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4.14.1.2. Recognition rates at second or higher instances

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icon for recognition rates on specific nationalities

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 data available 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. For this reason, cumulative recognition rates for all instances are not presented, and the outcomes at second or higher instances need to be considered separately.

In 2022, the recognition rate at second or higher instances was 21%, meaning that there were 45,000 positive decisions within the total of 221,000 decisions at this level. This was in line with the previous year (22%). In fact, in most EU+ countries, recognition rates at second or higher instances remained more or less stable compared to 2021.

As in previous years, the overall EU+ recognition rate at higher instances was lower than at first instance (39%). But the gap is growing. In 2022, the difference between the EU+ recognition rate at first instance and in appeals was the largest since 2016 *(see Figure 26)*.

The EU+ recognition rate of 21% excludes authorisations to stay for humanitarian reasons. If such authorisations were included, the recognition rate for 2022 at second or higher instances would hike to 34% (still lower than the all-inclusive EU+ recognition rate at first instance).

The difference between the EU+ recognition rate at first and at second or higher instances was the largest since 2016

Figure 26. Outcomes of decisions on asylum applications at second or higher instances in EU+ countries (bars), and recognition rates at first instance (yellow line) and recognition rates at second or higher instances (red line), 2016-2022

Figure 4.26. Outcomes of decisions on asylum applications at second or higher instances in EU+ c
Source: Eurostat [migr_asydcfsta] as of 13 April 2023.

Far fewer decisions at second or higher instances granted some type of EU-regulated protection than at first instance *(see Figure 27)*. However, two of the Top 20 nationalities which received the most decisions in appeals (nationals of Bangladesh and Iran) received more positive decisions at second or higher instances than at first instance.

Of the positive decisions at higher instances, three in five decisions granted refugee status (27,000 or 60% of all positive decisions), with the remainder granting subsidiary protection (18,000 cases or 40%). These proportions were in line with those at first instance.

As in the past 5 years, female applicants continued to be somewhat more successful in their appeals. The recognition rate at second or higher instances was 26% for applications by women and girls (stable from 2021), compared to 18% for applications by men and boys (slightly lower than in 2021 when it was 20%). The gap between the female and male recognition rates was similar at first instance (45% and 36%, respectively). However, the data available do not indicate which applications lodged by males or females were part of family groups.

Unlike at first instance, recognition rates at second or higher instances did not differ so much between age groups. Minors were still granted protection at the highest rate (almost one in four decisions at second or higher instances), while for the remaining age groups, roughly one in every five decisions granted either refugee status or subsidiary protection. This pattern was similar in previous years.

Refugee status and subsidiary protection were less often granted at second or higher instances than at first instance

Figure 27. Outcomes of decisions on asylum applications at first instance compared to second or higher instances in EU+ countries, 2022

Figure 4.27. Outcomes of decisions on asylum applications at first instance compared to second o
Source: Eurostat [migr_asydcfsta] as of 13 April 2023.

Among the countries which issued at least 1,000 decisions,[ix] the highest EU+ recognition rates were in the Netherlands (57%) and Austria (52%), whereas they did not exceed 22% in others. In fact, in two of the 13 EU+ countries with at least 1,000 decisions issued at second or higher

instances – Cyprus and Poland– the EU+ recognition rates were 0% in 2022 as very few decisions in appeal granted refugee status (not more than 10 per country) and none granted subsidiary protection. For both countries, this pattern was similar to that of most recent years. Hungary was the only EU+ country which did not issue any decisions at second or higher instances in 2022.

Recognition rates at higher instances for specific nationalities

Overall, the Top 20 nationalities receiving the most decisions at second or higher instances overlapped with those receiving most first instance decisions, with just four exceptions: nationals of The Gambia, Iran, Russia and Senegal. However, nearly all of these four countries of origin (except for The Gambia) featured among the Top 30 citizenships with most decisions issued at first instance.

Among the Top 20 nationalities which received the most decisions at second or higher instances, Syrians (76%) had the highest recognition rate in 2022 *(see Figure 28)*, followed by Ukrainians (62%). Other groups with recognition rates above the overall EU+ average included nationals of Mali (40%), Iran (39%), Afghanistan (31%), Somalia (29%) and Türkiye (25%).

Syrians and Ukrainians had the highest recognition rates at second or higher instances

Figure 28. Recognition rates for the Top 20 nationalities with the most decisions issued in EU+ countries, 2022

Figure 4.28. Recognition rates for the Top 20 nationalities with the most decisions issued in EU+ c
Note: These 20 nationalities received the highest number of decisions at second or higher instances in EU+ countries in 2022. They are ordered (from the left to the right side) in terms of the number of decisions received. *Source*: Eurostat [migr_asydcfsta] as of 13 April 2023.

For the remainder of the Top 20 nationalities, fewer than one-quarter of decisions issued at second or higher instances granted international protection. Recognition rates were especially low for Georgians (2%), Albanians (4%), Colombians (4%) and Gambians (6%). All these nationalities had low recognition rates also at first instance in 2022.

For one-half of the Top 20 nationalities, recognition rates at second or higher instances were similar to those at first instance, and for few of them – Nigerians, Pakistanis and Senegalese – there was no difference between recognition rates at the two decision-making instances *(see Figure 4.28)*. While only one of the Top 20 nationalities received higher recognition rates in appeals than at first instance (Bangladeshis), for several of them – such as Somalis, Malians, Ukrainians, Afghans, Syrians, Iraqis, Guineans, Turks, Russians and Congolese (DR) – recognition rates at second or higher instances were significantly lower compared to those at first instance, the gap varying between 28 percentage points (for Somalis) and 9 percentage points (for nationals of the Democratic Republic of the Congo).

Outside the Top 20 nationalities receiving decisions, recognition rates at higher instances were high for Yemenis (71%), Belarusians (49%), Eritreans (39%) and Sudanese (35%). At the other end of the spectrum were nationals of India (1%), North Macedonia (1%), Moldova (1%), Serbia (2%), Comoros (2%), Haiti (3%), Armenia (4%), Ghana (5%) and Tunisia (6%). As was the case at first instance, low recognition rates partially coincided with countries exempt from visa requirements to enter the EU (for example applicants from North Macedonia, Moldova and Serbia).

- [ix]In total, 13 EU+ countries issued at least 1,000 decisions at second or higher instances in 2022: Austria, Belgium, Cyprus, France, Germany, Greece, Ireland, Italy, the Netherland, Poland, Spain, Sweden and Switzerland.

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