

Asylum in Europe: the situation of applicants for international protection in 2022

The [Asylum information Database \(AIDA\)](#) is a database managed by the European Council on Refugees and Exiles (ECRE) containing detailed information on asylum procedures, reception conditions, detention, and the content of international protection in 23 European countries. The country reports are written by national experts in cooperation with a variety of stakeholders, ranging from civil society organisations and lawyers to national authorities. The reports are edited and verified by ECRE. The database is widely used by European and national policy makers, legal practitioners, and courts.

This briefing provides an overview of key trends in asylum in Europe in 2022 as documented in AIDA.¹ It demonstrates that, while asylum systems are in place and functioning across Europe, the rights of people in need of international protection are still regularly violated and significant gaps in national asylum systems continue to be reported. This is despite the positive response of states to the displacement from Ukraine, which created additional challenges but also demonstrated that management of large-scale displacement is possible.² For the asylum system as a whole, access to asylum remains a particular concern, as does the quality and length of asylum procedures. Reception systems came under pressure in an increasing number of countries, often due to a lack of sufficiently robust contingency planning, and detention of asylum applicants remained commonplace, rather than being a limited exception.

1. Another annual increase in the number of asylum applications

The number of asylum applications in the EU and associated countries (EU+) rose by over 50% in 2022 compared to 2021. The reasons for the increase lie both in the lifting of pandemic travel restrictions in 2022 and in global developments which generated additional displacement, notably the worsening security and human rights situation in Afghanistan following the Taliban takeover in August 2021 and the continuing crisis in Syria. The full-scale invasion of Ukraine launched by Russia in February 2022 did not significantly affect asylum applications, given the EU's rapid activation of the Temporary Protection Directive (TPD) which created a temporary protection regime for most of those fleeing Ukraine. Afghanistan, Syria, Venezuela, and Türkiye were the main countries of origin of first-time applicants in Europe in 2022.³

According to Eurostat, 965,665 people applied for international protection in 2022 in EU member states,⁴ of which 884,630 were first-time applicants and 76,270 were subsequent applications. The number of first-time applicants rose by 48.8% compared to 2021. However, neither first-time applicants nor total applicants reached the numbers recorded in 2015.

Most countries in the AIDA database witnessed similar increases in arrivals and asylum applications:⁵ in eight countries there was an increase of over 50% compared to 2021. The most significant increases were noted in Ireland (415% increase compared to 2021, from 2,650 applications in 2021 to 13,660 in 2022), Croatia (339% increase), and Austria (181% increase with 112,000 applicants, however 42,000

¹ Information presented in this overview was extracted and compiled from the 2022 Updates to the AIDA Country Reports, where further information, details and sources can be found, see: <https://bit.ly/3o6UqgG>.

² All AIDA updates on the year 2022 included annexes focusing on the country's implementation of temporary protection or similar national regimes. They are available together [here](#). However, this overview focuses on key developments regarding international protection and will not cover key trends regarding the implementation of temporary protection.

³ Eurostat, 'Annual asylum statistics', based on data from 15 March 2023, available at: <https://bit.ly/3NTsWYj>.

⁴ Ibid.

⁵ Eurostat, 'Asylum applicants by type of applicant, citizenship, age and sex - annual aggregated data', data as of 12 July 2023, available at: <https://bit.ly/3PWEAEO>.

discontinued applications were also registered). Germany and France saw significant increases in absolute numbers with respectively 50,000 and 35,000 additional new applications compared to 2021, however, this translates into an increase of approximately 30% in each case given the large number of applicants they register in any given year.

Of the countries in the database, only Malta experienced a decrease in asylum applications in 2022. The significant decline in arrivals may be attributed to Malta's policies and practices at its borders, including its reluctance to carry out rescues at sea. As demonstrated in the report, more than 7,000 people in distress at sea are reported to have been ignored by the authorities and Malta was accused of being directly involved in at least 14 "pushback" incidents. In Hungary, the number of asylum applicants remained almost the same with 44 applicants in 2022 compared to 38 in 2021, extremely low numbers compared to other countries which may be attributed to the lack of access to an asylum procedure for those present in Hungary. The so-called embassy procedure was operating in 2022; it was ruled illegal by the Court of Justice of the EU (CJEU) in June 2023.⁶ Overall, the number of applications under-represents the number of persons attempting to access protection in Europe – and the need for international protection – given well-documented practices of denying access to territory and/or to an asylum procedure, especially at the EU external borders.

The death toll on the Mediterranean routes decreased by almost 25% compared to 2021 with 2,439 people registered dead or missing by UNHCR. However, this number is likely to rise again in 2023, given that 1,872 people have already been reported dead or missing in the first 6 months of the year.⁷

2. Denied access to the territory and to asylum

As in previous years, access to asylum remained a cause for serious concern in 2022. Across Europe, unlawful border practices and failures to provide assistance to people in distress at sea were reported, hindering the possibility to access protection in Europe for people in need and, in numerous instances, also putting their lives at risk.⁸ Such practices were reported in more than half the countries covered by AIDA, namely Bulgaria, Cyprus, Spain, France, Greece, Croatia, Hungary, Italy, Malta, Poland, Romania, Slovenia, Serbia, Türkiye, and the UK. The array of measures used by national authorities includes direct pushbacks at land or sea borders, often accompanied by violent and humiliating practices; informal readmission agreements; denial of access to the territory and/or to the asylum procedure; and the temporary reintroduction of border controls. These measures affect thousands of people in need of protection and violate the right to asylum and the principle of *non-refoulement*, as enshrined in EU and international law. The scale and normalisation of such practices continued to increase despite global condemnation. In April 2022, the UN Special Rapporteur on the human rights of migrants stated that "pushbacks remain the de facto general policy in many States."⁹ These policies

⁶ CJEU, *European Commission v. Hungary*, C-823/21, 23 June 2023, available at: <https://bit.ly/3XPbl8x>.

⁷ UNHCR, 'Operational data portal: Mediterranean situation', data as of 9 July 2023, available at: <https://bit.ly/44N4FKD>.

⁸ Council of Europe, 'Anti-torture committee calls on European governments to put an end to pushbacks and prevent ill-treatment of foreign nationals at borders', 30 March 2023, available at: <https://bit.ly/3XPnmuG>; Council of Europe, *Pushed beyond the limits. Four areas for urgent action to end human rights violations at Europe's borders*, 7 April 2022, available at: <https://bit.ly/3JXMKsG>; 11.11.11, 'Over 200,000 illegal pushbacks at EU's external borders in 2022', 22 March 2023, available at: <https://bit.ly/46JWJLQ>; DRC, *Protecting Rights at Borders: Beaten, punished and pushed back*, 27 January 2023, available at: <https://bit.ly/3oepoXU>.

⁹ *Human rights violations at international borders: trends, prevention and accountability*, available at: <https://bit.ly/3MMVslP>, 1. Several actors renewed their expressions of concerns regarding pushback cases in 2023. See, *inter alia*: Council of Europe, 'Anti-torture committee calls on European governments to put an end to pushbacks and prevent ill-treatment of foreign nationals at borders', 30 March 2023, available at: <https://bit.ly/3XPnmuG>; Members of Parliament strongly criticised the Commission's inaction over alleged pushbacks in Greece, see ECRE 'Greece: MEPs Confront Commission Officials over Pushbacks, People on the Move Again Caught in the Stand-off with Türkiye in the Evros Region', 9 June 2023, available at:

stand in stark contrast to the response to displacement from Ukraine, for which personnel, including at the borders, was mobilised and trained, and limited cases of denial of access to the territory or to protection procedures were reported.¹⁰

In 2022, pushbacks continued to be systematically reported in Greece, at both land and sea borders, and were criticised by multiple international monitoring mechanisms. In July 2022, the European Court of Human Rights (ECtHR) once again found Greece had violated Articles 2 and 3 of the European Convention on Human Rights (ECHR), in a case concerning a shipwreck.¹¹ Evidence of boats being pushed back at sea and/or of a lack of response to boats in distress was also documented in Italy, Malta, Cyprus, and Spain. In the latter, access at the Ceuta and Melilla border points continued to be severely hindered, with worrying accounts of the use of violence by the police. In January 2023, Italy introduced new rules hindering NGO Search and Rescue (SAR), including restricting docking in Italy.

Unlawful border practices continued to be registered along the Balkan route. In Bulgaria, the national border monitoring mechanism registered a record of 5,268 alleged pushback incidents affecting 87,647 individuals in 2022, almost double the number registered in 2021; 3,461 people were reported to have been pushed back from Croatia to Bosnia and Herzegovina and 289 people from Croatia to Serbia; 27,524 people were prevented from entering Romania from Serbia; 158,565 people were pushed back to Serbia from Hungary, more than double the 2021 number, despite a new condemnation from the ECtHR in September.¹² An increase in injuries and fatalities was reported in the vicinity of the Poland-Belarus border, as well as an escalation of violence from the Polish Border Guard. Access to the territory and to asylum at the Polish border was also addressed by the ECtHR, which granted almost 100 interim measures against Poland in relation to returns to Belarus between October 2021 and December 2022.¹³

Refusals of entry without a proper assessment of protection needs were also recorded at the French, Spanish and Italian internal borders and in Italy's Adriatic ports. In France, 72,581 formal decisions refusing entry at borders with other EU states were reported by the interior ministry in the first ten months of 2022.

A positive development was registered in Austria, however, where, following an appeal procedure upholding¹⁴ the 2021 domestic judgment on the illegality of pushbacks, there were no reports of pushbacks by the authorities on Austrian territory in 2022.

In addition to such practices, some countries introduced or maintained controversial legislation which prevents or hinders access to asylum. Hungary's embassy procedure establishes that no one can access the asylum procedure without having been authorised to enter the country by one of two designated Hungarian embassies. Authorisation is rarely granted by the national authorities (only four people were granted entry in 2022), despite various domestic judgments finding rejections of declarations of intent to enter the territory to be insufficiently reasoned. In June 2023, the CJEU ruled that the embassy procedure is not in conformity with EU law.¹⁵ The United Kingdom's agreement with Rwanda and the 2022 Nationality and Borders Act seek to outsource the processing of asylum claims

<https://bit.ly/3qqFSgk>; European Parliament, 'Frontex: MEPs refuse to discharge EU border agency over its management in 2020', 18 October 2022, available at: <https://bit.ly/3Q1P719>; concerns regarding pushbacks are also expressed by several UN monitoring bodies in their review of countries, such as the UN Committee on Enforced Disappearances' 2022 report on Greece available [here](#) and the UN Committee on the Rights of Children's latest report on Türkiye, available [here](#).

¹⁰ See AIDA, *AIDA Temporary Protection Compilation*, June 2022, available at: <https://bit.ly/3pPUIqr>.

¹¹ ECtHR, *Safi and others v. Greece*, 5418/15, 7 July 2022, available at: <https://bit.ly/45oTicG>.

¹² ECtHR, *H.K. v. Hungary*, 18531/17, 22 September 2022, available at: <https://bit.ly/43ousYf>.

¹³ HFHR, Legal brief on judgements in cases involving expedited returns of migrants to Belarus, December 2022, available (EN) at: <https://bit.ly/3L2vWAZ>.

¹⁴ VwGH Ra 2021/21/0274-6, 5 May 2022; VwGH Ra 2022/21/0074-6, 19 May 2022 available in German at: <https://bit.ly/3miz1nc>.

¹⁵ CJEU, *European Commission v. Hungary*, C-823/21, 23 June 2023, available at: <https://bit.ly/3XPbl8x>.

of most potential asylum applicants in the UK by physically transferring the people affected to Rwanda. No transfer has yet been implemented due to legal challenges, the latest result of which is the Court of Appeal's June 2023 ruling that deems the scheme unlawful as Rwanda is not safe for asylum seekers.¹⁶

Even after securing access to the territory, people often faced obstacles to accessing the asylum procedure. In the countries covered, people in need of protection faced serious delays in obtaining appointments for registration in Belgium, Cyprus, Greece, Italy the Netherlands, Spain, and the UK. In Türkiye, registration was reported as being “almost impossible” in numerous places.

Significant progress was highlighted in Bulgaria, however, in the cases of “self-reported asylum seekers” who were allowed to register without being arrested or detained, in contrast to the practice of previous years. A positive development was also registered in Slovenia where people denied re-entry to Croatia (due to the Croatian authorities' refusal to implement the readmission agreement between the countries) were able to access the asylum procedure.

3. Safe routes to Europe are not a priority

In 2022, governments remained reluctant to expand the possibilities for people in need of protection to reach Europe in a safe and organised manner.¹⁷ According to Eurostat, the EU Member States failed to meet their resettlement goal (of 20,000 people) with 17,335 people resettled in 2022.¹⁸ Resettlement was suspended due to the reception crises in Belgium and Switzerland and certain EU countries did not resettle anyone in 2022, including Austria, Bulgaria, Cyprus, Croatia, Greece, Hungary, Malta, Poland, and Slovenia.

In contrast, in the Netherlands, resettlement more than tripled in comparison to 2021, with 1,405 people resettled. In addition, in Spain particular efforts were noted concerning the successful integration of resettled people, especially as regards language acquisition, access to employment, and local inclusion. At the political level, it remains to be seen what will come of the Union Resettlement Framework on which an agreement was reached at the end of 2022.¹⁹

Of the countries in the database, only Germany, France, Croatia, and Portugal reported having contributed to intra-EU relocations in 2022. Only 435 persons had been relocated under the Solidarity Declaration as of February 2023,²⁰ compared to the target of 8000 by June 2023.

Other safe pathways to Europe include humanitarian visas (Belgium, Switzerland), community sponsorship programmes (Ireland), and humanitarian admission programmes (Germany, Italy). However, the number of people eligible and then admitted to Europe under such schemes remained modest, especially when compared to the number of people in need of protection and the increased denial of access at borders. The targeted efforts to provide pathways and evacuation for people from Afghanistan continued in some countries, mainly France, Ireland, Italy, the Netherlands, the UK, and Germany. In the latter, a new humanitarian admission programme has been criticised in relation to its scope, selection criteria, and the lack of information on and during the procedure.

¹⁶ Court of Appeal, *AAA and others v. The Secretary of State for the Home Department*, [2023] EWCA Civ 745, 29 June 2023, available at: <https://bit.ly/3XU4Npm>.

¹⁷ ECRE previously commented on the absence of legal channels for refugees to reach Europe. See ECRE, *Protection in Europe: Safe and Legal Access Channels*, February 2017, available at: <https://bit.ly/3yeSBo0>.

¹⁸ Eurostat, 'Resettled persons by age, sex and citizenship - annual data', data as of 12 July 2023, available at: <https://bit.ly/3OcMbNX>.

¹⁹ European Parliament, 'EU resettlement framework In "Promoting our European Way of Life"', available at: <https://bit.ly/44KwiE8>.

²⁰ Euronews, 'Only 435 asylum-seekers have been relocated across the EU since June under a new voluntary scheme', 8 February 2023, available at: <https://bit.ly/3OdFQ4Q>.

Lastly, in more than half the countries covered, serious problems continued to be reported regarding family reunification,²¹ a key safe pathway to Europe. Procedures continued to experience serious delays at all stages and remained extremely complex to navigate, even with NGO or legal assistance. While Germany and Sweden adapted their restrictive national policies in response to court rulings²² on the personal scope of family reunification, beneficiaries of subsidiary protection still cannot access family reunification in Cyprus, Germany,²³ Greece, and Malta, and face more restrictive procedures in Austria, Hungary, Slovenia, Switzerland, and Türkiye. The Swiss Federal Administrative Court opened limited exceptions to the three-year waiting period applied to people with temporary admission statuses.²⁴ Lastly, the Dutch government suspended family reunification, highlighting the reception crisis as a reason; however, this was ruled illegal by domestic courts.²⁵

4. High recognition rates demonstrate protection needs

According to Eurostat, in 2022,²⁶ EU Member States took a total of 632,430 first instance decisions on international protection applications. In 310,470 of these decisions the person was granted a form of international or national protection, corresponding to a 49.09% protection rate at first instance. This is an increase of more than 10 percent compared to 2021. Even excluding humanitarian protection statuses, which are granted at national level at the discretion of the member state, the protection rate stood at 38.68% at first instance. Refugee status continued to be the main form of protection granted, followed by subsidiary protection and then humanitarian protection, which accounted for 21.21% of all positive decisions (an increase from 13.90% in 2021).

A further 218,280 decisions were delivered upon appeal or review²⁷ by EU member states. Of these second or later instance decisions, in 33.83% of cases, first instance decisions were overturned in favour of the applicant with the granting of international or national protection. In Austria for example, over half (55%) of first instance decisions challenged before the courts were annulled or amended, confirming the steady national increase in overturning first instance decisions. As has been the case for many years, it seems likely that most people seeking protection in Europe do have protection needs, with nearly half being granted a protection status at first instance and over one-third of cases on appeal or review resulting in the granting of protection (it should be noted that these are largely different caseloads given the time lag between first and second instance).

Problems in appeal and review processes were reported in several countries, including Cyprus, France, Greece, Malta, Poland, Slovenia, Serbia, and Switzerland. Procedural problems affecting the effectiveness of the appeal and review, were again reported in Cyprus despite an update to the rules of the court system in 2022. In Greece, Serbia, and Switzerland procedures were strongly criticised by a UN Committee Against Torture decision in December 2022.²⁸ Issues linked to the independence and

²¹ For a detailed overview of the current situation see AIDA, *Not there yet: Family reunification for beneficiaries of international protection*, February 2023, available at: <https://bit.ly/3ld6UOq>.

²² CJEU, Joined Cases C-273/20 and C-355/20, Judgement of 1 August 2022, available at: <http://bit.ly/42CZDjh> and Swedish Migration Court of Appeal, 8 December 2022, MIG 2022:11, available in Swedish at: <https://bit.ly/3WAhx2c>.

²³ Germany introduced a separate provision for the admission of families of beneficiaries of subsidiary protection on humanitarian grounds.

²⁴ Federal Administrative Court, Decision F-2739/2022, 22 November 2022 (in French): <https://bit.ly/3PYPvf1>.

²⁵ Ultimately: Council of State, 8 February 2023, ECLI:NL:RVS:2023:506, ECLI:NL:RVS:2023:507 and ECLI:NL:RVS:2023:508, available in Dutch at: <https://bit.ly/3PWF39H>.

²⁶ Eurostat, 'First instance decisions on applications by citizenship, age and sex - annual aggregated data', data as of 10 July 2023, available at: <https://bit.ly/3rlMEEx>.

²⁷ Eurostat, 'Final decisions in appeal or review on applications by citizenship, age and sex - annual data', data as of 10 July 2023, available at: <https://bit.ly/3OmxRTr>.

²⁸ Committee Against Torture, *B.T.M.*, 9 December 2022, CAT/C/75/D/972/2019, available in French at: <https://bit.ly/3XrB5XA>.

to the appropriate power of courts remain unresolved in Malta and Poland respectively.²⁹ In addition, access to (quality) legal representation was difficult in Cyprus, Malta, Slovenia, Serbia, Portugal, Romania, and the UK.

Conversely, a reform in Germany broadened the scope of the review carried out by the Federal Administrative Court, which is now able to adjudicate on the facts of the case in addition to points of law. In Croatia, judges from several courts benefited from training financially supported by UNHCR over the course of 2022.

As mentioned above, although it is difficult to calculate an annual overall protection rate because in any given year the decisions at first and second instance represent different caseloads, the figures suggest that most people arriving in Europe are found to have protection needs, with nearly 50% recognised as in need of protection at first instance and one third of challenged negative decisions overturned on appeal. Nonetheless, it is likely that these official still figures underrepresent actual protection needs.

First, figures do not account for the protection needs of applicants who receive negative decisions at first instance but who are unable to access an effective remedy, for example due to difficulties in accessing legal assistance (see below).

Second, as ECRE has documented extensively,³⁰ a person's chance of obtaining protection in the EU varies dramatically depending on the country examining their claim. There are no convincing objective explanations for such divergences, which suggests that in some countries decision-making may be marred by gaps in quality. For instance, although the overall protection rate of Afghan³¹ nationals in the EU remained high at 84.96% at first instance (including humanitarian protection statuses, otherwise the rate drops to 52.77%), wide variations can be observed at the national level: the protection rate of Afghans was only 27.87% in Romania, for instance. Similarly, the EU-wide protection rate (including humanitarian protection) for Iraqi nationals was 35.23%, but subject to wide discrepancies: with similar caseloads in terms of total decisions, protection rates at first instance ranged from 17% in Sweden to 85% in Italy. The situation was similar for Syrian nationals, where previously more consistency has been demonstrated, for whom – despite an EU-wide protection rate of 94% at first instance – protection rates in countries with similar caseloads ranged from 55% in Malta to 100% in Cyprus.³²

Another factor that may be contributing to under-representation of protection needs in Eurostat data is that inadmissibility decisions are published with in-merit negative decisions, even though the former do not usually include an assessment of protection needs. For example, inadmissibility decisions may be issued to persons who benefit from international protection in another member state: 4,253 such decisions were taken in Belgium in 2022 out of 13,041 total negative decisions.³³ In Germany, 50,880 cases³⁴ (22.3% of all decisions) ended with “formal decisions”, whereby the case is closed without an examination on the substance. In parallel, Greece continued to heavily rely on the application of the

²⁹ These issues are highlighted by the European Commission's rule of law 2023 reports available here: <https://bit.ly/44B7tLe>.

³⁰ ECRE, *Asylum statistics and the need for protection in Europe*, December 2022, available at: <https://bit.ly/3XNUUnYm>; ECRE, *Asylum statistics in Europe: Factsheet*, June 2020, available at: <https://bit.ly/3XQUAKj>.

³¹ See also Ciaran King (Commissioned by ECRE), *Assessing Legal Grounds for Protecting Afghan Asylum Seekers in Europe*, March 2023, available at: <https://bit.ly/3rqtXja>; ECRE, *Afghans Seeking Protection in Europe*, December 2021, available at: <https://bit.ly/3o0PKJ6>; ECRE, *EU Support to Afghanistan: Scoring High on Humanitarian Assistance and Low on Protection in Europe?*, December 2021, available at: <https://bit.ly/3PSXEna>.

³² All calculations are based on Eurostat data: 'First instance decisions on applications by citizenship, age and sex - annual aggregated data', data as of 10 July 2023, available at: <https://bit.ly/3riMEEEx>.

³³ CGRS, *Figures*, available in English, Dutch and French at: <https://bit.ly/3uk6M9L>.

³⁴ BAMF, *Aktuelle Zahlen*, December 2022, available in German at <https://bit.ly/3TDLUEZ>.

safe third country concept in relation to Türkiye as a ground for rejection of applications as inadmissible. In 2022, 6,105 inadmissibility decisions were issued involving application of Joint Ministerial Decision 42799/2021, despite the fact that no readmissions to Türkiye have taken place since March 2020.³⁵

5. Inadequate procedural safeguards

The denial of procedural guarantees continued to be a concern in 2022, even though they are required by law and essential to ensuring fair and balanced procedures and thus protection from *refoulement*.

Most countries covered by AIDA still do not provide state-funded legal assistance during first instance procedures, meaning applicants have to rely on NGOs and funded projects which, due to limited capacity, are often far from able to meet the needs of all those seeking protection. Croatia, France, and Romania use AMIF funds to enable NGOs to deliver legal assistance, with mixed results capacity-wise, depending on the country.

In December 2022, the Constitutional Court announced it would examine Austria's shift from NGO to state-run legal assistance at first and second instance to assess whether it presents sufficient guarantees of independence.³⁶ Conversely, in Germany, the government back-tracked from the 2019 shift to state-run first instance legal assistance: as of 2023, first instance legal assistance will be once again delivered by NGOs. The scope of legal counselling was also expanded to encompass advice on legal remedies against asylum decisions. In Spain, both the government and various bar associations have made proactive efforts to improve access to first instance legal assistance through partnerships with UNHCR, with positive results in terms of the number of people assisted.

Legal aid at second instance continues to suffer from a lack of resources in many countries, leading to either an insufficient number of legal counsellors available or to concerns about the quality of the assistance provided, partly due to the low compensation offered by the national authorities. Moreover, statistics show that in several countries – Cyprus, Greece, Poland, Romania, and the UK – even when foreseen by the law, legal aid at second instance remains difficult to access in practice, either due to stringent “means and merits” tests, or for practical reasons such as applicants not receiving a written first instance decision in Greece. Access to legal aid while seeking asylum in detention was particularly challenging in Malta, where the ECtHR found a violation of Articles 3 and 13 ECHR due to the numerous shortcomings of the asylum procedure.³⁷

These issues are compounded by shortcomings reported regarding information provision, particularly at the border and in detention, as reported in Bulgaria, Cyprus, France, Greece, Hungary, Italy, Malta, Poland, and Romania. In such cases, people rely largely on NGO information and poor information provision affects the ability to effectively exercise the right to a remedy. In Cyprus, NGOs highlight that the EUAA support with information provision in reception is welcome but does not compensate for the overall lack of information on the procedure. NGOs may struggle to have access to asylum applicants, particularly at the border and in detention. In Hungary, NGOs are still banned from accessing detention centres. In Malta detained migrants and asylum applicants have very limited access to NGOs or UNHCR. In Poland, restrictions on NGO access to the Belarusian border were lifted in June 2022, but accessing the immediate proximity of the border fence remains impossible.³⁸

³⁵ MoMA, Reply of the Ministry to the Greek Parliament, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, 12.

³⁶ Constitutional Court (VfGH), Decision on Initiating Examination on certain rules of BBU-ErrichtungsG and BFA-VerfahrensG, E 3608/2021, 13 December 2022, available in German at: <https://bit.ly/42ehtYX>.

³⁷ ECtHR, *S.H. v. Malta*, 37241/21, 20 December 2022, available at: <https://bit.ly/3NXzTYK>.

³⁸ For further information about access to asylum in Poland see also AIDA, *Seeking refuge in Poland: A fact-finding report on access to asylum and reception conditions for asylum seekers*, April 2023, available at: <https://bit.ly/3NOLGby>.

In some countries the provision of information and assistance by NGOs is hindered by cases of criminalisation of solidarity.³⁹ In Greece, NGOs working on human rights and asylum face an extremely hostile environment, this includes official criminal charges filed against founders of two human rights NGOs due to their activities on asylum and migration matters. In Hungary, the amendments to the “Stop Soros” bill fall short of the requirements of EU law in the opinion of NGOs: the bill still jeopardises attorney-client privilege and, in the case of non-attorney helpers, forces them to sacrifice the applicant’s best interests in order to protect themselves from potential prosecution.

6. Shortcomings in the protection of unaccompanied children

According to Eurostat,⁴⁰ 39,520 unaccompanied children applied for asylum in the EU in 2022, the highest number since 2016. Unaccompanied asylum-seeking children faced a range of challenges.

Shortcomings in age assessment practices⁴¹ were reported in Ireland, Italy, and Sweden. In Italy, a report published in 2022 highlighted that the relevant legislation is still not adequately implemented, in part due to regionalised healthcare which leads to variances in the quality of assessments. In Ireland, NGOs expressed concern at the fact that the Child and Family Agency still lacked a national policy on the matter. In Sweden, in December 2022 the new government decided to discontinue the National Board of Forensic Medicine’s inquiry on medical methodology for age assessment procedures, even though it had produced interim publications and was supposed to publish final findings by May 2024.

Problems with guardianship were highlighted in various countries in 2022, mainly in Belgium, Cyprus, Croatia, Italy, Malta, Poland, and Romania. In Belgium, Cyprus, Italy, and Romania there is an insufficient number of guardians, leaving unaccompanied children either without a guardian for long periods of time – between 4 and 8 months in Belgium – or under the legal responsibility of an overburdened guardian who thus cannot adequately fulfil their duties – in Galați, Romania, one legal representative was appointed for the 60 unaccompanied children present in 2022. In Malta and Poland, designation of guardians was delayed without justification, which in Poland ultimately resulted in the return of a child apprehended at the border to Belarus, a situation punished by a domestic court.⁴² In the UK, several children were kept under the Home Office’s care, leaving them outside the framework of child protection legislation.

Unaccompanied children were also particularly affected by the substantial shortcomings in reception reported in 2022 (see below), especially in Austria, Belgium, Bulgaria, Cyprus, Greece, the Netherlands, Slovenia, Switzerland, and the UK. In Bulgaria and Slovenia, capacity in dedicated facilities proved insufficient, leading unaccompanied children to be housed with adults without proper support and guarantees concerning their personal safety. In Greece, the waiting period for unaccompanied children in Closed Control Access Centres on the islands to be transferred to shelters was reported to have increased to an average of two months, making concerns about the prison-like environment of such centres all the more relevant. In the Netherlands, the emergency facility in Ter Apel had capacity for 55

³⁹ See among others: GCR, *at Europe’s Borders: Between Impunity and Criminalization*, March 2023, available at: <https://bit.ly/3opKToW>; HHC, *Criminalisation continues – Hungary fails to implement CJEU judgment*, 21 December 2022, <https://bit.ly/3QVDAPx>; European Commission, *2023 Rule of Law Report – Greece*, 5 July 2023, available at: <https://bit.ly/44mzbex>, 29; UN Special Rapporteur on the situation of human rights defenders, ‘Greece: Migration policy having “suffocating effect” on human rights defenders’ 22 June 2022, available at: <https://bit.ly/3PRsi07>.

⁴⁰ Eurostat, ‘Asylum applicants considered to be unaccompanied minors by citizenship, age and sex - annual data’, data as of 10 July 2023, available at: <https://bit.ly/44JTX71>.

⁴¹ See also, ECRE, *Age Assessment in Europe: Applying European and International Legal Standards at all Stages of Age Assessment Procedures*, January 2023, available at: <https://bit.ly/3rs7mCU>.

⁴² Voivodship Administrative Court in Białystok, Judgment no II SA/Bk 558/22 of 27 October 2022, see the judgement and comments from the Ombudsman: <https://bit.ly/40Hvxso>.

unaccompanied children yet at times housed 200 to 300 children, left to sleep on the floor or chairs without access to sanitary facilities. In Switzerland, the National Commission for the Prevention of Torture expressed concerns regarding the situation of unaccompanied minors, who had been left without personalised support since early 2022.

However, there are also good practices to highlight concerning safeguarding of unaccompanied children. In Austria, unaccompanied children were exempt from the longer registration procedure introduced in August due to increased arrivals. In Belgium, the Council of State suspended the execution of new provisions which would have led to unaccompanied children being interviewed on the substance of their claim without their guardian present. In Bulgaria, the asylum authority developed several good practices over 2022 and the beginning of 2023: the asylum interview form was adapted to the needs of minors, including those unaccompanied; timely provision of information to unaccompanied minors regarding their legal representation significantly improved; and the authority now actively seeks to place unaccompanied minors in licensed family-type children's centres. Reception for unaccompanied minors also improved in Malta.

7. “Reception crises” and lack of adequate reception: the new normal?

Due to a lack of capacity, a growing number of countries reported facing reception crises in 2022. That was the case in Austria, Belgium, Bulgaria, Cyprus, France, Germany, Italy, Ireland, the Netherlands, Slovenia, Switzerland, the UK, and Türkiye. As a consequence, some people were unable to access any form of accommodation or were accommodated in substandard conditions in emergency centres. In Belgium, Cyprus, Ireland, and the Netherlands, reception crises started in 2021. In France, a lack of capacity has been a systemic issue for several years. Despite the longstanding nature of these problems, in 2022, countries still managed the situation in a short-term crisis mode instead of seeking more durable solutions such as long-term investment, which may mean that the problems persist.

In Belgium, Cyprus, France, Ireland, and Italy, people were denied access to accommodation for various reasons. In Cyprus, Belgium, and Ireland, people were left without access to accommodation upon arrival for several weeks or in some cases for months due to capacity issues. In France, at least 80,000 of approximately 180,000 asylum seekers were not accommodated by the state as of December 2022, including many people channelled into Dublin procedures. In Italy, the new Decree Law of May 2023 excludes non-vulnerable asylum applicants from most of the accommodation system. In Belgium and the Netherlands, large-scale court proceedings saw both states sanctioned for not ensuring access to proper reception.⁴³ Such practices force people into situations of homelessness and destitution and, as a consequence, asylum applicants and those wishing to present an asylum request continued to live in informal camps or to sleep in front of registration offices in the hope of being able to access facilities, as occurred in Cyprus and the Netherlands.

In contrast, in Spain, although asylum applicants faced problems in accessing reception due to struggling to register asylum applications, conditions reported in reception centres (often managed by NGOs) appear to be satisfactory, and in 2022 the government allocated additional funding to reception.

Some countries, including Austria, Germany, Ireland, the Netherlands, Switzerland, and the UK, increasingly relied on emergency accommodation facilities to mitigate the shortage of reception places, but these generally offered sub-standard living conditions. Facilities such as tents, sport halls, (ex)military premises, or repurposed buildings raised concerns about respect for basic needs – in

⁴³ For example regarding Belgium: Court of First Instance of Brussels, 25 March 2022, available in French at: <https://bit.ly/3rvBzAQ>; regarding the Netherlands: District Court of the Hague, 6 October 2022, C/09/633760 KG SA 22-733, available in Dutch at: <https://bit.ly/3OdSC3A>. See also regarding Belgium' non-compliance with the rulings: European Commission, *2023 Rule of Law Report – Belgium*, 5 July 2023, available at: <https://bit.ly/3rvok3q>, 25.

Ireland, applicants were forced to sleep on the floor of the emergency facility or on chairs for periods of up to 6 weeks – protection from adverse weather conditions, privacy, and security.

Poor living conditions were also reported in permanent accommodation facilities in many countries, including in Bulgaria, Cyprus, Germany, Greece, Serbia, Slovenia, and the UK, concerning *inter alia* hygiene, remoteness, weather conditions and lack of heating or air conditioning, quantity and quality of food and water, and security concerns, notably regarding sexual and gender-based violence. Centres in several countries need structural renovations: in Bulgaria, after reassessment in December 2022, the authorities reported that 1,228 out of 5,160 places were structurally unfit for living, and basic services and products such as hygiene, medical supplies, food, etc., were in some cases only ensured through donations. Overcrowding was also a significant issue notably in Cyprus, Germany, and Slovenia. In Slovenia, the Ombudsman highlighted that the reception conditions were particularly concerning and could constitute violations of the rights to personal dignity, privacy, and personal security. On the other hand, renovation of the Kutina reception centre in Croatia was completed, allowing the centre to now house 140 applicants; and hygienic conditions had improved in two reception centres in Romania, although they remained inadequate in other centres.

While taking stock of the afore-mentioned shortcomings, it should be noted that marked improvements were observed in some countries with regard to access to the labour market for asylum seekers. In Portugal, an amendment to the Asylum Act of August 2022 now grants asylum applicants the right to work from the moment of their application for international protection, and they benefit from (general) employment and vocational training support measures and programmes. In Romania, it is reported that in 2022 asylum applicants did not face obstacles in finding jobs thanks to adequate information provision. In Sweden, where asylum applicants may work immediately under certain conditions, 7,499 people were granted the right to seek work in 2022 (the country registered 16,734 new applicants for asylum in 2022). In the Netherlands, a report has been requested by the relevant ministry to explore legal and practical barriers for asylum applicants to access the labour market, given the labour shortages in some sectors in the country. Finally, Serbia is examining amendments in parliament to shorten the time limit for the issuance of work permits for asylum seekers. In other countries, obstacles remain, including waiting times, administrative procedures, languages barriers, and so on.

8. Widespread use of detention with limited access to safeguards

Despite strict EU law requirements regarding the use of detention as a measure of last resort, detention of asylum applicants and irregular migrants continued to be a widespread practice in European countries in 2022, combined with limited use of alternatives to detention, and inadequate detention conditions, issues all compounded by the lack of effective access to appropriate legal remedies.

Belgium, Serbia, and France continued to systematically detain newly arrived asylum seekers at airports. In France people were also systematically detained at the land border between Italy and France without the issuing of formal detention orders. Similarly, Malta renewed its policy of systematic detention of newly arrived asylum seekers with no effective oversight. In Greece, applicants and rejected asylum seekers continued to be subject to systematic detention with a view to return to Türkiye, despite the fact there have been no readmissions since 2020 and disregarding at least 21 court decisions by at least four different courts highlighting the lack of a legal basis for detention in the absence of an actual prospect of removal. Applicants having booked a registration appointment also continued to be at risk of arrest and detention. The UK detained an increasing number of asylum applicants in view of removal to Rwanda, despite no removal having been carried out: asylum seekers represented 70% (14,227) of all immigration detainees in the United Kingdom. In parallel, alternatives to detention continue to be insufficiently applied if at all, being notably absent in Cyprus, Malta, Slovenia, and Serbia.

Several countries' detention policies were condemned by international bodies. The detention of children in Belgium and France was condemned respectively by the UN Committee on the Rights of the Child (UN CRC)⁴⁴ and the ECtHR.⁴⁵ This marked the ninth condemnation by the ECtHR on this issue for France since 2012. Belgium, prior to these two condemnations by the UN CRC, was also criticised by the ECtHR in 2010 and 2011. Both countries have announced their intention to respectively prohibit or to restrict child detention in new legislation, but this has not yet come to fruition. Detention of children also continues to be a significant issue in Poland. Finally, the ECtHR found violations of multiple articles of the ECHR by Hungary, in four more judgments on its former policy of detention in transit zones,⁴⁶ and by Italy, in relation to the de facto detention of four people rescued at sea and transferred to the Lampedusa hotspot.⁴⁷

The grounds for detention of asylum seekers were significantly expanded in Italy, with further possibilities for detention at the border, during the procedure to determine the grounds of the international protection application, and in Dublin procedures. Meanwhile, detention capacity was increased, *inter alia*, in Italy, Ireland, and the UK. Detention conditions in some EU countries – notably Cyprus, Greece, Malta, Poland, Spain, and Sweden – was described as severely inadequate. In particular, access to healthcare and medical professionals was a significant issue in Greece, Poland, and Spain. In Sweden, the Human Rights Council Working Group on Arbitrary Detention expressed serious concern regarding allegations of lack of appropriate medical assistance to a detainee.

The issues of systematic detention and poor detention conditions are exacerbated by the lack of access to effective legal remedies or to the necessary legal assistance to exercise such remedies in several countries, notably Cyprus, Greece, Hungary, Malta, Serbia, and Slovenia. In Greece, there is still no free legal aid available to judicially challenge a detention decision, in violation of national and EU law. The *ex-officio* judicial scrutiny of detention orders remains largely ineffective, as is the case in Malta, where mass hearings without individual assessment were reported. Access to detention centres remained a concern in various countries, and in particular in Hungary, where all NGOs are still banned from accessing detention facilities, preventing monitoring, legal assistance, psycho-social assistance, etc, and in Malta, where access remains a problem for all relevant non-state actors, including UNHCR.

9. Access to rights for beneficiaries of international protection

In 2022, access to residence permits for beneficiaries of international protection remained a considerable challenge throughout the countries surveyed. Access to information and long waiting times were the two main factors causing such difficulties. This in turn limits people's ability to benefit from protection: for example, without residence permits they often cannot open bank accounts, obtain benefits, or rent private accommodation.

In regard to family reunification, beneficiaries are still facing long, demanding and tortuous procedures.⁴⁸ Refugees and their families must often provide documents that are difficult to acquire, except in the few

⁴⁴ For example regarding Belgium: Court of First Instance of Brussels, 25 March 2022, available in French at: <https://bit.ly/3rvBzAQ>; regarding the Netherlands: District Court of the Hague, 6 October 2022, C/09/633760 KG SA 22-733, available in Dutch at: <https://bit.ly/3OdSC3A>. See also regarding Belgium' non-compliance with the rulings: European Commission, 2023 Rule of Law Report – Belgium, 5 July 2023, available at: <https://bit.ly/3rvok3q>, 25.

⁴⁵ *A.C. and M.C. v France*, 4289/21, 4 May 2023, available at: <https://bit.ly/44F3xZI> and *A.M. and others v France*, 7534/20, 4 May 2023, available at: <https://bit.ly/46JA2aH>.

⁴⁶ *M.B.K. and Others v. Hungary*, appl.no. 73860/17, 24 February 2022, *A.A.A. and Others v. Hungary*, appl. no. 37327/17, 9 June 2022, *W.O. and Others*, appl. no. 36896/18, 25 August 2022 and *H.M. and Others v. Hungary*, appl. no. 38967/17, 2 June 2022.

⁴⁷ *J.A. and Others v. Italy*, no. 21329/18, 30 March 2023, available at: <https://bit.ly/3rjLxVU>.

⁴⁸ For a comparative overview on practices regarding family reunification, see: AIDA, *Not there yet: Family reunification for beneficiaries of international protection*, February 2023, available at: <https://bit.ly/3ld6UOq>.

countries such as Portugal which take a more flexible approach by accepting alternative evidence such as interviews with the sponsor and family members, copies of documents, or witness testimonies. The Netherlands also made some progress on the matter and now offers a right to further investigation when there is substantial indicative evidence or plausible explanations about the lack of documents.

Some positive developments can be noted in the area of employment and education. Several countries have launched, developed, or maintained programmes aiming to integrate refugees into the labour market. For instance, France launched the programme AGIR, presented as a “comprehensive, one-to-one support programme for refugees on the road to employment and housing”. Similarly, Spain adopted a reform of the Regulation of the Immigration Law, aiming at widening the possibilities of employment for foreigners in Spain. In Portugal, an amendment to the Asylum Act enacted in August 2022 determines that asylum applicants are entitled to the right to work from the moment of the application for international protection. Projects aiming to improve access to education were also launched in 2022. Notably, Spain launched the Action Plan University-Refuge, granting EUR 2.65 million to 27 public universities to fund different activities, including linguistic and psychological support and academic guidance. Overall, however, the reports show that access to the labour market remains limited. In particular, the lack of recognition of refugees’ national diplomas is a major issue. In addition, language and mobility challenges also represent significant practical barriers to working.

Access to housing remains a major challenge. Access to public housing and the possibility to remain in reception centres are often limited to vulnerable beneficiaries of protection, such as those with children or people who are vulnerable due to ill health or disability, as in the UK, Bulgaria, Greece, Italy, and Romania. In some countries, refugees have had to resort to sleeping on the streets: this has been highlighted as a particularly pressing issue in Austria, Ireland, France, Malta, and Greece. Private housing is difficult to access and rent may be unaffordable. Related obstacles are the processing times for welfare benefits, the lack of a bank account, and the high upfront cost of deposits.

Access to healthcare remained a challenge, notably due to the ongoing impact of the COVID-19 pandemic which lengthened waiting lists. In addition, the lack of translation services means it is often practically difficult for beneficiaries to seek and receive healthcare. In some countries, for example Italy and Bulgaria, refugees are required to contribute financially to the healthcare service to benefit from it.

Access to social welfare, although usually *de jure* available to refugees, remains difficult to access in practice. People usually need to have a bank account and a permanent address which, for the reasons highlighted above, remains challenging. In other instances, refugees are not eligible for social welfare, as in Malta where beneficiaries may not have been present in the country for a sufficient number of years to have paid the minimum social security contributions required for some benefits.

What next?

The 23 country reports published in the [AIDA database](#) managed by ECRE, show that a fair and efficient asylum system, compliant with EU law including on fundamental rights, is still a long way off. Organised safe and legal pathways to reach Europe remain limited, while access to territory and to an asylum procedure is frequently denied, with extensive human rights violations documented at the EU’s external and internal borders. As the EU institutions enter the final stage of negotiations on the reform of EU asylum law, more attention must nevertheless be paid to compliance with the existing rules, also in order to ensure some level of implementation and compliance when new laws are adopted. Despite improvements in some areas, the recent update of the AIDA country reports confirms the continued existence of serious implementation gaps in key areas including barriers to registration; inconsistent decision-making; lack of respect for procedural guarantees; inadequate reception conditions and widespread use of detention; and denial of the socio-economic rights of beneficiaries of international protection. The focus at the European level should be addressing these issues in order to improve the functioning of asylum systems in Europe.

Country reports on the year 2022

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- [Belgium](#), including [TPD annex](#), April 2023
- [Bulgaria](#), including [TPD annex](#), March 2023
- [Cyprus](#), including [TPD annex](#), April 2023
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