

Country Report: Bulgaria



2020
Update



БЪЛГАРСКИ
ХЕЛЗИНСКИ
КОМИТЕТ

Acknowledgements & Methodology

This report was written by Iliana Savova, Director, Refugee and Migrant Legal Programme, Bulgarian Helsinki Committee and was edited by ECRE.

This report draws on information provided by monthly immigration and asylum statistical analyses published by the national authorities, regular information sharing utilised by the National Coordination Mechanism in the area of asylum and international protection, established since 2013 and chaired by the State Agency for Refugees (SAR), as well as monthly border, detention and refugee status determination (RSD) monitoring implemented by the refugee assisting non-governmental organisations.

The information in this report is up-to-date as of 31 December 2020, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

Closed reception centre	Detention centre for asylum seekers managed by the SAR
Humanitarian status	Subsidiary protection under the recast Qualification Directive
Zero integration	Period during which all beneficiaries of international protection have been left without any integration support in Bulgaria
ACET	Assistance Centre for Torture Survivors
AMIF	Asylum, Migration and Integration Fund
ASA	Agency for Social Assistance Агенция за социално подпомагане
BHC	Bulgarian Helsinki Committee
CERD	Committee on Elimination of Racial Discrimination
CRF	Closed reception facilities
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
EASO	European Asylum Support Office
EC	European Commission
ЕСГРАОН	Civil national database
ЕГН	Unique identification number Единен граждански номер
ЛНЧ	Unique identification number for short-term or long-term residents, including asylum seekers Личен номер на чужденец
Eurodac	European fingerprint database
Frontex	European Border and Coast Guard Agency
LAR	Law on Asylum and Refugees
LARB	Law on Aliens in the Republic of Bulgaria Закон за чужденците в Република България
MOI	Ministry of Interior
NLAB	National Legal Aid Bureau
NPIR	National Programme for the Integration of Refugees
RRC	Refugee reception centre
RSD	Refugee status determination
SGBV	Sexual and Gender based Violence
SOP	Standard Operating Procedures
SANS	State Agency for National Security Държавна агенция "Национална сигурност"
SAR	State Agency for Refugees Държавната агенция за бежанците
SIS	Schengen Information System
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees

Statistics

Overview of statistical practice

The State Agency for Refugees (SAR) publishes monthly statistical reports on asylum applicants and main nationalities, as well as overall first instance decisions.¹ Further information is shared with non-governmental organisations in the context of the National Coordination Mechanism. The Ministry of Interior also publishes monthly reports on the migration situation, which include figures on apprehension, capacity and occupancy of reception centres.²

Applications and granting of protection status at first instance: 2020

	Applicants in 2020	Pending at end 2020	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	3,525	2,201	105	716	1,374	5%	33%	62%

Breakdown by countries of origin of the total numbers

Afghanistan	1,736	1,125	3	7	858	0.2%	0.8%	99%
Syria	1,089	608	96	668	6	11%	88%	0.8%
Iraq	239	188	2	22	147	1%	13%	86%
Morocco	114	47	0	0	93	0%	0%	100%
Pakistan	85	42	1	1	55	2%	2%	96%
Iran	45	39	0	2	44	0%	4%	96%
Algeria	38	16	0	0	39	0%	0%	100%
Stateless	24	10	2	9	13	8%	38%	54%
Tunisia	9	12	0	0	6	0%	0%	100%
Egypt	10	-	0	0	8	0%	0%	100%

Source: SAR.

¹ SAR, *Statistics and reports*, available at: <https://bit.ly/2ur0Y1a>. Only the latest available statistics are published at any given time.

² Ministry of Interior, *Migration statistics*, available at: <https://bit.ly/372jvz7>.

Gender/age breakdown of the total number of applicants: 2020

	Number	Percentage
Total number of applicants	3,525	100%
Men	3,161	90%
Women	364	10%
Children	1,125	32%
Unaccompanied children	799	22%

Source: SAR.

Comparison between first instance and appeal decision rates: 2020

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions on merits	2,195	100%	246	11%
Decisions granting international protection	821	38%	N/A	N/A
Rejection	1,374	62%	246	18%

Source: SAR.

Overview of the legal framework

Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

Title in English	Original Title (BG)	Abbreviation	Web Link
Law on Asylum and Refugees	Закон за убежището и бежанците	LAR	https://bit.ly/2lfdwMi (BG)
Law on Aliens in the Republic of Bulgaria	Закон за чужденците в Република България	LARB	https://bit.ly/2Z7e4ee (BG)

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title in English	Original Title (BG)	Abbreviation	Web Link
Regulations on the implementation of the Law on Aliens in the Republic of Bulgaria <i>Amended by: CoM № 129 of 5 July 2018</i>	Правилник за приложение на Закона за чужденците в Република България (ППЗЧРБ)	LARB Regulations	http://bit.ly/2DpJHKK (BG)
Ordinance № 332 of 28 December 2008 for the responsibilities and coordination among the state agencies, implementing Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, Council Regulation No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention and Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000	Наредба приета с ПМС №332 от 28.12.2008 за отговорността и координацията на държавните органи, осъществяващи действия по прилагането на Регламент (ЕО) № 343/2003 на Съвета от 18 февруари 2003 г. за установяване на критерии и механизми за определяне на държава членка, компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна, Регламент (ЕО) № 1560/2003 на Комисията от 2 септември 2003г. за определяне условията за прилагане на Регламент (ЕО) № 343/2003 на Съвета за установяване на критерии и механизми за определяне на държавата членка, която е компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна, Регламент (ЕО) № 2725/2000 на Съвета от 11 декември 2000г. за създаване на система "ЕВРОДАК" за сравняване на дактилоскопични отпечатащи с оглед ефективното	ORD 332/08	http://bit.ly/1IJ1CI5 (BG)

	прилагане на Дъблинската конвенция и Регламент (ЕО) № 407/2002 на Съвета от 28 февруари 2002 г. за определяне на някои условия за прилагането на Регламент (ЕО) № 2725/2000 относно създаването на системата "ЕВРОДАК" за сравняване на дактилоскопични отпечатаци с оглед ефективното прилагане на Дъблинската конвенция		
Ordinance № I-13 of 29 January 2004 on the rules for administrative detention of aliens and the functioning of the premises for aliens' temporary accommodation	Наредба № I-13 от 29 януари 2004 за реда за временно настаняване на чужденци, за организацията и дейността на специалните домове за временно настаняване на чужденци	ORD I-13/04	https://bit.ly/2RnPVxr (BG)
Internal Rules of Procedure in immigration detention centers under the Migration Directorate of the Ministry of Interior, adopted on 16 June 2016 (№5364p-20628)	Правилник за вътрешния ред в специалните домове за временно настаняване на чужденци при Дирекция "Миграция" при Министерството на вътрешните работи, утвърден с № 5364p-20628 от 16.06.2016 г. от директора на дирекция "Миграция" - МВР	Detention Rules	https://bit.ly/2RnPVxr (BG)
Ordinance № 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection	Постановление № 208 от 12 август 2016 г. за приемане на Наредба за условията и реда за сключване, изпълнение и прекратяване на споразумение за интеграция на чужденци с предоставено убежище или международна закрила	Integration Ordinance	http://bit.ly/2jtVsTE (BG)

Overview of the main changes since the previous report update

The report was previously updated in **February 2020**.

Asylum procedure

- **COVID-19 consequences:** On 13 March 2020 the government declared a state of emergency as a measure against the COVID-19 pandemic.³ All borders were shut down. Shortly after, the national asylum agency announced that a quarantine would be applied to all reception centers, thus forbidding any access to the latter except for staff and residents.⁴ All asylum-related procedures were suspended, except for the renewal of asylum documents and the registration of asylum seekers transferred from pre-removal detention facilities. National courts also suspended their operations, except for emergency proceedings, which did not include asylum cases.⁵ The lockdown was officially lifted on 13 May 2020, but it was not before the beginning of June 2020 that determination procedures resumed at all instances.
- **Access to the territory:** Despite the COVID-19 pandemic, new arrivals increased by 57% compared to 2019.⁶ However Bulgaria traditionally experiences much lower numbers than its neighbour Greece. It is a long-standing practice of the Bulgarian authorities to prevent Turkish nationals from accessing the international protection procedure and to return them back, including in some cases in violation of the *non-refoulement* principle. In return, the Turkish authorities to a large extent divert the migratory pressure from the Bulgarian to the Greek border.⁷ The latest example in this respect was the March 2020 border crisis in the Pazarkule-Kastanies region, when the attempted entries to Bulgaria were close to none.⁸ Nevertheless, a significant number of asylum seekers continue to try to enter the EU through Bulgaria. In 2020, the authorities issued 4,658 formal non-admissions and allegedly carried out 498 indirect pushbacks - affecting 3,493 individuals - as well as 569 direct pushbacks - affecting 11,770 individuals, as indicated by the national border monitoring.
- **Absconding and onward movement:** Large numbers of third country nationals continued to transit and exit the country without any interference with the national authorities. The majority of those who have been apprehended further abscond after being released on account of submitted and registered asylum applications. Although these figures decreased in 2020 because of COVID-19, they still represent 83% of the overall asylum seeking population in the country.⁹ The Western Balkans became the most active migratory route in 2020 as figures doubled from the end of 2019.¹⁰ This is also due to a significant decrease of the illegal crossings at the EU's external borders along the Eastern, Central and Western Mediterranean routes.¹¹
- **Determination procedures in pre-removal detention facilities:** In 2020, only 0.6% of the determination procedures have been carried out in pre-removal detention facilities, which marks a decrease compared to the previous year. This illegal practice used to be systematically applied in

³ National Parliament, Law on the measures and activities during the emergency situation, State Gazette No.28 from 24 March 2020, available in Bulgarian at: <https://bit.ly/3ooXjrE>.

⁴ State Agency for Refugees (SAR), Measures against the COVID-19 pandemic, 23 March 2020, available in Bulgarian at: <https://bit.ly/3scfjbk>.

⁵ Supreme Judicial Council, Preventive measures against COVID-19, 15 March 2020, available in Bulgarian at: <https://bit.ly/3s1t0tk>.

⁶ MOI, Migration statistics, available at: <https://bit.ly/35bjdqK>.

⁷ Offnews, The Turkish Ambassador promised to sustain the migrant pressure towards Bulgaria at a zero level, 3 May 2020, available in Bulgarian at: <https://bit.ly/397W2Ph>.

⁸ Mediapool, Борисов при Ердоган докато хиляди имигранти напират към Гърция, 2 March 2020, available in Bulgarian at: <https://bit.ly/3rUUQYj>.

⁹ MOI, Migration statistics, TCNs apprehended on the territory and on exit, available at: <https://bit.ly/35bjdqK>.

¹⁰ FRONTEX, Situation at EU external borders – Arrivals down in Western and Eastern Mediterranean, 17 November 2020, available at: <https://bit.ly/3opHjGc>.

¹¹ Ibid.

2019,¹² in violation of the law.¹³

- **Discriminatory determination of certain nationalities:** Nationalities from certain countries such as Ukraine, Algeria, Morocco and Tunisia are discriminatorily treated as manifestly unfounded applicants under the [Accelerated Procedure](#), resulting in zero recognition rates, i.e. 100% rejection. This also applied to Afghan nationals who faced a 99% rejection rate. Afghanistan has been the top country of origin in Bulgaria for five consecutive years since 2016.
- **Representation of unaccompanied children:** A major change to the legal representation of unaccompanied asylum seeking and refugee children was introduced by law at the end of 2020.¹⁴ It shifted the responsibility of their legal representation from the municipalities to the National Legal Aid Bureau.¹⁵ Legal representation applies throughout the asylum procedure but also after recognition and before all relevant agencies responsible for the children's rights and entitlements. The law also introduced conditions for the qualification of the appointed legal aid lawyers and requirements for a representation in the child's best interest. The selection and the subsequent training of selected lawyers are expected to be carried out in early 2021.
- **Deteriorating standards of the judicial control:** The effectiveness of the judicial system as the sole avenue for independent revision of first instance decisions continued to be further undermined. In March 2018, the Chair of the Supreme Administrative Court (SAC) had moved 100 asylum cases from the 3rd Section, specialised in asylum and refugee law, to the 4th Section of the Court.¹⁶ The latter speedily and overwhelmingly rejected the appeals without any individual assessment and proper reasoning.¹⁷ In January 2020 the SAC's Chair withdrew the asylum cases from the specialised 3rd Section and assigned them again to the 4th Section of the Court, though this time – fully and indefinitely. Civil society and international organisations pleaded for reconsideration of the arrangement in order to prevent a serious loss of knowledge, experience and legal expertise in the field of asylum and international protection, accumulated by the 3rd Section of the Court over the last three decades.¹⁸ However, the SAC's management refused to reconsider the arrangement.¹⁹ As a result 96% of the appeals were rejected, and in 14% of the cases the SAC overturned positive judgements that had been issued by lower court instances.²⁰

Reception conditions

- **Access to benefits:** Asylum seekers who decide to live outside reception centers at their own expenses are not entitled to any social benefits.²¹ Asylum seekers who are not self-sufficient are entitled to accommodation in the available reception centers, three meals per day, basic medical assistance and psychological support,²² although the latter is not secured in practice. Access to any other social benefits under the EU *acquis* is not guaranteed by law nor provided in practice.²³
- **Access to the labour market:** For the duration of the procedure asylum seekers have unconditional

¹² Bulgarian Helsinki Committee, 2020 Situation report, 10 February 2021.

¹³ Article 45b LAR.

¹⁴ National Parliament, Amendments on the Law on Asylum and Refugees (LAR), State Gazette No.89 from 16 October 2020, available at: <https://bit.ly/2LoUMiG>.

¹⁵ Article 25 LAR.

¹⁶ Lex.bg, BAC ще заседава извънредно по забавени дела, 28 March 2018, available in Bulgarian at: <https://bit.ly/2WrXLI3>.

¹⁷ AIDA, 2018 Update: Bulgaria, Overview of the main changes since the previous report, 28 February 2019, available at: <https://bit.ly/3pXGhKL>.

¹⁸ UNICEF, ref. No. O-20-051 from 1 June 2020;

¹⁹ Supreme administrative court, ref. No.490 from 18 June 2020.

²⁰ Bulgarian Helsinki Committee, 2020 Situation report, 10 February 2021.

²¹ Article 29 (9) LAR.

²² Article 29 (1) LAR.

²³ Articles 17-18 and 25 of the Reception Conditions Directive (RCD)

access to the labour market after a period of three months from their personal registration.²⁴ In 2020 however the COVID-19 pandemic deteriorated the already difficult national economic situation, which further complicated asylum seekers' and refugees' employment and self-sufficiency.

- **Safe zones for unaccompanied children:** The first safe zone for unaccompanied children opened in mid-2019 in the refugee reception centre (RRC) in Sofia at the Voenna Rampa shelter where children are provided round-the-clock care and support tailored to their specific needs.²⁵ The Voenna Rampa safe zone accommodate primarily Afghan and Pakistani children. A second safe-zone at the RRC Sofia, in the Ovcha Kupel shelter, opened in January 2020 to accommodate children originating from Arab speaking countries. Both safe-zones are operated by the International Organisation for Migration (IOM) - Bulgaria and funded by AMIF. The IOM's safe zones operation is due to be extended under the new AMIF grant for another two years after January 2021, and further includes a new safe zone in the biggest national RRC in the town of Harmanli, South-East Bulgaria.

Detention of asylum seekers

- **Average detention duration:** In 2020 the authorities applied a mandatory fourteen days quarantine to all newly detained third country nationals. In case of a positive PCR test at the end of the quarantine, the detention period could be repeatedly extended by a week until a negative test result, at which point the quarantine was lifted. During quarantine, the individuals were not able to receive legal advice or assistance to apply for asylum. As a result, the quarantine period is not included into the detention duration, which is calculated from the date of formal submission of the asylum application. The average detention duration of first-time applicants, excluding quarantine, thus reached 8 calendar or 6 working days.

Content of international protection

- **Integration:** In 2020, no integration activities were planned, funded or made available to recognised refugees or subsidiary protection holders; thus marking the seventh consecutive year of the national "zero integration" policy. However, following relentless advocacy efforts from UNHCR, the Refugee Council and the Red Cross, which were supported by the State Agency for Refugees, 12 refugee families are expected to receive an integration support by the Vitosha and Oborishte Districts, Sofia municipality, in 2021. No other future integration activities are planned however.
- **Cessation of international protection:** In 2020, a new provision introduced an additional cessation clause,²⁶ in contradiction both to the Refugee Convention,²⁷ and the Qualification Directive.²⁸ The law permits cessation or revocation of international protection if status holders fail, in a period of thirty days, to renew their expired Bulgarian identity documents or to replace them if they have been lost, stolen or destroyed. This amendment officialises a practice which has been applied by the national asylum agency since 2018. The undue cessation of international protection has affected 4,264 status holders in total so far, respectively – 770 persons in 2018; 2,608 persons in 2019; and 886 persons in 2020.²⁹
- ❖ **Relocation and resettlement:** Since 2015 Bulgaria accepted 77 individuals under the relocation scheme, of whom 43 individuals from Greece and 10 individuals from Italy. As regards resettlement, only 85 Syrian refugees have been resettled so far, out of the agreed number of 110 individuals.³⁰

²⁴ Article 29 (3) LAR.

²⁵ IOM, 'Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria', 29 May 2019, available at: <https://bit.ly/2RnAG7N>.

²⁶ Article 42 (5) LAR.

²⁷ Article 1C of the 1951 Refugee Convention.

²⁸ Article 11 and 16 recast Qualification Directive.

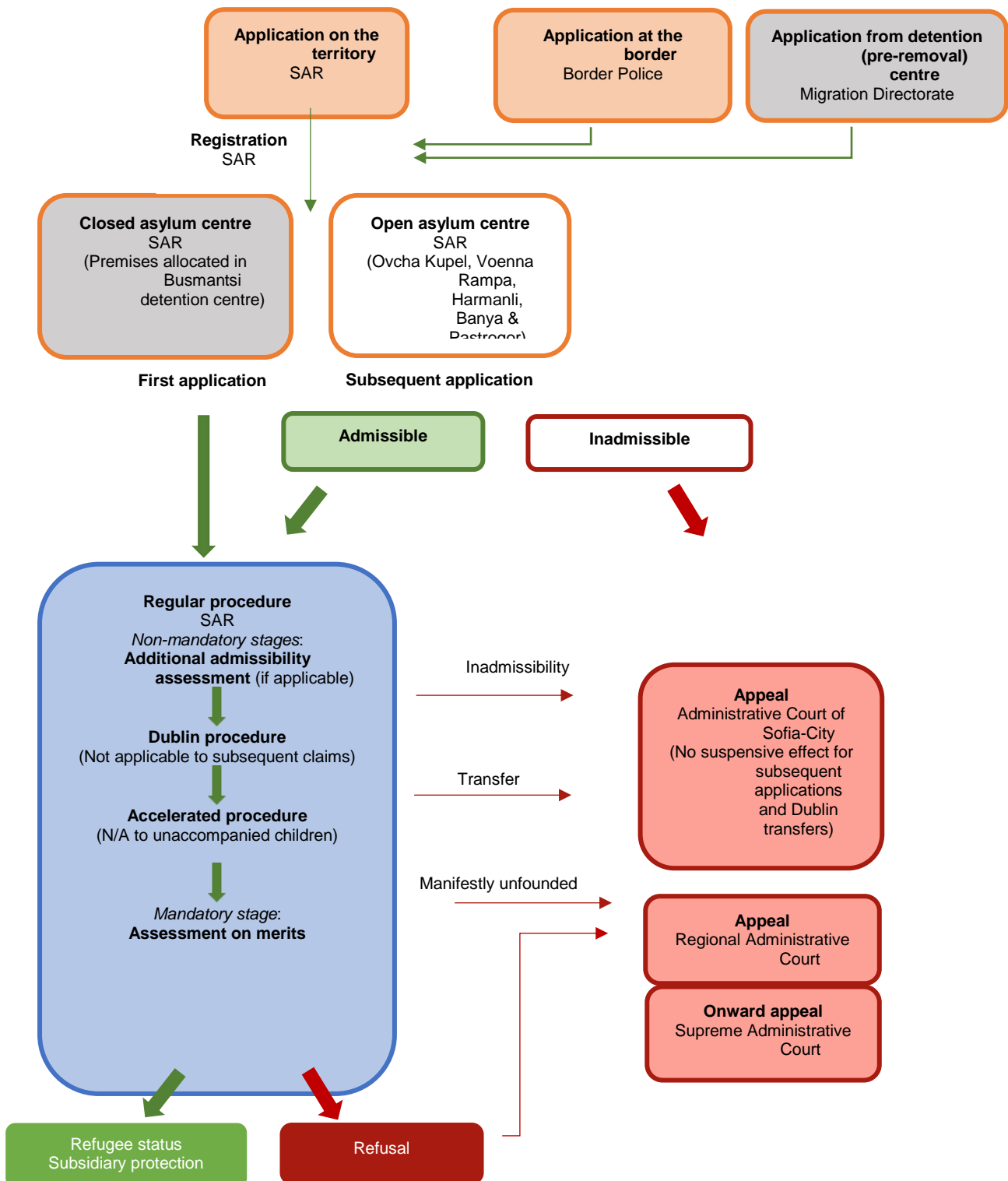
²⁹ SAR, Exh. No. PĐ05-22/13.01.2021

³⁰ Council of Ministers, Decision №750 from 30 November 2017.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

❖ Regular procedure:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
▪ Prioritised examination: ³¹	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
▪ Fast-track processing: ³²	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ Dublin procedure:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Admissibility procedure:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Border procedure:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ Accelerated procedure: ³³	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Other:		

Are any of the procedures that are foreseen in the law, not being applied in practice? ☐ Yes ☒ No

3. List of the authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (BG)
Application	State Agency for Refugees (SAR) & any state authority	Държавна агенция за бежанците (ДАБ) и друг държавен орган
National security clearance	State Agency for National Security (SANS)	Държавна агенция "Национална сигурност"
Dublin procedure	State Agency for Refugees (SAR)	Държавна агенция за бежанците (ДАБ)
Admissibility procedure	State Agency for Refugees (SAR)	Държавна агенция за бежанците (ДАБ)
Accelerated procedure	State Agency for Refugees (SAR)	Държавна агенция за бежанците (ДАБ)
Refugee status determination	State Agency for Refugees (SAR)	Държавна агенция за бежанците (ДАБ)
First appeal	Regional Administrative Court	регионален административен съд по местоживее
Onward appeal	Supreme Administrative Court	Върховен административен съд

4. Determining authority

Name in English	Number of staff as of 31 December 2020	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
State Agency for Refugees (SAR)	402	Council of Ministers	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Source: SAR. The number of staff refers to 328 occupied staff positions and 74 vacant positions

The SAR is competent for examining and deciding on applications for international protection. It is thus the authority competent for granting or not the two existing types of international protection; namely the refugee status or the subsidiary protection ("humanitarian status")³⁴ The SAR has different Units

³¹ For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

³² Accelerating the processing of specific caseloads as part of the regular procedure.

³³ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

³⁴ Article 2(3) LAR.

composed of caseworkers dealing with specific procedures, such as the Dublin Unit handling Dublin procedures, and specialised caseworkers dealing with accelerated procedures.

In case of mass influx where individual asylum applications cannot be processed, a temporary protection status is granted by the government following a collective decision made by the EU Council.³⁵ The SAR has an advisory role to the government in this respect when it decides whether to communicate to the EU Council a request for temporary protection decisions to be taken on a group basis in cases of a mass influx of asylum seekers who flee from a war-like situation, gross abuse of human rights or indiscriminate violence. These forms of individual or collective protection can be applied without prejudice to the authority of the Bulgarian President to grant asylum to any foreigner based on the national constitution if he or she is persecuted for convictions or activities undertaken in order to protect internationally recognised rights or freedoms.³⁶

Moreover, the chairperson of the SAR who is responsible for taking the first instance decision on the asylum claim is also in charge of the appointment of the SAR officials responsible for taking decisions in the Dublin procedure³⁷ and in the accelerated procedure.³⁸

Internal guidelines provide an extensive description of each procedural step and activity to be undertaken by all SAR staff involved in processing applications for international protection (e.g. registrars, social workers, caseworkers, officials of the legal department etc.) They do not regulate, however, how to conduct interviews, instead they refer to EASO interviewing guidelines³⁹. The Internal guidelines are not made public but, if requested, they are usually shared with UNHCR and/or NGOs providing legal assistance.

As regards the decision-making process, the SAR has an *ex ante* review mechanism in place whereby the caseworker, the head of the respective reception centre and the legal department of the SAR must agree on a draft decision that is then transferred to the SAR's chairperson for the final decision. In the most recent amendment of SAR Internal Guidelines,⁴⁰ this process was formalised as a response to the previous UNHCR and NGO critique that the lack of transparency contributed to bias and corruption.⁴¹

In terms of quality assurance and control, UNHCR is authorised by law to monitor every stage of the asylum procedure. The Agency's implementing partner, the Bulgarian Helsinki Committee, also exercises this right on behalf of UNHCR. The quality monitoring activities carried out by the Bulgarian Helsinki Committee on behalf of UNHCR involve evaluation of the following stages of the procedure: registration, interviews, first instance decisions, and appeal hearings in court.

The SAR has further established a Quality of Procedure Directorate which controls the quality of the procedure through regular and random sampling of decisions. On the basis of its findings, the Quality of Procedure Department issues guidance on the interpretation of legal provisions and the improvement of different stages of the procedure.

5. Short overview of the asylum procedure

Asylum can be claimed on the territory, at borders before the Border Police staff, or in detention centres before the Migration Directorate staff, either of which are obligated to refer it immediately to the SAR.⁴² The SAR is required to formally register the referred applications no later than 6 working days from their initial submission before another authority. The asylum application should be made within a reasonable time after entering the country, except in the case of irregular entry / residence when it ought to be made

³⁵ Article 2(2) LAR.

³⁶ Article 27(1) in conjunction with Article 98(10) Bulgarian Constitution.

³⁷ Chapter VI, Section Ia LAR.

³⁸ Article 70 LAR.

³⁹ Article 47 (4) SAR Internal Guidelines.

⁴⁰ Article 91 (7) and (8) SAR Internal Guidelines, as amended in December 2020.

⁴¹ Bulgarian Helsinki Committee, 2019 Annual RSD monitoring report, 31 January 2020.

⁴² Article 58(4) Law on Asylum and Refugees (LAR).

immediately,⁴³ otherwise it could be ruled out as manifestly unfounded.⁴⁴ The law does not foresee a maximum time limit for lodging the asylum application. If the asylum application is made before a state authority other than the SAR, status determination procedures cannot legally start until the asylum seeker is physically transferred from the border or detention centre to any of the SAR's reception centres for the so-called registration "in person" or "personal registration".⁴⁵

The asylum procedure stages are unified in one, single regular procedure. Dublin and accelerated procedures are now considered as non-mandatory phases of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to either engage the responsibility of another Member State to determine the asylum application in question,⁴⁶ or to consider the asylum application as manifestly unfounded respectively.⁴⁷

Admissibility procedure: An application can be deemed inadmissible if the applicant has been granted protection or a permanent residence permit in another EU Member State or "safe third country".⁴⁸ An admissibility assessment is also conducted with respect to subsequent applications which provides the opportunity to consider their admissibility based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.⁴⁹

Accelerated procedure: The accelerated procedure is presently applied by a decision of the respective caseworker, if and when there is information or indications to consider the application as manifestly unfounded based on a number of different grounds.⁵⁰ A decision should be taken within 14 working days from lodging, otherwise the application has to be examined under the regular procedure. The accelerated procedure is not applicable to unaccompanied children.

Regular procedure: The regular procedure (titled under the law as a "Procedure for granting of an international protection") requires detailed examination of the asylum application on its merits. A decision should be taken within 4 months from the lodging of the asylum application but this deadline is indicative, not mandatory. The deadline can be extended by 9 additional months with an explicit decision in this respect by the Head of the SAR,⁵¹ but in any case the SAR must conclude the examination procedure within a maximum time limit of 21 months from the lodging of the application.⁵²

Appeal: The appeal procedure mirrors the non-mandatory stages of administrative status determination:

- ❖ Dublin / Subsequent application: A non-suspensive appeal must be submitted within 7 days to the Administrative Court of Sofia, which has exclusive competence, in one instance;⁵³
- ❖ Accelerated procedure: A suspensive appeal must be submitted within 7 days to the territorially competent Regional Administrative Court, in one instance.
- ❖ Inadmissibility / Regular procedure: A suspensive appeal must be submitted within 14 days to the territorially competent Regional Administrative Court.

⁴³ Article 4(5) LAR.

⁴⁴ Article 13(1), items 11-12 LAR.

⁴⁵ Article 61a(1) in conjunction with Article 68(1) item 1 LAR.

⁴⁶ Article 67c(2) LAR.

⁴⁷ Article 70(1) LAR.

⁴⁸ Article 15 LAR.

⁴⁹ Articles 76a to 76c LAR; Article 76d in conjunction with Article 13(2)-(4) LAR.

⁵⁰ Article 70(1) LAR. The 14 applicable grounds are set out in Article 13(1) LAR.

⁵¹ The State Agency for Refugees is managed by a Chairperson: Article 46 et seq. LAR.

⁵² Article 75(5) LAR.

⁵³ Article 84(4) LAR.

An onward appeal to the Supreme Administrative Court is possible for inadmissibility decisions and negative decisions taken in the regular procedure. In Dublin cases, subsequent applications and decisions taken under the accelerated procedure, only one appeal instance is applicable.

Legal aid can be granted by the court, if requested. All courts in all types of appeal procedures can revoke entirely the appealed administrative decisions and give mandatory instructions as to how the case must be decided at the first instance by the SAR. However, the courts do not have powers to grant protection directly or to sanction the SAR, if their instructions are not observed while reverted asylum applications are re-considered. The courts can only proclaim the re-issued decision as null and void after a new appeal procedure, if it ignores the previous instructions of the court.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring system in place? ☒ Yes ☐ No
3. Who is responsible for border monitoring? ☐ National authorities ☐ NGOs ☒ Other
4. How often is border monitoring carried out? ☒ Frequently ☐ Rarely ☐ Never

No institutional or practical arrangements or measures exist to ensure a differentiated approach to border control that gives access to the territory and protection for those who flee from war or persecution.

1.1. Push backs at land borders

Access of asylum seekers to the territory remained severely constrained in 2020. The Ministry of Interior reported that it had apprehended a total of 2,495 third-country nationals, out of which 2,184 were new arrivals:

Irregular migrants apprehended in Bulgaria: 2016-2020					
Apprehension	2016	2017	2018	2019	2020
Irregular entry	4,600	743	689	489	510
Irregular exit	4,977	2,413	353	494	924
Irregular stay on the territory	9,267	1,801	1,809	1,201	2,053
Total apprehensions	18,844	4,957	2,851	2,184	3,487

Source: Ministry of Interior, Migration Statistics, December 2016: <http://bit.ly/2Fx9hIY>; December 2017: <http://bit.ly/2ntEXaR>; December 2018: <https://bit.ly/2sBEJ4z>; December 2019: <https://bit.ly/372jvz7>; December 2020: <https://bit.ly/3i01bgF>.

This represents a 60% increase in comparison with the previous year, thus indicating similar levels of migration pressure and related prevention.⁵⁴ Asylum seekers and government officials have both long admitted that the border fence can easily be crossed,⁵⁵ e.g. by using blankets, ladders or by passing

⁵⁴ During 2018, 3,132 irregular third-country nationals were apprehended, out of which 2,851 were new arrivals.
⁵⁵ Дневник, 'Каракачанов призна, че мигранти преминават оградата с Турция чрез стълби', 20 October 2017, available in Bulgarian at: <http://bit.ly/2EteNNA>; BBC, 'Bulgaria on the Edge', 2 August 2017, available at: <http://bbc.in/2ezp5U2>.

through damaged sections of the fence, which is a persisting and frequently reported problem.⁵⁶ Despite the various full or partial lockdowns applied as a response to the global COVID-19 pandemic the new arrivals increased with 60% in comparison to 2019.⁵⁷ However, Bulgaria traditionally experiences much lower numbers than the neighbouring country Greece. This is due *inter alia* to the long-standing practice of the Bulgarian authorities to prevent Turkish nationals from accessing both the procedure and international protection, and to return them back including, in some cases, in violation of the *non-refoulement* principle. In return, the Turkish authorities to a large extent divert the migratory pressure from the Bulgarian to the Greek border.⁵⁸ The latest example in this respect was the March 2020 border crisis in Pazarkule-Kastanies region⁵⁹, when the attempted entries to Bulgaria were close to zero.

Since 1 January 2017, the Ministry of Interior no longer discloses the number of prevented entries in its publicly available statistics. Thus, in 2020, only 296 asylum seekers were able to apply for international protection at the national entry borders and only 1.4% of them (i.e. 15 individuals) had direct access to the asylum procedure without detention. The remaining 99% who were able to apply at entry borders were sent to the Ministry of Interior's pre-removal centres.

1.2. Border monitoring

Under the 2010 tripartite Memorandum of Understanding between the Border Police, UNHCR and the Bulgarian Helsinki Committee,⁶⁰ with funding provided by UNHCR, all three parties have access to any national border or detention facility at land and air borders, including airport transit zones, without limitations on the number of monitoring visits. Access to these facilities is unannounced and granted without prior permission or conditions on time, frequency or circumstances of the persons detained. Border monitoring visits along the Bulgarian-Turkish border are implemented minimum once a week in Kapitan Andreevo, Elhovo, Bolyarovo, Sredets and Malko Tarnovo BCPs as well as at the Bulgarian-Greek border at Novo Selo BCP. The BHC lawyers can interview the detainees and also check the border registers. Monthly reports are prepared and shared internally. On their basis, the parties prepare and publish an annual border monitoring report.⁶¹

In 2020, the Bulgarian Helsinki Committee carried out 509 border monitoring visits at the border with Greece and Turkey, as well as at Sofia Airport transit hall. During these visits, the Bulgarian Helsinki Committee can also obtain information from police records when needed to cross-check individual statements, but has access only to border detention facilities, not to border-crossing points *per se*.

⁵⁶ Mediapool, 'Великата българска стена' отново не успя да устои на лошото време', 6 December 2018, available in Bulgarian at: <https://bit.ly/2T7kSph>; Elena Yoncheva, 'Граница', 14 November 2017, available at: <http://bit.ly/2DPcuTY>.

⁵⁷ MOI, Migration statistics, available at: <https://bit.ly/35bjdqK>.

⁵⁸ Offnews, The Turkish Ambassador promised to sustain the migrant pressure towards Bulgaria at a zero level, 3 May 2020, available in Bulgarian at: <https://bit.ly/397W2Ph>.

⁵⁹ Mediapool, Борисов при Ердоган докато хиляди имигранти напират към Гърция, 2 March 2020, available in Bulgarian at: <https://bit.ly/3rUUQYj>.

⁶⁰ The Bulgarian Helsinki Committee had a bilateral agreement with the Border Police from 2004 to 2010.

⁶¹ The border monitoring report is available at: <https://bit.ly/3mjDhNz>.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☐ Yes ☒ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

An asylum application may be made either before the specialised asylum administration, the SAR, or before any other state authority, which will be obligated to refer it immediately to the SAR.⁶² Thus, asylum can be requested on the territory, at the borders before the Border Police staff, or in detention centres before the Migration Directorate staff of the Ministry of Interior. The asylum application should be made within a reasonable time after entering the country, except in cases of irregular entry or residence when it ought to be made immediately.⁶³ Failure to make an application within a reasonable time or immediately in those cases can be a ground for rejecting it as manifestly unfounded under the [Accelerated Procedure](#).⁶⁴

If the asylum application is made before an authority different than the SAR, then status determination procedures cannot legally start until the asylum seeker is transferred from the border / detention centre and accommodated in any of the SAR's premises for registration to lodge the claim in person.⁶⁵ Under the law, this personal registration is to be implemented in any of the territorial units (see [Types of Accommodation](#)) of the SAR and within 3 working days after the making of the asylum application. Exceptions to this deadline are allowed only in cases where the asylum application is lodged before a different government authority or institution, in which case the deadline is set at 6 working days.⁶⁶

No significant delays were noted with respect to the release and registration of asylum seekers who applied while in immigration detention centres. After rising from 9 days in 2016 to 19 days in 2017 despite the substantial decrease in new arrivals, and then decreasing back to 9 days on average in 2018, the average [Duration of Detention](#) in 2020 decreased to 8 calendar / 6 working days. Registration took place without any delay compared to the established EU minimum standard.⁶⁷

At the end of the process, the asylum seeker receives a registration card (регистрационна карта) in paper format. The registration card is not issued to subsequent applicants, however.⁶⁸

Moreover, the SAR must inform the State Agency for National Security (SANS - Държавна агенция "Национална сигурност") of the registration of every asylum application. The SANS then conducts security assessments based on interviews with applicants, which are often held as soon as they are arrested by police, border and immigration officers. In practice, the SAR follows these assessments without conducting further investigations and rejects applications accordingly, even when the information is classified. In the past, the Administrative Court of Sofia has ordered the SAR to assess and verify the

⁶² Article 58(4) LAR.

⁶³ Article 4(5) LAR.

⁶⁴ Article 13(1), items 11-12 LAR.

⁶⁵ Article 61a(1) LAR.

⁶⁶ Article 61a(1) LAR in conjunction with Article 58(4) LAR.

⁶⁷ Article 6(1) recast Asylum Procedures Directive.

⁶⁸ Article 76c(3) LAR.

facts and the security concerns based on which the applications were rejected, however no such cases has been brought and dealt before the courts recently.⁶⁹

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|---|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance of 31 December 2020: | 2,201 |

The LAR sets a 6-month time limit for deciding on an asylum application admitted to the regular procedure.⁷⁰ The LAR requires that, within 4 months of the beginning of the procedure,⁷¹ caseworkers draft a proposal for a decision on the asylum application concerned. The asylum application should firstly be assessed on its eligibility for refugee status. If the answer is negative, the need for subsidiary protection on account of a general risk to the applicant's human rights should also be considered and decided upon. The interviewer's position is reported to the decision-maker, who has another 2 months for consideration and decision.

If evidence is insufficient for taking a decision within 6 months, the law allows for the deadline to be extended for another 9 months, but it requires the whole procedure to be limited to a maximum duration of 21 months. Determination deadlines are not mandatory, but only indicative. Therefore even if these deadlines are exceeded, this does not affect the validity of the decision.

According to monitoring activities in 2020, the general decision-taking 6 months deadline was observed in 94% of the cases, leaving 6% of the cases with prolonged determination duration.⁷² According to the SAR, the average duration of asylum procedures on the merits ranges from 3 to 6 months, including for nationalities such as Syria, Afghanistan and Iraq.⁷³

Whereas the number of asylum applications has constantly decreased from 2015 to 2019,⁷⁴ the percentage of already registered asylum seekers who abandoned their asylum procedures in Bulgaria continued to be high in 2020, reaching 30% of all decisions⁷⁵ and 22% of all caseloads.⁷⁶ Out of the decisions taken, 15% of asylum procedures were terminated (discontinued) and 13% suspended *in absentia*:

⁶⁹ Administrative Court of Sofia, 9th panel, Decision 2814, 24 April 2019; 14th panel, Decision 4841, 10 July 2019.

⁷⁰ Article 75(1) LAR.

⁷¹ Article 74 LAR.

⁷² Bulgarian Helsinki Committee, *2020 Annual RSD Report*, 31 January 2021, based on a statistical quota of 70 cases examined on the merits.

⁷³ SAR, Exh. No. PД05-22/13.01.2021

⁷⁴ From 20,391 in 2015, to 19,418 in 2016, to 3,700 in 2017, to 2,536 in 2018, to 2,152 in 2019.

⁷⁵ This is calculated on the basis of a total of 3,045 decisions taken in 2020 i.e. 2,195 decisions (105 refugee statuses, 716 humanitarian statuses, 172 refusals, 1202 manifestly unfounded) and 850 suspended and terminated (398 suspensions and 452 terminations).

⁷⁶ This is calculated on the basis of a total of 3,908 cases i.e. 383 persons with pending claims at the end of 2019 plus 3,525 new applicants.

First instance SAR decisions on asylum applications: 2020		
In-merit decisions		
Refugee status	105	2,195
Subsidiary protection	716	
Unfounded	172	
Manifestly unfounded	1,202	
Inadmissible	N/A	
Abandoned applications		
Terminated	452	850
Suspended	398	
Total	3,045	

Source: SAR.

1.2. Prioritised examination and fast-track processing

Prioritised examination is applied neither in law nor in practice in Bulgaria, although a specific procedure is applied with respect to [Subsequent Applications](#).

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

- Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
 - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
- In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
- Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never
- Can the asylum seeker request the interviewer and interpreter to be of a specific gender? ☒ Yes ☐ No
 - ❖ If so, is this applied in practice during interviews? ☒ Yes ☐ No

After registration has been completed, a date for an interview shall be set. The law requires that asylum seekers whose applications were admitted to the regular procedure be interviewed at least once with regard to the facts and circumstances of their applications.⁷⁷ The law requires that the applicant be notified in due time of the date of any subsequent interviews. Decisions cannot be considered in accordance with the law if the interview is omitted, unless it concerns a medically established case of insanity or other mental disorder.⁷⁸ In practice, all asylum seekers are interviewed at least once in order to determine their eligibility for refugee or subsidiary protection ("humanitarian status"). Further interviews are usually only conducted if there are contradictions in the statements or if some facts need to be clarified.⁷⁹ Amendments in 2020 extended the opportunity to gather expert opinions, including on age, gender, medical, religious, and cultural issues as well as such specific to children.⁸⁰ The law also introduced instructions on COI sources and information gathering.⁸¹ No particular issues have been reported in 2020, except with respect to timely notification about the date of the interview, which often is issued when the interview in question has already begun.

⁷⁷ Article 63a (3) LAR.

⁷⁸ Article 63a (7) LAR in conjunction with Article 61a (5) LAR.

⁷⁹ Article 63a (5) LAR.

⁸⁰ Article 61a (2)-(4) and (6) LAR.

⁸¹ Article 63(3) LAR.

Since January 2019, the SAR abandoned the standard set of questions used during eligibility interviews and relied entirely on caseworkers' ability to structure the interview on open questions. However, there are no guidelines or a code of conduct for asylum caseworkers to elaborate on the methodology for conducting interviews specifically. Similarly, there are currently no gender-sensitive mechanisms in place in relation to the conduct of interviews, except for the asylum seekers' right to ask for an interpreter of the same gender.⁸² This has resulted in a poor quality of examination of asylum claims; i.e. little investigation of the individuals' statements and refugee stories.

Moreover, while interviewers used to have the opportunity to ask applicants open questions and to allow them to clarify potential contradictions, a unified interviewing process was put in place in 2019, limiting to a great extent the possibility for the caseworker to investigate in depth the grounds for their applications.⁸³

1.3.1. Interpretation

The presence of an interpreter ensuring interpretation into a language that the asylum seeker understands is mandatory according to the LAR. The law provides for a gender-sensitive approach as interviews can be conducted by an interviewer and interpreter of the same sex as the asylum seeker interviewed upon request.⁸⁴ In practice, all asylum seekers are asked explicitly whether they would like to have an interviewer or interpreter of the same sex in the beginning of each interview, although cases when this obligation is omitted by the caseworker still occur.⁸⁵

Both at first and second instance, interpretation continued to be difficult in 2020, and its quality was often poor and unsatisfactory. Interpretation in determination procedures remains one of the most serious, persistent and unsolved problems for a number of years. Interpretation is secured only from English, French and Arabic languages, and mainly in the reception centres in the capital **Sofia**. Interpreters from other key languages such as Kurdish (Sorani or Pehlewani), Pashto, Urdu, Tamil, Ethiopian and Swahili are scarce and largely unavailable.

With respect to those who speak languages without interpreters available in Bulgaria, the communication takes place in a language chosen by the decision-maker, not the applicant. In the past there were also cases where the determination was conducted with the assistance of another asylum seeker. In both cases it is done without the asylum seeker's consent or evidence that he or she understands it or is able to communicate clearly in that language. It has to be noted however that, in 2020, this represented only 0.2% of the cases, therefore it can be concluded that this serious procedural gap was been finally addressed.⁸⁶

58% of the monitored court hearings were assisted by interpreters. In 2020 the regional administrative court in **Haskovo** regularly omitted to engage interpreters in the first hearing on asylum cases in attempt to make savings, if the appellants failed to appear before the court. It created undue delay in the cases where the appellants duly appeared as far as the hearings had to be postponed in order to arrange the interpretation. This malpractice created serious problems with respect to the level of understanding and communication between the court and the appellants as the latter were not informed in a language they understand about the next hearings scheduled and the other instructions by the judge in this respect, which often caused subsequent failure to appear and to be guaranteed a fair hearing before a court of law.⁸⁷

The quality of interpretation continues to be substandard. Interpreters' Code of Conduct rules adopted in 2009 are not applied in practice. As a result, quite often the statements of asylum seekers are summarised

⁸² Article 63a (6) LAR.

⁸³ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

⁸⁴ Article 63a(6) LAR.

⁸⁵ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021, 84.

⁸⁶ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

⁸⁷ *Ibid.*

or the interpreters provide comments on their authenticity or likelihood. This problem is exacerbated by the fact that interview protocols are not based on the audio recording of the interview but on the caseworker's notes. Therefore the interpreters encounter difficulties to provide a full report of applicants' statements and answers.

1.3.2. Recording and report

The law provides for mandatory audio or audio-video tape-recording of all eligibility interviews as the best safeguard against corruption and for unbiased claim assessment.⁸⁸ The positive practice in this regard persisted in 2020, as 100% of all monitored interviews were tape-recorded. This being said, the benefits of such a procedure are biased by the fact that, in practice, caseworkers take a decision based on their own notes rather than the actual audio recording.

Videoconference interpretation during registration and eligibility interviews is also used, usually in **Pastrogor, Harmanli** and **Banya**, the reception centres outside the capital **Sofia**, where interpreters are harder to find and employ, in which case interviews are conducted with the assistance of the interpreters who work in **Ovcha Kupel, Vrazhdebna** and **Voenna Rampa**, the reception centres and shelters in Sofia. The Bulgarian Helsinki Committee's experience finds this type of interpretation to create additional difficulties for the applicants to make their statements, as video communication is often disrupted or unclear due to connection problems.

All interviews are conducted by staff members of the SAR, whose competences include interviewing, case assessment and preparing a draft decision on the claim. In practice, almost all interviews continue to be recorded also in writing by interviewers by summarising and typing questions / answers in the official protocol. A report of the interview is prepared and it shall be read to, and then signed by the applicant, the interpreter and by the caseworker.

However, in 22% of the procedures monitored, the interview or the registration reports were not read out to asylum seekers before being served for signature,⁸⁹ raising concerns over compliance with EU standards.⁹⁰ Therefore practices in 2020 marked a slight progress in comparison with previous years, as this omission was made in 46% of the monitored cases in 2019, 36% of the cases in 2018, and in 26% of the cases in 2017. Under such circumstances, the information recorded in the report of the interview could be prone to potential manipulation, and the applicant would require a phonetic expertise requested in eventual appeal proceedings in order to validly contest the content of the report in case of inaccuracies. Court expertise expenses in asylum cases have to be met by the appellants, however.⁹¹

Notwithstanding the small number of asylum seekers who presented any evidence to support their claims, caseworkers continued to omit their obligation to collect these pieces of evidence with a separate protocol, a copy of which should be served to the applicant. In 12% of the monitored cases in 2020, the evidence submission was not properly protocolled as one of the safeguards for proper credibility assessment, which is an improvement in comparison to 2019 when it was made in 20% of the monitored cases.

⁸⁸ Article 63a(3) LAR.

⁸⁹ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

⁹⁰ See Court of Justice of the European Union (CJEU), Case C-348/16 *Sacko*, Judgment of 26 July 2017, para 35; Case C-249/13 *Boudjlida*, Judgment of 11 December 2014, para 37; Case C-166/13 *Mukarubega*, Judgment of 5 November 2014, para 47.

⁹¹ Article 92 LAR.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

<ul style="list-style-type: none">❖ If yes, is it❖ If yes, is it suspensive	<table border="0"><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr><tr><td><input checked="" type="checkbox"/> Judicial</td><td><input type="checkbox"/> Administrative</td></tr><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> Some grounds <input type="checkbox"/> No</td></tr></table>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative						
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No						
2. Average processing time for the appeal body to make a decision: Up to 3 months

A negative decision taken in the regular procedure on the merits of the asylum application can be appealed within 14 days from its notification. In general, this time limit has proved sufficient for rejected asylum seekers to get legal advice, prepare and submit the appeal within the deadline. The SAR is obligated to, and actually does, provide information to rejected asylum seekers as to where and how they can receive legal aid when serving a negative decision, in the form of a list (see [Regular Procedure: Legal Assistance](#)).

The law establishes two appeal instances in the regular procedure,⁹² in contrast to appeal procedures for contesting decisions taken in [Dublin: Appeal](#), [Accelerated Procedure: Appeal](#) and inadmissibility of [Subsequent Applications](#) procedures, where first instance decisions are reviewed in only one court appeal instance.⁹³

Appeal procedures are only judicial; the law does not envisage an administrative review of asylum determination decisions. Since a 2014 reform, competence for appeals in the regular procedure is distributed among all Regional Administrative Courts, designated as per the residence of the asylum seeker who has submitted the appeal.⁹⁴ Six years later, however, the reform has not succeeded in significantly redistributing the caseloads among the national courts, as the majority of asylum seekers reside predominantly in reception centres or at external addresses in **Sofia** and **Harmanli**. Therefore the **Sofia** and **Haskovo** Regional Administrative Courts continue to be the busiest ones, dealing with the appeals against negative first-instance decisions.

Both appeals before the first and second-instance appeal courts have automatic suspensive effect.

The first appeal instance conducts a full review of the case, both on the facts and the points of law. Asylum seekers are summoned and questioned in a public hearing as to the reasons they applied for asylum. Decisions are published,⁹⁵ but also served personally to the appellant.

If the first instance appeal decision is negative, asylum seekers can bring their case to the second (final) appeal court, the Supreme Administrative Court (SAC), but only with regard to points of law. At the end of 2019, the Chairperson of the Supreme administrative court took the controversial decision to move the asylum cases from the 3rd to 4th department, which has never dealt with such cases before. The 3rd department of the SAC had been dealing with asylum cases for more than twenty-two years since the establishment of the Supreme Administrative Court in 1997. This new arrangement undermines the quality of the decisions issued on asylum cases at this highest court instance, whose jurisprudence sets the standards to all lower national administrative courts. In 2020, it affected in almost 100% negative SAC decisions issued on asylum cases. Thus, in practice, asylum seekers did not enjoy two-instance court revision as the control exercised from the Supreme Administrative Court's 4th department proved to be purely formal and superficial.

⁹² Article 85(4) LAR

⁹³ Article 85(3) LAR in conjunction with Article 84(1)-(2) LAR.

⁹⁴ Article 84(2)-(4) LAR in conjunction with Article 133 Administrative Procedure Code.

⁹⁵ The Court decisions are available at: <https://bit.ly/2OZU62r> (Sofia court), <https://bit.ly/39nuVjv> (Haskovo court), <https://bit.ly/2MOgihu> (Sliven court) and <https://bit.ly/2XxkiOP> (Supreme administrative court).

First instance appeal courts have to issue their decisions within one month. The cassation court is not bound by such deadline. However, even for the first instance court this deadline is indicative and therefore regularly not respected. The average duration of an appeal procedure before the court at both judicial instances is 6 months, although in more complex cases it can last up to 12 months. If the court finally reverts the first instance decision back, the SAR has 3 months to issue a new decision,⁹⁶ complying with the court's instructions on the application of the law. As in previous years however, SAR continues to disregard these deadlines, and in many cases refuses again the asylum application despite the court's instructions. Repeated appeal procedures against the second negative decision can cause some asylum procedures to extend for over 2-3 years.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?

<input type="checkbox"/> Yes	<input type="checkbox"/> With difficulty	<input checked="" type="checkbox"/> No
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 - ❖ Does free legal assistance cover:

<input type="checkbox"/> Representation in interview
<input type="checkbox"/> Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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 - ❖ Does free legal assistance cover:

<input checked="" type="checkbox"/> Representation in courts
<input type="checkbox"/> Legal advice

The legal aid system was introduced in Bulgaria in 2005, extending it to court representation beyond the criminal, child protection and tort disputes. Since 2013, the Law on Legal Aid provides mandatory legal aid for asylum seekers at all stages of the status determination procedure, sponsored under the state budget.⁹⁷ In the law, the provision of legal aid to asylum seekers is subject to the condition that legal aid is not already provided on another basis. This “means” test is fulfilled on the basis of an applicant’s declaration that he or she does not work and does not have sufficient resources.

1.5.1. Legal assistance at first instance

Asylum seekers have the right to ask for the appointment of a legal aid lawyer from the moment of the registration of their asylum application. However, legal aid in first-instance procedures has still not been implemented as of the end of 2020.

At the end of 2017, the National Legal Aid Bureau, the national body assigned to provide state sponsored legal aid, received funding under the AMIF national programme to commence for the first time ever in Bulgaria the provision of legal aid to asylum seekers during the administrative phase of the asylum procedure.⁹⁸ Legal aid under this 80,000 € pilot project was implemented until 31 January 2021 and was limited to the vulnerable categories among applicants for international protection.⁹⁹ The project was extended until 31 July 2021.

The National Legal Aid Bureau and the SAR agreed and adopted formal rules and conditions for the provision of legal aid in practice, including individual and third-party complaint mechanisms, anti-discrimination and anti-corruption measures, which took effect on 31 December 2017.

The provision of legal aid for vulnerable asylum applicants commenced in March 2018 and in 2020 was secured to 818 asylum seekers at first instance.¹⁰⁰ Other asylum seekers did not enjoy access to legal aid at the first instance of the asylum procedure.

⁹⁶ Article 85(5) LAR.

⁹⁷ Article 22(8) Law on Legal Aid.

⁹⁸ National Legal Aid Bureau, ‘Обява за конкурс за адвокати за работа по проект’, 29 January 2018, available in Bulgarian at: <http://bit.ly/2DP376C>.

⁹⁹ *Ibid.*

¹⁰⁰ SAR, Exh. No. PД05-22/13.01.2021.

Amendments to the law introduced at the end of 2020 foresee a major change in the legal representation of unaccompanied asylum seeking and refugee children.¹⁰¹ The obligation to represent these children not only in the procedure, but also after the recognition and before all agencies and institutions with regard to their rights and entitlements, was shifted from the municipalities to the National Legal Aid Bureau¹⁰². The law also introduced conditions for the qualification of the appointed legal aid lawyers and requirements for a representation in the child's best interest. The selection and the following training of selected lawyers are expected to be carried out in early 2021.

1.5.2. Legal assistance in appeals

The aforementioned AMIF-funded pilot project on legal aid, which was carried out up until 31 January 2021, also covered assistance in the preparation of appeals before the court. As mentioned above, the project has been extended until 31 July 2021.

Otherwise, for regular applicants on appeal, national legal aid arrangements only provide for state-funded legal assistance and representation after a court case has been initiated, i.e. after the appeal has been drafted and lodged. As a result, asylum seekers rely entirely on NGOs for their access to the court, namely for drafting and lodging the appeal. Presently, the Bulgarian Helsinki Committee provides this type of assistance independently of EU funding.¹⁰³ In 2020, BHC assisted 4,835 asylum seekers and beneficiaries of international protection, of whom 3,525 were new applicants in 2020 and 383 were asylum seekers with cases pending from previous years.

¹⁰¹ National Parliament, Amendments on the Law on Asylum and Refugees (LAR), State Gazette No.89 from 16 October 2020, available at: <https://bit.ly/2LoUMiG>.

¹⁰² Article 25 LAR.

¹⁰³ Since 1994, UNHCR has supported and partnered with the Bulgarian Helsinki Committee with regard to protection and legal assistance to asylum seekers in Bulgaria.

2. Dublin

2.1. General

Due to the COVID-19 pandemic, all Dublin transfers were officially suspended during the national lockdown from 13 March to 13 May 2020. However, even after the end of the lockdown, many of the already consented transfers were not implemented due to ongoing lockdowns, quarantine and other COVID 19 measures in the receiving countries, which congested flights and reception arrangements.

Dublin statistics: 2020

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	116	24	Total	1,904	14
Take charge	63	23	Take charge	44	6
Germany	14	2	Germany	18	5
Malta	13	3	France	10	0
United Kingdom	10	9	United Kingdom	4	0
Belgium	6	1	Sweden	3	0
Austria	4	2	Austria	2	0
Italy	4	2	Ireland	2	0
Cyprus	4	0	The Netherlands	2	1
France	2	1	Romania	1	0
The Netherlands	2	2	Switzerland	1	0
Norway	2	0	Czech Republic	1	0
Romania	1	1			
Finland	1	0			
Take back	53	1	Take back	1,860	8
Germany	14	0	France	695	1
Switzerland	6	0	Germany	360	5
Sweden	5	0	Austria	224	1
Denmark	4	0	United Kingdom	176	0
Austria	4	0	Belgium	116	0
Belgium	2	0	Romania	101	0
France	2	1	Italy	32	0
Greece	2	0	The Netherlands	31	1
The Netherlands	2	0	Slovenia	22	0
Norway	2	0	Greece	19	0
Romania	2	0	Switzerland	17	0
Slovenia	2	0	Czech Republic	14	0
Croatia	1	0	Slovakia	13	0
Hungary	1	0	Croatia	11	0
Italy	1	0	Sweden	11	0
Luxemburg	1	0	Poland	5	0
Czech Republic	1	0	Spain	4	0
Spain	1	0	Ireland	3	0
			Denmark	3	0
			Cyprus	1	0
			Malta	1	0
			Norway	1	0

Source: SAR.

Outgoing Dublin requests by criterion: 2020		
Dublin III Regulation criterion	Requests sent	Requests accepted
“Take charge”: Articles 8-15:	60	31
Article 8 (minors)	48	21
Article 9 (family members granted protection)	9	3
Article 10 (family members pending determination)	0	0
Article 11 (family procedure)	0	0
Article 12 (visas and residence permits)	3	5
Article 13 (entry and/or remain)	0	0
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	0	1
“Take charge” humanitarian clause: Article 17(2)	3	1
“Take back”: Article 18	53	6
Article 18 (1) (b)	53	6
Article 18 (1) (c)	0	0
Article 18 (1) (d)	0	0
Article 20(5)	0	0

Source: SAR

Incoming Dublin requests by criterion: 2020		
Dublin III Regulation criterion	Requests received	Requests accepted
“Take charge”: Articles 8-15	44	23
Article 8 (minors)	1	1
Article 9 (family members granted protection)	2	1
Article 10 (family members pending determination)	1	0
Article 11 (family procedure)	7	1
Article 12 (visas and residence permits)	18	19
Article 13 (entry and/or remain)	11	1
Article 14 (visa free entry)	3	0
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	1	0
“Take back”: Articles 18 and 20(5)	1,860	429
Article 18 (1) (b)	1,859	429
Article 18 (1) (c)	0	0
Article 18 (1) (d)	0	0
Article 20(5)	1	0

Source: SAR

The LAR does not establish criteria to determine the state responsible, but simply refers to the criteria listed in the Dublin Regulation.

2.1.1. Application of the Dublin criteria

Family unity criteria are applied fully, though in practice the prevailing type of cases relate to joining family members outside Bulgaria, not the opposite. If the family link cannot be established or substantiated with relevant documents, some EU Member States (**Germany, Austria and United Kingdom** as a former

Member State during the transition period) require DNA tests in cases of unaccompanied children in order to prove their origin. In such cases the parent or parents are usually advised to travel to Bulgaria and provide blood samples to be matched, tested and compared with the unaccompanied child or children's DNA. It has to be noted that the vast majority of asylum seekers arrive in Bulgaria via **Turkey and Greece**, therefore cases when the responsibility of another EU Member State can be engaged under any other of the Dublin criteria, except the family provisions, are scarce.

The most common criteria that continue to be applied in incoming cases are previously issued documents and first Member State of entry, as well as “take back” cases. Bulgaria accepts responsibility for the examination of asylum applications based on the humanitarian clause, and mostly vis-à-vis document and entry reasons. In 2020, Bulgaria received 1,904 incoming requests and made 116 outgoing requests, compared to 3,088 incoming and 80 outgoing requests in 2019; 3,448 incoming and 125 outgoing requests in 2018 and 7,934 incoming and 162 outgoing requests in 2017.

2.1.2. The dependent persons and discretionary clauses

In the past, the sovereignty clause under Article 17(1) of the Regulation was used in few cases, mainly for family or health condition reasons. The sovereignty clause has never been applied for reasons different from humanitarian ones. Similarly to 2017, 2018 and 2019, Bulgaria did not apply the sovereignty clause in 2020.

During 2020, Bulgaria issued 3 “take charge” requests based on the humanitarian clause of Article 17(2) and received 1 request based on the humanitarian clause, which was accepted.

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?
☒ Yes ☐ No
2. On average, how long does a transfer take after the Dublin Unit has sent a request? 15 months¹⁰⁴

The LAR establishes the Dublin procedure as a non-mandatory stage, which is applied only by a decision of the respective caseworker, if and when there is information or indications to either engage the responsibility of another Member State to determine the asylum application in question.¹⁰⁵

Eurodac has been used as an instrument for checking the previous status records of all irregular migrants. Fingerprints taken by the Border or Immigration Police are uploaded automatically in the Schengen Information System (SIS) and can be used for the purpose of implementing the Dublin Regulation. Nonetheless, all asylum seekers are systematically fingerprinted again by the Dublin Unit of the SAR for technical reasons.

Following recommendations from the European Asylum Support Office (EASO), information relevant to Dublin procedures is gathered during the initial registration interviews with asylum seekers in a separate checklist, which mainly focuses on eventual family members in other Member States. Amendments of the law in 2020 were introduced to optimise the decision-making in Dublin procedures by removing the requirement of a formal decision and rendering an automatic legal effect to the majority of acts. However, many problems are still created by the fact that the decision-making process remains multi-staged and centralised as far as the Dublin decisions are concerned, as such decisions can be issued only by the SAR's Dublin Unit, which is located in the headquarters of the SAR in **Sofia**.¹⁰⁶ This creates problems with respect to observation of the 3-month deadline under the Dublin Regulation for issuing a request to another Member State, as sometimes the congested communication between the Dublin Unit and the

¹⁰⁴ SAR, Exh. No. PД05-22/13.01.2021

¹⁰⁵ Article 67a(2) LAR.

¹⁰⁶ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

local reception centre where applicants are accommodated can consume time before all relevant documentation is prepared in order to make a proper Dublin request.

2.2.1. Individualised guarantees

Bulgaria does not seek individualised guarantees ensuring that the asylum seekers will have adequate reception conditions upon transfer in practice. Outgoing transfers relating to vulnerable groups were only carried out with respect to unaccompanied children since 2016 and up until the end of 2020. Since all transfers were based on family reunification and consent from the children and family members, the Dublin Unit did not request guarantees from receiving countries.

It is also a general understanding within the national stakeholders that the reception conditions in the countries of transfer, e.g. such as Germany or Sweden in 2020 are better in most aspects than those in Bulgaria.

2.2.2. Transfers

In cases where another Member State accepts the responsibility to examine the application of an asylum seeker who is in Bulgaria, the outgoing transfer is implemented within 5 months on average in practice.¹⁰⁷ If incoming transfer is being organised, however, the duration of actual implementation varies up to 15 months.

Asylum seekers are usually not detained upon the notification of the transfer. However, in certain cases, transferred asylum seekers can be detained for up to 7 days before the transfer as a precautionary measure to ensure their timely boarding of the plane. In all cases the transfer is carried out without an escort. It should be noted that in practice asylum seekers sometimes agree to be detained for a couple of days before the flight to the responsible Member State as this is the only way for them to avoid any procedural problems that can delay their exit.

Asylum seekers to be transferred under the Dublin Regulation to another Member State are given a written decision stating the grounds for applying the Dublin Regulation and the right to appeal the transfer to the other Member State before the court. However, asylum seekers are not informed of the fact that requests have been made for “take back” or “take charge” requests to the Member State deemed responsible, nor of any progress made with regard to such requests, unless the applicant him or herself requested the transfer and/or provided due evidence in this respect.

In 2020, 24 outgoing transfers were carried out compared to 116 requests, indicating a 21% outgoing transfer rate.

2.3. Personal interview

Indicators: Dublin: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? ☒ Yes ☐ No

❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No

2. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

The law does not require the conduct of a personal interview in the Dublin procedure, rather it gives an opportunity to the interviewer to decide whether an interview is necessary or not in light of all other relevant

¹⁰⁷ SAR, Exh. No. PД05-22/13.01.2021

circumstances and evidence.¹⁰⁸ If an interview is conducted, it is not different from any other eligibility interviews in the [Regular Procedure: Personal Interview](#), except relating to the type of questions asked in order to verify and apply the Dublin criteria. Similar to the regular procedure, an audio or audio-video recording is now mandatory and applied in the majority of the caseload.¹⁰⁹

2.4. Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☐ Yes

☐ No

☐ Administrative

☒ No

Contrary to appeal against other decisions, appeals against decisions in the Dublin procedure are heard only before the Administrative Court of **Sofia** and only at one instance. Dublin appeals do not have automatic suspensive effect, but it can be awarded by the court upon an explicit request from the asylum seeker.

The time limit for lodging the appeal is 7 calendar days, which is equal to the time limit for appeal in the [Accelerated Procedure: Appeal](#). Appeal procedures are held in an open hearing, and legal aid can also be awarded.

The court accepts in practice all kind of evidence in support of the appeal, including on the level of reception conditions and procedural guarantees to substantiate its decision. The court's practice however is quite poor as very few Dublin decisions on transfers to other Member States are challenged. For this reason, no clear conclusions can be made as to whether the Administrative Court of **Sofia** takes into account the reception conditions, procedural guarantees and recognition rates in the responsible Member State when reviewing the Dublin decision.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

❖ Does free legal assistance cover:

☐ Yes

☐ With difficulty

☒ No

☐ Representation in interview

☐ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

❖ Does free legal assistance cover

☐ Yes

☒ With difficulty

☐ No

☒ Representation in courts

☐ Legal advice

The Law on Legal Aid provides for state-funded representation at first instance and appeal. As a result, legal aid financed by the state budget should have become available to asylum seekers during the Dublin procedure since 2013, in addition to the already available legal aid during an appeal procedure before the court. However, in practice, legal aid was only provided to vulnerable asylum seekers in 2020 (see section [Regular Procedure: Legal Assistance](#)). This concerned 25 unaccompanied minors who were reunified with their relatives or family members in other European countries under *ad-hoc* arrangements established jointly by BHC and SAR's Dublin Unit since August 2019. This includes the establishment of

¹⁰⁸ Article 67b(2) LAR.

¹⁰⁹ Article 63a(3) LAR.

an early identification mechanism for children, the provision of adequate and child-friendly information as well as a better management of their cases. These ad-hoc arrangements are funded by UNICEF.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No

❖ If yes, to which country or countries?

Bulgaria had suspended all Dublin transfers to **Greece** in 2011, thereby assuming responsibility for examining the asylum applications of the asylum seekers concerned. On 8 December 2016, the European Commission issued a Fourth Recommendation in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.¹¹⁰ Persons belonging to vulnerable groups such as unaccompanied minors are to be excluded from Dublin transfers for the moment, according to the Recommendation. However, until the end of 2020, Bulgaria has not ruled out or implemented any Dublin transfer to Greece in practice.

Suspensions of transfers are not automatic, as there might be cases of “take charge” requests where applicants have family members in other EU Member States or other circumstances that engage the responsibility of another state. Due to the level of material reception conditions in Bulgaria, there have been no appeals against Dublin transfer decisions to any other EU Member State.

As mentioned above, due to the COVID-19 pandemic and the national lockdown from 13 March to 13 May 2020 all Dublin transfers were suspended. However, even after the end of the lockdown in Bulgaria many of the already consented transfers were not implemented either due to still ongoing lockdowns in the receiving countries, or because of quarantines applied, which congested flight and reception arrangements.

2.7. The situation of Dublin returnees

In 2020, Bulgaria received 1,904 incoming requests under the Dublin Regulation and 14 incoming transfers.¹¹¹ The number of Dublin returns actually implemented to Bulgaria decreased by 0.7% compared to 2019 (see table below). Overall, the percentage of actual transfers remains quite low compared to the number of incoming requests:

Incoming Dublin requests and transfers: 2014-2020							
	2014	2015	2016	2017	2018	2019	2020
Requests	6,884	8,131	10,377	7,934	3,448	3,097	1,904
Transfers	174	262	624	446	86	73	14

Source: Eurostat, migr_dubro and migr_dubto; SAR.

Asylum seekers who are returned from other Member States in principle do not face any obstacles in accessing the asylum procedure in Bulgaria upon their return. Prior to the arrival of Dublin returnees, the SAR informs the Border Police of the expected arrival and indicates whether the returnee should be transferred to a reception centre or to immigration pre-removal detention facility. This decision depends on the phase of the asylum procedure of the Dublin returnee as outlined below:

¹¹⁰ Commission Recommendation on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525, 8 December 2016.

¹¹¹ SAR, Exh. No. Exh. No. PД05-22/13.01.2021.

- ❖ If the returnee has a pending asylum application in Bulgaria, he or she is transferred to a SAR reception centre because the SAR usually suspends an asylum procedure when an asylum seeker leaves Bulgaria before the procedure was completed;¹¹²
- ❖ If the returnee's asylum application was rejected *in absentia*, but not served to the asylum seeker before he or she left Bulgaria,¹¹³ the returnee is transferred to a SAR reception centre;
- ❖ If, however, the returnee's asylum application was rejected with a final decision before he or she left Bulgaria, or the decision was served *in absentia* and therefore became final,¹¹⁴ the returnee is transferred to one of the immigration detention facilities, usually to the **Busmantsi** detention centre in Sofia, or to the **Lyubimets** detention centre near the Turkish border. Parents are usually detained with their children. In exceptional cases children may be placed in child care social institutions while their parents are detained in immigration facilities, in cases when an expulsion order on account of threat to national security is issued to any of the parents.

Since 2015, the LAR explicitly provides for the mandatory reopening of an asylum procedure with respect to an applicant who is returned to Bulgaria under the Dublin Regulation.¹¹⁵ The SAR's practice following this particular amendment is in line with the law so far and returnees do not face obstacles in principle to have their determination procedures reopened.

In principle, no "take back" requests have been made so far under the Dublin Regulation with regard to individuals with special needs. In the few cases where the return of two parents' families with minor children and a family of three with their spouse and parent have been sought, the requesting states usually asked for assurances on the provision of accommodation and adequate reception conditions and services as well as the nature of the services that will be provided. Usually, these individual guarantees are not made via DubliNet, but by using the available diplomatic channels, in most cases by the respective state's embassy in Bulgaria.

In 2020, the courts in some Dublin States, as well as the European Court of Human Rights, have continued to rule suspension of Dublin transfers to Bulgaria with respect to certain categories of asylum seekers due to poor material conditions and lack of proper safeguards for the rights of the individuals concerned.¹¹⁶

Additional information on the access of Dublin returnees to reception and healthcare can be found under the sections on [Access and forms of reception conditions](#) and [Health care](#).

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The admissibility assessment is no longer part of the [Accelerated Procedure](#), but a separate procedure that could be applied prior or during the status determination.¹¹⁷

The examination can result in finding the asylum application inadmissible, where the applicant:¹¹⁸

1. Following a proper invitation the applicant does not appear for an interview and, in 30 days thereof, does not present any objective reasons for his omission;
2. The applicant failed twice to be found at the permitted address of residence or at another address indicated by him/her;

¹¹² Articles 18(1)(c) and (2) Dublin III Regulation.

¹¹³ Articles 18(1)(d) and (2) Dublin III Regulation.

¹¹⁴ Articles 18(1)(d) and (2) Dublin III Regulation.

¹¹⁵ Article 18(2) Dublin III Regulation.

¹¹⁶ See e.g. (Germany) Federal Administrative Court of Magdeburg, Decision 8B92/20, 24 March 2020. Other examples of cases in 2019 and 2018 are available in the previous updates of this report.

¹¹⁷ Article 15 LAR.

¹¹⁸ Article 13(2)(1)-(5) LAR.

3. The applicant changes the address of residence without notifying the State Agency for Refugees and within 30 days does not indicate any objective reasons for doing that
4. The applicant refuses on three or more occasions to cooperate the staff of the State Agency for Refugees to clarify the circumstances related to his application;
5. The applicants withdraws his application for international protection;
6. Has been granted international protection in another EU Member State;
7. The applicants is granted asylum by the President of the Republic;
8. The applicants has deceased;
9. The applicants is issued a decision Article 67c, para. 1, item 1¹¹⁹, which allows his transfer to another EU Member State.

In the hypotheses from 1 to 5, the decision maker can opt to proceed and refuse the applicant under the [Accelerated Procedure](#) if sufficient evidence have been gathered to consider the application as manifestly unfounded¹²⁰.

Out of all inadmissibility grounds set out in the LAR and mirroring the recast Asylum Procedures Directive, Bulgaria applies solely the ground relating to [Subsequent Applications](#). It provides the opportunity to consider them based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.¹²¹ The admissibility assessment of subsequent applications differs in many aspect from the rules, deadlines and guarantees applicable when an inadmissibility decision is taken on the basis of the other admissibility grounds.

In 2020, 80 subsequent applications were dealt with in an admissibility procedure, of which 69 were declared inadmissible and 11 were granted access to further determination.

3.2. [Personal interview](#)

The same rules and guarantees apply as in the [Regular Procedure: Personal Interview](#).

3.3. [Appeal](#)

The same rules and guarantees apply as in the [Regular Procedure: Appeal](#).

3.4. [Legal assistance](#)

The same rules and guarantees apply as in the [Regular Procedure: Legal Assistance](#).

4. [Border procedure \(border and transit zones\)](#)

There is no border procedure in Bulgaria and Article 43 of the recast Asylum Procedures Directive has not been implemented at national level.

5. [Accelerated procedure](#)

5.1. [General \(scope, grounds for accelerated procedures, time limits\)](#)

The accelerated procedure is designed to examine the credibility of the asylum application, but also the likelihood of the application being fraudulent or manifestly unfounded.¹²² The asylum application can also be found manifestly unfounded if the applicant did not state any reasons for applying for asylum related to grounds of persecution at all, or, if his or her statements were unspecified, implausible or highly unlikely.

¹¹⁹ Dublin transfer.

¹²⁰ Article 15(2) LAR.

¹²¹ Articles 75a to 76c-76d LAR.

¹²² Article 13(1) LAR.

In accordance with the transposition of Article 31(8) and 39 of the recast Asylum Procedures Directive, the asylum application can be found manifestly unfounded, if:

1. The applicant raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection;¹²³
2. The applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict country-of-origin information, thus making his or her claim clearly unconvincing;¹²⁴
3. The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents or destroying documents with respect to his or her identity and/or nationality;¹²⁵
4. The applicant refuses to comply with an obligation to have his or her fingerprints taken;¹²⁶
5. The applicant entered or resides the territory or stays lawfully and, without good reason, has not presented himself or herself within a reasonable time to the authorities to submit an application for international protection;¹²⁷
6. The applicant entered the territory or stays unlawfully and, without good reason, has not presented himself or herself immediately to the authorities to submit an application for international protection as soon as possible;¹²⁸
7. The applicant arrives from a safe country of origin;¹²⁹
8. The applicant arrives from a safe third country, provided that s/he will be accepted back to its territory¹³⁰; which cannot be used as a sole ground for considering the application manifestly unfounded unless:
 - a. there is a connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country and, a case-by-case consideration is implemented of the safety of the country for a particular applicant; and,
 - b. the applicant is provided with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance, or
9. The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal.¹³¹

The authority responsible for taking decisions at first instance on asylum applications in the accelerated procedure is the SAR, through caseworkers specially appointed for taking decisions in this procedure. The accelerated procedure is a non-mandatory phase of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to consider the asylum application as manifestly unfounded.¹³²

This decision should be taken within 14 working days from applicants' formal registration by the SAR. If the decision is not taken within this deadline the application has to be examined fully following the rules and criteria of the [Regular Procedure](#), with all respective safeguards and deadlines applied.

The law provides that, upon receiving the asylum application, caseworkers are obliged to request a written opinion from the State Agency for National Security (SANS) which, however, is to be taken into consideration if and when a decision on the substance of the claim is taken within the regular ("general")

¹²³ Article 13(1)(1)-(2) LAR.

¹²⁴ Article 13(1)(3)-(4) LAR.

¹²⁵ Article 13(1)(6)-(9) LAR.

¹²⁶ Article 13(1)(10) LAR.

¹²⁷ Article 13(1)(11) LAR.

¹²⁸ Article 13(1)(12) LAR.

¹²⁹ Article 13(1)(13) LAR.

¹³⁰ Article 13(1)(14) LAR.

¹³¹ Article 13(1)(15) LAR.

¹³² Article 70(1) LAR.

procedure.¹³³ The law explicitly provides that such an opinion should not be requested in the accelerated procedure.

All grounds are applied in practice. In 2020, 1,202 asylum applicants have been rejected under the accelerated procedure. Of those, 828 came from Afghanistan, 110 from Iraq, 89 from Morocco, 52 from Pakistan, 31 from Algeria, 17 from Bangladesh and 75 from other nationalities. More notably, 20 of them were processed in conditions of detention, of which 9 concerned asylum seekers in closed reception facilities, but 11 related to asylum seekers in pre-removal detention centres, in violation of the law (see [Detention of Asylum Seekers](#)).

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? ☒ Yes ☐ No
 - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
 - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The questions asked during interviews in the accelerated procedure aim at establishing facts relating to the individual story of the applicant, although in less detail in comparison with the interviews conducted during the regular procedure. Facts such as travel routes, identity and nationality are in principle exhaustively addressed prior to the accelerated procedure at the stages of registration and/or the Dublin procedure.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
 - ☒ Yes ☐ No
 - ❖ If yes, is it ☒ Judicial ☐ Administrative
 - ❖ If yes, is it suspensive ☒ Yes ☐ Some grounds ☐ No

Appeals in the accelerated procedure have to be submitted within 7 calendar days (excluding public holidays) after notification of the negative decision, as opposed to the 14-calendar-day deadline in the [Regular Procedure: Appeal](#). Another major difference with the regular asylum procedure is related to the number of judicial appeal instances. In the accelerated procedure, there is only one judicial appeal possible, whereas in the regular procedure there are two appeal instances.

Lodging an appeal has automatic suspensive effect *vis-à-vis* the removal of the asylum seeker. The court competent to review first instance decisions in the accelerated procedure is the Regional Administrative Court of the county in which the appellant resides. The court has the obligation to ascertain whether the assessment of the credibility or the manifestly unfounded character of the claim is correct in view of the facts, evidence and legal provisions applicable. Asylum seekers have to be summoned for a public hearing and in practice are asked to shortly summarise their reasons for fleeing their country of origin and seek protection elsewhere.

¹³³ Article 58(10) LAR.

In general, asylum seekers do not face significant obstacles to lodging an appeal in the accelerated asylum procedure within the 7-day deadline. The obstacles referred to under the regular procedure appeal apply, e.g. lack of legal aid and interpretation issues.

5.4. Legal assistance

The same rules and guarantees apply as in the [Regular Procedure: Legal Assistance](#).

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☒ Yes ☐ For certain categories ☐ No
❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

Applicants who are children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence are considered as individuals belonging to a vulnerable group.¹³⁴

1.1. Screening of vulnerability

Until the end of 2020, the law did not envisage any specific identification mechanisms for vulnerable categories of asylum seekers, except for children. The identification of vulnerability was mainly stated to be mainstreamed in the training of caseworkers, but special trainings are rarely provided. However, at the end of 2020, amendments to the law introduced a mandatory vulnerability assessment and recommendations, as well as an obligatory referral of vulnerability reports to the case workers.¹³⁵ The implementation of these amendments remains to be seen in practice.

Several initiatives on vulnerability were undertaken in previous years. In 2008, the SAR and UNHCR agreed on standard operating procedures (SOPs) to be followed with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).¹³⁶ These SOPs were never applied in practice, however. A process for the revision of the SOPs has been pending since the end of 2013, which also aims to include new categories or vulnerable groups. However, as of 31 December 2020, the SOPs revision was still not finalised nor adopted by the SAR.¹³⁷

In April 2017, the national expert working group, headed by the State Agency for Child Protection developed a set of SOPs addressing the protection needs of all categories of unaccompanied children in Bulgaria, both migrant and asylum seekers. In May 2017, UNICEF communicated a concept for the establishment of interim care facility for unaccompanied children. Although these two documents were approved in July 2017 by the National Child Protection Council, nothing has been done by the government to forward the process. As of 31 December 2020 no SOPs whatsoever were implemented in practice.

¹³⁴ §1(17) Additional Provisions, LAR.

¹³⁵ Article 30a LAR.

¹³⁶ Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.

¹³⁷ UNHCR, *SGBV Task Force*, established on 15 February 2014.

Against this backdrop, BHC, UNICEF and UNHCR worked together with the Ministry of Interior on amendments of the primary and secondary immigration legislation. These amendments aim at creating a legally binding referral mechanism,¹³⁸ as well as a new procedure allowing for the regularisation of rejected and migrant unaccompanied children until they reach adulthood,¹³⁹ with a possibility for an indefinite extension after it on humanitarian grounds. However, these amendments do not address the lack of identification mechanism of vulnerability at an earlier stage of the procedure and do not apply to all other categories of persons with special needs.

Given that the screening of persons with special needs was carried out in a fragmented and non-systematic way and lacked timely intra-institutional exchange of information, identification and referral, EASO also cooperated with Bulgaria in order to improve the capacity to identify and refer vulnerable applicants and to improve exchange between relevant institutions. EASO's Special Support Plan to Bulgaria was originally in place from December 2014 until June 2016, but was extended until 31 October 2018.¹⁴⁰ The identification and referral mechanism was set to build on the Quality tool for the Identification of Persons with Special Needs (IPSN). The SAR affirms the tool to be put in use, but in practice the vulnerability assessment is implemented sporadically and collectively rather than regularly and individually.

From 2014 to 2018, the SAR applied two main approaches regarding vulnerability assessments. The first one consisted in conducting consultations in groups to identify vulnerable applicants prior to their registration, which did not meet the legal standards and criteria necessary for such an assessment. The second one consisted in an identification by the caseworker during the initial registration of the applicant, and referral to the SAR's social expert for an in-depth interview to identify probable vulnerability. However, a formal assessment was not made or added to the applicant's file, nor were specific guarantees assigned to meet the EU minimum standard in this respect.¹⁴¹

In 2018 the SAR adopted¹⁴² new internal rules of procedure¹⁴³ whereby social experts provide assistance to its staff during the initial medical examination so as to enable the early identification of vulnerable applicants and their special needs. If an applicant is identified as vulnerable, the new rules foresee that the vulnerability will be added to the registration form, including a detailed explanation and a follow-up assessment to be described in an appendix.

Additionally, a new early identification questionnaire was established for applicants who experienced traumatising experiences in order to determine their special needs and to facilitate the referral to adequate psychological or medical care.¹⁴⁴ In many reception shelters however, and mostly in Sofia, group consultations continue to be applied to new arrivals in order to identify their potential medical or social issues.

Nevertheless, despite the issues described above, monitoring in 2020 indicated improvements in the identification of vulnerable applicants in practice.¹⁴⁵ In 62% (232 monitored cases), the applicants confirmed that they went through needs assessment during a social interview, while a follow-up assessment was ordered in 1% of the cases (i.e. 4 cases). However, complete assessment forms or templates could not be found in the applicants' individual files. In 94% of the monitored cases concerning

¹³⁸ Article 28a Regulations for Implementation of the Law on Aliens in the Republic of Bulgaria (LARB Regulations), State Gazette (St.G.) №34/2019, enforced on 24 October 2019.

¹³⁹ Article 63k and 63l LARB Regulations, St.G. №23/2019, enforced on 26 November 2019.

¹⁴⁰ EASO, *Special support plan to Bulgaria – Amendment No 3*, 27 October 2017, available at: <https://bit.ly/2U58pCF>; 'EASO successfully completes its special support in Bulgaria', 27 November 2018, available at: <https://bit.ly/2S9FwUQ>.

¹⁴¹ Article 24(1) recast Asylum Procedures Directive.

¹⁴² SAR, Internal Rules of Procedure for assessing and granting international protection, adopted on 17 December 2018.

¹⁴³ Article 29 SAR Internal Rules of Procedure.

¹⁴⁴ Early Identification and Needs Assessment form (ФИОН), Individual Support and Referral Plan form (ФИПП) and Social Consultation form (ФСК).

¹⁴⁵ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

unaccompanied children, the files lacked the mandatory social report by the respective statutory child protection service. It has been confirmed, however, that these reports are prepared in practice, but that they are not shared in their vast majority.

The improvement of vulnerability identification mechanism resulted in a notable increase in the absolute number of asylum seekers formally recognised to have special needs. While this concerned 179 asylum seekers in 2016, 122 asylum seekers in 2017, 99 asylum seekers in 2018, and, 797 asylum seekers in 2019; the number rose to 1,259 asylum seekers considered as vulnerable in 2020 (36% of all new applicants).¹⁴⁶

The SAR collects statistics on the number of asylum seekers identified as vulnerable at the end of any given month rather than cumulative data on the number of vulnerable persons applying for asylum in a given year. At the end of December 2020, the following groups were identified among asylum seekers:

Asylum seekers identified as vulnerable in Bulgaria: 2017-2020				
Category of vulnerable group	end 2017	end 2018	end 2019	end 2020
Unaccompanied children	60	52	524	799
Accompanied children	not included	not included	207	326
Single parents	21	16	20	28
Pregnant women	4	0	8	18
Elderly persons	1	3	4	0
Disabled persons	11	3	10	20
Persons with chronic or serious illnesses	20	19	13	42
Persons with serious psychiatric issues	0	0	8	24
Victims of physical, psychological or sexual violence	5	6	3	2
Total	122	99	797	1,259

Source: SAR.

NGOs continue to play key role in early identification and assessment of applicants' vulnerability and their referral and according treatment. Organisations specialise in specific groups and issues, namely: poverty, destitution and social inequality ([Red Cross](#); [Council of Refugee Women](#), [Caritas Sofia](#)); health issues and disabilities ([Red Cross](#)); mental and psychological problems ([Nadya Centre](#), replacing ACET which ceased activities at the end of 2016) and unaccompanied children ([Bulgarian Helsinki Committee](#)).

1.2. Age assessment of unaccompanied children

The caseworker is not obligated to request an age assessment unless there are doubts as to whether the person is a child.¹⁴⁷ In practice, age assessment is used only to rebut the statements of asylum seekers that they are under the age of 18.

The law does not state the method of the age assessment which should be applied. As a rule, the wrist X-rays method is applied systematically in all cases, based on the assumption that this method is more accurate than a psycho-social inquiry. The Supreme Administrative Court, however, considers this test as non-binding and applies the benefit of the doubt principle,¹⁴⁸ which is also explicitly laid down in the LAR.¹⁴⁹

¹⁴⁶ SAR, Exh. No. PД05-22/13.01.2021.

¹⁴⁷ Article 61(2) LAR.

¹⁴⁸ Supreme Administrative Court, Decision No 13298, 9 November 2009.

¹⁴⁹ Article 75(3) LAR.

The age assessment cannot be contested by means of a separate appeal to the one lodged against a potential negative decision. Therefore, if a positive decision is issued, but the age is wrongly indicated to be 18 years or above, it cannot be appealed on that account as a part of the status determination process and the child granted the protection will be treated as an adult. The sole legally available option in such case is to initiate lengthy and usually costly civil proceedings to establish the actual age, but unless documentary or other irrefutable evidence is provided these proceedings are doomed to failure.

In 2020, the SAR conducted age assessments in 51 cases, in 47 of them (92%) concluding applicants to be adults. The monitoring of the status determination procedures demonstrated that the SAR continues to conduct age assessment by means of X-ray expertise of the wrist bone structure and without any evidence of prior consent by the children's representatives.¹⁵⁰ If the children are considered to be of age they are not appointed statutory municipality representatives to assist them to contest the refusal of their asylum claims nor of their age assessments. Reports from medical organisations consider the X-ray as invasive but, more importantly, inaccurate with an approximate margin of error of 2 years.¹⁵¹

In 2019, an expert group representing both governmental and non-governmental organisations was established to create a national age assessment procedure based on a multidisciplinary approach. The aim is also to lay down some basic legal safeguards to be applied by asylum, immigration and/or other administrations that request age assessment in practice. Some of these legal safeguards were thus included by the SAR to its LAR amendments proposal.¹⁵² The draft methodology on age assessments was finalised and referred for adoption to the government. However, mainly due to COVID-19 pandemic the national legislative agenda was significantly re-directed, which prevented the endorsement of the draft. Thus, it was still pending as of 31 December 2020.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes
 ☒ For certain categories
 ☐ No

❖ If for certain categories, specify which: Unaccompanied children

In 2018, the SAR adopted internal rules of procedure which foresee the assistance from social experts during the initial medical examination so as to enable an early identification of vulnerable asylum applicants and their special needs.¹⁵³ If identified as such, the vulnerability must be duly noted into the registration form of the applicant, i.e. it must include a detailed explanation of the special needs identified as well as the necessary follow-up required in an appendix. Although monitoring was carried out and seems to indicate that 62% of asylum applicants have undergone an interview with social experts in practice, it appears that the information collected by the latter was not necessarily included to the applicants files and was thus not taken into consideration by caseworkers in their decision-making process.

The law excludes the application of the **Accelerated Procedure** to unaccompanied asylum-seeking children, but not to torture victims.¹⁵⁴ There have not been cases of victims of torture processed under the accelerated procedure in practice, however.

¹⁵⁰ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

¹⁵¹ Doctors of the World, *Age assessment for unaccompanied minors*, 28 August 2015. See also UNHCR, UNICEF and International Rescue Committee, *The way forward to strengthened policies and practices for unaccompanied and separated children in Europe*, July 2017, available at: <http://bit.ly/2BHGXLo>.

¹⁵² Draft amendments of the LAR, Public Consultations Portal, 13 December 2019, available at: <https://bit.ly/2u4mFUy>.

¹⁵³ SAR, Internal Rules of Procedure for assessing and granting international protection, adopted on 17 December 2018 and amended in November 2020. See in particular: Article 29 SAR Internal Rules of Procedure.

¹⁵⁴ Article 71(1) LAR.

Despite the 2015 reform of the law which stripped the statutory social workers of the child protection services from the responsibility to represent unaccompanied children in asylum procedures (see [Legal Representation of Unaccompanied Children](#)), their obligation to provide a social report with an opinion on the best interests of the child concerned in every individual case remains nonetheless under the provisions of general child care legislation.¹⁵⁵ In all of the cases monitored in 2020, these reports were produced but in their vast majority not included to the files nor shared with the SAR's caseworkers for further consideration.¹⁵⁶

The pilot legal aid project, commenced in March 2018 by the National Legal Aid Bureau and the SAR provide sponsored legal aid and representation at all stages of the status determination procedure to vulnerable asylum seekers (see [Regular Procedure: Legal Assistance](#)). Altogether 818 vulnerable applicants received legal aid in 2020 during the first-instance asylum procedure.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☐ Yes ☐ No ☒ In some cases
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

The LAR includes a provision, according to which the caseworker, with the consent of the asylum seeker, can order a medical examination to establish evidentiary statements of past persecution or serious harm.¹⁵⁷ If such consent is refused by the asylum seeker, this should not be an impediment to issuing the first instance decision. The law also envisages that the medical examination can be initiated by the asylum seeker, but in this case he or she should bear the medical expert's cost.

However, such reports are only exceptionally commissioned by caseworkers of the SAR. In most of the cases where medical reports were provided - if not all - this was at the initiative of the asylum seeker or his or her legal representative. The costs of such medical reports are covered by legal aid, which is awarded in the majority of cases which concern vulnerable applicants. If no legal aid is awarded, the costs of the medical report are borne by the asylum seeker.

The law only requires the caseworker to order a medical examination in one particular case, which is when there are indications that the asylum seeker might be mentally ill.¹⁵⁸ In this case, if the result of the medical examination report shows that the asylum seeker suffers from disease or mental illness, the caseworker approaches the decision-maker, the SAR's Chairperson, who refers the case to the court for appointment of a legal guardian to the asylum seeker which is required in order to be able to continue with the examination of the asylum application.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children? ☒ Yes ☐ No

The 2015 reform mandated the local municipalities to act as legal representatives of unaccompanied children.¹⁵⁹ Under the law, the municipality representative has a responsibility to safeguard the child's interests during the procedure, to represent the child before administration with respect to his or her best

¹⁵⁵ Article 15(4) and (6) Law on Child Protection.

¹⁵⁶ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

¹⁵⁷ Article 61a(7) LAR.

¹⁵⁸ Article 61a(5) LAR.

¹⁵⁹ Former Article 25(1) LAR.

interests, to represent the child in all types of administrative or courts proceedings, as well as to take actions to ensure appointment of legal aid.¹⁶⁰ Representation of unaccompanied children by statutory social workers during the asylum procedure was abolished.

Highly criticised when adopted, since then this approach of the law proved to be indeed even more inadequate than previous arrangements. The municipalities lack not only qualified staff, but also any basic experience and expertise in child protection. In addition to that, the number of legal representatives appointed – one or two per reception facility – is clearly insufficient to meet the need of the population of unaccompanied children who, remain considerable in number.

At the end of 2020, amendments to the law introduced a major change in the legal representation of unaccompanied asylum seeking and refugee children.¹⁶¹ The obligation to represent these children not only in the procedure, but also after the recognition and before all agencies and institutions with regard to their rights and entitlements, was shifted from the municipalities to the National Legal Aid Bureau. It includes requirements related to the qualification of the appointed legal aid lawyers and representation implemented in the child's best interest.¹⁶²

The amendment is expected to correct the long-standing absence of guardians, proper legal representation and care for the best interests of unaccompanied children in asylum procedures so far, which has resulted in high rates of absconding and related protection and safety risks.

The number of unaccompanied child applicants rose to 799 unaccompanied children in 2020, compared to 524 in 2019, 481 in 2018, 440 in 2017 and 2,772 in 2016:

Unaccompanied asylum-seeking children: 2020	
Country of origin	Number
Afghanistan	659
Syria	109
Iraq	14
Pakistan	10
Libya	1
Morocco	1
Vietnam	1
Total	799

Source: SAR.

¹⁶⁰ Former Article 25(3) LAR.

¹⁶¹ National Parliament, Amendments on the Law on Asylum and Refugees (LAR), State Gazette No.89 from 16 October 2020, available at: <https://bit.ly/2LoUMiG>.

¹⁶² Article 25 LAR.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ At the appeal stage ☐ Yes ☒ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ At the appeal stage ☐ Yes ☒ No

The law provides the opportunity given by the recast Asylum Procedures Directive to consider subsequent applications as inadmissible based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his or her personal situation or country of origin.¹⁶³ The inadmissibility assessment can be conducted on the sole basis of written submissions without a personal interview. The national arrangements, however, do not envisage the related exceptions of this rule as provided in the recast Asylum Procedures Directive.¹⁶⁴

Within the hypotheses adopted in national legislation, subsequent applications are not examined and the applicants are stripped from the right to remain when the first subsequent application is considered to be submitted merely in order to delay or frustrate the enforcement of a removal decision; or where it concerns another subsequent application, following a final inadmissibility / unfounded decision considering a first subsequent application.

If the subsequent application is declared inadmissible, this decision can be appealed within a deadline of 7 days. The appeal has no suspensive effect, however the court is obligated *ex lege* to consider whether the appellant should remain in the country until the judgement is delivered.¹⁶⁵ The competent court is the territorially competent regional administrative court¹⁶⁶, which hears the appeal case in one instance. If the court rules the admission of the subsequent application, the SAR has to register the applicant within 3 working days from the date the admission has taken place (entered into force).

In 2020 67 asylum seekers in total submitted subsequent applications, and additional 13 subsequent applications were pending from 2019, thus bringing the total number of subsequent applications to 80 in 2020. Out of them, 69 (86%) were declared inadmissible and 11 were granted access to further determination. A breakdown per country of origin was not made available in 2020, however.

Subsequent applications supported by individualised evidence have been admitted to determination at the first instance. Albeit encouraging, this approach of the SAR can still not be considered as a steady practice, but mainly attributed to the still manageable number of the new arrivals.

¹⁶³ Articles 75a to 76c LAR; Article 76d in conjunction with Article 13 (2) LAR.

¹⁶⁴ Article 42(2)(b) recast Asylum Procedures Directive.

¹⁶⁵ Article 84(6) LAR.

¹⁶⁶ Article 84(20) LAR.

F. The safe country concepts

Indicators: Safe Country Concepts

- | | |
|--|---|
| 1. Does national legislation allow for the use of “safe country of origin” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

1. Safe country of origin

The LAR defines “safe country of origin” as a “state where the established rule of law and compliance therewith within the framework of a democratic system of public order do not allow any persecution or acts of persecution, and there is no danger of violence in a situation of domestic or international armed conflict.”¹⁶⁷ This concept is a ground for rejecting an application as manifestly unfounded in the [Accelerated Procedure](#).¹⁶⁸

National legislation allows for the use of a safe country of origin and safe third country concept in the asylum procedure.¹⁶⁹

Prior to EU accession, national lists of safe countries of origin and third safe countries were adopted annually by the SAR and applied extensively to substantiate negative first instance decisions. The national courts adopted a practice that the concepts can only be applied as a rebuttable presumption that could be contested by the asylum seeker in every individual case.¹⁷⁰ In 2007, the national law was amended to regulate the adoption of national lists on the basis of EU common lists under Article 29 of the 2005 Asylum Procedures Directive. As a result, ever since the adoption of this amendment, the safe country of origin concept became inapplicable in practice insofar as such a common EU list has never been adopted.

The law allows the SAR to propose to the government national lists of safe countries of origin and third safe countries, which are considered to establish a rebuttable presumption.¹⁷¹ When approving the lists, the government has to consider information sources from other Member States, EASO, UNHCR, the Council of Europe and other international organisations in order to take into account the degree of protection against persecution and ill-treatment ensured by the relevant state by means of:

- The respective laws and regulations adopted in this field and the way they are enforced;
- The observance of the rights and freedoms laid down in the ECHR or the International Covenant on Civil and Political Rights, or the Convention against Torture;
- The observance of the non-*refoulement* principle in accordance with the Refugee Convention;
- The existence of a system of effective remedies against violations of these rights and freedoms.

Notwithstanding, the SAR has not made use of this opportunity so far, hence, no national safe countries of origin or safe third countries lists are adopted and applied.

¹⁶⁷ Additional Provision §1(8) LAR.

¹⁶⁸ Article 13(1)(13) LAR.

¹⁶⁹ Article 13(1)(13)(14) LAR.

¹⁷⁰ See e.g. Supreme Administrative Court, Decision No 4854, 21 May 2002.

¹⁷¹ Articles 98-99 LAR.

2. Safe third country

A “safe third country” is defined in the LAR as “a country other than the country of origin where the alien who has applied for international protection has resided and:

- (a) There are no grounds for the alien to fear for his/her life or freedom due to race, religion, nationality, belonging to a particular social group or political opinions or belief;
- (b) The alien is protected against the refoulement to the territory of a country where there are prerequisites for persecution and risk to his/her rights;
- (c) The alien is not at risk persecution or serious harm, such as torture, inhuman or degrading treatment or punishment;
- (d) The alien has the opportunity to request refugee status and, when such status is granted, to benefit from protection as a refugee;
- (e) There are sufficient reasons to believe that aliens will be allowed access to the territory of such state.”¹⁷²

Firstly adopted as a ground for inadmissibility in 2020 the “safe third country” concept was re-arranged as a ground to refuse the application as manifestly unfounded in [Accelerated Procedure](#).¹⁷³ The law presently requires more detailed investigation in order a country to be considered as a “safe third country” including findings that the applicants will be accepted back to its territory.¹⁷⁴ The “safe third country” concept cannot be used as a sole ground for considering the application manifestly unfounded unless there is a connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country and, a case-by-case consideration is implemented of the safety of the country for a particular applicant.

In 2020, the law transposed the requirement in Article 38(3)(b) of the recast Asylum Procedures Directive for an applicant to be granted a document in the language of the safe third country, stating that his or her claim was not examined on the merits.

As detailed in the section on [Safe Country of Origin](#), Article 98 LAR provides for the possibility of safe third country lists as well as safe country of origin lists.

Since the concept has not been applied in recent years in practice, implementation setting standards in this respect, both administrative and judicial, are limited to non-existent. In principle, refusals based on the “safe third country” concept relate to countries where the applicant lived or resided for prolonged period of time before departure. Transit or short stay in countries are not considered as sufficient for safe third countries.

3. First country of asylum

In 2020 an amendment to the law re-arranged the approach towards the first country of asylum concept.¹⁷⁵ Presently, an application can be dismissed as inadmissible where the asylum seeker has been granted and can still enjoy refugee status or other effective protection in another EU Member State.

National asylum legislation does not envisage the first country of asylum concept separately from, or, in addition to, the “safe third country” lists.

¹⁷² Additional Provision §1(9) LAR.

¹⁷³ Article 13(1)(14) LAR.

¹⁷⁴ Article 13(1)(14) LAR.

¹⁷⁵ Article 15(1)(6) LAR.

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No

The law explicitly mentions the obligation of the SAR to provide information to asylum seekers within 15 days from the submission of the application.¹⁷⁶ The SAR must provide the information orally, if necessary, in cases where the applicant is illiterate.

The information should cover both rights and obligations of asylum seekers and the procedures that will follow in general. Information on existing organisations that provide social and legal assistance has to be given as well. The information has to be provided in a language the asylum seeker declared that he or she understands or, when it is impossible, in a language the asylum seeker may be reasonably supposed to understand.

In practice, the information is always provided to asylum seekers in writing, in the form of a leaflet translated in the languages spoken by the main nationalities seeking asylum in Bulgaria, such as Arabic, Farsi, Dari, Urdu, Pashto, Kurdish, English and French. Information by leaflets or, where needed, in other ways (UNHCR or NGO info boards) is usually provided from the initial application (e.g. at the border) until the registration process is finished.¹⁷⁷ Since end of 2017 information boards are placed in all reception centres, indicating the respective movement zones applicable for the asylum seekers accommodated in to reflect the needs following the 2015 reform of the LAR (see [Freedom of Movement](#)).¹⁷⁸ SAR centers also display information boards which indicate the place and time where applicants can obtain information from the agency's staff about the development of their status determination procedures.

The written information, however, is complicated and not easy to understand. This opinion is shared by all NGO legal aid providers active in the field.¹⁷⁹ The common leaflet and the specific leaflet for unaccompanied children drafted by the Commission as part of the Dublin Implementing Regulation are not being used in Bulgaria or being provided to asylum seekers.¹⁸⁰ The same applies to the information provided on the SAR's website, which is also available only in Bulgarian.

Since 2018 several animated videos provided by UNHCR are made available in the reception centres. This includes a video targeting children which provides information on their daily routine and the importance of school attendance. The video is 1 hour and 40 minutes long and is available in Urdu, Pashto and Dari. Another video of 7 minutes, available in English, Arabic, Dari, Pashto and Kurdish Kurmanji, provides introductory information relating to the asylum procedure as well as rights and obligations during the procedure. Four other videos are dedicated to information on human trafficking and sexual exploitation. They are available in English with Pashto subtitles and address targeted messages to unaccompanied children. However, practice indicates that these videos are not screened on a regular basis. This being said, the obligation to deliver written information is fulfilled in 86% of monitored cases.¹⁸¹

¹⁷⁶ Article 58(8) LAR.

¹⁷⁷ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

¹⁷⁸ Article 29(1)(2) LAR.

¹⁷⁹ Information provided by the Protection Working Group, 29 November 2016.

¹⁸⁰ Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

¹⁸¹ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

The applicants who are placed in closed centres should further receive information about the internal rules applicable to the respective centre as well as about their rights and obligations. Under national law, this information should be provided in a language that they understand.¹⁸² This obligation was not met in 2020, either.

NGOs, in particular UNHCR's implementing partners, develop and distribute other leaflets and information boards that are simpler and easier to read and some do operate reception desks where this kind of information is also provided orally to the asylum seekers by BHC or the Red Cross. In addition, in 2014 UNHCR funded the development of online accessible tool (asylum.bg) with information about the key institutions, procedures and rights before, during and after the status determination in several most spoken languages (Arabic, Farsi, Dari, Urdu, English and French). As far as the tool functions online, it aims to providing correct and comprehensive legal information to asylum seekers in a sustainable manner wherever they are present and accommodated, including outside the reception centres, at the borders, in detention centres and other remote locations. In 2018 the information on asylum.bg was revised and made available in audio version for illiterate users.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

NGOs, lawyers and UNHCR staff have unhindered access to all border and inland detention centres and try to provide as much information as possible related to detention grounds and conditions.¹⁸³ Despite that, the subject of detention remains hard to explain as an extremely high percentage of asylum seekers claim that they do not understand the reasons why they are kept in detention.¹⁸⁴

The LAR provides that where there are indications that the individuals in detention facilities or at border crossing points may wish to make an asylum application the government shall provide them with information on the possibility to do so.¹⁸⁵ The information should at least include how one can apply for asylum and procedures to be followed, including in immigration detention centres and interpreted in the respective language to assist asylum seekers' access to procedure. This obligation is not fulfilled in practice as none of the SAR staff is visiting or consulting potential asylum seekers who are apprehended at the border or in immigration detention centres, where the provision of information depends entirely on legal aid NGOs' efforts and activity.

In those detention facilities and crossing points, Bulgaria is also legally bound to make arrangements for interpretation to the extent necessary to facilitate individual access to the asylum procedure. Such interpretation, however, is not secured and the only services in this respect are provided by the Bulgarian Helsinki Committee under UNHCR funding. Although Article 8(2) of the recast Asylum Procedures Directive, allowing organisations and persons providing advice and counselling to asylum applicants to have effective access to applicants present at border crossing points, including transit zones at external

¹⁸² Art. 45d (3) LAR.

¹⁸³ For more information, see General Directorate Border Police, UNHCR and BHC, *2015 Annual Border Monitoring Report: Access to territory and international protection*, July 2016, available at: <http://bit.ly/2jsyglh>, para 1.1.3.

¹⁸⁴ This has been a systematic concern. See JRS Europe, *Becoming Vulnerable in Detention (Detention of Vulnerable Asylum Seekers - DEVAS Project)*, 2010, National Chapter on Bulgaria, 147 - points. 3.1 and 3.2.

¹⁸⁵ Article 58(6) LAR; Article 8(1) recast Asylum Procedures Directive.

borders, is transposed in the national law,¹⁸⁶ in practice there are no other NGOs besides the Bulgarian Helsinki Committee which provide regular legal assistance in these areas. Other NGOs such as Center for Legal Aid – Voice in Bulgaria, Bulgarian Lawyers for Human Rights and Foundation for Access to Rights provide project-based and targeted legal assistance in the **Busmantsi** pre-removal detention centre. At the end of 2016 the International Organisation for Migration (IOM) Bulgaria received the first of many AMIF funding, among many others, to also provide legal counselling on status determination procedure to asylum seekers in reception centres and to irregular migrants in detention centres with regard to assisted voluntary return. This assistance is not conditioned by requirements about the qualifications of assistance providers and is ensured by shifting mobile teams on a weekly schedule.

As regards urban asylum seekers and refugees living in the **Sofia** region, UNHCR has funded an Information Centre, run by the Red Cross and located in Sofia, which will be maintained throughout 2021. In 2020 altogether 491 asylum seekers and beneficiaries of international protection were provided different types of information in this center.

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?¹⁸⁷ ☒ Yes ☐ No
❖ If yes, specify which: Ukraine, Algeria, Tunisia, Morocco and Afghanistan

Out of a total of 2,195 decisions taken on the merits in 2020, 37% resulted in a positive decision.¹⁸⁸ This represents a slight increase compared to 2019 where recognition rates remained at 30%. Subsidiary protection in 2020 also increased to 32% of the cases decided on the substance compared to 15% in 2019. However, the refugee status recognition rate continued to decrease to 8% in 2020 compared to 13% in 2019 and 15% in 2018.

1. Afghanistan

As of the end of 2016, Afghan nationals are arbitrarily considered as manifestly unfounded applicants. They are predominantly considered and refused in the **Accelerated Procedure**. Out of the 1,202 asylum seekers whose cases were examined under the **accelerated procedure** in 2020, 68% (828 asylum seekers) were originating from Afghanistan.

The recognition rate for Afghan asylum seekers remained very low in recent years, reaching only 2.5% in 2016, 1.5% in 2017¹⁸⁹ and 4% in 2019. In the majority of cases protection was granted following court decisions overturning refusals. The “striking discrepancy between the Bulgarian and the EU average recognition rate for Afghans” has been raised by the European Commission,¹⁹⁰ as well as jurisdictions in other Member States, as a matter of concern.¹⁹¹

The recognition of Afghan applicants in 2020 decreased back to 1.8% overall; 1% refugee status and 0.8% subsidiary protection, far below the average recognition rate across the EU.

¹⁸⁶ Article 23(3) LAR.

¹⁸⁷ Whether under the “safe country of origin” concept or otherwise.

¹⁸⁸ 69 inadmissibility and 11 admissibility decisions are not included.

¹⁸⁹ AIDA, ‘Bulgaria: Developments in the treatment of asylum claims from Afghanistan’, 6 August 2018, available at: <https://bit.ly/2ALvpC3>.

¹⁹⁰ European Commission, *Measures for improvement of the Bulgarian asylum system*, 6 July 2017, available at: <http://bit.ly/2EudWMH>, 7.

¹⁹¹ See e.g. (Switzerland) Federal Administrative Court, Decision E-3356/2018, 27 June 2018; (Belgium) Council of Alien Law Litigation, Decision No 185 279, 11 April 2017.

2. Turkey

Applications for international protection lodged by Turkish nationals are treated as manifestly unfounded as they are considered as originating from a “safe country of origin”, notwithstanding the fact that the Bulgarian asylum system presently does not officially apply any of the safe country concepts. Bulgaria has not adopted a list of “safe countries or origin” since 2001.¹⁹² As a result, the “safe country of origin” concept is not formally listed as a ground for rejection, i.e. as a ground for considering the application as manifestly unfounded, thus hindering an effective access to appeals.

The rejection rate of Turkish asylum seekers reached 100% both in 2018 and 2019. In 2020 just one Turkish national was granted protection in Bulgaria. Moreover, despite settled case-law whereby the lodging of an application for international protection entitles the asylum seeker to apply for an immediate release from detention, many Turkish asylum seekers are kept in immigration detention centers for the duration of their entire asylum procedure, in violation of national law. They are subsequently subject to negative decisions and deported back to Turkey. In such cases, the immigration police makes every effort to prevent Turkish detainees from accessing lawyers and legal advice. Additionally, in 2020 the authorities used the COVID-19 mandatory 14-days quarantine to organise speedy and effective readmissions of the Turkish nationals within this period of time, thus preventing them from meeting a lawyer and obtaining independent advice on their rights and legal avenues. Altogether 28 Turkish nationals were readmitted to Turkey in 2020 within the period of mandatory quarantine without any guarantees to have been informed about the possibility to claim asylum in Bulgaria, or to be in practice assisted to submit an application for international protection, if willing to do so.

This practice has been publicly recognised and acknowledged by the current Prime Minister and¹⁹³ seems to be the result of an informal political agreement between the Bulgarian and Turkish governments.¹⁹⁴ It is a long-standing practice of the Bulgarian authorities to prevent the Turkish nationals from access to procedure and international protection, as well as to expedite their return to the country of origin including, in several cases, in violation of the *non-refoulement* principle. In return, the Turkish authorities divert to a large extent the migratory pressure from the Bulgarian border to the Greek one.¹⁹⁵ The latest example in this respect was the March 2020 border crisis in Pazarkule-Kastanies region, when the attempted entries to Bulgaria were close to none against the background of thousands trying to enter Greece.¹⁹⁶

3. Iraq

For many years Iraqi applicants enjoyed relatively fair assessments and an overall recognition rate ranging between 40% to 55%¹⁹⁷ with respective refusal rate variations. In 2017, however, their recognition dropped drastically to 21% overall recognition (10.2% refugee status, 10.8% subsidiary protection), 11% (3% refugee status, 9% subsidiary protection) in 2018 and then slightly improving to 18% (4% refugee status, 14% subsidiary protection) in 2019.

The situation in 2020 however again deteriorated by decreasing to an overall recognition rate of 14% (1% refugee status, 13% subsidiary protection). In general, the arguments in the negative decisions of both the SAR and the Courts refer to the defeat of ISIS and to improvements in the safety and security across

¹⁹² The last national annual lists were adopted with Decision №205/19.04.2000 of the Council of Ministers, in which Turkey was not enlisted as a safe country of origin nor as a third safe country.

¹⁹³ Businessinsider, ‘Strasbourg Court Quizzes Bulgaria over Gullenists Extradition’, 25 April 2018, available at: <https://bit.ly/2S0ZPGU>.

¹⁹⁴ Businessinsider, ‘Turkey’s plan to flood Europe with millions of refugees is a real and dangerous threat, officials warn’, 11 October 2019, available at: <https://bit.ly/31szogj>.

¹⁹⁵ Offnews, The Turkish Ambassador promised to sustain the migrant pressure towards Bulgaria at a zero level, 3 May 2020, available in Bulgarian at: <https://bit.ly/397W2Ph>.

¹⁹⁶ Mediapool, Борисов при Ердоган докато хиляди имигранти напират към Гърция, 2 March 2020, available in Bulgarian at: <https://bit.ly/3rUUQYj>.

¹⁹⁷ 2015: 22% refugee status, 20% subsidiary protection; 2016: 33% refugee status, 10% subsidiary protection.

the country's conflict areas and war zones. Claims by applicants from Central and Southern Iraq are considered manifestly unfounded in general.

4. Syria

Between 2014 to mid-2015, the SAR applied the so-called *prima facie* approach to assessing Syrian applications for protection as “manifestly well-founded”. This approach is no longer applied. Nevertheless, in 2020, Syrians continued to be the nationality with the highest recognition rate, reaching 99% overall - out of which 11% concerned the granting of refugee status and 88% the granting of the subsidiary protection.

5. Other nationalities

Nationalities from certain countries such as **Ukraine, Morocco, Tunisia** and **Algeria** are discriminatorily treated as manifestly unfounded applications with zero recognition rates. To many of these nationalities, the status determination is mostly conducted under an [Accelerated Procedure](#) in pre-removal detention facilities, in violation of the law.¹⁹⁸

¹⁹⁸ Article 45b LAR.

Reception Conditions

Short overview of the reception system

- **Access to reception:** The national asylum agency SAR is the authority responsible for the reception of asylum seekers.¹⁹⁹ Their access to reception is guaranteed under the law, though not from the application's submission, but from the moment of their registration as asylum applicants by the SAR.²⁰⁰ The right to accommodation applies to asylum seekers subject to Dublin, accelerated and general procedures.²⁰¹ Asylum seekers who submitted a subsequent application, and which were admitted to the determination procedure, are stripped from access to reception centres, food, accommodation and social support unless they are considered to be vulnerable.²⁰²
- **Reception centres:** SAR operates two types of collective reception facilities - transit centers and reception-and-registration centers.²⁰³ Both types can be used for registration, accommodation, medical examination and implementation of asylum procedure. They can also both operate as open or closed type centers. Originally, the transit centers were designed to operate in border areas and to accommodate only the asylum seekers subject to the accelerated procedure, while the reception-and-registration centers had to accommodate those who have been admitted to a general procedure.²⁰⁴ This difference was gradually erased with series of amendments from 2002 to 2015. Moreover, safe zones for unaccompanied children were recently opened, first in mid-2019, and then in early-2020.²⁰⁵ They are located in the reception-and-registration centre (RRC) in Sofia at the Voenna Rampa and Ovcha Kupel shelters, where children were provided round-the-clock care and support tailored to their specific and individual needs. The safe-zones are operated by the International Organisation for Migration (IOM) - Bulgaria and funded by the EC's financial instruments. Accommodation outside the reception centers in individual dwellings is permitted, but accessible only to asylum seekers who can financially afford to meet their rent/utilities costs and under the condition to have alleviated their right to receive any other material or social support during the procedure.²⁰⁶

In 2018 the UN Human Right Committee raised concerns relating the identified need to further improve conditions for persons seeking international protection by ensuring that reception centres provide basic services, protecting asylum seekers and migrants from attacks and abuse, and by ensuring adequate access to social, psychological, rehabilitation and health-care services and benefits in practice.²⁰⁷

¹⁹⁹ Article 47(2) in conjunction with Article 48(1)(11) LAR.

²⁰⁰ Article 68(1)(1) LAR.

²⁰¹ Article 29(2) LAR.

²⁰² Article 29(7) LAR.

²⁰³ Article 47(2) LAR.

²⁰⁴ Law on Asylum and Refugee, as adopted St.G. №54 from 31 May 2002.

²⁰⁵ IOM, 'Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria', 29 May 2019, available at: <https://bit.ly/2RnAG7N>.

²⁰⁶ Article 29(9) LAR.

²⁰⁷ Human Right Committee, *Concluding observations on the fourth periodic report of Bulgaria*, CCPR/C/BGR/CO/4, 15 November 2018, available at: <https://bit.ly/39rxz7T>.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions available to asylum seekers in the following stages of the asylum procedure?
- | | | | |
|--------------------------|---|--|--|
| ❖ Regular procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Dublin procedure | <input type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ First appeal | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Onward appeal | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Subsequent application | <input type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input checked="" type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

Asylum seekers are entitled to material reception conditions according to national legislation during all types of asylum procedures, except in those implemented to admit or assess subsequent applications.²⁰⁸ Although there is no explicit provision in the law, asylum seekers without resources are accommodated with priority in the reception centres in case of restricted capacity to accommodate all new arrivals. Among all, circumstances such as specific needs and risk of destitution are assessed in each case. The destitution risk assessment criteria are set to take into account the individual situation of the asylum seeker of concern, such as resources and means of self-support, profession and employment opportunities if work is formally permitted, and the number and vulnerabilities of dependent family members. Nevertheless, asylum seekers have the right to withdraw from these benefits if their application is pending in the regular procedure and they declare that they are in possession of means and resources to support themselves and chose to live outside reception centres.

The law provides that every applicant shall be entitled to receive a registration card in the course of the procedure.²⁰⁹ In addition, the law implies a legal fiction, according to which the registration card does not certify the foreigner's identity due to its temporary nature and the specific characteristics of establishing the facts and circumstances during the refugee status determination (RSD) procedures which are based, for the most part, on circumstantial evidence.²¹⁰ Hence, the registration card serves the sole purpose of certifying the identity declared by the asylum seeker and the right to remain in the territory of the country during the procedure. This legal arrangement continues to create obstacles for asylum seekers to open and maintain personal bank accounts thus creating additional difficulties for their access to employment, although in 2020 the national regulator issued instructions recognising the right of asylum seekers for access to bank services.²¹¹

Nevertheless, this document is an absolute prerequisite for access to the rights enjoyed by asylum seekers during the RSD procedure, namely remaining on the territory, receiving shelter and subsistence, social assistance (under the same conditions as Bulgarian nationals and receiving the same amount), health insurance, access to health care, psychological support and education. Since the end of 2015 during the procedure asylum seekers enjoy only shelter, food and basic health care as none of the other entitlements is secured or provided by the government in practice.

In 2017 the Committee against Torture raised concerns around substandard material conditions in reception centres, the absence of an adequate identification mechanism for persons in vulnerable

²⁰⁸ Article 29(1) and (7) LAR.

²⁰⁹ Article 29(1)(7) LAR.

²¹⁰ Article 40(3) LAR.

²¹¹ National Commission for Consumers Protection, Payment Disputes Committee, Ref. №ЛJ-03-5033 from 1 September 2020.

situations, the removal of their monthly financial allowance, and insufficient procedural safeguards regarding the assessment of claims and the granting of international protection.²¹²

Dublin procedure: Certain asylum seekers to whom an outgoing Dublin procedure is undertaken cannot necessarily enjoy any of the material reception conditions, as the only rights granted to them are the right to stay in the territory of the country, the right to interpretation and the right to be issued a registration card. The LAR distinguishes between persons applying for asylum in Bulgaria, who have access to full reception conditions,²¹³ and persons found irregularly on the territory in Bulgaria and who have not claimed asylum, but to whom the Dublin procedure might be applied following a request by the arresting police department or security services.²¹⁴

With regard to Dublin returnees, the treatment depends on how their individual case has developed in Bulgaria while they were away:

- If cases where the asylum claim under the Dublin procedure has been rejected *in absentia*, the applicant is treated as any other rejected asylum seeker upon his/her return to Bulgaria. This means that access to accommodation and medical assistance is unavailable, but also that the Dublin returnee faces a risk of immigration detention in order to secure his/her deportation. In very few cases, applicants manage to restore their appeal deadlines and to bring the negative decisions before the court, but in such cases the chances of success remain extremely limited given the low recognition rates in Bulgaria (except for Syrian nationals).
- In cases where the Dublin returnees' procedure in Bulgaria has only been suspended or terminated while he or she was abroad, the asylum procedure continues upon his/her return. In 2020 due to the manageable number of new arrivals in Bulgaria, the reception centers were occupied below their capacity. Dublin returnees for whom the procedure continued were therefore usually accommodated in an asylum reception center, if so requested.

Subsequent applications: Subsequent applicants pending an admissibility assessment are excluded not only from all material conditions, but also from the right to receive a registration card. They only have a right to interpretation during the fast-track processing of the admissibility assessment prior to their registration, documentation and determination on the substance.²¹⁵ In cases where the first subsequent application is considered to be submitted merely in order to delay or complicate the enforcement of a removal decision, or where it concerns another subsequent application following a final inadmissibility / unfounded decision considering a first subsequent application, the applicants are also stripped from the right to remain on the territory. The law has set a 14-day time limit for the admissibility determination. If the subsequent application is considered inadmissible, the determining authority should not open a determination procedure and the applicant is not registered and documented (see section on [Subsequent Applications](#)).

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

- | | |
|---|------|
| 1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2020 (in original currency and in €): | None |
|---|------|

According to the law, reception conditions provided include accommodation, food, social assistance, health insurance and health care and psychological assistance. These rights, however, can be enjoyed only by asylum seekers accommodated in the reception centres. Asylum seekers who have either opted on their own will to live outside reception centres or to whom the accommodation is refused (see [Reduction or Withdrawal of Reception Conditions](#)) do not have access to food or psychological

²¹² Committee against Torture, *Concluding observations on the sixth periodic report of Bulgaria*, CAT/C/BGR/CO/6, 15 December 2017, available at: <http://bit.ly/2rV4mzR>.

²¹³ Article 67a(2)(1) LAR.

²¹⁴ Article 67a(2)(2) LAR.

²¹⁵ Article 76b LAR.

assistance. Access to the basic health care is otherwise ensured as health insurance is in principle covered by the budget to all asylum seekers regardless of their place of residence.

As of February 2015, the SAR has ceased the provision of the monthly financial allowance to asylum seekers accommodated in reception centres, under the pretext that food was to be provided in reception centres three times a day.²¹⁶ In 2020, three meals per day were thus distributed to all asylum seekers accommodated in reception centres, with special attention to unaccompanied children.

The cessation of the monthly financial allowance is in contradiction with the law, as the LAR does not condition its provision depending on whether food is provided or not. These two material rights are regulated separately under the law. The cessation of the monthly financial allowance was appealed by several NGOs before the court.²¹⁷ However, the court rejected the appeal on the basis of a lack of legitimate interest in the case and suggested that appeals on an individual basis could be admissible. Notwithstanding, the appeals against the cessation of the financial allowance cannot be validly submitted, since the 14-day time limit for appealing the decision by any asylum seeker would be long expired, as it is counted from its issue date of the SAR's order.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
☐ Yes ☒ No
2. Does the legislation provide for the possibility to withdraw material reception conditions?
☐ Yes ☒ No

The reduction of material reception conditions is not possible under the law. Withdrawal is admissible under the law in cases of disappearance of the asylum seeker when the procedure is discontinued.²¹⁸

The SAR applies this ground of withdrawal in practice to persons returned under the Dublin Regulation. In their majority they are refused accommodation in the reception centres, although this approach is usually not applied to families with children, unaccompanied children and other vulnerable applicants, who are provided shelter and food.

Under the law, the directors of transit / reception centres are competent to decide on whether an asylum applicant should be provided accommodation.²¹⁹ These decisions should be issued in writing as all other acts of administration,²²⁰ but in practice asylum seekers are informed orally. Nonetheless, the refusal to provide accommodation can be appealed before the relevant Regional Administrative Court within 7 days from the notification. Legal aid is available with regard to representation before the court once the appeal is submitted. In this case, however, asylum seekers face difficulties proving before the court when they have been informed about the accommodation refusal, which may result in cessation of the court proceedings.

Destitution is defined on the basis of the monetary indicator of the national poverty threshold. Presently, this threshold is at to BGN 369, equalling to 188.67 € monthly.²²¹ The law defines as “basic needs” sufficient food, clothing and housing provided according to the national socio-economic development.²²² The risk of destitution is not formally assessed but the SAR takes it into account in the majority of cases.

²¹⁶ SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

²¹⁷ Bulgarian Helsinki Committee, Bulgarian Council on Refugees and Migrants, and Council of Refugee Women.

²¹⁸ Article 29(8) LAR.

²¹⁹ Article 51(2) LAR.

²²⁰ Article 59(2) Administrative Procedure Code.

²²¹ Council of Ministers, Decision No 265 of 24 September 2020 adopting the 2021 national poverty threshold.

²²² Article 1(1) Law on Social Assistance.

Bulgaria does not apply sanctions for serious breaches of the rules of accommodation centres and violent behavior, except for destruction of a reception center's property, which is sanctioned with a fine between 50 to 200 BGN (25.50-102 €) plus the value of the destroyed property.²²³ The grounds laid down in Article 20(2) and (3) of the Recast Reception Conditions Directive are not transposed into national legislation.

Relating to subsequent applicants, see [Criteria and Restrictions to Access Reception Conditions](#).

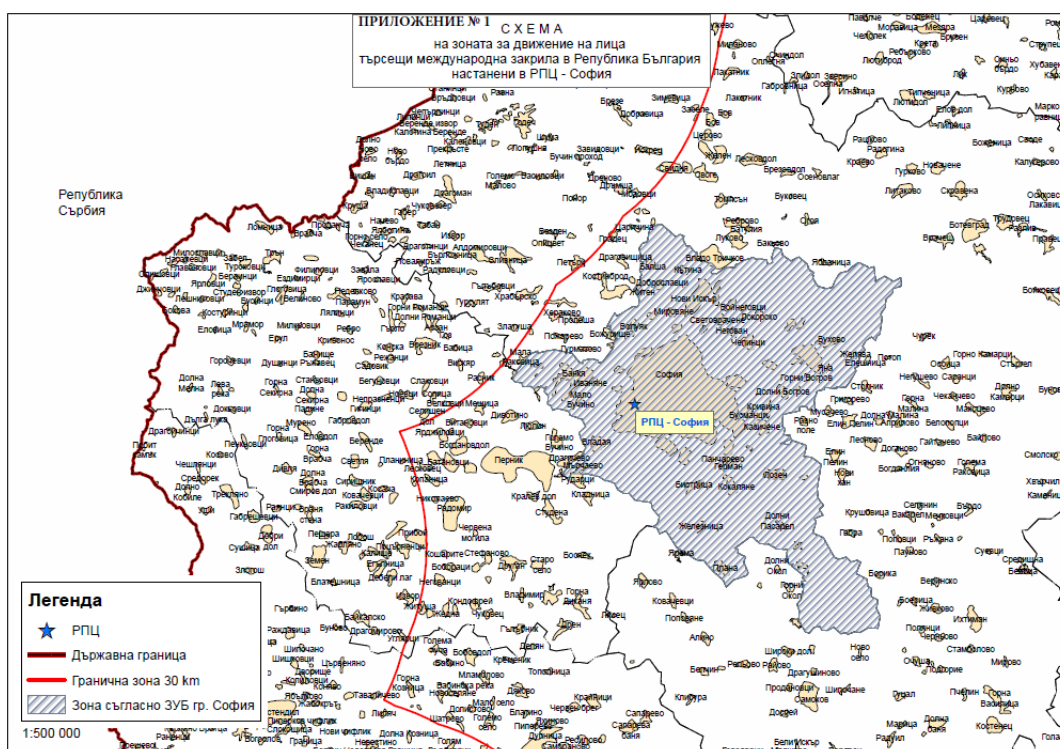
4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☒ Yes ☐ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

Asylum seekers' freedom of movement can be restricted to a particular area or administrative zone within Bulgaria, if such limitations are deemed necessary by the asylum authority, without any other conditions or legal prerequisites.²²⁴ The asylum seeker can apply for a permission to leave the allocated zone and if the request is refused, it must be motivated. Such a permission is not required when the asylum seeker has to leave the allocated zone in order to appear before a court, a public body or administration or if he is in need of emergency medical assistance. The permitted zones of free movement should be indicated in each individual asylum identification card.²²⁵

Consecutive failure to observe the zone limitation can result in placement in a closed centre until the asylum procedure ends with a final decision.²²⁶ It was not before September 2017 when the government formally designated the movement zones.²²⁷ These consist of zones covering designated geographical areas around the respective reception centres. The following map illustrates the zone around **Sofia**:



However, since then, the SAR has not applied this as a ground for detention in a closed centre. At the

²²³ Article 93 LAR.

²²⁴ Article 30(2) and (3) LAR.

²²⁵ Article 44(1)(11) LAR.

²²⁶ Article 95a LAR.

²²⁷ Council of Ministers, Decision No 550 of 27 September 2017.

end of 2017 information boards were placed in all reception centres indicating the respective movement zones applicable for the asylum seekers accommodated therein. In 2020, the SAR applied asylum detention on account of the person's attempts to leave Bulgaria in one case.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: ²²⁸ 4
2. Total number of places in the reception centres: 5,160
3. Total number of places in private accommodation: 140
4. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Reception centres are managed by the SAR. As of the end of 2020, there were 4 reception centres in Bulgaria. The total capacity as of 31 December 2020 was as follows:

Reception centre	Location	Capacity	Occupancy end 2020
Sofia	Sofia	2,060	463
<i>Ovcha Kupel shelter</i>		860	54
<i>Vrazhdebna shelter</i>		370	154
<i>Voenna Rampa shelter</i>		800	249
<i>Closed 3rd Block Busmantsi</i>		30	6
Banya	Central Bulgaria	70	36
Pastrogor	South-Eastern Bulgaria	320	46
Harmanli	South-Eastern Bulgaria	2,710	487
Total		5,160	1,032

Source: Ministry of Interior. Note that the occupancy rate includes the closed centre in "3rd Block" in Busmantsi, which is a closed centre.

The SAR **Vrazhdebna** shelter in Sofia, which was closed from December 2018 to May 2019, re-opened.

1,032 asylum seekers resided in reception centres as of the end of 2020, thereby marking an occupancy rate of 25%.

Wherever possible, there is a genuine effort to accommodate nuclear families together and in separate rooms. Single asylum seekers are accommodated together with others, although conditions vary considerably from one centre to another. Some of the shelters are used for accommodation predominantly of a certain nationality or nationalities. For example, prior to its closure, **Vrazhdebna** shelter in Sofia accommodated predominantly Syrians and Iraqis, **Voenna Rampa** shelter in Sofia accommodates almost exclusively Afghan and Pakistani asylum seekers, while the other reception centres accommodate mixed nationalities, such as in **Harmanli** reception centre, **Banya** reception centre and **Ovcha Kupel** shelter in Sofia.

²²⁸ Both permanent and for first arrivals. Note that the Refugee Reception Centre Sofia has 3 reception shelters, namely Ovcha Kupel, Vrazhdebna and Voenna Rampa.

Alternative accommodation outside the reception centres is allowed under the law, but only if it is paid for by the asylum seekers themselves and if they have consented to waive their right to the social and material support.²²⁹ They must submit a formal waiver from their right to accommodation and social assistance, as warranted by law, and declare to cover rent and other related costs at their own expenses.²³⁰ Except for the few asylum seekers who are able to finance private accommodation on their own, other group of individuals living at external addresses include Dublin returnees, to whom the SAR applies the exclusion from social benefits, including accommodation, as a measure of sanction in accordance with the law (see [Withdrawal of Reception Conditions](#)).²³¹ As of 31 December 2020 only 172 asylum seekers lived outside the reception centres under the conditions as described above.²³²

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
2. What is the average length of stay of asylum seekers in the reception centres? Varies
3. Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No

2.1. State of the facilities

Apart from the **Vrazhdebna** shelter in Sofia and the safe-zone for unaccompanied children in **Voenna Rampa** and **Ovcha Kupel** shelters, living conditions in national reception centres remain poor, i.e. either below or at the level of the foreseen minimum standards and despite some partial renovations periodically conducted by the SAR. Regular water, hot water, repair of utilities and equipment in bathrooms, rooms and common areas remain problematic. Occupants from all reception centres, except in **Vrazhdebna**, have complained about the poor sanitary conditions, especially with regard to bedbugs which regularly cause health issues, i.e. constant skin inflammations and allergic reactions. This problem arose after the 2013 influx and has been continuously neglected since.

2.2. Food and health

Since 2018 three meals per day are provided in all centres (i.e. packaged food), except to unaccompanied children to whom three hot meals are served a day. Both the quality and quantity of the food is regularly criticised by asylum seekers.

As already mentioned, the individual monthly allowance provided for in the law is not provided in practice. The only other assistance provided by the government are sanitary packages. The costs of prescribed medicines, lab tests or other medical interventions which are not covered in the health care package, as well as for purchase of baby formula, diapers and personal hygiene products, are still not covered, thereby raising concerns despite the efforts of the SAR to address them through different approaches.²³³

2.3. Activities in the centres

Places for religious worship are available in all of the reception centres, but not properly maintained. Activities for children are organised in the reception centres, but not regularly and entirely on volunteer and NGO initiatives and projects. During the previous years Caritas continued to carry out language training and leisure activities which lacked professionalism for the children in the reception centres in

²²⁹ Article 29(9) LAR.

²³⁰ Ibid.

²³¹ Article 29(4) LAR.

²³² Ministry of Interior, *Migration statistics*, 29 December 2020.

²³³ Bulgarian Red Cross, *Refugee and Migrant Service: Annual Report*, February 2021.

Sofia and **Harmanli** with the support of UNICEF. The Red Cross also has conducted language courses and social adaptation classes to relocated asylum seekers in the **Vrazhdebna** shelter throughout the year. Psychological support and treatment was provided in centers in **Harmanli** (Red Cross) and **Sofia** and **Banya** centers (Nadya Center). Volunteers, organised by Cooperation for Voluntary Service (CVS) have provided language, school preparatory classes, study circles and cultural orientation.

However, in 2020 due to COVID-19 pandemic all such activities were cancelled. The Red Cross re-organised online its language courses and managed to provide ten of them throughout the year. All children accommodated in the centers were supplied with laptops, purchased by the Red Cross with AMIF co-funding, to secure children's online access to primary and secondary education.

2.4. Physical security

Some level of standardisation has taken place in the intake and registration procedure in reception centres. There is a basic database of residents in place, which is updated on a daily basis.

However, measures to prevent sexual and gender-based violence (SGBV) are not sufficient to properly guarantee the safety and security of the population in the centres. Except for **Vrazhdebna** shelter in Sofia, the security of asylum seekers accommodated in reception centres is not fully guaranteed. Verbal and physical abuse, attacks and robbery committed against asylum seekers in the surroundings of **Voenna Rampa** shelter, usually not investigated or punished, escalated in 2017 to an extent to provoke a joint letter by numerous non-governmental organisations, requesting the Sofia Police Directorate to step in and take effective preventive and investigative measures as prescribed by the law.²³⁴ No response or measures have been announced by the police in this respect and the situation did not improve in 2020.

The law does not limit the length of asylum seekers' stay in a reception centre. Asylum seekers can remain in reception centres pending the appeal procedure against a negative decision.²³⁵ In December 2020, the SAR reported to have its reception occupancy at 25%, i.e. 1,032 occupants out of 5,160 available places,²³⁶ compared to 461 occupants at the end of 2019, 542 occupants at the end of 2018 and 977 occupants in the end of 2017.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No
 ❖ If yes, when do asylum seekers have access the labour market? 3 months
2. Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No
3. Does the law only allow asylum seekers to work in specific sectors? ☐ Yes ☒ No
 ❖ If yes, specify which sectors
4. Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No
 ❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

²³⁴ Caritas, Bulgarian Helsinki Committee, Council of Refugee Women, Nadya Centre, Cooperation for Voluntary Service and Lumos Foundation, *Letter to the Ministry of Interior, Sofia Regional Police Directorate*, 22 December 2017.

²³⁵ Article 29(4)-(9) LAR.

²³⁶ SAR, Exh. No. PД05-22/13.01.2021; MOI, Migration Statistics, December 2020, available in Bulgarian at: <https://bit.ly/372jvz7>.

Currently, the LAR allows for access to the labour market for asylum seekers, if the determination procedure takes longer than 3 months from the lodging of the asylum application.²³⁷ The permit is issued by the SAR itself in a simple procedure that verifies only the duration of the status determination procedure and whether it is still pending.

In January 2018 the Ministry of Labour and Social Policy attempted to amend the law and condition the asylum seekers' access to the labour market on numerous additional and unfeasible requirements,²³⁸ but the joint lobbying of the SAR, UNHCR and non-governmental organisations prevented the amendment from being voted, and preserved the status quo.

Once issued, the permit allows access to all types of employment and social benefits, including assistance when unemployed. Under the law, asylum seekers also have access to vocational training.²³⁹

In 2020, the SAR issued 123 labour permits to asylum seekers pending status determination and reported 25 asylum seekers to have engaged in employment following the issue of the permit.²⁴⁰

In practice, it is still difficult for asylum seekers to find a job, due to the general difficulties resulting from language barriers, the recession and high national rates of unemployment. Statistics on the number of asylum seekers in employment is not collected, with the exception of those officially registered as seeking employment which in 2020 amounted to 8 asylum seekers.²⁴¹

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Access to education for asylum-seeking children is provided explicitly in national legislation without an age limit.²⁴² The provision not only guarantees full access to free of charge education in regular schools, but also to vocational training under the rules and conditions applicable to Bulgarian children.

In practice there are some obstacles related to the methodology used to identify the particular school grade that the child should be directed to, but this problem should be solved by the appointment of special commissions by the Educational Inspectorate with the Ministry of Education and Science.

No preparatory classes are offered to facilitate access to the national education system except those organised by NGO volunteers. In 2020 due to COVID-19 pandemic all such activities were cancelled. All children accommodated in the centers were provided access to laptops, purchased by the Red Cross with AMIF co-funding, to secure children's online access to primary and secondary education.

Asylum-seeking children with special needs do not enjoy alternative arrangements other than those provided for Bulgarian children.²⁴³

Moreover, asylum-seeking children may be detained in closed reception centres or facilities following the detention of their parents.²⁴⁴ This could deprive children of their right to education as accommodation in

²³⁷ Article 29(3) LAR.

²³⁸ National Parliament, Law on Amendment of the Law on Labour Migration and Labour Policy, 802-01-1, 2 January 2018, available in Bulgarian at: <https://bit.ly/2FGQ0sK>.

²³⁹ Article 39(1)(2) LAR.

²⁴⁰ SAR, Exh. No. ПД05-22/13.01.2021.

²⁴¹ Employment Agency, Ref. No.ПД-08-5414/14.12.2020.

²⁴² Article 26(1) LAR.

²⁴³ National Integration Plan for Children with Special Needs and/or Chronic Illness, adopted with Council of Ministers Ordinance No 6, 19 August 2002.

²⁴⁴ Article 45e LAR.

closed centres would effectively prevent them from accessing education, unless arrangements are put in place to secure their transportation to the public schools. No practice is yet applied in this respect.

Adult refugees and asylum seekers have a right to a vocational training. Practical obstacles may be encountered by asylum seekers in relation to access to universities as they have difficulties to prove diplomas already acquired in their respective countries of origin. This is due to a lack of relevant information on diplomas.

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☐ Yes ☐ Limited ☒ No

Asylum seekers are entitled to the same health care as nationals.²⁴⁵ Under the law, the SAR has the obligation to cover the health insurance of asylum seekers.

In practice, asylum seekers have access to available health care services, but do face the same difficulties as the nationals due to the general state of deterioration in a national health care system that suffers from great material and financial deficiencies. In this situation, special conditions for treatment of torture victims and persons suffering mental health problems are not available. According to the law, the medical assistance cannot be accessed if the reception conditions are reduced or withdrawn.

Until 31 December 2018, Dublin returnees faced significant obstacles in accessing medical care upon return, mainly resulting from the delay for the asylum and health care administration to restore their insurance coverage in the national health care database. These delays could vary from a couple of days to several weeks or even months in certain cases. Since 1 January 2019 the health care database has been re-organised to automatically restore the Dublin returnees' health care status and register them as individuals with uninterrupted medical insurance as soon as their asylum procedures is being reopened at the SAR. However, this applies only to those who left Bulgaria in 2019 and were subsequently returned back. Access to healthcare for asylum applicants who left Bulgaria prior to 1 January 2019, and who are now being returned under Dublin III, is still not ensured. In order for them to access medical care, the SAR must issue a written notification to the national IRS. Only then can the access to the medical care be restored, which takes couple of days in the majority of the cases, although there have been cases in which it took longer periods of time. In order to solve the issue in 2020 the law was amended to explicitly provide uninterrupted health care rights for asylum seekers whose procedures were re-opened after being previously discontinued - a situation that typically applies to Dublin cases.²⁴⁶ However, the arrangement is not applicable for the Dublin returnees whose applications have been decided on the substance *in absentia* before their return to Bulgaria. It is also not clear how this arrangement will be applied in practice and whether the IRS will be able to make the necessary adaptations in its software in order to ensure asylum seekers' access to health care in these cases.

Presently, all reception centres are equipped with consulting rooms and provide basic medical services, but their scope varies depending on the availability of medical service providers in the particular location.

²⁴⁵ Article 29(1)(5) LAR.

²⁴⁶ Article 29(8) LAR.

Basic medical care in reception centres is provided either through own medical staff or by referral to emergency care units in local hospitals.

E. Special reception needs of vulnerable persons

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?

☐ Yes

☒ No

The law provides a definition of vulnerability. According to the provision “applicant in need of special procedural guarantees” means an applicant from a vulnerable group who needs special guarantees to be able to benefit from the rights and comply with the obligations provided for in the law.²⁴⁷ Applicants who are children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence are considered as individuals belonging to a vulnerable group.²⁴⁸

There are no specific measures either in law or in practice to address the specific needs of these vulnerable categories except some additional arrangements in practice to ensure medication or nutrition necessary for certain serious chronic illnesses, e.g. diabetes, epilepsy, etc. The law only requires that vulnerability be taken into account when deciding on accommodation, but this is applied discretionary and without any written criteria. In 2018 the SAR adopted new internal rules of procedure whereby social experts provide assistance to its staff during the initial medical examination so as to enable the early identification of vulnerable applicants and their special needs.²⁴⁹ If an applicant is identified as vulnerable, the new rules foresee that the vulnerability will be added to the registration form, including a detailed explanation and a follow-up assessment to be described in an appendix.

Additionally, a new early identification questionnaire was established for applicants who experienced traumatising experiences in order to determine their special needs and to facilitate the referral to adequate psychological or medical care.²⁵⁰ In many reception shelters however, and mostly in Sofia, group consultations continue to be applied to new arrivals in order to identify their potential medical or social issues.

An applicant's belonging to a vulnerable group has to be taken into account by the authorities when deciding on accommodation.²⁵¹ In practice, separate facilities for families, single women or traumatised asylum seekers do not exist in the reception centres.

1. Reception of unaccompanied children

In July 2017 the State Agency for Child Protection and national stakeholders developed SOPs to safeguard unaccompanied migrant and refugee children identified to be present in Bulgaria. Although the SOPs for unaccompanied children were endorsed by the National Child Protection Council,²⁵² the final formal endorsement by the government has not been formally given yet, which makes the developed SOPs for unaccompanied children inapplicable in practice. As of 31 December 2020 no progress has been achieved in this regard. (see section on [Identification](#)).

²⁴⁷ Additional Provision 1(16) LAR.

²⁴⁸ Additional Provision 1(17) LAR.

²⁴⁹ Article 29 SAR Internal Rules of Procedure; SAR, Internal Rules of Procedure for assessing and granting international protection, adopted on 17 December 2018.

²⁵⁰ Early Identification and Needs Assessment form (ФИОН), Individual Support and Referral Plan form (ФИПП) and Social Consultation form (ФСК).

²⁵¹ Article 29(4) LAR.

²⁵² State Agency for Child Protection, ‘Тридесет и шестото редовно заседание на Националния съвет за закрила на детето се проведе в зала „Гранитна“ на Министерски съвет’, 11 July 2017, available in Bulgarian at: <http://bit.ly/2FzwLxk>.

The LAR provides that unaccompanied children are accommodated in families of relatives, foster families, child shelters of residential type, specialised orphanages or other facilities with special conditions for unaccompanied children.²⁵³ In practice, none of these opportunities are used or applied.

A safe zone for unaccompanied children in the refugee reception centre (RRC) of Sofia at the **Voenna Rampa** shelter is available since mid-2019,²⁵⁴ where children are provided round-the-clock care and support tailored to their needs. However, only unaccompanied children originating from Afghanistan, Iran and Pakistan are accommodated in this centre. This being said, some Afghan children were also accommodated in other reception centres such as the RRC of **Harmanli** in 2020. A second safe-zone at the RRC Sofia, in the **Ovcha Kupel** shelter, opened on 20 January 2020 to accommodate children originating from Arab speaking countries. Both safe-zones are operated by the International Organisation for Migration (IOM) Bulgaria and funded by AMIF, and will be extended until 2022.

Moreover, at the end of 2017, the EEA Grants secured considerable funding for the State Agency for Child Protection as well as for the Bulgarian Red Cross to jointly establish and run an Interim Care Center for unaccompanied children, proposed and endorsed by UNICEF and UNHCR. As of 31 December 2020, however, this centre is still not established.

Unaccompanied asylum-seeking children in RRC Harmanli continue to be accommodated in mixed dormitories and in many cases in rooms with unrelated adults. These children often complain to be deprived of sleep on account of noise, gambling or alcohol consumption during the night by the adults accommodated in their rooms, or by being forced to run errands for them such as shopping, laundering or cleaning. However, the SAR stated that it plans to open a third safe-zone, operated by IOM in Harmanli as well, which is expected during the course of the next two years.²⁵⁵

In 2020, following the incidents and fire at the Greek Moria Camp, Bulgaria pledged to relocate unaccompanied children. Out of 32 children who initially consented to be relocated to Bulgaria only 15 arrived by the end of 2020 and were accommodated in a specially prepared unit in Harmanli reception center.

2. Reception of victims of violence

Back in 2008, the SAR and UNHCR adopted standard operating procedures (SOPs) with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).²⁵⁶ In 2014 both agencies agreed that the SOPs need to be updated,²⁵⁷ as they have never been applied in practice, but also to include other categories applicants with special needs. The SOPs revision process is still ongoing, however.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

There are no specific rules for information provided on rights and obligations relating to reception conditions. Asylum seekers obtain the necessary information on their legal status and access to the labour market through the information sources with regard to their rights and obligations in general (see section on [Information on the Procedure](#)).

The SAR has an obligation to provide information in a language comprehensible to the asylum seekers within 15 days from filing their application, which has to include information on the terms and procedures

²⁵³ Article 29(10) LAR.

²⁵⁴ IOM, 'Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria', 29 May 2019, available at: <https://bit.ly/2RnAG7N>.

²⁵⁵ 98th Coordination meeting, 16 December 2020.

²⁵⁶ Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.

²⁵⁷ UNHCR, *SGBV Task Force*, established on 15 February 2014.

and rights and obligations of asylum seekers during procedures, as well as the organisations providing legal and social assistance.²⁵⁸ However, in reality this was not provided within the 15-day time period laid down in Article 5 of the recast Reception Conditions Directive. In practice, prior to the increased number of asylum seekers, this information was given upon the registration of the asylum seeker in SAR territorial units by way of a brochure. Monitoring from the Bulgarian Helsinki Committee in 2020 shows that oral guidance on determination procedures is provided by caseworkers in the majority of the cases (96%) with information brochures delivered in 86% of the cases.²⁵⁹

Since 2018, some animated video information is available at the reception centres of the SAR to provide introductory information relating the rights and obligations during determination procedures. The animated videos are available in Arabic, Pashto, Dari and Kurdish Kurmanji. The law also envisages that additional information relating to the internal regulations applied in the closed centres have to be provided to asylum seekers detained therein, but this has not been delivered in practice (see [Conditions in Detention Facilities](#)).²⁶⁰ The web platform [asylum.bg](#), which provides legal and practical information on national determination procedures is available also in audio format to ensure the access to credible information to illiterate asylum seekers.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
☐ Yes ☒ With limitations ☐ No

The law does not expressly provide for access to reception centres for family members, legal advisers, UNHCR and NGOs. The law provides, however, that asylum seekers have the right to seek assistance from UNHCR and other government or non-governmental organisations.²⁶¹ Until the beginning of 2015, no limitations were applied in practice. However, in 2020 and up until the publication of this report, the access of third parties to the reception centers was fully prohibited as a prevention of COVID-19.

Presently, NGOs and social mediators from refugee community organisations who have signed cooperation agreements with the SAR are allowed to operate within the premises of all reception centres. Access to reception centres for other organisations and individuals requires a formal authorisation and is formally prohibited during the night. However, asylum seekers regularly report that traffickers and smugglers as well as drug dealers and prostitutes have almost unlimited access to reception centres, except for the **Vrazhdebna** shelter in **Sofia** (see [Conditions in Reception Facilities](#)).

G. Differential treatment of specific nationalities in reception

For the time being there are no nationalities discriminated against in the area of reception. However, some of the reception centres are used for accommodation predominantly of a certain nationality or nationalities. For example, prior to its closure, **Vrazhdebna** shelter in Sofia accommodated predominantly Syrians and Iraqis, **Voenna Rampa** shelter in Sofia accommodates almost exclusively Afghan and Pakistani asylum seekers, while the other reception centres accommodate mixed nationalities, such as in **Harmanli** reception centre, **Banya** reception centre and **Ovcha Kupel** shelter in Sofia. The government had also assigned **Vrazhdebna** shelter in Sofia to host applicants coming through the relocation scheme in 2015-2017 as well as for those resettled from Turkey.

²⁵⁸ Article 58(8) LAR.

²⁵⁹ Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

²⁶⁰ Article 45e(1)(5) LAR.

²⁶¹ Article 23(1) LAR.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2020: ²⁶²	2,781
2. Number of asylum seekers in detention at the end of 2020:	33
3. Number of detention centres:	3
❖ Pre-removal detention centres	2
❖ Asylum detention centres	1
4. Total capacity of detention centres:	760

Not all asylum seekers who apply at national borders are sent directly to a detention centre, especially in cases where family members of the border applicants are already in Bulgaria, in cases where persons provide valid documentation, as well as cases which required specific needs such as individuals with disabilities and families with infants. As of July 2018, the exception is also applied to unaccompanied children below the age of 14.

The main reason for this situation results from the fact that the State Agency for National Security (Държавна агенция “Национална сигурност”, SANS) is concerned about transferring people to open reception centres before being screened by the security services, as well as the lack of a proper coordination mechanism between the police and the SAR to enable registration and accommodation of asylum seekers after 17:00 or during the weekends. Since September 2015, the SAR operates with shift schemes and on-call duty during the weekends in order to assist with the reception of asylum seekers referred by the police. In practice, however, these arrangements are not sufficient and the police has no other option but to refer and detain asylum seekers in pre-removal detention centres.

Out of a total of 3,525 applicants registered in 2020, 2,871 individuals applied for asylum at border and immigration detention facilities.²⁶³

Detention of first-time applicants from the making of their application until their personal registration is systematically applied in Bulgaria and the majority of asylum seekers apply from pre-removal detention centres for irregular migrants.²⁶⁴ Nevertheless, in 2020 there has been an increase in the number of detentions ordered compared to previous years:

Immigration detention in Bulgaria: 2015-2020						
Year	2015	2016	2017	2018	2019	2020
Total detentions ordered	11,902	11,314	2,989	2,456	2,184	3,487

Out of the 337 persons being detained in immigration detention centers at the end of 2020, 33 were asylum seekers.²⁶⁵

There are two pre-removal detention centres in operation: **Busmantsi** and **Lyubimets**. The **Elhovo** allocation centre ceased its regular operation in April 2018.

Asylum seekers can also be placed in closed reception centres i.e. detained under the jurisdiction of the SAR for the purposes of the asylum procedure. In 2020, 9 asylum seekers have been detained in the asylum closed facility, situated in the premises of the **3rd Block** in the **Busmantsi** pre-removal centre, the only closed centre for that purpose. 4 asylum seekers were held there at the end of the year 2020.

²⁶² Including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention

²⁶³ Bulgarian Helsinki Committee, *Monthly Monitoring Report: December 2019*, 10 January 2020.

²⁶⁴ CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: <http://bit.ly/2wSzlpq>, para 21(e).

²⁶⁵ Bulgarian Helsinki Committee, *2020 Performance Report*, 31 January 2021.

B. Legal framework for detention

1. Grounds for detention

Indicators: Grounds for Detention		
1. In practice, are most asylum seekers detained		
❖ on the territory:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ at the border:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are asylum seekers detained in practice during the Dublin procedure?		
	<input type="checkbox"/> Frequently <input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
3. Are asylum seekers detained during a regular procedure in practice?		
	<input type="checkbox"/> Frequently <input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never

1.1. Pre-removal detention upon arrival

Under Article 44(6) of the Law on Aliens in the Republic of Bulgaria (LARB), a third-country national may be detained where:

- His or her identity is uncertain;
- He or she is preventing the execution of the removal order; or
- There is a possibility of his or her hiding.

The different grounds are often used in combination to substantiate detention orders in practice. In the Bulgarian Helsinki Committee's experience, detention orders are issued based on a combination of all three grounds for detention.

In practice, detention of third-country nationals is ordered by the Border or Immigration Police on account of their unauthorised entry, irregular residence or lack of valid identity documents. After the amendments of the LARB in the end of 2016,²⁶⁶ these authorities can initially order a detention of 30 calendar days within which period the Immigration Police should decide on following detention grounds and period or on referral of the individual to an open reception centre, if he or she has applied for asylum.

In 2020, the number of persons issued a pre-removal detention order was 3,487. This included 2,781 asylum seekers.

The law does not allow the SAR to conduct any determination procedures in the pre-removal detention centres.²⁶⁷ However, as of 2018 and presently, the SAR continues to register, fingerprint, and determine asylum seekers in pre-removal detention centres and to keep them there after issuing them asylum registration cards. Their release and access to asylum procedure is usually secured only by an appeal against detention and a court order for their release. In principle, this affected individuals who are deemed deportable for having valid passports or other original national identity documents. Since the beginning of 2020 a total of 11 applicants – 0.4% of all new applicants – had their cases determined by the SAR in the detention centres of **Busmantsi** and **Lyubimets**.

All asylum seekers processed in pre-removal detention centres are being determined by the SAR in an [Accelerated Procedure](#), which strips them of the right to an onward appeal and thereby prevents them from challenging the practice further before the Supreme Administrative Court.

For the time being, this malpractice is mostly supported by the courts, which find that the asylum procedure in pre-removal centres is a violation of procedural standards but an insignificant one as the

²⁶⁶ Law amending the Law on Aliens in the republic of Bulgaria, No 97/2016, 2 December 2016, available in Bulgarian at: <http://bit.ly/2kJoYpi>.

²⁶⁷ Additional Provision 5 LAR; Article 45b LAR.

rights of the asylum seekers during the status determination are not severely affected.²⁶⁸ In some limited cases, courts have ruled that the conduct of the personal interview in an immigration detention centre amounts to a serious breach of procedural rules.²⁶⁹ The Supreme Administrative Court also ruled in 2018 that the lodging of an asylum application entitles the asylum seeker to apply for immediate release from detention,²⁷⁰ but in just one case of all.

The detention of asylum seekers and failure to observe procedural safeguards form part of the concerns expressed by the European Commission in the letter of formal notice sent to Bulgaria on 8 November 2018 relating to non-compliance with the EU asylum *acquis*.²⁷¹

The most negative development in 2020 related to the *refoulement* implemented by the MOI Migration Directorate with regard to 2 asylum seekers. Despite being first-time applicants in possession of valid documents and cleared from the security services, they were deported to their countries of origin Iraq and Turkey in violation of Article 33 of the Refugee Convention.²⁷²

1.2. Short-term detention

At the end of 2016, the LARB introduced “short-term detention” to be used for security checks, profiling and identification.²⁷³ The law entered into force on 6 June 2018. This did not lead to a change in practice except for the fact that all initial detention orders issued to persons apprehended for irregular entry since then were short-term for 30 days. In practice, after their expiry, the Migration Directorate extends detention to pre-removal detention for up to 6 months. Asylum seekers who applied in detention centres are usually held within the initial short-term duration.

However, this is not applied to the asylum seekers who are deemed to be “deportable” on account of having valid identity documents or to whom the SANS issued expulsion orders and whose asylum claims are determined in immigration detention centres, in violation of the law (see [Accelerated Procedure](#)).

1.3. Asylum detention

Asylum seekers can also be placed in closed reception facilities i.e. detention centres under the jurisdiction of the SAR during the determination of their claim. The national grounds transpose Article 8(3)(a), (b), (d) and (f) of the recast Reception Conditions Directive, according to which an applicant may be detained:²⁷⁴

- (a) In order to determine or verify his or her identity or nationality;
- (b) In order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
- (c) When protection of national security or public order so requires;
- (d) For determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

²⁶⁸ Bulgarian Helsinki Committee, *2018 Performance Report*, January 2019. See e.g. Administrative Court of Sofia, Decision No 5378, 17 September 2017; Decision No 4740, 14 July 2017; Decision No 5105, 2 August 2017, Decision No 193, 14 March 2017; Administrative Court of Haskovo, Decision No 187, 16 March 2017; Administrative Court of Haskovo, Decision No 93, Case No 1322/2017, 29 January 2018; Administrative Court of Sofia, 21st Division, Decision No 806, Case No 4161/2017, 12 February 2018; Administrative Court of Haskovo, Decision No 996, Case No 14229/2017, 19 February 2018; Administrative Court of Sofia, 57th Division, Decision No 7499, Case No 11273/2018, 11 December 2018.

²⁶⁹ Administrative Court of Sofia, Decision No 977, 16 February 2018.

²⁷⁰ Supreme Administrative Court, Decision No 77, 4 January 2018.

²⁷¹ European Commission, ‘November infringements package: key decisions’, MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

²⁷² Article 58 (10) LAR – all applicants must be vetted by the State Agency for National Security.

²⁷³ Article 44(13) LARB.

²⁷⁴ Article 45b(1) LAR.

In 2020, 9 asylum seekers were placed in asylum detention. The grounds applied were verification of identity or nationality, and protection of national security or public order. In only 1 case, the SAR applied the additionally introduced ground of consecutive violation of designated movement zones.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
 - ☒ Reporting duties
 - ☒ Surrendering documents
 - ☒ Financial guarantee
 - ☐ Residence restrictions
2. Are alternatives to detention used in practice?
 - ☐ Yes ☒ No

Alternatives to pre-removal detention in the LARB do not specifically target asylum seekers, rather all third-country nationals. The LARB was amended in 2017 to introduce new alternatives, namely:

1. Surrendering documents;²⁷⁵
2. Financial guarantee;²⁷⁶
3. Weekly reporting, already existing prior to the reform.²⁷⁷

The latter, however, may not be appropriate for new arrivals who do not have a place of residence.

In practice, in the overwhelming majority of cases, alternatives to detention are not considered by the Migration Directorate (MOI) prior to imposing detention.²⁷⁸ The situation has not changed in 2020.

The LAR, for its part, envisages bi-weekly reporting to the SAR as a measure to ensure “the timely examination of the application” or to ensure “the participation” of the asylum seeker.²⁷⁹ The LAR also envisages a limitation of freedom of movement in certain areas in the territory of the state by a decision of the SAR’s Chairperson, where asylum seekers can be obligated not to leave and reside in other administrative regions (district or municipality) than the prescribed one (see [Freedom of Movement](#)).

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
 - ☒ Frequently ☐ Rarely ☐ Never
 - ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice?
 - ☒ Frequently ☐ Rarely ☐ Never

The LARB prohibits the detention of unaccompanied children in general and imposes a maximum period of 3 months for the detention of accompanied children who are detained with their parents.²⁸⁰ An exemption had been introduced in the beginning of 2017 to exclude from the detention prohibition unaccompanied children upon condition that it was applied as a last resort and after best interest’s

²⁷⁵ Article 44(5)(3) LARB.

²⁷⁶ Article 44(5)(2) LARB.

²⁷⁷ Article 44(5)(1) LARB.

²⁷⁸ Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, available at: <http://bit.ly/2jluOxS>, 21.

²⁷⁹ Article 45a LAR.

²⁸⁰ Article 44(9) LARB.

determination.²⁸¹ Never applied in practice and widely criticised, including by UNHCR and UNICEF, the provision was abolished at the end of 2017.²⁸²

For its part, the LAR provides for the possibility to detain accompanied children for asylum purposes as a last resort, in view of ensuring family unity or ensuring their protection and safety, for the shortest period of time.²⁸³ The position of UNHCR is that the respective provisions do not expressly refer to the primacy of the best interests of the child when ordering detention. They also do not incorporate sufficient guarantees to ensure speedy judicial review of the initial decision to detain and a regular review thereafter. Although presently expanded with additional alternative arrangements,²⁸⁴ the law still does not envisage specific alternatives to detention appropriate for children such as alternative reception / care arrangements for unaccompanied children and families with children.

In practice, both asylum-seeking and other migrant unaccompanied children continue to be detained in pre-removal detention centres. Unaccompanied children arrested by the Border Police upon entry or, if arrested during their attempt to exit Bulgaria irregularly, are assigned (“attached”) to any of the adults present in the group with which the children travelled, which has been a steady practice ongoing for last couple of years. Thus, the arrested unaccompanied children are not served with a separate detention order, but instead described as an “accompanying child” in the detention order of the adult to whom they have been assigned. The same treatment is applied by the regular police services to those unaccompanied children who are captured inside the Bulgarian territory and considered to be irregular due to the lack of identity documents. All of them without exception are transferred to the pre-removal detention centres in **Busmantsi** or **Lyubimets**. In order to do this, identical to the approach of the Border Police, the regular police authorities assigned (“attached”) the children to adults without collecting any evidence or statements for a family link or relation between them.

The so-called “attachment” is implemented on the basis of a legal definition on extended relatives’ circle, who could be considered as “accompanying adults”; this definition is applicable solely in asylum procedures, however.²⁸⁵ Therefore the application of this definition in immigration procedures in order to substantiate unaccompanied children’s inclusion in the detention orders of adults other than their parents is identified as yet another infringement of the law, additional to the principal violation of the detention prohibition.²⁸⁶ National jurisprudence has proved controversial and inconsistent in this regard, however.²⁸⁷ Accordingly, at the end of 2017 the Ombudsperson requested the Supreme Administrative Court to deliver mandatory interpretation of the law in this respect.²⁸⁸ The case was finally administered in 2019 and scheduled for hearing in October 2020, though the decision is not published as of the date of this report.²⁸⁹

An amendment to the LARB Regulations entered into force on 10 July 2018 to introduce rules and procedures for immediate and direct referral of unaccompanied migrant children from the police to the child protection services in order to avoid their detention.²⁹⁰ The reform resulted in almost immediate change in the national police practices on detention of unaccompanied minor children below 14 years of age. In 2020, altogether 236 unaccompanied children were referred to child protection services without detention, of whom 150 children by the Border Police and 89 children by the Immigration Police. Children are assisted by the police and child care services to apply for asylum, thus ensuring their free and direct

²⁸¹ Article 44(13) *in fine* LARB.

²⁸² Law amending the LARB, State Gazette No 97, 5 December 2017.

²⁸³ Article 45f(1) LAR.

²⁸⁴ Article 44(5) LARB.

²⁸⁵ Additional clauses § 1(4) LAR.

²⁸⁶ Article 44(9) LARB.

²⁸⁷ See e.g. Supreme Administrative Court, 7th Department, Decision No 12271, 14 November 2016; Decision No 2842, 8 March 2017; Decision No 10789, 4 September 2017; Decision No 12116, 11 October 2017.

²⁸⁸ Ombudsperson, Request No 11-78, 8 December 2017, available in Bulgarian at: <http://bit.ly/2DSflva>.

²⁸⁹ Supreme Administrative Court, General Assembly, Case No.1/2019

²⁹⁰ Council of Ministers, Decision No 129 of 5 July 2018, available in Bulgarian at: <https://bit.ly/2DpJHHK>.

access to asylum procedure. However, this practice is applied mainly to the unaccompanied children below 14 years of age.

In the cases of undocumented children from 14 to 18 years, whose age cannot be evidently established by their appearance, the police continue to employ detention through “attachment” to unrelated adults or registration as adults. The child protection services have refused to credit their statements about their age and commenced implementation of age assessment based solely on X-ray wrist expertise prior to any referral to child care services. Therefore, in 2019, amendments of the primary and secondary immigration legislation were adopted creating additional safeguards for a legally binding referral mechanism²⁹¹ New procedures allowing regularisation of rejected and migrant unaccompanied children were also introduced with the possibility to extend their ‘leave to remain’ (i.e. their residence permit) on humanitarian grounds beyond adulthood.²⁹² The amendments are thus expected to put an end to detention of unaccompanied children, but it remains to be seen how and whether these new provision will be applied in practice. Also in the end of 2019 an expert group representing both governmental and non-governmental organisations was established to create a national age assessment procedure based on a multidisciplinary approach. The aim is to lay down some basic legal safeguards to be applied by asylum, immigration and/or other administrations that request age assessments in practice. Some of these legal safeguards were thus included by the SAR to its LAR amendments.²⁹³ The draft methodology on age assessments was finalised and referred for adoption to the government. However, mainly due to COVID-19 pandemic the national legislative agenda was significantly re-directed, which prevented the endorsement of the draft. The latter was therefore still pending as of 31 December 2020.

In 2020, 512 children were detained in pre-removal detention centres. Among them, the Bulgarian Helsinki Committee identified 294 unaccompanied children, including children detained as “attached” to an adult or wrongly recorded as adults.²⁹⁴

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|---------------------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | |
| ❖ Short-term detention | 30 days |
| ❖ Pre-removal detention | 18 months |
| ❖ Asylum detention | Indefinite ²⁹⁵ |
| 2. In practice, how long in average are asylum seekers detained? | |
| ❖ Short-term detention | 8 days |
| ❖ Asylum detention | 109 days |

4.1. Duration of pre-removal detention and short-term detention

The maximum immigration detention period is 18 months, including extensions. Initial detention order is in principle issued for a period of 6 months. Following an amendment to the LARB in 2017, extensions can be now ordered by the Immigration Police instead of the court after the expiry of the initial or consecutive detention order.²⁹⁶ Each consecutive extension is also issued for a minimum of 6 months until the 18-month limit is reached.

²⁹¹ Article 28a LARB, St.G. №34/2019, enforced on 24 October 2019.

²⁹² Article 63k and 63l Regulations for Implementation of the Law on Aliens in the Republic of Bulgaria (LARB Regulations), St.G. №23/2019, enforced on 26 November 2019.

²⁹³ LAR amendments, State Gazette No.89 from 16 October 2020, available in Bulgarian at: <https://bit.ly/2M5pyh6>.

²⁹⁴ Bulgarian Helsinki Committee, *December 2020 UNICEF report*, 15 January 2021.

²⁹⁵ Article 45d(1) LAR.

²⁹⁶ Article 46a(3) and (4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.

Short-term detention can be ordered for a maximum of 30 days.²⁹⁷

The LAR safeguards the registration of asylum applications and the release of the asylum applicants from pre-removal detention centres within 6 working days, in line with the recast Asylum Procedures Directive.²⁹⁸ As a result, in 2016 the overall detention duration of first-time asylum applicants prior to their registration decreased to 9 days on average, thereby observing the abovementioned registration deadline. In 2017 this practice was reverted as the average duration of detention rose to 19 days. After the Supreme Administrative Court acknowledged the illegality of pre-removal detention after the submission of an asylum application,²⁹⁹ the average detention duration decreased back to 9 days in 2018 to increase again to 12 days in 2019 and decreased in 2020 to 8 calendar days on average. However, it has to be noted that 14-days of medical quarantine on account of COVID-19 are excluded from the detention duration's calculation.

Average period of pre-removal detention pending registration (days)						
Year	2015	2016	2017	2018	2019	2020
Average detention period	10	9	19	9	12	8

Source: SAR, MOI, Bulgarian Helsinki Committee

Out of the 2,781 persons applying from pre-removal detention, 0 asylum seekers (0%) were detained for more than 6 months.

The average duration of detention of wrongly detained unaccompanied children decreased to 8 days in 2020. It has to be noted however that 14-days of medical quarantine are excluded from the detention duration.

4.2. Duration of asylum detention

Detention during the status determination procedure in closed reception facilities is limited by the law to the shortest period possible.³⁰⁰ However, in practice the SAR kept asylum seekers in closed centres until the decision on their asylum applications became final, which for some of the detained asylum seekers extended to 6-7 months, and nearly 11 months in 1 case. The regular review of necessity as per the law is so far applied formally,³⁰¹ resulting in detained asylum seekers being released only following the engagement of legal assistance and representation.³⁰²

The average asylum detention duration in 2020 decreased to 48 days compared to 109 days in 2019 and 196 days in 2018, but this remains far from the legal standard set in the law according to which detention should last for the "shortest period possible".

²⁹⁷ Article 44(13) LARB.

²⁹⁸ Article 58(4) LAR.

²⁹⁹ Supreme Administrative Court, Decision No 77, 4 January 2018, available in Bulgarian at: <http://bit.ly/2rTKmO4>. The Court refers to CJEU, Case C-537/11 *M.A.*

³⁰⁰ Article 45e LAR.

³⁰¹ Article 45d (2) LAR.

³⁰² Bulgarian Helsinki Committee, *Monthly Situation Report: December 2017*, 10 January 2018.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

Asylum seekers are never detained in prisons unless they have been convicted for committing a crime. Detention is implemented both in pre-removal immigration detention centres and, more recently, in “closed reception centres” where asylum seekers are detained for the purpose of the status determination procedure.

1.1. Pre-removal detention centres

There are 2 detention centres for irregular migrants in the country, totalling a capacity of 1,060 places:

Pre-removal detention centres in Bulgaria			
Detention centre	Location	Capacity	Occupancy end 2020
Busmantsi	Sofia	400	209
Lyubimets	South-Eastern Bulgaria	660 ³⁰³	128
Total		700	337

Source: Ministry of Interior, Migration Statistics, December 2020.

Although designed for the return of irregular migrants as pre-removal centres, these are also used for the detention of undocumented asylum seekers who have crossed the border irregularly but were unable to apply for asylum before the Border Police officers and therefore apply for asylum only when they are already in the detention centres. The most common reason for these late asylum applications was the lack of 24-hour interpretation services for all languages at national borders.

Initially designated for the pre-registration of asylum seekers,³⁰⁴ **Elhovo** was thereupon used as an “allocation centre” to detain asylum seekers apprehended at the land borders outside the official border checkpoint until its closure in February 2017. Although initially temporarily closed for refurbishment in February 2017, it was later pronounced by the Ministry of Interior to be closed indefinitely, with an option to be reopened in case of increased influx.

As regards short-term detention, which entered into force on 6 June 2018, the LARB foresees separate detention facilities for the purpose of this form of detention.³⁰⁵ However, short-term detention orders in 2020 have been implemented in the pre-removal detention centres.

1.2. Asylum detention centres (“closed reception centres”)

The law foresees the asylum detention under the responsibility of the SAR (see [Grounds for Detention](#)). The only operational centre at the moment is **3rd Block** in Busmantsi, with 60 places.

The **Pastrogor** transit centre, situated on the Bulgarian-Turkish border can also be used as a closed

³⁰³ 360 containers installed in Lyubimets detention center.

³⁰⁴ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

³⁰⁵ Article 44(13) LARB.

facility, if necessary. Presently, it operates as an open reception facility with a capacity of 320 places.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|-----------------------------|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

2.1. Overall living conditions

In previous years, the detention centres were frequently overcrowded due to the increase of the number of asylum applications and to the delayed release for registration of detained asylum seekers. Despite COVID-19 lockdowns the irregular migration to and through Bulgaria increased. In 2020, the capacity of pre-removal detention centres was not exceeded, while the overall number of persons in detention gradually increase from 119 persons at the end of 2019, to 337 at the end of 2020.³⁰⁶

Overall conditions with respect to means to maintain personal hygiene as well as general level of cleanliness nevertheless remain unsatisfactory. Shower and toilets available are not sufficient to meet the needs of the detention population, especially when premises are overcrowded.³⁰⁷ Detainees are allowed to clean the premises themselves. However, they are not provided with means or detergents therefore they have to buy them at their own cost. Clothing is provided only if supplied by NGOs. Bed linen is not washed on a regular basis, but usually once a month.

Nutrition is poor, no special diets are provided to children or pregnant women. Health care is a big issue as not all detention centres have medical staff appointed on a daily basis. A nurse and/or a doctor visits detention centres on a weekly basis, but the language barrier and lack of proper medication make these visits almost a formality and without any practical use for the detainees.

Access to open-air spaces is provided twice a day for a period of one hour each, the spaces in all detention centres are of adequate size. Children in detention centres are using the common outdoor recreational facilities, but not many possibilities for physical exercise exist except the usual ball sports. Reading and leisure materials are provided if only supplied by donations. Computer / internet access is not available in any of the detention centres.

Similar to **Busmantsi**, communal toilets in **Lyubimets** were reported to be locked and inaccessible at night. Toilets and showers for women and families with children, though freely accessible, have been found to be dilapidated, dirty and flooded. The collective showers for men, recently refurbished and located in the basement, were accessible in groups twice a day.

Worrying conditions are also reported in police stations where newly arrived asylum seekers may be held upon entry. The European Court of Human Rights (ECtHR) condemned Bulgaria of a violation of Article 3 ECHR due to poor living conditions and insufficient and delayed food provision to children detained in the police station of **Vidin**.³⁰⁸

Staff interpreters are not required by law, nor provided in practice. Verbal abuse, both by staff and other detainees, is reported often by the detainees. In 2020, as in previous years, detainees have complained

³⁰⁶ Ministry of Interior, *Migration statistics*, 2020..

³⁰⁷ CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: <http://bit.ly/2wSzlpq>, para 21(e); Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.

³⁰⁸ ECtHR, *S.F. v. Bulgaria*, Application No 8138/16, Judgment of 7 December 2017, paras 84-93.

about the lack of tailored and translated information and uncertainty on their situation.³⁰⁹ This has led to risks of re-traumatisation for persons with vulnerabilities.³¹⁰

With regard to material conditions, the latest report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published in July 2019 stressed that some improvements were observed by the delegation at **Busmantsi** and **Lyubimets** centers since the CPT's previous visit in 2018, but this is mainly due to the fact that both establishments were operating well below their official capacities.³¹¹ However, the CPT found that the accommodation continue to be dilapidated and that the large-capacity dormitories offer no privacy. It stated the following:

"Communal toilets for men are still run down and dirty in Lyubimets. In both detention centers, the lack of access to a toilet at night for most of the detainees forces them to use bottles or buckets, or to urinate out of the windows. The accommodation areas were inadequately heated (especially in Busmantsi) and, in both detention centers detained foreign nationals complained that were not being provided with clothing and shoes adapted to the season. Many complaints also related to the food, especially its quality, and about the prohibition for detainees to cook their own meals".

Moreover, the CPT did not find any improvement in the provision of healthcare to detained foreign nationals at the **Busmantsi** and **Lyubimets** detention centers, where the only positive changes were the 24/7 staff presence and the clean infirmary in Lyubimets (as opposed to the infirmary in Busmantsi). The medical equipment was found to be very scarce and often out of order, while the range of free-of-charge medication was also very limited, with expired medicine and restricted access to specialist care. The CPT was particularly concerned by the lack of access to psychiatric care, which is limited to emergencies. The CPT thus urged for measures to address these deficiencies.³¹²

2.2. Vulnerable groups in detention

There are no mechanisms established to identify vulnerable persons in detention centres. According to the last research on the topic made by the Assistance Centre for Torture Survivors (ACET), mental health professionals in **Busmantsi** have observed that persons who are socially inhibited or depressed are not being identified by the police as persons in need of assistance insofar as they do not cause problems.³¹³ If identified, there are no provisions in the law for vulnerable persons' release on that account, unless before the court.

In its July 2019 report, the CPT found insufficient access to health care and communication problems with medical staff due to the language barrier. The report highlighted the lack of access to psychiatric care, which is limited to emergencies but which also results from the lack of interpretation and the lack of health insurance of the concerned persons.³¹⁴ The CPT underlined that communication problems between detained foreign nationals and psychologists severely limited the possibilities to provide any psychological assistance.³¹⁵

Article 45e(3) LAR envisages that vulnerable groups shall be provided with appropriate assistance depending on their special situation. Separate wings are provided for families, single women and unaccompanied children, in line with the law.³¹⁶ Single men are separated from single women. Other

³⁰⁹ CPT, 2019 *Bulgaria report*, July 2019, available at: <https://rm.coe.int/1680966286>; Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.

³¹⁰ CPT, 2019 *Bulgaria report*, July 2019, available at: <https://rm.coe.int/1680966286>; Cordelia Foundation et al., *From Torture to Detention*, January 2016, 19.

³¹¹ CPT, 2019 *Bulgaria report*, July 2019, available at: <https://rm.coe.int/1680966286>.

³¹² CPT, 'Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 17 December 2018, Executive Summary, available at: <https://bit.ly/2uFmEXu>.

³¹³ Cordelia Foundation et al., *From Torture to Detention*, January 2016, 18.

³¹⁴ CPT, 2019 *Bulgaria report*, July 2018, Executive summary, available at: <https://rm.coe.int/1680966287>.

³¹⁵ Ibid. para 35

³¹⁶ Article 45f(4) LAR.

vulnerable persons are detained together with all other detainees. The LAR provides for access to education and leisure activities for children in closed asylum facilities,³¹⁷ but there is no relevant practice yet as children have not been placed in closed reception centres in 2020.

The lack of mechanisms for identification and support of vulnerable asylum seekers was also indicated by the European Commission in its 8 November 2018 letter of formal notice.³¹⁸

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

Lawyers as well as representatives of NGOs and UNHCR have access under the law and in practice to the detention centres during visiting hours but also *ad hoc* without prior permission when necessary or requested by asylum seekers.³¹⁹ Some NGOs have signed official agreements with the Migration Directorate and do visit detention centres for monitoring and assistance once a week.³²⁰ Media and politicians also have access to detention centres, which is authorised upon written request.

NGOs' and legal aid providers' right to access to asylum seekers is explicitly regulated and expanded to also include border-crossing points and transit zones.³²¹ However, the Bulgarian Helsinki Committee was the only NGO in 2020 visiting border and detention centers as well as the SAR closed facility as all the rest refrained from visitations due to COVID-19.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|------------------------------|--|
| 1. Is there an automatic review of the lawfulness of detention? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | 6 months | |

Detained asylum seekers are treated in the same manner as the rest of the detained population, hence they are informed orally by the detention staff of the reasons of their detention and the possibility to challenge it in court, but not about the possibility and the methods of applying for legal aid. However, asylum seekers as a principle are not informed in a language they understand as none of the existing detention centres has interpreters among its staff. A copy of the detention order is usually provided to the individual.

Detention is also not subject to a prompt judicial review of the initial decision to detain and to a regular review thereafter. The law no longer provides for automatic judicial review of detention orders, following the abolition of judicial review upon prolongation of detention.³²² This reform took place against a backdrop of lack of legal aid ensured to detainees to challenge their detention.

³¹⁷ Article 45f(2) LAR.

³¹⁸ European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

³¹⁹ This has been a systematic concern. See JRS Europe, *Becoming Vulnerable in Detention (Detention of Vulnerable Asylum Seekers - DEVAS Project)*, 2010, National Chapter on Bulgaria, 147 - points. 3.1 and 3.2.

³²⁰ Bulgarian Helsinki Committee, Bulgarian Red Cross, Nadya Centre, Center for Legal Aid-Voice in Bulgaria, Foundation for Access to Rights, etc.

³²¹ Article 23(3) LAR.

³²² Article 46a(3)-(4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.

As a result, judicial review may only be triggered at the initiative of the applicant. Detention orders can be appealed within 14 calendar days of the actual detention before the Administrative Court in the area of the headquarters of the authority which has issued the contested administrative act.³²³ The appeal does not suspend the execution of the detention order.³²⁴ The submission of the appeal is additionally hindered by the fact that the detention orders are not interpreted. The short deadline for lodging an appeal has proved to be highly disproportionate and usually not complied with by detained individuals, including asylum seekers.³²⁵

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
☐ Yes ☒ No

Detained applicants have the right to legal aid.³²⁶ However, legal aid has not been provided to detainees, including asylum seekers in detention centres, as of the end of 2019 due to National Legal Aid Bureau's budget constraints, despite a pilot project financed by AMIF which provided legal aid to vulnerable asylum seekers for the first time in Bulgaria (see [Regular Procedure: Legal Assistance](#)).

In its 2019 report, the CPT highlighted that legal assistance is left entirely to various NGOs whose representatives visit both detention centers and assist detained individuals *pro bono* in their immigration and asylum procedures, including for access to courts. In this context, the CPT reiterates its recommendation that the system of legal aid run by the National Legal Aid Bureau should be extended to detained foreign nationals in all phases of the detention procedure; whereas for destitute foreign nationals these services should be provided free of charge³²⁷

Whilst legal aid is provided for appeals under the state budget, access to the courts to lodge such an appeal turns heavily on the provision of legal assistance by NGO providers in the absence of legal aid outside court procedures. This impacts most negatively on asylum seekers who have been detained in closed centre where only the Bulgarian Helsinki Committee has granted access. Consequently, effective access to legal assistance during the procedure for these applicants is completely negated.

There is also a lack of state-funded legal assistance for children detained in closed facilities to challenge the detention order, despite the general child protection legislation which envisaging the right of all children to such an assistance.³²⁸ As the LARB does not envisage the appointment of guardians to unaccompanied or separated children, and since according to Bulgarian law children can only undertake legal actions through or with the consent of their guardians, they cannot challenge their detention order unless provided tailored legal support to submit an appeal without it.

E. Differential treatment of specific nationalities in detention

In 2020, discrimination against certain nationalities has persisted, but has taken another form. Asylum seekers who are subject to unlawful registration and determination procedures in pre-removal centers in violation of the law are no longer selected according to their nationality, but on the basis of their potential deportability – namely when they possess valid travel documents or where such documents can easily

³²³ Article 46 LARB.

³²⁴ Article 46a LARB.

³²⁵ Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, para 23.

³²⁶ Article 22(9) Law on Legal Aid.

³²⁷ CPT, *2019 Bulgaria report*, July 2019, para 41.

³²⁸ Article 15(8) Law on Child Protection.

be obtained (see [Pre-removal detention upon arrival](#)). However, due to COVID-19, this particular malpractice was applied restrictively and affected only 11 asylum seekers throughout 2020.

Recognised **refugees** are explicitly entitled to equal treatment in rights to Bulgarian nationals with just a few exclusions, such as: participation in general and municipal elections, in national and regional referenda; participation in the establishment of political parties and membership of such parties; holding positions for which Bulgarian citizenship is required by law; serving in the army and, other restrictions explicitly provided for by law.³²⁹ Individuals granted **subsidiary protection** (“humanitarian status”) have the same rights as third-country nationals with permanent residence.³³⁰

2020 as the seventh “zero integration year”

Since 2013 and including in 2020, Bulgaria followed a “zero integration year”. The first National Programme for the Integration of Refugees (NPIR) was adopted and applied until the end of 2013, but since then all beneficiaries of international protection have been left without any integration support. This resulted in extremely limited access or ability by these individuals to enjoy even the most basic social, labour and health rights, while their willingness to permanently settle in Bulgaria was reported to have decreased to a minimum.³³¹ In 2020, 39% of asylum applicants abandoned their status determination procedures in Bulgaria,³³² which were thus subsequently terminated. In comparison, this percentage was 86% in 2019, 79% in 2018, 77% in 2017, 88% in 2016, 83% in 2015 and 46% in 2014. The decrease in 2020 was mainly due to COVID-19 measures, which hindered secondary movement in and across Europe.

The necessary integration legal framework, the Integration Decree, was finally adopted in 2016,³³³ but it remained unused throughout 2016 and 2017, as none of the 265 local municipalities had applied for funding in order to launch an integration process with any of the individuals granted international protection in Bulgaria. On 31 March 2017, on the last day of its mandate, the caretaker Cabinet fulfilled the election promise of the newly elected Bulgarian President and repealed the Decree without any reasonable justification.³³⁴ A new Decree was adopted on 19 July 2017, which in its essence repeated the provisions of its predecessor.³³⁵ Since its adoption, only 83 status holders benefitted from integration support, however all of them were relocated with integration funding provided under the EU relocation scheme, not by the general national integration mechanism. Following relentless advocacy efforts by UNHCR, the Refugee Council and the Red Cross with the support of the SAR, the **Vitosha** and **Oborishte** Districts (Sofia municipality) committed to provide an integration support to 12 refugee families in 2021.

In his report issued in April 2018, the Council of Europe Special Representative on migration and refugees also underlined that, while the decentralisation of integration responsibilities from the government to municipalities would in principle be a sensible step forward, the fact that the discharge of such responsibilities was not mandatory but left to the discretion of municipalities raised questions about the effectiveness of integration measures in Bulgaria. This was illustrated by fact that no municipality has

³²⁹ Article 32(1) LAR.

³³⁰ Article 32(2) LAR.

³³¹ CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: <http://bit.ly/2wSzlpq>, para 21(f); Bulgarian Council on Refugees and Migrants, *Annual Monitoring Report on Integration of Beneficiaries of international protection in Bulgaria*, Sofia, December 2014.

³³² Out of the 2,195 decisions taken, to whom in 398 cases status determination stopped and terminated in 452 cases.

³³³ Ordinance No 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection (hereafter “Integration Decree”), State Gazette No 65/19.08.2016, available in Bulgarian at: <http://bit.ly/2jJwnEi>.

³³⁴ Liberties.eu, ‘Bulgarian caretaker government repealed regulation on refugee integration’, 13 April 2017, available at: <http://bit.ly/2BLqhsS>.

³³⁵ Ordinance No 144 of 19 July 2017 State Gazette No 60/25.08.2017, available in Bulgarian at: <http://bit.ly/2Ec2uHL>.

volunteered to conclude Integration Agreements, although funds would be allocated to them for every refugee participating in such agreements.³³⁶

Courts and human rights monitoring bodies have taken into account the treatment of beneficiaries of international protection in Bulgaria when assessing the legality of readmissions. In a case of 15 December 2016, the United Nations Human Rights Committee ruled against the return of a Syrian family from Denmark to Bulgaria, on the ground that their residence permit would not protect them against obstacles to accessing healthcare, or risks of destitution and hardship.³³⁷ Similar arguments are found in the Human Rights Committee interim measures granted on 1 February 2017 to prevent the transfer of an Afghan family with three young children from Austria to Bulgaria.³³⁸ Notwithstanding the family was returned to Bulgaria by the Austrian authorities shortly after it. National courts in some European countries have also halted transfers of beneficiaries of protection to Bulgaria on account of substandard conditions.³³⁹

A. Status and residence

1. Residence permit

Indicators: Residence Permit

- | | |
|--|------------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? | |
| ❖ Refugee status | Indefinite |
| ❖ Subsidiary protection | Indefinite |

Both refugee and subsidiary protection (“humanitarian”) statuses granted are indefinitely and are not limited in duration, but differ in the duration of validity of identity documents issued to holders. The duration of validity is 5 years for **refugee status** holders,³⁴⁰ and 3 years for **subsidiary protection** holders.³⁴¹ The different validity of the documents derives from the different scope of rights attributed to each of them. However, in 2020 an amendment to the law³⁴² introduced a new illegal ground to cease or withdraw international protection (see [Cessation and review of protection status](#)).

The relevant identity documents are issued by the police on the basis of decisions of the SAR to grant either of the international protection statuses. However, difficulties are encountered by beneficiaries in obtaining identity documents in practice, due to the pre-condition of [Civil Registration](#) prior the submission of an application for identity documents; the latter preconditioned by a chosen place of domicile.

During the period 1 January 2014 to 31 December 2020, the Ministry of Interior issued 9,018 refugee identity cards and 7,383 humanitarian identity cards.

2. Civil registration

No identity documents can be issued unless the individual is registered in the civil national database (ECFPAOH) with the exception of certain categories, including asylum seekers.³⁴³ Identification on the basis of a valid document is a pre-condition for exercising almost any personal right envisaged, especially relating to housing, social support or assistance, health insurance and care, access to employment etc.

³³⁶ Council of Europe, *Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees to Bulgaria*, SG/Inf(2018)18, 19 April 2018, available at: <https://bit.ly/2HtHSGv>, 17.

³³⁷ Human Rights Committee, *R.A.A. v. Denmark*, Communication No 2608/2015, 15 December 2016.

³³⁸ Human Rights Committee, Communication No 2942/2017.

³³⁹ See e.g. German High Administrative Court of Lüneburg, Decision 10 LB 82/17, 29 January 2018.

³⁴⁰ Article 59(1)(2) Law on Bulgarian Identity Documents.

³⁴¹ Article 59(1)(3) Law on Bulgarian Identity Documents.

³⁴² Article 42(5) LAR, enforced on 20 October 2020.

³⁴³ Article 29(1)(7) LAR.

The registration in ЕЦГРАОН is mandatory to the beneficiaries of international protection.³⁴⁴ Based on it they are given a unique identification number (единен граждански номер, ЕГН). Only after this registration can beneficiaries apply to be issued identity documents.

In order to be registered in the national database, any individual has to have *inter alia* a domicile.³⁴⁵ However, newly recognised beneficiaries who have lived in reception centres are no longer permitted by the SAR to state the address of the respective reception centre as domicile. Therefore since the end of 2016 beneficiaries cannot provide a valid address or domicile, as they cannot rent a place of residence without a valid identity document. This legal 'catch 22' has led to continuous malpractice, including false renting and address registrations for the sake of enabling beneficiaries to obtain identity documents insofar as the valid identity document is a pre-condition to exercising their rights.

2.1. Child birth registration

The same rules as for nationals apply to the civil registration of birth of a descendent of an asylum seeker or beneficiary of international protection. Residency requirements do not apply with respect to birth registration. The registration of a new-born child is made within 7 days following the day of the delivery.³⁴⁶

The registration is made on the basis of a written notification of birth issued by the maternity hospital or clinic where the mother delivered the baby. The father declares the birth at the local municipality administration either in person or by a person authorised by him. In cases when the father is deceased, unknown or unable to appear in person for various other reasons, the statement can be made either by somebody present at the time of birth or by the mother. The required documents for birth registration and issue of the child's birth certificate are proof of identity of both parents and the notification of birth issued by the maternity hospital.

The registration of birth is free of charge.

2.2. Marriage registration

Marriages in Bulgaria are subject to a residency requirement.³⁴⁷ Therefore at least one of the spouses must be either a Bulgarian citizen or a long-term or temporary resident of Bulgaria.

Foreigners need to prove that they do not have another marriage registered in their country of origin. Only beneficiaries of international protection are exempted from this requirement, which is substituted by a civil status certificate issued by the SAR based on prior notarised statement by the beneficiary. This means that marriages cannot be registered by asylum seekers due to the lack of identity documents necessary to make notarised statements.³⁴⁸

According to general legislation relating to family arrangements, only civil marriages are legally valid in Bulgaria.³⁴⁹ The religious ceremony is optional and can be performed only after a civil ceremony has taken place. The religious ceremony itself has no legal effect.

The legal age for getting married in Bulgaria is 18 years. People under that age, but who have already turned 16, may get married with the permission of the Chair of the Regional Court. An application for a permit to marry must be submitted at the Regional Court where the couple resides; if they do not both reside in the same region, they may choose which court to apply to.

³⁴⁴ Articles 100-115 Law on Civil Registration.

³⁴⁵ Article 92(2) Law on Civil Registration.

³⁴⁶ Article 42(1) Law on Civil Registration.

³⁴⁷ Article 76(2) Code on Private International Law.

³⁴⁸ Article 40(3) LAR, since the asylum registration card does not certify the identity of the applicant. This follows Article 6(3) recast Reception Conditions Directive.

³⁴⁹ Article 4 Family Code.

3. Long-term residence

Long-term residence is not applicable for refugees and subsidiary protection holders at all, as they get their identity cards issued automatically by the police on the basis of the SAR's decision granting status. Therefore, refugees and subsidiary protection holders are not issued additional residence permits at all. Recognised **refugees** are *ex lege* considered equal in rights with Bulgarian nationals,³⁵⁰ subject to a few exceptions,³⁵¹ whereas individuals granted **subsidiary protection** enjoy the same rights as the permanent residents.

Refugees and subsidiary protection holders can apply and receive long-term residence in 5 years after their recognition.³⁵² However, in practice, this opportunity is useful only for **subsidiary protection** holders to whom the long-term residence card guarantees visa-free travel within the EU.

4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	3 years
❖ Subsidiary protection	5 years
2. Number of citizenship grants to beneficiaries in 2020:	58

Refugees may obtain Bulgarian citizenship if they are of over 18 years old and have been recognised for 3 or more years. **Subsidiary protection** ("humanitarian status") holders obtain Bulgarian citizenship if over 18 and if they have been granted protection for 5 or more years.

Besides the aforementioned and regardless of the status or residence, everybody has to have a clear criminal record in Bulgaria, an income or occupation which allows to self-subsistence and to have knowledge of Bulgarian language – speaking, reading and writing in Bulgarian language, proven either by a local school or university diploma or by passing an exam tailored for naturalisation applicants. Applicants are interviewed in Bulgarian language on their motive to obtain citizenship.

The application is examined within 18 months.³⁵³ Citizenship is granted by the president, who issues a decree following a proposal in this respect of the Minister of Justice, the latter based on a positive opinion by the Citizenship Committee at the Ministry of Justice.

From 2014 to 2020, Bulgaria granted citizenship to 281 beneficiaries of international protection, namely 75 refugee status holders and 206 subsidiary protection holders.³⁵⁴

³⁵⁰ Article 32 LAR.

³⁵¹ To vote and be elected in local and/or general elections, to serve in the military or as a government official, if citizenship is required to occupy the position of the latter, as well as other exceptions if such have been explicitly promulgated.

³⁵² Article 24r(4) LARB.

³⁵³ Article 35(1)(1) Law on Bulgarian Citizenship.

³⁵⁴ Ministry of Justice, Exh. N94-00-159 from 18 December 2020.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice?
☐ Yes ☐ With difficulty ☒ No

According to Article 17(1) LAR, international protection may be ceased if the protection holder:

- (a) Can no longer refuse to avail him or herself of the protection of his or her country of origin, as the circumstances that had given rise to fears of persecution have ceased to exist and the transformation in said circumstances is substantial enough and of a non-temporary nature;
- (b) Voluntarily avails him or herself of the protection of his or her country of origin;
- (c) Voluntarily re-acquires citizenship after having lost it, or acquires new citizenship in another country;
- (d) Acquires Bulgarian citizenship;
- (e) Voluntarily settles in the country where he or she was previously persecuted;
- (f) Has been granted refugee status by the President; or
- (g) Explicitly declares that he or she no longer wishes to enjoy the international protection granted in Bulgaria.
- (h) Has deceased.

Following the decision of the SAR's Chairperson to initiate a cessation procedure, a caseworker may suggest to cease protection based on available data indicating that one of the above legal grounds applies. The beneficiary of protection is to be notified by a letter with recorded delivery that such a procedure has been initiated, the reasons thereof and the date and place for a mandatory interview in which he or she will have the opportunity to raise any objections against the cessation of the protection status. As of the date of notification, the SAR has 3 months to issue a decision. Such decision can also be taken in the absence of opinion or objections by the protection status holder if they have not been made on his own failure. When the SAR has not established the grounds for cessation, the initiated procedure must be discontinued.

The cessation can be appealed within 14 days after being notified to the individual before the respective Regional Administrative Court. The appeal can be heard at two court instances where the decision of the second instance, the Supreme Administrative Court, is final. Legal aid can be appointed by the court on a request of the appellant (see section [Regular Procedure: Legal Assistance](#)).

Although there is no systematic review of protection status in practice, cessation procedures are initiated by the SAR when the MOI provides information indicating that status holders have either returned to their country of origin, obtained residence or citizenship in a third country, or have not renewed their Bulgarian identification documents for a period exceeding 3 years.

In 2020 an amendment to the law introduced an additional clause, which allows cessation or revocation of international protection where the status holders fails to renew his/her expired Bulgarian identity documents, or to replace them if they have been lost, stolen or destroyed, in a period of 30 days.³⁵⁵ Despite being contrary to 1951 Refugee Convention, the amendment aims to legalise a malpractice applied by the SAR since 2018.

This broadened interpretation of the recast Qualification Directive introduces *de facto* an additional

³⁵⁵ Article 42(5) LAR, enforced on 20 October 2020.

cessation ground in violation of national and EU legislation. The undue cessation of international protection has affected 4,264 status holders in total, respectively – 770 persons in 2018; 2,608 persons in 2019; and 886 persons in 2020.³⁵⁶ In 2020, the cessation affected individuals from the following countries of origin:³⁵⁷

Cessation of refugee status: 2020	
Country of origin	Number
Syria	31
Iraq	10
Afghanistan	5
Stateless	2
Turkey	2
Iran	1
Sudan	1

Cessation of subsidiary protection: 2020	
Country of origin	Number
Iraq	392
Syria	252
Stateless	92
Afghanistan	40
Somalia	24
Sudan	9
Iran	9
Lebanon	4
Egypt	3
Cote D'Ivoire	3
Turkey	1
Bangladesh	1
Sri Lanka	1
Ethiopia	1
DR Congo	1

6. Withdrawal of protection status

Refugee status ought to be withdrawn where:³⁵⁸

- There are serious grounds to assume to have committed an act defined as a war crime or a crime against peace and humanity under the national legislation and under the international treaties;
- There are serious grounds to assume that he or she has committed a serious non-political crime outside the territory of Bulgaria;
- There are serious grounds to assume that he or she commits or incites towards acts contrary to the goals and principles of the United Nations;
- There refugee benefits from the protection or assistance provided by bodies or organisations of the United Nations other than the United Nations High Commissioner for Refugees;
- The competent authorities of his or her state of permanent residence have recognized the rights and obligations resulting from the citizenship in that country;

³⁵⁶ SAR, Exh. No. PД05-22/13.01.2021

³⁵⁷ Information provided by SAR, 15 January 2020.

³⁵⁸ Article 12(1) LAR.

- (f) There is serious proof for regarding him or her as a danger to national security, or, having been convicted by an enforceable sentence of a serious crime, as a danger to the society

Refugee status shall also be ceased if the refugee used a false identity or produced a non-authentic, forged document or a document with false contents, while continuing to insist on their authenticity, or, intentionally gave, in an oral or written form, false information or withheld essential information concerning his or her case.

Subsidiary protection ("humanitarian status") ought to be withdrawn if:

- The same grounds applicable for the withdrawal of a refugee status are met;
- A protection holder for whom there are serious reasons to assume that he or she has committed a serious crime;
- The holder committed a crime outside the territory of Bulgaria for which the national law provides for a criminal sanction such as deprivation of liberty;
- The holder left his/her country of origin solely in order to avoid criminal prosecution, unless the said prosecution endangers his or her life or is inhuman or degrading;
- There are serious reasons to assume that he or she constitutes a serious danger to the host society or to the national security.

The procedure for withdrawing status in the law is the same as for **Cessation** of status. In 2020 a total of 8 withdrawals were made. The withdrawals affected individuals from the following countries of origin:³⁵⁹

Withdrawal of refugee status: 2020	
Country of origin	Number
Syria	2
Iran	1
Stateless	1

Withdrawal of subsidiary protection: 2020	
Country of origin	Number
Iraq	4

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

- Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
❖ If yes, what is the waiting period?
- Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No
❖ If yes, what is the time limit?
- Does the law set a minimum income requirement? ☐ Yes ☒ No

The law does not request any waiting period before a beneficiary can apply for a family reunification, nor sets a maximum time limit for submitting a family reunification application.³⁶⁰ Both recognised **refugees** and **subsidiary protection** holders are entitled to ask to be reunited with their families in Bulgaria without

³⁵⁹ SAR, Exh. No. PД05-22/13.01.2021.

³⁶⁰ Article 34(1) LAR.

any distinction in the scope of their rights or procedures applicable. The family reunification permit is issued by the SAR.

1.1. Eligible family members

Under the law, family reunification can be granted to the members of the extended family circle, namely:

- Spouses;
- Children under the age of 18;
- Cohabitants with whom the status holder has an evidenced stable long-term relationship and their unmarried underage children;
- Unmarried children who have come of age, and who are unable to provide for themselves due to grave health conditions;
- Parents of either one of the spouses who are unable to take care of themselves due to old age or a serious health condition, and who have to share the household of their children; and
- Parents or another adult member of the family who is responsible, by law or custom, for the underage unmarried status holder who has been granted international protection in Bulgaria.

Unaccompanied children who have been granted international protection also have the right to reunite with their parents, but also with another adult member of their family or with a person who is in charge of him/her by law or custom when the parents are deceased or missing.³⁶¹

Family reunification can be refused on the basis of an exclusion clause or with respect to a spouse in cases of polygamy when the status holder already has a spouse in Bulgaria.³⁶²

If the status holder is unable to provide official documents or papers certifying marriage or kinship, the latter can be established by a declaration on his behalf.³⁶³

1.2. Issuance of documents for family reunification

The family members issued a family reunification permit can obtain visas by the diplomatic or consular representations. The SAR has an obligation to facilitate the reunification of separated families by assisting the issuance of travel documents, visas as well as for their admission into the territory of the country.³⁶⁴ However, in practice the Bulgarian consular departments have stopped issuing travel documents to minor children who have not been issued national documents after their birth, under the pretext of avoiding eventual child smuggling or trafficking.

In 2020, a total of 85 family reunification applications were submitted to the SAR, out of which 70 were approved and 15 rejected.

2. Status and rights of family members

The family members are granted the same status as their sponsors. The procedure is almost automatic and it includes registration and in some cases, an interview to cross-establish the family link, if documents to prove it are unavailable, expired or not original.

³⁶¹ Article 34(4) LAR.

³⁶² Article 34(3) LAR.

³⁶³ Article 34(5) LAR.

³⁶⁴ Article 34(7)-(8) LAR.

C. Movement and mobility

1. Freedom of movement

There are no limitations on the freedom of movement of the beneficiaries of international protection whatsoever. Also, there is no difference between the rights of refugees and subsidiary protection holders in this respect.

Beneficiaries are not dispersed according to a distribution scheme. If applied, the integration scheme foreseen under the 2017 Integration Decree would disperse those who opt to be enrolled according to the area of the municipality which provides the integration support and which was chosen by the beneficiary. The 2017 Integration Decree, however, has not been put into operation so far, although for the first time since its adoption **Vitosha** and **Oborishte** Districts (Sofia municipality) committed to provide an integration support to 20 refugee families in 2021.

2. Travel documents

Based on the two types of international protection in Bulgaria, refugee status and subsidiary protection ("humanitarian status"), the travel documents issued are also two types: (a) travel document for refugees and (b) travel document of foreigners granted humanitarian status.³⁶⁵

The validity of the **refugee** travel document is up to 5 years, but it cannot have a different validity from the national refugee identity card, which can be valid for up to 5 years. The travel document of individuals granted **humanitarian status** is up to 3 years and also mirrors the validity of the national identity card.

National law does not apply any geographical limitations or areas of permitted travel. However, travel to the country of origin may be considered as a ground for **Cessation** of the status granted.

Bulgaria also issues two other types of travel documents related to asylum and family reunification. Individuals granted asylum by the President of the Republic are issued travel documents with validity up to 5 years. Family members of refugee or humanitarian status holders granted a family reunification permit who do not have a valid national passport or other replacing documents can be issued a temporary travel document to enter Bulgaria in order to join the status holder (see **Family Reunification: Criteria and Conditions**). The law does not envisage any specific duration or validity of these travel documents and in practice their duration is decided *ad hoc* according to the individual circumstances of each case.

All identity documents in Bulgaria are issued by the Ministry of Interior, Bulgarian Identity Documents Directorate. The usual time limit for issuance is 30 calendar days, but the beneficiary can pay for a speedy delivery within 10 calendar days.

During the period 1 January 2014 to 31 December 2020, the Ministry of Interior issued 12,325 refugee travel documents and 9,017 travel documents for subsidiary protection holders. In 2020 these figures refer to a total 353 refugee travel documents and 966 travel documents for subsidiary protection holders.

³⁶⁵ Article 59(1)(5) and (7) Law on Bulgarian Identity Documents.

D. Housing

Indicators: Housing

- | | |
|---|----------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 6 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2020: | 170 |

Under the law, status holders may be provided with financial support for housing for a period of up to 6 months as from the date of entry into force of the decision for granting international protection under the terms and procedure established by the chairperson of the SAR in coordination with the Minister of Finance.³⁶⁶ In practice due to lack of any integration support (see [General Remark](#) on Integration) the beneficiaries of international protection are allowed to remain in the reception centres up to 6 months, unless in situations of mass influx or increased new arrivals. At the end of 2020, the number of beneficiaries staying in reception centres was 170.

Beneficiaries face acute difficulties in securing accommodation due to the legal ‘catch 22’ surrounding [Civil Registration](#). Holding valid identification documents is necessary in order to enter into a rental contract, yet identification documents cannot be issued if the person does not state a domicile. The situation has been exacerbated since the SAR has prohibited beneficiaries from stating the address of the reception centre where they resided during the asylum procedure as domicile for that purpose. It led to corruption practices of fictitious rental contracts and domiciles stated by the beneficiaries of international protection in order to be able to obtain their status holders’ identification documents.

E. Employment and education

1. Access to the labour market

Access to the labour market is automatic and unconditional. There is no difference between refugees and subsidiary protection beneficiaries in this respect. No labour market test is applied and access is not limited to certain sectors. Beneficiaries of international protection face the usual obstacles related to lack of language knowledge and related lack of adequate state support for vocational training, if necessary or offered.

Professional qualifications obtained in the country of origin are not recognised in general. The law does not provide for a solution with respect to refugees and subsidiary protection beneficiaries except the general rules and conditions for legalization of diplomas. On its own, the latter constitutes a complicated procedure which in most of the cases requires re-taking of exams and educational levels.

In 2020, only 23 beneficiaries of international protection and 8 asylum seekers were registered as seeking employment.³⁶⁷

2. Access to education

The access to education for refugees or beneficiaries of subsidiary status is the same as for asylum seekers (see [Reception Conditions: Access to Education](#)).

³⁶⁶ Article 31(3) LAR.

³⁶⁷ National Employment Agency, Exh.№ ПД-08-54141 from 14 December 2020.

F. Social welfare

Beneficiaries of international protection have access to all types of social assistance envisaged by the law.³⁶⁸ The law foresees the same conditions for nationals, recognised refugees or subsidiary protection holders.

In practice, however, some types of the social assistance cannot be enjoyed by beneficiaries of international protection without additional special arrangements (e.g. interpretation, social mediation), which are not envisaged or secured to them by law or institutionally.

The Agency for Social Assistance (Агенция за социално подпомагане, ASA) of the Ministry of Labour and Social Policy is the authority responsible for the provision of all types of social assistance available nationally.³⁶⁹ The ASA has territorial units in every district and municipality in Bulgaria.

The provision of social welfare is not tied to a requirement to reside in a specific place or region. However, social assistance can be requested only from the ASA territorial unit where the beneficiary has his or her registered residence and formal address registration.

In practice, the residence requirement creates great obstacle for beneficiaries who had their domicile registered in the location of the reception centre where they were accommodated during the status determination in order to speed up issue of identity documents, until this was no longer allowed by the SAR (see [Civil Registration](#)). If beneficiaries opt to move and settle in another location, they must not only re-register their new permanent domicile – and on that basis re-issue their identity documents – but they still will not be able to immediately access social assistance services or available support, as many are also conditioned on residence in the respective municipality for certain period of time.

In addition, the overwhelming red tape and other formalities related to the submission of social assistance applications are difficult to overcome even for nationals and almost impossible for beneficiaries of international protection, unless supported by tailored mediation or assistance. Such kind of assistance, however, is provided entirely by NGOs of grassroots support groups and is therefore not always available.

G. Health care

With respect to health care, the same rules that apply for asylum seekers are also applicable for beneficiaries of international protection (see [Reception Conditions: Health Care](#)). In general, from the first day after recognition, health insurance paid until then by the SAR ceases with respect to beneficiaries of international protection and they have to cover on their own the monthly health insurance payment. This minimum fee is 44.80 BGN / 22.90 € for unemployed persons who do not receive indemnities.³⁷⁰

³⁶⁸ Article 2(1) Law on Social Assistance.

³⁶⁹ Article 5 Law on Social Assistance.

³⁷⁰ Article 40(5)(1) Law on Health Insurance. 8% deducted from ½ of the minimum wage.

ANNEX I - Transposition of the CEAS in national legislation

The following section contains an overview of incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2013/33/EU Recast Reception Conditions Directive			Article 8 of the recast Reception Conditions Directive remains the only transposed provision at national level.
Regulation (EU) No 604/2013 Dublin III Regulation			The national law refers directly to the provisions of the Dublin III Regulation.

On 8 November 2018 the European Commission sent a letter of formal notice to the Bulgarian government concerning the incorrect implementation of EU asylum legislation.³⁷¹ The Commission has found that shortcomings in the Bulgarian asylum system and related support services are in breach with provisions of the recast Asylum Procedures Directive, the recast Reception Conditions Directive and the Charter of Fundamental Rights. Concerns relate in particular to: the accommodation and legal representation of unaccompanied children; the correct identification and support of vulnerable asylum seekers; provision of adequate legal assistance; and the detention of asylum seekers as well as safeguards within the detention procedure. The Commission indicated that if Bulgaria would not act within the next two months, the Commission would proceed with sending a reasoned opinion on this matter. In January 2019 the EC delegation made a follow-up visit to Bulgaria to inquire the post-notification developments, but further information on this was not made publicly available. In 2020 Bulgaria adopted amendments to its national law which re-arranged the mandatory legal representation of unaccompanied asylum seeking and refugee children.³⁷² The responsibility for legal representation has been shifted from the local municipalities to selected legal aid lawyers from the National Legal Aid Bureau (NLAB), with requirements for qualification and clearly outlined responsibility and liability.

³⁷¹ European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

³⁷² National Parliament, Law on Amendment of the Law on Asylum and Refugees, State Gazette №89 from 16 October 2020, available at: <https://bit.ly/37eFDJ9>.