

Input by civil society organisations to the Asylum Report 2024

Fields marked with * are mandatory.

Dear Colleagues,

The production of the Asylum Report 2024 is currently underway. The [annual Asylum Report series](#) presents a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, researchers and UNHCR. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policies or practices in 2023 by topic as presented in the online survey (**'Part A' of the form**).

We also invite you to share with us any publications your organisation has produced throughout 2023 on issues related to asylum in EU+ countries. These may be reports, articles, recommendations to national authorities or EU institutions, open letters and analytical outputs (**'Part B' of the form**).

Your input can cover information for a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain.

All submissions are publicly accessible. For transparency, contributions will be published on the EUAA webpage. For reference, contributions to the 2023 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

Please submit your contribution to the Asylum Report 2024 by Thursday, 30 November 2023.

Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

Part A:

- New developments and improvements in 2023 and new or remaining challenges;
- Changes in policies or practices, transposition of legislation or institutional changes during 2023;
- Across the different thematic sections feel free to make reference to issues related to the implementation of the Temporary Protection Directive at national level.

Part B:

- New publications your organisation produced in 2023

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments.

PART A: Contributions by topic

1. Access to territory and access to the asylum procedure (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

In 2015, following the transposition of the Asylum Procedures Directive into national legislation, the Maltese authorities created a strategy document entitled “Strategy for the Reception of Asylum Seekers and Irregular Migrants” with a new system for procedures and reception for asylum seekers. According to this document, all migrants entering Malta irregularly by boat were pre-screened and then taken to an Initial Reception Centre (IRC) in order “to be medically screened and processed by the pertinent authorities” for a time limited of up to seven days.

In the summer of 2018, a crucial policy shift occurred due to a notable surge in the arrival of asylum-seekers by boat, prompting the suspension of existing protocols in addition to the entry into force of the informal agreement concluded between Italy and Malta in 2014. The overwhelming numbers strained the Maltese reception system beyond its capacity, leading to the automatic detention of all applicants arriving irregularly in Malta or being rescued at sea. This decision was driven by the lack of available space in already overcrowded reception centers. Since then, people rescued have been directly placed in detention. Despite a significant reduction in arrivals since 2021 and a noticeable vacancy in open centers, the Government continues to enforce automatic detention for all asylum seekers arriving by boat. Additionally, the Immigration Police maintains the practice of detaining individuals originating from Bangladesh, Egypt, Morocco, Lebanon, Ghana, Ivory Coast, and Nigeria.

Families, unaccompanied minors and vulnerable applicants, theoretically, should not be detained. The process follows a chronological order based on their date of arrival. The allocation of a place in a reception center is contingent solely on the availability of space and not on the status of their application. Once admitted, families and vulnerable applicants are accommodated for up to one year, extendable if deemed vulnerable.

Between 1 January and 12 November 2023, there were 315 sea arrivals to Malta with an increase in arrivals compared to the same period last year. 84% of arrivals departed from Libya, while the remaining 16% departed from Tunisia. Of the 2023 arrivals, 65% were Bangladeshi, 9% were Syrian, 8% were Guinean, 7% were Cameroonian, 6% were Egyptian, 2% were Sudanese, and 1% each were Palestinian and South Sudanese. The above marks a change in the composition of nationalities of arrivals in comparison to 2022, where 51% of arrivals were Bangladeshi, 28% were Syrian and 8% were Egyptian.

There were 282 applications for asylum in the first half of 2023, of which 225 were first-time applications, 54 were subsequent applications, and 3 were re-opened/reviewed. Nationals from Bangladesh, Sudan and Syria were amongst the top three nationalities applying. As of 30 June, the International Protection Agency had issued 1,160 decisions at first-instance. The recognition rate (grants of Refugee Status or Subsidiary Protection) stood at 16% (178), whilst the rejection rate stood at 36% (421). There was a high number of 'closed' cases (48%; 555), referring to decisions comprising of administrative closures (72), Dublin closures (103), applications that are explicitly (51) or implicitly withdrawn (304), and those deemed inadmissible (25). Temporary Humanitarian Protection was granted to 6 people. Analysis shows that the average waiting time for a first instance decision (substantive, grant or rejection) issued in 2023 was 2.3 years. International Protection was granted on average after 2.6 years for Syrians, 2.4 years for Eritreans, and 2.7 years for Somalis. The average time for rejected cases stood at 2.9 years for Sudanese, 3.3 years for Syrians.

On October 4, 2023, Member States finalized an agreement regarding the proposed regulation addressing situations of crisis and force majeure regarding migration and asylum. This agreement marks a significant milestone in the Pact on Migration and Asylum, setting the stage for forthcoming negotiations between the European Parliament and the Council regarding this legislative proposal. This agreement is the following step built on the initial agreement reached in June 2023. The June agreement focused on two primary pillars of the Pact: the Asylum and Migration Management Regulation and the Asylum Procedure Regulation. Under this agreement, countries that receive many Mediterranean arrivals could speed up asylum procedures and ask for swift help from EU peers, including financial aid and relocations. The declared goal is to create a synthesis between the responsibility of frontline nations which are the ones that receive the bulk of asylum seekers, and the principle of solidarity that other countries should uphold.

2. Access to information and legal assistance (including counselling and representation)

Remaining challenge

In Malta State-provided free legal assistance is only accessible at appeals stage. The free legal assistance available to asylum seekers is mainly provided by NGOs through their lawyers. The main obstacle regarding access to this kind of assistance is that there are a limited number of NGO lawyers who are able to provide such a service in relation to the number of asylum seekers requiring it. Additional services are guaranteed by the Law Clinic of the Faculty of Laws at the University of Malta.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

Remaining challenge.

The Procedural Regulations stipulate that asylum seekers must receive information in a language they can understand, or one that can reasonably be expected for them to understand. This information includes details about the procedural steps to be followed and their rights and obligations throughout the process.

Furthermore, the Regulations specify that asylum seekers must be notified of the decision's outcome in a language they can reasonably be expected to understand. Applicants who have recently arrived usually receive initial documentation with information about the procedure that is typically not presented in a language comprehensible to the applicant. The availability of interpreters is limited and their remuneration is not covered by the government but rather through funds provided by NGOs, this may potentially result in occasional availability issues.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

Remaining challenges.

Dublin Regulation has not been transposed into national specific legislation but through an administrative procedure implemented by the IPA, the International Protection Agency.

The registration process – whether undertaken by the IPA or EUAA – consists of collecting personal details and issuing a unique IPA number as well as the Asylum Seeker Document/Certificate. The lodging of applications consists in filling and signing an application form stating the basic reasons for seeking protection. Immigration and asylum procedures only commence following confirmation by the Health Authorities that applicants have been screened and found not to suffer from any contagious disease (namely COVID-19 and tuberculosis). All those who apply for asylum are systematically fingerprinted and photographed by the immigration authorities for insertion into the Eurodac database. Those who enter Malta “irregularly” are now immediately placed in detention, and subsequently fingerprinted and photographed.

Following the initial collection of information in the application form, and if Malta is deemed responsible for processing the application, the IPA schedules an appointment for an interview with the applicant. After the recorded interview takes place, the applicant is informed that he or she will be notified of the decision in due course.

The IPA ensures that the examination procedure is concluded within six-months from the application. The examination procedure is not to exceed the maximum time limit of twenty-one months. Most of the decisions by the IPA are usually not taken before the period of time established by the Regulations.

Last 28th April 2023, the European Commission and the EUAA published the Information on procedural elements and rights of applicants subject to a Dublin transfer to Malta.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

Remaining challenge.

The International Protection Agency may grant a special fast-track procedure for applicants identified as vulnerable and in need of special procedural guarantees. The categories of persons eligible for such status are: minors, elderly individuals, pregnant women, single parents with minor children, victims of human trafficking, individuals with serious illnesses, medical conditions or with disabilities, persons dealing with mental health challenges or disorders, survivors of torture or rape, individuals who have undergone female genital mutilation, those who have experienced other severe forms of psychological, physical, or sexual violence, and members of the LGBTIQ community.

However, the procedure does not provide the possibility to appeal, as it gives complete discretion to the IPA regarding the decision. The status can be withdrawn at any time by the IPA when it deems the beneficiary does not meet the requirements anymore. Until June 2021, the IPA would notify the withdrawal without giving any possibility to contest it. The THP beneficiaries have a 10-day window to submit explanations as to why their status should not be withdrawn. In 2021 and 2022, the International Protection Agency significantly reduced its backlog by discontinuing numerous applications, employing an extremely stringent approach to

implicitly withdraw the applications. This involved discontinuing the applications of individuals who missed interview calls or document renewal notifications. Asylum seekers in prison experienced discontinuation due to difficulties in reaching them for interviews or appointments, miscommunication issues, their misunderstanding of procedures, or their refusal to participate in interviews owing to health conditions or frustration and anger.

6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

Remaining challenge.

According to the Maltese law, reception conditions are designed for “applicants [who] do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence”. Housing, food (the drinking water is not included), clothing and a daily expenses allowance are assured.

The Agency for the Welfare of Asylum-Seekers (AWAS) is in charge of the reception system for asylum-seekers in Malta. The Agency manages the reception centres and provides welfare services to asylum-seekers and some beneficiaries of international protection (since protection beneficiaries are entitled to access mainstream services). Asylum seekers are provided with accommodation and a daily food and transport allowance, they have given free access to state health services and free access to state education services for those under 16 years of age.

They are free to move around the island and to access the labour market, even if they are vulnerable to exploitation and abuse, low wages, long working hours, irregular and unsafe work. Usually people living outside of the centres are not entitled these benefits. But since 2019 till today, some services have been extended.

Life for asylum seekers in open reception centres continued to be challenging. The situation worsened significantly since the emergence of the new work policy which forbids access to the labour market to asylum seekers hailing from safe countries of origin for the first 9 months after they registered their asylum application. As a result, these individuals are evicted from open centres before being legally able to work and sustain themselves. People who are not in contact with support structures in the country risk being further marginalised, especially those who suffer from mental health problems, substance abuse issues and chronic illness.

7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

Detention is regulated by the following instruments of the CEAS: Asylum procedures directive (recast), APD (recast), Reception conditions directive (recast) (RCD (recast)), and Dublin III regulation. As indicated in the Detention of applicants for international protection in the context of the Common European Asylum System “EU legislation now regulates in detail the detention of applicants for international protection, harmonises the grounds on which an applicant for international protection could be deprived of liberty and extends the protection of the applicant for international protection’s right to liberty”.

Throughout last year, all applicants arriving by boat were held for at least two weeks in the Hal Far Initial Reception Centre (HIRC) for medical clearance by the Public Health authorities. The restriction of movement can be enforced for 4 weeks which can be extended to 10 weeks. According to the Government, detention does not amount to a situation of deprivation of liberty but merely to a restriction on the freedom of movement of the applicant. Applicants are not permitted to exit or to receive any visitors, including service-

providers, save for medical emergencies. The Council of Europe anti-torture Committee considers that this situation amounts to a situation of deprivation of liberty likely to be in violation of Article 5 ECHR, a position also reflected by the Court of Magistrates of Malta, with a decision of January 2022. The Maltese detention centres have time and time again been reported to offer substandard living conditions. It was noticed that detainees are usually kept together based on their nationalities. They are also regularly moved from one zone or section to another, without being given any information for such change, which creates anxiety among applicants.

In 2021 the European Council for Refugees and Exiles (ECRE) released its comparative report on asylum. According to this report, Malta is reported to be one of the few countries like Greece which implements a policy of de facto automatic detention upon arrival with severe restrictions on the access to lawyers and NGOs.

Last October 2023, the European Court of Human Rights ruled that Malta must take concrete measures to align its detention practices with human rights standards. The court ordered a compensation of 25,000€ for an Ivorian individual who endured inhumane detention conditions. The ECHR expressed apprehension regarding Malta's "defective national system hindering human rights protection" and urged the government to enhance migrant detention conditions while ensuring a legal foundation for their detention. The applicant claimed to have suffered 225 days of inhuman and degrading conditions, including the absence of outdoor access, common areas, prayer rooms, or private spaces. The individual highlighted limited or no access to phones for calls, including communication with lawyers, absence of leisure activities, subpar living conditions, insufficient access to drinkable water, and a lack of information in a comprehensible language about detention and medical situations. Moreover, the applicant accused the government of jeopardizing his health through inadequate living conditions and insufficient medical support. Alleging inhuman and degrading treatment, the applicant cited his age, medical conditions, and mental health, emphasizing the challenging conditions endured from November 24, 2021, until release, including 120 days of isolation in a shipping container.

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decisionmaking, timeframes, case management - including backlog management)

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management -including backlog management)

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

11. Issues of statelessness in the context of asylum (including identification and registration)

12. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

According to the Maltese legislation the list of vulnerability includes: serious chronic illness, psychological problems, stemming from trauma or some other cause, mental illness, physical disability, age (where the individual concerned is over 60). Vulnerability is assessed on 4 levels:1 being a very urgent support needed, 2 being in need of medical support,3 being in need of medical but not urgent, 4 being a need in terms of housing and education.

The Asylum Procedures Directive (APD) broadened the previously confined concept of vulnerable applicants, introducing the notion of applicants requiring special procedural guarantees. These guarantees are primarily detailed in Article 24 of the revised APD. The fundamental components of this updated framework emphasize the necessity to recognize applicants in need of special procedural protections, particularly those arising from experiences such as torture, rape, or any other form of psychological, physical, or sexual violence and to offer them sufficient assistance to customize the procedure according to the specific needs of these applicants.

The Reception Regulations now provide that “the entity for the welfare of asylum seekers shall also ensure that support is being provided to applicants with special reception needs, taking into account their special reception needs throughout the duration of the asylum procedure, whilst conducting appropriate monitoring of their situation” and that “an unaccompanied minor shall be accommodated in centres specialised in accommodation for minors”. The Regulations, however, still provide that unaccompanied minors aged sixteen years or over may be placed in accommodation centres for adult asylum seeker. Specific measures mandated by law for vulnerable individuals include maintaining family unity whenever possible, and ensuring material reception conditions that guarantee an adequate standard of living, although the latter is not precisely defined. AWAS is responsible for the implementation of actions addressed to individuals with special reception needs, overseeing assessments primarily carried out in detention. Despite some positive changes in 2022, persistent delays and oversights in the identification process persist, highlighting a system struggling to manage even with the reduction in arrivals. In practical terms, almost all applicants find themselves de facto detained on health grounds, including unaccompanied minors and other evidently vulnerable individuals. Additionally, applicants from countries where removals are common are likely to be detained under the Reception Regulations after medical clearance, a category that encompasses individuals claiming to be minors and others considered vulnerable.

Asylum-seeking children are entitled to access the education system in the same manner as Maltese nationals, and this may only be postponed for up to three months from the date of submission of the asylum application. Access to state schools is free of charge. These rules apply to primary and secondary education. Access to education for unaccompanied children was significantly hindered as a consequence of delays in the registration of asylum applications. The 2020 Minor Protection Act designed a system for the

protection of children in need of care and support, including unaccompanied and/or separated children. Unaccompanied children need legal guardians to submit an asylum application. Depending on the educational activity, minors need to have a legal guardian to get enrolled into classes. This is problematic as very few minors are appointed a legal guardian.

A new Minor Protection (Alternative Care) Act came into force in July 2021 replacing earlier legislation on the protection of children in need of care and support, including unaccompanied minors and/or separated children. The Act establishes the position of the Director (Protection of Minors) within the Foundation for Social Welfare Services, Malta's welfare entity, who is responsible for protecting minors. It introduces the duty for all persons to report any minor who is at risk of suffering or being exposed to significant harm and establishes various forms of protection orders the Juvenile Court may impose, including care orders. Among vulnerable persons, detained asylum seekers suffering from mental health problems. No specialised services exist in Malta for victims of torture or trauma.

13. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

14. Return of former applicants for international protection

15. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

16. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

17. National jurisprudence on international protection in 2023 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))

18. Other important developments in 2023

PART B: Publications

1. If available online, please provide links to relevant publications produced by your organisation in 2023

2. If not available online, please share your publications with us at: Asylum.Report@euaa.europa.eu or upload your file using the functionality below (max. file size 1MB).

Please upload your file

The maximum file size is 1 MB

3. For publications that due to copyright issues cannot be easily shared, please provide references using the table below.

	Title of publication	Name of author	Publisher/Organisation	Date
1				
2				
3				
4				
5				

Contact details

* Name of Organisation

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Name and title of contact person

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I accept the provisions of the EUAA [Legal and Privacy Statements](#)

Useful links

[EUAA Asylum Report 2023 \(https://euaa.europa.eu/asylum-report-2023\)](https://euaa.europa.eu/asylum-report-2023)

[Executive Summary -Asylum Report 2023 \(https://euaa.europa.eu/asylum-report-2023/executive-summary\)](https://euaa.europa.eu/asylum-report-2023/executive-summary)

[Sources on Asylum 2023 \(https://euaa.europa.eu/publications/sources-asylum-2023\)](https://euaa.europa.eu/publications/sources-asylum-2023)

[National asylum developments database \(https://euaa.europa.eu/national-asylum-developments-database\)](https://euaa.europa.eu/national-asylum-developments-database)

[Asylum in Europe in 2022: A Year in Review \(https://euaa.europa.eu/asylum-europe-2022-year-review\)](https://euaa.europa.eu/asylum-europe-2022-year-review)

Background Documents

[Word template to submit input](#)

Contact

[Contact Form](#)

