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4.14.1.4 Recognition rates at second or higher instances

IIf an appeal is lodged against a decision at first instance, a decision will be taken at second instance, and higher instances become involved after another appeal. The procedures following an appeal can vary: in some receiving countries, the case is reviewed entirely (de novo in fact and law), while in other countries, only the legality of the first instance decision is assessed. The available data do not indicate the outcome of the first instance decision that was appealed, as a positive decision can also be appealed. For example, a positive decision that grants fewer rights than refugee status (subsidiary protection or humanitarian status under national law) might be appealed. Therefore, cumulative recognition rates for all instances are not presented, and the outcomes at second or higher instances need to be considered separately.

In 2020, the 237,000 decisions issued at second or higher instances in EU+ countries included 70,000 positive decisions, resulting in a recognition rate of 29%, which was stable compared to 2019. This rate was substantially lower than the recognition rate for first instance decisions (42%), and the difference in 2020 exceeded the corresponding differences in 2019 and 2018. The reason for the drop in positive decisions in appeals was because refugee status was granted less often at second or higher instances than at first instance (*see Figure 4.23)*, while the shares of subsidiary protection and humanitarian status remained almost the same.

Positive decisions at second or higher instances most often granted humanitarian status (26,000), while refugee status and subsidiary protection represented somewhat fewer cases (22,000 each). Therefore, positive decisions at second or higher instances were roughly evenly distributed over the three outcomes – in contrast to positive decisions at first instance, which mostly granted refugee status.

As at first instance, recognition rates at second or higher instances were higher for asylum applications lodged by women (35% in 2020, compared to 27% for men). Recognition rates at second or higher instances were especially high for the age groups under 18 years (37%) and over 65 years (33%), compared to the 18-34-year age group (28%) and 35-64-year age group (27%). At the same time, differences between these rates were more moderate than at first instance. Similar patterns by sex and age at second or higher instances were also noted in 2019.
Among the top 20 nationalities receiving decisions at second or higher instances, Syrians (74%) had the highest recognition rate in 2020 (*see Figure 4.24*). They were followed by Afghans (54%) and Malians (45%). These top nationalities largely overlapped with the top nationalities in terms of

first instance decisions *(see Figure 4.21)*, with two notable exceptions: while Venezuela and Eritrea were even among the three most important countries of origin at first instance, they did not feature among the top 20 countries of origin at second or higher instances. However, Venezuelans (32%) and Eritreans (55%) also had above-average recognition rates at second or higher instances in 2020.

While recognition rates at first instance were similar to those at second or higher instances for many nationalities, significant differences arose in other cases, including for some top nationalities. Groups with considerably higher recognition rates at second or higher instances than at first instance included Malians (45% vs 25%), Senegalese (25% vs 11%) and Bangladeshis (24% vs 8%). Considerably lower recognition rates at second or higher instances were noted for Somalis (39% vs 61%), Iraqis (31% vs 44%) and Turks (26% vs 49%), among others.

Refugee status is less often granted at second or higher instances

Figure 4.23: Outcomes of decisions on asylum applications at first instance and second or higher instances in EU+ countries, 2020

A. Decisions at first instance **B. Decisions at second or higher instances**

Source: Eurostat [migr_asyappctzm] as of 28 April 2021.

In absolute numbers, far fewer positive decisions were issued overall at second or higher instances than at first instance, but eight of the top 20 nationalities in *Figure 4.24* received more positive decisions at second or higher instances than at first instance.

Syrians, Afghans and Malians had the highest recognition rates at second or higher instances

Figure 4.24: Recognition rates in EU+ countries at first instance and second or higher instances by top nationality, 2020

Note: These 20 nationalities received the highest numbers of decisions at second or higher instances in 2020 in EU+ countries.
Source: Eurostat [migr_asyappctzm] as of 28 April 2021.

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