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Italy notified other Member States in December 2022 that it would not accept incoming transfers due to a lack of reception places.342Jurisprudence from several EU+ countries reflected this change.343Nonetheless, in the Netherlands, lower courts still came to divergent conclusions for confirming or not transfers to Italy at the beginning of 2023.344The Council of State found that the Dutch authorities could not rely on the interstate principle of mutual trust in April 2023. The council rejected the argument that Italian authorities indicated merely a pressure on the reception system and not a complete lack of places, and that the impediment to the implementation of the transfer should be regarded as temporary. It concluded that the applicant put forward objective information providing the basis to assert that there were systemic errors in reception in Italy. The court underlined that this did not mean that Italian authorities were indifferent to the situation of the applicant. However, there was a real risk, that applicants would find themselves in material deprivation, preventing them from meeting their most important basic needs upon a transfer.345

Jurisprudence remained divergent in Germany. Courts allowed appeals in several cases against transfers to Italy.346However, the German Federal Administrative Court ruled that the lack of willingness of Italy to take back an applicant did not automatically mean that there were systemic deficiencies in the country's reception system.347The Regional Administrative Court of Würzburg ruled that healthy, employable applicants should be able to support themselves through legal work and meet their basic needs.348

The Portuguese Supreme Administrative Court also confirmed a transfer of an applicant with health issues, noting that deficiencies in the provision of health care and unsatisfactory access to accommodation still did not meet the high threshold of systemic flaws.

During 2023, the situation in Italy resulted in an increasing number of cases where the responsibility shifted to the requesting EU+ country and this added to the high pressure on many countries' asylum and reception systems. Against this background, for example, German authorities needed to inform their Italian counterpart of the postponement of the next interview

mission under the Voluntary Solidarity Mechanism, established in 2022 and coordinated by the European Commission.[349]

The regional court in the Netherlands cancelled a transfer decision for a single mother with a baby to France due to risk of homelessness.[350]The transfer of a mother with her child to Bulgaria from Austria was cancelled as the Constitutional Court found that the lower court failed to sufficiently investigate the reception situation in Bulgaria, specifically for vulnerable applicants.

The lack of reception places in Belgium also led to the annulment of transfers, for example from Denmark[351]and the Netherlands.[352]However, in March 2024, the Dutch Council of State concluded that shortcomings in the Belgian reception system did not mean that the principle of inter-state mutual trust cannot be relied upon for the country. Italian courts annulled transfers to Malta,[353]Romania[354]and Slovenia,[355]finding that reception conditions would have been inadequate for the specific applicants if returned in the Dublin procedure.

- 342European Union Agency for Asylum. (July 2023). *Asylum Report 2023*.
- 343Denmark, Refugee Appeals Board [Flygtningenævnet], *Applicant* v *Danish Immigration Service*, Dub-Ital/2022/4/DH, 4 April 2023.
- 344Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant* v *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)*, NL22.23286, ECLI:NL:RBDHA:2023:357, 18 January 2023.
- 345See as well: Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicant* v *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)*, 202207368/1/V1, ECLI:NL:RVS:2023:1654, 26 April 2023.
- 346Germany, Regional Administrative Court [Verwaltungsgerichte], *Applicant* v *BAMF*, 10 L 60/23.A, 2 February 2023.
- 347Germany, Federal Administrative Court [Bundesverwaltungsgericht], *Federal Office for Migration and Refugees (BAMF) v Applicant*, No 1 B 22.23, ECLI:DE:BVerwG:2023:241023B1B22.23.0, 24 October 2023.
- 348Germany, Regional Administrative Court [Verwaltungsgerichte], *Applicant* v *Federal Office for Migration and Refugees (BAMF)*, No W 6 S 23.50348, 7 September 2023.
- 349European Union Agency for Asylum. (July 2023). *Asylum Report 2023*.
- 350Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicants* v *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)*, Nos NL23.18109 and NL23.18110, ECLI:NL:RBDHA:2023:14523, 15 September 2023.

- 351Denmark, Refugee Appeals Board [Flygtningenævnet], *Applicant* v *Immigration Service* , Dub-belg/2022/7, 26 January 2023;

- 352Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant* v *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)*, NL23.382, ECLI:NL:RBDHA:2023:1853, 20 February 2023.

- 353Italy, Civil Court [Tribunali], *Applicant* v *Ministry of the Interior (Ministero dell'interno) - Department for civil liberties and immigration - Dublin Unit*, R.G. 9690/2020, 1 April 2023.

- 354Italy, Civil Court [Tribunali], *Applicant* v *Ministry of the Interior (Ministero dell'Interno) - Immigration and Asylum Department - Dublin Unit*, R.G. 50879/2022, 12 January 2023.

- 355Italy, Civil Court [Tribunali], *Applicant* v *Ministry of the Interior (Ministero dell'interno) - Department for civil liberties and immigration - Dublin Unit*, R.G. 74750/2021, 20 February 2023.

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