



FOR **ROOTING**
RIGHTS
Strengthening Human Rights in Europe

Scope of the EU Charter of
Fundamental Rights (CFREU)
in asylum and migration

Human dignity (Article 1)

Non-discrimination (Article 21) and
the concept of vulnerability for
applicants of international
protection, beneficiaries and migrants

Eva Tzavala
Anastasia Chalkia
Katerina Charokopou
GNCHR Scientific Staff



Scope of the EU Charter of Fundamental Rights in asylum and migration

E. Tzavala, GNCHR Scientific Staff Coordinator

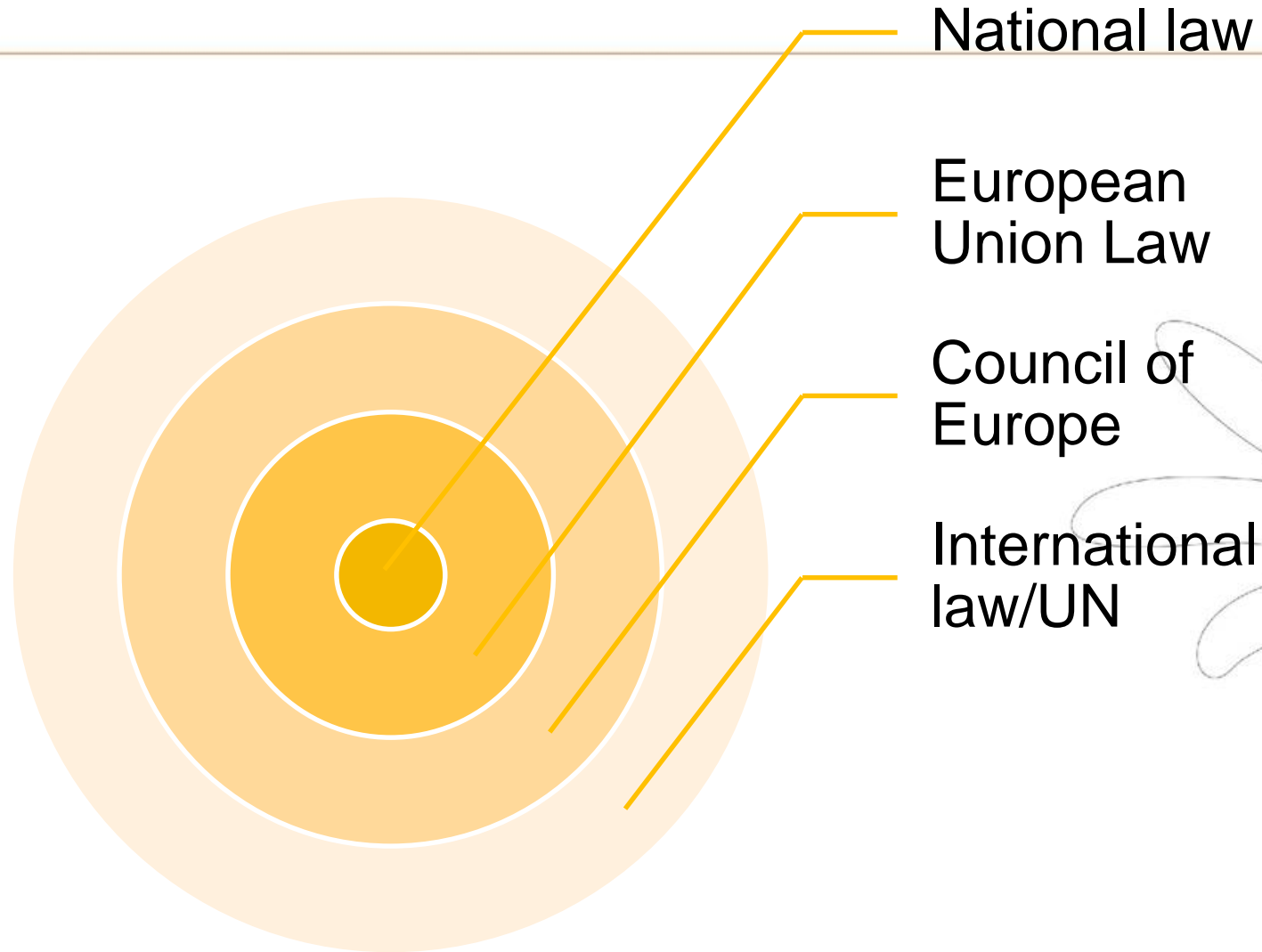


The EU Charter of Fundamental Rights in the international and European system of HR protection

- COUNCIL OF EUROPE

- ❖ European Convention on Human Rights https://www.echr.coe.int/documents/d/echr/convention_ell
- ❖ European Social Charter <https://rm.coe.int/168007cf93>

- UNITED NATIONS – (International treaties on human rights (for the prevention and suppression of genocide, against discrimination, international covenants on civil and political rights and on economic, social and cultural rights, etc.)
<https://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&clang=en>



- How was the idea of a Charter of Fundamental Rights born in the EU?
- What is the added value of the CFREU?
- What is its strength today?



Article 53 CFREU Level of protection

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions

Relationship of the CFREU with other protection rules

- Minimum level of protection
- The Charter reflects, to a large extent, the European Convention on Human Rights (ECHR), the constitutional traditions of the Member States and the general principles of Community law
- It draws from the European Social Charter, the Geneva Convention, the United Nations Convention on the Rights of the Child, the United Nations Convention on the Rights of Persons with Disabilities
- Article 52 par. 3 CFREU: the provisions of the CFREU correspond to rights guaranteed by the ECHR but Union law is not prevented from providing greater protection.
- Article 52, par. 4 of CFREU: the provisions of the CFREU must be interpreted in accordance with the constitutional traditions of the member states

- **Objective** : The CFREU was designed to operate as a point of reference, bringing together in a single text all the civil, political, economic and social rights of European citizens, women and men, but also of all those living in the territory of the EU.
- **Added value** : The CFREU is a contemporary catalog of human rights that includes many rights not found in the established declarations of first, second, and third-generation rights

Legally binding force of the CFREU

Legal Status : The Charter has the same legal force as the founding treaties of the EU (Article 6 par. 1 Treaty on the EU – Treaty of Lisbon)
The provisions of the Charter take precedence over national (and constitutional) provisions based on CJEU jurisprudence

- The Charter binds the authorities of a State in the performance of tasks within its scope
- The Charter is an interpretative tool - a guide for national courts when judging national provisions as to their compatibility with EU law
- The Charter has direct application (in relations between individuals?)

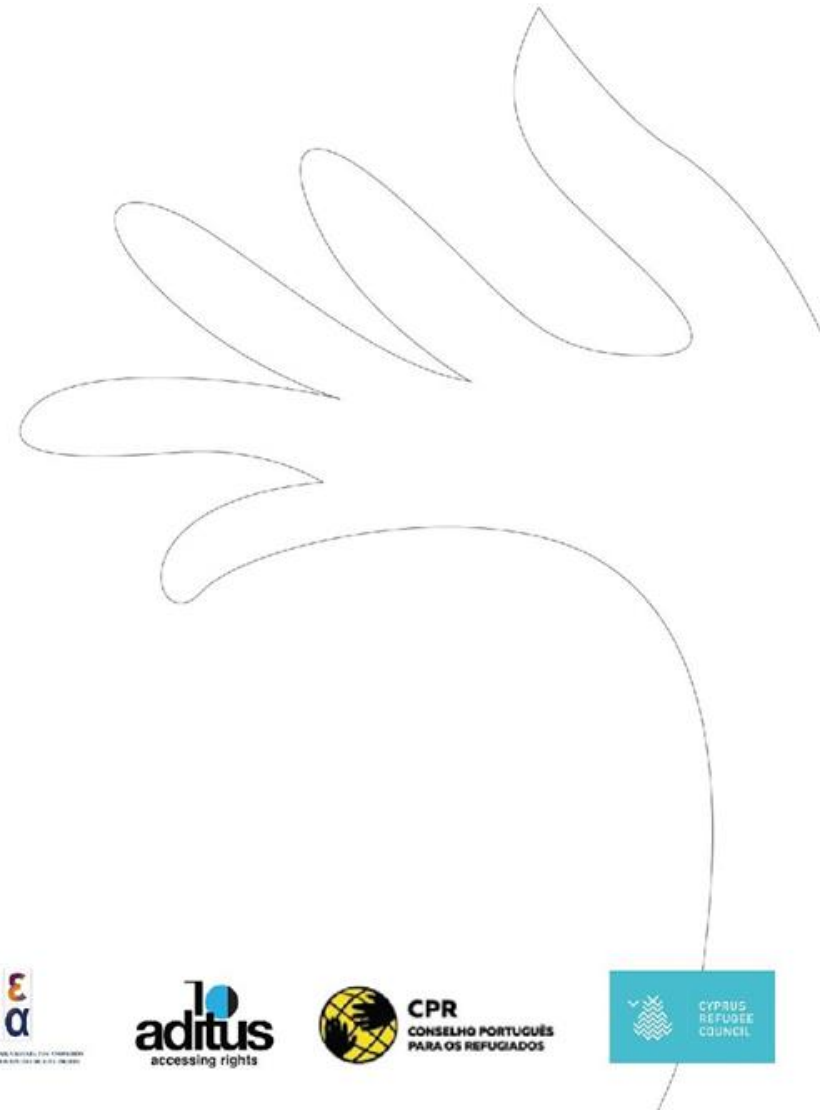
Legally binding force of the CFRD

- The Charter binds national institutions when they apply EU law
- The Charter does not expand the scope of the EU competences
- Charter binds EU bodies (institutional and otherwise) when they issue binding acts (produce independent legal effects)
- 263 TFEU: appeal for annulment, control of legality of acts with CFREU

Article 51 CFREU

1. The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.
2. The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties

- Scope ratione personae
- Scope ratione materiae
- Scope ratione loci



Territorial application

- Article 51 (1) does not contain a jurisdictional clause limiting its territorial application.
- Therefore, there is no territorial limitation in the scope of the EU Charter → it matters whether the situation in question is covered by a competence of the European Union (EU)
- The EU Charter binds the EU institutions in their external actions

What rights does the CFREU protect?

Preamble: “Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law”

Subject headings: Dignity (Title I) - Freedoms (Title II) - Equality (Title III) - Solidarity (Title IV) - Citizens' Rights (Title V) - Justice (Title VI)

Which Charter rights/freedoms/principles apply in asylum and migration cases?

- **DIGNITY**

- ❖ Article 1: Human dignity

Human dignity is inviolable. It must be respected and protected.

→ Cimade (C-179-11): a Member State must provide minimum reception rights to asylum seekers, regardless of whether or not they are subject to the Dublin procedure, until they are transferred to the responsible Member State

- ❖ Article 3: Right to the integrity of the person

Everyone has the right to respect for his or her physical and mental integrity.

• FREEDOMS

❖ Article 18: Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as ‘the Treaties’).

❖ Article 19: Protection in the event of removal, expulsion and extradition

1. Collective expulsions are prohibited.

2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment

- **EQUALITY**

- ❖ Article 25: Rights of the elderly

The Union recognizes and respects the right of older persons to lead a dignified and independent life and to participate in social and cultural life.

- ❖ Article 26: Inclusion of persons with disabilities

The Union recognizes and respects the right of people with disabilities to benefit from measures that will ensure their autonomy, social and professional integration and participation in community life.

- **CITIZENS' RIGHTS**

- ❖ Article 41: Right to good administration

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

2. This right includes:

(a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

(b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;

(c) the obligation of the administration to give reasons for its decisions.

- ❖ Article 42: Right of access to documents

- ❖ Article 43: European Ombudsman

Right to good administration (Article 41)

Some of the guarantees guaranteed by Article 41 of the Charter are also guarantees protected by the right to a fair trial (Article 47 of the Charter).

Article 41 of the Charter and the principle of good administration guarantee the respect of these rights during the administrative stage, while Article 47 of the Charter applies during the judicial stage of asylum and migration.

- **JUSTICE**
 - ❖ Article 47: Right to an effective remedy and a fair trial
 - ❖ Article 48: Presumption of innocence and rights of defence
2. Respect for the defense rights of each defendant is ensured.

- The Charter provides for certain means of legal protection in case of violation of fundamental rights. These include access to a fair trial, the right to an effective remedy and the right to compensation.
- Individuals can appeal to national courts if they believe that fundamental rights have been violated. National courts can then refer questions of EU law to the CJEU for a preliminary ruling.
- The CJEU has the power to declare EU law invalid if it violates the Charter, it can also order member states to comply with the Charter, and they can award damages to people who have suffered damage as a result of a violation of the Charter.
- In addition to legal remedies, the Charter also provides for out-of-court remedies, such as complaints to the European Ombudsman or petitions to the European Parliament.

Conclusions – The future of CFREU

European Commission, Strategy for the Implementation of the Charter (2020)

❖ Axes:

- (a) Effective implementation by Member States;
- (b) Empowering civil society organizations, rights defenders and justice professionals;
- (c) The Charter as a compass for the EU institutions;
- (d) Enhance public awareness .

Conclusions – The future of CFREU

European Commission, Strategy for the Implementation of the Charter (2020)

❖ Conclusions:

Thanks to the binding character of the Charter, the legal order of the Union was able to develop into a beacon of protection of fundamental rights. The Charter is the embodiment of EU rights and values — a symbol of European identity. It has indeed led to a more coherent and comprehensive interpretation of fundamental rights across the EU.

The EU institutions, Member States and the various actors in the Charter's enforcement chain have a duty to ensure that the Charter becomes a living mechanism, protecting fundamental rights in Europe for the benefit of all.

Mandate to the Commission to submit annual reports on the implementation of the Charter and a report on the implementation of the strategy in 2025. In 2030 the Commission will start an accountability process in cooperation with the key actors for the enforcement of the Charter.

Mandate to the Council to draw up follow-up conclusions based on the experience of the Member States.



ROOTING FOR RIGHTS

Strengthening Human Rights in Europe

Article 1: Dignity - Its applicability to reception conditions in the area of asylum

Dr Anastasia Chalkia
Human Rights Advisor, GNCHR



Co-funded by
the European Union

DRC DANISH
REFUGEE
COUNCIL



aditus
accessing rights



CPR
CONSELHO PORTUGUÊS
PARA OS REFUGIADOS



CYPRUS
REFUGEE
COUNCIL

I. The right to human dignity under EU and international law

Purpose and content of the right

- Article 1 not only refers to a fundamental right but is the **essential basis of fundamental rights** (including the right to decent living conditions).
- The right to dignity applies to all individuals, regardless of their **nationality or residence status** within the EU .
- Human dignity is part of the **essence of the rights set out in the EU Charter**. Dignity must be respected even when another right is restricted.
- The right to dignity is not directly included in the European Convention on Human Rights (ECHR), contrary to the **EU Charter which incorporates it as a fundamental right** .

Purpose and content of the right

" Human dignity is **inviolable** "
It is an absolute right and cannot be revoked or limited.

Purpose and content of the right

- Must be respected’ - the institutions and bodies of the EU and the Member States are not allowed to impair human dignity. The individual has a fundamental right towards these organs to reject interferences with his dignity.
- ‘to protect’ human dignity means that the competent institutions are ordered and obliged to protect people from interferences with human dignity by third parties.
- The right to human dignity places a negative obligation on states not to interfere with a person’s right to human dignity.

Commentary of the Charter of Fundamental Rights of the European Union, June 2006, available : <https://sites.uclouvain.be/cridho/documents/Download.Rep/NetworkCommentaryFinal.pdf>

II . Applicability of the right to human dignity in the context of reception and detention

Directive 2013/33/EU "Regarding the requirements for the reception of applicants for international protection (recast)"

- Rec. (11) Standards for the reception of applicants that will suffice to ensure them a dignified standard of living and comparable living conditions in all Member States should be laid down.
- Rec. (18) Applicants who are in detention should be treated with full respect for human dignity and their reception should be specifically designed to meet their needs in that situation.
- Rec. (25) The possibility of abuse of the reception system should be restricted by specifying the circumstances in which material reception conditions for applicants may be reduced or withdrawn while at the same time ensuring a dignified standard of living for all applicants.
- Rec. (35) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for human dignity and to promote the application of Articles 1, 4, 6, 7, 18, 21, 24 and 47 of the Charter and has to be implemented accordingly

Directive 2013/33/EU "Regarding the requirements for the reception of applicants for international protection (recast) - Law 4939/2022

- Recast Reception Directive sets a basic standard of living:
- Recognition of a dignified standard of living (rec. 9, 10);
- Highly circumscribed freedom of movement rights (art. 7, art. RCD, art. 49 Law 4939/2022);
- • The right to be provided with some form of shelter (art. 18 RCD, art. 60, Law 4939/2022);
- • Rules and modalities on material reception conditions and health care (art. 17, 18 RCD, art. 59, 60, 61, Law 4939/2022);
- • Protection of particularly vulnerable asylum seekers (art. 21-25 RCD, art. 62-67 Law 4939/2022);
- • Rules on schooling and education for minors (art. 14 RCD, art. 55 Law 4939/2022);
- • Conditions on the right to work (art. 15 RCD, art. 55 Law 4939/2022).

- " **material reception conditions** " are the reception conditions that include the provision of **shelter, food and clothing** , ***in kind or in the form of financial aid or vouchers or a combination of the three, as well as an aid for daily expenses*** (art. 2 RCD, art. 1 Law 4939/2022)
- " **Material reception conditions** may be provided in **kind or in the form of financial assistance** and "ensure applicants ***an adequate standard of living*** , which guarantees their maintenance and protects their physical and mental health, with respect for human dignity" (Art. 17 par. 2 of the Directive, Art. 59 par. 1 *Law 4939/2022*)
- The **decision to limit or stop the material conditions of reception cannot concern the applicant's access to medical care**, in accordance with par. 2 of article 59 of this Law 4939/2022 (*amendment of art. 20 RCD, see art. 61(5) Law 4939/2022*)

- Procedures directive (2013/32/EU) clarified that: Member States shall not hold a person in detention for the sole reason that he or she is an applicant (art. 26).
- Reception Conditions Directive (recast)(2013/33/EU) : Applicants may be detained only under very clearly defined exceptional circumstances (rec. 15, art. 11 on detention of minors).
- Dublin III Regulation (No 604/2013): Detention should be for as short a period as possible and subject to the principles of necessity and proportionality (rec. 20, art. 28.3).
- Return directive (2008/115/EC) : Third-country nationals in detention should be treated in a humane and dignified manner with respect for their fundamental rights and in compliance with international and national law (rec. (17))

III . Interpretation of the right to dignity in the context of reception and detention:

Court of Justice of the European Union (CJEU)

European Court of Human Rights (ECtHR)

The interpretation of the right to dignity by the Court of Justice of the European Union (CJEU)

- In the **Cimade decision (C-179/11)** , the Court of Justice of the European Union noted that due to the general plan and purpose of the Directive on reception conditions and in order to respect fundamental rights :

The right to **human dignity must be respected and protected** . As a result, asylum seekers cannot be deprived, even temporarily, of the protection of the minimum standards set by that directive (paragraph 56).

Providing a decent standard of living

- The CJEU clarified the meaning of the verb "ensure" in the context of providing a decent standard of living .
- In the **Haqbin case (C 233/18)**, the Court stated that the **verb** is used:
to guarantee a decent standard of living continuously and without interruption
(paragraph 50).

Providing a decent standard of living (financial aids)

- **Saciri** case (C 79/13), the Court of Justice of the European Union (CJEU) opined that when material reception conditions are provided in the form of financial subsidies :

That Member State sufficient must ensure that the total amount of financial subsidies covering material reception conditions is sufficient to ensure a decent standard of living, and for the health of asylum seekers and is capable of ensuring their livelihood, specifically allowing them to find housing , taking into account, if necessary, the preservation of the interests of persons with special needs, in accordance with Article 17 of RCD (paragraph 46).

Saciri (C 79/13) System saturation

“it must be pointed out that it is for the member states to ensure that those bodies meet the minimum standards for the reception of asylum seekers, saturation of the reception networks not being a justification for any derogation from meeting those standards”. (par. 263.)

- The content of the right to human dignity has not been explicitly defined by the European Court of Human Rights (ECtHR).
- Article 52 (3) of the Charter is designed to ensure consistency between the Charter and the ECHR.
- The meaning and scope of Charter Articles that correspond to ECHR Articles should be given the same meaning and scope as those laid down in the ECHR.
- This includes the case law of the ECtHR. The CJEU should follow the jurisprudence of the ECtHR to the extent that it must offer at least the same level of protection

Decent living conditions

- Riad and Idiab v. Belgium (29787/03, 29810/03) the ECtHR found that once a State has decided to deprive an applicant of their liberty, there was a duty on the State to ensure that the applicant was detained in conditions that were compatible with respect for human dignity (par. 103).
- Minimum materials need to be provided (food, access to adequate sanitary conditions, clothes and bedding) to meet the standard in Article 3. (ECtHR, MS v UK, 24527/08, par. 39, 44).

Case of NH and others v. France (28820/13)

- The applicants' living conditions caused feelings of fear and hopelessness and led to degrading treatment and lack of respect for their dignity (violation of Article 3 of the ECHR).
- The lack of an appropriate reaction by the authorities could not be justified by "***the lack of resources of the competent bodies, given the fact that the applicants were young, unmarried adults in good health with no dependent family members .***" (par. 184).

Non-discrimination (Article 21 CFREU) and the concept of vulnerability of applicants for international protection, refugees and migrants

Charter of Fundamental Rights



Protecting the fundamental rights enjoyed by citizens in the EU

- **CFREU Preamble:** The EU is founded on the indivisible and universal values of human dignity, freedom, equality and solidarity and places people at the heart of its action
- **Objective of the CFREU:** It was designed to act as a reference point for the rights of European citizens as well as those on EU territory
- **Added value of the CFREU:** It is a contemporary list of human rights, freedoms and principles, with a wider scope than the ECHR, and with applicability to asylum and migration cases before the CJEU



Charter of Fundamental Rights

Statistics (Eurostat)

On 1 January 2021, there were 23.7 million third-country nationals living in EU Member States, representing 5.3% of the EU population, while in 2022 the number of asylum applicants in the EU was 881,220. This indicates an increase of 64 % compared to 2021 (537,355). Asylum applications in Greece in 2022 amounted to 37,375.

Non-discrimination and primary law

EU primary law

The Treaties

- **Article 2 of the EU Treaty** : the common values on which the Union is based include equality and non - discrimination
- **Article 10 of the Treaty on the Functioning of the EU** : the Union seeks to combat all **discrimination** in defining and implementing its policies and actions
- **Article 18 of the Treaty on the Functioning of the EU** : prohibition of **discrimination** on grounds of nationality
- **Article 19 of the Treaty on the Functioning of the EU** : the European Parliament and the Council can take action to combat **discrimination** based on **sex, racial or national origin, religion or belief, disability, age or sexual orientation**
- **Articles 20 and 21 of the CFREU**

Article 21 of the EU Charter of Fundamental Rights (CFREU) Prohibition of discrimination

Definitions and Legal basis

- **Non-discrimination** (art. 21 of the CFREU) and **Equality before the law** (art. 20 of the CFREU) → Both are general principles of EU law - CJEU Case C - 56/94 SCAC, para. 27
- The **principle of non-discrimination** in Article 21 of the CFREU as a *special manifestation* of the principle of equal treatment - CJEU Case C -356/12, *Glatzel*, paragraph 43, imposes that comparable situations must not be treated differently and that different situations must not be treated in the same way, unless this treatment is objectively justified - Case C -550/07 P *Akzo*, paragraph 55
- The different treatment is justified if *if it is based on an objective and reasonable criterion and this difference is proportional to the purpose pursued by this treatment* - CJEU Case C -127/ 07 *Arcelor Atlantique*, paragraph 42

Secondary EU law - Directives on equal treatment

- ❖ **Directive 2000/43** *Race and Ethnicity Equality Treatment*
 - ❖ **Directive 2000/78** *Employment Equality Directive*
 - ❖ **Directive 2006/54** *on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)*
- **concretize the general principle of non-discrimination**

Non- discrimination and secondary law Invoking article 21 of the CRD also in cases of reception and detention

Directive 2013/33/EU on the requirements for the reception of applicants for international OSH protection (recast)

- **Recital 8 of the CRD (recast):** *In order to ensure equal treatment of applicants throughout the Union, this Directive should apply during all stages and types of procedures concerning applications for international protection, in all locations and facilities hosting applicants and for as long as they are allowed to remain on the territory of the Member States as applicants.*
- **Recital 35 of the CRD (recast):** *This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for human dignity and to promote the application of Articles 1, 4, 6, 7, 18, 21, 24 and 47 of the Charter and has to be implemented accordingly.*

PROVISIONS RELATING TO VULNERABLE PERSONS

Article 2(k) Definitions (vulnerable person)

applicant with special reception needs: means a vulnerable person, in accordance with Article 21, who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive"

Directive 2013/33/EU on the requirements for the reception of applicants for international protection (recast)

PROVISIONS RELATING TO VULNERABLE PERSONS

Article 21 General principle

- When transposing **Directive 2013/33/EU on reception conditions** into national law, Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation, in the national law implementing this Directive
- the special situation of vulnerable persons requires the establishment of special guarantees during their reception and detention

The concept of vulnerability in categories of applicants for international protection

The concept of vulnerability is crucial. The early assessment of vulnerability and the recognition that **special care** should be provided to vulnerable persons ACHIEVES, in practice, **equality between applicants for international protection**

The link between vulnerability and an adequate standard of living was examined by the CJEU in **Haqbin v Federal Office for the Reception of applicants of International Protection, Belgium (C 233/18)**, where the Court ruled that:

in the case of "vulnerable persons", within the meaning of article 21 of the Directive, which includes unaccompanied minors, [...] article 17, par. 2, second paragraf, of the said Directive states that, the member states must ensure that an adequate standard of living is "achieved", which ensures their maintenance and protects both their physical and mental health (paras. 33, 34)

Special procedural guarantees for vulnerable persons

Recital 14 of the CRD (recast): The reception of persons with special reception needs should be a primary concern for national authorities in order to ensure that such reception is specifically designed to meet their special reception needs.

- Obligation of Member States to "take into account" the special situation of vulnerable persons
- The assessment of the special reception needs of vulnerable persons is a necessary precondition for them to benefit from the special guarantees

Law 4375/2016: Establishes the creation of Reception and Identification Centers (RIC) where the vulnerability of persons in need of international protection

Vulnerable people

Mainland Reception Centers

Non- vulnerable people

Return of irregular migrants who reach the Greek islands via Turkey, whose application is deemed unfounded or inadmissible or do not apply for asylum, back to Turkey (EU-Turkey Joint Declaration)

*** in practice the vulnerability assessment was not effectively implemented...**

→GNCHR Recommendation: identification and separation of persons in need of international protection or belonging to vulnerable groups and ensure **decent reception conditions** for all

National practices that have been negatively criticised



In Samos, Kos, Lesbos and Chios, asylum interviews were mainly conducted before an effective vulnerability assessment was completed

Requests to postpone interviews (until the vulnerability assessment is completed) have been refused by the Regional Asylum Offices, despite the fact that the identification/certification of a vulnerability can have a significant impact on the outcome of the individuals' asylum process

AIDA (Asylum Information Database) , Country Report Greece 2022



Detention of vulnerable persons and applicants of International Protection with special reception needs, Directive 2013/33/EU, Articles 8-11

Article 8 (2) Detention

When it proves necessary and on the basis of an individual assessment of each case, Member States may detain an applicant, if other less coercive alternative measures cannot be applied effectively.

Article 11(2) Detention

of vulnerable persons and applicants with special reception needs

The health, including mental health, of applicants in detention who are vulnerable persons shall be of primary concern to national authorities.

Article 5 of the European Convention on Human Rights

THE deprivation of liberty for immigration-related reasons can only be used as a last resort

*** The Greek State still does not follow European standards in detention...**

→ **ECtHR Permanent Recommendation:** complete abolition of the measure of **detention** against vulnerable applicants and unaccompanied minors, as this measure disproportionately affects their rights

Unaccompanied minors



- ✓ **Unaccompanied** is a child, a third-country national or a stateless person under the age of 18, who arrives in Greek territory without being accompanied by an adult responsible for their care by law or practice. A child who ceases to be accompanied after entering the country is also unaccompanied
- ✓ The **best interest of the child** is a dynamic concept, with the aim of ensuring to the minor a standard of living suitable for his physical, spiritual, intellectual, moral and social development in accordance with the *UN Convention on the Rights of the Child*. It must be evaluated and taken into account primarily in any act or decision concerning it (**the child's housing, safety, education, health care, recreational activities, legal representation**)
- ✓ The **National Emergency Response Mechanism** for the protection of unaccompanied minors, which has been operating since April 2021 at the Ministry of Migration and Asylum, has contributed to the timely identification and safe accommodation of 3,258 unaccompanied children who were previously in precarious living conditions or homeless.



Unaccompanied minors Special procedure for their reception and identification

The Reception and Identification Service is responsible for the reception and identification of unaccompanied minors at Reception and Identification Centers or Closed Controlled Access Centers **based on the best interest of the child**. The General Secretariat for Vulnerable Persons & Institutional Protection is responsible for the protection, guardianship and representation of unaccompanied minors and separated minors (Articles 64 and 65 of Law 4939/2022 International Protection Code)

→ Article 24 of the Charter of Fundamental Rights (Child Rights) must be applied accordingly

Standing Recommendations of the GNCHR

- abolish the administrative detention of unaccompanied children and children accompanied by family members, as their detention under asylum and migration law can never fulfil the best interest of the child, according to the repeated condemnations of Greece by the European Court of Human Rights (HA and others v. Greece, appeal no . 19951/16, 28.02.2019)
- direct access to accommodation suitable for their age
- access to food, water, education and adequate housing, health care and medical assistance

LGBTQI+ applicants of International Protection and beneficiaries face serious obstacles in the international protection status determination procedures. They remain among the most **invisible applicants** in the European asylum systems even in countries considered safe (multiple stigmatization, fear of identity disclosure, negative stereotypes and prejudices that accompany LGBTI+ identities)

→ need for special treatment of LGBTI+ persons in reception conditions, given the increased risks they are proven to face

The UN Convention on the Rights of Persons with Disabilities and the recast Directive 2013/33/EU on the reception conditions of applicants for international protection



Directive 2013/33/EU (Article 19)

Obliges Member States to ensure that applicants with special reception needs receive the necessary medical care, including appropriate psychiatric care → Immediate need to be incorporated into the text of the Directive the dimension of reasonable adaptations in order to ensure a minimum standard of living suitable for disabled applicants

Recommendations to Greece from the CRPD Committee

CRPD Committee expresses its concern about the **inadequacy** of measures taken to identify persons with disabilities who are applicants of International Protection and beneficiaries, and recommends that the State shall immediately **ensure** that the **vulnerability assessment** of persons with disabilities, (...) is carried out systematically upon their arrival, by trained personnel, and based on the rights-based approach to disability and specific guidelines for the identification of persons with disabilities.



Obligations of EU Member States

- ✓ **effective process of identifying** persons with serious illnesses and/or persons with mental disabilities during the reception stage of applicants for international protection
- ✓ **provision of material reception conditions** suitable for the specialized needs of people with disabilities and/or chronic diseases (accessibility, increased needs for cleanliness and hygiene, etc.)
- ✓ **special care** for people with a disability and/or chronic illness, for whom the material reception conditions must not be interrupted or limited
- ✓ applicants' access to **medical care** without restriction
- ✓ provision for **the providing information in international sign language** through an interpreter for people with deafness, in order to ensure the right of people with disabilities to access information