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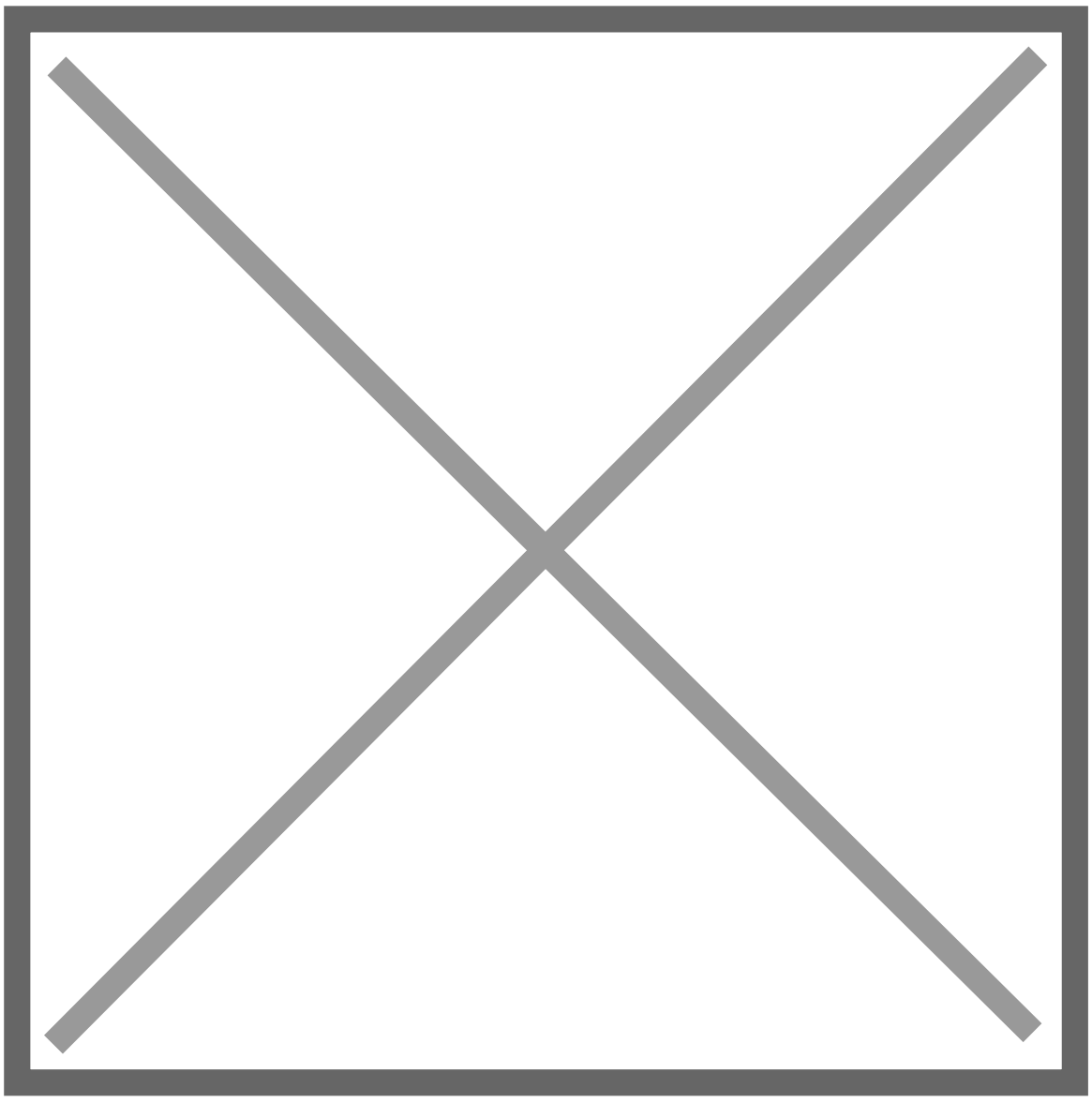
4.5.2 Data on second and higher instances



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.[xxxiv] 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 of 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 unprecedently 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.

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

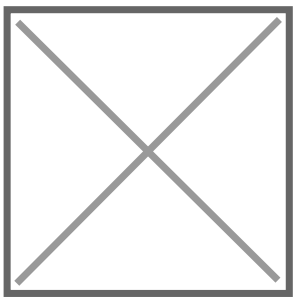
Figure 4.15. EU+ countries which issued the most second or higher instance decisions (bubbles) and top five citizenships involved in each country (bars), 2020

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.



[xxxiv] Data on second or higher instance decisions were not available for Iceland for 2020.

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