

## Summary

### Backgrounds, objectives, and analyses conducted

There are large differences among European countries in the percentage of asylum applications that states recognise. Such (first-instance) recognition rates are generally seen as the best available indicator of the willingness of states to admit asylum seekers. This is because these rates have been shown to be associated with conditions in countries of asylum that can be assumed to impact a state's willingness to admit asylum seekers: recognition rates tend to be lower when unemployment rates are high and/or when extreme right-wing parties are relatively popular. At the individual level, too, the decision to recognise or reject an asylum application is related to decision makers' political convictions on role definition: a vignette study among functionaries of the Dutch immigration and naturalisation service found that decision makers with a relatively conservative orientation rejected significantly more asylum applications than those with a more progressive orientation.

However, first-instance recognition rates are also associated, as one would expect, with societal conditions in asylum seekers' countries of origin: recognition rates tend to be higher for asylum seekers originating from politically unstable and/or unfree countries than for those originating from relatively stable and free countries. In other words, while the overall recognition rates for countries of asylum tend to be seen as indicators of the willingness of these countries to admit asylum seekers, the rates are also influenced ('confounded') by international differences in the composition of the asylum population; countries of asylum receive different asylum-seeker populations.

This study applies statistical techniques to improve the comparability of countries' overall recognition rates. Firstly, it presents adjusted recognition rates for 2014. The adjusted rate is the percentage of positive decisions in a country if international differences in the composition of the asylum-seeker population with respect to *country of citizenship*, *age*, and *sex*—other characteristics are not available via Eurostat—are held statistically constant. This situation was simulated by calculating a country's recognition rate—given the decisions that it took in its jurisdiction in comparison to what other European countries did in their jurisdictions—if that country would have been responsible for all first-instance decisions in 2014 in the EU/EFTA area as a whole (N=400,000). Secondly, it presents expected recognition rates for 2014. The expected recognition rate gives the percentage of positive decisions in a country if each asylum applicant in that country would have had exactly that probability of a positive decision that he or she had on average in 2014 in the EU/EFTA area as a whole based on his or her nationality, age, and sex (i.e. under a kind of 'statistical European norm'). Separate analyses were conducted for the probability of a positive decision on international or national grounds, and a positive decision on international grounds only (based on the Geneva conventions or the European Convention on Human Rights). Similar analyses were conducted on all first-instance decisions made in 2013. This led to largely similar results—indicating that destination effects are relatively stable, at least in a short period—and only the results for 2014 are reported. Finally, it was examined whether international differences in the probability of a positive first-instance decision are annulled at later stages of asylum procedures due to appeals, and whether countries with high recognition rates tend to receive relatively few asylum seekers.

## Relevance

Since 2012, some members of the Dutch Parliament have voiced concerns about the 'high' percentage of positive decisions in the Netherlands, and have raised questions as to why the Netherlands has a higher percentage of positive first-instance decisions than most other EU/EFTA countries. The Dutch State Secretary for Security and Justice replied that it is difficult to compare figures for different countries because each country 'is dealing with a different composition of countries of origin'. It was also hypothesised that the 'quick' procedure in the Netherlands has the effect of discouraging asylum seekers 'who are not in need of protection against return, but apply for asylum in order to obtain access to Europe'. The analysis helps to establish the position of the Netherlands when composition effects are held constant.

The findings also have broader relevance. Better indicators of destination effects are useful to monitor whether the principle of equality before the law is being upheld: the admission of asylum seekers is not, or at least not exclusively, a national competence. This makes large international differences in asylum determination outcomes problematic, especially when it concerns differences in the chances of obtaining protection on international grounds. Large international differences in decision outcomes, especially with regard to international protection, may also be perceived as arbitrary, and potentially undermine the perceived legitimacy and enforceability of asylum law. In the European context in particular, indicators of a country's willingness to admit asylum seekers that are not confounded by composition effects could help implement the idea of 'burden sharing'; i.e. the principle that those who are in need of protection should be distributed fairly among EU member states and the commitment of Member States to establishing a Common European Asylum System (CEAS).

## Results

International differences in recognition rates are found to become considerably smaller after adjusting for composition effects. At the same time, substantial differences persist, especially—but not exclusively—when positive decisions on national grounds count as recognitions. When only the positive decisions on international grounds—i.e. on the basis of the Geneva Conventions or the European Convention on Human Rights—count as recognitions, countries with the highest adjusted recognition rates are still observed, when making all the first instance decisions in the EU/EFTA in 2014, to be recognising approximately twice as many asylum applications than countries with the lowest adjusted recognition rates. Net of the effects of international differences in asylum seekers' origin, age, and sex, the Netherlands no longer has a relatively high recognition rate and emerges as a relatively 'restrictive' European country.

## Discussion

Contrary to unadjusted rates, comparing adjusted recognition rates (or comparing observed and expected recognition rates) is a better way of assessing countries' relative willingness to admit asylum seekers. However, the adjusted and expected rates still provide suggestive rather than definitive evidence on how (un)restrictive countries are in their admission decisions. These rates should primarily be used to ask additional questions on the lack of international convergence that remains. What

could explain the high adjusted rates in country X? What explains the low rates of country Y if they are not due to the compositional differences that are accounted for? The scientific literature suggests that international differences in the willingness to admit asylum seekers play a substantial role, for example in connection with international differences in unemployment or differences in the popularity (and political influence) of anti-immigration parties. Additionally, there may well be certain procedural explanations (such as the *Duldung* system in Germany, see the introduction). It therefore seems advisable to perform a comparative study on similarities and differences between asylum procedures in the EU/EFTA area. Several methodological limitations should be taken into consideration and the findings should be interpreted with some caution (the main limitations are mentioned in the introduction). Two limitations were overcome to some extent by conducting explorative additional analyses. Firstly, no support was found for the hypothesis that international differences in the outcome of first-instance decisions are systematically repaired at later stages of the asylum procedure: the chances of a positive final decision after a first-instance rejection are relatively low in most countries, and there is no evidence that countries with low (adjusted) recognition rates in the first instance eventually accept an extraordinarily high number of asylum seekers due to successful appeals or repeated asylum applications. This finding underscores the importance of the first-instance decisions. Secondly, no evidence was found that countries with the highest (adjusted) recognition rates receive fewer asylum seekers, which could indicate that they can 'afford' high recognition rates because they are discouraging asylum applications more than other countries. Quite to the contrary, it turns out that countries with high (adjusted) recognition rates tend to receive more, not fewer, asylum applications per inhabitant. A possible explanation for this pattern is that asylum seekers try to apply for asylum in countries with relatively high (perceived) admission chances. This observation, too, confirms that first-instance recognition rates matter, and that it is important to optimise the comparability of these rates by calculating 'adjusted' and/or 'expected' recognition rates, using the available information on asylum seekers' nationality, age, and sex.

