2020, the UN Human Rights Committee found that the Netherlands violated a child's rights by registering 'nationality unknown' in his civil records, as this left him unable to be registered as stateless under Dutch law and therefore be given international protection as a stateless child.<sup>974</sup>



### 4.13.3 Areas for improvement

While progress has been made in understanding and addressing questions of statelessness in Europe, it is an area where room for further improvement seems to exist. Over the past years, the UNHCR representation for the Nordic and Baltic countries has conducted, in cooperation with local affiliated organisations, statelessness mappings in the eight countries in northern Europe to gain a better understanding of the situation of stateless persons in each country. In November 2020, one such report was published for Denmark,<sup>975</sup> while another report commissioned by UNHCR and drafted by the NOAS provided an analysis of the legal practices on statelessness in Norway, following up on UNHCR's mapping from 2015.<sup>976</sup> In December 2020, UNHCR published a study on statelessness in Czechia; the research presented in the study was conducted in 2018 and, thus, may not reflect possible new developments since then.<sup>977</sup>

A number of actors have worked together to conduct systematic research on statelessness and support legal and policy development, awareness-raising and capacity building. The work is done under the umbrella of the ENS, an alliance of civil society organisations with presence in 41 countries.<sup>lix</sup> Building on research from previous years,<sup>lx</sup> the ENS continued in 2020 to report on existing issues. For example, the ENS was closely engaged in the development of the new [EU Strategy on the Rights of the Child \(2021-2024\)](#) and offered targeted recommendations to the European Commission, other EU institutions and EU Member States to effectively address childhood statelessness.<sup>978</sup>

The ENS consulted with representatives of stateless communities from around Europe and 150 partners from affiliated organisations in 41 countries on the impacts of the COVID-19 pandemic on stateless persons and actions that needed to be prioritised to assist them. Drawing from these

<sup>lix</sup> The ENS' [Statelessness Index](#) offers comparative data on national legislation, policy and practice related to statelessness for 27 European countries.

<sup>lx</sup> In 2017, the ENS – in cooperation with the Open Society Foundation and the Institute on Statelessness and Inclusion – launched the "[Stateless Journeys](#)" initiative to examine the relationship between statelessness and forced migration in Europe. Research findings from this project were presented in the [EASO Asylum Report 2020](#).

consultations, the ENS issued recommendations to governments and regional organisations for immediate and longer-term policy responses to address the needs of stateless persons in public health crises.<sup>979</sup>

In April 2020, the ENS – together with Child Circle, the Platform for International Cooperation on Undocumented Migrants and the Initiative for Children in Migration – published a report on the effects of statelessness on migrant children in Europe.<sup>980</sup> The report identified existing challenges and protection gaps, including with registering births and ensuring that all children born during the travel to Europe can acquire a nationality. It addressed the lack of comprehensive legal safeguards to prevent children from being born stateless and growing up without a nationality. An important parameter is the lack of awareness about statelessness among refugees and migrants, as well as those assisting them and decisionmakers, creating a situation where the issue may not be adequately addressed. The report provided recommendations on implementing safeguards to prevent childhood statelessness; addressing barriers to immediate free birth registration; building capacity and awareness among officials, civil society organisations, refugees and migrants; improving the identification and recording of statelessness; and introducing dedicated, child rights-based procedures for statelessness determination. The ENS also published an extensive [literature review](#) to map existing literature and evidence on the risk of statelessness among refugee children in Europe; identify actors with knowledge, information and power on the issue; and use the findings to inform the production of a framework and methodology for further research.

In January 2021, the ENS presented an analysis of the impact of the proposed new Pact on Migration and Asylum on the fundamental rights of stateless migrants and refugees. The analysis also offered recommendations on how these should be addressed as an integral part of negotiations on, and implementation of the pact.<sup>981</sup>

In summary, civil society organisations in 2020 defined the following areas of concern regarding statelessness in the context of asylum:

- ➔ There is still a significant lack of information and resources for all actors involved in the asylum procedure on statelessness and nationality problems. While positive steps have been taken to increase awareness, this has not led to robust national or regional strategies on how to prevent new cases of statelessness and how to protect stateless individuals. Thus, there are limited mechanisms to systematically identify and register statelessness at the initial stages of the asylum process.<sup>982,983</sup>
- ➔ Barriers exist in registering and/or certifying the birth of a child in Europe, or in transit, which can lead to a risk of statelessness, as a birth certificate is key to establishing a child's nationality.<sup>984</sup>
- ➔ Many countries still lack a statelessness determination procedure established in law to which officials can refer individuals if they claim to be stateless, or even if it exists, there is no systematic referral to it or there is no clarity as to the procedural specifics.<sup>985</sup> This is important to ensure that if refused refugee or subsidiary protection, an individual's protection needs under the 1954 Convention Relating to the Status of Stateless Persons are addressed and their rights upheld. This determination is also important regardless of whether an individual is granted another form of international protection, as statelessness will impact on their access to other rights, their inclusion and citizenship rights, the rights of any children, and their ability to return upon cessation of protection.<sup>986</sup>

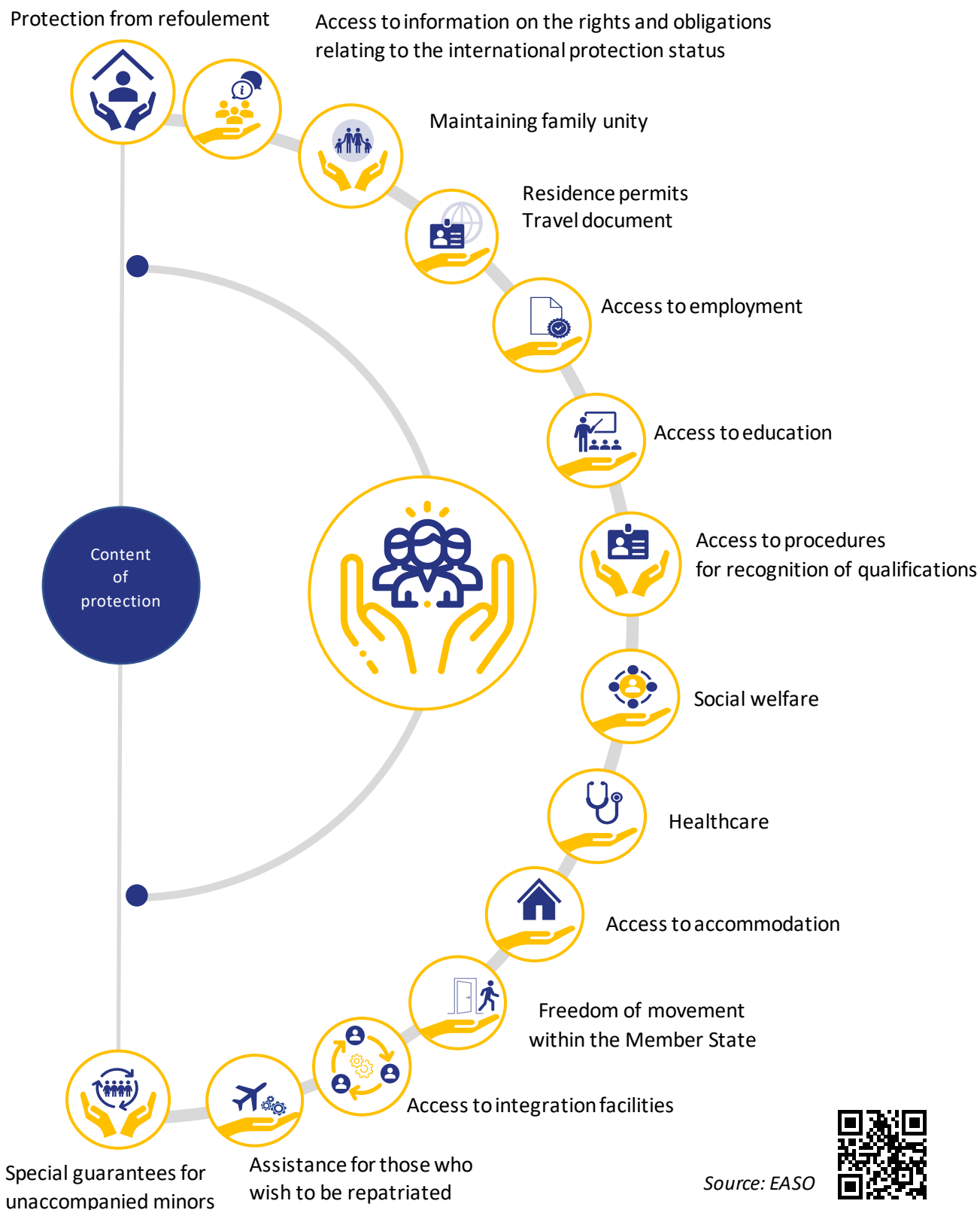
- ➔ Applicants for statelessness determination often do not enjoy the same rights as applicants for international protection. The lack of civil documentation often leaves stateless persons in a legal limbo, with no or limited access to social and economic rights, including housing, employment and health care.<sup>987, 988</sup>
- ➔ Regarding access to naturalisation processes, if stateless individuals have not been registered as such, even though they may possess a residence permit, they may not be able to access nationality through naturalisation, as they may need to produce a passport or birth certificate to complete the process.<sup>989</sup>
- ➔ There is an increased risk of arbitrary, immigration-related detention for stateless persons, especially in the context of return procedures. Specifically on return, recommendations have been made to link return proceedings to statelessness determination procedures to assess protection needs under the 1954 Convention on Statelessness;<sup>990, 991</sup>
- ➔ There is a lack of comprehensive information on statelessness and nationality rights in country of origin information, which has an impact on decision making practice concerning stateless persons.<sup>992, 993</sup>

A persisting issue is the lack of accurate data on stateless persons, as they are not always accounted for or included in national censuses.<sup>994, 995</sup> To this end, the Aditus Foundation in Malta provided input to the open consultation on the Census of Population and Housing for 2021 highlighting the need to use the 2021 census as an opportunity to comprehensively map the stateless population in Malta. Aditus underlined that this may provide a new impetus to adopt policies that effectively seek to prevent statelessness and to protect stateless persons and offered a set of recommendations for the inclusion of statelessness in the upcoming census.<sup>996</sup>



## Content of protection

Based on the recast Qualification Directive, the content of protection in Europe includes



Source: EASO







## Section 4.14 Content of protection

The recast Qualification Directive outlines the content of international protection. 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.



### COVID-19

2020 was not a favourable year for the integration of beneficiaries of international protection. The COVID-19 pandemic isolated citizens from each other and decreased personal contact, which is crucial for integration. The long-term negative impact of the pandemic risks lingering on in all aspects of integration, from health to accommodation and employment opportunities.

National authorities needed to find solutions to extend residence permits which expired during the pandemic to avoid people falling through administrative cracks, but it still often led to legal uncertainty and delays in accessing other rights, such as housing, employment and health care. The COVID-19 pandemic might have left many applicants or former applicants in limbo, but this has been interpreted to date as a temporary impediment and did not seem to lead to the proliferation of other national, more temporary, forms of protection.

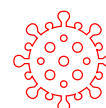
Family reunification procedures were halted or severely delayed, and were often still lagging behind at the end of 2020. Employment opportunities shrank in general, leaving many beneficiaries of international protection without a job and without perspectives to find one soon. Without a stable income, many risked homelessness and destitution. The OECD noted that: “New arrivals tend to be particularly hard hit during the crisis, with lasting negative impact on their long-term employment prospects. This holds true especially for those who did not yet manage to find employment, which is still the case for many refugees who arrived during the 2015/2016 refugee crisis”.<sup>997</sup>

Beneficiaries of international protection were also less likely to be able to provide their children with educational support through online schooling due to a lack of computers or stable Internet connection or because parents did not speak the new country’s language. Their often precarious housing situation also meant that children were less likely to have a separate quiet place for studying. In some countries, the support programmes and individual integration plans were extended or adapted to the new circumstances, to provide strengthened support for beneficiaries of international protection, but this was not the case everywhere. In a few cases, the pandemic has led to greater cooperation among different authorities and stakeholders, especially with health care authorities.



### Digitalisation

Digitalisation efforts affected various aspects of the content of protection differently. National authorities in recent years have focused on gathering and exchanging information to review and eventually withdraw protection, or to grant family reunification. Many integration support services moved online due to the pandemic, including language learning, social orientation and employment coaching. However, following these services was often difficult for



newcomers, who were beginners in learning the language and could not properly understand or follow the instructions.

Initiatives at the global level tried to address the issue that beneficiaries of international protection typically lose their documents while fleeing the country of origin, which often delays and hampers their access to residence permits, family reunification, employment, education and health (see Section 1).



Important developments happened also outside of the COVID-19 context. The European Commission presented its new [EU Action Plan on Integration and Inclusion \(2021-2027\)](#) as part of the comprehensive response to the challenges which were presented in the new Pact on Migration and Asylum.<sup>998</sup> Consequently, many Member States launched the process to review and adjust their integration plans or draft a new one.

The EU Action Plan presents actions in four main thematic areas: education and training, employment and skills, health, and housing. Horizontal actions within these four sectors are organised around: building strong partnerships for a more effective integration process, increased opportunities for EU funding under the 2021-2027 Multi-Annual Financial Framework, fostering participation and encounters with the host society, enhancing the use of new technologies and digital tools for integration and inclusion, and monitoring progress.

Specifically mentioning applicants or beneficiaries of international protection, the plan encourages Member States, for example, to:

- ➔ Develop support programmes for unaccompanied minors who arrive past the age of compulsory schooling and are in transition to adulthood;
- ➔ Make use of the [EU Skills Profile Tool for Third-Country Nationals](#) at an early stage, especially for applicants for international protection; and
- ➔ Provide adapted and autonomous housing solutions as early as possible for refugees and applicants who are likely to be granted international protection.



#### 4.14.1 Granting international protection: Recognition rates

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The recognition rate refers to the number of positive outcomes as a percentage of the total number of decisions on applications for international protection. The recognition rate for specific nationalities of applicants can indicate which profiles are granted protection more frequently and which are rejected.

Positive decisions calculated in the recognition rate include refugee status, subsidiary protection and humanitarian protection. The rights and terms associated with refugee status tend to be more favourable than for subsidiary protection. In particular, subsidiary protection often does not allow for family reunification. Humanitarian status is a national form of protection, but it is not granted in all EU+ countries in the framework of the asylum procedure.

#### 4.14.1.1 Recognition rates at first instance



For first instance decisions on asylum applications, the EU+ recognition rate was 42% in 2020: out of 534,500 decisions issued, 224,000 were positive and the applicant was granted either refugee status, subsidiary protection or humanitarian status. This implies that almost 6 in 10 decisions at first instance were negative.

Most of the positive decisions at first instance granted refugee status (113,000 or one-half of all positive decisions). Subsidiary protection was granted in about 52,000 cases (23% of all positive decisions), while humanitarian status was granted in 59,000 cases (27% of all positive decisions).

In line with Eurostat reporting, asylum applicants granted an authorisation to stay for humanitarian reasons under national law concerning international protection are counted towards positive decisions. Such persons are not eligible for international protection as defined in the Qualification Directive but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments. This clearly has implications for the calculation of the EU+ recognition rate. As mentioned above, in 2020 the EU+ recognition rate was 42% when including authorisations to stay for humanitarian reasons within positive decisions. If such cases are considered as negative from the perspective of EU-harmonised types of protection, the EU+ recognition rate drops to 31% (i.e. for EU-regulated types of protection only). This considerable difference is largely due to decisions issued to Venezuelans in Spain, which represented over three quarters of all humanitarian permissions to stay in EU+ countries.

The recognition rate for all types of protection in 2020 was similar to 2019 and 2018 (39% in both years). The share of decisions granting refugee status has been roughly stable over this time, but the share of subsidiary protection has steadily declined since 2016, from 37% to the current 23%. In contrast, the share of positive decisions granting humanitarian status has steadily increased from 8% in 2016 to 27% in 2020.

The recognition rates for applications lodged by women (50%) were higher than for men (37%) in 2020. This difference was larger in 2019 (50% compared to 33%). However, the data available do not indicate which applications lodged by men or women were part of family groups. With this caveat in mind, applications lodged by minors (younger than 18 years) had a recognition rate of 59% in 2020, considerably higher than for applications lodged by the 18-34 year age groups (34%) and 35-64 year age group (35%). Yet the recognition rate was highest for the applicants aged 65 years or older (66%), most of whom received humanitarian status. In 2019, results by age group were similar, apart from a substantially lower recognition rate for those aged 65 years or older (53%).

In some receiving countries, there were notable changes in first instance recognition rates over time. Substantial increases occurred in Austria (from 53% in 2019 to 65% in 2020) and especially in the Netherlands (37% to 63%). In contrast, recognition rates declined substantially in Denmark (52% to 35%), Romania (44% to 25%), Slovenia (40% to 28%) and Spain (66% to 41%). Some of these changes may be due to policy changes which took place in 2020.

#### 4.14.1.2 Recognition rates for specific nationalities of applicants

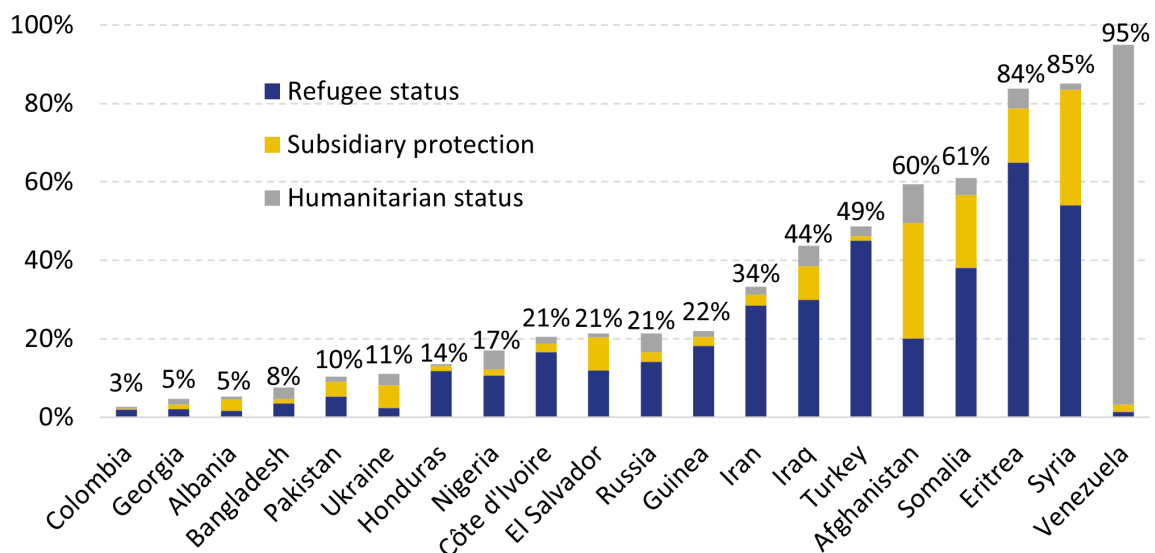


In 2020, applicants from Venezuela had the highest recognition rate for first instance applications in EU+ countries at 95%. This was followed by Syrians (85%) and Eritreans (84%). High recognition rates were also reported for nationals of Somalia (61%), Afghanistan (59%) and Turkey (49%) (see Figure 4.21).



## Venezuelans, Syrians and Eritreans had the highest recognition rates at first instance

**Figure 4.21: Recognition rates for asylum applications in EU+ countries at first instance, by nationality and status granted, 2020**



**Note:** These 20 nationalities received the highest number of first instance decisions issued in 2020 in EU+ countries.

Source: Eurostat [[migr\\_asyappctzm](#)] as of 28 April 2021.

In contrast, for the majority of the nationalities that received the highest number of first instance decisions, recognition rates did not exceed 22%. For example, nationals of Albania, Colombia and Georgia only had recognition rates ranging from 3% to 5%.

Among the top 20 nationalities, one-half or more of positive decisions granted subsidiary protection for Afghans, Albanians and Ukrainians. Applicants from El Salvador, Somalia and Syria also had high shares of subsidiary protection, although they had overall higher shares of refugee status. In the particular case of Venezuelans, almost all positive decisions granted humanitarian status. Venezuelans in Spain alone accounted for three-quarters (45,000) of all cases in which humanitarian status was granted in 2020.

Outside the top 20 nationalities, recognition rates were high notably for Burundian (65%), Chinese (61%), South Sudanese (64%), Yemeni (77%) and stateless applicants (57%). However, low recognition rates were again more common. Both within and outside the top 20 nationalities, recognition rates were low particularly among citizens of countries which are exempt from visa requirements in EU+ countries. Apart from Colombia and Georgia, this was seen for applicants from the Western Balkan countries, including Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia, as well as some Latin American countries, including Argentina, Chile and Peru.

Recognition rates have continued to be high for Syrians and Eritreans over the last few years. The same holds true for nationals of Yemen, although their rate has steadily declined from a peak at 95% in 2017. Recognition rates have been increasing for Afghans (from 48% in 2017 to 60% in 2020) and Nicaraguans (6% to 25%). For Belarusian applicants, the rate surged to 30% in 2020, from about 13% in previous years. Belarusians, Chinese and Nicaraguan applicants had the highest recognition rates in 2020 since at least 2008. In contrast, the rate for Colombians was the lowest since at least 2008.

#### 4.14.1.3 Differences in recognition rates across receiving countries

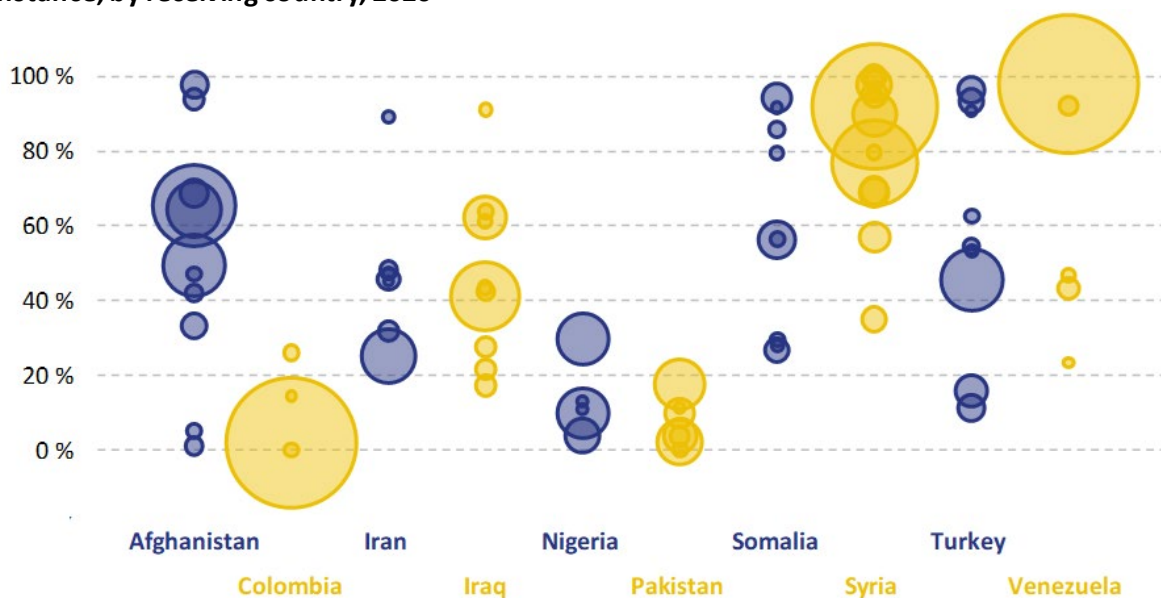


Across EU+ countries, there were large and persistent differences in granting protection to applicants from specific countries of origin among the top 10 citizenships. With bubble sizes indicating the number of decisions, Figure 4.22 shows the different recognition rates that applicants from the specified origin country received in EU+ countries. For example, the recognition rate for Syrians was at least 57% in most countries that issued many decisions (more than 300) to Syrian applicants, but it was only 35% in Spain. Similarly, the recognition rate for nationals of Turkey was above 40%, except in France (16%) and Greece (11%).



### Recognition rates can vary widely depending on the receiving country

**Figure 4.22. Recognition rates for nationalities receiving the highest number of decisions at first instance, by receiving country, 2020**



**Note:** Each bubble represents a different EU+ country issuing more than 300 first instance decisions in 2020 for the selected nationality. The bubble size indicates the number of first instance decisions issued and the placement on the vertical axis denotes the recognition rate. The 10 nationalities presented received the highest number of first instance decisions in 2020.

Source: Eurostat [[migr\\_asyappctzm](#)] as of 28 April 2021.

Conversely, the recognition rate for Iranians was typically below 50%, except in Switzerland (89%). Likewise, the rate for Nigerians hardly exceeded 10%, except in Italy (30%). In fact, recognition rates in Italy were at the upper-end of the range for many citizenships, including nationals of Afghanistan, Colombia, Iraq, Nigeria, Somalia and Venezuela. Overall, discrepancies in recognition rates were most apparent for Afghans (from 1% in Bulgaria to 98% in Switzerland,<sup>lxi</sup> Turks (from 11% in Greece to 96% in Switzerland), and Venezuelans (from 23% in Belgium to 98% in Spain).

A number of factors likely contribute to the differences in recognition rates across receiving countries for the same nationality. Applicants can have significantly different profiles, for example in terms of the exact region of origin. Within countries such as Afghanistan, the security situation varies considerably from one region to another. Recognition rates may differ between first-time and repeated applications lodged by the same nationality. Similarly, some applicants may have already received an EU protection status in another Member State, as has been noted for example for Syrians applying in Belgium. As these applications are found to be inadmissible, a comparatively low recognition rate results for Syrians in Belgium. Another possible factor behind differences in recognition rates are diverging national policies and guidelines on asylum, in addition to the interpretation of certain legal concepts. In particular, receiving countries can have different lists of safe countries of origin and safe third countries or assess internal protection alternatives and the level of indiscriminate violence differently, which can impact eligibility for subsidiary protection.

#### 4.14.1.4 Recognition rates at second or higher instances



If an appeal is lodged against a decision at first instance, a decision will be taken at second instance, and higher instances become involved after another appeal. The procedures following an appeal can vary: in some receiving countries, the case is reviewed entirely (*de novo* in fact and law), while in other countries, only the legality of the first instance decision is assessed. The available data do not indicate the outcome of the first instance decision that was appealed, as a positive decision can also be appealed. For example, a positive decision that grants fewer rights than refugee status (subsidiary protection or humanitarian status under national law) might be appealed. Therefore, cumulative recognition rates for all instances are not presented, and the outcomes at second or higher instances need to be considered separately.

In 2020, the 237,000 decisions issued at second or higher instances in EU+ countries included 70,000 positive decisions, resulting in a recognition rate of 29%, which was stable compared to 2019. This rate was substantially lower than the recognition rate for first instance decisions (42%), and the difference in 2020 exceeded the corresponding differences in 2019 and 2018. The reason for the drop in positive decisions in appeals was because refugee status was granted less often at second or higher instances than at first instance (*see Figure 4.23*), while the shares of subsidiary protection and humanitarian status remained almost the same.

Positive decisions at second or higher instances most often granted humanitarian status (26,000), while refugee status and subsidiary protection represented somewhat fewer cases (22,000 each). Therefore, positive decisions at second or higher instances were roughly evenly distributed over the three outcomes – in contrast to positive decisions at first instance, which mostly granted refugee status.

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<sup>lxi</sup> Most decisions for Afghan nationals in Switzerland grant temporary humanitarian status.

As at first instance, recognition rates at second or higher instances were higher for asylum applications lodged by women (35% in 2020, compared to 27% for men). Recognition rates at second or higher instances were especially high for the age groups under 18 years (37%) and over 65 years (33%), compared to the 18-34-year age group (28%) and 35-64-year age group (27%). At the same time, differences between these rates were more moderate than at first instance. Similar patterns by sex and age at second or higher instances were also noted in 2019.

Among the top 20 nationalities receiving decisions at second or higher instances, Syrians (74%) had the highest recognition rate in 2020 (see Figure 4.24). They were followed by Afghans (54%) and Malians (45%). These top nationalities largely overlapped with the top nationalities in terms of first instance decisions (see Figure 4.21), with two notable exceptions: while Venezuela and Eritrea were even among the three most important countries of origin at first instance, they did not feature among the top 20 countries of origin at second or higher instances. However, Venezuelans (32%) and Eritreans (55%) also had above-average recognition rates at second or higher instances in 2020.

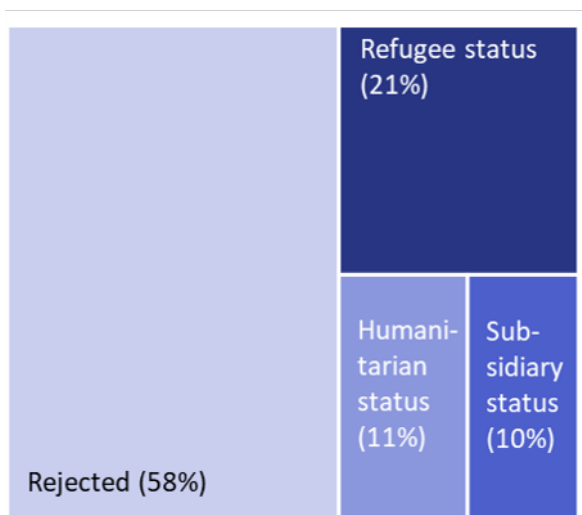
While recognition rates at first instance were similar to those at second or higher instances for many nationalities, significant differences arose in other cases, including for some top nationalities. Groups with considerably higher recognition rates at second or higher instances than at first instance included Malians (45% vs 25%), Senegalese (25% vs 11%) and Bangladeshis (24% vs 8%). Considerably lower recognition rates at second or higher instances were noted for Somalis (39% vs 61%), Iraqis (31% vs 44%) and Turks (26% vs 49%), among others.



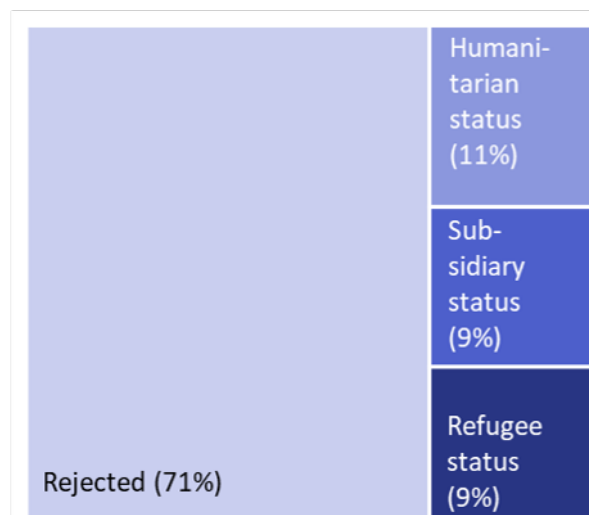
## Refugee status is less often granted at second or higher instances

**Figure 4.23. Outcomes of decisions on asylum applications at first instance and second or higher instances in EU+ countries, 2020**

### A. Decisions at first instance



### B. Decisions at second or higher instances



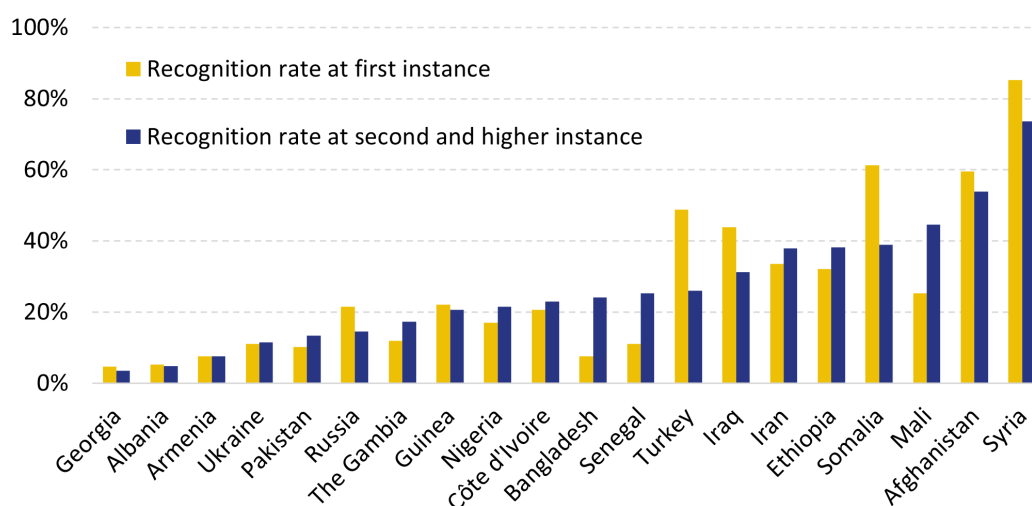
Source: Eurostat [[migr\\_asvapptzm](#)] as of 28 April 2021.

In absolute numbers, far fewer positive decisions were issued overall at second or higher instances than at first instance, but eight of the top 20 nationalities in Figure 4.24 received more positive decisions at second or higher instances than at first instance.



## Syrians, Afghans and Malians had the highest recognition rates at second or higher instances

**Figure 4.24. Recognition rates in EU+ countries at first instance and second or higher instances by top nationality, 2020**



**Note:** These 20 nationalities received the highest numbers of decisions at second or higher instances in 2020 in EU+ countries.

Source: Eurostat [[migr\\_asyappctzm](#)] as of 28 April 2021.



## 4.14.2 Building perspectives: Legal status and family reunification

### 4.14.2.1 National forms of protection and regularisation measures

Some countries introduced measures to regularise the situation of specific groups of foreigners. The EMN published national studies and an overview study presenting different statuses of national protection in the EU and Norway.<sup>999</sup>

According to the AIDA report for Cyprus, spouses of beneficiaries of international protection could still not receive a derivative beneficiary of international protection status. Authorities planned to provide them with humanitarian status, which offers only the right to stay in the country and does not grant any other rights.<sup>1000</sup>

The Italian Legislative Decree No 130/2020 created a special two-year permit based on the principle of *non-refoulement*. Legislative Decree No 34/2020 promoted regularisation on the basis of transforming undeclared work to regular employment in certain labour sectors, and this process could be initiated by asylum applicants as well. Previously applicants had to withdraw the asylum application



when they launched the regularisation process.<sup>1001</sup> The measures were welcomed,<sup>1002</sup> yet criticised at the same time for discriminating among workers in different sectors.<sup>1003</sup>

Latvia, Lithuania and Poland enforced and facilitated policies to provide protection for applicants from Belarus. For example, Latvia granted a D-type/long-stay national visa for Belarusians which allowed them to access the territory of the country with the purpose of receiving medical support, requesting a residence permit or applying for international protection. In Poland, first humanitarian visas were issued to Belarusian citizens from 26 August 2020, and as of 17 September 2020, all Belarusian nationals possessing a tourist visa were allowed to enter on its territory.

Spain continued to typically grant humanitarian status to applicants from Venezuela. However, UNHCR observed in Spain that national authorities applied rejection criteria when assessing whether a Venezuelan would qualify for this status, such as having police or criminal records or arriving from a third country. The Ministry of the Interior clarified that the humanitarian status is denied based on a police record only when the applicant has committed a serious crime and when the person is considered to be a threat to the community. While the decision to reject the humanitarian status only affects the person with the police record and not the rest of the family unit, UNHCR underlined the indirect negative effect this may have for children and other family members of the main applicant.

In France, a draft law was presented by an opposition party to the National Assembly, which would prohibit the regularisation of foreigners in irregular situations, such as former applicants. While taking a strict policy towards irregular situations, the proposal underlined that the right to asylum and dignified reception of applicants must be ensured.<sup>1004</sup>

Rejected applicants for international protection in Malta have to fulfil modified criteria to become eligible for the Specific Residence Authorisation (SRA) policy.<sup>1005</sup> In response, 25 civil society organisations issued a common statement warning that the 1-month time limit is too short to file the application, and previous beneficiaries risk reverting to an irregular situation.<sup>1006</sup>

A provisional regularisation process was launched in Portugal, settling the situation of around 365,000 foreigners, including asylum applicants. This process was necessary to provide access to public services, including to the National Health Service.<sup>1007</sup>

Among relevant court cases, CALL in Belgium **annulled** the decision to reject an applicant's request for medical regularisation. The applicant was at the same time in the Dublin procedure and the doctor only considered the availability and accessibility of care in Italy, but not in Côte d'Ivoire, the applicant's country of origin. However, CALL **rejected** the action for annulment in a case with a similar context, underlining that the applicant in that case was expected to be transferred to the Netherlands and not returned to Suriname, her country of origin.

#### 4.14.2.2 Review, cessation and revocation of international protection status



Trends from previous years continued pointing towards an increased use of status reviews and more rigorous use of cessation and revocation grounds. Courts were especially important in reviewing these cases and set limits on initiatives introduced by national authorities. Among more general guidance, ECRE published a legal note on cessation and status review, outlining legal obligations under international and EU laws which include the impact of the CJEU judgment in [OA](#) (see Section 2).<sup>1008</sup>

The Danish Immigration Service, the Refugee Appeals Board and the Immigration Appeals Board have been jointly preparing a memorandum on the protection of foreigners' private and family life under the ECHR and the UN convention on human rights<sup>1009</sup> in connection with the amendments to the Danish Aliens Act introduced in 2019 on the revocation of refugees' and their family members'

residence permits.<sup>1010</sup> The memorandum had not yet been finalised in April 2021. UNHCR provided recommendations for Denmark to strengthen its refugee protection, for example, by refraining from the mandatory review of protection statuses, aligning the length of residence permits for different protection statuses, granting refugees residence permits for a longer period of at least 5 years, and removing legal and practical obstacles to family reunification.<sup>1011</sup>

The Danish Refugee Council observed that the public focus on the temporary nature of the permits and status withdrawals led to a high level of anxiety among beneficiaries of international protection in the country.<sup>1012</sup> In spring 2020, the Refugee Appeals Board upheld the Immigration Service's decision to revoke protection status for Syrians from Damascus in three cases.<sup>1013</sup> Based on these decisions, in the summer of 2020 the Minister for Immigration and Integration decided that the review of cases concerning persons from Damascus with a temporary residence permit granted on the grounds of general circumstances should be accelerated.<sup>1014</sup>

The Danish Refugee Appeals Board also delivered its first case following the 2019 amendments,<sup>1015</sup> and it **confirmed** the Immigration Service's status withdrawal for a Somali citizen who was granted protection based on the general situation in Somalia at the time of his application. However, given the changes in the situation in Somalia, the court assessed that the circumstances which formed the basis of granting protection no longer existed. The court noted that the person had substantial connections with both Denmark and Somalia, and the withdrawal of protection would interfere with his right to private and family life. Still, the withdrawal was legitimate, served a recognised purpose and cannot be considered contrary to Denmark's international obligations. The Refugee Appeals Board has subsequently decided on several cases covered by the 2019 amendment. After the board's assessment of the individual circumstances of the cases, some residence permits have been withdrawn or denied an extension, while others have resulted in the opposite, a revocation of the decision of the Danish Immigration Service or sent back to the Danish Immigrations Service for a new assessment.

The Hungarian Helsinki Committee observed that Afghan beneficiaries of subsidiary protection are typically refused a renewal of their status, and the national asylum authority established Kabul or the province of Balkh as an internal protection alternative for beneficiaries from other regions. The organisation also reported an increased number of withdrawal procedures based on alleged threats to national security.<sup>1016</sup>

The Dutch IND revised its policy on Sudan (*see Section 4.4*) and announced that previously-granted asylum permits would be reassessed if they were granted due to the situation in Darfur, South Kordofan and Blue Nile.<sup>1017</sup> In Austria, withdrawal procedures remained a priority for the BFA.

The amendments to the Law on Asylum and Refugees in Bulgaria added two new circumstances when international protection status ceases: when a beneficiary passes away or when a person refuses expressly to be recognised as a beneficiary of international protection. The AIDA Bulgaria report noted that this latter circumstance included cases when a beneficiary failed to renew an expired ID card or replace a damaged, stolen or destroyed card within 30 days. The State Agency for Refugees underlined that this circumstance does not lead to an automatic cessation of international protection but only to the launching of the cessation procedure, in which all facts and evidence are considered before a decision on cessation may be issued. Still, the AIDA Bulgaria assessed that this change risks leading to a broad interpretation of the recast Qualification Directive and risks introducing in practice an additional cessation ground.<sup>1018</sup>

The Office of the United Nations High Commissioner for Human Rights published a press release on the revocation of the refugee status and planned removal of two Ugandan refugee parents with their baby, leaving their other seven children in different foster homes in the Netherlands.<sup>1019</sup>

The Swiss Parliament requested the Federal Council in 2018 to verify the temporary admission of 3,400 Eritrean nationals, following the [decision](#) of the Federal Administrative Court in 2017, which noted that in principle returns to Eritrea could be enforced. Temporary admission was withdrawn in 83 cases, 63 decisions became final, while 20 were appealed.<sup>1020</sup> The Swiss Federal Administrative Court delivered a landmark [judgment](#) on one of these appeals, noting that national authorities must apply the principle of proportionality when deciding on the withdrawal of temporary admission. The court observed that such a status gave a large number of substantive rights, and the scope of the examination to end the status is not the same as the scope of the examination to grant the status.

The French CNDA examined the [case](#) of a Russian applicant whose refugee status was withdrawn as he was considered to be a threat to national security and he obtained a Russian passport. The court analysed CJEU [case law](#) and concluded that the applicant voluntarily placed himself under Russian authorities when he requested a passport and there were no other reasons justifying that the refugee status should be maintained. In another [case](#), the Council of State annulled the decision of the CNDA and sent it back for reconsideration. The court noted that the CNDA erred when it considered that threat to national security could not be invoked to withdraw refugee status, simply due to the fact that the person did not publicly praise terrorism.

In Czechia, the Supreme Administrative Court [assessed](#) the Ministry of the Interior's decision to withdraw protection granted to a Chechen national as he was re-convicted of burglary and extortion. As such, he was considered to be a danger to national security. The decision came after the CJEU's [judgment](#) which was delivered in 2019, following the court's request for a preliminary ruling. The court underlined that the condition of committing a particularly serious crime under the recast Qualification Directive, Article 14(4b) should not be evaluated merely on the categorisation of national criminal law. The Czech transposition of this article is not word-by-word, and the court assessed that the national provision adds that the applicant must be considered a threat to national security when convicted of a particularly serious crime where the threat has to be actual and present.

The AIDA report for Poland noted that mainly Russian citizens had their protection status withdrawn, even if they undertook just one travel back to their country or if they obtained a Russian passport, while observing that the protection status of Chechen applicants was not being renewed due to the changed situation in Chechnya.<sup>1021</sup>

An Estonian district court [assessed](#) the impact of a beneficiary's travel to his country of origin. The PBGB initiated the withdrawal of a family's subsidiary protection status when, during the renewal of their permits, it surfaced that one of the family members travelled back once to their country of origin. The administrative court found that one travel gave no evidence that protection was not necessary anymore. On further appeal, the district court upheld the administrative court's decision but changed its reasoning, noting that the authorities should have assessed the best interests of the children and should have taken the family's integration and social ties with Estonia into consideration.

The Swedish Migration Court of Appeal sent back a [case](#) for a new assessment due to shortcomings in documentation. The person's subsidiary protection status was withdrawn because he served 1.5 years in prison for human trafficking in Germany and had a criminal record in Sweden. The court noted that he indeed had committed several crimes in Sweden, but to withdraw his protection, at least one of the crimes should have been of a serious nature. Regarding his conviction for human trafficking in Germany, the court noted that the European Criminal Records Information System (ECRIS) did not include the circumstances of this conviction and the authorities should have obtained the German judgment before withdrawing his status.

In France, the Council of State **confirmed** the withdrawal of refugee status of an applicant who was responsible for fundraising for a terrorist organisation for 5 years. It noted that, even though the applicant himself did not commit terrorist acts, actions in support of such acts should be considered to be contrary to the purposes and principles of the United Nations and to fall under the exclusion clause of the Geneva Convention.

A German Regional Administrative Court **confirmed** the decision of BAMF to withdraw subsidiary protection of an applicant who was convicted for particularly serious rape with dangerous bodily injury.

In Finland, the Supreme Administrative Court **underlined** that the assessment for the cessation of refugee status does not include an assessment on whether the applicant has the possibility to settle safely in another area of his country of origin, based on changes in the information for the country of origin. Instead, the authorities must examine whether the circumstances which were the basis for granting protection have ceased to exist and whether this change in the circumstances is significant and lasting. The court repeated this reasoning in another **case** which involved a Vietnamese national who arrived through resettlement in 1990 and travelled back to Vietnam in 2015 to visit his ill father and then went again for his funeral. The court noted that the authorities provided no explanation whether the circumstances for granting refugee status had ceased to exist, yet the status was withdrawn. The court also underlined that the applicant had not applied for a Vietnamese passport and he travelled using refugee travel documents and visa, thus it cannot be considered that he voluntarily resorted to the protection of Vietnam. In another case, the court **confirmed** the withdrawal of subsidiary protection. The Iraqi applicant was granted subsidiary protection due to the security situation in his home region, Tuz Khurmatu, but then returned to Iraq where he stayed for 5 years in Erbil, in the autonomous Kurdish region of northern Iraq.

The Supreme Administrative Court in Austria examined a **case** of an Afghan applicant who was granted refugee status based on his conversion to Christianity, but then his status was withdrawn because he married his wife in Iran under Islamic law. The court ruled that a change of circumstances does not necessarily have to refer to an objective change in the situation in the country of origin, but this can also mean a significant and lasting change in the individual circumstances of the beneficiary.

#### 4.14.2.3 Residence permits



Developments were underway in Sweden and Norway to shift towards shorter, more temporary first permits and increasing criteria for obtaining long-term residence permits. Administrative hurdles and delays persisted, for example in Cyprus and Greece. Several countries automatically extended the validity of residence permits for third-country nationals in general and for beneficiaries of international protection, for example France,<sup>1022</sup> Poland<sup>1023</sup> and Portugal.<sup>1024</sup>

The Maltese International Protection Agency dealt with the extension of permits through e-mail.<sup>1025</sup> Civil society organisations noted that they remained responsive and informed other authorities about the different entitlements to clarify any doubts about the validity of extensions.<sup>1026</sup> However, this system seemed to have remained challenging for beneficiaries who do not speak English or do not have access to the Internet.<sup>1027</sup>

The Swedish Cross-Party Committee of Inquiry on Migration submitted its report on a sustainable long-term migration policy, proposing several changes to the Aliens Act. This would include, for example, that beneficiaries of international protection would first get a temporary residence permit.<sup>1028</sup> In the meantime, the Swedish Migration Agency published a legal position on the

examination of the right to a permanent residence permit under the Temporary Act for beneficiaries of international protection who are able to financially maintain themselves<sup>1029</sup> and another legal position on the conditions and processes for granting a longer residence permit for persons who were given a temporary residence for upper secondary studies after having applied for asylum or whose removal decision could not be enforced because of an impediment.<sup>1030</sup> The latter is especially important for unaccompanied minors close to the age of majority and the agency confirmed that their residence permit may be extended if they find full-time employment within 6 months after completing their studies. Civil society organisations noted how difficult this may be, especially due to the pandemic.<sup>1031</sup>

Persons granted protection in Norway may obtain a long-term residence permit after 5 years, instead of the previous 3 years, following legislative amendments that entered into force in December 2020.<sup>1032</sup> The language knowledge requirement for naturalisation was increased from A2 to B1 level.

Civil society organisations in Greece observed significant delays in the issuance of residence permits for beneficiaries of international protection, especially in the area of Athens and Thessaloniki.<sup>1033</sup> DRC Greece noted additional delays as many beneficiaries' personal details were incorrectly registered by the asylum authority and they had to first request that the errors were rectified before they could proceed with the residence permit request. The Greek Council for Refugees observed issues when children arrived through the family reunification procedure, but once they turned 21 years, their permits were no longer renewed.<sup>1034</sup> Similar challenges persisted in Cyprus, where family members of beneficiaries of international protection could still not obtain a residence permit and, thus, had no access to rights.<sup>1035</sup>

#### 4.14.2.4 Family reunification



Some Member States initiated changes to facilitate family reunification for beneficiaries of international protection and provided clarifications on the process through more detailed guidance. Courts remained active in shaping policy and practice on family reunification, similar to previous years.

An amendment to the Luxembourgish Immigration Law was presented to the parliament, which aimed to simplify the family reunification procedure in general and to extend the time limit for facilitated family reunification criteria for beneficiaries of international protection from 3 months to 6 months.<sup>1036</sup> The amendment follows the recommendations of the Consultative Commission on Human Rights.<sup>1037</sup>

The Swiss Federal Council adopted a positive opinion on a report from the Political Institutions Committee of the Council of States on the parliamentary initiative on granting the same family reunification regimes to beneficiaries of international protection and persons with temporary admission.<sup>1038</sup> The Swiss UNHCR and Red Cross launched two videos to underline the importance of facilitating family reunification, both for refugees and persons with temporary admission.<sup>1039</sup>

The Irish Supreme Court [ruled](#) on the right to family reunification for refugees who were naturalised. The Minister for Justice accepted family reunification requests in such cases between 2010 and 2017, but following the issuance of legal advice, it reverted to its practice before 2010 and started to reject them. While the High Court and the Court of Appeal confirmed this approach, the Supreme Court found that naturalised refugees keep their right to family reunification and an interpretation to the contrary would be contrary to the legislators' intent. The judgment applied to the legacy Refugee Act 1996, which was repealed and replaced by the International Protection Act 2015, which includes expressly under Section 47(9) that a refugee declaration is formally revoked on naturalisation.

The Supreme Court also [assessed](#) the definition of a child under the International Protection Act 2015 and held that this included biological and adopted children, but it did not cover a larger scope of family structures within the International Protection Act's family reunification provisions. The applicant created serious doubt about his paternity to the two children, and in these circumstances, the national authorities could require a DNA test to establish the relationship. The authorities were also entitled to draw conclusions from the fact that the applicant rejected to take this test and, thus, to refuse the application for family reunification.

The time limit for submitting family reunification requests was extended in Greece for beneficiaries of international protection who were granted status between December 2019 and March 2020. However, the administrative burden for translating and certifying documents remained a requirement which was proven to be challenging for beneficiaries, who typically lost their documents during their escape.<sup>1040</sup>

The 3-month time limit for facilitated criteria for family reunification for refugees was extended in Finland, when applicants could not submit a family reunification request due to the pandemic. In addition, the government programme proposed amendments to the Aliens Act to facilitate the family reunification of unaccompanied minors and eliminate the requirement for sufficient financial resources, even if they submitted their request after the 3-month time limit. A Regional Administrative Court emphasised in its [judgment](#) that the 3-month period should not be interpreted in a strict manner. In that specific case, it was clear that the applicants made significant efforts to gather all necessary documentation on time and they were delayed only because there was no Finnish consulate in their country of origin.

The Finnish Supreme Administrative Court [interpreted](#) the notion of family relations and the best interests of the child in a case where the parents who fled from Iraq to Turkey decided to send their daughter to Finland and then request family reunification. The court noted that the girl received subsidiary protection because her return alone would put her at risk of serious harm, but the security situation in their home region would allow to return the family. It added that the parents voluntarily ended family relations when they sent their daughter ahead to secure residence permits and the parents had acted against the best interests of the child. Under these conditions, the court assessed that the best interests of the child did not require her to be reunited with her parents. The court reached the same conclusion in another [case](#) with similar facts.

The Immigration Office in Belgium provided detailed guidance on the exceptional circumstances to extend the validity of family reunification decisions and the validity of supporting documents.<sup>1041</sup>

In France, family reunification procedures were suspended due to the pandemic throughout 2020, and this decision was challenged by civil society organisations in front of the Council of State at the end of the year.<sup>1042</sup> The Council delivered its [judgment](#) at the beginning of 2021 and raised serious doubts about the legality of the measures. The judge noted that the number of persons who benefit from family reunification is typically not excessive and health risks could be mitigated through testing and quarantine measures instead of a complete travel ban. The judge found as well that the measures were in serious breach of the right to family life and the best interests of the child and that the limitations were not proportionate. Family reunification procedures were temporarily suspended or halted in other countries as well, for example in Cyprus, Hungary and Switzerland, causing further delays in the process.<sup>1043</sup>

In France, the first instance administrative court [found](#) that a family reunification request could have been rejected due to considerations for public order in the case of a separated Afghan family. The family fled Iran and applied for asylum in Greece, then the mother travelled further to France with her

newborn child, where they were granted international protection. However, the French consulate in Athens refused the family reunification request, underlining that it had already refused their transfer request based on the Dublin III Regulation. The court overturned this decision noting that the consulate failed to consider the urgency of the request.

The Netherlands issued clarifications on the assessment of family reunification for beneficiaries of international protection. For example, the fact that the family members were not named during the asylum procedure is not in itself a ground to reject reunification, but it can be taken into account when assessing the actual family link. For foster children, the identity of the biological parents and the family link of the foster parents to the biological parents always need to be clarified. When the biological parents are still present, the link between a foster child and foster parents can only be recognised for family reunification under very exceptional circumstances.<sup>1044</sup> Both the IND and civil society organisations noted that family reunification procedures were delayed due to reduced capacity of embassies and general travel restrictions caused by the pandemic.<sup>1045</sup>

The Swedish Migration Agency provided clarification on the economic requirement for family reunification, explaining in which cases beneficiaries of international protection and children are exempted from these rules.<sup>1046</sup> The agency also updated its legal position on considering a child's age in family reunification procedures, following the CJEU's relevant [judgment](#) (see Section 2).<sup>1047</sup> Planned changes to the country's migration legislation (see Section 4.14.3) would also systemise the changes introduced by the law on temporary limitations on the possibility of obtaining a residence permit and would limit family reunification to core family members only. However, the draft law extends family reunification to persons who intend to marry or cohabit if their relationship was already established in the country of origin, enabling family reunification for same-sex couples who were unable to formalise their relationship in their home country.<sup>1048</sup>

Child beneficiaries of international protection in Germany remained entitled only to simplified family reunification with their parents<sup>1049</sup> but not with their siblings. In response, civil society organisations continued to report on the significant difficulties brought by this limitation.<sup>1050</sup>

The Hungarian Helsinki Committee noted difficulties in proving family links between a sponsor and a family member when the asylum authority assessed the submitted documents to be false or falsified. Sponsors cannot initiate a DNA test since 2017, and it is only at the asylum authority's discretion, which typically refuses to request the test based on the assumption that sponsors tried to deliberately misinform the authorities with false information.<sup>1051</sup>

#### 4.14.2.5 Identity and travel documents



New legislation entered into force in Switzerland on travel bans, while administrative issues were noted in Greece and Italy. In addition, the ECtHR delivered a key judgment on the gender recognition procedure for trans-gender beneficiaries and their possibility to change gender in their new identification documents.

An amendment from 2018 to the Swiss Federal Act on Foreign Nationals and Integration entered into force on 1 April 2020, which makes it possible to impose a travel ban on refugees. The State Secretariat for Migration may pronounce a general travel ban for a group of refugees from a certain country of origin to all other states and particularly to neighbouring countries of the country of origin, if there is a justified suspicion that the travel ban to the country of origin will be disregarded.<sup>1052</sup> The SEM may authorise a person to travel to a state subject to a travel ban and the legislative amendment is completed by another amendment to the "Ordinance on delivering travel documents for foreigners", which lists the circumstances when refugees under a travel ban can still receive an exceptional authorisation to travel.<sup>1053</sup> The possibility was planned to extend this clause in the law to persons with

temporary admission.<sup>1054</sup> There has been similar rules in force for this group, regulated by ordinances, and the plan was to align legislation in law for both refugees and persons with temporary admission. Breaching the travel ban may increasingly lead to the revocation of protection status. UNHCR noted that the legislation could be contested under international and constitutional law, and it considered the measures disproportional.<sup>1055</sup> The parliamentary process was still ongoing in April 2021 and one chamber of the Swiss Parliament was in favour of the amendment package, while the other was not.

A Greek Ministerial Decision in 2019 regulated the process of delivering a travel document for children when there is no official proof that one of the parents passed away and thus the other parent can exercise parental care alone. This Ministerial Decision aims to safeguard the best interests of the child. The Greek Council for Refugee noted that this process can be long and cumbersome.<sup>1056</sup>

The Cyprus Refugee Council reported that the Civil Registry and Migration Department announced the issuance of travel documents in line with the requirements of the International Civil Aviation Organization. Previously, beneficiaries of international protection could obtain a *laissez-passer*, but most countries did not accept this document. However, due to the demand for the new travel document, typically from Syrian beneficiaries of subsidiary protection planning to see family members in other EU Member States, the department added a preliminary assessment to the procedure. By the end of the year, no travel documents had been issued.<sup>1057</sup>

In Italy, the Regional Administrative Court in Sardinia **ordered** the police to issue travel documents for a beneficiary of subsidiary protection. The police originally rejected this request as there were differences in the information provided in the registration document and the asylum interview. The court underlined that the applicant's identity was ascertained during the asylum procedure, and the differences came from errors in the registration document because the applicant was illiterate and communication had been through an interpreter at the time of registration.

The ECtHR delivered a **judgment** in the case of a trans-gender man who was granted international protection in Hungary but could not change his gender and name. This procedure requires a birth certificate from Hungary, and there was no legal basis for non-Hungarians to initiate this procedure. The court found that there had been a violation of the applicant's right to respect for private and family life.

The Hungarian Helsinki Committee observed delays in a few instances in delivering ID cards to persons arriving through family reunification or for extending the validity of ID cards for persons under subsidiary protection whose status was under review.<sup>1058</sup>

As parents with international protection status often lack original documents, the registration of the birth of their children is likely to be a cumbersome process, as reported in Hungary<sup>1059</sup> and Romania.

#### 4.14.2.6 Beneficiaries of international protection moving to another Member State



Several court cases considered the situation of persons who have been granted international protection in one Member State but then moved and applied for asylum again in another one. The occurrences are of increasing importance for some Member States and were highlighted in the political debates of the 2016 reform proposals and the Pact in Migration and Asylum (see Sections 2.1.1 and 2.1.2).

The Czech Supreme Administrative Court **held** that the principle of mutual trust should apply and the Czech authorities are not obliged to examine whether the person qualifies for international protection. However, given the general and absolute nature of the prohibition of inhuman or



degrading treatment, the authorities are bound to examine and eliminate any risk of violation of this prohibition, and these considerations should be explicitly included in the administrative authority's written reasoning. It is up to the applicant to prove an apparent risk. In the specific case, the applicant did not provide any evidence to prove that he would be at risk of inhuman or degrading treatment in Greece and the court noted that the situation in Greece could generally be considered as improved.

The German Regional Administrative Court came to similar conclusions in the [case](#) of a Syrian family who obtained protection in Greece and then applied for asylum again in Germany. The court examined whether the family's return to Greece would put them at risk of inhuman or degrading treatment and noted that this prohibition did not oblige convention states to grant the right to housing for all persons under their sovereignty and there was also no general obligation to provide financial support for refugees so that they can maintain a certain standard of living. The Greek state did provide some form of support and did not refuse this completely, and the medical care was also considered to be sufficient. The Swiss Federal Administrative Court [followed](#) comparable reasoning for an Iraqi applicant who had already received subsidiary protection in Greece.

The court in the Netherlands [assessed](#) the case of a Syrian woman with three (now adult) children who were given international protection in Bulgaria before applying again in the Netherlands. The court concluded that, due to the loophole in Bulgarian legislation, they would not be able to obtain a proof of identity and, thus, would not have access to housing or exercise any other rights. The court underlined that the Bulgarian authorities seemed to provide support for asylum applicants, but information from this particular case suggested that situation is different for recognised beneficiaries. An appeal was lodged as the family was not considered vulnerable and the Administrative Court's final ruling is still pending.

### 4.14.3 Developing policies: Integration plans and their evaluations



#### 4.14.3.1 Developing and updating integration strategies

The drafting and launching of the new EU Action Plan on Integration and Inclusion prompted several changes in strategies at the national level.

The first draft of the National Plan for the Integration of Migrants was published in Cyprus and underwent a public consultation, before it was finalised in early 2021.<sup>1060</sup> A public consultation was organised as well in Latvia on the Guidelines for a Cohesive and Active Society for the period 2021-2027, which defines priorities for AMIF for the upcoming funding period.<sup>1061</sup>

The Croatian Action Plan for the Integration of Persons Granted International Protection was developed in 2020 and is foreseen to be implemented throughout 2021-2023. The previous plan expired in 2019, but the drafting of the new plan was rescheduled so that the content of the draft Action Plan would be adjusted to the guidelines and recommendations of the new EU Action Plan for Integration and Inclusion 2021-2027. Following the adoption of this EU plan, the Office for Human Rights and Rights of National Minorities, as a coordinating body, initiated the harmonisation of the draft national document with guidelines and recommendations from the European framework. The national plan contains chapters, accompanying objectives and measures that are in line with the priority areas of the European framework. The national document foresees intensifying cooperation with local self-governments through the appointment of integration coordinators; initiating cooperation with persons granted international protection and other migrants in the development of integration policies and practices within the advisory group of third-country nationals and other migrants; developing a database of indicators of social inclusion of persons granted international protection to more up-to-date monitoring of the outcome of integration measures; and researching

the role of the media in the integration of persons granted international protection and other migrants. The draft Action Plan should be submitted to the public consultation process in 2021.

The Population and Cohesive Society Developments Plan 2021-2030 was being prepared in Estonia, as a follow-up to the previous “Integrating Estonia 2020” plan. The document is foreseen to be adopted in the spring of 2021. In Czechia, the integration of beneficiaries of international protection ran without interruptions in 2020 despite the pandemic, through the State Integration Programme of the Czech Ministry of the Interior

The German National Action Plan for Integration has been in development since 2018 in collaboration with around 300 stakeholders from federal, state and local authorities and civil society organisations. The 12<sup>th</sup> and 13<sup>th</sup> Integration Summits in summer 2020 and spring 2021 marked the completion of the process, which led to the elaboration of around 100 concrete measures in five phases.<sup>1062</sup>

In Denmark, the Integration Action Plan 2020 was launched in December 2020, presenting the most important initiatives from 2020 and outlining future priorities.<sup>1063</sup> For example, the basic education programme for refugees (IGU) will be extended to include refugees and family members who have been in Denmark for up to 10 years and the length of the course will be increased from 20 to 23 weeks. In addition, the national action plan to prevent honour-related conflicts and negative social control, which was launched in 2016, was evaluated in 2020. The evaluation’s results were positive, and the necessary funding was granted for the upcoming years to continue efforts and initiatives to prevent honour-related killings and negative social control.<sup>1064</sup>

The French Minister responsible for citizenship issued a circular to define priorities for the integration of newly-arrived migrants and beneficiaries of international protection for 2021.<sup>1065</sup> The document builds on the decisions of the Interministerial Committee on Integration from 2018<sup>1066</sup> and the Interministerial Committee on Immigration and Integration from 2019.<sup>1067</sup> The circular noted potential delays and the negative impact of the COVID-19 pandemic on the implementation of the Republican Integration Contracts and individual integrations paths. It confirmed that the focus remained on integration through employment, with special attention given to the employment of women and to an early assessment of skills and knowledge of newly-arrived foreigners. The circular defined as an objective for 2022 that all beneficiaries of international protection should be given a comprehensive, individual integration pathway and noted that access to housing is priority.

Ten Polish civil society organisations sent a letter to the Minister of the Interior and Administration, requesting to be consulted in the drafting of Poland’s new migration strategy.<sup>1068</sup> The draft Romanian National Strategy on Immigration was criticised for overlooking several integration aspects, such as support for children and adult employment<sup>1069</sup> and the draft of the Immigration National Strategy was reviewed. At the beginning of 2021, the legislative process for approving this programmatic document was reinitiated.

Integration assistance for beneficiaries of international protection was withdrawn in Hungary in 2016, and in 2018, AMIF-funded integration and housing services were stopped as well when the government’s call for projects was withdrawn.<sup>1070</sup> Furthermore, the AIDA report for Bulgaria reported that no integration programme had been adopted for beneficiaries of international protection since 2013.<sup>1071</sup>

#### 4.14.3.2 Revising integration legislation



The revision of integration acts was underway in several countries throughout 2020. A new Integration Act was adopted in Norway and entered into force in January 2021. The changes put more emphasis on training participants in the introduction programme (mostly refugees) on the skills required by Norwegian employers or needed to qualify for further education. The new legislation made the mapping of skills and career guidance mandatory before beginning the introduction programme and changed the provision of language support from required hours to a required level. The previous standard 2-year programme was replaced by a wider range of programmes from 3 months to 3 years.<sup>1072</sup>

The re-shaping of the Spanish reception system (*see Section 4.7*) had a major impact on the integration process of beneficiaries. The new instructions from the State Secretary for Migration underlined that only recognised beneficiaries of international protection who have already been within the reception system, who are resettled refugees or family members of these categories have access to second-line reception and integration support. Fundación Cepaim noted in assessing the potential impact of the instructions for the future that this risks leaving out people who had enough financial means when they entered the country but their economic situation deteriorated afterwards, or people who did not know about or could not enter the first-line reception system.<sup>1073</sup>

The reform of the Integration Act is foreseen in Luxembourg and the Minister for Families and Integration launched a public consultation.<sup>1074</sup> The consultation was assessed to be a large success, with 58 opinions published.<sup>1075</sup> The process continued at the beginning of 2021 with the organisation of focus group discussions.

The entry into force of the new Dutch Civic Integration Act was postponed to 1 January 2022 partially due to the pandemic. According to the new act, municipalities would take over the supervision of newcomers and their integration.<sup>1076</sup>

The Flemish government in Belgium adopted a new integration path for newcomers which includes four components (language learning, economic autonomy, social orientation and sponsorship by a Flemish ‘buddy’) and will conclude with an exam. Participants will have to pay EUR 90 twice and must register with the Flemish public employment service. Changes are planned to enter into force in 2022, if the Belgian Council of State approves the legislation.<sup>1077</sup>

In 2019, the Finnish Integration Expertise Centre of the Ministry of Employment published its comprehensive integration review of the previous 4 years,<sup>1078</sup> which was followed in the beginning of 2020 by the launching of the Integration Indicators Database to monitor the implementation of the policy.<sup>1079</sup> The government’s integration report for 2020 was postponed until 2021 and the draft was presented for public consultation in February 2021.<sup>1080</sup> This document aims to present ideas for the reform of integration policy and was developed by the Ministry of Employment and Economy, in cooperation with other key stakeholders.<sup>1081</sup> The government is expected to present the report and the reform initiatives to the parliament in spring 2021.

New methodological norms were published in Romania for the implementation of the 2019 amendments of the Integration Act. The amendments clarify issues around language training, cultural orientation, the scope and components of the governmental integration programme for refugees and underlines the importance of horizontal cooperation among the different ministries and governmental agencies.<sup>1082</sup>

#### 4.14.3.3 Examples on funding integration



Significant developments happened in Ireland and Switzerland related to the funding of integration projects. The Minister for Justice in Ireland announced the launching of the National Integration Fund 2020, which provides around EUR 750,000 yearly for a period of 3 years for projects fostering migrant integration.<sup>1083</sup> In addition, the Minister of State with special responsibility for Equality, Immigration and Integration announced EUR 500,000 for community integration projects under the Communities Integration Fund.<sup>1084</sup>

The Swiss State Secretariat for Migration and cantonal authorities signed amendments to the convention on cantonal integration programmes for the implementation of the Swiss Integration Agenda, which includes more funding for cantons to carry out their plans.<sup>1085</sup> Asylex reported about a discussion on the management of cantonal reception centres for recognised beneficiaries and the proposed integration programmes. Media sources presented some of the irregularities in centres with outsourced, private management and found that there was no financial incentive for these centres to facilitate the integration of beneficiaries.<sup>1086</sup>

#### 4.14.3.4 Fostering cooperation among different stakeholders



The development and implementation of integration strategies require the cooperation of various stakeholders from different backgrounds and governance levels. Diverse initiatives were implemented in 2020 to strengthen the cooperation among these actors.

The Council of Ministers in Belgium agreed on the creation of an Interministerial Conference on Migration and Integration. The objective of this body is to harmonise policies by the federal authorities and authorities of the federal entities.<sup>1087</sup>

UNHCR Bulgaria established the first Refugee Advisory Board in the country, which plans to offer advice on national decision-making processes related to the integration of beneficiaries of international protection.<sup>1088</sup> In addition, UNHCR Bulgaria published a mapping of Bulgarian academic initiatives in the area of asylum and presented recommendations for collaborative opportunities.<sup>1089</sup>

The Office for Human Rights and Rights of National Minorities in Croatia launched the project "INCLuDE – Inter-sectoral cooperation in the empowerment of third-country nationals", with co-funding from AMIF. The project aims to empower integration stakeholders to participate in the design, implementation and monitoring of integration measures and encourage cooperation at the national, regional and local levels.<sup>1090</sup> The first meeting of local stakeholders was held in October 2020, which discussed the draft Action Plan for the Integration of Persons Granted International Protection (see *sub-Section 4.13.3.1*).<sup>1091</sup>

The municipalities of Athens and Thessaloniki in Greece initiated the Cities Network for Integration in 2018, which now gathers 13 Greek municipalities to cooperate and exchange knowledge on refugee integration at the local level.<sup>1092</sup>

As part of the Cities and Inclusive Strategies project, funded by ESF, the Czech Association for Integration and Migration published a "Manual on Local Integration", aiming to enhance the knowledge of officials in local and regional authorities on a more strategic approach to integration.<sup>1093</sup> In Estonia, the Ministry of Cultural Affairs published guidelines for local governments on integration services.

The Danish Immigration Service revised and set the placement quotas for 2021, overall around 600 refugees were placed across different municipalities.<sup>1094</sup>

The National Integration Evaluation Mechanism analysed the role of local governments in the integration of beneficiaries of international protection in the V4 countries (Czechia, Hungary, Poland and Slovakia).<sup>1095</sup>

#### 4.14.3.5 Evaluation of integration plans and integration support



Evidence-based policy-making for the revision and adaptation of integration strategies largely depends on the evaluation of previous initiatives. Different actors, national authorities, academia, think tanks and civil society organisations have undertaken a growing number of evaluations on the results of various integration programmes and their different components.

The National Integration Evaluation Mechanism published its first evaluation report comparing refugee integration legislation, policies and practices across 14 EU Member States, following the publication of the baseline report in 2019. The report underlined that only a few significant changes happened and conditions were rarely favourable to support the integration of beneficiaries of international protection.<sup>1096</sup> Summary reports were published for France,<sup>1097</sup> Latvia,<sup>1098</sup> Lithuania,<sup>1099</sup> Romania,<sup>1100</sup> Slovenia,<sup>1101</sup> Spain<sup>1102</sup> and Sweden.<sup>1103</sup> The Migrant Integration Policy Index (MIPEX), which measures the integration of migrants in general, was updated for 30 countries in 2020.<sup>1104</sup>

The RESPOND project published an overview report<sup>1105</sup> and country reports of integration trends and challenges in Austria,<sup>1106</sup> Germany,<sup>1107</sup> Greece,<sup>1108</sup> Iraq, Italy,<sup>1109</sup> Poland,<sup>1110</sup> Sweden,<sup>1111</sup> Turkey and the United Kingdom.

The Austrian Expert Council for Integration released the 10<sup>th</sup> edition of its annual Integration Report, including changes, trends and the current state of integration-related fields, such as education, employment, social affairs and health, and cultural aspects.<sup>1112</sup>

The Danish Agency for International Recruitment and Integration (SIRI) commissioned the evaluation of the language programme reform which took place in 2017 and re-focused language instruction on employment.<sup>1113</sup> The report acknowledged that the reform's aims were achieved and expenses had significantly dropped. However, it also noted some of the unintentional side effects, such as administrative burdens, increased drop-out rates and price competition, making it more difficult to maintain quality education.<sup>1114</sup> The Rockwool Foundation looked into the impact of the reduction of refugees' social benefits, which was introduced in 2015. The report observes only a small effect on finding a job and only for men, and notes that there was no impact on women's employment, while at the same time petty crime (such as shoplifting) rates went slightly up for women.<sup>1115</sup> In addition, Danish integration experts observed many inequalities in the integration process of refugee women.<sup>1116</sup>

In Finland, a survey was carried out on integration services and concluded that 72% of respondents felt they acquired sufficient language skills and understanding of Finland as part of the process.<sup>1117</sup>

The Directorate for Integration and Diversity in Norway, in cooperation with municipalities, carried out for the first time a national survey on the user experiences of participants in the introduction programme.<sup>1118</sup> In addition, the directorate published a report on municipality expenditure on supporting the integration of refugees. It noted that municipalities managed to adapt their capacity and expenses to fluctuations in arrivals, but it seemed to be challenging for some areas to retain Norwegian language courses throughout the whole year when there are relatively few participants.<sup>1119</sup>

Statistics Sweden analysed the moving patterns of newly-arrived beneficiaries of international protection and found that after 3 years around two-thirds had remained in the same municipality where they were originally allocated, but those who arrived in larger cities were more likely to stay there, while persons in small towns close to larger cities typically moved away.<sup>1120</sup>

UNHCR Malta launched a survey to explore how it can improve its communication with applicants, beneficiaries of international protection and stateless persons.<sup>1121</sup> The Slovak Department of Migration and Integration of the Migration Office of the Ministry of the Interior organised informal meetings with refugees in September 2020 in Bratislava and Košice to discuss various challenges in integration.

The German Integration Barometer, which measures attitudes towards integration, found that men without a migratory background had a slightly more positive attitude towards social coexistence. The survey also provided a glance at the impact of the COVID-19 pandemic and underlined that trust in national authorities and institutions, and especially in schools and police, was at a high level, but migrants still tended to feel discriminated more often and trust these authorities less.<sup>1122</sup>

Various initiatives analysed public attitudes towards applicants and beneficiaries of international protection, for example in Bulgaria,<sup>1123</sup> Norway<sup>1124</sup> and Slovakia.<sup>1125</sup> Many reports assessed the impact of COVID-19 on beneficiaries of international protection, for example in Cyprus,<sup>1126</sup> Denmark,<sup>1127</sup> Poland,<sup>1128</sup> Slovenia<sup>1129</sup> and Sweden.<sup>1130</sup>



#### 4.14.4 Support for integration: Orientation, education, employment, health and welfare

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##### 4.14.4.1 Individual integration plans

Some Member States amended the process of establishing and implementing individual integration plans and pathways for beneficiaries of international protection.

The integration process of beneficiaries of international protection was adjusted in Lithuania. An individual integration plan is proposed to each beneficiary while they are still accommodated at the Refugee Reception Centre. The plan is updated once beneficiaries settle in a municipality in cooperation with the municipal body responsible for integration. The support services are tailored to each person's specific needs and financial support is defined according to the person's progress and personal efforts.<sup>1131</sup> An AMIF-funded project, "Enhancing the competence of municipalities in providing services to third-country nationals", was launched to strengthen municipality competences and resources for integration.

The amendment of 15 April 2021 to the Social Assistance Act granted the right to individual integration programmes for beneficiaries of international protection who are married to Polish citizens.<sup>1132</sup> The amendment also facilitates the administrative requirements to enrol by providing an address rather than requiring participants to officially register at the place of their residence. The registration requirement was proven to be rather challenging for beneficiaries of international protection, and landlords were reluctant to let them officially register.<sup>1133</sup>

In Croatia, a new 3-year project for the integration of refugees into Croatian society was approved by the Directorate for European Affairs, International Relations and European Union Funds in early March 2020. The project "New Neighbours - Inclusion of persons under international protection in Croatian

society” was launched in Croatia in April 2020. The AMIF-funded project is being implemented by the Centre for Culture of Dialogue, a Croatian civil society organisation.

The Norwegian government passed a law which provides the possibility to increase the length of introduction programmes and training by 6 months, to balance the consequences of the pandemic.

The Swedish government decided to finance the extension of labour market integration programmes for 12 months to support people whose programme would finish in the midst of the pandemic which would likely decrease their chances to find employment.<sup>1134</sup> The OECD found that initial data suggested that refugees and their family members did not show higher incidences of unemployment or non-employment while the overall unemployment rate was increasing in Sweden. Data from other countries, like Austria and Germany, showed that the increase of unemployment rates for nationals from the main countries of origin of refugees was three times higher than for nationals. The OECD noted that the surprising Swedish trend was possibly a result of the extension of support programmes, including wage subsidy schemes.<sup>1135</sup> In April 2021, the Swedish Public Employment Service starts rolling out the “Intensive Year” programme for newly-arrived beneficiaries of international protection, which aims to get participants in employment within a year after the completion of the comprehensive, full-time integration programme.<sup>1136</sup>

The “Support measures for beneficiaries of international protection (refugees and persons with alternative status), reception and accommodation in Latvia” continued in 2020 with funding from AMIF, providing integration courses, Latvian language courses, as well as cultural, sports and recreational events and events fostering intercultural communication and co-operation with the local community. Following their establishment in 2016 with AMIF support, Information Centres for Newcomers (ICI) continued to operate in five different locations to help newcomers with administration and daily life.

JRS Romania implemented a support project for persons with tolerated status, with assistance from the General Inspectorate of Immigration.<sup>1137</sup>

#### 4.14.4.2 Employment



Most countries continued with the policy of integration through employment, but several COVID-19-related challenges (*see the introduction in Section 4.14*) had a major negative impact on the implementation of this approach.

The System of Protection for Beneficiaries of International Protection and Unaccompanied Foreign Minors (SIPROIMI) in Italy changed its name to the System for Reception and Integration (SAI) and can now accommodate asylum applicants as well (*see Section 4.7*). Still, only beneficiaries of protection can benefit from labour orientation and professional training, such as the project *Protezione Unita a Obiettivo Integrazione*. This was launched in 2019 by the Ministry of Labour and Social Policies<sup>1138</sup> and continued in 2020 to provide effective pathways to the labour market for beneficiaries of international protection, persons with humanitarian status or persons who entered the country as unaccompanied minors. The individual trajectories were adapted to balance negative impacts of the pandemic, and the project was also extended to the end of 2021. In addition, Legislative Decree No 130/2020 opened up labour market access to beneficiaries of national forms of protection based on medical reasons or due to natural disasters.

A pilot project was launched for beneficiaries of international protection in Utrecht combining study and work to become COA employees.<sup>1139</sup> In addition, the COA published a new brochure for employers, “Newcomers on their way to work - Guide for employers”, providing information to facilitate the employment of beneficiaries of international protection.<sup>1140</sup>

Fedasil published the conclusions of the project, Employer Tailored Chain Cooperation (ETCC), which involved 10 partner organisations from 7 EU Member States and was funded by AMIF. The document presented guidelines for closer cooperation in the labour market integration of asylum seekers and refugees.<sup>1141</sup>

The National Refugee Employment and Training Programme in Bulgaria was extended for 2020. The programme aimed to increase beneficiaries' chances of employment through language training, vocational training and subsidised employment. It also builds knowledge for staff of transit and reception centres and municipal and regional administrations which work with refugees. So far, only a few refugees could benefit from subsidised work, and language courses were not organised due to a lack of funding.<sup>1142</sup>

The Croatian project, TrAZILica, was concluded at the beginning of 2021, which provided language classes, training and employment support to 50 refugees for labour market integration.<sup>1143</sup> Civil society organisations observed difficulties for beneficiaries of international protection to find employment matching their skills, for example, in Croatia,<sup>1144</sup> Slovenia<sup>1145</sup> and Spain.<sup>1146</sup> The Croatian Ministry of Science and Education continued to provide translations of diplomas, the Croatian Employment Service offered active employment measures for beneficiaries and, where access criteria applied to certain support measures, beneficiaries continued to benefit from more favourable conditions, as a group considered to be particularly vulnerable.

The Czech Ministry of Labour updated its guidelines and clarified that public employment services may provide special, employment-related language courses to beneficiaries of international protection to improve their employment chances.

In Cyprus, beneficiaries of international protection continued to face challenges in accessing vocational and employment-related training, as most of the courses were offered in Greek and the number of courses significantly dropped as a result of the pandemic. The Cyprus Refugee Council and UNHCR maintained the digital platform launched in 2019, connecting employers and training providers with beneficiaries.<sup>1147</sup>

The Slovenian Institute for Social Studies of the Scientific Research Centre Koper won a project, which seeks to encourage beneficiaries of international protection to become entrepreneurs. The project will be implemented by 8 partner and 11 associate partner institutions from Bosnia and Herzegovina, Croatia, Greece, Italy and Serbia.<sup>1148</sup>

The Danish Agency for International Recruitment and Integration (SIRI) published a new information package for social workers in local authorities on providing specialised employment support to refugee and migrant women. Women's labour market integration has been a priority in recent years, as data from 2019 showed that 19% of refugee women were working after 3 years of arrival, compared to 60% of refugee men.<sup>1149</sup>

A draft amendment in Switzerland would allow persons with temporary admission to change their assigned canton if they follow a long-term vocational training or are employed in another canton.<sup>1150</sup> The parliamentary process was still ongoing in April 2021 and the amendment was not yet in force, with one chamber of the parliament supporting the draft, while the other not so far. The Swiss State Secretariat for Migration continued with the funding of the Powercoders ICT employment integration programme, following a successful pilot phase which provided training to 148 refugees. The authorities were pleased to see the positive long-term effects of the training, as 22 out of the 33 participants of the first training courses from 2017 found permanent employment or traineeship in the ICT sector.<sup>1151</sup>



The French National Assembly drafted a report evaluating labour market integration policies of applicants and refugees and put forward 15 recommendations, including improving statistical information on refugee employment, strengthening the quality of language support and improving the cooperation between the French Office for Immigration and Integration (OFII, *Office Français de l'Immigration et de l'Intégration*) and the public employment services.<sup>1152</sup> Efforts for improvement were already underway, for example, the French Ministry of Labour, Employment and Integration and the Ministry of the Interior launched a common pilot project, which aims to facilitate the skills validation process for newcomers.<sup>1153</sup>

The German Federal Office for Migration and Refugees (BAMF), the Institute for Employment Research (IAB) and the Socio-Economic Panel (SOEP) continued the yearly survey, which has been administered since 2016, with a group of refugees who arrived between 2013 and 2016.<sup>1154</sup> The group's knowledge of the language continued to improve and overall they were satisfied with their lives, but their economic and employment situations kept them concerned. The IAB noted that the group's labour market integration was hasty, and 49% of them were in employment 5 years after their arrival. There was a significant difference between men and women though: 57% of the men were employed, compared to 29% of the women.<sup>1155</sup>

#### 4.14.4.3 Education



UNHCR published a series of documents highlighting emerging practices to support education for refugee children and mitigate the effects of uneven access to online education, hardware and disrupted support services.<sup>1156</sup> The European Trade Union Committee for Education launched a series of campaigns to promote diversity and inclusion in schools, collecting testimonies from teachers with migrant backgrounds, including beneficiaries of international protection.<sup>1157</sup> Most of the reported state initiatives seemed not to have adapted yet to the changing teaching environment due to the pandemic.

The Ministry of Science and Education in Croatia continued to offer scholarships for beneficiaries of international protection enrolled in higher education – in 2020, three scholarships were awarded to beneficiaries based on their socio-economic status and children in elementary and secondary school could enrol in preparatory classes. The ministry continued to conduct language courses regularly and provided translations of diplomas which are required for including children in primary and secondary school. The ministry noted that, based on signed lists, the courses were not attended regularly or completed. Some concerns reported in the previous years by civil society organisations persisted.<sup>1158</sup>

The Italian Ministry of the Interior offered 100 scholarships to student beneficiaries of international protection for the 2020/2021 school year, based on the Memorandum of Understanding signed in 2016 with the Conference of Italian University Rectors. In France, 3,482 beneficiaries of international protection received student scholarships.<sup>1159</sup> In Lithuania, the Ministry of Social Security and Labour signed a cooperation agreement with the Mykolas Romeris University to provide English or Lithuanian language courses for selected beneficiaries of international protection.

Polish civil society representatives called the Ministry of National Education, provincial education boards and school authorities to promote the employment of cultural assistants whose task is to support foreign children with their integration process.<sup>1160</sup> The provisions regulating the possibility of employing a cultural assistant in a school were introduced into the legal framework in 2010, but they are not widely implemented in practice and the number of assistants remain moderate. The Polish Supreme Audit Office published a report on education of children with a migratory background. According to the report, the Minister of National Education, which is a leading institution in the area of education, does not monitor and analyse the situation of this group of students and integration measures were either accidental or non-existent.<sup>1161</sup>



## Education is a basic right for all children



In 2020, **14,200** unaccompanied minors lodged an asylum application in Europe.

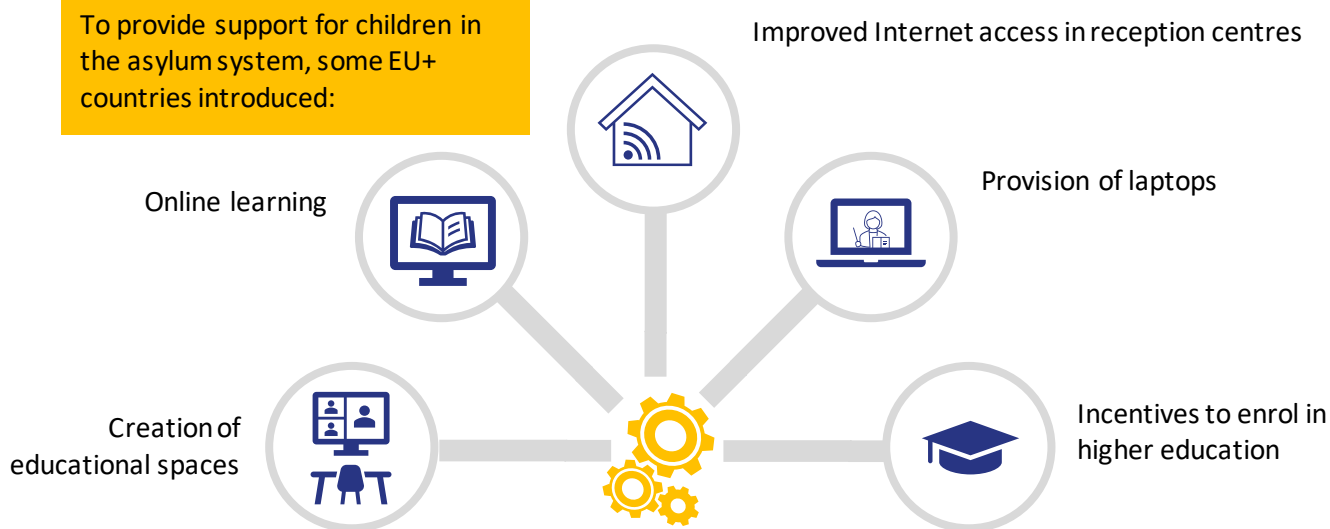


Children < 18 years were granted international protection in almost **60%** of cases



During their journey, these children miss out on **school**. Once arrived in Europe, EU directives stipulate that minors in reception centres awaiting a decision and those who are granted asylum must have **access to education**.

To provide support for children in the asylum system, some EU+ countries introduced:



A coalition of 21 Romanian civil society organisations working on asylum, migration, human rights and public policies sent a letter to the Ministry of Education to highlight the impact of online learning on refugee and migrant children and provided recommendations to the authorities to avoid long-term negative consequences.<sup>1162</sup>

A new study conducted by an NGO analysed refugees' access to education and educational attainment in Denmark.<sup>1163</sup> Among the most significant findings, the report noted that younger refugee children attend the same level of education as their Danish peers, but the difference becomes well pronounced if they arrive after the age of 13. Women refugees are also more likely to get into higher education than men, who rather opt for vocational education.<sup>1164</sup> In 2020, refugees with temporary protection status were granted the right to free secondary education, similar to other refugees.<sup>1165</sup>

UNHCR in Bulgaria noted the positive changes that the legislative amendments in 2017 brought to the education of applicant and beneficiary children, together with closer cooperation among educational professionals, national and local authorities, and civil society organisations.<sup>1166</sup>

#### 4.14.4.4 Language instruction



In previous years, the number of state-financed language support has typically increased, in parallel with higher levels of language requirements, for example, for social welfare (see hereunder), long-term residence or naturalisation. It was intended that these programmes would be implemented or solidified in 2020, but instead the pandemic required re-thinking about the delivery method and anticipating the impact and risks of the new teaching environment.

The German Act on the Deployment of Social Services Providers provides aid, for example, for language course providers to help mitigate the effect of the pandemic and prevent bankruptcy.<sup>1167</sup>

At the end of March 2020, the French Ministry of the Interior posted several IT tools online to support language learning and social orientation for newcomers. A pilot project on language classes was launched in the framework of the Republican Integration Contract for online instruction, with 15 to 24 hours of training a week, with a maximum of 4 hours a day. Smaller groups are organised for beginners as the online platform already requires a certain level of French knowledge.<sup>1168</sup>

Fundación Cepaim observed the lack of free and accessible Spanish courses for adult beneficiaries of international protection.<sup>1169</sup>

The AIDA report for Poland noted that only around 35% of beneficiaries attended language courses, as courses were either lacking in some municipalities or were organised in time slots difficult to reconcile with work, and the curriculum was not adapted to beneficiaries' specific needs and interests.<sup>1170</sup>

#### 4.14.4.5 Social welfare



Significant initiatives linked language knowledge to qualify for social welfare benefits in the Netherlands and Norway. The Dutch government proposed to link the level of social benefits to a sufficient level (A2) of language knowledge, otherwise allowances could be reduced by 20%.<sup>1171</sup> The Norwegian parliament passed a bill amending the Social Services Act, which requires third-country nationals older than 30 years with insufficient Norwegian knowledge to participate in language training as a condition to receive financial support.<sup>1172</sup> The objective of the amendment is to increase their chances of employment.

The Spanish Accem saw delays in transitioning from the reception and integration system to general social services, leaving many beneficiaries without in cash support for some time.<sup>1173</sup> UNHCR noted that a minimum income guarantee was adopted in the country, accessible to refugees under the same conditions as for citizens.

Beneficiaries of international protection in Ireland were entitled to the Pandemic Unemployment Payment, as any Irish citizen, if they were employed but lost their job due to the pandemic.<sup>1174</sup>

#### 4.14.4.6 Health care



Facilitating beneficiaries' access to health care became a matter of public interest during the pandemic, but civil society organisations observed challenges and administrative burdens that prevented beneficiaries of international protection to proactively seek care.

DRC Greece observed major issues in access to health care. The special health care number issued to applicants expires after 30 days of a positive decision, but beneficiaries need a residence permit to request a new health care number. Residence permits are delivered with significant delays, often after several months. Access to health care is dependent on obtaining a residence permit in Cyprus as well, which causes significant delays in accessing health care.<sup>1175</sup>

Civil society organisations from Croatia noted that unemployed persons – many of the beneficiaries of international protection – fall under a different health insurance regime and do not possess health cards. Doctors often perceived the lack of this card as not having a right to health care and refused patients. Pharmacies were also often unaware about the procedure to dispense medicines in this case.<sup>1176</sup> Access to health care came under further pressure in general due to several earthquakes in the country.<sup>1177</sup> The Croatian authorities underlined that doctors and health care institutions were informed through the Central Health Information System (CEZIH) on the rights of persons granted international protection, and the Ministry of Health gave daily instructions and information to health care workers. Pharmacies have also been provided with instructions on prescribing and dispensing medicines. Language barriers were often an issue when exercising these rights.

#### 4.14.4.7 Housing



Beneficiaries of international protection continued to face numerous challenges in transitioning from reception to mainstream accommodation, and many of them become overstayers within the reception system (*see Section 4.7*) or risked homelessness.

The Greek HELIOS programme was set up to support beneficiaries of international protection with their transition from reception to mainstream housing. However, similar to previous years, several civil society organisations noted the limits of the programme. One major obstacle is the requirement that beneficiaries must have a Greek bank account to benefit from the programme, but it is typically difficult to gather all the necessary documents to open the account and no support is given during the reception phase for this administrative process. Beneficiaries who fail to leave their reception place within the new, shorter time limit because they have no place to go (*see Section 4.7*) are excluded from the programme, increasing further their risk of homelessness. The deadline to enrol in HELIOS was also assessed to be very short. The programme itself is scheduled for shorter programme phases, and Greece still lacks a long-term sustainable strategy to address housing issues for beneficiaries of international protection.<sup>1178</sup>

Beneficiaries continued to face significant administrative hurdles to rent an accommodation in Bulgaria. Due to a legislative loophole, they are required to provide valid identification to sign a rental contract, but domicile is needed to obtain an identification card. This situation gave rise to a court case in the Netherlands, where the court assessed that beneficiaries of international protection could not access their rights due to this situation.

Civil society organisations reported from Croatia that at least 80 refugee families were on the verge of homelessness, as many of them had lost their jobs due to the pandemic. Eight civil society organisations applied for an extension of subsidised accommodation for these families, and the relevant ministry called for an urgent meeting to launch the necessary legislative process. However, no further steps were taken by the end of 2020.<sup>1179</sup> Securing accommodation for beneficiaries of international protection became more difficult following the earthquakes that shattered the country, leaving many people in urgent need of housing.<sup>1180</sup> The Ministry of the Interior considered that extending the entitlement to free housing beyond 2 years would put these persons in a more privileged position compared to other third-country nationals residing in the country and to Croatian citizens, and it would negatively impact their process towards independence. Beneficiaries of international protection can access the social welfare system in the same manner as Croatian citizens.

The Irish Refugee Council observed delays in accessing social housing and the accommodation allowance as the work of local authorities and administrative bodies was slowed down due to the pandemic. However, the organisation also noted that there was a decreased demand for rentals as a side effect of COVID-19 restrictions and more housing was available for beneficiaries of international protection.<sup>1181</sup>

The French “National plan for the reception of asylum applicants and the integration of refugees” foresees the creation of an additional 204 places to accommodate beneficiaries of international protection in the Ile-de-France region and foresees further measures to facilitate the transition from reception to private accommodation.<sup>1182</sup> Many recognised beneficiaries overstay in reception centres or leave the system with no accommodation, joining eventually one of the informal camps. According to the estimates of Forum réfugiés–Cosi, around 15%-20% of camp inhabitants are beneficiaries of international protection.<sup>1183</sup>

Many beneficiaries in Malta had difficulties in paying rent and were at risk of being evicted throughout 2020. The Ministry of Social Accommodation and civil society organisations started a discussion to find solutions to this issue, and the authorities provided an increased amount of housing allowance to those in need.<sup>1184</sup> Church and civil society organisations stepped in to provide temporary accommodation for beneficiaries of international protection in Hungary.<sup>1185</sup>

The State Secretary for Justice and Security announced that the guest arrangement (*logeerregeling*)<sup>1186</sup> for beneficiaries of international protection will continue and is planned to be expanded.<sup>1187</sup> Under this arrangement, beneficiaries may volunteer to be placed with a host family or friends, while they are waiting for definitive housing arrangements. The civil society organisation, Takecarebnb, is tasked with the matching of beneficiaries and host families. The evaluation from 2019 found that beneficiaries in this programme learned the language and built up a social network quicker, while it also liberated much needed reception places within the reception system.<sup>1188</sup>

The National Integration Evaluation Mechanism provided an overview of housing support for beneficiaries of international protection in Czechia and Slovakia.<sup>1189</sup>

#### 4.14.4.6 Social orientation



While in previous years more emphasis was on initiatives related to socio-cultural orientation and integration, few developments were reported for 2020. National authorities rather focused their efforts on basic services and ensuring some form of continuation for language, employment and educational support.

The 18 Regional Integration Centres in Czechia continued their work in 2020 and their funding was secured for the year 2021.<sup>1190</sup> The Portuguese network of Local Support Centres for the Integration of Migrants (CLAIMs) continued to expand with two new centres opened in 2020.<sup>1191</sup>

UNHCR published a report on the engagement of beneficiaries of international protection in voluntary work and civic participation in France.<sup>1192</sup>

## Section 4.15 Return of former applicants



EU law on the return of former applicants for international protection falls within the remit of general immigration law. The effective 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 rejected asylum applicants effectively to the country of origin is essential since an inability to return such a person in an efficient and sustainable way may corrode confidence in the system and stigmatised migration.<sup>1193</sup>

Return options include:

- ➔ Voluntary return and departure: when a person opts to withdraw a claim and voluntarily returns to the country of origin (voluntary return) or a person complies with a return decision (voluntary departure); and
- ➔ Forced return/removal: the return of persons who are required by law to leave but have not consented to do so and who are subject to coercion for their removal from the territory.<sup>1194</sup>

In many cases, returnees can receive support under assisted return schemes, including logistical, financial or other material assistance prior to departure. In addition, reintegration support is available after arriving in the country of return, which may cover business start-up costs, equipment and furniture, and education/vocational/on-the job training.



### COVID-19

Flight restrictions, limitations on crossing borders and quarantine rules, accompanied by a suspension of accepting returnees to countries of origin, resulted in additional challenges for the return of applicants during 2020. In many EU+ countries, the most important national developments in the field of (voluntary) returns in 2020 were, therefore, measures and strategies which were developed to deal with the challenges created by the COVID-19 pandemic.

The joint EMN-OECD Inform, [“Impact of COVID-19 pandemic on voluntary and forced return procedures and policy responses”](#), provided a comprehensive overview of the impacts of the pandemic on the return of third-country nationals and outlined the measures and policy responses which were taken to mitigate the effects.

As reported by the EMN, the evolution of both forced and voluntary returns has not been even across countries. In the majority of cases, forced returns plummeted during the early months of the pandemic, and escorted forced returns were essentially stopped except in specific cases. Voluntary returns were encouraged in some EU+ countries, which resulted in an upturn in requests for a voluntary return. Many countries suspended not only return procedures but also the issuance of return decisions, thus extending the period of voluntary departure.

EU+ countries implemented health measures in return operations, for example by introducing quarantines and testing of returnees and staff pre-departure or post-arrival, providing sanitary kits, adjusting the assistance provided by programmes which support return and reintegration, extending implementation periods, covering COVID-19-related health costs, providing shelter during a

quarantine period and adjusting financial packages to compensate for the higher cost of living in some countries of origin due to the pandemic.<sup>1195</sup> Frontex played a key role in financing COVID-19 tests for participants of return operations, assisting Member States in cancelling or rebooking return flights and supporting voluntary returns.<sup>1196</sup>

ECRE published a policy note, “Return as ‘non-essential travel’ in the time of pandemic”, which discusses the European Commission’s guidance on implementing EU rules on asylum and return procedures and on resettlement. ECRE presented its position on how return-related measures established in the Return Directive should be applied in the context of the COVID-19 pandemic.



## Digitalisation

To continue to provide information on return procedures and reintegration counselling, EU+ countries turned to remote communication. New systems were also put in place to enable applicants for a voluntary return to file a request online. Furthermore, online communication tools were used to maintain communication with third countries on identification procedures of returnees and issuance of travel documents.<sup>1197</sup>



In 2020, EU+ countries continued to increase the efficiency of the return process by adopting new institutional and legislative frameworks, at times introducing more stringent rules on the obligation to cooperate, identifying people to be returned and adjusting the timelines for announcing the departure. Countries promoted voluntary returns and assistance and worked in greater cooperation with Frontex. Many developments concerned the implementation of returns with due consideration to the principle of *non-refoulement* and humanitarian aspects, including the dignified return of unaccompanied minors.



### 4.15.1 Regulating returns at the European level

A person who has formally been refused international protection may still be granted the right to remain in the Member State (outside of the scope of the asylum law and under national migration and residence laws). This can be the case if a return is not possible due to technical reasons, personal circumstances (for example, if protection is granted under the ECHR, Article 8 on the right to respect for family life), the situation in the country of origin or preventing *non-refoulement*. Otherwise, a person who has exhausted all legal avenues to remain in the EU and received a return decision from a court or a competent authority of a Member State should in principle leave the EU territory.



The legislative framework at the EU level is prescribed in the [Return Directive](#). In 2018, the European Commission proposed to amend the directive to establish a better link between asylum and return procedures.<sup>1198</sup> The proposal was submitted to the ordinary legislative procedure in the European Parliament and the Council,<sup>ixii</sup> and on 21 February 2020, the LIBE Committee rapporteur published a report on the proposed amendments which proposed nearly 800 amendments on:

- ➔ the definition of the risk of absconding;
- ➔ information provision to returnees on the return process and their rights;
- ➔ obligations imposed on returnees;
- ➔ time limits for voluntary departure;
- ➔ best interest assessments of minors before issuing a return decision;
- ➔ the appointment of guardians to assist unaccompanied or separated minors;
- ➔ reception conditions in the country of return;
- ➔ entry bans;
- ➔ grounds for detention of returnees and maximum time limits of detention;
- ➔ detention of children and families; and
- ➔ the border procedure for returns.

The LIBE Committee considered the amendments in its session of 15 October 2020.<sup>1199</sup> As part of the New Pact on Migration and Asylum presented in 2020, the European Commission called on the European Parliament and Council to swiftly conclude these negotiations (*see Section 2*).

For several years, the effective return of persons not authorised to stay in the EU has been at the top of the EU's political agenda. According to estimations by the European Commission, around 370,000 applications for international protection are rejected every year, but only about one-third of these persons are returned to their country of origin.<sup>1200</sup> This can be explained by challenges in several practical areas which impact the efficiency of returns, for example the identification of migrants, obtaining the necessary documentation from authorities in third countries and frequent absconding by migrants who are to be returned.

Against this background, the European Commission tabled several initiatives under the new Pact on Migration and Asylum to further improve return procedures and the common EU return system. The proposals include:



The introduction of an end-to-end border procedure covering asylum and, where relevant, return, following a pre-entry screening. The new rules specify that a return order must be issued simultaneously with a negative asylum decision, speeding up existing practices. The rapid decision-making ensures that return decisions can be adopted quickly and fully enforced at the border by channelling applicants into a simplified and accelerated return procedure during a border procedure.



A new 'return sponsorship' scheme, by which Member States can contribute to a new form of solidarity. Under return sponsorship, a Member State commits to returning irregular migrants on behalf of another Member State directly from the territory of the

<sup>ixii</sup> The Council of the EU adopted its partial common position in July 2019. See: Council of the European Union. (2019, June 7). *Migration policy: Council agrees partial negotiating position on return directive*. <https://www.consilium.europa.eu/en/press/press-releases/2019/06/07/migration-policy-council-agrees-partial-negotiating-position-on-return-directive/>

beneficiary Member State. The sponsoring Member State would provide, for instance, counselling on voluntary return to irregular migrants, offer financial and practical support for the voluntary return and reintegration, or lead policy dialogue with non-EU countries on behalf of another Member State to facilitate identification and readmission. This would be done while the irregular migrant is still on the territory of the beneficiary Member State. If these persons have not been returned within 8 months, they will be transferred to the territory of the sponsoring Member State to finalise the return procedure.



Changes to the Eurodac database to ensure better monitoring of returnees by counting individual applicants rather than applications and storing data on non-EU nationals who are found to be staying irregularly in the EU. The amendments would monitor the support provided for voluntary departures and reintegration, and make it easier to identify and re-document individuals who are apprehended at external borders for the purpose of a return and readmission (by extending data retention of those persons).



The adoption of a new strategy on voluntary returns and reintegration to ensure that EU and national schemes are well-designed and coordinated. The strategy would also promote returns from third countries to other countries of origin.



The appointment of an EU Return Coordinator, supported by a network of national representatives, to coordinate national approaches to returns and ensure consistency across the EU.



Mobilising other policies, tools and funding instruments (aside from restrictive or favourable visa measures for partner countries depending on their level of cooperation on readmission) in order to incentivise cooperation on return and readmission. This would include better linkages with other development initiatives and national strategies which aim to build capacity and ownership in partner countries. This will also include prioritising the effective implementation of the 24 existing EU agreements and arrangements on readmission, completing ongoing readmission negotiations and exploring options for new agreements. The focus will be on practical solutions through cooperation to increase the number of effective returns.<sup>1201</sup>

The proposals in the new Pact on Migration and Asylum, including the concept of EU return sponsorships and its likely implications, were also discussed by the European Policy Centre in the discussion paper, “[EU return sponsorships: High stakes, low gains?](#)”.

Along with the new measures proposed by the European Commission, the role and work programme of Frontex were strengthened to support EU+ countries in managing the external borders. Under its reinforced mandate, Frontex can now provide significant support during a return, linking operational cooperation with Member States and effective readmission cooperation with third countries.

UNHCR continued to advocate for a rights-based return system in its recommendations to the EU Presidencies. The organisation urged that the integrity of the EU’s asylum system is dependent on a functioning return system. It also stated that throughout the asylum procedure, and in particular in the case of a negative decision, asylum seekers should have the opportunity of voluntary return assistance to support sustainable and dignified returns. Nonetheless, after a final negative asylum decision has been granted through a fair procedure, a return should be implemented with due consideration to the principle of *non-refoulement* and humanitarian and statelessness-related aspects.<sup>1202</sup>

The State Parties to the ECHR are obliged to refrain from removing a non-national when there is a risk that human rights which are guaranteed by the ECHR will be violated. As in previous years, in 2020, the situation of applicants who have been returned to a country of origin remained a recurring theme in the ECtHR's judgments, adding to the case law on the prohibition of torture, inhuman or degrading treatment or punishment in Article 3 in cases.

In this respect, the ECtHR **concluded** that, in the absence of a new assessment of risks by Switzerland, the return of a homosexual applicant to Gambia would constitute a violation of the ECHR, Article 3. The court found the same violation when an applicant withdrew his application for international protection, but the Belgian authorities did not adequately assess the risk of ill treatment prior to the removal. In addition, the court **found** that authorities did not provide adequate safeguards during an identification meeting between the applicant and the Sudanese embassy.

With regard to removals to Afghanistan in particular, the ECtHR **concluded** that, based on the most recent country of origin information (including EASO material), there are no substantial grounds for believing that an applicant upon his return would be exposed to a real risk of being subjected to treatment contrary to ECHR, Articles 2 and 3.

The ECtHR also **ruled** on the issue of a removal order based on a threat to national security to a recognised refugee from Syria and stated that Bulgaria violated the right to family life and did not provide an effective remedy when it issued the decision.

In contrast, the ECtHR **found** no risk of death or ill treatment in the event of a return of a politically-active rejected asylum applicant to Iran and no risk of forced recruitment and persecution of an ethnic group Tunjur (a non-Arab ethnic group associated with Darfuri rebel groups) when returning a rejected asylum applicant to **Sudan**. In addition, no violation of Article 3 was found in the **removal** of Afghan Sikhs to Afghanistan.

On several occasions, the ECtHR ruled on collective expulsions (Article 4 of Protocol No 4). In the case *Asady and Others v Slovakia*, the court held that Afghani nationals who crossed the border hidden in a truck were not subject to a collective expulsion when they were returned to the Ukraine (the removal had been carried out following an examination of their individual situations). Similarly, the ECtHR **concluded** that Spain did not breach Article 4 of Protocol No 4 when returning migrants to Morocco who had attempted to cross the fences of the Melilla enclave (*see Section 4.1*).

In the context of EU law, the CJEU **ruled** that moving illegally-staying third-country nationals to a border area, without observing the substantive and procedural guarantees surrounding a return procedure, constituted an infringement of the Return Directive by Hungarian authorities. At the same time, civil society organisations remained concerned about the absence of implementing returns of rejected applicants from Hungary to Serbia,<sup>lxiii</sup> resulting in prolonged stays of rejected applicants in transit zones.

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<sup>lxiii</sup> Serbia refused to readmit third-country nationals from Hungary with the exception of citizens of the successor states of former Yugoslavia and Turkey. This is partly because it does not have readmission agreements with the relevant countries of origin. Voluntary returns are conducted through the IOM. See: Hungarian Helsinki Committee | Magyar Helsinki Bizottság. (2021). *Input to the EASO Asylum Report 2021*. [https://easo.europa.eu/sites/default/files/Hungarian-Helsinki-Committee\\_0.pdf](https://easo.europa.eu/sites/default/files/Hungarian-Helsinki-Committee_0.pdf); Asylum Protection Centre | Centar za zaštitu i pomoć tražiocima azila. (2021). *Input to the EASO Asylum Report 2021*. <https://easo.europa.eu/sites/default/files/Asylum-Protection-Center.pdf>

In two CJEU judgments on a request for a preliminary ruling by Belgium (C-233/19 and C-402/19), the court ruled on the consequences of the automatic suspensive effect of a return decision on social assistance benefits.



### 4.15.2 Coordinated EU approach and increasing role of Frontex

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With an expanded mandate through a new regulation issued in December 2019, Frontex is now responsible for organising voluntary departures of third-country nationals who were issued a return decision by a Member State. Frontex can provide technical support to national authorities for voluntary returns on both scheduled and charter flights, including the chartering of an aircraft. Therefore, this marked an important change in 2020 in the way voluntary returns are operationalised at the EU level. In addition, the European Commission adopted the first EU strategy on voluntary return and reintegration in April 2021.<sup>1203</sup>

As a result, several EU+ countries explored new pathways of cooperation with Frontex in the field of return. In fact, Estonia amended its legislation<sup>1204</sup> in order to regulate international cooperation with Frontex. The new cooperation with EU+ countries resulted in a growing number of voluntary returns which were organised or facilitated by Frontex, resulting in nearly one in every five rejected applicants being returned by the end of 2020. The largest operation entailed the return of 107 Georgian nationals from Larnaca to Tbilisi.<sup>1205</sup>



### 4.15.3 Authorities responsible for the return procedure

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In Denmark, a new government agency, the Return Agency (*Hjemrejsestyrelsen*), became operational under the Ministry of Immigration and Integration on 1 August 2020. With the aim to increase the return of rejected asylum applicants, the agency has taken over several tasks which were formerly carried out by the police and has partially taken over return counselling of rejected applicants which was previously outsourced to the Danish Refugee Council. Tasks related to forced returns will remain under the responsibility of the police, who will work closely with the newly-established agency.<sup>1206</sup>

In Austria, efforts towards fully setting up the BBU progressed in 2020. The responsibility for return counselling and return assistance shifted to the agency on 1 January 2021.<sup>1207</sup> Regional offices of the Czech Return Unit were established in Brno and in detention centres in Bělá–Jezová, Balková and Vyšší Lhoty.



### 4.15.4 Refining national legislation on issuing a return decision to third-country nationals

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In Austria, an amendment of 23 December 2020 was made to the Federal Office for Immigration and Asylum Procedures Act<sup>1208</sup> on return counselling. Previously, return counselling had been obligatory either once a first instance return decision against a third-country national or a notification as referred to in the Asylum Act 2005, Article 29(3)4-6 had been issued.<sup>1209</sup> As of 1 January 2021, such counselling is to be generally administered only after a final or enforceable return decision has been issued. Exceptions have been defined for cases including third-country

nationals staying unlawfully and for accelerated procedures.<sup>1210</sup> It still remains possible to request voluntary return counselling at any stage in the procedures.

As of 1 January 2021, a return counselling session is thus mandatory for the following cases, as set out in Article 52(2a) of the Federal Office for Immigration and Asylum Procedures Act:

- ➔ Third-country nationals staying unlawfully in Austria against whom return decisions have been issued, even if not final;
- ➔ Third-country nationals staying lawfully against whom a return decision has been issued and has become enforceable or final;
- ➔ Asylum seekers against whom notifications of intended rejection or dismissal of the application for international protection or of intended revocation of *de facto* protection against a removal have been issued in admission procedures (Article 29(3), sub-paragraphs 4 to 6 of the Asylum Act 2005) and
- ➔ Asylum seekers against whom a return decision has been issued and has become enforceable or final.

This amendment was prompted by the fact that compulsory return counselling had previously taken place at an early stage, often before any appeal proceedings. Waiting until decisions become final and enforceable should ensure targeted and efficient return counselling. It should also help to make sure that foreign nationals receive information promptly on assistance options for voluntary return, thus avoiding any forced return and strengthening voluntary return and reintegration.

An amendment was passed in Lithuania in November 2020<sup>1211</sup> which clarified that a return decision cannot be issued pending the examination of an application for international protection. In Bulgaria, the National Assembly adopted a draft law amending the Law on Foreigners in the Republic of Bulgaria,<sup>1212</sup> which proposes to amend existing provisions in the field of return. The country to which a return will be executed must be indicated in the return decision.

Estonia clarified criteria to assess the risk of absconding when a return decision is issued (or a decision to detain a foreigner). According to amendments to the Obligation to Leave and Prohibition on Entry Act, the risk of absconding occurs when a third-country national notifies the PBGB that he/she does not wish to comply with the obligation to leave, or the Estonian Internal Security Service or the administrative authority comes to this conclusion based on the attitude or conduct of the foreigner.

In Ireland, amendments to the International Protection Act 2015, which were introduced by the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020, now allow for the return of applicants whose applications are deemed inadmissible (subject to the prohibition on *refoulement*) to the United Kingdom, which has been designated as a safe third country since 31 December 2020.



#### 4.15.5 Efficiency of the return process

While the rate of implemented returns remained relatively low in many EU+ countries,<sup>1213</sup> a number of new initiatives were carried out in 2020 to improve the enforcement of a return and the cost-effectiveness of the process.

The Austrian Government Programme 2020-2024 places strong emphasis on voluntary return and reintegration, which are provided by the BBU as of 1 January 2021. For the area of return counselling

and return assistance, binding work procedures, which define workflows and standards to guarantee efficient and uniform application and enforcement practices in the context of (assisted) voluntary return and reintegration, were developed. As part of a package of measures to encourage voluntary return, financial start-up support was adjusted, information material on return assistance was further developed and the website was relaunched: <http://www.returnfromaustria.at>

To increase the number of returns carried out in the Netherlands, the 'return track' was launched as a pilot programme in January 2020. The project focuses on enhancing coordination and removing procedural obstacles when third-country nationals submit repeated applications during the removal procedure through a readmission agreement.<sup>1214</sup>

In Denmark, a new legislative proposal amending the return process was under discussion. The new bill proposes more stringent rules on obtaining data to identify foreigners who should be returned. It also put forth procedures to manage occupancy in return centres more efficiently to prevent absconding.<sup>1215</sup>

The Swedish government tasked several national bodies, including the police and the Swedish Migration Agency, to analyse the factors that prevent the enforcement of a decision on a refusal of entry or return. The results of the study, expected in 2021, will present shortcomings in the area of return and improvements for the exchange of data on returnees.<sup>1216</sup>

In Belgium, the commission for the evaluation of policies on foreigners' voluntary and forced return (also referred to as the Bossuyt Commission) put forward over 60 policy recommendations to improve the return process.<sup>1217</sup>



#### 4.15.6 Programmes supporting returns and reintegration assistance

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The current EU *acquis* on immigration stresses the importance of voluntary returns over forced returns.<sup>1218</sup> The role of voluntary returns and programmes supporting them are further strengthened in the proposal for a recast Return Directive.<sup>1219</sup> Against this background, several important developments took place in 2020 in EU+ countries, including expanding the target group which can apply for assistance in a return, tailored assistance to vulnerable persons and specific profiles, and new methods to provide information.

Several EU+ countries reported extending the duration of ongoing projects related to return, for example Cyprus<sup>1220</sup> and the Netherlands. In contrast, other countries discontinued programmes, such as France's reintegration programme in Moldova and Slovenia not having success in a tender procedure for an implementing partner.

Czechia widened the list of foreign nationals who are entitled to the voluntary return programme, which is financially supported by the Ministry of the Interior. This was a result of a legislative change which was adopted in 2019.<sup>1221</sup>

Similarly, in Norway, as of March 2020, standard support assistance may be increased in order to ease the return and reintegration process, for example for returnees with special medical needs or if it is assessed to be more cost-effective for Norwegian society, for example, for returnees with special medical conditions. This is the result of a new regulation which entails more flexibility and the possibility to tailor return or reintegration support to individual cases.

The Swedish Migration Agency, in cooperation with the European Return and Reintegration Network (ERRIN), developed a pilot project called “Sustainable Reintegration in Afghanistan” (ERRIN-SRA), offering assisted voluntary return to a specific nationality of applicants. The project aims to improve long-term opportunities for returned Afghan citizens returning from Europe by assisting them in starting businesses in Afghanistan. As part of the activities, an information campaign was conducted in selected districts of Afghanistan to sensitise families to the challenges faced by returnees in an effort to tackle the issue of post-return stigma.

Under the project "Rete Ritorno Volontario Italia" (Volunteer Return Network Italy), the institutional network of reporting on returns was strengthened, training and information sessions were carried out, and a dedicated toll-free number for potential returnees was activated. Italy was also involved in a project to promote returns from third countries to other countries of origin. The Ministry of Foreign Affairs and International Cooperation, in agreement with the Ministry of the Interior, allocated additional funds to support the IOM in Tunisia to offer assisted voluntary repatriation and reintegration services in countries of origin of migrants who were stranded in Tunisia. Similar support is planned for Libya.<sup>1222</sup> France also had two similar reintegration programmes in Morocco and Tunisia.

A policy brief by the Migration Policy Institute Europe, “Rewiring Migrant Returns and Reintegration after the COVID-19 Shock” provided suggestions on how to improve the return and reintegration infrastructure, and partnerships between origin and destination countries after the COVID-19 pandemic.<sup>1223</sup>

Civil society organisations were concerned about an inadequate budgetary allocation to projects on voluntary assisted return and reintegration in Spain.<sup>1224</sup>



#### 4.15.6 Providing information on return

In recent years, EU+ countries have focused on ensuring that accurate and up-to-date information is available to all potential returnees. In 2020, several initiatives were reported in this area.

Fedasil in Belgium published new brochures on voluntary return<sup>1225</sup> and developed a project to reach out to undocumented migrants outside reception capacity, jointly with the French OFII under the ERRIN programme with AMIF funding.<sup>1226</sup> Czechia explored new ways of reaching irregular foreign nationals and raising awareness about voluntary return programmes, for example by communicating with various facilities, like shelters and health institutions, where the presence of irregularly-staying third-country nationals might be anticipated.



#### 4.15.7 Return of minors

According to the Return Directive, Article 10, before removing an unaccompanied minor from a Member State, the authorities must ensure that the minor will be returned to a family member, a nominated guardian or an adequate reception facility in the country of return. The Netherlands made changes to the Aliens Circular to clarify how to effectively implement this provision.<sup>1227</sup> It specified which documents are required by the Dutch Repatriation and Departure Service (DT&V) to provide advice on the transferability of the child protection measure to the country of origin or another country that will grant entry to the child.

Along the same lines, a new legal position was adopted by the Swedish Migration Agency which aimed to provide guidance on the assessment of cases where there are practical impediments to expulsion, for example when a minor does not have a guardian and there is no adequate reception facility in the country of return.<sup>lxiv</sup> Under the project "Best interests of the child upon return" run by the Swedish Migration Agency and the municipality of Strömsund, additional tools were developed for officers who manage cases of unaccompanied children in the return process.<sup>1228</sup> The project came to an end in December 2020.

Similarly, France signed a Declaration of Intent with Morocco which is designed to provide magistrates with the necessary tools to take measures in the best interests of a child. It also included measures on the return of unaccompanied minors to Morocco.

In Estonia, an amendment was made to the Obligation to Leave and Prohibition on Entry Act to regulate the issuance of a return decision to an accompanied minor. Compliance with a return decision issued to a minor or an adult foreigner with limited active legal capacity will be organised by a parent, guardian or other responsible adult person who is staying with the person in Estonia.

In Luxembourg, the Grand Ducal Regulation<sup>1229</sup> was adopted which sets out the operation and work process of the interdisciplinary commission to evaluate the best interests of unaccompanied minors in return decisions. The regulation also defines the composition of the commission, and a revision is being discussed to allow a civil society representative to be appointed as a member of the commission.



#### 4.15.8 Implementing a return

##### *Period for voluntary departure*

Several legislative changes and similar initiatives were implemented by EU+ countries concerning the period of time for a voluntary departure when a return decision was issued. In Estonia, this is closely linked to the obligation to cooperate. If a person obstructs the obligation to leave (for example, does not take part in proceedings, refuses to provide fingerprints, etc.), it might be a ground to remove the period of voluntary departure and to consequently detain a person.

In Ireland, the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process published a report which recommended that the 5-day period for unsuccessful applicants to consider a voluntary return should be extended to 30 days, and children and students should be allowed to finish the school year before departure. This recommendation was being examined by the Department of Justice in 2021. An amendment to the International Protection Act 2015, Section 51C was also adopted, which sets out the timeframe for the validity of a return order made in respect of a person whose application for international protection is determined as inadmissible. If the period of validity expires and the person has not been returned, it will be assumed that the person would like to apply for international protection, which will be notified in writing with an invitation to complete the form.

<sup>lxiv</sup> The legal position was adopted on 27 March 2020, but was replaced on 31 March 2021 by: Swedish Migration Agency | Migrationsverket. (2021, March 31). *Rättsligt ställningstagande. Praktiska verkställighetshinder m.m. - RS/048/2021* [Legal position. Practical obstacles to enforcement, etc. - RS/048/2021]. <https://lifos.migrationsverket.se/dokument?documentSummaryId=45389>



In the Netherlands, the Aliens Circular was amended<sup>1230</sup> and clarified that when a child is born after the parents have received a return decision, even though the child is subject to an independent return decision, the period of voluntary return is linked to the parents' decision and expires at the same time. Consequently, when considering the risk of absconding, the fact that the parents did not comply with the obligation to leave the country brings the child's return decision under this scope, and the parents' action may be attributed to the child as well.

According to amended legislation in Denmark,<sup>1231</sup> the Refugee Appeals Board now has explicit authority to extend the deadline for a departure on individual grounds.

### **Appeal against a return decision**



In Bulgaria, a draft bill to amend the Law on Foreigners<sup>1232</sup> introduced an automatic suspensive effect for an appeal which is filed against an expulsion order issued on the grounds of serious threat to public order. The amendment was issued as a result of the ECtHR judgment in *C. G. and Others v Bulgaria*.

Civil society organisations in Spain raised concern about the lack of an automatic suspensive effect on a return during an appeal and the limited application of interim measures that would prevent return.<sup>1233</sup>

### **Forced return/removal**



The minimum period in which the Dutch DT&V has to announce a departure has been established in the Aliens Circular.<sup>1234</sup> While the DT&V to generally notify a returnee about the planned departure up to 48 hours beforehand, this has been regularised by the introduction of guidelines and shortened to 36 hours before the actual departure.

Civil society organisations urged that an effective and independent system of monitoring forced returns should be implemented in Slovakia<sup>1235</sup> and reported that the monitoring system in Norway was insufficiently independent.<sup>1236</sup> They also reported on forced returns in Switzerland, where the legal representative is not informed about the date of a foreseen return.<sup>lxv</sup>

### **Return management databases**



A new legislation<sup>1237</sup> adopted in Germany formed the legal basis for centralised data collection in the area of voluntary return and reintegration programmes. According to the new regulations, data on funding received for voluntary returns and reintegration are stored in the Central Register of Foreigners.

In Switzerland, an amendment to the “Ordinance on implementation of return and expulsion of foreigners”<sup>1238</sup> stipulates access rights, data security and data retention of the new information system, eRetour.

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<sup>lxv</sup> Upon the request of Asylex, in January 2021, the UN Committee on the Elimination of Discrimination against Women (CEDAW) and CAT issued interim measures to immediately stop the deportation of two clients who were to be returned to Ethiopia. Despite the verdict by international organisations, Swiss authorities proceeded with the deportation of other Ethiopian deportees. In addition, rejected asylum seekers subject to deportation are regularly picked up without notice in the middle of the night by policemen. AsyLex Legal Advisory. (2021). *Input to the EASO Asylum Report 2021*. <https://easo.europa.eu/sites/default/files/AsyLex.docx>

### **Rejected applicants who temporarily cannot return or be returned**

The Netherlands clarified legal provisions on the 'no-fault' policy,<sup>1239</sup> which applies when a third-country national subject to a return decision is unable to return for reasons that cannot be attributed to him/her.

Civil society organisations reported that Syrians were held in prolonged detention in Greece when returns to Turkey under the readmission agreement were suspended due to the COVID-19 outbreak.<sup>lxvi</sup>

### **Implementation of the non-refoulement principle<sup>lxvii</sup> and other fundamental rights**



Italy extended the list of circumstances in which protection against *refoulement* applies.<sup>1240</sup> In addition to cases where a foreigner is at risk of being subjected to torture in the country of origin, the list includes cases where a person may be subjected to inhuman or degrading treatment and cases where there is a risk of a violation of the right to respect for private and family life.

According to the amended legislation in Bulgaria, if it is established by a judicial act that a foreigner subject to a removal order cannot be returned due to a risk to the person's life and liberty or persecution, torture, inhuman or degrading treatment, an order must be issued which explicitly states the prohibition of return and the state to which the foreigner should not be returned. This order is not subject to an appeal.

The Netherlands amended its legislation<sup>1241</sup> on the pronouncement of undesirability (e.g. entry ban on national grounds) to ensure full compliance with fundamental rights, specifically the ECHR, Article 8 (right to respect for private and family life). Explicit reference to the respect for private life was included in the provision.

Similarly in Sweden, a new legal position was issued to provide guidance on the assessment of the right to private and family life in the application of the temporary law, and specifically when assessing whether a decision on a foreigner's return infringes the right prescribed in Article 8.<sup>lxviii</sup> In addition, the Swedish Migration Agency adopted a new legal position on the application of the ECHR, Article 3

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<sup>lxvi</sup> Since March 2020, no readmission to Turkey took place within the framework of the EU-Turkey Statement, while the Greek authorities noted that they have not received any reply for requests submitted since June 2020. It was also observed that asylum claims submitted on the islands by Syrians while in detention were rejected as inadmissible by the Appeals Committees on the grounds of the safe third country concept. While the decision of the committees was to order their readmission to Turkey, the applicants were released after the notification of the decision and given a police note asking them to leave voluntarily within a deadline of 15-30 days. Some of these rejected applicants, who could not leave Greece, moved on their own initiative to the mainland, and a few managed to submit a subsequent asylum application requesting authorities to examine their claims on the merits. Danish Refugee Council Greece. (2021). *Input to the EASO Asylum Report 2021*. [https://easo.europa.eu/sites/default/files/Danish-Refugee-Council-Greece\\_Input.pdf](https://easo.europa.eu/sites/default/files/Danish-Refugee-Council-Greece_Input.pdf)

<sup>lxvii</sup> See the definition: European Migration Network. (2021, May 12). *Glossary: non-refoulement*. [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/non-refoulement\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/non-refoulement_en)

<sup>lxviii</sup> The legal position was adopted on 27 March 2020, but was replaced on 21 April 2021 by: Swedish Migration Agency | Migrationsverket. (2021, April 21). *Rättsligt ställningstagande. Innebörden av svenskt konventionsåtagande och artikel 8 i Europakonventionen vid tillämpningen av 11 och 13 §§ i den tillfälliga lagen - RS/061/2021* [Legal position. The meaning of the Swedish convention obligation and Article 8 of the European Convention in the application of Sections 11 and 13 of the Temporary Act - RS/061/2021]. <https://lifos.migrationsverket.se/dokument?documentSummaryId=45466>

(prohibition of torture and inhuman or degrading treatment or punishment) when considering the expulsion of a sick person.<sup>1242</sup> The Swedish Migration Court of Appeal **considered** the lawfulness of expelling a child born in Sweden to rejected applicants from Lebanon. It assessed that the removal from Sweden was not proportional and was in breach of Article 8 and with the best interests of the child.

The Federal Administrative Court in Austria **granted** a suspensive effect on a return decision during an appeal by a Hindu family from Afghanistan, claiming that upon return they would be exposed to a real threat to their life and physical integrity due to the COVID-19 pandemic. The court held that both applicants would fall into the risk group due to their age and previous illnesses.

In Luxembourg, in a removal **case** of a rejected applicant from Tunisia, the Administrative Tribunal ruled that COVID-19 measures were temporary and there was no evidence that a removal could not eventually take place in the medium term.

Civil society organisations reported on a practice in Switzerland of returning third-country nationals to countries tormented by conflict and persecution, for example Afghanistan, Ethiopia, Sri Lanka and Turkey, and they highlighted the occurrence of returns by the police at the alpine border between France and Italy.<sup>1243, 1244</sup>

## Section 4.16 Resettlement and humanitarian admissions



Resettlement is a durable solution by which third-country nationals or stateless persons in a situation of vulnerability are selected and transferred from a first country of asylum to the territory of a third country which has agreed to admit them as refugees with a permanent residence status.<sup>1245</sup> In the EU context, resettlement programmes are voluntary and persons in need of protection are identified as eligible by UNHCR.<sup>1246</sup>

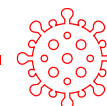
Resettlement is an expression of international solidarity, involving several national and international stakeholders. EU resettlement schemes aim to manage migration based on predictable timelines and ensure common grounds for eligibility, while carrying out rigorous security checks. Since the introduction of the first European Resettlement Scheme in July 2015, the process has remained an important point on the policy agenda.

### COVID-19



The outbreak of the COVID-19 pandemic had a direct impact on resettlement operations which were planned by EU+ countries for 2020. The closure of borders and restrictions to movement resulted in the suspension of the main activities, including the cancellation of selection missions to countries of first asylum and the suspension of transfers of already-selected refugees. Consequently, this led to a decrease in the total number of resettled persons in the EU+ for the first time in 7 years.

One of the solutions for some countries became selection based on dossiers.<sup>lxix</sup> This means that new cases were decided without organising a selection mission or interviewing an applicant in person. While some countries, such as Finland, Lithuania, the Netherlands, Norway and Spain clarified that they would not increase dossier-selection quotas for the year, other countries are considering increasing the number of cases processed in this way. For instance, Italy announced that in view of the current situation they will process all cases based on documentation until their 2020 pledge is achieved.



<sup>lxix</sup> The selection of refugees based on dossier means that the country of resettlement will decide based only on the documentation provided by UNHCR, without requiring a direct interview with the applicant. Before the COVID-19 crisis, this method has been typically used only in emergency and urgent cases, for instance based on medical grounds or when the refugee faces an immediate risk of *refoulement* to the country of origin where there is a risk of suffering persecutions.



## Digitalisation

In line with the European Commission's [guidance](#) on the implementation of relevant EU provisions in the area of asylum, return procedures and resettlement,<sup>1247</sup> countries turned to digital solutions to continue activities. Digitalisation allowed national systems to continue to function and helped to stop backlog accumulation. Remote interviews were carried out to process resettlement cases referred by UNHCR and virtual pre-departure orientation were used to carry out preparatory activities for the integration of already-selected refugees.



### 4.16.1 Impediments to reaching national resettlement quotas in 2020

Due to the suspension of operations between March and July 2020, the number of refugees effectively resettled in EU+ countries during the year was inevitably reduced. In 2020, about 10,640 persons arrived in the EU+ in the context of resettlement, 58% fewer than in 2019. Indeed, the COVID-19 pandemic halted the upward trend in the number of resettled persons that had been taking place over the previous six years. The only exception was Denmark, which had not received any resettled person in 2019 and received 30 in 2020.

Sweden was the main receiving country for resettled third-country nationals, accounting for one-third of all persons resettled in EU+ countries in 2020. Nonetheless, this represented a 28% decrease when compared to 2019. Sweden had initially pledged 5,000 places, but about 1,400 refugees could not be effectively resettled during the year.<sup>1248</sup>

Other top receiving countries in 2020 included Germany (with 1,685 resettled refugees, representing a 66% decrease compared to 2019), Norway (1,525, -45%) and France (1,340, -76%). After having started face-to-face interviews, Germany suspended its missions to Egypt and Niger and its planned face-to-face interviews in Jordan, Niger and Kenya. However, remote interviews were conducted in Lebanon in the summer of 2020. Its quota for 2020 was to resettle 5,500 refugees, but by the end of the year, the arrival of about 3,815 refugees was still pending.

While resettlement operations slowed down in Finland, authorities continued to process emergency and urgent cases based on dossiers. It carried out pre-departure hybrid and virtual courses for all accepted resettlement cases to Finland, combined with face-to-face orientation for Syrian refugees in Turkey.<sup>1249</sup> By the end of 2020, Finland had resettled 660 refugees.

In France, on the other hand, operations came to a complete halt from mid-March to July 2020 while efforts were focused on issuing decisions to approve or reject applications submitted in the previous year and at the beginning of 2020. The transfer of refugees resumed as of August 2020, and physical missions started again in October 2020 to various first asylum countries. While France had announced a quota of 5,000 resettled refugees for 2020, the country could only resettle 1,340 refugees.<sup>1250</sup>

The Netherlands conducted remote pre-departure orientation with selected refugees in Lebanon and Turkey and made some decisions on a dossier basis. However, 1,075 places were not covered from the country's 2020 pledge for 1,500 refugees. This represented a 77% decrease compared to 2019. Other notable decreases, in relative terms, occurred in Ireland (195 resettled refugees, -75%) and Italy

(350, -74%). By the end of 2020, most countries had not met their national quotas and had to request a transfer to the following year.

When initial pledges could not be met, the European Commission announced a mechanism to transfer quotas to 2021. Thus, a new procedure was established through AMIF funds by which countries could carry over the pending quota that could be fulfilled by the end of 2021. In the national guidelines for the reception of resettled refugees in 2021, the French authorities announced the extension of their 2020 pledge to be progressively achieved during 2021, in combination with possible additional quotas for the year, depending on state of the pandemic.<sup>1251</sup>

### **Resumption of operations**

In the summer of 2020 when COVID-19 measures were gradually eased, selection missions resumed and approved cases pending a transfer started arriving. In this context, 363 refugees arrived in Spain, mostly between September and December 2020. In October 2020, 14 refugees from Niger who were already selected at the end of 2019 finally arrived in Luxembourg.<sup>1252</sup> In the same month, a total of 152 Syrian refugees from Lebanon were transferred to the Netherlands, accounting for 58% of the annual total of resettled Syrians received by the Netherlands.<sup>1253</sup>

Remote interviews were carried out to process cases which were referred by UNHCR. For example, in the summer of 2020, Germany started a remote interview pilot project in Lebanon, interviewing more than 800 people via Webex with the support of IOM and UNHCR. Similarly, the integration and security authorities of Finland carried out telephone interviews and videoconferences using Webex, Polycom and MS Teams.

In August 2020, Switzerland carried out its first remote mission with the support of the EASO Resettlement Support Facility (RSF) in Turkey and in collaboration with the International Catholic Migration Commission (ICMO), in which 13 online interviews were carried out over 4 days.<sup>1254</sup>



## **4.16.2 Citizenship of resettled refugees**

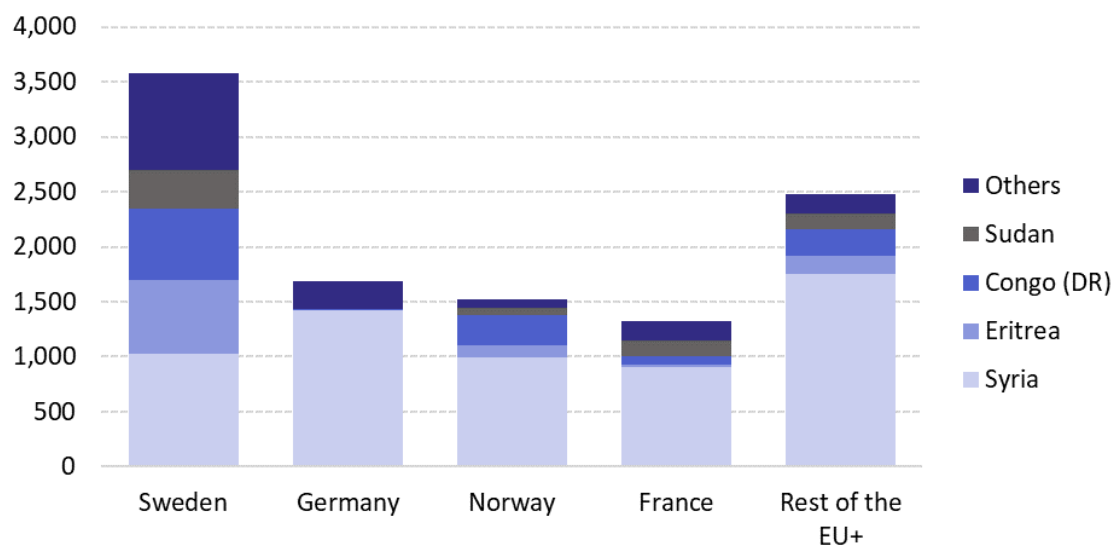
As has been the case over the last 6 years, nationals of Syria were resettled the most often albeit at lower levels (6,105 in 2020, representing a 58% decrease compared to 2019), accounting for over one-half of all resettled persons. All other citizenships were also resettled at much lower levels, namely nationals of several African countries, such as the Democratic Republic of the Congo (1,265), Eritrea (960), Sudan (690), Somalia (290), South Sudan (285) and Ethiopia (205). It is worth recalling that in 2019 most African nationals were resettled much more often than in 2018. In 2020, some citizens of African countries were resettled at similar or higher levels of those in 2018, including Sudanese, Somalians and South Sudanese.

Each year since 2018, Syrians have been representing a smaller share of the total number of resettled persons in EU+ countries. However, in 2020 their share remained stable at 58%. While in 2019 the lower prominence of Syrians was due to a wider range of citizenships being resettled, in 2020 there were fewer citizenships but some of those who were resettled accounted for larger shares, such as Eritreans and Congolese. For example, Syrians accounted for 29% of all resettled persons in Sweden in 2020, followed by Eritreans (19%), Congolese (18%) and Sudanese (10%). In some EU+ countries with lower levels of resettlement, only Syrian nationals were resettled, for example in Belgium, Denmark, Ireland and Romania (see Figure 4.25).



## Syrians continued to be the most resettled nationality across receiving EU+ countries

**Figure 4.25: Number of resettled refugees in EU+ countries, by Top 5 nationalities of resettled persons, 2020**



**Note:** The graph presents the Top 4 receiving countries along with a total for the remainder of receiving countries.

Source: Eurostat [[migr\\_asyresa](#)] as of 28 April 2021.

As in 2019, the sex ratio of resettled persons was more or less equal, with 48% of resettled persons being females. With regard to age groups, two in five resettled persons were younger than 14 years old.<sup>lxx</sup> With regard to the most common citizenships of origin, females accounted for over one-third of all Eritreans (36%) and three-fifths of all Somalis who were resettled in EU+ countries. Minors, particularly those younger than 14 years, represented around two-fifths of the persons among nationals of the Democratic Republic of the Congo, Ethiopia, Sudan and Syria, and over-half of the nationals of South Sudan.



### 4.16.3 National developments in resettlement programmes

Although there were not many operational activities in resettlement in 2020, there were some national developments in resettlement and humanitarian admissions during the year.

After the formation of a new government in Ireland in June 2020, the management of the Irish Refugee Protection Programme (IRPP) and the Irish Humanitarian Admissions Programme (IHAP) was divided between two government departments. Responsibility for the Irish Refugee Protection Programme

<sup>lxx</sup> For just 0.03 % of resettled persons, the age group could not be reported.

transferred from the Department of Justice to the Department of Children, Equality, Disability, Integration and Youth in 2020, while the responsibility for the Irish Humanitarian Admission Programme remained with the Department of Justice.<sup>1255</sup>

France also implemented an organisational change. The French Ministry of Interior approved<sup>1256</sup> the decentralisation of the system, with the aim of enhancing the role of regional authorities in the integration of resettled refugees within the regional *préfectures*.<sup>1257</sup>

The Spanish Supreme Court ruled that refugees who are resettled in Spain through a government-approved programme, in cooperation with UNHCR, automatically become beneficiaries of refugee status (and not beneficiaries of subsidiary protection) and must be granted a residence permit.

With the aim of aligning the national reporting system with data reported by UNCHR and Eurostat, the Dutch Minister of Migration also announced a new method to report on national quotas which are based on the arrival date of resettled refugees instead of the date of selection. A new multiannual resettlement policy framework for 2020-2023 was established in the Netherlands, including a commitment to resettling 2,000 refugees in 4 years (500 per year, as established in previous frameworks).<sup>1258</sup> On top of the multiannual policy framework, the Netherlands also partakes in resettlement efforts in the framework of the EU's migration cooperation with third countries. The quota is established either on a yearly basis or for the duration of an EU resettlement programme. Under the EU-Turkey Statement, the Netherlands has committed to resettling 1,000 Syrian refugees annually from Turkey.

In the context of pre-departure orientation, and with the aim of facilitating the integration of resettled refugees into Swedish society, the Swedish Migration Agency developed guidance and tools on preparatory measures for refugees waiting to be resettled. This is part of a pilot project to be implemented by the IOM with assistance from UNHCR. The project was tested for the first time in Kampala, Uganda and several more are planned for 2021. The project will then be evaluated to form the basis of a regular 3-day pre-departure orientation programme and will be fully implemented in 2021.

In addition to its contribution to the EU resettlement scheme, Germany decided on a national level to admit asylum seekers and beneficiaries of international protection from Greece. In 2020, a total of 1,519 persons were admitted from Greece to Germany: 1,485 asylum seekers and an additional 291 beneficiaries of international protection under the national humanitarian admission programme.



#### 4.16.4 Community Sponsorship Programmes

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While resettlement continues to be the most important method for countries to provide protection to refugees in vulnerable situations, community sponsorship programmes have expanded in the last years as a new pathway to protection. Under these programmes, local communities and civil society organisations work together to provide resettled refugees with support in all administrative and integration procedures, such as access to rights, health care, schooling, language learning and job integration.

Since 2015, there has been significant interest in community-based programmes in Europe, with several pilot and permanent programmes being implemented. Some countries continued with already-established initiatives; however, only a few refugees were resettled in 2020, for instance only six refugees arrived under the Irish Community Sponsorship programme and three refugees as a part of “New start in the team – NesT” programme in Germany.



The French humanitarian corridors agreement was signed between the Ministry of Foreign affairs, the Ministry of the Interior and five faith-based organisations in March 2017. The aim of the agreement was to grant 500 asylum visas to Iraqis and Syrians in need of protection in Lebanon. At the end of 2020, 556 visas were delivered and 520 beneficiaries of the corridors arrived in France. In 2021, the agreement was renewed for the next 3 years with the aim of granting asylum visas to 600 beneficiaries of this scheme.

Other countries launched new schemes in 2020, such as the new community sponsorship programme in the *Comunidad Valenciana*, managed by the Spanish Secretary for Migration with the collaboration of the regional government and local civil society organisations.<sup>1259</sup>

Many countries have implemented evaluations of the participation of local communities in the integration of resettled refugees. For instance, in Finland, the Ministry of the Interior and the Ministry of Employment and Economy launched an initiative to evaluate the role of communities in integration activities carried by national authorities to resettled refugees.<sup>lxxi 1260</sup> The evaluation is part of a study which will be completed by May 2021 and the results of which will help to develop possible future pilot projects. Likewise, the UNHCR Representation for the Nordic and Baltic Countries published an assessment of the possibility to develop a community sponsorship programme in Sweden and analyse the challenges and potential benefits of these programmes.<sup>1261</sup>

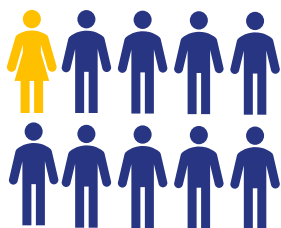
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<sup>lxxi</sup> Currently the involvement of communities in the integration of resettled refugees consists of selecting groups of five people from the community who will support groups of refugees with administrative procedures, language courses, health assistance and other practical arrangements, for a duration of one to two years.



## Focus on asylum applicants with vulnerabilities

In 2020, about **14,200** applications for international protection were lodged by **unaccompanied minors** in EU+ countries



representing **3%** of the total **485,000** asylum applications in 2020

Almost **9** out of **10** unaccompanied minors applying for international protection were boys



More efforts are needed to protect **women and girls** in the asylum procedure from violence, human trafficking and FGM/C

**41%** of unaccompanied minors originate from **Afghanistan**



Safeguards are needed to protect children in the asylum procedure from falling into the hands of **human traffickers**



**LGBTI persons** are subject to human rights abuses in many parts of the world. And they may be afraid to talk openly during the asylum procedure



Source: EASO

## Section 5. Children and applicants with special needs



EU legislation contains provisions to address the special needs of applicants who may be considered especially vulnerable in the asylum system. These provisions ensure that vulnerable applicants receive adequate support to benefit from their rights and comply with the obligations which are defined under CEAS and that they can be on an equal footing with other applicants.

The recast Asylum Procedures Directive, Article 2(d) defines applicants in need of special procedural guarantees as those with a limited ability to benefit from rights and fulfil the obligations granted in the directive due to individual circumstances. Recital 29 gives examples of these circumstances: age; gender; sexual orientation; gender identity; disability; serious illness; mental disorders; consequences of torture, rape or other serious forms of psychological; and physical or sexual violence.

The term ‘unaccompanied minor’ refers to “a minor who arrives on the territory of the Member State unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not taken into the care of such a person. It includes a minor who is left unaccompanied after he/she has entered the territory of the Member State”.

The recast Asylum Procedures Directive, Article 24 outlines the special procedural guarantees for applicants in general, and Article 25 specifies the guarantees for unaccompanied minors. Member States are required to assess within a reasonable time whether there is a need to implement these guarantees for individual applicants and provide adequate support.

The recast Reception Conditions Directive defines applicants with special reception needs. It also lists examples, which are non-exhaustive, but they cover a slightly different scope. It explicitly mentions unaccompanied minors, single parents with minor children, victims of human trafficking and victims of FGM, but it does not refer to gender, sexual orientation or gender identity. Detailed provisions are listed in the recast Reception Conditions Directive, Chapter IV and require Member States to take into account the specific situation of a vulnerable applicant, assess vulnerabilities within a reasonable period and ensure that the needs are addressed. Chapter IV also lists specific provisions for minors, unaccompanied minors and victims of torture and violence. Article 11 lists the conditions for detaining vulnerable persons and applicants with special reception needs.

All instruments of EU asylum *acquis* must be applied and interpreted by taking into consideration the Charter of Fundamental Rights of the European Union, as it is part of primary EU law. Article 24 of the Charter concerns the rights of the child and specifies that children have the right to protection and care as necessary for their well-being. The right to express their view freely and have them taken into consideration are also guaranteed. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child has the right to maintain a personal relationship and direct contact with both parents on a regular basis, unless it is contrary to his/her interests.

In 2020, EASO published judicial analysis, [Vulnerability in the context of applications for international protection](#), as part of the EASO Professional Development Series for members of courts and tribunals. The report provides relevant case law examples and an overview of elements in CEAS which are particularly important to vulnerable applicants.<sup>1262</sup>



## COVID-19

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The interruptions in services and limitations on direct personal contact made the identification of applicants with special needs and addressing their special needs even more difficult than under usual circumstances.<sup>1263</sup> Thus, vulnerable applicants were even more exposed during the pandemic, often starting early in the asylum procedure since age assessments, for example, were suspended in some countries and access to guardianship was delayed. Physical distancing and lockdown measures had a negative effect, for example, on providing information to children and support to parents, and had an overall negative impact on the mental health of applicants.<sup>1264</sup>

In reception facilities, children and applicants with special needs dealt with isolation due to social distancing measures and were devoid of the full range of support services, especially in-person assistance. Access to education in reception facilities was also hampered often due to connectivity issues for online classes and a lack of equipment, which had an impact on learning levels and the potential for a smooth integration into the host community (see Section 4.7).<sup>1265</sup>

As visitations were halted in many places, civil society organisations could not provide support and outreach, such as counselling, psychological support or organising food distribution for potential and former applicants out of reception. Child protection teams also experienced difficulties in accessing reception centres.<sup>1266</sup> The identification of victims of human trafficking or gender violence and persons with mental health problems seems to have been markedly delayed in some Member States.<sup>1267</sup>

Although staff training addressing applicants with special needs was planned during 2020, most activities were either adapted and carried out online or postponed.



## Digitalisation

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New communication channels and digital tools were increasingly used to provide information about the asylum procedure in general, and in particular, material was adapted to reach out to children and applicants with special needs. Updates on health measures and procedures in the country were provided through YouTube videos, phone hotlines, posters and online platforms in the absence of traditional face-to-face communication. While digital information provision was often a good alternative, communication had to be adapted to applicants without the necessary digital skills. In addition, digital tools do not replace human contact and interaction which are essential for guaranteeing the best interests of children and applicants with special needs.



The new Pact on Migration and Asylum includes several provisions to ensure that the best interests of the child are considered, for example by strengthening family reunification and fostering a stronger solidarity mechanism for the relocation of unaccompanied children and applicants with vulnerabilities. The pact foresees a faster appointment of representatives with sufficient resources for unaccompanied minors and a strengthened role of the European Network on Guardianship.<sup>lxxii</sup>

Several civil society organisations, such as Save the Children, Lumos, Picum and Missing Children Europe, issued a joint statement praising the strengthened role of the guardian in assessing the best interests of the child,<sup>1268</sup> but they were concerned about the proposed border procedures which may lead to a prolonged detention of children. The group called on the EU to introduce procedural safeguards for all children across all procedures in a consistent way.

Human Rights Watch considered that the European Commission “lowered the protection standards” for minors by only exempting unaccompanied minors and children younger than 12 years from border procedures. The organisation recommended to prohibit migration-related detention of children, to allocate resources for non-custodial solutions and to increase safeguards during screening in order to detect and address more rapidly the health needs and vulnerabilities of migrants.<sup>1269</sup>

The Lumos Foundation mapped care arrangements for unaccompanied children in Bulgaria, France, Greece, Italy, the Netherlands and Spain and found that “there is an over-reliance on institutional care provision, without sufficient resources to respond to the needs and best interests of children, exposing them to harm”.



## 5.1 Children going through the asylum procedure

### 5.1.1 Data

According to the Eurostat Technical Guide, applications for international protection by unaccompanied minors are counted as such when the age of the applicant has been accepted by the national authority. The age reported is determined through an age assessment procedure, when required.

In 2020, about 14,200 applications for international protection were lodged by unaccompanied minors in EU+ countries, representing 3% of the total 485,000 applications. Compared to 2019, the absolute number of unaccompanied minors remained relatively stable (-3%). However, given the strong overall decrease in asylum applications, this resulted in an increase in the share of unaccompanied minors from 2019 by one percentage point.

More than one-half of all applications by unaccompanied minors were lodged in four countries: Greece (20% of the total), Germany (16%), Austria (10%) and Belgium (9%). In Greece and Germany, applications by unaccompanied minors decreased by 16% and 18% respectively, whereas they rose by 59% in Austria and remained stable in Belgium.

<sup>lxxii</sup> The European Network on Guardianships brings together authorities and international and non-governmental organisations which promote good guardianship services for unaccompanied and separated children in the EU. European Commission. (23 September 2020). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum COM/2020/609 final*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601287338054&uri=COM:2020:609:FIN>

Despite the stability in the absolute number of unaccompanied minors arriving to Europe overall, there were great variations at the country level. Most notable were the increases in some countries on the Western Balkan route. With 980 applications by unaccompanied minors, Romania received more than five times as many children than in 2019, and in Croatia (with 115 applications), their number increased more than three times. While the overall number of applications in these countries also increased from the previous year, the rise in applications by unaccompanied minors was much higher. In Bulgaria (800), applications from unaccompanied minors rose by more than half.

Other notable relative increases occurred in Finland (+53%) and Switzerland (+22%). Conversely, the most noteworthy decreases in relative terms took place in Cyprus (-66%), Sweden (-43%), Denmark (-26%) and Italy (-21%).<sup>lxxiii</sup>

In relative terms, some countries located along the Western Balkan route also had the highest shares of unaccompanied minors among the total applicants. In Bulgaria, more than one in five applicants was an unaccompanied minor, about one in six in Romania and Slovenia, and one in ten in Austria. In fact, the share of unaccompanied minors in Romania more than doubled from 2019. Other countries with relatively high shares of children applying for asylum included Denmark and Portugal (10% each).

A large share of unaccompanied minors originated from Afghanistan, representing 41% of applications by minors in EU+ countries in 2020 (up by 11 percentage points from 2019). This was followed by Syria, with 16% (up by 6 percentage points). Children from both nationalities accounted for an increased number of applications in both relative and absolute terms. In fact, the number of Syrian unaccompanied minors rose by more than one-half from 2019, while Afghans minors increased by about one-third (see Figure 4.26).

Other nationalities with high numbers of unaccompanied minors were Pakistani, Somali and Bangladeshi. While there were fewer Pakistani and Somali minor applicants compared to 2019, the number of Bangladeshis rose by almost two-fifths. A noteworthy increase was also reported for unaccompanied minors from Egypt.

In contrast, the number of unaccompanied minors from some sub-Saharan African countries seems to have significantly dropped, including those from Cameroon, the Democratic Republic of Congo, Eritrea, Guinea, Nigeria and Sudan. Other significant decreases were reported for Albanians, Iranians, Iraqis and Palestinians.<sup>lxxiv</sup>

Unaccompanied minors from Afghanistan tended to mostly apply in Greece, Belgium and Romania (in descending order), making up over 70% and 80% of all minor applicants in the latter two countries, respectively. Almost one-half of all applications by Afghan minors were concentrated in these three countries.

Greece also received a large concentration of Pakistani and Bangladeshi unaccompanied minors relative to their applications in EU+ countries overall, receiving about two-thirds of their applications in 2020. In contrast, applications by Syrian and Somali minors were not concentrated in one particular country. Just over one-fifth of all Syrian unaccompanied minors applied in Germany, with another one-fifth applying in the Netherlands, and about one-sixth each in Austria and Greece. One-fifth of unaccompanied minors from Somalia applied in Germany. About one-half of Egyptian and Guinean unaccompanied minor applicants lodged their applications in Greece and Germany, respectively.

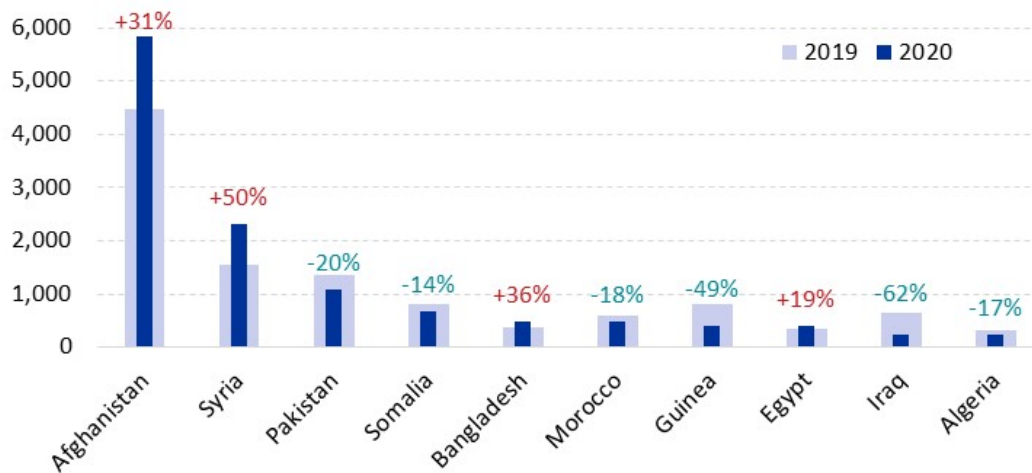
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<sup>lxxiii</sup> Only countries with 100 or more applications by unaccompanied minors in 2020 were considered.

<sup>lxxiv</sup> Only countries of origin with 100 or more applications by unaccompanied minors in 2019 were considered.



**Figure 4.26: Number of applications by unaccompanied minors by Top 10 countries of origin, 2020 compared to 2019**



Source: Eurostat [[migr\\_asyappctza](#)] as of 28 April 2021.

Afghanistan and Egypt were the countries of origin with the highest ratio of unaccompanied minors among their total applications, with 12% each, representing an increase of five and six percentage points, respectively. They were followed at a distance by Moroccans, Pakistanis and Somalis, with a ratio of 6% each.

As in previous years, the overwhelming majority of unaccompanied minors applying for international protection in EU+ countries were male (almost 9 out of 10). This was particularly the case for some Central and South Asian (Afghanistan, Bangladesh and Pakistan) and North African countries (Algeria, Egypt and Morocco).

In contrast, some sub-Saharan African countries accounted for relatively high shares of female minor applicants. One-half or more of all unaccompanied minor applicants from Nigeria and Côte d'Ivoire were girls. High shares of girls among all minor applicants were also noted from the Democratic Republic of the Congo and, to a lesser extent, Eritrea and Somalia. Another country of origin with an almost equal ratio of male and female unaccompanied minor applicants was Russia.<sup>lxxv</sup>

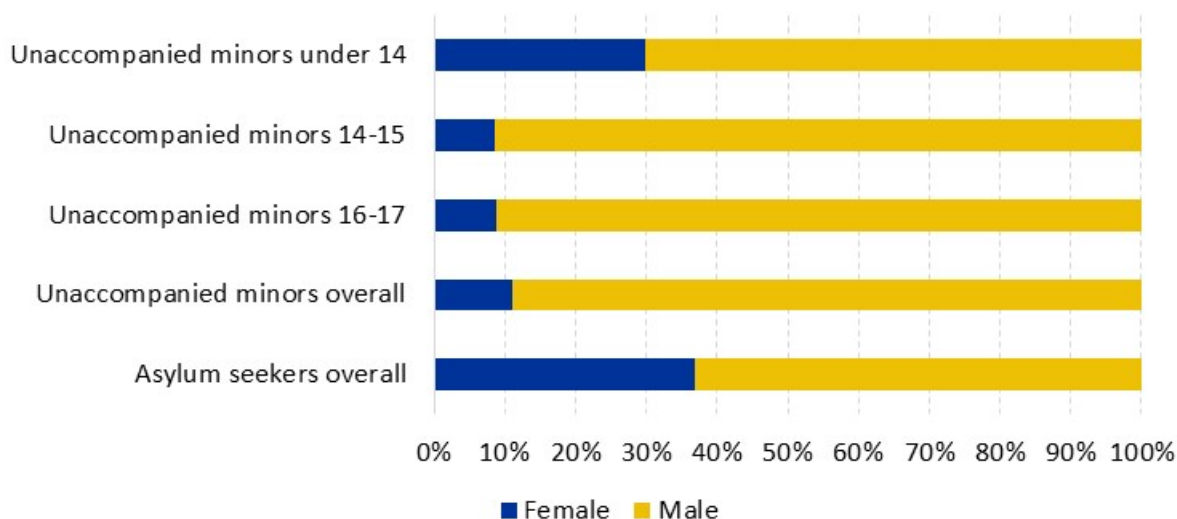
Most unaccompanied minor applicants were in the older age cohort, with about two-thirds aged between 16 and 17 years, and only about one-tenth below the age of 14. However, the share of girls was the highest in the youngest age group, accounting for almost one-third of applications in this group, compared to about one-tenth overall (see Figure 4.27). While most nationalities were more or less evenly distributed across all age groups, Russian minor applicants stood out, with children younger than 14 years making up more than four-fifths of all applications by Russian unaccompanied minors.

<sup>lxxv</sup> These were the highest female-to-male ratios in the Top 20 countries of origin for unaccompanied minors.



**Overwhelming majority of unaccompanied minors who apply for asylum in EU+ countries are male, but there is a large share of girls under 14 years of age**

**Figure 4.27: Gender ratio for unaccompanied minors by age group, 2020**



Source: Eurostat [[migr\\_asyappctza](#)] as of 28 April 2021.

Turning from official Eurostat data, UNICEF Spain observed that the number of unaccompanied minors increased fivefold on the Canary Islands, based on regional government data. UNICEF Spain called for efficient contingency plans to rapidly assess the needs of migrant children and urged for a national action plan to be developed for the care and integration of unaccompanied minors.<sup>1270</sup>

### 5.1.2 Determining identity and assessing the age of a child applicant



Prompt identification of children travelling alone as unaccompanied or separated from their families remained a challenge in 2020. When children are not identified early in the asylum procedure, they may face detention or return, and they are at greater risk of falling into the hands of traffickers or becoming victims of crime or exploitation. UNICEF analysed the approach taken in selected countries (Bulgaria, Greece, Italy and Serbia) when identifying unaccompanied and separated girls.<sup>1271</sup> Overall a lack of available data and analyses of national and regional situations disaggregated by sex and age on the number and profiles of unaccompanied and separated girls hampered targeted responses. But the report discovered that interviewed children were often not aware of services available to help them, did not have access to information about the asylum procedure, and reported high levels of abuse and exploitation during their travel through Libya, which remained still one of the typical transit routes during 2020.

The identity and age of migrant children is often unclear as many do not have documentation. If there are substantial doubts about a child’s age, an age assessment may be carried out by national authorities to determine the correct path for the applicant and ensure best interests in the case of a minor.



In 2020, some EU+ countries reviewed their age assessment procedures. In Greece, age assessments which were previously carried out by the competent structures of the Ministry of Health were shifted to reception centres or other competent facilities which are located close to the residence (for example, a public health facility or specialist doctor).<sup>1272</sup>

The Italian government signed an agreement with regional and local institutions to harmonise age assessment procedures throughout the country.<sup>1273</sup> The procedure would include a multi-disciplinary team with a paediatrician, psychologist, cultural mediator and social worker to undertake the age assessment in an adequate facility, preferably in the reception facility or in a local health care facility. The assessment follows three steps: an interview with the child, a psychological evaluation and a paediatric check-up. Not all steps are obligatory if the age can be assessed after the first or second step.

Following a formal notice from the European Commission in 2018, Bulgaria adopted amendments to the Law on Asylum and Refugees which introduced modifications to the age assessment procedure. Children must be fully informed about the methods of the examination and possible consequences. The examination must respect human dignity and use the least invasive way. If there are remaining doubts about the age, the applicant will be presumed to be a minor. If a child refuses to undergo an expert examination, this cannot be held as a ground for rejecting the application for international protection.

Rädda Barnen/Save the Children noted that medical age assessment methods have been criticised for several years in Sweden. In response, in 2020 the government initiated a national enquiry on the method of medical age assessments that are currently used by the National Board of Forensic Medicine in the framework of asylum procedures. The results of this inquiry will clarify how a person of an unknown age can be assessed as being older or younger than 18 on the basis of the medical method currently applied.<sup>1274</sup>

The UN Committee on the Rights of the Child (CRC) analysed age assessment procedures, for example in Austria and noted that “the age assessment procedure does not always respect the dignity and the best interests of the child and, despite possible inaccuracy, it is not possible to appeal the outcome of the procedure separately”. The CRC also pointed out that the age assessment procedure, which takes time, affected the appointment of a legal guardian since this is provided after being assigned to a reception facility. The CRC urged having “a legal guardian appointed to all unaccompanied or separated children without delay upon their arrival in the State party”.<sup>1275</sup>

The CRC also recommended to improve age assessment procedures in Hungary, initiate the procedure only in cases of serious doubt and use a multidisciplinary methods. It also called for mechanisms to identify child soldiers so they can be referred protection services for physical and psychological support. Finally, the CRC recommended training border police on children's rights to ensure that alleged cases of violence against children are promptly investigated.<sup>1276</sup>

In Spain (*M.B. v Spain*), the CRC ruled that Spain had violated the Geneva Convention, Articles 3 and 12 when registering a minor Guinean national as an adult and detaining him for 52 days prior to implementing a return. The child’s representatives provided a birth certificate, but it was disregarded due to issues with its authenticity. The applicant was then housed in a social residence for adults and was not assigned a guardian. The CRC recommended several general measures to align the age assessment procedure in Spain with the Geneva Convention.<sup>1277</sup>

Following repetitive complaints, the Spanish Ombudsman raised concern to the Public Prosecutor General's Office (*Fiscalía General del Estado*) about a lack of medical evidence and forensic intervention in age assessment procedures and difficulties in appealing the decision. The tests do not

follow the guidelines of good practices from the institute of forensic medicine in Spain or guidelines issued by the office of the public prosecutor.<sup>1278</sup>

The French Defender of Public Rights reported to the United Nations Committee on the Rights of the Child that the practices and facilities for age assessments varied considerably across France. In addition, if bone x-rays to assess the age of an applicant remain, a second assessment of the results should be done by specialised doctors.<sup>1279</sup>

In partnership with the Council of Europe, EASO developed a child-friendly [video animation](#) on age assessments, which is available in 23 languages. Particularly targeted at the 14- to 19-year-old age group, the video provides information on the age assessment process and about children's rights and obligations throughout this process.

### 5.1.3 Legal representation and designating a legal guardian



Some EU+ countries amended their legislation to provide a legal guardian to a migrant child in a swift and efficient manner. In practice, however, civil society organisations reported delays in assigning a guardian mainly due to the high numbers of children needing support in some countries, such as France, Greece, Italy and Spain. Similar observations were published in the IOM's [World Migration Report](#).

In France, the time required to appoint a legal representative varied considerably from one territory to another. The Ministry of the Interior was working with the Ministry of Justice to expand the pool of ad hoc administrators who are specifically appointed to support unaccompanied minors with their asylum applications. The minimum age for registration on the list of ad hoc administrators has been lowered from 30 to 23 years, and a provision has been made to register on the asylum list of administrators registered on the code of criminal procedures. A training programme on asylum for ad hoc administrators was deployed in 12 territories in 2020. The Ministry of the Interior, in conjunction with the Ministry of Justice, was also working on better information for institutional actors (prosecutors and prefectures) who are involved in the procedure for appointing an ad hoc administrator. In each territory, local actors were also encouraged to connect with each other in order to create clear circuits for the referral and appointment of ad hoc administrators.

Malta amended its Child Protection (Alternative Care) Act which came into force in July 2020. Immediately after the registration of the minor and issuance of identification documents, the Director of the Protection of Minors must request the court to provide for tutorship and/or curatorship.<sup>1280</sup> However, the European Commission noted that delays in the appointment of legal guardians remained an issue and there was a limited pool of legal guardians.

In Greece, the legislation for the guardianship of unaccompanied minors (Law No 4554/2018) came into effect on 1 March 2020. This law sets out the terms for the appointment of a guardian who will be responsible for the integration of the child. The law also foresees the creation of a Supervisory Guardianship Board to manage the legal protection of unaccompanied minors.

Due to the absence of guardians after the METAdrasi network of guardians programme was terminated in March 2020, CSO HumanRights360 reported serious problems in the representation of unaccompanied minors younger than 15 years in processes related to reception and their identification. Child protection organisations (such as HumanRights360 and Arsis) stepped in to provide a lawyer as a temporary guardian of minors and sign on behalf of the minors during registration at the RIC of Fylakio. HumanRights360 also observed that the children were not

sufficiently informed about the different procedures related to asylum and the timeframe to collect evidence for the application was short. In addition, an NGO lawyer should not have a dual role as lawyer and guardian, for which they lack the appropriate training.<sup>1281</sup>

Greece signed a Memorandum of Understanding with the Netherlands to improve the guardianship system and reception facilities for unaccompanied minors in Greece. Reception facilities will be created for minors and experts from the Dutch foundation NIDOS provide give support to the guardianship programme.<sup>1282</sup>

Bulgaria amended the Asylum and Refugees Law to implement a significant change to the legal representation of unaccompanied minors in the asylum procedure. An unaccompanied minor who is an asylum applicant or beneficiary will now be represented by a lawyer who is registered with the National Legal Aid Bureau throughout the whole asylum procedure. The bureau published guidelines on representation in the Asylum and Refugees Act, Article 25 with a description of the activities to be carried out by the lawyer.<sup>1283</sup> The amended law also introduced required qualifications for the lawyers, and training on ensuring the best interests of a child will begin in 2021.<sup>1284</sup>

Before the amendment was adopted, the Bulgarian Supreme Administrative Court ruled in a [case](#) with procedural irregularities due to a lack of legal aid and social assistance when interviewing minors. The State Agency for Refugees (SAR) had rejected an asylum application by a woman with two children, which was appealed on grounds of violation of the Child Protection Act since the administrative body or court did not send the mandatory notification to the Social Assistance Directorate prior to the first interview and the social worker did not participate in the second interview. No legal aid was provided during the interview and the determining authority did not consider the best interests of the child.

The transition of a child into adulthood has been the subject of concerns and discussions, especially in regard to documentation, access to the labour market and the continued right to family reunification. Many children reaching the age of majority may face uncertainty about their situation and a lack of support, which makes them particularly vulnerable.

Despite a decision from the Independent Authority for Public Revenue (IAPR) which regulated the procedure to issue a tax identification number to unaccompanied children in Greece, METAdrasi reported that this had not been implemented and put in practice. Children older than 16 years often did not have legal access to the labour market and could not attend vocational training programmes without a tax identification number. In addition, there was a lack of accommodation for unaccompanied minors turning 19 years.<sup>1285</sup>

Finland amended its Act on the Promotion of Immigrant Integration which now entitles unaccompanied minors who have a residence permit to receive after-care until the age of 25 instead of 21. The act was amended in line with the equivalent age limit in child welfare after-care which was raised to 25 years on 1 January 2020.<sup>1286</sup>

Save the Children in Sweden was concerned about minors who turn 18 years old and can lose many rights when reaching majority, such as the right to a legal representative. In addition, they often have to change accommodation and move into facilities with adults in another part of the country.<sup>1287</sup>

In Spain, a public consultation was prepared in 2020 and launched in 2021 when drafting a new legislation to finetune the documentation system so unaccompanied minors do not remain undocumented once they reach the age of majority.<sup>1288</sup> Several Spanish CSOs made recommendations for amendments to the legislation, especially with regard to identification, documentation, and the renewal of residence and work permits.<sup>1289</sup>

Following a CJEU ruling (*see Section 2*), the Swedish Migration Agency updated its legal position on children's family reunification so that the age at the date of application determines the rules and criteria. In addition, the Migration Court of Appeal referred a [case](#) back to the Migration Board when two minors were returned to their home country and appealed on the grounds of significant procedural errors. The Migration Board had not appointed a public counsel for the children, which was required under the circumstances.

In Switzerland, the Federal Administrative Court [ruled](#) that the SEM must ensure the protection of an individual's rights and designate a legal guardian when an Ethiopian national claimed to be a minor. When identity documents are not presented, the SEM is obliged to carry out an overall assessment of the applicant's age. The Federal Administrative Court annulled the decision and remitted the case for a re-examination.

Training on legal guardianship was challenging in 2020 due to the pandemic, but some courses were made available online. Finland, for example, launched an online training programme on the work and processes for competent representatives, after which the guardian is issued a certificate to be able to represent unaccompanied minors.

#### 5.1.4 The importance of using child-friendly communication



Trained and specialised staff, including interpreters, have a specialised role to understand children who arrive in a country and to ensure that they understand the procedures they are going through. Child-friendly, age-appropriate communication is crucial to gain trust and respond in a sensitive manner considering various factors like the child's potential traumatic experiences and culture shock. In 2020, new initiatives for information provision, often using digital means, were implemented in many EU+ countries to ensure a sensitive and adapted approach for applicants with special needs. Nonetheless, monitoring and accountability mechanisms are recommended to ensure that a child has followed and understood online content.

The Swedish Migration Agency developed an app, "*Migrationsverket Stories*",<sup>1290</sup> which explains the asylum procedure in a simple and child-friendly way. The app is aimed at children aged 7 to 11 years and no literacy skills are required to use the app. The videos are available in several languages (Albanian, Arabic, English, Persian, Somali and Swedish).

Nonetheless, Rädde Barnen/Save the Children noted some gaps in the provision of child-friendly information during asylum and return procedures. This was coupled with a lack of coordination between municipalities, leading to impediments on school enrolment and access to health care.<sup>1291</sup> The Strömsund municipality, the Swedish Migration Agency and the County Administrative Board of Jämtland carried out a project, "Best Interests of the Child", to improve communication with children by training professionals and legal guardians who provide information to children after placement and counselling to find an alternative goal for children whose application is rejected. They also developed a toolbox to organise and evaluate practices for organisations working with children.<sup>1292</sup>

The Danish Immigration Service introduced a [new digital application](#) to apply for family reunification when a child did not apply for asylum concurrently with a parent. The new digital form is filled in by the parent or legal guardian residing in Denmark and the child (or on behalf of the child) applying for family reunification. It is still possible to use the paper application as well.

The AIDA report for Poland observed that some guardians in Poland did not have any personal contact with the unaccompanied minor they are supposed to represent. Therefore, the children were not sufficiently informed about their status and legal situation. In general, a child-friendly communication and the availability of interpreters were missing to inform children about the procedure. The Polish Border Guard underlined that, while conducting procedures for unaccompanied minors, the Border Guard follows appropriate steps (in accordance with the law), for example applying to the court with the request to appoint a guardian for the minor. The Border Guard must ensure that the representative (guardian) of the minor has personal contact through every step of the procedure.<sup>1293</sup>

The importance of child-friendly communication was highlighted in a [case](#) in 2020 in Romania. While the asylum application of an unaccompanied minor from Bangladesh had been rejected due to a lack of credibility from contradictory statements, the court reassessed the circumstances and granted refugees status, considering that the inadvertencies in the applicant's statements may be due to his young age and linguistic difficulties in communicating, and overall the minor had made a genuine effort in substantiating his allegations.

### 5.1.5 Detention and return of minors



The detention and return of minors were scrutinised in the course of 2020. For example, in [Moustahi v France](#), the ECtHR ruled that it was not in the children's best interests when they were detained with unrelated adults in France and then returned to Comoros without an adequate individual assessment. The court underlined that keeping the children in a detention centre could have "caused them stress and anxiety, with particularly traumatic repercussions for their mental state".

Likewise, the CRC [found](#) that Switzerland failed to assess the children's best interests when there was no direct hearing pending a Dublin transfer of a family. The CRC recommended that national authorities should not impose an age limit in law or in practice as this could limit the children's right to be heard and to express their views regarding their personal circumstances. In this case, the CRC noted that the Swiss authorities did not consider the traumatic conditions that the children had experienced by fleeing their country of origin twice, due to a previous return (*see Section 4.2*)

In March 2002, the Netherlands amended the rules for unaccompanied minors who cannot return to their home country through no fault of their own. The change aimed to clarify the situation and prevent repeated applications. Unaccompanied minors may be eligible for the 'no-fault' residence permit if it is shown that a return to the country of origin was impossible within a maximum timeframe of 3 years. The Aliens Circular was amended accordingly to start following the first asylum application.<sup>1294</sup>

Following the 'Interest of Children in Foreigners' Law' project, a new project, 'Cooperation for Children in Foreigners' Policy' (*Samenwerkingsverband Kinderen in het Vreemdelingenbeleid*), was established between the IND, DT&V and the Council for Child Protection (*Raad voor Kinderbescherming*, RvdK). A contact person was appointed from each organisation to find common, sustainable solutions to issues concerning foreign children. This project will also ensure that the best interests of children are sufficiently considered within administrative and immigration laws.<sup>1295</sup>

France and Morocco signed an agreement, which, among others, aims to facilitate the return of unaccompanied children, but civil society organisations were concerned that the agreement itself was not published immediately and still not available in April 2021.<sup>1296, 1297</sup>



## 5.2 Identifying and attending to special needs

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Adults arriving to Europe can also be in a vulnerable position or have individual circumstances which require special attention. Notable developments and activities took place in several countries despite the COVID-19 pandemic, resulting in some EU+ countries updating their legislation, policies and guidance. Some developed new vulnerability assessments for applicants with special procedural need or implemented quality monitoring measures.

Amendments to the Asylum Act in Bulgaria made vulnerability assessments mandatory and a support plan necessary if needed (LAR, Article 30a). The change was in response to previous concerns that no specific identification mechanism was in place for applicants with special needs, except for children.<sup>1298</sup>

Estonia introduced an additional assessment tool with a checklist to assess vulnerabilities and inform the reception center. The Ministry of the Interior, the PBGB and the Social Insurance Board also launched a new information and data-sharing system on children and adults in need of assistance. Through the new system, the police can immediately send information about a person in need of assistance or considered to be at risk to the Social Services and Benefits Data Register (STAR). (Estonia: Social Insurance Board 2020)

The Irish IPAS is in the process of implementing a new formal vulnerability assessment, and expertise in supporting vulnerable people will be commissioned to NGOs to support highly-vulnerable applicants. For example, victims of torture are referred to a specialised NGO which provides services on behalf of the state and their health services will be mainstreamed. The IPAS is also considering introducing referral mechanisms to LGBTI support groups. The new vulnerability assessment process takes into account the particular needs of LGBTI applicants, and case officers are provided with relevant training to respond to homophobic prejudices, including among other residents of shared facilities.<sup>1299</sup>

UNHCR examined the situation of applicants with special needs under the new Swiss asylum procedure and noted that the introduction of legal counselling and a legal representative for each applicant in the country has also meant that the needs of applicants are considered in a more adequate manner.<sup>1300</sup>

Detecting any health problems or medical conditions is important in the identification process since a return could pose a serious risk to the well-being of applicants and put their life at risk in the country of origin. In Italy, the Civil Court of Milan [granted](#) refugee protection to a Guinean national suffering from epilepsy and found he would be at risk if returned because he was deemed to belong to a particular at-risk social group.



## 5.3 Protecting women and girls

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While minor boys can also fall victim to domestic violence, further efforts continued to be needed in protecting women and children in the asylum procedure from risks, such as domestic violence or FGM. In 2020, EU+ countries undertook new initiatives by creating facilities specifically for this profile of applicants and courts stepped in to protect woman and girls who be at risk of violence if returned to their home country (*see Section 4.7*).

The Council of Europe published a study on Gender-based asylum claims and *non-refoulement*: Articles 60 and 61 of the Istanbul Convention. It includes practical advice and information on gender-based violence and on how to provide a gender-sensitive interpretation in reception and asylum procedures.<sup>1301</sup>

In France, the CNDA **ruled** that Somali girls who have not been subjected to FGM/C – but ran the risk if returned – constitute a particular social group in need of protection. The court found that OPFRA had only briefly heard a girl’s father, not the mother, even though she could testify that the practice was undertaken in her family. The CNDA reiterated that FGM/C is almost universally practiced throughout Somalia without a significant decline in the practice, and girls at risk if returned therefore constitute a particular social group in need of protection from FGM/C.

In Iceland, the Supreme Court **rejected** an appeal in which a father complained that the determining authority and the district court did not correctly assess the situation of his two minor girls who would face the risk of FGM and rape if returned to their home country. In civil cases, the burden of proof lies with the applicant and the court stated that the applicants had not provided evidence of a risk.

The United Nations Working Group on Discrimination against Women and Girls noted a number of positive developments in Greece to provide support to refugee women, but it considered that some women were unable to report violence due to untrained staff at police stations, despite Law No 45/31 of 2018 giving undocumented persons the right to report gender-based violence without a fear of removal. In addition, a lack of interpretation services at hospitals impeded the provision of adequate medical care for female victims of violence.<sup>1302</sup> The Danish Refugee Council observed administrative and procedural deficiencies in Greece which hindered access to a medical examination to prove an applicant was a victim of FGM and victims did not have recourse to a medical certificate confirming that the practice had occurred.<sup>1303</sup>

In 2020, some EU+ countries implemented new measures to better manage applicants who have suffered sexual or gender-based violence. In Slovenia, the Ministry of the Interior, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the police and the Ministry of Justice – together with 11 NGOs and UNHCR – signed a new protocol on prevention and action in cases of sexual and gender-based violence in international protection proceedings. Addressing victims requires special mechanisms that complement the existing national system in order to provide adequate protection and assistance.<sup>1304</sup>

A new White Paper published by the Irish government in February 2021 proposes a new model of support and reception to applicants for international protection (*see Section 4.7*).<sup>1305</sup> The IPAS is working with specialised service providers to roll out a training programme to staff who are involved in the care of applicants with special needs, focusing on victims of sexual and gender-based violence, victims of trafficking, and victims of torture and trauma. In addition, an e-learning training programme, “Children First”, aims to increase awareness and reporting of concerns related to children.



## 5.4 Victims of human trafficking

Women and children are particularly prone to human trafficking and becoming victims of exploitation, such as sexual exploitation, labour exploitation, forced begging, forced marriage, crime, organ trafficking and illegal adoption. The risk is imminent in particular for migrant women and children, not only during dangerous travel routes but also once they arrive in Europe. Children can disappear from reception centres and land in the hands of human traffickers. For example, research

conducted in 2019 and published in 2020 in the Netherlands reported that 20% of children in the study (of a total of 1,720 children) disappeared before the end of the asylum procedure between 2015 and 2018 – and a great share of them were Vietnamese minors.<sup>1306</sup>

At the EU level, the European Parliament adopted a report calling for stricter measures to fight all forms of trafficking, and MEPs warned about an alarming increase in the trafficking of minors, especially undocumented migrants – with children accounting for nearly one-quarter of all victims. The European Parliament also noted that the special needs of LGBTI people and persons with disabilities were often ignored. It concluded that a more comprehensive gender- and victim-centred approach, as well as more data on trends in the EU, were necessary to tackle human trafficking.<sup>1307</sup>

European courts also addressed cases of human trafficking in 2020. The high court referred back a case of a Nigerian woman who was [trafficked](#) to Ireland, stating that the IPAT did not adequately assess the applicant's personal circumstances as a victim of sexual exploitation and the role of her family as actors of persecution.

The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) published several reports in 2020, namely focusing on Austria<sup>1308</sup>, Croatia<sup>1309</sup>, Cyprus<sup>1310</sup> and Slovakia<sup>1311</sup>. Overall, GRETA noted that national authorities should pay increased attention and proactively detect potential victims of trafficking amongst applicants for international protection in Slovakia<sup>1312</sup> and Cyprus.<sup>1313</sup>

In the case of Austria,<sup>1314</sup> GRETA urged that a formalised national referral mechanism be set up involving frontline actors who may come into contact with victims of trafficking. It stated that a review of the Dublin procedure was necessary to prevent the return of victims to the country where they first applied for asylum, but where they would be re-trafficked.

For Croatia,<sup>1315</sup> GRETA called on the authorities to institutionalise procedures for screening unaccompanied children for signs of human trafficking and to ensure that guardianship services are offered consistently by trained staff from social welfare centres. The Croatian Ministry of the Interior underlined that the asylum authorities have been continuously working on further developing their competences on screening and supporting victims of trafficking in human beings in the asylum procedure within the existing legal framework and the available resources. For example, staff regularly participates in relevant training.

In Cyprus, GRETA observed a significant increase in the number of applicants for international protection, both men and women from mostly Nigeria or Cameroon, who have been detected as presumed victims of trafficking at the Kokkinotrimithia reception centre. They reported an increase in the number of girls and young women from Syria who arrived unaccompanied in the northern part of Cyprus claiming to join their 'husbands'. No special reception conditions are provided to this profile of applicants. They are usually provided with a small allowance and must find accommodation on their own, potentially exposing them to risks of sexual and other forms of exploitation. Noting that the slow asylum procedure provided traffickers with an opportunity to exploit applicants, GRETA urged the Cypriot authorities to provide assistance and safe accommodation adapted to the specific needs of victims and develop a programme for long-term support and integration.

Due to an extensive organised crime network which sexually exploits both adults and minors, Nigerian nationals have been frequently reported as victims of human trafficking over several years.<sup>1316</sup> In response, some EU+ countries joined operational partnerships with African countries in 2020 to tackle human trafficking. For example, the Netherlands funded various initiatives to improve regional cooperation between West African countries in an effort to build capacity in Nigerian migration



authorities. The Netherlands is also funding a partnership with the French and Spanish police to assist and support the anti-trafficking unit in Mali, which serves as an important transit zone for migration and trafficking.

KOK, a German NGO network and coordination office against trafficking in human beings warned about the consequences of decisions to transfer an applicant to another Member State under the Dublin procedure. The transfer could put applicants with special needs at greater risk, since many may have been victims of human trafficking and been exploited in the country to which they are transferred. This had been reported for cases of Nigerian nationals returned to Italy.<sup>1317</sup>

The Italian Civil Court in Rome **reverted** a negative decision for a Nigerian applicant after trafficking indicators were identified based on new details gathered at the oral hearing. After gathering new evidence and COI reports, the court decided to grant refugee status, recognising that the applicant had been trafficked and could be considered to belong to an at-risk social group.

Finland increased funding and thus stabilised the number of personnel in the Assistance System for Victims of Human Trafficking and slightly increased the number of staff during 2020 and at the beginning of 2021. The Finnish Ministry of the Interior updated its action plan for 2021–2024 to prevent illegal entry and people from staying without a residence permit, while taking into consideration the status of victims of human trafficking and labour exploitation.

In 2020, there was multilateral cooperation between civil society organisations and national authorities to provide services to victims of human trafficking and promote training for frontline staff in asylum. A project called “Free 2 Link”<sup>1318</sup> was launched by Greek, Italian and Polish organisations (Progetto Tenda Torino, DRC Greece, LABC, CWEP Poland and Nesta Italia) through which the organisations and public authorities will join forces to develop and disseminate knowledge to prevent trafficking on an online platform. The organisations will provide training to frontline staff and connect organisations working in asylum. The training will also be geared towards civil society professionals and governmental and law enforcement employees.<sup>1319</sup>

Forum réfugiés-Cosi and its European partners – Consiglio Italiano Per I Rifugiati (Italian Council for Refugees, CIR) in Italy, Immigrant Council of Ireland (ICI) in Ireland, Organizace pro Pomoc Uprchlíkům (Organization for Aid to Refugees - OPU) in Czechia and Churches Commission for Migrants (CCME) – began implementing in January 2020 the European Commission’s co-funded project, “Identification of Trafficked Beneficiaries of International Protection Special Needs” (TRIPS). Other associate partners and European experts also participated in the discussions, such as OFPRA, the OFII, GRETA and Amicale du Nid.<sup>1320</sup> The project aims to better address the specific needs of beneficiaries of international protection who have been victims of human trafficking and provide support in their integration (for example, access to employment, professional development, accommodation and social inclusion).



## 5.5 LGBTI applicants in the asylum procedure

LGBTI persons are still subject to human rights abuses and face threat in many parts of the world. While detailed and comprehensive data are not available, the number of asylum applications based on sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) have been estimated to have increased. A sensitive approach is required with this profile of applicants as they may be scared to talk about their SOGIESC during the asylum procedure. In fact, many LGBTI persons still felt threatened in reception facilities in EU+ countries, which calls for the need to adapt centres and the provision of safe spaces and confidential environments so that authorities can effectively follow up the concerns.

Developments in 2020 centred around the provision of information and the definition of a safe country for applicants with gender-related special needs.

Malta introduced a new provision to the Procedural Standards for Granting and Withdrawing International Protection Regulations to include that a particular social group might be based on sexual orientation and SOGIESC should be given due consideration when determining membership of a particular social group or identifying the characteristics of such a group.<sup>1321</sup>

Sweden adapted the content and language of the authority's website with more specific information for LGBTI applicants, focusing on support and the importance of disclosure. Changes to the "Handbook for Migration Matters" included the updating and expanding of the concepts of SOGIESC.

In its reassessment of safe countries of origin, the Dutch Secretary of State for Justice and Security **considered** Brazil to be safe, with the exception of LGBTI persons because they increasingly face violence and stigma in their home country. As such, LGBTI applicants for international protection are no longer subject to an accelerated procedure but receive a much more detailed individual assessment of their circumstances and safety in the country of origin.

The topic was also brought to the courts in 2020. In *B (Gambia) and C (Switzerland) v Switzerland*, the ECtHR ruled that Switzerland had violated the ECHR, Article 3 when removing a Gambian gay applicant who would face persecution and a real risk of ill treatment in his country of origin. Having assessed the situation in Gambia, where same-sex acts carry a criminal penalty, the court held that sexual identity is part of someone's identity and it should not have to be concealed to avoid persecution.

The Federal Administrative Court (FAC) in Switzerland **held** that unbearable psychological pressure for homosexuals in Syria justifies granting refugee status to a Syrian man whose application had previously been rejected. The man had not initially claimed he was gay in his application, but in his appeal to the case he explained that this was a main reason for having left Syria. The FAC held that sexual orientation can be a reason for persecution in Syria, based on country of origin reports and the Syrian legislation which criminalises same-sex acts.

The Appeals Authority in Greece **determined** that an LGBTI applicant from Iran should be granted refugee status because sexual minorities are often subject to abuses and harassment by state authorities.

The Transgender Europe (TGEU) highlighted that, if trans persons within the asylum process are not identified, their access to provisions, such as health care, legal assistance, education and crime-reporting, may be impeded.<sup>1322</sup>

Legal gender recognition is often only available after being granted international protection, and in some countries, such as Hungary, there are no mechanisms in place for trans applicants to gain access to legal gender recognition. In *Rana v Hungary*, the ECtHR found Hungary in violation of the ECHR, Article 8 (right to respect for private and family life) when a trans-gender refugee from Iran could not legally change his gender and name in Hungary. The applicant, who was born female in Iran but identified as a male from an early age, was granted international protection since he had suffered persecution in Iran due to his gender identity. However, when the applicant applied for a gender and name change, he obtained a formal rejection decision without examining the application on the merits because he did not have a birth certificate from Hungary, which is the only way to change the birth register in the country. Although the Constitutional Court rejected the complaint since the national law does not include any statutory basis for name changes for non-Hungarian citizens, it underlined that the right to change a name is fundamental and called on the parliament for a legislative change.

Civil society organisations noted that various practices exist across EU+ countries in granting international protection to applicants with gender-related special needs. Queer Base Austria observed divergent recognition rates for applicants with diverse SOGIESC from different countries of origin, both at the first and second instance of the asylum application.<sup>1323</sup>

The French research centre for political affairs, CERSA, published a report which analysed the procedures to prove sexual orientation in the asylum procedure, focusing specifically on the collection of evidence.<sup>1324</sup> The report recommended that authorities provide adequate training to staff on LGBTI-related matters, especially to OFPRA staff and CNDA judges. Other recommendations included regular updating of information about the legal and social situations in countries of origin and monitoring the quality of translations. The French Defender of Rights subsequently presented the results of the research and published a summary of the report.<sup>1325</sup>

CIDOB in Spain published an analysis of the Spanish asylum system's preparedness for LGBTI applicants, describing areas for improvement, such as inconsistencies and contradictions in the credibility assessment. They also underlined the importance of providing adequate reception facilities and access to services.<sup>1326</sup>



## 5.6 Reception of applicants with special needs

Tragic events in 2020 – such as the fires at the Moria refugee camp – catalysed increased solidarity among EU+ countries and triggered a dedicated relocation programme and other urgent actions to ensure dignified reception and care for the most vulnerable asylum applicants.

Several initiatives took place at the European level to better support applicants with special needs. The European Commission signed a grant agreement with the Greek authorities for the construction of three new reception centres on the Greek islands of Samos, Kos and Leros, which will include designated spaces for unaccompanied children, teenagers and other applicants with special reception needs.<sup>1327</sup>

Additionally, a Memorandum of Understanding between the European Commission and Greece foresees the establishment of a new Multi-Purpose Reception and Identification Centre in Lesbos with specific reception infrastructures and conditions for vulnerable groups, such as victims of trafficking, people with disabilities, unaccompanied minors, families with children and single women. More effective procedures for vulnerability assessments and educational facilities for children would be set up.<sup>1328</sup>

The Netherlands and Greece also signed a Memorandum of Understanding to establish 48 reception facilities on mainland Greece, which would help at least 500 unaccompanied minors to receive health care and psychosocial support, education, legal assistance and other necessary services to ensure their well-being and development. The organisations that will be working in the reception facilities have yet to be selected.<sup>1329</sup>

The Special Secretariat for the Protection of Unaccompanied Minors (SSPUM) was established in Greece in March 2020 to facilitate access to age-appropriate accommodation for unaccompanied minors and introduce initiatives to prevent them from being detained or living in precarious conditions. METAdrasi reported that the secretariat was working to increase the number of places in long-term accommodation structures, but despite the efforts, the reception capacities for unaccompanied children still remained insufficient.<sup>1330</sup>

Most EU+ countries implemented temporary measures in reception facilities to ensure decongestion, social distancing and adherence to other health and safety measures during the COVID-19 pandemic. These changes had direct impacts on vulnerable applicants.

Austria, for example, introduced temporary measures to reduce the number of people in initial reception centres by giving unaccompanied minors the possibility to be transferred to a first reception centre to file their application or to a regional directorate or branch office of the Federal Office for Immigration and Asylum. Finland, Portugal, Slovakia and Slovenia also established special housing arrangements for applicants with special needs due to the pandemic. In Slovakia, all unaccompanied minors who are accommodated in a child centre were tested upon arrival.

In Cyprus, the Ministry of the Interior planned to create a safe zone for minors during expansion works and to replace tents with prefabricated houses in the Pournara camp. However, UNHCR reported that this restructuring had not been concluded and unaccompanied minors were not in safe zones in the Pournara camp when the COVID-19 measures instructing the closure of the camp were implemented. UNHCR interviewed children on location who testified about the critical situation and inappropriate behaviour of adults towards them, in particular sexual harassment (*see Section 4.7*).<sup>1331</sup>

The informal camps set up by undocumented migrants around Calais in France remained a concern in 2020, exacerbated by the fact that many unaccompanied children lived there in order to try to cross the English Channel to join family members already living in the UK. The Public Defender of Rights visited an informal camp in Calais, where an estimated 1,200-1,500 people live, and noted sub-standard living conditions, lack of adequate support services and the long distance to schools which will likely result in children dropping out.<sup>1332</sup> Shortcomings in the current reception conditions of both accompanied and unaccompanied minors were pointed out.

Therefore, the French National Plan for the Reception of Asylum Applicants and the integration of refugees for 2021-2023 set as a milestone the “early detection and reinforcing support of vulnerabilities”.<sup>1333</sup> The plan foresees the creation of additional places in reception facilities, among which are 300 places for women at risk and 200 places for LGBTI applicants. It also planned more training on the early detection of vulnerabilities for all stakeholders in the asylum procedure, including social welfare workers. In addition, the national plan announced a concrete action plan for the care of the most vulnerable asylum applicants, which was set to be published in January 2021 had not yet been made available.

The COVID-19 pandemic disrupted service provision from associations in Calais, namely the distribution of food and beverages to undocumented migrants and prospective applicants for international protection. Associations were no longer allowed to carry out their activities and this restriction became subject of a court case. The Administrative Tribunal of Lille in France [rejected](#) the request for interim measures to continue food and beverage distribution in the centre of Calais as the court considered that migrants had access to food and water from other parts of the city.

Several developments concerned reception conditions for vulnerable applicants in Spain, which experienced a high number of arrivals in 2020. While travel restrictions hindered the possibility of transfers between reception facilities,<sup>1334</sup> the Spanish Ombudsman called on the ministry on two occasions to transfer children, single women, families with children and other applicants with vulnerabilities (for example with health conditions and therefore at a heightened risk of COVID-19) to the mainland. The Ombudsman underlined that children and single women were especially at risk of sexual or other forms of violence in facilities like in Melilla, where the occupation rate was high.<sup>1335, 1336</sup>

As of July 2020, a group of 50 applicants with special needs from the public temporary reception centre in Melilla (CETI) had been transferred to more adequate facilities.<sup>1337</sup> In addition, the Public Prosecutor General's Office (*Fiscalía General del Estado*) called on the autonomous regions to agree on receiving unaccompanied minors from Ceuta, Melilla and some other cities in Andalusia in order to cope with the high influxes of sea arrivals.<sup>1338</sup>

Medicos del Mundo (Doctors of the World) and several other NGOs called on the Spanish Ombudsman to investigate the situation in Melilla during the state of emergency, where reception facilities were overcrowded and far beyond actual capacity, without being able to guarantee social distance measures.<sup>1339</sup> The NGOs underlined structural deficiencies, a lack of resources and reduced services provided to children and applicants with special needs even after some reception facilities had been adapted.

While the high influx of sea arrivals on the Canary Islands continued, reception facilities were not sufficiently equipped to host such a high number of unaccompanied children and applicants with special needs. Local authorities had to take action to allocate them to hotels used as emergency accommodation. Two additional reception facilities on the Canary Islands opened in 2020 which were specialised for unaccompanied minors until their age was assessed.<sup>1340</sup> The Public Prosecutor General's Office<sup>1341</sup> (*Fiscalía General del Estado*) announced that, in accordance with agreements made with the authorities on the Canary Islands, special measures would be adopted to create spaces and special reception centres for children to stay with their families. Civil society organisations warned though that the reception capacity on the Canary Islands was still not sufficient, and Save the Children called on the government to develop a coordinated reception plan for children which would require more funding and more distribution of applicants across the autonomous communities.<sup>1342</sup>

When relocation from Ceuta and Melilla to mainland Spain was not possible during the state of emergency, the Spanish NGO CEAR reported that LGBTI applicants had suffered threats in the reception facilities, mostly from individuals from their own country of origin (e.g. Morocco).<sup>1343</sup> In 2020, Spanish civil society organisations Kifkif, Asociación de Migrantes y Refugiados LGTBI and Red Acoge opened the first reception facility in Spain which is solely for LGBTI applicants to provide safe housing.<sup>1344</sup>

The Swiss National Commission for the Prevention of Torture (NCPT) published its summary report on federal reception facilities and made recommendations specifically addressing children and applicants with special needs who were housed in the facilities.<sup>1345</sup> It also addressed a lack of training of staff who are involved with applicants that could potentially be victims of trafficking, torture or violence, and encouraged to use other reception facilities for young applicants, for example foster families or structures for unaccompanied minors. In a previous report, the NCPT had recommended specific procedures for applicants with special needs, and in response, the SEM developed guidelines which would be available in at the end of 2021.

### 5.6.1 New facilities and projects focusing on children and applicants with special needs



Several new facilities opened in 2020 to guarantee vulnerable applicants a safe place where their special needs can be addressed.

In November 2020, Portugal inaugurated its first service centre for victims of domestic violence and/or harmful traditional practices within the National Centre for Supporting the Integration of Migrants (CNAIM) in Lisbon. The new service provides targeted assistance, support, information and personalised referrals to all migrants and their children, including applicants and beneficiaries. The number of migrant women turning to the services of the National

Support Network for Victims of Domestic Violence (RNAVVD) during the first months of the COVID-19 period (April to June 2020) significantly increased.<sup>1346</sup>

Iceland launched a new pilot project which focuses on victims of violence, and an emergency centre for women and children was opened in the area of Bjarmahlíð. The centre is conducting a study on the housing conditions of asylum seekers who are victims of violence. Residents of the shelter can also receive counselling and special services.<sup>1347</sup>

Ireland plans to open new accommodation centres dedicated to female victims of trafficking in mid-2021. A pilot project for a formal Vulnerability Assessment of International Protection applicants at the time of an application was put in place by the IPAS as of late December 2020.

A mental health project launched in 2019 by the Ministry of Health and managed by two NGOs (Ligue Luxembourgeoise d'Hygiène Mentale and Liewen Dobaussen) now offers specialised services and multidisciplinary support to help refugees and asylum seekers manage mental health disorders. The project disposes of 12 spaces for temporary therapeutic accommodation in order to support people who suffer from serious mental or psychological disorders and require stabilisation after a crisis intervention.



## Asylum and reception systems in Europe: The way forward

Despite reduced mobility in 2020 due to the COVID-19 pandemic, the evidence points to persisting migration flows

Further investment needed to transition from reactive responses to long-term solutions

Digitalisation has the potential to enhance efficiency and accessibility in the asylum procedure

EASO's guidance and contributions are needed ever more to develop a coordinated European system

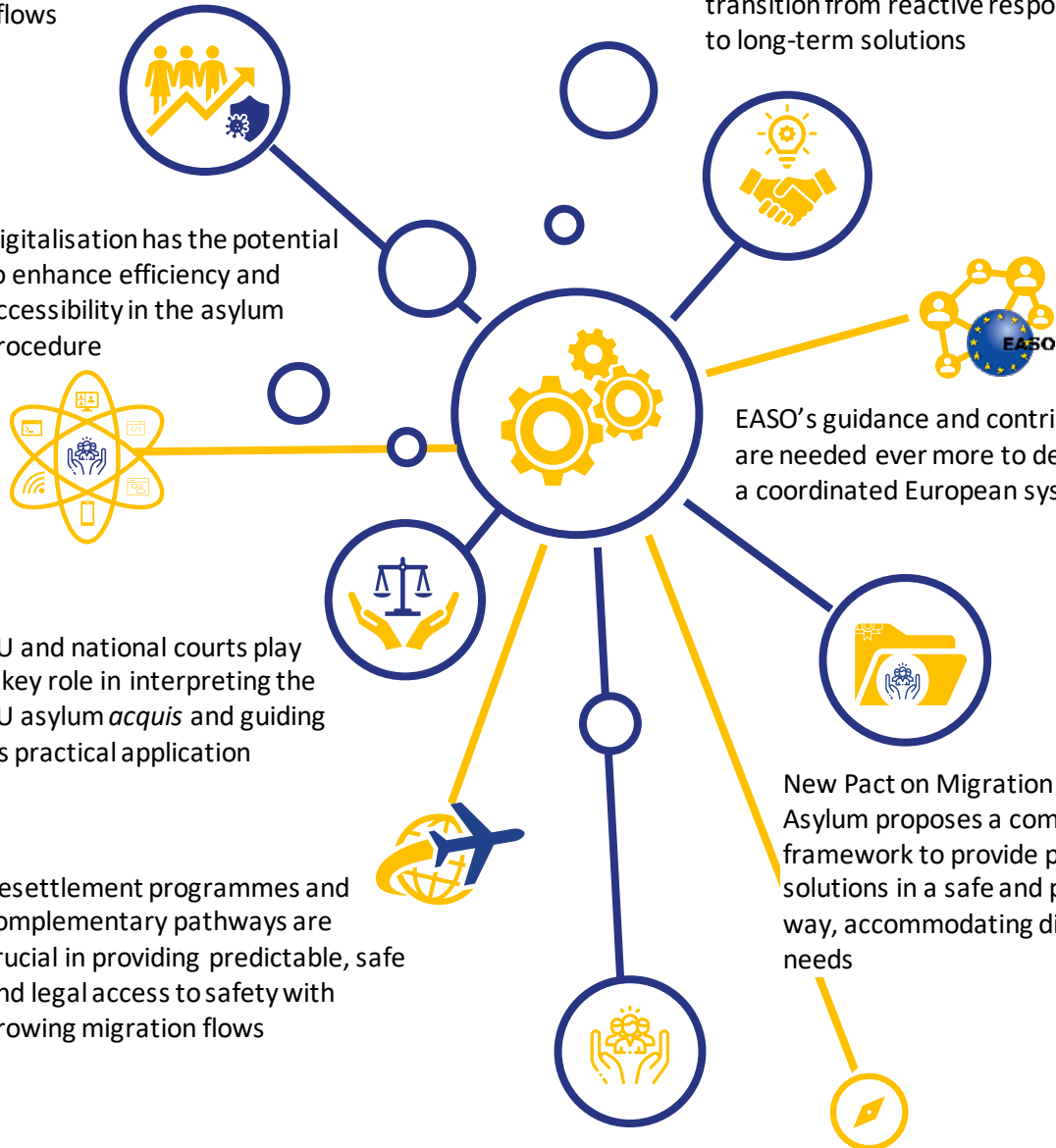
EU and national courts play a key role in interpreting the EU asylum *acquis* and guiding its practical application

New Pact on Migration and Asylum proposes a comprehensive framework to provide protection solutions in a safe and predictable way, accommodating diverse needs

Resettlement programmes and complementary pathways are crucial in providing predictable, safe and legal access to safety with growing migration flows

Sustainable frameworks require improved reception conditions, timely provision of health care and education, integration efforts and dignified processes to return third-country nationals not in need of protection

Fundamental human rights and EU values must serve as a compass to lead the way forward



Source: EASO

## Concluding remarks: The way forward

*A summary of this report is provided in the Executive Summary, which has been translated into more than 30 languages. This section analyses how past developments have informed public debate and policies in Europe and how the key facts presented in this report can serve as indications of what lies ahead.*

This is the 10<sup>th</sup> edition of the *Asylum Report* in which EASO has been documenting and analysing the steady progress that EU+ countries have made in standardising and modernising their asylum and reception systems. Using a mix of temporary, rapid solutions and forward-looking policies, EU+ countries have been managing complex migratory flows, while addressing challenges along the way. Indeed, the global health emergency during the COVID-19 pandemic tested current asylum and reception systems and the developments presented in this report demonstrated their resilience and flexibility to ensure business continuity in the face of the unexpected. What is also clear is that the need for international protection remains prominent, requiring solutions which foster long-term sustainability.

Capitalising on the progress made to date requires further investment in transitioning from interim arrangements to a commonly-agreed, comprehensive legislative and policy framework. To this end, continued and reinforced collaboration among various stakeholders is of paramount importance to incorporate the expertise and comparative advantages that each can bring to develop common solutions. During this consolidation process, fundamental human rights and EU values must serve as a compass to lead the way forward.



### **Despite reduced mobility in 2020 due to the COVID-19 pandemic, the evidence points to persisting migration flows**

The COVID-19 pandemic had a profound and complex impact both on the functioning of asylum and reception systems in EU+ countries and on the number of people arriving to Europe to seek international protection. The number of asylum applications lodged in EU+ countries in 2020 dropped dramatically by one-third compared to 2019, with travel restrictions and lockdowns impeding the journey for many. But if we narrow in on the number of applications which were lodged in January and February 2020 before the introduction of COVID-19-related measures, increases of more than 10% compared to the same months in 2019 were reported, which hints to an increasing trend in arrivals, had the pandemic not occurred.

As epicentres of conflict, systematic human rights violations, political instability and economic hardship continue to trigger major displacements worldwide, migratory flows into Europe seem likely to continue at a steady or increasing pace. While the pandemic in 2020 seemed to be a factor inhibiting mobility, this trend may likely change in the future. If we consider the capacity of different countries in addressing and overcoming the economic and social effects of the pandemic, post-COVID-19 recovery may be uneven, have an amplifying effect on pre-existing causes of displacement and exacerbate imbalances between developing and more developed countries. This may also catalyse mobility from the former to the latter. In this context, fundamental issues regarding the EU's external borders will remain an important part of the public debate, particularly in relation to effective access to territory and the asylum procedure, which further highlights the need to transition to a new, commonly-accepted framework for search and rescue operations, disembarkation, relocation and overall equitable sharing of responsibility.



The role of resettlement programmes in providing predictable, safe and legal access to safety will be crucial in the face of growing migration flows. The COVID-19 pandemic had a disruptive effect on resettlement processes in 2020, which further highlighted the importance of protecting people from long and perilous journeys to safety. The increased emphasis on resettlement and complimentary pathways in the new Pact on Migration and Asylum is a strong indication of the commitment to provide protection solutions in a safe and predictable way.



## The new Pact on Migration and Asylum aims to accommodate diverse needs

The European Commission's Pact on Migration and Asylum was proposed in September 2020 as a fresh start on reinforcing solidarity, tackling migration challenges in a harmonised way and building confidence in the EU asylum system through faster and effective procedures. The 12-month consultation with diverse state and non-state stakeholders prior to the finalisation of the proposed new pact was a positive step in considering diverse perspectives in building an inclusive and comprehensive migration and asylum architecture for Europe. The negotiations on the legislative proposals included in the new pact will take a central place in upcoming developments in the area of migration and asylum.

Acknowledging the significant progress already made, a number of points of divergence are yet to be tackled. Political will, inspired policy-making and flexibility are needed to achieve a breakthrough. While not in place yet as legislative acts, directions provided in the new pact may already influence policy changes in some countries to align their practices with what is proposed and foster practical cooperation among countries on issues of pressing interest, a trend that was also observed following the 2016 CEAS reform proposals.



## With an eye on sustainable systems: Turning from reactive responses to long-term solutions

Building on past experiences, EU+ countries have continued to adapt their legislations, policies, practices and overall organisational arrangements in order to better manage inflows of asylum applicants, optimise workflows, increase efficiency and effectiveness, and provide a dignified process of protection. A common trend in many EU+ countries has been the increased centralisation and coordination of the initial asylum and reception phase by establishing arrival centres where all stakeholders of the asylum process are in one place. The aim is to collect as much information as possible at an early stage of the procedure to enhance efficient decision-making – an approach which seems to be central in the new pact as well. Being able to rapidly determine who is in need of protection and who is not will increase the integrity of asylum systems. On this, ongoing discussions will persist around having mechanisms to guarantee adherence to fundamental rights and importantly to the principle of *non-refoulement*.

Modifications have also been made within reception systems, particularly to provide adapted services to applicants with special needs. Despite these efforts, this area has not been devoid of challenges, with reception facilities at times being overcrowded, conditions less than optimal and access to services, such as education and health care, delayed or insufficient. For instance, available data indicate that in 2020 approximately 30% of applicants for international protection in Europe were children, many of them of school age. Often, these children do not have consistent and effective access to education. Even for those children who may be returned after a negative decision, offering education at the reception stage is a value in itself, facilitating their growth at cognitive and social levels. For those staying, a lack of effective access to education may have detrimental effects both on their personal development and on their integration prospects in the long run. An immediate focus

on integration of beneficiaries of international protection results in multiple benefits for long-term sustainability: equipping them with the necessary skill set to thrive in the host society will catalyse not only their positive contribution as organic members of the new societies but will also enhance overall social cohesion.

Acknowledging the function of temporary solutions in covering immediate needs, the transition toward long-term, sustainable frameworks will require improvements to provide quality reception conditions, a timely provision of health care and education, a focus on integration of beneficiaries and dignified processes for the return of third-country nationals who are not in need of protection. In this transitional process, fundamental human rights concepts and EU principles can provide the necessary guidance and inform the development and functioning of such long-term solutions.



### **Fair efficiency and efficient fairness: Courts examine new practices in line with the EU asylum *acquis***

Judicial institutions at the EU and national levels have continued to affirm their role in interpreting the EU asylum *acquis* and guiding its practical application. This role was emphasised in 2020 when courts were called to assess new practices and measures which had been introduced by national authorities in a new reality driven by unprecedented challenges when swift and efficient responses were needed. National courts stepped in to assess the impact of COVID-19 safety measures on the rights of asylum applicants and the intricacies of Dublin transfers and related time limits. Also the CJEU as the judicial authority of the EU delivered a number of important judgments, especially related to effective access to the asylum procedure.

It is clear that judicial authorities will continue to play an important role in ensuring the correct interpretation and application of the European asylum *acquis*, even more so while the European Commission's proposals are yet to be transitioned to an agreed legislative and policy framework and given the considerable number of cases still pending at second instance.



### **Digitalisation as a catalyst for efficiency and accessibility**

EU+ countries have taken important steps toward introducing technological innovations to increase automation in asylum procedures. The COVID-19 pandemic provided a new impetus for EU+ countries to enhance the digitalisation of processes as they needed to adapt their working modalities to mitigate the risks of the health emergency. Many of these solutions will likely remain on a more permanent basis to increase the efficiency of asylum and reception systems, while others may form a part of the toolbox of EU+ countries to be employed again in the face of similar challenges in the future. As work toward digitalisation progresses, attention needs to be paid to issues of data privacy, ensuring equitable access to digital services and increasing trust on new technical solutions among applicants and beneficiaries of protection to encourage their use.



### **Coordinated European response with EASO as an integral part**

The complex nature of asylum, which is also intricately linked to family reunification and returns, requires comprehensive solutions. In the years to come, coordinated action and the integration of expertise from different stakeholders will be key in developing a balanced approach, where the key question will be how – and not if – all stakeholders contribute. The standardisation and practical implementation of a functional European asylum system will require widespread political will and a common vision; harmonised and fair responses to migratory

pressures on specific countries, while respecting the fundamental rights of persons seeking protection; enhanced cooperation with countries of origin and transit; and continued efforts to address root causes of irregular migration.

In the 10 years since its establishment, EASO has actively worked with the European Commission, Member States, European agencies, civil society and international organisations to support the implementation of CEAS in a holistic way: by providing operational assistance to Member States experiencing high pressure; offering training and high-quality practical tools to asylum professionals; contributing to the implementation of the external dimension of CEAS; and producing reliable analytical output to inform decision-making. During these years, EASO has gathered extensive and unique experience, developed innovative working methodologies, created strong partnerships and served as part of the solution in advancing protection-oriented policies and practices.

In a continuously changing global migratory landscape, EASO's guidance and contributions are needed more and more. As the centre of expertise on asylum, EASO's work programme is expected to grow, particularly in face of the transition to an EU Asylum Agency.

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## Reader's guide

The reader's guide explains the legal basis and process by which EASO's flagship report is produced. It includes methodological notes on the collection of qualitative and quantitative information; the wide pool of sources which were consulted; *and additional products which are related to the report.*

### Legal basis

The *EASO Asylum Report 2021: Annual Report on the Situation of Asylum in the European Union* is produced in accordance with [EASO Regulation](#), Article 12.1 which specifies that:

"The Support Office shall draw up an annual report on the situation of asylum in the Union, taking due account of information already available from other relevant sources. As part of that report, the Support Office shall evaluate the results of activities carried out under this Regulation and make a comprehensive comparative analysis of them with the aim of improving the quality, consistency and effectiveness of CEAS."

Its objective is to provide a comprehensive overview of the situation of asylum in EU Member States and Iceland, Liechtenstein, Norway and Switzerland, describing and analysing flows of applications for international protection, major developments in legislation, jurisprudence and policies at the European and national levels, and the practical functioning of CEAS.

The production process follows the methodology and basic principles agreed by the EASO 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 EASO throughout the year in the framework of its the information management activities organised around the [EASO Information and Documentation System \(IDS\)](#). This involves desk research on developments related to each step of the asylum procedure and the collected information being validated 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 2020 developments. Supplementary information from EU+ countries was collected in a process coordinated with EMN, to avoid duplication with the 2020 Annual Report on Migration and Asylum.

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 sources of information, duly referenced, to reflect the ongoing debates at the European level. It also identifies areas where improvement is most needed (and thus where EASO 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, EASO takes due account of information already available from other relevant sources, as stipulated in the

EASO Regulation, including from EU+ countries, EU institutions and agencies (such as Frontex and FRA), civil society organisations, international organisations and academia. Two open calls for contributions were launched to members of the EASO Consultative Forum and other civil society stakeholders, inviting them to provide information on their work relevant to the functioning of CEAS. They were also invited to share their publications to be used as sources and to provide written input through a standardised online form.

Jurisprudence was collected throughout the year and added to the [EASO Case Law Database](#), a publicly-available platform which serves as a point of reference for European and national case law related to CEAS. In addition, members of the EASO Network of Courts and Tribunal Members contributed to the report by providing relevant examples of national case law.

In an effort to further strengthen the report's methodological basis, EASO organised an online event with members of the JHA network to exchange experiences on the scope and methodology of producing annual reports. Representatives from EASO, Frontex, Europol, EIGE, Eurojust, FRA, the EU Agency on Law Enforcement Training (CEPOL), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shared good practices and discussed strategies for the drafting and dissemination processes.

The *EASO Asylum Report 2021* covers the period 1 January to 31 December 2020 but also refers to relevant developments in the year of writing. Whenever possible, information referring to 2021 was based on the most up-to-date sources available at the time of adoption of the report by the EASO Management Board.

The report is not exhaustive and country examples presented in the report serve only as illustrations of relevant aspects of CEAS.

## Quantitative information

Statistical information was primarily derived from Eurostat. Selected data at the EU+ level were also obtained from EASO's Early Warning and Preparedness System (EPS) data exchange for additional information and for the section on Dublin procedures (due to unavailability of respective Eurostat data at the time of writing).

The data published in this report were extracted from Eurostat on 28 April 2021. The data are provisional and may be updated or revised by Member States. These data are provided to Eurostat by ministries and national administrations in Member States in the framework of [Regulation \(EC\) 862/2007](#) on community statistics on migration and international protection as amended by [Regulation \(EU\) 2020/851](#), except for data on first-time asylum applicants.

The annual data presented in the statistical annexes are computed as the aggregation of data submitted to Eurostat throughout the year on a monthly (or quarterly) basis or based on the annual statistics provided to Eurostat.

The following indicators are presented in this report:

- Applicants for international protection, withdrawn applications and pending cases collected monthly by Eurostat and presented based on their annual datasets.

- Asylum decisions in first instance (refugee status granted, subsidiary protection status granted, authorisation to stay for humanitarian reasons granted, and rejections) collected quarterly by Eurostat: and presented based on their annual datasets.
- Final decisions on appeal or review (refugee status granted, subsidiary protection status granted, authorisation to stay for humanitarian reasons granted and rejections), asylum applicants considered to be unaccompanied minors and resettled persons collected annually by Eurostat.

Data published by Eurostat are rounded to the nearest five. As such, aggregates calculated on the basis of rounded figures may slightly deviate from the actual total. Thus, a '0' may not necessarily indicate a real zero value but could also represent a value of '1' or '2'.

The [Eurostat Technical Guidelines](#) for data collection were amended in December 2013 and subsequently entered into force in the reference month of January 2014. Thus, data published prior to 2014 are not necessarily comparable. The main changes for data collection included:

- Clarification on the definitions of first-time and repeated applicants;
- Instructions on how to report persons subject to a Dublin procedure in the pending cases table;
- Instructions not to report cases where another Member State assumed responsibility of negative asylum decisions; and
- Clarification on the definition of humanitarian protection.

Methodological changes to the Eurostat Technical Guidelines entered into force as of January 2015 in reference to reporting on cases in the Dublin procedure and withdrawn cases, as follows:

- Persons subject to the Dublin procedure shall be removed from the stock of pending applications of the sending country from the time of the acceptance decision;
- Persons subject to the Dublin procedure shall be included in the stock of pending applications of the receiving country from the moment of physical arrival and when such persons apply or re-apply for asylum;
- Dublin transfers shall not be considered as an implicit or explicit withdrawal;
- Persons subject to the Dublin procedure and who abscond after the acceptance decision shall not be reported in withdrawn applications data;
- Revisions at the own initiative of the national asylum authority shall be considered as regular revisions (i.e. require revision of the previously-reported data); and
- Persons reappearing after implicit or explicit withdrawal of an application shall be considered under regular revisions and be removed from data on withdrawn applications.

Further modifications to the Eurostat Technical Guidelines were published in February 2018<sup>lxxvi</sup> and introduced:

- A new voluntary data disaggregation on 'status of minor' as of the 2018 reference period. The new concept measures whether a minor applicant was 'unaccompanied' or 'accompanied' by an adult with responsibility for the minor during the application procedure;
- An amendment and new specification to the 'Resettlement Framework' variable: the former category "Agreement in the JHA Council on 20.07.2015 – JHAC15" was changed to "EU Resettlement Frameworks – EU\_RFW" to include Resettlement Frameworks launched by the European Commission (or Justice and Home Affairs Council) applicable to each reference year; and
- Methodological guidance on reporting on the new variables of Table A16 (resettled person), namely 'country of residence', 'decision' and 'Resettlement Framework'. These guidelines were agreed in the Asylum and Managed Migration Working Group in 2016.

## Products related to the *EASO Asylum Report 2021*

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 [EASO 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 *EASO Asylum Report 2021* are presented in the list of references at the end of the report. They are also available in a separate, detailed bibliography, 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.

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<sup>lxxvi</sup> Eurostat. (February 2018). *Technical Guidelines for the Data Collection under Art. 4.1-4.3 of Regulation 862/2007 – Statistics on Asylum: Version 4.0 amended in February 2018*. [https://ec.europa.eu/eurostat/cache/metadata/Annexes/migr\\_asydec\\_esms\\_an7.pdf](https://ec.europa.eu/eurostat/cache/metadata/Annexes/migr_asydec_esms_an7.pdf)



# Statistical tables

**Table 1: Asylum applicants in EU+ countries by reporting country and main citizenship, 2015-2020**

	2015	2016	2017	2018	2019	2020	2020			Sparkline
							% chg. over previous year	Share in EU+	Highest share	
<b>Reporting country</b>										<b>Citizenship</b>
Germany	476 510	745 160	222 565	184 180	165 615	121 955	↓ -26	25.2%		Syria (33%)
France	76 165	84 270	99 330	137 665	151 070	93 470	↓ -38	19.3%		Afghanistan (11%)
Spain	14 780	15 755	36 610	54 050	117 800	88 530	↓ -25	18.3%		Venezuela (32%)
Greece	13 205	51 110	58 650	66 965	77 275	40 560	↓ -48	8.4%		Afghanistan (28%)
Italy	83 540	122 960	128 850	59 950	43 770	26 535	↓ -39	5.5%		Pakistan (21%)
Belgium	44 665	18 280	18 340	22 530	27 460	16 710	↓ -39	3.4%		Afghanistan (19%)
Sweden	162 450	28 795	26 330	21 560	26 255	16 225	↓ -38	3.3%		Syria (12%)
Netherlands	44 970	20 945	18 210	24 025	25 200	15 255	↓ -39	3.1%		Syria (27%)
Austria	88 160	42 255	24 715	13 710	12 860	14 180	↑ +10	2.9%		Syria (35%)
Switzerland	39 445	27 140	18 015	15 160	14 195	10 990	↓ -23	2.3%		Eritrea (17%)
Cyprus	2 265	2 940	4 600	7 765	13 650	7 440	↓ -45	1.5%		Syria (24%)
Romania	1 260	1 880	4 815	2 135	2 590	6 155	↑ +138	1.3%		Afghanistan (39%)
Slovenia	275	1 310	1 475	2 875	3 820	3 550	↓ -7	0.7%		Morocco (35%)
Bulgaria	20 390	19 420	3 695	2 535	2 150	3 525	↑ +64	0.7%		Afghanistan (49%)
Finland	32 345	5 605	4 995	4 500	4 520	3 190	↓ -29	0.7%		Iraq (35%)
Poland	12 190	12 305	5 045	4 110	4 070	2 785	↓ -32	0.6%		Russia (46%)
Malta	1 845	1 930	1 840	2 130	4 090	2 480	↓ -39	0.5%		Sudan (15%)
Croatia	210	2 225	975	800	1 400	1 605	↑ +15	0.3%		Afghanistan (48%)
Ireland	3 275	2 245	2 930	3 670	4 780	1 565	↓ -67	0.3%		Nigeria (13%)
Denmark	20 935	6 180	3 220	3 570	2 700	1 475	↓ -45	0.3%		Syria (23%)
Norway	31 115	3 490	3 520	2 660	2 265	1 375	↓ -39	0.3%		Syria (39%)
Luxembourg	2 505	2 160	2 430	2 335	2 270	1 345	↓ -41	0.3%		Syria (27%)
Czechia	1 515	1 475	1 445	1 690	1 915	1 160	↓ -39	0.2%		Ukraine (30%)
Portugal	895	1 460	1 750	1 285	1 820	1 000	↓ -45	0.2%		Gambia (16%)
Iceland	370	1 125	1 085	775	845	640	↓ -24	0.1%		Palestine (19%)
Lithuania	315	430	545	405	645	315	↓ -51	0.1%		Russia (29%)
Slovakia	330	145	160	175	230	280	↑ +22	0.1%		Afghanistan (18%)
Latvia	330	350	355	185	195	180	↓ -8	0.0%		Belarus (25%)
Hungary	177 135	29 430	3 390	670	500	115	↓ -77	0.0%		Afghanistan (22%)
Estonia	230	175	190	95	105	50	↓ -52	0.0%		Russia (30%)
Liechtenstein	150	80	150	165	50	35	↓ -30	0.0%		Albania (14%)
<b>Citizenship</b>										<b>Reporting country</b>
Syria	380 905	340 415	107 250	85 170	79 410	70 195	↓ -12	14.5%		Germany (58%)
Afghanistan	193 350	187 075	47 275	46 925	60 580	49 905	↓ -18	10.3%		Greece (23%)
Venezuela	780	4 685	14 515	22 515	45 645	30 940	↓ -32	6.4%		Spain (92%)
Colombia	295	1 110	4 660	10 325	32 470	29 575	↓ -9	6.1%		Spain (93%)
Iraq	127 730	127 920	49 315	42 415	32 070	19 915	↓ -38	4.1%		Germany (55%)
Pakistan	45 290	46 290	28 890	27 680	28 855	18 605	↓ -36	3.8%		Italy (29%)
Turkey	5 230	11 235	16 170	24 045	26 385	16 715	↓ -37	3.4%		Germany (39%)
Nigeria	30 730	47 045	40 175	26 710	25 880	14 075	↓ -46	2.9%		Germany (30%)
Somalia	22 430	21 420	14 700	14 795	15 105	11 820	↓ -22	2.4%		Germany (26%)
Bangladesh	17 785	15 005	18 865	13 745	15 850	11 545	↓ -27	2.4%		France (43%)
Eritrea	43 290	38 970	28 240	16 965	13 520	9 580	↓ -29	2.0%		Germany (28%)
Guinea	6 375	14 910	19 095	15 845	13 725	8 910	↓ -35	1.8%		France (61%)
Georgia	8 150	8 775	12 060	20 950	22 765	8 910	↓ -61	1.8%		France (29%)
Algeria	8 545	12 335	10 610	10 910	11 000	8 460	↓ -23	1.7%		France (29%)
Russia	22 440	27 755	17 010	16 035	15 255	8 325	↓ -45	1.7%		Germany (33%)
Other	440 445	348 075	271 410	249 305	277 600	167 195	↓ -40	34.5%		France (28%)
<b>EU+</b>	<b>1 353 770</b>	<b>1 253 020</b>	<b>700 240</b>	<b>644 335</b>	<b>716 115</b>	<b>484 670</b>	<b>↓ -32</b>			<b>Syria (14%)</b>

'-' Data not available

Source: Eurostat [migr\_asyappctza] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)

**Table 2: First-time asylum applicants in EU+ countries by reporting country and main citizenship, 2015-2020**

	2020						% chg. over previous year	Share in EU+	Highest share	Sparkline
	2015	2016	2017	2018	2019	2020				
<b>Reporting country</b>	<b>Citizenship</b>									
Germany	441 805	722 270	198 255	161 885	142 450	102 525	↓ -28	23.9%	Syria (36%)	
Spain	14 600	15 570	33 035	52 730	115 175	86 380	↓ -25	20.2%	Venezuela (32%)	
France	70 570	76 790	91 965	126 580	138 290	81 790	↓ -41	19.1%	Afghanistan (12%)	
Greece	11 370	49 875	56 940	64 975	74 910	37 860	↓ -49	8.8%	Afghanistan (29%)	
Italy	82 790	121 185	126 550	53 440	35 005	21 200	↓ -39	4.9%	Pakistan (23%)	
Netherlands	43 035	19 285	16 090	20 465	22 485	13 660	↓ -39	3.2%	Syria (30%)	
Sweden	156 115	22 335	22 190	18 075	23 125	13 595	↓ -41	3.2%	Syria (13%)	
Austria	85 505	39 875	22 455	11 580	10 985	12 915	↑ +18	3.0%	Syria (38%)	
Belgium	38 990	14 250	14 035	18 130	23 105	12 905	↓ -44	3.0%	Afghanistan (18%)	
Switzerland	38 060	25 825	16 615	13 465	12 545	9 725	↓ -22	2.3%	Eritrea (17%)	
Cyprus	2 105	2 840	4 475	7 610	12 695	7 500	↓ -41	1.7%	Syria (24%)	
Romania	1 225	1 855	4 700	1 945	2 455	6 025	↑ +145	1.4%	Afghanistan (39%)	
Slovenia	260	1 265	1 435	2 800	3 615	3 465	↓ -4	0.8%	Morocco (35%)	
Bulgaria	20 160	18 990	3 470	2 465	2 075	3 460	↑ +67	0.8%	Afghanistan (50%)	
Malta	1 695	1 735	1 610	2 035	4 015	2 410	↓ -40	0.6%	Sudan (15%)	
Croatia	140	2 150	880	675	1 265	1 540	↑ +22	0.4%	Afghanistan (50%)	
Ireland	3 270	2 235	2 910	3 655	4 740	1 535	↓ -68	0.4%	Nigeria (14%)	
Poland	10 255	9 780	3 005	2 405	2 765	1 510	↓ -45	0.4%	Russia (33%)	
Finland	32 150	5 275	4 330	2 950	2 445	1 445	↓ -41	0.3%	Iraq (33%)	
Denmark	20 825	6 055	3 125	3 465	2 605	1 420	↓ -45	0.3%	Syria (24%)	
Norway	30 475	3 245	3 350	2 530	2 165	1 325	↓ -39	0.3%	Syria (41%)	
Luxembourg	2 360	2 065	2 320	2 225	2 200	1 295	↓ -41	0.3%	Syria (28%)	
Portugal	870	710	1 015	1 240	1 735	900	↓ -48	0.2%	Gambia (17%)	
Czechia	1 235	1 200	1 140	1 350	1 570	790	↓ -50	0.2%	Ukraine (30%)	
Iceland	360	1 100	1 065	730	805	625	↓ -22	0.1%	Palestine (19%)	
Slovakia	270	100	150	155	215	265	↑ +23	0.1%	Afghanistan (19%)	
Lithuania	275	415	520	385	625	260	↓ -58	0.1%	Belarus (31%)	
Latvia	330	345	355	175	180	145	↓ -19	0.0%	Belarus (31%)	
Hungary	174 435	28 215	3 115	635	465	90	↓ -81	0.0%	Pakistan (28%)	
Estonia	225	150	180	90	100	45	↓ -55	0.0%	Russia (33%)	
Liechtenstein	:	75	145	145	40	25	↓ -38	0.0%	China (20%)	
<b>Citizenship</b>	<b>Reporting country</b>									
Syria	375 150	335 865	104 440	82 170	76 415	64 860	↓ -15	15.1%	Germany (56%)	
Afghanistan	190 170	183 435	43 170	41 890	55 795	45 935	↓ -18	10.7%	Greece (24%)	
Venezuela	775	4 705	13 020	22 270	45 010	30 460	↓ -32	7.1%	Spain (92%)	
Colombia	280	1 090	3 980	10 115	32 015	29 145	↓ -9	6.8%	Spain (93%)	
Iraq	124 185	124 885	45 095	37 425	27 525	16 660	↓ -39	3.9%	Germany (59%)	
Pakistan	43 845	44 090	26 675	23 445	24 460	16 035	↓ -34	3.7%	Italy (31%)	
Turkey	4 390	10 230	15 080	23 025	25 015	15 120	↓ -40	3.5%	Germany (38%)	
Bangladesh	16 665	13 820	17 350	11 365	13 205	10 495	↓ -21	2.4%	France (44%)	
Somalia	20 885	20 265	13 285	13 090	13 275	10 420	↓ -22	2.4%	Germany (25%)	
Nigeria	29 430	45 485	38 235	23 250	20 900	9 760	↓ -53	2.3%	Germany (34%)	
Eritrea	42 000	37 700	27 250	15 915	12 580	8 880	↓ -29	2.1%	Germany (29%)	
Guinea	5 730	14 320	18 525	14 880	12 260	7 500	↓ -39	1.7%	France (62%)	
Algeria	7 850	11 560	9 555	10 030	9 930	7 425	↓ -25	1.7%	France (30%)	
Morocco	5 865	11 980	8 180	8 065	9 300	7 155	↓ -23	1.7%	Slovenia (17%)	
Georgia	6 905	7 680	10 855	19 540	20 500	7 080	↓ -65	1.7%	Germany (29%)	
Other	411 630	329 950	246 745	224 510	248 655	141 720	↓ -43	33.1%	France (29%)	
<b>EU+</b>	<b>1285 755</b>	<b>1197 060</b>	<b>641 440</b>	<b>580 985</b>	<b>646 840</b>	<b>428 650</b>	<b>↓ -34</b>		<b>Syria (15%)</b>	

<sup>1</sup> Data not available

Source: Eurostat [migr\_asyappctza] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)

**Table 3: Pending cases at the end of the year in EU+ countries by reporting country and main citizenship, 2015-2020**

							2020				
	2015	2016	2017	2018	2019	2020	% chg. over previous year	Share in EU+	Highest share	Sparkline	
<b>Reporting country</b>							<b>Citizenship</b>				
Germany	424 765	601 915	443 645	384 815	326 770	<b>257 210</b>	↓	-21	33.2%	Syria (16%)	
France	34 125	44 070	38 405	142 970	160 785	<b>151 200</b>	↓	-6	19.5%	Afghanistan (12%)	
Spain	16 430	20 365	38 880	78 705	133 020	<b>103 410</b>	↓	-22	13.4%	Colombia (23%)	
Greece	26 150	40 015	47 815	76 330	105 450	<b>62 270</b>	↓	-41	8.0%	Afghanistan (32%)	
Italy	49 715	99 920	152 420	102 995	47 020	<b>53 895</b>	↑	+15	7.0%	Eritrea (24%)	
Belgium	36 455	24 740	18 720	19 535	29 065	<b>29 240</b>	→	+1	3.8%	Afghanistan (14%)	
Austria	79 665	77 445	57 655	38 045	27 140	<b>21 205</b>	↓	-22	2.7%	Afghanistan (31%)	
Cyprus	2 055	2 860	5 120	10 180	18 795	<b>19 590</b>	→	+4	2.5%	Syria (22%)	
Sweden	156 690	82 960	51 485	37 620	27 530	<b>18 525</b>	↓	-33	2.4%	Iran (9%)	
Netherlands	29 635	12 245	7 385	15 965	20 205	<b>17 130</b>	↓	-15	2.2%	Syria (16%)	
Switzerland	34 075	31 475	24 155	15 130	11 440	<b>6 855</b>	↓	-40	0.9%	Turkey (15%)	
Ireland	4 865	4 055	5 670	7 060	7 330	<b>6 795</b>	↓	-7	0.9%	Nigeria (12%)	
Finland	27 750	15 000	9 335	10 490	8 315	<b>6 330</b>	↓	-24	0.8%	Iraq (42%)	
Malta	815	1 070	1 500	2 020	4 260	<b>5 140</b>	↑	+21	0.7%	Sudan (23%)	
Poland	3 305	2 880	2 885	4 460	4 790	<b>3 600</b>	↓	-25	0.5%	Russia (67%)	
Romania	405	935	2 085	1 520	930	<b>2 260</b>	↑	+143	0.3%	Afghanistan (66%)	
Bulgaria	9 500	15 595	2 725	1 820	1 100	<b>2 200</b>	↑	+100	0.3%	Afghanistan (51%)	
Luxembourg	2 475	2 465	1 525	1 525	1 790	<b>1 890</b>	→	+6	0.2%	Syria (19%)	
Denmark	14 980	7 020	4 205	2 600	1 440	<b>1 250</b>	↓	-13	0.2%	Syria (22%)	
Norway	24 545	7 005	2 525	1 985	1 325	<b>805</b>	↓	-39	0.1%	Syria (42%)	
Slovenia	170	555	475	410	530	<b>640</b>	↑	+21	0.1%	Afghanistan (38%)	
Croatia	55	495	415	250	620	<b>610</b>	→	-2	0.1%	Afghanistan (58%)	
Czechia	655	770	810	795	775	<b>590</b>	↓	-24	0.1%	Ukraine (20%)	
Iceland	275	580	345	450	425	<b>295</b>	↓	-31	0.0%	Palestine (29%)	
Lithuania	115	190	255	380	550	<b>250</b>	↓	-55	0.0%	Belarus (28%)	
Slovakia	275	95	110	155	110	<b>145</b>	↑	+32	0.0%	Afghanistan (28%)	
Portugal	45	50	55	90	180	<b>95</b>	↓	-47	0.0%	Guinea-Bissau (26%)	
Latvia	225	225	90	125	100	<b>95</b>	↓	-5	0.0%	Belarus (37%)	
Hungary	36 695	3 415	675	125	235	<b>45</b>	↓	-81	0.0%	Afghanistan (33%)	
Estonia	120	70	70	80	55	<b>45</b>	↓	-18	0.0%	Russia (44%)	
Liechtenstein	100	75	90	80	30	<b>20</b>	↓	-33	0.0%	Iran (25%)	
<b>Citizenship</b>							<b>Reporting country</b>				
Afghanistan	156 480	235 225	158 070	129 165	117 935	<b>92 905</b>	↓	-21	12.0%	Germany (38%)	
Syria	219 155	156 665	110 880	93 560	86 550	<b>69 240</b>	↓	-20	9.0%	Germany (59%)	
Iraq	102 295	120 750	82 645	78 370	65 145	<b>47 460</b>	↓	-27	6.1%	Germany (61%)	
Nigeria	28 535	50 070	58 025	50 155	42 010	<b>36 080</b>	↓	-14	4.7%	Germany (47%)	
Pakistan	39 770	47 360	44 755	44 455	41 260	<b>31 570</b>	↓	-23	4.1%	Italy (30%)	
Iran	26 915	44 150	30 410	35 855	37 935	<b>31 200</b>	↓	-18	4.0%	Germany (61%)	
Turkey	6 550	12 955	18 200	29 360	34 570	<b>30 655</b>	↓	-11	4.0%	Germany (50%)	
Colombia	395	1 135	3 610	11 985	36 785	<b>26 775</b>	↓	-27	3.5%	Spain (89%)	
Russia	22 295	28 210	28 510	32 405	30 875	<b>26 120</b>	↓	-15	3.4%	Germany (54%)	
Eritrea	39 610	34 735	28 355	24 760	21 470	<b>22 865</b>	↑	+6	3.0%	Italy (58%)	
Venezuela	890	4 990	14 850	34 600	37 960	<b>22 650</b>	↓	-40	2.9%	Spain (84%)	
Somalia	27 270	31 330	21 720	21 625	22 440	<b>20 100</b>	↓	-10	2.6%	Germany (34%)	
Bangladesh	14 630	14 965	19 720	18 605	19 085	<b>19 910</b>	→	+4	2.6%	France (52%)	
Guinea	5 745	13 085	18 075	22 860	24 550	<b>19 770</b>	↓	-19	2.6%	France (54%)	
Congo (DR)	4 205	4 440	5 095	9 730	13 160	<b>13 255</b>	→	+1	1.7%	France (49%)	
Other	322 395	300 495	278 620	321 225	310 380	<b>263 075</b>	↓	-15	34.0%	France (26%)	
<b>EU+</b>	<b>1017 135</b>	<b>1100 560</b>	<b>921 540</b>	<b>958 715</b>	<b>942 110</b>	<b>773 630</b>	↓	<b>-18</b>		<b>Afghanistan (12%)</b>	

<sup>1</sup>: Data not available

Source: Eurostat [migr\_asypentzm] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asypentzm&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asypentzm&lang=en)

**Table 4: Withdrawn applications in EU+ countries by reporting country and main citizenship, 2015-2020**

	2020						% chg. over previous year	Share in EU+	Highest share	Sparkline	
	2015	2016	2017	2018	2019	2020					
<b>Reporting country</b>	<b>Citizenship</b>										
Italy	6 750	8 640	14 000	7 730	14 310	<b>10 430</b>	↓	- 27	22.1%	Pakistan (15%)	
Greece	6 255	7 475	10 210	11 740	16 610	<b>5 970</b>	↓	- 64	12.6%	Afghanistan (24%)	
Germany	14 535	45 245	40 290	7 190	4 680	<b>4 735</b>	→	+ 1	10.0%	Moldova (8%)	
Slovenia	90	620	950	2 370	3 270	<b>2 875</b>	↓	- 12	6.1%	Morocco (38%)	
Sweden	9 090	13 875	5 400	4 645	3 810	<b>2 650</b>	↓	- 30	5.6%	Iran (8%)	
Spain	875	1 870	1 610	2 985	4 295	<b>2 645</b>	↓	- 38	5.6%	Colombia (11%)	
France	690	1 045	1 460	1 665	2 235	<b>2 565</b>	→	+ 15	5.4%	Albania (10%)	
Austria	7 840	9 705	6 875	2 720	2 200	<b>2 500</b>	→	+ 14	5.3%	Afghanistan (44%)	
Romania	105	210	1 485	1 275	945	<b>2 260</b>	↑	+ 139	4.8%	Syria (35%)	
Cyprus	445	470	510	810	1 765	<b>2 145</b>	→	+ 22	4.5%	Georgia (26%)	
Croatia	80	1 255	565	500	765	<b>1 315</b>	→	+ 72	2.8%	Afghanistan (40%)	
Belgium	1 320	3 360	1 515	1 275	1 420	<b>1 100</b>	↓	- 23	2.3%	Brazil (14%)	
Switzerland	2 855	5 075	:	1 665	1 455	<b>1 090</b>	↓	- 25	2.3%	Algeria (25%)	
Poland	9 360	10 000	2 740	1 940	1 990	<b>1 040</b>	↓	- 48	2.2%	Russia (69%)	
Portugal	50	55	80	380	475	<b>720</b>	→	+ 52	1.5%	Gambia (13%)	
Netherlands	910	2 080	805	900	1 225	<b>590</b>	↓	- 52	1.3%	Iran (8%)	
Bulgaria	14 730	10 050	10 045	805	1 120	<b>475</b>	↓	- 58	1.0%	Afghanistan (48%)	
Denmark	1 730	3 255	1 480	1 450	885	<b>445</b>	↓	- 50	0.9%	Morocco (16%)	
Malta	140	115	185	235	310	<b>385</b>	→	+ 24	0.8%	Sudan (30%)	
Lithuania	155	65	:	100	:	<b>260</b>	n.a.	n.a.	0.6%	Russia (56%)	
Ireland	1 330	1 140	:	355	425	<b>180</b>	↓	- 58	0.4%	South Africa (14%)	
Slovakia	125	35	:	70	180	<b>175</b>	→	- 3	0.4%	Afghanistan (20%)	
Finland	3 175	3 750	555	365	340	<b>160</b>	↓	- 53	0.3%	Iraq (25%)	
Luxembourg	245	545	280	205	380	<b>105</b>	↓	- 72	0.2%	Morocco (14%)	
Czechia	125	110	150	310	160	<b>80</b>	↓	- 50	0.2%	Ukraine (13%)	
Iceland	55	200	560	165	145	<b>75</b>	↓	- 48	0.2%	Iraq (40%)	
Hungary	103 015	44 905	3 460	120	110	<b>70</b>	↓	- 36	0.1%	Afghanistan (57%)	
Latvia	225	150	140	55	80	<b>70</b>	↓	- 13	0.1%	Azerbaijan (21%)	
Norway	360	475	145	105	145	<b>60</b>	↓	- 59	0.1%	Albania (8%)	
Liechtenstein	40	30	10	40	20	<b>10</b>	↓	- 50	0.0%	Not specified	
Estonia	75	20	20	25	5	<b>5</b>	→	+ 0	0.0%	Not specified	
<b>Citizenship</b>	<b>Reporting country</b>										
Afghanistan	40 075	29 610	16 670	4 945	6 415	<b>5 010</b>	↓	- 22	10.6%	Greece (29%)	
Pakistan	11 940	12 210	8 580	4 005	4 795	<b>3 355</b>	↓	- 30	7.1%	Italy (46%)	
Syria	39 475	24 865	6 575	3 895	3 465	<b>3 020</b>	↓	- 13	6.4%	Romania (26%)	
Iraq	18 055	24 545	11 445	5 785	4 780	<b>2 730</b>	↓	- 43	5.8%	Greece (20%)	
Morocco	1 305	3 740	2 390	1 485	2 355	<b>2 495</b>	→	+ 6	5.3%	Slovenia (43%)	
Georgia	1 880	2 225	2 265	2 045	1 945	<b>1 920</b>	→	- 1	4.1%	Cyprus (29%)	
Nigeria	2 680	3 960	5 460	2 105	2 740	<b>1 740</b>	↓	- 36	3.7%	Italy (64%)	
Turkey	865	1 540	1 860	1 925	3 815	<b>1 490</b>	↓	- 61	3.2%	Greece (33%)	
Algeria	1 505	3 320	2 185	1 685	2 410	<b>1 400</b>	↓	- 42	3.0%	Slovenia (20%)	
Russia	8 160	9 965	2 185	2 620	2 180	<b>1 380</b>	↓	- 37	2.9%	Poland (52%)	
Bangladesh	3 295	2 610	1 975	970	1 465	<b>1 260</b>	↓	- 14	2.7%	Italy (41%)	
Iran	2 305	5 430	3 255	1 575	1 680	<b>1 105</b>	↓	- 34	2.3%	Greece (24%)	
Albania	6 025	6 985	2 420	1 425	1 885	<b>1 085</b>	↓	- 42	2.3%	Greece (32%)	
India	555	1 530	1 075	460	915	<b>995</b>	→	+ 9	2.1%	Cyprus (39%)	
Egypt	720	855	820	505	885	<b>985</b>	→	+ 11	2.1%	Italy (24%)	
Other	47 925	42 420	36 375	18 780	24 025	<b>17 225</b>	↓	- 28	36.5%	Italy (31%)	
<b>EU+</b>	<b>186 765</b>	<b>175 810</b>	<b>105 535</b>	<b>54 210</b>	<b>65 755</b>	<b>47 195</b>	↓	- 28		<b>Afghanistan (11%)</b>	

': Data not available

Source: Eurostat [migr\_asywitha] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asywitha&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asywitha&lang=en)

Table 5: Asylum applications by unaccompanied minors in EU+ countries by reporting country and main citizenship, 2015-2020

							2020				Sparkline
	2015	2016	2017	2018	2019	2020	% chg. over previous year	Share in EU+	Highest share		
<b>Reporting country</b>							<b>Citizenship</b>				
Greece	420	2 350	2 455	2 640	3 330	2 800	↓	- 16	19.7%	Afghanistan (32%)	
Germany	22 255	35 935	9 085	4 085	2 690	2 230	↓	- 17	15.7%	Afghanistan (32%)	
Austria	8 275	3 900	1 350	390	860	1 370	↔	+ 59	9.6%	Afghanistan (56%)	
Belgium	2 545	1 020	735	750	1 220	1 210	↔	- 1	8.5%	Afghanistan (70%)	
Netherlands	3 855	1 705	1 180	1 225	1 045	985	↓	- 6	6.9%	Syria (45%)	
Romania	55	45	265	135	185	980	↑	+ 430	6.9%	Afghanistan (82%)	
Bulgaria	1 815	2 750	440	480	525	800	↔	+ 52	5.6%	Afghanistan (83%)	
France	320	475	590	740	755	650	↓	- 14	4.6%	Afghanistan (35%)	
Switzerland	2 670	1 985	765	435	490	600	↔	+ 22	4.2%	Afghanistan (51%)	
Slovenia	40	245	390	555	670	590	↓	- 18	3.9%	Afghanistan (37%)	
Italy	4 070	6 020	10 005	3 885	660	520	↓	- 21	3.7%	Pakistan (23%)	
Sweden	34 295	2 160	1 285	900	875	500	↓	- 43	3.5%	Syria (22%)	
Cyprus	105	215	225	260	565	190	↓	- 66	1.3%	Syria (63%)	
Denmark	2 125	1 185	460	240	195	145	↓	- 26	1.0%	Morocco (38%)	
Finland	2 535	370	175	105	95	145	↔	+ 53	1.0%	Afghanistan (55%)	
Poland	150	140	115	125	105	115	↔	+ 10	0.8%	Russia (52%)	
Croatia	5	170	40	25	35	115	↑	+ 229	0.8%	Afghanistan (52%)	
Portugal	50	25	40	40	45	95	↑	+ 111	0.7%	Afghanistan (21%)	
Norway	4 790	270	175	145	125	75	↓	- 40	0.5%	Syria (47%)	
Luxembourg	105	50	50	35	35	50	↔	+ 43	0.4%	Afghanistan (40%)	
Spain	25	30	20	75	100	45	↓	- 55	0.3%	Guinea (22%)	
Ireland	35	35	30	15	50	30	↓	- 40	0.2%	Somalia (50%)	
Slovakia	5	0	10	10	30	10	↓	- 67	0.1%	Afghanistan (50%)	
Malta	35	15	5	5	20	10	↓	- 50	0.1%	Tunisia (50%)	
Czechia	15	5	5	10	10	0	↓	- 100	0.0%	n.a.	
Hungary	8 805	1 220	230	40	10	0	↓	- 100	0.0%	n.a.	
Lithuania	5	0	0	0	0	0	↓	n.a.	0.0%	n.a.	
Liechtenstein	5	5	0	0	0	0	↓	n.a.	0.0%	n.a.	
Estonia	0	0	0	0	0	0	↓	n.a.	0.0%	n.a.	
Latvia	10	5	10	5	5	0	↓	- 100	0.0%	n.a.	
Iceland	5	20	10	5	5	:	:	:	:		
<b>Citizenship</b>							<b>Reporting country</b>				
Afghanistan	50 700	23 705	5 325	3 110	4 460	5 825	↔	+ 31	40.9%	Greece (15%)	
Syria	17 840	11 920	1 800	1 355	1 525	2 325	↔	+ 52	16.3%	Germany (22%)	
Pakistan	1 020	1 930	1 830	1 375	1 355	1 095	↓	- 19	7.7%	Greece (68%)	
Somalia	3 830	3 005	1 855	1 000	805	680	↓	- 16	4.8%	Germany (22%)	
Bangladesh	725	735	1 315	440	360	495	↔	+ 38	3.5%	Greece (63%)	
Morocco	620	660	715	505	570	465	↓	- 18	3.3%	Netherlands (31%)	
Guinea	465	1 270	2 245	1 235	790	400	↓	- 49	2.8%	Germany (49%)	
Egypt	220	315	205	180	325	400	↔	+ 23	2.8%	Greece (50%)	
Iraq	5 130	3 890	1 015	825	650	245	↓	- 62	1.7%	Germany (41%)	
Algeria	300	415	350	280	315	235	↓	- 25	1.7%	Switzerland (36%)	
Eritrea	6 965	3 805	2 930	1 415	445	230	↓	- 48	1.6%	Netherlands (35%)	
Congo (DR)	110	120	125	185	415	150	↓	- 64	1.1%	Greece (40%)	
Gambia	1 535	2 360	2 615	895	190	125	↓	- 34	0.9%	Germany (48%)	
Iran	605	580	195	255	240	125	↓	- 48	0.9%	Germany (40%)	
Turkey	80	100	85	95	100	90	↓	- 10	0.6%	Germany (44%)	
Other	9 280	7 545	7 540	4 220	2 190	1 340	↓	- 39	9.4%	Germany (19%)	
<b>EU+</b>	<b>99 425</b>	<b>62 355</b>	<b>30 145</b>	<b>17 370</b>	<b>14 735</b>	<b>14 225</b>	↔	- 3		<b>Afghanistan (41%)</b>	

'-' Data not available

Source: Eurostat [migr\_asyunaa] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyunaa&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyunaa&lang=en)

**Table 6: Refugee status at first instance in EU+ countries by reporting country and main citizenship, 2015-2020**

	2020								Share in EU+	Highest share	Sparkline
	2015	2016	2017	2018	2019	2020					
<b>Reporting country</b>							<b>Citizenship</b>				
Germany	137 135	256 135	123 895	41 370	45 050	<b>37 820</b>	↔	-16	33.6%	Syria (50%)	
Greece	3 665	2 470	9 420	12 635	13 515	<b>26 405</b>	↔	+95	23.5%	Syria (51%)	
France	16 790	18 715	19 005	21 125	17 360	<b>11 955</b>	↔	-31	10.6%	China (13%)	
Switzerland	6 285	5 850	6 240	6 190	5 395	<b>5 260</b>	→	-3	4.7%	Eritrea (29%)	
Austria	12 590	24 685	17 800	10 620	5 620	<b>5 000</b>	↔	-11	4.4%	Syria (51%)	
Netherlands	6 660	9 740	3 030	1 760	2 455	<b>4 975</b>	↑	+103	4.4%	Syria (52%)	
Belgium	8 825	11 760	9 655	7 860	5 555	<b>4 735</b>	↔	-15	4.2%	Syria (24%)	
Italy	3 575	4 800	5 895	6 490	10 120	<b>4 580</b>	↓	-55	4.1%	Nigeria (29%)	
Spain	220	355	580	575	1 640	<b>4 360</b>	↑	+166	3.9%	Nicaragua (26%)	
Sweden	12 740	16 875	13 330	5 990	3 300	<b>2 830</b>	↔	-14	2.5%	Eritrea (13%)	
Norway	5 410	11 565	3 835	1 335	1 645	<b>1 010</b>	↔	-39	0.9%	Syria (41%)	
Finland	1 060	4 320	2 400	1 765	1 295	<b>850</b>	↔	-34	0.8%	Iraq (24%)	
Luxembourg	170	740	1 085	950	635	<b>720</b>	↔	+13	0.6%	Eritrea (58%)	
Ireland	150	445	640	630	585	<b>620</b>	↔	+6	0.6%	Zimbabwe (13%)	
Romania	240	600	865	305	320	<b>210</b>	↔	-34	0.2%	Syria (43%)	
Denmark	7 605	4 275	1 280	825	645	<b>205</b>	↓	-68	0.2%	Syria (37%)	
Cyprus	195	210	220	195	150	<b>150</b>	→	+0	0.1%	Palestine (20%)	
Poland	350	95	150	170	130	<b>135</b>	→	+4	0.1%	Turkey (56%)	
Bulgaria	4 705	765	800	315	140	<b>105</b>	↔	-25	0.1%	Syria (90%)	
Slovenia	35	140	140	100	80	<b>85</b>	↔	+6	0.1%	Syria (18%)	
Hungary	145	155	105	70	20	<b>85</b>	↑	+325	0.1%	Pakistan (53%)	
Iceland	30	50	50	85	90	<b>80</b>	↔	-11	0.1%	Iran (25%)	
Lithuania	15	180	275	120	80	<b>80</b>	→	+0	0.1%	Russia (31%)	
Portugal	35	105	120	220	60	<b>75</b>	↔	+25	0.1%	Syria (27%)	
Malta	265	165	165	150	50	<b>75</b>	↔	+50	0.1%	Syria (60%)	
Czechia	55	140	25	40	50	<b>40</b>	↔	-20	0.0%	Russia (50%)	
Croatia	35	85	120	115	55	<b>35</b>	↔	-36	0.0%	Syria (29%)	
Estonia	20	65	50	15	40	<b>20</b>	↔	-50	0.0%	Russia (75%)	
Slovakia	5	5	0	0	5	<b>5</b>	→	+0	0.0%	Afghanistan (100%)	
Latvia	5	45	35	25	30	<b>5</b>	↓	-83	0.0%	Turkey (100%)	
Liechtenstein	0	20	15	0	5	<b>0</b>	↓	-100	0.0%	n.a.	
<b>Citizenship</b>							<b>Reporting country</b>				
Syria	135 045	218 040	62 795	35 985	36 805	<b>41 390</b>	↔	+12	36.8%	Germany (46%)	
Turkey	685	510	4 820	6 525	9 410	<b>9 155</b>	→	-3	8.1%	Germany (46%)	
Afghanistan	5 360	20 355	30 335	10 720	6 905	<b>8 760</b>	↔	+27	7.8%	Greece (53%)	
Iraq	19 705	47 065	34 045	11 245	9 040	<b>6 830</b>	↔	-24	6.1%	Germany (49%)	
Eritrea	24 775	26 890	18 250	9 950	7 980	<b>6 375</b>	↔	-20	5.7%	Germany (33%)	
Somalia	2 730	5 445	8 080	4 320	3 650	<b>4 140</b>	↔	+13	3.7%	Germany (34%)	
Iran	3 225	8 555	19 165	6 080	4 525	<b>3 595</b>	↔	-21	3.2%	Germany (44%)	
Palestine	545	725	1 240	1 510	1 995	<b>2 710</b>	↔	+36	2.4%	Greece (73%)	
Unknown	6 200	9 385	4 030	2 505	2 790	<b>2 690</b>	→	-4	2.4%	Germany (83%)	
China	1 340	1 345	1 360	1 970	2 030	<b>2 015</b>	→	-1	1.8%	France (75%)	
Guinea	1 565	1 085	2 075	2 005	1 930	<b>1 915</b>	→	-1	1.7%	France (66%)	
Nigeria	610	1 040	2 710	2 460	3 260	<b>1 855</b>	↔	-43	1.6%	Italy (71%)	
Russia	2 495	2 525	2 540	2 495	1 805	<b>1 290</b>	↔	-29	1.1%	France (24%)	
Congo (DR)	1 355	1 440	1 685	2 065	1 625	<b>1 290</b>	↔	-21	1.1%	Greece (44%)	
Côte d'Ivoire	325	380	710	1 150	1 205	<b>1 260</b>	→	+5	1.1%	France (69%)	
Other	23 050	30 760	27 380	21 060	21 160	<b>17 245</b>	↔	-19	15.3%	France (26%)	
<b>EU+</b>	<b>229 010</b>	<b>375 545</b>	<b>221 220</b>	<b>122 045</b>	<b>116 115</b>	<b>112 515</b>	→	-3		<b>Syria (37%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfst] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfst&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfst&lang=en)

**Table 7: Subsidiary protection status at first instance in EU+ countries by reporting country and main citizenship, 2015-2020**

						2020		Share in EU+	Highest share	Sparkline
	2015	2016	2017	2018	2019	2020	% chg. over previous year			
<b>Reporting country</b>	<b>Citizenship</b>									
Germany	1 705	153 695	98 065	25 030	19 415	<b>18 950</b>	→ - 2	36.7%	Syria (82%)	
Greece	355	245	1 035	2 575	3 835	<b>7 950</b>	↑ + 107	15.4%	Afghanistan (78%)	
France	3 845	10 040	13 560	11 600	10 780	<b>7 180</b>	↓ - 33	13.9%	Afghanistan (59%)	
Italy	10 270	12 090	6 385	4 205	6 870	<b>4 970</b>	↓ - 28	9.6%	Afghanistan (19%)	
Netherlands	9 400	10 705	4 135	1 485	1 830	<b>2 820</b>	↔ + 54	5.5%	Syria (54%)	
Cyprus	1 390	1 090	1 020	1 015	1 150	<b>1 530</b>	↔ + 33	3.0%	Syria (93%)	
Spain	800	6 500	3 515	2 320	1 540	<b>1 390</b>	↓ - 10	2.7%	Syria (38%)	
Sweden	18 125	47 210	12 265	3 985	2 300	<b>1 365</b>	↓ - 41	2.6%	Syria (68%)	
Austria	2 100	5 355	7 015	3 620	1 075	<b>1 050</b>	→ - 2	2.0%	Syria (36%)	
Switzerland	2 630	1 805	1 070	1 120	970	<b>985</b>	→ + 2	1.9%	Eritrea (27%)	
Belgium	1 650	3 290	2 930	1 815	975	<b>975</b>	→ + 0	1.9%	Afghanistan (37%)	
Bulgaria	890	585	895	420	265	<b>715</b>	↑ + 170	1.4%	Syria (93%)	
Romania	235	200	380	290	265	<b>425</b>	↔ + 60	0.8%	Syria (80%)	
Iceland	20	40	20	20	205	<b>285</b>	↔ + 39	0.6%	Venezuela (44%)	
Poland	165	150	340	190	130	<b>205</b>	↔ + 58	0.4%	Belarus (37%)	
Malta	915	970	585	475	345	<b>190</b>	↓ - 45	0.4%	Syria (55%)	
Finland	460	1 705	650	395	205	<b>135</b>	↓ - 34	0.3%	Iraq (37%)	
Ireland	180	40	50	180	120	<b>120</b>	→ + 0	0.2%	Afghanistan (21%)	
Denmark	1 255	330	260	55	575	<b>70</b>	↓ - 88	0.1%	Eritrea (57%)	
Czechia	390	290	115	110	80	<b>65</b>	↓ - 19	0.1%	Syria (38%)	
Norway	675	400	150	50	45	<b>50</b>	↔ + 11	0.1%	Afghanistan (30%)	
Hungary	275	270	1 110	280	30	<b>45</b>	↔ + 50	0.1%	Afghanistan (56%)	
Luxembourg	15	25	40	60	35	<b>30</b>	↓ - 14	0.1%	Venezuela (33%)	
Slovakia	40	10	20	35	20	<b>20</b>	→ + 0	0.0%	Afghanistan (75%)	
Portugal	160	215	380	405	115	<b>15</b>	↓ - 87	0.0%	Sudan (33%)	
Latvia	15	90	235	5	5	<b>15</b>	↑ + 200	0.0%	Belarus (67%)	
Liechtenstein	0	10	5	5	5	<b>10</b>	↑ + 100	0.0%	China (100%)	
Croatia	5	15	30	20	0	<b>5</b>	n.a.	0.0%	Syria (100%)	
Estonia	55	65	45	5	5	<b>5</b>	→ + 0	0.0%	Eritrea (100%)	
Slovenia	10	30	15	5	5	<b>0</b>	↓ - 100	0.0%	n.a.	
Lithuania	65	15	15	20	15	<b>0</b>	↓ - 100	0.0%	n.a.	
<b>Citizenship</b>	<b>Reporting country</b>									
Syria	26 750	183 615	74 740	27 215	22 505	<b>22 650</b>	→ + 1	44%	Germany (68%)	
Afghanistan	6 025	17 865	24 450	11 460	9 105	<b>12 930</b>	↔ + 42	25%	Greece (48%)	
Somalia	2 600	4 030	7 335	2 740	1 715	<b>2 030</b>	↔ + 18	3.9%	Greece (44%)	
Iraq	2 145	15 915	19 610	4 315	2 815	<b>1 935</b>	↓ - 31	3.8%	Germany (29%)	
Yemen	110	590	1 350	1 195	1 775	<b>1 455</b>	↓ - 18	2.8%	Netherlands (38%)	
Eritrea	7 680	11 365	9 925	3 895	2 280	<b>1 355</b>	↓ - 41	2.6%	Germany (50%)	
Venezuela	5	10	65	230	1 250	<b>935</b>	↓ - 25	1.8%	Italy (76%)	
Pakistan	1 790	2 300	1 180	755	1 000	<b>720</b>	↓ - 28	1.4%	Italy (91%)	
El Salvador	60	50	40	115	970	<b>650</b>	↓ - 33	1.3%	Italy (87%)	
Libya	760	765	855	690	715	<b>580</b>	↓ - 19	1.1%	Germany (34%)	
Mali	815	1 365	615	530	710	<b>570</b>	↓ - 20	1.1%	Italy (47%)	
Unknown	240	7 050	3 495	530	455	<b>475</b>	→ + 4	0.9%	Germany (63%)	
Ukraine	1 250	965	935	530	500	<b>445</b>	↓ - 11	0.9%	Spain (45%)	
Iran	155	385	850	375	285	<b>350</b>	↔ + 23	0.7%	Germany (49%)	
Palestine	95	150	190	175	245	<b>310</b>	↔ + 27	0.6%	Spain (47%)	
Other	7 620	11 065	10 705	7 055	6 885	<b>4 190</b>	↓ - 39	8.1%	France (36%)	
<b>EU+</b>	<b>58 100</b>	<b>257 485</b>	<b>156 340</b>	<b>61 805</b>	<b>53 210</b>	<b>51 580</b>	→ - 3		<b>Syria (44%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfsta] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfsta&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfsta&lang=en)

**Table 8: Humanitarian protection at first instance in EU+ countries by reporting country and main citizenship, 2015-2020**

						2020					
	2015	2016	2017	2018	2019	2020	% chg. over previous year	Share in EU+	Highest share	Sparkline	
<b>Reporting country</b>	<b>Citizenship</b>										
Spain	0	0	0	0	35 240	45 300	↔	+ 29	76.2%	Venezuela (99%)	
Germany	2 070	24 080	39 655	9 540	5 855	5 700	→	- 3	9.6%	Afghanistan (45%)	
Switzerland	5 080	5 535	7 300	7 920	4 425	3 945	↘	- 11	6.6%	Afghanistan (36%)	
Italy	15 770	18 515	19 515	19 970	1 385	2 035	↔	+ 47	3.4%	Nigeria (21%)	
Netherlands	390	365	645	375	560	820	↔	+ 46	1.4%	Turkey (40%)	
Austria	355	330	385	780	725	780	↔	+ 8	1.3%	Russia (43%)	
Sweden	1 495	2 500	1 185	670	465	230	↓	- 51	0.4%	Somalia (11%)	
Ireland	:	:	70	195	265	200	↘	- 25	0.3%	Nigeria (18%)	
Finland	160	1 045	380	240	165	165	→	+ 0	0.3%	Iraq (36%)	
Denmark	1 135	2 525	825	435	355	145	↓	- 59	0.2%	Syria (83%)	
Norway	165	810	780	75	100	80	↘	- 20	0.1%	Afghanistan (31%)	
Iceland	5	5	5	0	10	20	↑	+ 100	0.0%	Nigeria (50%)	
Poland	120	50	20	15	5	10	↑	+ 100	0.0%	Russia (50%)	
Slovakia	35	195	40	10	15	10	↘	- 33	0.0%	Afghanistan (50%)	
Hungary	5	5	75	20	5	5	→	+ 0	0.0%	Not specified	
Czechia	15	5	5	5	5	5	→	+ 0	0.0%	Not specified	
Malta	75	55	10	25	15	5	↓	- 67	0.0%	Not specified	
Romania	0	0	0	0	0	0		n.a.	0.0%	n.a.	
Greece	10	0	0	0	0	0		n.a.	0.0%	n.a.	
Cyprus	0	0	0	0	0	0		n.a.	0.0%	n.a.	
Lithuania	0	0	0	:	0	0		n.a.	0.0%	n.a.	
Liechtenstein	0	15	0	5	5	0	↓	- 100	0.0%	n.a.	
Croatia	0	0	0	0	0	0		n.a.	0.0%	n.a.	
Estonia	0	0	0	0	0	0		n.a.	0.0%	n.a.	
Slovenia	:	:	:	:	:	:		:	:		
Bulgaria	:	:	:	:	:	:		:	:		
Portugal	:	:	:	:	:	:		:	:		
France	:	:	:	:	:	:		:	:		
Luxembourg	:	:	:	:	:	:		:	:		
Belgium	:	:	:	:	:	:		:	:		
Latvia	:	:	:	:	:	:		:	:		
<b>Citizenship</b>	<b>Reporting country</b>										
Venezuela	15	30	95	145	35 200	45 390	↔	+ 29	76.3%	Spain (99%)	
Afghanistan	2 145	22 265	30 610	8 460	4 200	4 325	→	+ 3	7.3%	Germany (59%)	
Iraq	460	1 285	2 725	2 465	1 325	1 195	↘	- 10	2.0%	Germany (63%)	
Syria	3 195	4 445	2 475	2 210	1 950	1 150	↘	- 41	1.9%	Switzerland (66%)	
Nigeria	2 585	3 475	5 555	4 235	775	845	↔	+ 9	1.4%	Italy (51%)	
Eritrea	615	1 395	2 155	815	785	505	↘	- 36	0.8%	Germany (50%)	
Turkey	170	185	430	370	365	495	↔	+ 36	0.8%	Netherlands (67%)	
Somalia	650	2 575	2 780	1 115	740	475	↘	- 36	0.8%	Germany (47%)	
Russia	445	370	540	410	250	440	↔	+ 76	0.7%	Austria (76%)	
Bangladesh	1 080	1 500	1 865	2 640	135	310	↑	+ 130	0.5%	Italy (95%)	
Iran	215	425	595	285	230	255	↔	+ 11	0.4%	Netherlands (43%)	
Ethiopia	215	305	925	410	230	240	→	+ 4	0.4%	Switzerland (50%)	
Ukraine	1 155	1 410	1 205	805	175	230	↔	+ 31	0.4%	Italy (48%)	
Pakistan	1 460	1 800	1 805	1 495	300	220	↘	- 27	0.4%	Italy (55%)	
Colombia	20	15	25	50	25	175	↑	+ 600	0.3%	Spain (89%)	
Other	12 465	14 550	17 110	14 370	2 920	3 205	↔	+ 10	5.4%	Italy (31%)	
<b>EU+</b>	<b>26 890</b>	<b>56 030</b>	<b>70 895</b>	<b>40 280</b>	<b>49 605</b>	<b>59 455</b>	↔	<b>+ 20</b>		<b>Venezuela (76%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfst] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfst&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfst&lang=en)



**Table 9: Rejections at first instance in EU+ countries by reporting country and main citizenship, 2015-2020**

						2020		Highest share	Sparkline	
	2015	2016	2017	2018	2019	2020	% chg. over previous year			Share in EU+
<b>Reporting country</b>						<b>Citizenship</b>				
Spain	2 220	3 395	7 965	8 980	19 615	<b>73 740</b>	↑ +276	23.7%	Colombia (54%)	
France	57 280	58 730	78 380	82 325	85 750	<b>67 200</b>	↓ -22	21.6%	Guinea (7%)	
Germany	108 370	197 185	262 575	103 175	83 855	<b>66 120</b>	↓ -21	21.3%	Iraq (10%)	
Italy	41 730	54 470	46 440	64 540	75 110	<b>29 215</b>	↓ -61	9.4%	Pakistan (17%)	
Greece	5 610	8 740	14 055	17 130	15 350	<b>27 830</b>	↔ +81	9.0%	Afghanistan (21%)	
Sweden	16 210	29 190	34 290	20 690	14 655	<b>12 790</b>	↓ -13	4.1%	Uzbekistan (9%)	
Belgium	8 945	9 915	11 460	9 340	10 640	<b>10 650</b>	↔ +0	3.4%	Palestine (12%)	
Netherlands	4 015	8 065	8 135	6 665	8 095	<b>4 965</b>	↓ -39	1.6%	Morocco (9%)	
Austria	6 050	12 045	19 960	19 500	6 465	<b>3 660</b>	↓ -43	1.2%	Afghanistan (17%)	
Finland	1 280	13 685	3 745	2 035	3 180	<b>1 895</b>	↓ -40	0.6%	Iraq (42%)	
Romania	840	490	820	700	730	<b>1 870</b>	↑ +156	0.6%	Afghanistan (29%)	
Cyprus	480	675	1 205	1 265	1 975	<b>1 695</b>	↓ -14	0.5%	Pakistan (32%)	
Poland	2 870	2 185	2 090	2 125	1 730	<b>1 630</b>	↓ -6	0.5%	Russia (60%)	
Bulgaria	580	1 700	3 045	1 370	850	<b>1 375</b>	↔ +62	0.4%	Afghanistan (62%)	
Switzerland	7 840	9 395	1 610	1 775	1 525	<b>1 090</b>	↓ -29	0.4%	Sri Lanka (13%)	
Czechia	875	860	1 045	1 230	1 255	<b>855</b>	↓ -32	0.3%	Ukraine (22%)	
Denmark	2 305	3 285	4 510	1 315	1 455	<b>765</b>	↓ -47	0.2%	Iran (13%)	
Malta	240	245	345	855	635	<b>605</b>	↔ -5	0.2%	Bangladesh (21%)	
Norway	3 225	6 540	1 935	660	665	<b>420</b>	↓ -37	0.1%	Iran (10%)	
Luxembourg	590	485	590	400	510	<b>415</b>	↓ -19	0.1%	Afghanistan (20%)	
Hungary	2 915	4 675	2 880	590	650	<b>345</b>	↓ -47	0.1%	Afghanistan (45%)	
Ireland	665	1 645	125	170	895	<b>330</b>	↓ -63	0.1%	Albania (27%)	
Portugal	180	270	455	415	570	<b>325</b>	↓ -43	0.1%	Angola (29%)	
Lithuania	95	85	85	135	230	<b>265</b>	↔ +15	0.1%	Tajikistan (43%)	
Croatia	145	185	325	300	265	<b>250</b>	↓ -6	0.1%	Morocco (22%)	
Slovenia	85	95	90	135	130	<b>215</b>	↔ +65	0.1%	Morocco (30%)	
Iceland	135	445	315	275	400	<b>200</b>	↓ -50	0.1%	Nigeria (15%)	
Latvia	145	125	95	95	120	<b>95</b>	↓ -21	0.0%	Russia (26%)	
Estonia	100	60	60	55	45	<b>45</b>	↔ +0	0.0%	Russia (44%)	
Slovakia	50	45	30	40	55	<b>40</b>	↓ -27	0.0%	Afghanistan (13%)	
Liechtenstein	25	35	15	30	20	<b>15</b>	↓ -25	0.0%	Iraq (33%)	
<b>Citizenship</b>						<b>Reporting country</b>				
Colombia	140	310	680	1 450	5 890	<b>41 515</b>	↑ +605	13.4%	Spain (95%)	
Afghanistan	6 100	47 075	93 780	30 090	15 815	<b>17 670</b>	↔ +12	5.7%	Greece (32%)	
Pakistan	11 055	24 810	32 700	21 485	21 130	<b>16 945</b>	↓ -20	5.5%	Italy (29%)	
Nigeria	12 890	20 165	30 175	26 595	25 345	<b>14 400</b>	↓ -43	4.6%	Germany (40%)	
Iraq	2 995	35 990	41 160	22 340	17 310	<b>12 735</b>	↓ -26	4.1%	Germany (52%)	
Syria	5 250	8 150	8 285	8 870	10 175	<b>11 310</b>	↔ +11	3.6%	Greece (36%)	
Turkey	2 410	2 665	9 625	7 560	8 025	<b>10 395</b>	↔ +30	3.3%	Germany (49%)	
Bangladesh	8 575	10 390	11 630	13 645	14 210	<b>9 810</b>	↓ -31	3.2%	France (47%)	
Georgia	5 295	6 405	8 640	13 650	18 160	<b>8 810</b>	↓ -51	2.8%	France (35%)	
Albania	39 425	41 040	26 980	15 845	17 790	<b>8 735</b>	↓ -51	2.8%	France (44%)	
Iran	1 545	7 230	16 825	10 530	9 860	<b>8 340</b>	↓ -15	2.7%	Germany (65%)	
Guinea	4 000	4 830	10 030	10 440	11 520	<b>8 225</b>	↓ -29	2.6%	France (56%)	
Russia	10 185	13 620	17 060	11 045	8 690	<b>7 140</b>	↓ -18	2.3%	Germany (40%)	
Ukraine	6 625	8 785	10 460	7 720	8 340	<b>6 875</b>	↓ -18	2.2%	Spain (41%)	
Côte d'Ivoire	2 685	4 230	6 490	9 250	7 385	<b>6 065</b>	↓ -18	2.0%	France (62%)	
Other	156 940	193 250	184 155	137 800	137 770	<b>121 940</b>	↓ -11	39.2%	France (27%)	
<b>EU+</b>	<b>276 115</b>	<b>428 945</b>	<b>508 675</b>	<b>348 315</b>	<b>337 415</b>	<b>310 910</b>	↓ -8		<b>Colombia (13%)</b>	

': Data not available

Source: Eurostat [migr\_asydcfst] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfst&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfst&lang=en)

**Table 10: Decisions at first instance in EU+ countries by reporting country and main citizenship, 2015-2020**

	2020						% chg. over previous year	Share in EU+	Highest share	Sparkline	
	2015	2016	2017	2018	2019	2020					
<b>Reporting country</b>	<b>Citizenship</b>										
Germany	249 285	631 090	524 195	179 115	154 175	<b>128 590</b>	↓	-17	24.1%	Syria (29%)	
Spain	3 240	10 250	12 055	11 875	58 035	<b>124 795</b>	↑	+115	23.3%	Venezuela (37%)	
France	77 910	87 485	110 945	115 045	113 890	<b>86 330</b>	↓	-24	16.2%	Afghanistan (9%)	
Greece	9 640	11 455	24 510	32 340	32 700	<b>62 190</b>	↔	+90	11.6%	Syria (28%)	
Italy	71 345	89 875	78 235	95 210	93 485	<b>40 795</b>	↓	-56	7.6%	Nigeria (16%)	
Sweden	48 570	95 775	61 065	31 335	20 720	<b>17 215</b>	↓	-17	3.2%	Syria (11%)	
Belgium	19 420	24 960	24 045	19 020	17 170	<b>16 360</b>	→	-5	3.1%	Syria (14%)	
Netherlands	20 465	28 875	15 945	10 285	12 940	<b>13 580</b>	→	+5	2.5%	Syria (34%)	
Switzerland	21 840	22 580	16 225	17 000	12 315	<b>11 275</b>	↓	-8	2.1%	Eritrea (19%)	
Austria	21 095	42 415	45 160	34 525	13 890	<b>10 495</b>	↓	-24	2.0%	Syria (29%)	
Cyprus	2 065	1 975	2 450	2 475	3 275	<b>3 375</b>	→	+3	0.6%	Syria (43%)	
Finland	2 960	20 755	7 180	4 440	4 845	<b>3 045</b>	↓	-37	0.6%	Iraq (36%)	
Romania	1 320	1 295	2 065	1 295	1 315	<b>2 505</b>	↔	+90	0.5%	Afghanistan (23%)	
Bulgaria	6 175	3 045	4 740	2 110	1 250	<b>2 195</b>	↔	+76	0.4%	Afghanistan (39%)	
Poland	3 510	2 480	2 600	2 500	1 995	<b>1 975</b>	→	-1	0.4%	Russia (53%)	
Norway	9 475	19 315	6 700	2 115	2 455	<b>1 565</b>	↓	-36	0.3%	Syria (28%)	
Ireland	1 000	2 130	885	1 175	1 870	<b>1 275</b>	↓	-32	0.2%	Zimbabwe (11%)	
Denmark	12 300	10 410	6 880	2 625	3 030	<b>1 185</b>	↓	-61	0.2%	Syria (22%)	
Luxembourg	775	1 255	1 715	1 410	1 180	<b>1 165</b>	→	-1	0.2%	Eritrea (36%)	
Czechia	1 335	1 300	1 190	1 385	1 390	<b>960</b>	↓	-31	0.2%	Ukraine (21%)	
Malta	1 490	1 435	1 110	1 500	1 040	<b>875</b>	↓	-16	0.2%	Syria (23%)	
Iceland	185	540	390	380	710	<b>585</b>	↓	-18	0.1%	Venezuela (22%)	
Hungary	3 340	5 105	4 170	960	710	<b>475</b>	↓	-33	0.1%	Afghanistan (40%)	
Portugal	370	590	955	1 045	745	<b>420</b>	↓	-44	0.1%	Angola (23%)	
Lithuania	180	280	370	270	325	<b>350</b>	↔	+8	0.1%	Tajikistan (37%)	
Slovenia	130	265	240	235	215	<b>300</b>	↔	+40	0.1%	Morocco (22%)	
Croatia	185	285	475	435	320	<b>295</b>	↓	-8	0.1%	Morocco (19%)	
Latvia	170	260	360	125	150	<b>120</b>	↓	-20	0.0%	Russia (21%)	
Slovakia	130	250	90	80	90	<b>80</b>	↓	-11	0.0%	Afghanistan (31%)	
Estonia	180	190	155	75	90	<b>70</b>	↓	-22	0.0%	Russia (50%)	
Liechtenstein	30	75	40	40	35	<b>25</b>	↓	-29	0.0%	China (40%)	
<b>Citizenship</b>	<b>Reporting country</b>										
Syria	170 240	414 270	148 295	74 280	71 435	<b>76 500</b>	↔	+7	14.3%	Germany (49%)	
Venezuela	130	410	2 450	3 225	38 875	<b>49 450</b>	↔	+27	9.3%	Spain (93%)	
Afghanistan	19 625	107 565	179 175	60 740	36 020	<b>43 685</b>	↔	+21	8.2%	Greece (38%)	
Colombia	235	390	820	1 740	6 335	<b>42 625</b>	↑	+573	8.0%	Spain (95%)	
Iraq	25 310	100 245	97 550	40 370	30 485	<b>22 700</b>	↓	-26	4.2%	Germany (50%)	
Turkey	3 430	3 535	15 120	14 580	17 985	<b>20 280</b>	↔	+13	3.8%	Germany (46%)	
Pakistan	15 310	30 085	37 080	24 850	23 775	<b>18 880</b>	↓	-21	3.5%	Italy (32%)	
Nigeria	17 110	25 730	39 145	33 630	29 775	<b>17 365</b>	↓	-42	3.2%	Italy (37%)	
Iran	5 135	16 600	37 435	17 270	14 895	<b>12 540</b>	↓	-16	2.3%	Germany (57%)	
Somalia	10 140	18 530	25 715	15 010	11 820	<b>10 835</b>	↓	-8	2.0%	Germany (31%)	
Bangladesh	10 240	12 675	14 385	17 050	15 295	<b>10 610</b>	↓	-31	2.0%	France (46%)	
Guinea	6 330	6 870	14 095	14 190	14 005	<b>10 545</b>	↓	-25	2.0%	France (57%)	
Eritrea	36 605	42 885	32 600	16 810	13 015	<b>9 800</b>	↓	-25	1.8%	Germany (36%)	
Georgia	5 680	6 850	9 120	14 330	18 930	<b>9 240</b>	↓	-51	1.7%	France (35%)	
Albania	40 155	42 155	28 515	17 170	18 865	<b>9 225</b>	↓	-51	1.7%	France (45%)	
Other	224 445	289 205	275 635	207 190	194 835	<b>170 180</b>	↓	-13	31.8%	France (27%)	
<b>EU+</b>	<b>590 120</b>	<b>1,118,000</b>	<b>957 135</b>	<b>572 435</b>	<b>556 345</b>	<b>534 460</b>	→	-4		<b>Syria (14%)</b>	

! Data not available

Source: Eurostat [migr\_asydcfst] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfst&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfst&lang=en)

**Table 11: Refugee status at second or higher instance in EU+ countries by reporting country and main citizenship, 2015-2020**

						2020				
	2015	2016	2017	2018	2019	2020	% chg. over previous year	Share in EU+	Highest share	Sparkline
<b>Reporting country</b>										
Germany	5 170	8 515	30 590	19 980	13 275	<b>7 895</b>	↓ - 41	36.3%	Iran (21%)	
France	3 830	4 510	5 400	6 015	9 335	<b>6 115</b>	↓ - 34	28.1%	Guinea (13%)	
Austria	1 740	835	2 985	4 195	4 350	<b>3 260</b>	↓ - 25	15.0%	Afghanistan (63%)	
Sweden	745	1 120	1 930	2 045	1 845	<b>1 225</b>	↓ - 34	5.6%	Afghanistan (39%)	
Finland	50	185	530	925	665	<b>640</b>	→ - 4	2.9%	Iraq (63%)	
Italy	0	385	385	825	895	<b>615</b>	↓ - 31	2.8%	Nigeria (44%)	
Greece	1 355	770	510	175	295	<b>480</b>	↑ + 63	2.2%	Iraq (21%)	
Netherlands	255	340	480	400	350	<b>440</b>	↑ + 26	2.0%	Syria (17%)	
Ireland	180	205	30	185	360	<b>410</b>	↑ + 14	1.9%	Zimbabwe (18%)	
Belgium	395	320	290	475	330	<b>275</b>	↓ - 17	1.3%	Guinea (20%)	
Switzerland	70	95	115	170	155	<b>150</b>	→ - 3	0.7%	Afghanistan (23%)	
Denmark	210	205	245	200	125	<b>120</b>	→ - 4	0.6%	Iran (46%)	
Norway	200	130	145	110	80	<b>50</b>	↓ - 38	0.2%	Iran (40%)	
Croatia	0	0	20	15	5	<b>35</b>	↑ + 600	0.2%	Syria (29%)	
Romania	10	5	5	15	25	<b>30</b>	↑ + 20	0.1%	Iraq (33%)	
Spain	5	15	10	45	10	<b>20</b>	↑ + 100	0.1%	El Salvador (25%)	
Slovenia	5	5	0	0	15	<b>5</b>	↓ - 67	0.0%	Afghanistan (100%)	
Estonia	0	0	0	0	0	<b>5</b>	n.a.	0.0%	Russia (100%)	
Bulgaria	0	0	5	0	10	<b>0</b>	↓ - 100	0.0%	n.a.	
Slovakia	0	5	0	0	5	<b>0</b>	↓ - 100	0.0%	n.a.	
Czechia	0	0	0	5	10	<b>0</b>	↓ - 100	0.0%	n.a.	
Portugal	0	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Poland	10	20	0	20	5	<b>0</b>	↓ - 100	0.0%	n.a.	
Hungary	25	5	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Cyprus	45	25	15	5	15	<b>0</b>	n.a.	0.0%	n.a.	
Malta	30	25	25	10	10	<b>0</b>	n.a.	0.0%	n.a.	
Luxembourg	15	5	0	5	0	<b>0</b>	n.a.	0.0%	n.a.	
Lithuania	0	0	0	5	0	<b>0</b>	n.a.	0.0%	n.a.	
Liechtenstein	0	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Latvia	0	0	5	0	10	<b>0</b>	↓ - 100	0.0%	n.a.	
Iceland	15	5	40	30	15	:	:	:		
<b>Citizenship</b>										
Afghanistan	1 805	1 250	5 305	6 365	6 535	<b>4 775</b>	↓ - 27	21.9%	Austria (43%)	
Iran	895	845	2 235	2 435	2 790	<b>2 760</b>	→ - 1	12.7%	Germany (61%)	
Syria	3 385	6 135	19 580	11 955	5 805	<b>1 915</b>	↓ - 67	8.8%	Germany (50%)	
Iraq	950	880	4 625	2 080	1 905	<b>1 585</b>	↓ - 17	7.3%	Germany (43%)	
Turkey	220	185	315	840	1 475	<b>1 290</b>	↓ - 13	5.9%	Germany (56%)	
Guinea	455	380	435	610	930	<b>940</b>	→ + 1	4.3%	France (88%)	
Pakistan	605	540	800	1 105	1 180	<b>910</b>	↓ - 23	4.2%	Germany (67%)	
Nigeria	225	350	495	785	1 070	<b>750</b>	↓ - 30	3.4%	France (39%)	
Somalia	345	335	920	975	870	<b>720</b>	↓ - 17	3.3%	France (40%)	
Russia	740	665	545	440	675	<b>555</b>	↓ - 18	2.5%	Germany (48%)	
Sudan	255	365	635	685	860	<b>515</b>	↓ - 40	2.4%	France (85%)	
Bangladesh	430	535	640	520	590	<b>375</b>	↓ - 36	1.7%	France (77%)	
Sri Lanka	430	370	290	285	360	<b>330</b>	↓ - 8	1.5%	France (76%)	
Côte d'Ivoire	90	95	165	205	660	<b>325</b>	↓ - 51	1.5%	France (86%)	
Unknown	270	310	1 070	1 130	545	<b>310</b>	↓ - 43	1.4%	Germany (87%)	
Other	3 265	4 475	5 700	5 440	5 950	<b>3 720</b>	↓ - 37	17.1%	France (44%)	
<b>EU+</b>	<b>14 365</b>	<b>17 715</b>	<b>43 755</b>	<b>35 855</b>	<b>32 200</b>	<b>21 775</b>	↓ - 32		<b>Afghanistan (22%)</b>	

! Data not available

Source: Eurostat [migr\_asydcfina] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfina&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfina&lang=en)

**Table 12: Subsidiary protection status at second or higher instance in EU+ countries by reporting country and main citizenship, 2015-2020**

							2020		Highest share	Sparkline
	2015	2016	2017	2018	2019	2020	% chg. over previous year	Share in EU+		
<b>Reporting country</b>									<b>Citizenship</b>	
Germany	525	855	22 395	27 660	18 330	12 145	↓ -34	54.2%	Syria (66%)	
France	1 555	1 910	2 605	2 705	4 645	4 140	↓ -11	18.5%	Afghanistan (49%)	
Italy	10	2 365	2 450	4 365	3 840	2 790	↓ -27	12.5%	Mali (50%)	
Austria	850	355	605	1 065	1 265	1 600	↑ +26	7.1%	Afghanistan (58%)	
Greece	355	160	95	95	310	565	↑ +82	2.5%	Afghanistan (65%)	
Netherlands	255	575	685	625	525	540	↑ +3	2.4%	Eritrea (41%)	
Sweden	325	1 180	1 380	855	380	230	↓ -39	1.0%	Syria (35%)	
Finland	45	45	200	310	250	130	↓ -48	0.6%	Afghanistan (54%)	
Switzerland	10	15	15	30	30	45	↑ +50	0.2%	Eritrea (33%)	
Ireland	40	100	50	45	45	45	→ +0	0.2%	Albania (22%)	
Romania	35	15	75	55	30	45	↑ +50	0.2%	Iraq (33%)	
Belgium	30	30	20	95	75	45	↓ -40	0.2%	Afghanistan (44%)	
Denmark	70	75	140	130	80	30	↓ -63	0.1%	Afghanistan (17%)	
Bulgaria	5	15	5	20	35	15	↓ -57	0.1%	Iraq (67%)	
Czechia	0	10	0	5	5	10	↑ +100	0.0%	Russia (50%)	
Poland	30	50	30	30	10	10	→ +0	0.0%	Ukraine (50%)	
Norway	105	60	80	25	25	5	↓ -80	0.0%	Not specified	
Malta	40	40	25	5	15	5	↓ -67	0.0%	Not specified	
Liechtenstein	0	0	0	0	0	5	n.a.	0.0%	Not specified	
Croatia	0	0	0	5	0	5	n.a.	0.0%	Not specified	
Spain	5	0	10	15	0	0	n.a.	0.0%	n.a.	
Slovenia	0	0	0	0	0	0	n.a.	0.0%	n.a.	
Hungary	15	0	0	0	0	0	n.a.	0.0%	n.a.	
Slovakia	0	0	0	0	0	0	n.a.	0.0%	n.a.	
Portugal	0	0	0	0	0	0	n.a.	0.0%	n.a.	
Cyprus	240	100	40	10	0	0	n.a.	0.0%	n.a.	
Luxembourg	10	0	5	0	0	0	n.a.	0.0%	n.a.	
Lithuania	0	0	5	0	0	0	n.a.	0.0%	n.a.	
Estonia	0	0	0	0	0	0	n.a.	0.0%	n.a.	
Latvia	10	10	0	0	10	0	↓ -100	0.0%	n.a.	
Iceland	5	0	15	20	35	:	:	:		
<b>Citizenship</b>									<b>Reporting country</b>	
Syria	535	1 080	16 205	20 315	12 330	8 485	↓ -31	37.9%	Germany (95%)	
Afghanistan	1 205	830	3 355	3 555	4 145	4 370	↑ +5	19.5%	France (46%)	
Iraq	210	380	2 870	3 495	2 870	2 120	↓ -26	9.5%	Germany (67%)	
Mali	20	415	415	795	940	1 455	↑ +55	6.5%	Italy (97%)	
Eritrea	95	330	1 145	1 225	990	765	↓ -23	3.4%	Germany (68%)	
Somalia	315	585	915	955	880	730	↓ -17	3.3%	France (67%)	
Nigeria	75	635	680	1 375	1 050	435	↓ -59	1.9%	Italy (77%)	
Pakistan	60	740	810	1 190	795	425	↓ -47	1.9%	Italy (84%)	
Libya	45	35	60	105	220	380	↑ +73	1.7%	Germany (68%)	
Unknown	25	50	650	750	650	365	↓ -44	1.6%	Germany (92%)	
Sudan	250	435	585	470	695	280	↓ -60	1.2%	France (88%)	
Bangladesh	55	170	195	320	395	225	↓ -43	1.0%	France (56%)	
Guinea	85	120	105	240	300	220	↓ -27	1.0%	France (66%)	
Yemen	60	110	80	140	220	155	↓ -30	0.7%	Germany (58%)	
Burkina Faso	5	10	10	25	45	145	↑ +222	0.6%	Italy (97%)	
Other	1 540	2 045	2 860	3 210	3 415	1 850	↓ -46	8.3%	France (37%)	
<b>EU+</b>	<b>4 580</b>	<b>7 970</b>	<b>30 940</b>	<b>38 165</b>	<b>29 940</b>	<b>22 405</b>	<b>↓ -25</b>		<b>Syria (38%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfina&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfina&lang=en)

Table 13: Humanitarian protection at second or higher instance in EU+ countries by reporting country and main citizenship, 2015-2020

Reporting country						2020		Share in EU+	Highest share	Sparkline	
	2015	2016	2017	2018	2019	2020	% chg. over previous year				
<b>Reporting country</b>						<b>Citizenship</b>					
Germany	1 615	1 935	10 765	15 975	14 300	15 520	↔	+ 9	60.8%	Afghanistan (52%)	
Italy	5	2 020	500	12 025	7 900	6 285	↓	- 20	24.6%	Nigeria (21%)	
Sweden	1 175	875	1 205	6 115	3 530	1 330	↓	- 62	5.2%	Afghanistan (31%)	
Austria	115	190	335	420	685	1 290	↔	+ 88	5.1%	Afghanistan (24%)	
Greece	140	4 900	955	325	640	370	↓	- 42	1.4%	Iraq (24%)	
Ireland	:	:	0	40	170	135	↓	- 21	0.5%	Nigeria (22%)	
Switzerland	55	40	45	120	70	125	↔	+ 79	0.5%	Afghanistan (16%)	
Norway	595	225	275	140	105	120	↔	+ 14	0.5%	Iran (29%)	
Finland	30	75	225	320	300	120	↓	- 60	0.5%	Afghanistan (54%)	
Spain	0	5	5	10	95	115	↔	+ 21	0.5%	Venezuela (91%)	
Netherlands	85	100	115	150	120	100	↓	- 17	0.4%	Iraq (15%)	
Poland	15	15	20	15	0	10	:	n.a.	0.0%	Russia (100%)	
Slovakia	0	0	0	0	0	5	:	n.a.	0.0%	Libya (100%)	
Denmark	0	0	0	5	0	0	:	n.a.	0.0%	n.a.	
Hungary	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Romania	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Czechia	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Malta	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Cyprus	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Lithuania	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Liechtenstein	5	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Croatia	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Estonia	0	0	0	0	0	0	:	n.a.	0.0%	n.a.	
Iceland	15	10	50	40	20	:	:	:	:		
Slovenia	:	:	:	:	:	:	:	:	:		
Bulgaria	:	:	:	:	:	:	:	:	:		
Portugal	:	:	:	:	:	:	:	:	:		
France	:	:	:	:	:	:	:	:	:		
Luxembourg	:	:	:	:	:	:	:	:	:		
Belgium	:	:	:	:	:	:	:	:	:		
Latvia	:	:	:	:	:	:	:	:	:		
<b>Citizenship</b>						<b>Reporting country</b>					
Afghanistan	830	790	8 500	16 530	11 170	8 950	↓	- 20	35.1%	Germany (90%)	
Iraq	130	165	435	1 015	1 820	2 440	↔	+ 34	9.6%	Germany (76%)	
Nigeria	80	670	320	2 865	2 275	2 160	↓	- 5	8.5%	Italy (60%)	
Bangladesh	15	1 545	355	1 790	1 485	1 235	↓	- 17	4.8%	Italy (96%)	
Syria	75	410	515	1 015	1 250	1 155	↓	- 8	4.5%	Germany (94%)	
Pakistan	75	1 285	345	2 005	1 100	885	↓	- 20	3.5%	Italy (72%)	
Ethiopia	155	130	85	220	270	880	↔	+ 226	3.4%	Germany (93%)	
Gambia	25	355	110	1 375	925	735	↓	- 21	2.9%	Italy (82%)	
Senegal	5	365	110	1 185	635	590	↓	- 7	2.3%	Italy (97%)	
Somalia	130	195	550	675	650	560	↓	- 14	2.2%	Germany (84%)	
Russia	260	255	340	320	355	420	↔	+ 18	1.6%	Germany (45%)	
Côte d'Ivoire	5	95	25	715	550	420	↓	- 24	1.6%	Italy (86%)	
Guinea	15	65	35	510	410	390	↔	- 5	1.5%	Italy (78%)	
Ghana	20	185	55	585	385	380	↔	- 1	1.5%	Italy (87%)	
Ukraine	15	70	45	230	270	285	↔	+ 6	1.1%	Austria (37%)	
Other	2 015	3 810	2 670	4 660	4 390	4 045	↓	- 8	15.8%	Germany (44%)	
<b>EU+</b>	<b>3 850</b>	<b>10 390</b>	<b>14 495</b>	<b>35 695</b>	<b>27 940</b>	<b>25 530</b>	↓	- 9		<b>Afghanistan (35%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfina&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfina&lang=en)

**Table 14: Rejections at second or higher instance in EU+ countries by reporting country and main citizenship, 2015-2020**

							2020		Highest share	Sparkline	
	2015	2016	2017	2018	2019	2020	% chg. over previous year	Share in EU+			
<b>Reporting country</b>									<b>Citizenship</b>		
Germany	86 540	112 400	94 340	82 855	85 140	64 530	↓	-24	38.7%	Afghanistan (14%)	
France	29 190	34 870	39 735	37 700	52 470	31 575	↓	-40	18.9%	Guinea (10%)	
Greece	5 810	6 655	7 985	6 605	11 070	22 340	↑	+102	13.4%	Pakistan (30%)	
Italy	5	5 000	9 255	25 755	22 870	14 120	↓	-38	8.5%	Nigeria (28%)	
Sweden	7 435	8 950	14 560	15 965	13 725	11 210	↓	-18	6.7%	Iraq (13%)	
Belgium	7 260	5 030	4 755	5 675	4 840	6 365	↔	+ 32	3.8%	Syria (11%)	
Austria	2 390	2 100	3 030	4 810	5 015	3 825	↓	-24	2.3%	Afghanistan (31%)	
Switzerland	1 905	1 840	1 795	2 965	2 710	2 435	↓	-10	1.5%	Sri Lanka (16%)	
Finland	795	2 070	5 130	3 625	3 045	2 390	↓	- 22	1.4%	Iraq (42%)	
Poland	1 820	1 200	1 720	1 435	830	1 920	↑	+131	1.2%	Russia (59%)	
Netherlands	490	745	900	780	1 080	1 240	↔	+ 15	0.7%	Morocco (9%)	
Portugal	85	185	0	465	550	790	↔	+44	0.5%	Gambia (21%)	
Norway	3 930	4 550	4 230	1 850	910	780	↓	-14	0.5%	Iran (13%)	
Denmark	1 050	1 150	1 675	1 625	1 105	605	↓	-45	0.4%	Stateless (13%)	
Malta	300	265	340	670	490	555	↔	+13	0.3%	Bangladesh (23%)	
Cyprus	285	130	300	465	750	440	↓	-41	0.3%	India (25%)	
Ireland	305	385	275	380	600	405	↓	-33	0.2%	Pakistan (21%)	
Czechia	395	395	395	395	395	395	↔	+ 0	0.2%	Ukraine (39%)	
Spain	570	495	590	905	725	290	↓	-60	0.2%	Ukraine (33%)	
Romania	65	100	105	175	165	165	↔	+ 0	0.1%	Iraq (33%)	
Slovenia	30	35	40	85	90	130	↔	+44	0.1%	Morocco (31%)	
Croatia	85	105	75	65	20	115	↑	+475	0.1%	Algeria (22%)	
Luxembourg	445	315	315	250	170	105	↓	-38	0.1%	Guinea (14%)	
Latvia	65	30	40	40	55	55	↔	+ 0	0.0%	Russia (27%)	
Slovakia	25	20	10	20	30	15	↓	-50	0.0%	Not specified	
Estonia	10	40	40	30	45	15	↓	-67	0.0%	Albania (33%)	
Lithuania	10	5	30	20	0	10	↔	n.a.	0.0%	Belarus (50%)	
Liechtenstein	15	30	5	50	10	10	↔	+ 0	0.0%	Serbia (50%)	
Bulgaria	5	10	10	15	20	0	↓	-100	0.0%	n.a.	
Hungary	435	765	0	0	0	0	↔	n.a.	0.0%	n.a.	
Iceland	35	135	450	285	275	:	:	:	:		
<b>Citizenship</b>									<b>Reporting country</b>		
Afghanistan	2 395	7 910	16 990	21 275	18 730	15 510	↓	-17	9.3%	Germany (58%)	
Pakistan	5 745	8 585	12 250	14 030	14 430	14 375	↔	- 0	8.6%	Greece (46%)	
Iraq	1 325	5 600	14 615	15 240	15 135	13 495	↓	-11	8.1%	Germany (56%)	
Nigeria	2 155	3 440	7 730	13 740	14 850	12 165	↓	-18	7.3%	Germany (48%)	
Albania	27 920	34 840	16 150	10 540	10 955	7 015	↓	-36	4.2%	Greece (40%)	
Georgia	3 630	3 910	4 830	6 235	11 050	6 850	↓	-38	4.1%	France (37%)	
Russia	5 690	5 915	7 705	6 875	6 975	6 540	↓	-6	3.9%	Germany (56%)	
Guinea	2 115	2 000	2 820	4 585	6 050	5 945	↔	-2	3.6%	France (54%)	
Bangladesh	3 985	4 410	5 880	6 655	6 975	5 750	↓	-18	3.4%	Greece (30%)	
Iran	1 115	1 485	3 060	4 250	5 175	5 125	↔	-1	3.1%	Germany (65%)	
Gambia	360	1 325	2 510	5 485	5 285	4 255	↓	-19	2.6%	Germany (59%)	
Turkey	2 105	1 555	2 325	3 035	4 200	4 160	↔	-1	2.5%	Germany (64%)	
Syria	920	1 270	2 275	2 005	2 240	4 155	↔	+85	2.5%	Greece (37%)	
Armenia	2 125	2 030	3 660	4 460	4 665	3 475	↓	-26	2.1%	Germany (63%)	
Somalia	1 870	1 945	2 370	3 155	3 385	3 165	↓	-6	1.9%	Germany (45%)	
Other	88 335	103 765	86 960	74 395	79 105	54 850	↓	-31	32.9%	Germany (31%)	
<b>EU+</b>	<b>151 790</b>	<b>189 985</b>	<b>192 130</b>	<b>195 960</b>	<b>209 205</b>	<b>166 830</b>		<b>- 20</b>		<b>Afghanistan (9%)</b>	

'-' Data not available

Source: Eurostat [migr\_asydcfina] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfina&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfina&lang=en)

Table 15: Resettled persons in EU+ countries by reporting country and main citizenship, 2015-2020

						2020		Share in EU+	Highest share	Sparkline
	2015	2016	2017	2018	2019	2020	% chg. over previous year			
<b>Reporting country</b>									<b>Citizenship</b>	
Sweden	1 850	2 155	3 410	4 950	5 005	<b>3 590</b>	↓ - 28	33.7%	Syria (29%)	
Germany	510	1 240	3 015	3 200	4 890	<b>1 685</b>	↓ - 66	15.8%	Syria (85%)	
Norway	2 375	3 290	2 815	2 480	2 795	<b>1 525</b>	↓ - 45	14.3%	Syria (65%)	
France	620	600	2 620	5 565	5 600	<b>1 340</b>	↓ - 76	12.6%	Syria (68%)	
Finland	1 005	945	1 090	605	890	<b>660</b>	↓ - 26	6.2%	Syria (42%)	
Switzerland	610	620	665	1 080	1 000	<b>615</b>	↓ - 39	5.8%	Syria (93%)	
Netherlands	450	695	2 265	1 225	1 875	<b>425</b>	↓ - 77	4.0%	Syria (61%)	
Italy	95	1 045	1 515	1 180	1 355	<b>350</b>	↓ - 74	3.3%	Syria (57%)	
Ireland	175	355	275	340	785	<b>195</b>	↓ - 75	1.8%	Syria (100%)	
Belgium	275	450	1 310	880	240	<b>175</b>	↓ - 27	1.6%	Syria (100%)	
Romania	0	0	45	0	75	<b>35</b>	↓ - 53	0.3%	Syria (100%)	
Denmark	450	310	5	0	0	<b>30</b>	n.a.	0.3%	Syria (100%)	
Luxembourg	45	50	180	0	35	<b>15</b>	↓ - 57	0.1%	Somalia (67%)	
Slovenia	0	0	0	35	0	<b>0</b>	n.a.	0.0%	n.a.	
Slovakia	0	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Greece	0	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Czechia	20	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Poland	0	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Malta	0	0	15	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Lithuania	5	25	60	20	0	<b>0</b>	n.a.	0.0%	n.a.	
Liechtenstein	20	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Bulgaria	0	0	0	20	65	<b>0</b>	↓ - 100	0.0%	n.a.	
Austria	760	200	380	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Croatia	0	0	40	110	100	<b>0</b>	↓ - 100	0.0%	n.a.	
Estonia	0	10	20	30	5	<b>0</b>	↓ - 100	0.0%	n.a.	
Latvia	0	5	40	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Cyprus	0	0	0	0	0	<b>0</b>	n.a.	0.0%	n.a.	
Iceland	15	55	45	50	75	:	:	:		
Spain	0	375	1 490	830	:	:	:	:		
Hungary	5	0	0	0	0	:	:	:		
Portugal	40	10	170	35	375	:	:	:		
<b>Citizenship</b>									<b>Reporting country</b>	
Syria	5 330	9 735	18 305	16 965	14 685	<b>6 115</b>	↓ - 58	57.5%	Germany (23%)	
Congo (DR)	990	610	775	1 530	1 970	<b>1 270</b>	↓ - 36	11.9%	Sweden (52%)	
Eritrea	305	590	625	1 320	1 580	<b>960</b>	↓ - 39	9.0%	Sweden (70%)	
Sudan	395	90	225	685	2 080	<b>690</b>	↓ - 67	6.5%	Sweden (50%)	
Somalia	490	250	135	235	1 155	<b>285</b>	↓ - 75	2.7%	Sweden (51%)	
South Sudan	10	15	40	140	750	<b>280</b>	↓ - 63	2.6%	Sweden (71%)	
Ethiopia	175	140	265	245	415	<b>205</b>	↓ - 51	1.9%	Sweden (93%)	
Afghanistan	745	475	280	305	395	<b>145</b>	↓ - 63	1.4%	Sweden (69%)	
Central African Republic	0	10	40	195	405	<b>110</b>	↓ - 73	1.0%	France (73%)	
Burundi	15	40	60	50	90	<b>95</b>	↑ + 6	0.9%	Sweden (79%)	
Palestine	20	20	80	25	15	<b>80</b>	↑ + 433	0.8%	Germany (81%)	
Turkey	0	10	20	35	20	<b>75</b>	↑ + 275	0.7%	Sweden (53%)	
Iraq	160	100	195	205	595	<b>45</b>	↓ - 92	0.4%	Germany (67%)	
Uganda	10	5	0	15	15	<b>45</b>	↑ + 200	0.4%	Sweden (89%)	
Unknown	55	10	80	105	270	<b>30</b>	↓ - 89	0.3%	Netherlands (83%)	
Other	630	340	340	580	725	<b>210</b>	↓ - 71	2.0%	Sweden (37%)	
<b>EU+</b>	<b>9 330</b>	<b>12 440</b>	<b>21 465</b>	<b>22 635</b>	<b>25 165</b>	<b>10 640</b>	↓ - 58		<b>Syria (57%)</b>	

': Data not available

Source: Eurostat [migr\_asyresa] as of 28 April 2021, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyresa&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyresa&lang=en)

## EASO Asylum Report 2021

As the go-to source of information on international protection in Europe, the *EASO Asylum Report 2021* provides a comprehensive overview of key developments in asylum in 2020.

The European Asylum Support Office (EASO), a centre of expertise on asylum, collates information on all aspects of the Common European Asylum System. To this end, the report outlines changes to policies, shares best practices and summarises challenges which persist. It presents trends in asylum, key indicators for the reference year 2020 and a dedicated section on children and applicants with special needs. Examples of case law are featured to showcase how courts interpret and apply European and national laws in the context of the EU asylum *acquis*. In addition, the asylum procedure is described step by step – from access to resettlement – to understand how countries have reacted to changing migratory patterns.

The *EASO Asylum Report 2021* draws on information from a wide range of sources – including perspectives from national authorities, EU institutions, international organisations, civil society organisations and academia – to provide a complete picture with diverse perspectives. The report, covering 1 January to 31 December 2020, serves as a reference for the latest developments in international protection in Europe.

<https://easo.europa.eu/asylum-report>

ISBN 978-92-9465-049-8

