

# Country Report: Bulgaria



2022  
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 2022, 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, Türkiye, United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://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.



This report is part of the Asylum Information Database (AIDA), funded by the European Programme for Integration and Migration (EPIM), a collaborative initiative by the Network of European Foundations and the European Union's Asylum, Migration and Integration Fund (AMIF). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of EPIM or the European Commission.



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## Glossary & List of Abbreviations

<b>Closed reception centre</b>	Detention centre for asylum seekers managed by the SAR
<b>Humanitarian status</b>	Subsidiary protection under the recast Qualification Directive
<b>Zero integration</b>	Period during which all beneficiaries of international protection have been left without any integration support in Bulgaria
<b>ACET</b>	Assistance Centre for Torture Survivors
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>ASA</b>	Agency for Social Assistance   Агенция за социално подпомагане
<b>BHC</b>	Bulgarian Helsinki Committee
<b>CERD</b>	Committee on Elimination of Racial Discrimination
<b>CRF</b>	Closed reception facilities
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>EASO</b>	European Asylum Support Office
<b>EC</b>	European Commission
<b>ЕСГРАОН</b>	Civil national database
<b>ЕГН</b>	Unique identification number   Единен граждански номер
<b>ЛНЧ</b>	Unique identification number for short-term or long-term residents, including asylum seekers   Личен номер на чужденец
<b>EUAA</b>	European Union Agency for Asylum
<b>Eurodac</b>	European fingerprint database
<b>Frontex</b>	European Border and Coast Guard Agency
<b>LAR</b>	Law on Asylum and Refugees
<b>LARB</b>	Law on Aliens in the Republic of Bulgaria   Закон за чужденците в Република България
<b>MOI</b>	Ministry of Interior
<b>NLAB</b>	National Legal Aid Bureau
<b>NPIR</b>	National Programme for the Integration of Refugees
<b>RRC</b>	Refugee reception centre
<b>RSD</b>	Refugee status determination
<b>SGBV</b>	Sexual and Gender based Violence
<b>SOP</b>	Standard Operating Procedures
<b>SANS</b>	State Agency for National Security   Държавна агенция "Национална сигурност"
<b>SAR</b>	State Agency for Refugees   Държавната агенция за бежанците
<b>SIS</b>	Schengen Information System
<b>TCN</b>	Third country national
<b>UNICEF</b>	United Nations Children's Fund
<b>UNHCR</b>	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.<sup>1</sup> 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.<sup>2</sup>

### Applications and granting of protection status at first instance: 2022

	Applicants in 2022	Pending at end 2022	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
<b>Total</b>	20,407	1,009	100	4,273	445	2%	89%	9%

Breakdown by countries of origin of the total numbers

Syria	8,598	5,695	65	3,651	53	2%	97%	1%
Afghanistan	7,164	3,250	10	24	35	14%	35%	51%
Morocco	1,712	1,000	0	3	78	0%	4%	96%
Ukraine <sup>3</sup>	1,313	16	0	501	0	0%	100%	0%
Iraq	656	570	9	22	37	13%	32%	54%
Russia	170	135	0	7	41	0%	15%	85%
Pakistan	167	85	1	4	76	1%	5%	94%
Algeria	151	54	0	0	18	0%	0%	100%
Stateless	92	65	4	36	14	7%	67%	26%
Iran	82	84	2	12	9	9%	52%	39%

Source: SAR.

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

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

<sup>3</sup> Prior the government's decision №144 from 10 March 2022 to enable CID (EU) 2022/382 from 4 March 2022 of the Council effectuating the Temporary Protection Directive.

**Gender/age breakdown of the total number of applicants: 2022**

	Number	Percentage
<b>Total number of applicants</b>	20,407	100%
Men	13,757	67.4%
Women	1,509	7.3%
Children	1,793	8.7%
Unaccompanied children	3,348	16.4%

Source: SAR.

**Comparison between first instance and appeal decision rates: 2022**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	4,817*	100%	214	100%
Positive decisions	4,373	23%	0	0
• <i>Refugee status</i>	100	0,5%	0	0
• <i>Subsidiary protection</i>	4,273	22%	0	0
Negative decisions	444	2%	214	100%

Source: SAR.

\* Please, note that in 2022 SAR also issued another 14,474 decisions on discontinuing the procedure due to absconding.



## 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	<a href="https://bit.ly/2lfdwMi">https://bit.ly/2lfdwMi</a> (BG)
Law on Aliens in the Republic of Bulgaria	Закон за чужденците в Република България	LARB	<a href="https://bit.ly/2Z7e4ee">https://bit.ly/2Z7e4ee</a> (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	<a href="http://bit.ly/2DpJHKK">http://bit.ly/2DpJHKK</a> (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 отпечатьци	ORD 332/08	<a href="http://bit.ly/1IJ1Cl5">http://bit.ly/1IJ1Cl5</a> (BG)

	с оглед ефективното 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 отпечатащи 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	<a href="https://bit.ly/2RnPVxr">https://bit.ly/2RnPVxr</a> (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	<a href="https://bit.ly/2RnPVxr">https://bit.ly/2RnPVxr</a> (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	<a href="http://bit.ly/2jtVsTE">http://bit.ly/2jtVsTE</a> (BG)

## Overview of the main changes since the previous report update

The report was previously updated in **February 2022**.

### National context

The situation of political instability in Bulgaria remained an issue throughout 2022. Beginning from April 2021, with the end of the government mandate of the GERB party, which ruled the country for over 12 years. The following general elections in April 2021 failed to produce a regular government. Two more general elections followed in July and in November 2021. Meanwhile, the country was governed by a caretaker cabinet appointed by President Rumen Radev, known for his pro-Russian orientation<sup>4</sup> and anti-immigrant and anti-refugee positions<sup>5</sup>. In December 2021, a regular wide-coalition government was finally formed, led by the We Continue the Change (PP) party – a newly formed political formation with pro-EU orientation and proclaimed anti-corruption agenda. It was under its rule that, in February 2022, Bulgaria started granting access to the territory and host large numbers of displaced people fleeing from the war in Ukraine.

Under national arrangements the government,<sup>6</sup> instead of the national Asylum Agency, is responsible for granting and managing temporary protection. After the beginning of the war in Ukraine, the regular government took measures which, for the period from 24 February to 22 June 2022, provided access to the territory of a total of 361,439 Ukrainians to Bulgaria, of whom 119,057 received state-provided food support and shelter; 117,591 registered for temporary protection (12,340 men; 59,498 women; 45,261 children, and 492 unaccompanied minors), and 83,215 have remained in Bulgaria. However, the regular government failed to adopt both the prepared draft amendments, and a long-term integration plan for the Ukrainian refugees, as it was ousted by a vote of no confidence on 22 June 2022, resulting in the dissolution of Parliament on 1 July 2022.

On 2 August 2022, President Rumen Radev appointed the next caretaker government, which continues to govern in 2023, as the snap parliamentary elections held in October 2022 did not manage to produce a regular government with next elections scheduled for April 2023. The caretaker cabinet's approach to management of the temporary protection (TP) has been, at least up to the time of publication of the report, characterized by inaction and refusal to uphold the humanitarian support and integration in the margins previously provided to Ukrainian refugees. This approach culminated, on 16 November 2022,<sup>7</sup> in the adopted dire restrictions of the Program for Humanitarian Assistance to Displaced Persons from Ukraine with granted Temporary Protection (HAP Programme). They severely limited state-funded accommodation options and completely abolished state food support for TP holders. It also forced newly arriving Ukrainians, who wanted to benefit from state-funded accommodation, to travel on their own costs to the detention centre in Elhovo on the opposite border near Türkiye to be re-distributed to the available accommodation facilities. These restrictions, especially the lack of food support, were strongly opposed by the non-governmental organisations, followed by litigation<sup>8</sup> with the court ruling out standstill<sup>9</sup> on government's decision to abolish the food provision. Notwithstanding the caretaker cabinet did not undertake any measures to resolve the issue, which left all Ukrainian temporary protection holders without any food support beside the one provided by charity, international and non-governmental organisations. This caused many Ukrainian refugees to leave the country. By 31 December 2022 out of a total of 149,268 Ukrainians registered under temporary protection, only 49,704 persons displaced by the war in Ukraine (33%), remained in Bulgaria.

<sup>4</sup> Balkan Insight, Bulgaria's Rapid-Fire Political Crises Suit One Man – President Radev, 1 September 2022, available at: <https://bit.ly/3INjgEs>.

<sup>5</sup> Dariknews, Дебатът на годината: Радев vs Герджиков, 18 November 2021, available in Bulgarian at: <https://bit.ly/3EHRv7C>.

<sup>6</sup> Article 2(2) in conjunction with Articles 80-81 LAR.

<sup>7</sup> COM №909 from 16 November 2022, available in Bulgarian at: <https://bit.ly/3KuH0Ys>.

<sup>8</sup> Foundation for Access to Rights, available in Bulgarian at: <https://bit.ly/3kGR0rJ>.

<sup>9</sup> Supreme administrative court, 4<sup>th</sup> Section, case No.11310/2022, Ruling from 20 December 2022, available in Bulgarian at: <https://bit.ly/3KHal1T>.

- **Access to the territory:** Bulgaria applied different approaches to granting access to the territory for persons seeking asylum and protection.

Immediately after 24 February 2022, the regular government and the Border Police adopted instructions to ensure the access to the territory of all displaced persons from the war in Ukraine, regardless of the validity or the possession of travel or identity documents.<sup>10</sup> Within a month, 1,755 police officers were trained and mobilized to support the process of registration of Ukrainian refugees, along with adjustments of the State Agency for Refugees (SAR) database. Registration offices for temporary protection were organized not only in the four SAR reception centres in Sofia, Harmanli, Banya and Pastrogor, but also in all regional police departments throughout the country, which facilitated and accelerated the access to registration and protection. Thanks to this system, Ukrainian refugees who stated their wish to avail themselves under the temporary protection scheme in Bulgaria were immediately registered and immediately issued a document for granted temporary protection. As of 31 December 2022, a total of 997,344 Ukrainians gained access to the territory of Bulgaria, of which 149,268 individuals were registered as persons with temporary protection.

On the other hand, the number of arrivals at the southern borders continued to increase, with Syria, Afghanistan, Morocco, and Iraq being the most represented countries of origin of newly arrived migrants. While 3,487 individuals entered the country in 2020, this figure increased to 10,799 migrants in 2021, and reached 16,767 new entries in 2022. Accordingly, the number of persons who sought international protection increased from 3,525 in 2020, and 10,999 in 2021, to reach 20,407 asylum seekers in 2022 – an increase of 86% compared to 2021 and of 481% compared to 2020. This brought to a dramatic increase of pushback practices registered through the national monitoring mechanism,<sup>11</sup> establishing another negative record with 5,268 alleged pushbacks affecting 87,647 persons. Verbal abuse and physical violence, reported since 2015,<sup>12</sup> as well as the humiliating practices of unlawful detention, strip searches and illegal confiscation of footwear, clothing and other belongings reached massive proportions in the last year. Despite these malpractices, an undetermined number of persons continued to enter, transit, and exit the country. From the mid to the end of the year, several widely reported incidents made clear that a significant number of migrants,<sup>13</sup> including large groups, still managed to cross the border, enter the territory, board onto various vehicles and cross the country on their exit routes predominantly to Serbian and Romanian borders, which could not be possible without the passive or active complicity of the police authorities and the public prosecution responsible for the investigation and punishment of human smuggling and trafficking. According to FRONTEX,<sup>14</sup> in 2022, the increase in people entering Europe via the Eastern Mediterranean route was of 108% (42,831 migrants), and 136% (145,600 migrants) via the Western Balkans route, with Bulgaria standing at the doorstep of both.

- **Access to the procedure:** Migrants detained at the borders generally did not have guaranteed access to the procedure, as only 3% reportedly received direct access and accommodation in a SAR reception centre without first being sent and detained in a MOI deportation centre.<sup>15</sup> On the other hand, a significant improvement was noticed with respect to the access to procedure for asylum seekers who managed to enter the country and reach the SAR registration centres independently without being detained by the police, the so called 'self-reported asylum seekers'. In the past, the asylum agency refused to register them and alerted the police, who detained them in the deportation centres of the Ministry of the Interior. In 2022, the refugee agency almost completely discontinued this malpractice; out of 9,280 self-reported asylum seekers, only 1% (94 people) were refused

<sup>10</sup> ukraine.gov.bg web portal, Entering Bulgaria, available at: <https://bit.ly/3Zng6pZ>.

<sup>11</sup> Tripartite Memorandum of Understanding (MoU) among Border Police, UNHCR and Bulgarian Helsinki Committee, signed on 14 April 2010.

<sup>12</sup> See, AIDA Fourth Update on Bulgaria, 30 September 2015, page 20-21.

<sup>13</sup> See, B. Access to the procedure and registration, 1. Access to the territory and push backs.

<sup>14</sup> FRONTEX News release, EU's external borders in 2022: Number of irregular border crossings highest since 2016, 13 January 2023, available at: <https://bit.ly/3YQKM2L>.

<sup>15</sup> MOI statistics, December 2022: 79 unaccompanied children referred to Agency for Social Assistance by the Border police, available in Bulgarian at: <https://bit.ly/3YXaPFt>.

registration and consequently detained. Unlawful procedures in MOI deportation centres were also almost eradicated, as during the year they were applied to only 2 detained asylum seekers.

- **Absconding and secondary movements:** 46% (14,474 persons) out of 31,592 asylum seekers with pending proceedings abandoned the asylum procedure in Bulgaria in 2022.<sup>16</sup> This was a significant increase compared to 26% in 2021, 39% in 2020, but still lower than 83% in 2019. The usual reasons motivating asylum seekers to abandon their asylum procedures in Bulgaria and abscond were the congested procedures, low recognition rates for some nationalities as well as poor reception conditions (see [Reception Conditions](#)).
- **Length and quality of the procedure:** In total, 8,000 files with drafted, but decisions which still had to be issued were inherited by the new management of the SAR<sup>17</sup> as of 1 April 2022,<sup>18</sup> with many being delayed by more than 5 to 7 months beyond the legally set deadline.<sup>19</sup> Of these, 4,700 files had been pending with decisions drafted and ready to be issued; most cases regarded Syrian applicants. During the period between January and March 2022, the SAR issued a total of 2,152 decisions, of which 16 decisions granting refugee status, 789 decisions granting humanitarian status, 87 refusals of international protection and 1,621 discontinuations of the procedure, mainly due to absconding. Thus, in the first quarter of the year, the SAR issued an average of 837 monthly decisions. From mid-April to mid-May the SAR did not issue decisions due to a hacker attack against its database. After that, during the period between May and December 2022, the asylum authority issued 16,780 decisions, of which 84 decisions granting refugee status, 3,485 decisions granting humanitarian status, 358 refusals of international protection and 12,853 discontinuations of the procedure.<sup>20</sup> It represented a 667% increase in comparison with the first quarter, or 2,097 decisions monthly on average. The average length of the procedure in the second half of the year decreased to 6 months. Several improvements in the standards and quality of the asylum procedure were also observed,<sup>21</sup> which positively affected recognition rates.
- **Recognition and refusal rates:** Except for Syrian nationals, over an extended period recognition rates for all other nationalities were below 8% on average. Certain applicants, such as those coming from Afghanistan and Türkiye, were treated discriminatorily and their cases were overwhelmingly considered as manifestly unfounded, which resulted in extremely low recognition rates.<sup>22</sup> In 2022, the overall recognition rate increased to 91% of all decisions on the merits. Although the refugee recognition decreased to 2%,<sup>23</sup> the subsidiary protection rate (humanitarian status) increased significantly, to reach 89%.<sup>24</sup> The rejection rate decreased to 9%,<sup>25</sup> when considering only decisions issued on the substance of asylum claims. These ratios also reflect the countries of origin of asylum seekers, entering Bulgaria, 77% of whom were from Syria (42%) and Afghanistan (35%). For the first time in a decade, Afghan applicants were treated non-discriminatory, enjoying a 49% overall recognition rate (14% refugee recognition rate and 35% subsidiary protection rate). The vast majority (95%) of Afghan applicants,<sup>26</sup> however, continued to abscond before receiving a first instance

<sup>16</sup> 20,407 asylum seekers who applied in 2022 and 11,185 asylum seekers pending determination from 2021, SAR, reg. №ПД05-40 from 16 January 2023.

<sup>17</sup> The SAR leadership was replaced in 2022, starting with the appointment of the new chairperson Mariana Tosheva on 20 March 2022.

<sup>18</sup> Teleconference with SAR Deputy on Procedure from 20 January 2023.

<sup>19</sup> Article 75 (1) LAR, 6 months from the date of the registration.

<sup>20</sup> Source: SAR.

<sup>21</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, 1 March 2023, available at: <https://bit.ly/3kuCA9b>.

<sup>22</sup> AIDA update on Bulgaria, 23 February 2022, Differential treatment of specific nationalities in the procedure.

<sup>23</sup> Previous refugee recognition rates: 4% in 2021; 13% in 2020; 13% in 2019; 15% in 2018; 14% in 2017; 25% in 2016; 76% in 2015; 69% in 2014.

<sup>24</sup> Previous subsidiary protection rates: 57% in 2021; 47% in 2020; 15% in 2019; 20% in 2018; 18% in 2017; 19% in 2016; 14% in 2015; 25% in 2014.

<sup>25</sup> Previous rejection rates: 39% in 2021; 39% in 2020; 71% in 2019; 65% in 2018; 68% in 2017; 56% in 2016; 10% in 2015; 6% in 2014.

<sup>26</sup> 9,895 discontinued procedures out of all 10,414 Afghan applicants pending in 2022, of whom 7,164 applied in 2022 and 3,250 were pending from 2021.

decision, which was issued on the merits in just 0.7% of the caseload.<sup>27</sup>

- **Relocation and resettlement:** Since 2015, Bulgaria accepted 88 individuals under the relocation scheme, of whom 76 individuals from Greece and 10 individuals from Italy. Since the EU-Türkiye deal, out of the agreed number of 110 individuals in total 85 Syrian refugees have been resettled so far. Hence, no relocation or resettlements were implemented in 2022.

#### *Reception conditions*

- **Reception centers:** Since 2015, the conditions at national reception centers have been deteriorating, with support limited to accommodation, nutrition and rudimentary medical help without provision of psychological care or assistance.<sup>28</sup> Except Vrazhdebna shelter and the two safe zones for unaccompanied children at the Sofia reception centre, all other SAR shelters and centers during this seven-year period experienced recurring problems regarding infrastructure and material conditions, and in some instances failed to provide even the most basic services, including adequate hygiene products for personal and communal spaces.

For many years, the SAR claimed that the maximum capacity of its reception centres was of 5,160 places.<sup>29</sup> However, in December 2022 the new management indicated that the actual maximum reception capacity was only of 3,932 individuals,<sup>30</sup> as the remaining 1,228 places were located in premises assessed as unfit for living, due also to the fact that the SAR did not destine part of its budget for repairs or refurbishment.<sup>31</sup> Temporary protection holders were not accommodated in SAR reception centres; due to the large number of arrivals, their accommodation was secured outside them, under a Humanitarian Aid Program adopted in March by the regular government (see [Temporary Protection](#)).<sup>32</sup> Regardless, the increase by 85% of asylum seekers registered in the country compared to 2021, further worsened the situation relating to reception capacity, also since SAR's 2022 budget for accommodation, food, medical and other key assistance has been calculated based on a forecast of up to 10,000 new individuals to be hosted in reception centres,<sup>33</sup> while the real number of newly arrived asylum seekers during the year was double the expected figure.<sup>34</sup> The sole reason overcrowding could be avoided was the high absconding rate registered for Afghan applicants - representing the second largest country of origin of asylum seekers in the country -, which reached 95%.<sup>35</sup> The main reason for this high rate is to be found in the low recognition rates that Afghan nationals received in the country over the last decade, which discouraged them from remaining in Bulgaria. This discriminatory approach however began to diminish in 2022 (see [Differential treatment of specific nationalities in the procedure](#)), and might motivate more Afghan applicants to remain until their first instance decisions are issued. While this is to be regarded as a positive development, it could further aggravate the situation of reception centres in the country, given the reduced national reception capacity.

Food in reception centres was provided through catering arrangements. In mid-2022, however, the contracts concluded in 2020 expired. The new contracts, valid for a period of two years with the value of three meals per day has been agreed to BGN 6.00, equal to EUR 3.06, as per the lowest price condition within an already scarce budget. These catering contracts will expire at the end of 2023, while just in 2022 the rate of inflation reached +17%.<sup>36</sup> This forced the SAR new management,

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<sup>27</sup> See, Table Statistics, page 7 of this report: 69 Afghan decisions on the merits.

<sup>28</sup> See, AIDA Country Updates on Bulgaria: Forth Update from October 2015, 2016 Update from February 2017, 2017 Update from February 2018, 2018 Update from January 2019, 2019 Update from February 2020, 202 Update from February 2021 and 2021 Update from February 2022.

<sup>29</sup> 110<sup>th</sup> Coordination meeting held on 10 January 2022.

<sup>30</sup> 118<sup>th</sup> Coordination meeting held on 22 December 2022.

<sup>31</sup> SAR, reg. No.PD05-72 from 26 February 2023.

<sup>32</sup> COM No.145 from 10 March 2022.

<sup>33</sup> SAR, reg. No.PD05-72 from 26 February 2023.

<sup>34</sup> 2021: 10,999 asylum seekers; 2022: 20,407 asylum seekers.

<sup>35</sup> 9,895 discontinued Afghan procedures out of all 10,414 Afghan applicants pending in 2022 (7,164 applicants in 2022 and 3,250 applicants pending from 2021 as of 31 December 2021).

<sup>36</sup> National Statistical Institute, available in Bulgarian at: <https://bit.ly/3KMYHT5>.

towards the middle of 2022 to look for donations to secure food provision in asylum reception centres. To provide an example, from April 12 to May 15, food in the reception centre of Harmanli, the largest in the country, was provided entirely through donations (see, [Reception Conditions, A. Access and forms of reception conditions](#)). That is why in 2022 the asylum seekers continued to complain not only about the quality of the food, but also about its insufficient quantity. Apart from the mobilization of donors, the other reason that helped avoiding reaching a point of critical malnutrition for asylum seekers was, as mentioned above regarding overcrowding, the high rate of abandonment of the procedure by Afghan asylum seekers.

The running costs for medicines and medical supplies, Bulgarian language courses as well as urgent maintenance and refurbishment were covered only to the extent of the remaining funds of a SAR AMIF project, which ended on 31 December 2022. No tenders for the supply of clothes, shoes or other basic items were opened by SAR, due to the lack of any funds destined for these necessities in its annual budget.<sup>37</sup> To be able to meet these needs at least partially, the SAR had to negotiate nine separate donor agreements throughout the year with different agencies, organizations and individuals, e.g. food products (Food Bank), mattresses, pillows, blankets, bed linen and hygiene packages (UNHCR with BGN 700,000 donation), medicines and medical supplies (Red Cross), textbooks and other school items (Caritas), toys and other children's items (UNICEF).<sup>38</sup> Preventive measures against the spread of infectious diseases, such as scabies and pyoderma, as well as provision of personal hygiene and treatment packages were again delivered through donations, and again - due to lack of budget, with the Red Cross providing the major part of the necessary medicines. The country's shortage of general medical practitioners was the main reason for which medical care for asylum seekers had to be mainly carried out in the surgeries organised in Sofia and Harmanli reception centres, with a total of 29,071 outpatient examinations realised until the end of the year.<sup>39</sup> Access to subsequent and specialized medical treatment remained difficult for asylum seekers. One of the most persisting problems in reception centres in recent years has been that of vermin infestation, such as bed bugs, lice, cockroaches, and rats. Monthly disinfection and pest control activities began in May 2022, based on contracted services for a period of 12 months and was regularly carried out in all reception centres. However, crumbling buildings and poor sewage conditions meant that no significant improvement could be registered, and sanitation levels remained close to, or below, the minimum standard.

The most serious concern remained the safety and security of asylum seekers accommodated in reception centres. These continue to be seriously compromised due to the presence of smugglers, drug dealers and sex workers who have access to reception centres during the night hours without any interference from the private security staff. Starting from May, the SAR began to carry out monthly security inspections along with targeted checks following separate security or public disorder complaints. During the period from 1 April 1 to 23 December SAR reported<sup>40</sup> having held numerous meetings with the security company's management in attempt to mitigate security concerns and address the identified security failures, including lacking security guards at some of the designated posts.<sup>41</sup> In August non-governmental organisations raised alarm demanding<sup>42</sup> concrete measures to ensure the personal safety in reception centres. After that, the SAR submitted several requests to the Ministry of Interior to provide police guards in replacement of private security of reception centres, however all requests were rejected,<sup>43</sup> both by the Interior Minister of the regular government as well as the one of the caretaker cabinet. A police detail is secured only in the largest Harmanli reception centre, which, however, is just one and located at the central entrance, therefore insufficient to ensure the safety and security of nearly 4,000 individuals accommodated in. The rest of the reception centres continue to be guarded by private security companies, which for the purposes of cost effectiveness usually employ as guards predominantly men of retirement age or above and therefore, therefore

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<sup>37</sup> SAR, reg. No. PД05-72 from 26 February 2023.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Bulgarian Helsinki Committee, reg.No.Б-67 from 4 August 2022.

<sup>43</sup> SAR, reg. No. PД05-72 from 26 February 2023.

security services result more performative than effective.

- **Access to benefits:** Asylum seekers who decide to live outside reception centres at their own expenses are not entitled to any social benefits.<sup>44</sup> Asylum seekers who are not self-sufficient are entitled to accommodation in the available reception centres, three meals per day, basic medical assistance and psychological support,<sup>45</sup> even though the latter is not secured in practice. Monthly cash allowance is not provided since 2015.<sup>46</sup> Access to any other social benefits under the EU *acquis* is not guaranteed by law, nor provided in practice, still raising concerns about the compliance with Articles 17, 18 and 25 of the recast Reception Conditions Directive.
- **Access to the labour market:** During the asylum procedure, asylum seekers have unconditional access to the labour market after a period of three months from their personal registration.<sup>47</sup> In 2022, the State Refugee Agency issued 302 work permits to asylum seekers who were looking to support themselves while their asylum claims were being processed.<sup>48</sup> Out of them, only 12 asylum seekers were employed alongside 5 persons granted protection, of whom only 1 person granted protection and 10 asylum seekers did so through employment programs, while the rest found work independently and on their own initiative.<sup>49</sup> At the same time a total of 2,214 persons with temporary protection were employed, of whom 191 persons found work independently, 16 persons through employment programs and 2,007 persons under schemes of the EU OP Human Resources Development program<sup>50</sup>.
- **Safe zone for unaccompanied children:** In 2022, the two safe zones for accommodation of unaccompanied children seeking protection continued to function. Both zones are organized at the registration and reception centre (RRC) in Sofia, namely in the dormitory in the Voenna Rampa district, which mainly accommodates children from Afghanistan and Pakistan, and the dormitory in the Ovcha Kupel district, hosting children from Arab countries of origin. As the government did not provide additional maintenance and management budget to SAR for the safe zones, in 2022 they continued to be funded by AMIF under a project managed by the International Organization for Migration (IOM), which ends on 31.12.2023. The two safe zones were deemed to provide round-o-clock care and support tailored to unaccompanied children's specific and individual needs. However, as far as the both safe zones were designated at separate floors in the common dormitories in "Voenna Rampa" and "Ovcha Kupel" shelters, the outstanding security problems of the reception centres, especially in their surroundings, indirectly affected the situation of unaccompanied children. In 2022, the number of unaccompanied children who sought protection in Bulgaria continued to grow<sup>51</sup> and again the capacity of the two safe zones (a total of 288 places) proved insufficient to shelter all arriving children. Many unaccompanied children continued to be accommodated outside the safe-zones in mixed premises with adults and without proper support and guaranteed personal safety, including in the largest reception centre in Harmanli, South-Central Bulgaria in the border area with Türkiye. At the end of 2022 the new SAR management<sup>52</sup> and UNICEF agreed on funding for a third safe-zone for unaccompanied children to be open in Harmanli reception centre, which is expected to become operational at the end of 2023 after the completion of the necessary refurbishment and logistics.

#### *Detention of asylum seekers*

- **Detention in pre-removal centres:** The average detention duration in 2022 continued to decrease to

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<sup>44</sup> Article 29 (9) LAR.

<sup>45</sup> Article 29 (1) LAR.

<sup>46</sup> SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

<sup>47</sup> Law on Asylum and Refugees (LAR), Article 29 (3).

<sup>48</sup> SAR, reg. No. №ПД05-40 from 16 January 2023.

<sup>49</sup> Employment Agency, reg. No. ПД08-13 from 6 January 2023.

<sup>50</sup> Ibid.

<sup>51</sup> 2021: 3,172 unaccompanied children / 2022: 3,348 unaccompanied children.

<sup>52</sup> The SAR leadership was replaced in March-April 2022.



4 working days or 6 calendar days.<sup>53</sup> As a result, of all foreigners who applied for protection in a police detention centre, 87%<sup>54</sup> were released on average 2 working days before the statutory deadline, and 0% were unlawfully detained for more than 6 months. This showed a 1% improvement compared to the previous 2021.

First introduced in 2015, the SAR practice of registering asylum seekers in police pre-removal (detention) centres to meet the registration deadline,<sup>55</sup> as well as conducting proceedings and delivering decisions in these detention centres, was not sanctioned by national courts,<sup>56</sup> which in general perceived it as an insignificant infringement of the procedure. In 2022, the SAR almost completely abandoned this malpractice, with only 1 registration and only 1 determination conducted in a police pre-removal detention center.<sup>57</sup>

- **Detention in closed reception centers:** The national legislation allows detention pending asylum procedure although on limited conditions and for the shortest period possible.<sup>58</sup> Since the introduction of the provision,<sup>59</sup> in total 116 asylum seekers have been detained in closed reception center<sup>60</sup> pending their status determination situation mainly based on national security, of whom 39 asylum seekers in 2022.<sup>61</sup> The average duration of detention in closed reception centers however continued to decrease, reaching 56 days on average in 2022.<sup>62</sup>

#### *Content of international protection*

- **Integration:** Two districts - "Vitosha" and "Oborishte", of the metropolitan municipality remained the only ones to have contracted integration agreements with newly recognized refugees in Bulgaria. In 2022, just 6 families with total 20 individuals approximately including the minor children signed 6 integration agreements.<sup>63</sup> It represented a retreat from 2021, when a total of 83 refugees received integration support from these two metropolitan district administrations on the basis of 17 integration agreements. No other integration measures or activities were planned, funded or available to individuals granted international protection – refugee or humanitarian status. The program for the integration of displaced persons from Ukraine under temporary protection drafted by the regular government was not adopted as this government was ousted by a vote of no confidence on 22 June 2022. Therefore, Bulgaria marked the ninth consecutive year of the national “zero integration” policy.
- **Special measures for unaccompanied children:** A positive change was achieved regarding care and accommodation of unaccompanied children, seeking or granted international protection. The asylum authority, SAR, began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centers (ЦХСТ). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After recognition, these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to

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<sup>53</sup> 2021: 7 calendar/5 working days; 2020: 8 calendar/6 working days; 2019: 11 calendar/9 working days; 2018: 9 calendar/7 working days; 2017: 19 calendar/15 working days; 2016: 9 calendar/7 working days; 2015: 10 calendar/8 working days; 2014: 11 calendar/9 working days; 2013: 45 days/32 working days.

<sup>54</sup> BHC 2022 Annual RSD Monitoring report, 111. Registration time-limit, page 5: 13,192 individuals out of 15,130 detention applicants (2021: 86% or 7,382 individuals out of 8,528 detention applicants / 2020: 55% or 1,533 individuals out of 2,781 detention applicants), available at: <https://bit.ly/3Y3WzJJ>.

<sup>55</sup> 6 working or 8 calendar days as per Article 58(4) LAR in conjunction with Article 6(1) APD.

<sup>56</sup> See, AIDA updates on Bulgaria in 2019 to 2021.

<sup>57</sup> BHC 2022 Annual RSD Monitoring report, 1.1.2. Procedure at the police detention centers, page 6, available at: <https://bit.ly/3Y3WzJJ>.

<sup>58</sup> Article 45b LAR.

<sup>59</sup> State Gazette No.80 from 16 October 2015, enforced on 1 January 2016.

<sup>60</sup> A special compartment allocated in Busmantsi detention center's premises.

<sup>61</sup> SAR, reg. No. №ПД05-40 from 16 January 2023.

<sup>62</sup> 2022: 56 days; 2021: 86 days; 2020: 91 days; 2019: 252 days; 2018: 192 days, 2017: 202 days.

<sup>63</sup> Statistics provided by the Bulgarian Council for Refugees and Migrants on 16 January 2023.

wait the reunification with their parents or other family members in SAR reception centres.<sup>64</sup> As a result of this positive practice, a total of 26 unaccompanied children were accommodated during the course of the year in specialized childcare centres, of whom 2 were asylum seeking children and 24 children granted international protection. Altogether ten licensed childcare centers have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare center's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account.

- **Cessation and withdrawal:** In 2020, a new provision introduced an additional cessation clause.<sup>65</sup> The law permitted cessation or revocation of the international protection if the 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. The undue cessation of international protection has affected 4,405 status holders in total since then, respectively – 770 persons in 2018; 2,608 persons in 2019; 886 persons in 2020 and 100 persons in 2021 and 41 persons in 2022.

## Temporary protection (see [Annex](#))

### *Temporary protection procedure*

- ❖ **Legal framework:** According to national legislation, temporary protection is granted with the so-called general administrative act (общ административен акт). According to the law,<sup>66</sup> these are acts issued by a central authority, agency or administration with an automatic legal effect, which create rights to an indefinite number of persons, defined by common circumstances or characteristic. Under the national asylum law,<sup>67</sup> the government (Council of Ministers) grants temporary protection, if it is activated by a decision of the EU Council, the latter also determining its duration. Therefore the government's act to grant temporary protection is group-based, collective and automatic by nature thus covering all individuals from the specified country with an immediate legal effect. On 10 March 2022 the Bulgarian government adopted Decision No.144,<sup>68</sup> which granted temporary protection to displaced persons from Ukraine and which entered into force on the date of its publication on 14 March 2022. The decision was given explicitly a retroactive effect to cover all persons displaced from Ukraine from 24 February 2022 onward. Hence until 14 March 2022 all Ukrainian refugees who claimed asylum in Bulgaria were still registered as asylum seekers (applicants for international protection) with individual determination procedures and decisions. However from 15 March 2022 onward any Ukrainian refugee who entered the country and stated before the authorities to seek protection has to be immediately issued a document,<sup>69</sup> which certify their legal status as a person granted a temporary protection in Bulgaria and valid for its duration.<sup>70</sup>
- ❖ **Access to asylum:** The national asylum law established the right of the TP holders to also submit an individual application for international protection.<sup>71</sup> However, an asylum procedure is not open and the application of the TP holder is not examined or decided prior the end of duration of the temporary protection.<sup>72</sup>

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<sup>64</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

<sup>65</sup> Article 42(5) LAR, State Gazette No. 89 from 16 October 2020.

<sup>66</sup> Article 65 of Administrative Procedure Code.

<sup>67</sup> Article 2(2) LAR.

<sup>68</sup> COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

<sup>69</sup> Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

<sup>70</sup> 24 February 2023.

<sup>71</sup> Article 68(1), item 2 LAR.

<sup>72</sup> Ibid.

## Content of temporary protection

- ❖ **Residence permit:** In general, the Bulgarian asylum system does not require any additional residence permit to be issued by the immigration police for the beneficiary of the granted protection to be able to remain in the country on its account. Hence, the decision granting international protection issued by the asylum authority (SAR) is sufficient for the protection holder to be able to apply for an identity document that is issued automatically. This arrangement applies also to TP beneficiaries. The decision of the government to grant temporary protection is sufficient for them to be *automatically* issued the respective TP document, if and when they approach a registration office.<sup>73</sup>
  
- ❖ **Rights of temporary protection holders:** The scope of rights to which the TP holders are entitled are outlined by the law and apply for the duration of the temporary protection.<sup>74</sup> Therefore, all displaced persons granted temporary protection have the right to:
  - ❖ remain in the country
  - ❖ work and have access to vocational trainings
  - ❖ appropriate accommodation or means of accommodation if necessary
  - ❖ social assistance
  - ❖ health insurance, medical assistance and services under the conditions and procedures applicable for the Bulgarian citizens,<sup>75</sup> with the exception of medical assistance provided under Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the EU.
  - ❖ return freely to their country of origin.

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<sup>73</sup> COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

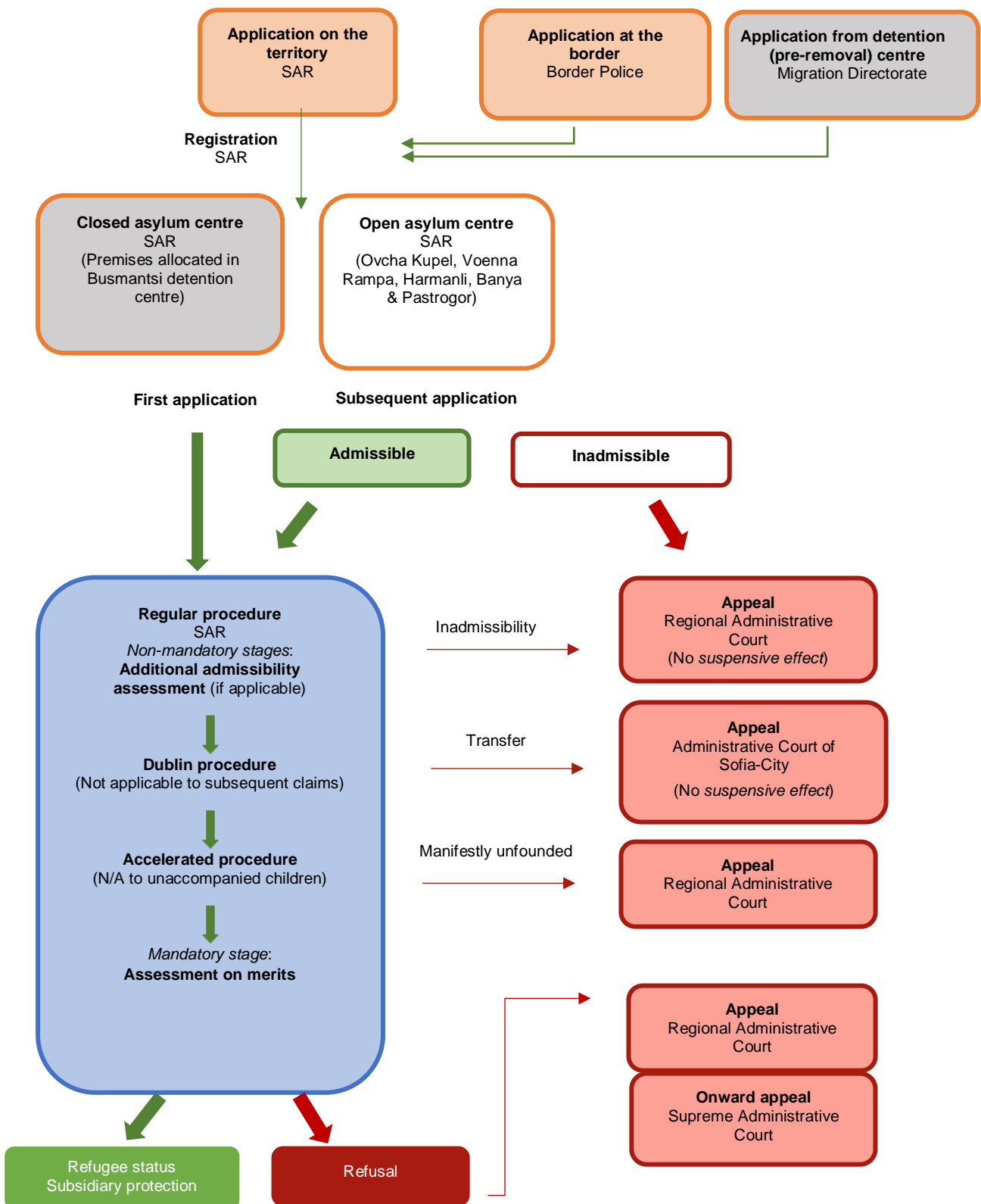
<sup>74</sup> Article 39(1) LAR.

<sup>75</sup> Amended, State Gazette №32/2022 enforced on 26 April 2022.

# 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: <sup>76</sup>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
▪ Fast-track processing: <sup>77</sup>	<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: <sup>78</sup>	<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 местоживееене
Onward appeal	Supreme Administrative Court	Върховен административен съд

## 4. Determining authority

Name in English	Number of staff as of 31 December 2022	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 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").<sup>79</sup> The SAR has different Units

<sup>76</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

<sup>77</sup> Accelerating the processing of specific caseloads as part of the regular procedure.

<sup>78</sup> Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

<sup>79</sup> 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.<sup>80</sup> 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 to protect internationally recognised rights or freedoms.<sup>81</sup>

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 procedure<sup>82</sup> and in the accelerated procedure.<sup>83</sup>

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 guidelines.<sup>84</sup> The Internal guidelines are not made public but, if requested, they are usually shared with UNHCR and/or NGOs providing legal assistance.

Regarding 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,<sup>85</sup> this process was formalized as a response to the previous UNHCR and NGO critique that the lack of transparency contributed to bias and corruption.<sup>86</sup>

In terms of quality assurance and control, UNHCR is authorized 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. Based on its findings, the Quality of Procedure Department issues guidance on the interpretation of legal provisions and the improvement of different stages of the procedure. The issued guidance remain internal and not shared nor made public.

In September 2022, four years after the end of the previous operating plan, the EUAA and Bulgaria signed a new operating plan with the aims of strengthening the authorities' capacity to implement the TPD and providing special training to national personnel for the effective implementation of the TPD and the rules of the Common European Asylum System.<sup>87</sup>

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<sup>80</sup> Article 2(2) LAR.

<sup>81</sup> Article 27(1) in conjunction with Article 98(10) Bulgarian Constitution.

<sup>82</sup> Chapter VI, Section Ia LAR.

<sup>83</sup> Article 70 LAR.

<sup>84</sup> Article 47 (4) SAR Internal Guidelines.

<sup>85</sup> Article 91 (7) and (8) SAR Internal Guidelines, as amended in December 2020.

<sup>86</sup> Bulgarian Helsinki Committee, 2019 Annual RSD monitoring report, 31 January 2020.

<sup>87</sup> EUAA, 'EUAA deploys to Bulgaria as over 530,000 Ukrainians enter the country', 6 September 2022, available at: <http://bit.ly/3kXMaBK>.

In 2022, the EUAA deployed 2 experts to Bulgaria:<sup>88</sup> 1 EUAA staff member and 1 temporary agency worker. Both were roving team personnel.<sup>89</sup> The same staff remained deployed as of 20 December 2022.<sup>90</sup>

## 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.<sup>91</sup> 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 immediately,<sup>92</sup> otherwise it could be ruled out as manifestly unfounded.<sup>93</sup> 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".<sup>94</sup>

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,<sup>95</sup> or to consider the asylum application as manifestly unfounded respectively.<sup>96</sup>

**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."<sup>97</sup> 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.<sup>98</sup>

**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.<sup>99</sup> 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,<sup>100</sup> 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.<sup>101</sup>

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<sup>88</sup> EUAA personnel numbers do not include deployed interpreters by the EUAA in support of asylum and reception activities.

<sup>89</sup> Information provided by the EUAA, 28 February 2023.

<sup>90</sup> Information provided by the EUAA, 28 February 2023.

<sup>91</sup> Article 58(4) Law on Asylum and Refugees (LAR).

<sup>92</sup> Article 4(5) LAR.

<sup>93</sup> Article 13(1), items 11-12 LAR.

<sup>94</sup> Article 61a(1) in conjunction with Article 68(1) item 1 LAR.

<sup>95</sup> Article 67c(2) LAR.

<sup>96</sup> Article 70(1) LAR.

<sup>97</sup> Article 15 LAR.

<sup>98</sup> Articles 76a to 76c LAR; Article 76d in conjunction with Article 13(2)-(4) LAR.

<sup>99</sup> Article 70(1) LAR. The 14 applicable grounds are set out in Article 13(1) LAR.

<sup>100</sup> The State Agency for Refugees is managed by a Chairperson: Article 46 et seq. LAR.

<sup>101</sup> Article 75(5) LAR.

**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;<sup>102</sup>
- ❖ 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.

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.

**Return decision:** Bulgaria applies a reversed approach regarding the return decision of unsuccessful applicants for international protection: instead of issuing a return decision after the examination of the asylum claim, national law obligates police authorities to automatically issue a return order to all irregular third country nationals apprehended at the border or inside the country's territory.<sup>103</sup> If the TCN applies for international protection, the implementation of the return order is suspended until the decision of the asylum authority becomes final.<sup>104</sup> If the asylum applicant is granted a positive decision, the return order is cancelled, and if in case of a negative decision, the return can be implemented immediately.

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<sup>102</sup> Article 84(4) LAR.

<sup>103</sup> Article 41 LARB.

<sup>104</sup> Article 67 LAR.



## 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 2022.

In 2018, the government banned the access to the 234 km border fence<sup>105</sup> built along the Bulgarian-Turkish border as well as the possibility to take pictures or filming it by introducing a 300-meters security zone similar to border arrangements during the communist regime.<sup>106</sup> It is however a common knowledge that the border fence can easily be crossed,<sup>107</sup> and that many sections of it are damaged beyond repair.<sup>108/109</sup> In 2021 the caretaker cabinet,<sup>110</sup> transferred the responsibility for the management of the border fence from the district governors to the Ministry of Interior,<sup>111</sup> with repairs were carried out by specialised army units.<sup>112</sup> In November 2022 the new caretaker cabinet's interior minister reported<sup>113</sup> that the army has completed the repairs along 121 km section and continue to work until the end of the year in the areas of Elhovo, Sredets, Malko Tarnovo and Rezovo. Along with these activities in November 2021, 350 soldiers and 40 technical army units were sent to the border with Türkiye to support around 1,000 border police officers already stationed there.<sup>114</sup> In August 2022, the new caretaker cabinet increased the army presence along this border with another 300 soldiers equipped with drones and transportation units.<sup>115</sup> In 2022, Frontex launched a new operation at EU's external land border,<sup>116</sup> Joint Operation Terra 2022 with 450 standing corps officers, patrol cars and thermo-vision vehicles, taking

<sup>105</sup> Darik News, 'Забраняват заснемането на оградата по границата с Турция', 30 May 2018, available in Bulgarian at: <https://bit.ly/3K8bgFR>.

<sup>106</sup> From 9 September 1944 to 10 November 1989.

<sup>107</sup> 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>.

<sup>108</sup> 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, video available at: <http://bit.ly/2DPcuTY>.

<sup>109</sup> bTV, 'На българо-турската граница: част от оградата против бежанския натиск е пропаднала', 19 May 2021, available in Bulgarian at: <https://bit.ly/3K5OKgT>.

<sup>110</sup> dir.bg, 'Назначиха проверка за разрушената ограда на границата с Турция', 20 May 2021, available in Bulgarian at: <https://bit.ly/3FohyO2>.

<sup>111</sup> Darik News, 'МВР поема управлението върху оградата по българо-турската граница', 23 September 2021, available in Bulgarian at: <https://bit.ly/3A8K8Cd>.

<sup>112</sup> bnr.bg, 'Ремонтират оградата на българо-турската граница', 4 November 2021, available in Bulgarian at: <https://bit.ly/3GrBYqO>.

<sup>113</sup> news.bg, 'Армията работи за възстановяване на оградата по границата, уверява министъра на отбраната, 10 November 2022, available in Bulgarian at: <https://bit.ly/41SmpTZ>.

<sup>114</sup> bnr.bg, 'Министерство на отбраната е изпратило военни на българо-турската граница', 1 November 2021, available in Bulgarian at: <https://bit.ly/3tnr81f>.

<sup>115</sup> dnes.bg, 'Армията увеличава помощта, която оказва на МВР на държавната граница, 25 August 2022, available in Bulgarian at: <https://bit.ly/3ZnCL5x>.

<sup>116</sup> FRONTEX, Frontex launches new land operation, 2 April 2022, available at: <https://bit.ly/3Yx2A1W>.

place across 12 EU Member States, including Bulgaria where the deployed Frontex personnel throughout the year reached collectively 1,200 corps officers.<sup>117</sup> Frontex deployed staff focused mainly on border surveillance, border checks and assistance in detecting fraudulent documents as well as gathering information on smuggling networks, migratory phenomena and identification of vulnerable groups. Frontex staff worked in mixed teams with the national guards and under the command of the Bulgarian border authorities. Among the patrol teams along the Bulgarian -Turkish border, just the half were mixed ones,<sup>118</sup> while the rest was comprised only of national border police officers.

Notwithstanding the increased border control, national authorities remained unable to counteract the human smuggling, neither to provide safe legal channels for those who attempt to enter to claim asylum. The sheer scale of reports about intercepted vehicles transporting irregular migrants made evident that a significant number of people, including in large groups, manage to cross the border, enter the territory, board onto various vehicles, and travel undetected through the country on their exit routes – A1 highway to Serbia and E87 to Romania. If in 2020, 3,487 migrants entered the country, and 10,799 in 2021, in 2022 this figure was of 16,767 individuals. The number of persons who sought international protection increased from 3,525 in 2020, and 10,999 in 2021, to reach 20,407 in 2022 – an increase of 86% compared to 2021 and by 481% compared to 2020.

This brought to a dramatic increase of pushback practices. The national monitoring mechanism evaluated the country had established another negative record, with 5,268 alleged pushbacks affecting 87,647 persons.<sup>119</sup> Verbal abuse and physical violence, reported since 2015,<sup>120</sup> as well as the humiliating practices of unlawful detention, strip searches and illegal confiscation of footwear, clothing and other belongings, have reached massive proportions. The situation escalated further after two separate incidents resulted in the death of three police officers. In August two police officers died in Burgas while attempting to stop a bus with 48 migrants onboard, among whom pregnant women and children.<sup>121</sup> In November, a third police officer died after being shot from the opposite side of the borderline while patrolling a stretch of the Bulgarian-Turkish border near the village of Golyam Derwent.<sup>122</sup> On 30 November the investigative journalists' network Lighthouse published a report<sup>123</sup> exposing the pushback practices in Hungary, Croatia, and Bulgaria, which among others was exposed to maintain the so called "black sites" - clandestine detention centres, where refugees and migrants are denied the right to seek asylum, detained unlawfully and held prior to being forced back to Türkiye. Secret footage – that was meant to remain secret - shot in summer showed a dilapidated former patrol dogs' shed in the backyard of Sredets Border Police precinct on Bulgarian-Turkish border, where people were incarcerated in inhuman and degrading conditions, including by keeping them in cages. In December, a Sky News investigation released additional footage of Bulgarian border police allegedly shooting a Syrian man who was on the Turkish side of the border.<sup>124</sup> Both the Ministry of Interior and the Chief Prosecutor's Office denied the shooting had occurred,<sup>125</sup> while alleging that on the day in question the border patrol was provoked by stones thrown at them, and that one of the officers was hit in the head.

Since 1 January 2017, the Ministry of Interior no longer discloses the number of prevented entries in its publicly available statistics. However, in January 2023, the Interior Minister reported 160,000 prevented entries throughout 2022.<sup>126</sup>

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<sup>117</sup> Teleconference with General Directorate Border Police readmission sector on 6 February 2023.

<sup>118</sup> Ibid.

<sup>119</sup> Tripartite Memorandum of Understanding (MoU) among Border Police, UNHCR and Bulgarian Helsinki Committee, signed on 14 April 2010.

<sup>120</sup> See, AIDA Forth Update on Bulgaria, 30 September 2015, page 20-21.

<sup>121</sup> Bulgarian national radio, Двама полицаи са загинали в Бургас, след като автобус с мигранти блъска патрулка, published on 25 August 2022, available in Bulgarian at: <https://bit.ly/3kTtDXI>.

<sup>122</sup> Bulgarian national television, Двама задържани за убийството на български полицаи на границата с Турция - хронология на инцидента, published on 8 November 2022, available in Bulgarian at: <https://bit.ly/3lXkh4K>.

<sup>123</sup> Lighthouse reports: Europe's black sites, published on 8 December 2022, available at: <https://bit.ly/3lSSHwq>.

<sup>124</sup> Lighthouse reports: Europe's black sites, published on 8 December 2022, available at: <https://bit.ly/3lSSHwq>.

<sup>125</sup> Bulgarian national television, МВР и прокуратурата отрекоха за стрелба срещу сирийски мигранти на българо-турската граница, available in Bulgarian at: <https://bit.ly/3YtttUa>.

<sup>126</sup> news.bg, Безопасността на границите: Ремонт на Калотина и Кардам, спрени са 160 000 мигранти, 6 January 2023, available in Bulgarian at: <https://bit.ly/41OZhWA>.

Despite the widely reported pushbacks and violence along the Bulgarian-Turkish border, the number of new arrivals in Bulgaria continued to increase. The Ministry of Interior reported that in 2022 a total of 16,767 newly arrived third-country nationals were apprehended, as follows:

Irregular migrants apprehended in Bulgaria: 2016-2022							
Apprehension	2016	2017	2018	2019	2020	2021	2022
<i>Irregular entry</i>	4,600	743	689	489	510	1,386	2,298
<i>Irregular exit</i>	4,977	2,413	353	494	924	1,097	2,337
<i>Irregular stay on the territory</i>	9,267	1,801	1,809	1,201	2,053	8,316	12,092
<b>Total apprehensions</b>	<b>18,844</b>	<b>4,957</b>	<b>2,851</b>	<b>2,184</b>	<b>3,487</b>	<b>10,799</b>	<b>16,767</b>

Source: Ministry of Interior, Migration Statistics, December 2016: <http://bit.ly/2Fx9h1Y>; December 2017: <http://bit.ly/2ntEXaR>; December 2018: <https://bit.ly/2sBEJ4z>; December 2019: <https://bit.ly/372jvz7>; December 2020: <https://bit.ly/3i01bgF>; December 2021: <https://bit.ly/3fhMfk>, December 2022: <https://bit.ly/3kRy7xE>.

The number of new arrivals represents a 55% increase in comparison with the previous year adding on a 205% increase in 2021. The main contributing factors for this increase relate to the takeover of the Taliban in Afghanistan during summer 2021 and the political and economic instability in the neighbouring Türkiye, which motivated many Syrian refugees who lived there for nearly 10 years to move onward and seek protection in Europe. In addition, the alleged deportations to Syria initiated by the Turkish authorities in 2022,<sup>127</sup> and the devastating earthquake in Southern Türkiye on 6 February 2023 are expected to only exacerbate the situation of the nearly 3,6 million Syrian refugees living in this neighbouring country.

In 2022, 4,233 asylum seekers were able to apply for international protection at the national entry borders and only 1% of them (i.e. 49 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. It showed worsening of the situation, considering that in 2021 3% (34 out of 1,065 asylum seekers) of the applicants at entry border had direct access to procedure and protection.

## 1.2. Border monitoring

Under the 2010 tripartite Memorandum of Understanding between the Border Police, UNHCR and the Bulgarian Helsinki Committee,<sup>128</sup> 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 and Ivailovgrad BCP. The BHC lawyers can interview the detainees and check the border registers. Monthly reports are prepared and shared internally. On their basis, the parties prepare and publish an annual border monitoring report.<sup>129</sup>

In 2022, the Bulgarian Helsinki Committee under its UNHCR funded project carried out regular border monitoring visits on a weekly basis at the border with Greece and Türkiye, as well as ad hoc visits at the 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*.

<sup>127</sup> Human Rights Watch, Turkey: Hundreds of Refugees Deported to Syria, EU Should Recognize Turkey Is Unsafe for Asylum Seekers, available at: <https://bit.ly/3YiNz3y>.

<sup>128</sup> The Bulgarian Helsinki Committee had a bilateral agreement with the Border Police from 2004 to 2010.

<sup>129</sup> The border monitoring reports are available at: <https://bit.ly/3mjDhNz>.

## Legal access to the territory

National legislation and arrangements in principle do not envisage humanitarian visas or humanitarian reasons as legal grounds for permitting entry to or the right to stay in the country's territory.<sup>130</sup> There are several exclusions in the law, when humanitarian reasons can be taken into account during the visa procedure, but all of them relate to an alleviation of requirements to submit some of the documents, supporting the visa application or proving the grounds for its granting. The law allows the visa application on humanitarian or emergency grounds to be submitted outside the country of origin of the visa applicant.<sup>131</sup> The visa application can also be submitted on humanitarian or emergency grounds at the border crossing points (BCPs).<sup>132</sup> However, in these cases the border police can issue only transit visas with a 3-days validity, or a short-term visa stay with a 15 days validity.

At the beginning of the 2015-2017 first EU relocation scheme, Bulgaria pledged 1,302 relocations, mainly from Italy and Greece. However, with the exception of 10 Eritrean nationals that were relocated in 2017, no one else has been relocated from Italy ever since, despite numerous requests and advocacy efforts. Relocations from Greece, however, have been implemented more frequently with the latest pledge being made in April 2020 following the call from the European Commission on Member States to assist the relocation of unaccompanied asylum-seeking children stranded at Greek Aegean islands.<sup>133</sup> Following this call, 11 children were effectively relocated to Bulgaria. In 2021, following the Taliban conquest of Kabul, the government further pledged the relocation of 70 Afghan nationals with their families who worked for the Bulgarian embassy and military deployments in Afghanistan.<sup>134</sup>

In 2022, no new relocations were implemented mainly due to mass arrivals from Ukraine. The number of relocated persons remained 158 individuals, among whom were counted also 70 evacuees from Afghanistan, 10 asylum seekers from Italy, and 78 asylum seekers transferred from Greece from countries of origin such as Syria, Afghanistan, Stateless, Pakistan, Egypt and Iraq. Out of all the relocated persons, except those relocated from Afghanistan, 55 individuals have been recognised as refugees so far, 27 individuals have been granted subsidiary protection ("humanitarian status"), 2 individuals were rejected, 1 individual accepted a voluntary return to his country of origin, 2 procedures are pending and 1 procedure was terminated.

Regarding resettlement, the government decided to resettle 100 Syrians from Türkiye on 29 March 2017, based on the arrangements outlined in the 2016 EU-Türkiye deal.<sup>135</sup> Up until 31 December 2022, Bulgaria resettled a total of 85 Syrian nationals from Türkiye, with no new resettlements implemented in 2022.

There is no official list of criteria applied in relocation or resettlement procedures in Bulgaria, but families with children are prioritized as a matter of practice. The SAR does not conduct security interviews with relocation candidates on site in Italy or Greece, but these are conducted with resettlement candidates in Türkiye. The SAR liaison officer examines the relevant files together with the Italian and Greek authorities. A document check of the relocated and resettled persons is performed by the State Agency for National Security (SANS) in Bulgaria and Türkiye, after which clearance is given for the relocation or resettlement to be carried out.

All relocated and resettled persons are being admitted directly to a regular procedure. All of them are accommodated in the refugee reception centre (RRC) in Sofia, **Vrazhdebna** shelter, which is considered as a model reception centre with material conditions above the minimum standards. Food, health care, initial orientation and social mediation is provided on site. However, no one receives monthly payment or other financial allowance nor pocket money, which is the treatment of all asylum seekers in Bulgaria since

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<sup>130</sup> Article 5 Ordinance for Rules and Criteria for Visa Issuing and Visa Regime.

<sup>131</sup> Article 11 (6) Ordinance for Rules and Criteria for Visa Issuing and Visa Regime.

<sup>132</sup> Article 10 (2) Ordinance for Rules and Criteria for Visa Issuing and Visa Regime.

<sup>133</sup> Free Europe, 'България ще участва в схема за презаселване на мигранти от Гърция', 16 April 2020, available in Bulgarian at: <https://bit.ly/33wVJ5K>.

<sup>134</sup> Nova TV, News Report, 'България дава убежище на до 70 афганистанци', 25 August 2021, available in Bulgarian at: <https://bit.ly/33wxK2r>.

<sup>135</sup> Council of Ministers, Decision №750 from 30 November 2017.

the abolition of the social financial assistance in February 2015 (see section on [Forms and Levels of Material Reception Conditions](#)).

## 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 can 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.<sup>136</sup> 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.<sup>137</sup> 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](#).<sup>138</sup>

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.<sup>139</sup> 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.<sup>140</sup>

No significant delays were noted with respect to the release and registration of asylum seekers who applied while in immigration detention centres. In 2022 the average [Duration of Detention](#) decreased to 6 calendar / 4 working days.<sup>141</sup> For comparison in 2021 the average detention duration was 7 calendar / 5 working days. Registration took place without any delay compared to the established EU minimum standard.<sup>142</sup>

An important improvement, monitored in 2022<sup>143</sup> related to the access to procedure of the so called 'self-reported asylum seekers', i.e. those who managed to enter and travel in Bulgaria undetected by the police to turn up on their own directly at a SAR reception centre (Sofia, Banya, Harmanli or Pastrogor) and seek protection. Since 2016 the SAR has been refusing to register the self-reported asylum seekers, instead it has been alerting the local police departments. As a result, the asylum seekers subjected to this practice

<sup>136</sup> Article 58(4) LAR.

<sup>137</sup> Article 4(5) LAR.

<sup>138</sup> Article 13(1), items 11-12 LAR.

<sup>139</sup> Article 61a(1) LAR.

<sup>140</sup> Article 61a(1) LAR in conjunction with Article 58(4) LAR.

<sup>141</sup> Article 6(1) recast Asylum Procedures Directive.

<sup>142</sup> Article 6(1) recast Asylum Procedures Directive.

<sup>143</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

have been arrested and detained in MOI pre-removal centres. During the previous 2021 this malpractice affected 196 newly arrived asylum seekers, among whom families with minor children and pregnant women. The registration of these asylum seekers in immigration detention centres was, and still is carried out within the same day. In 2022, the new management of the SAR reverted to a great extent to the use of this malpractice.<sup>144</sup> In the period from 1 January to 31 May, this practice affected 72 out of 7,924 persons (0.9%) who had lodged an asylum application by that time, after the SAR management was replaced,<sup>145</sup> in the following period from 1 June to 31 December, the number of refused registrations drastically dropped to 0.1% (corresponding to 22 out of 12,483 persons lodging an application for international protection during that period of time).<sup>146</sup>

Another improvement with respect to registration of asylum seekers in 2022 related to registrations and status determinations carried out - in violation of the law - by SAR in MOI immigration detention centres. Under existing legal provisions,<sup>147</sup> while SAR can in fact detain asylum seekers pending the asylum procedure, it has the power to do so solely in closed SAR reception centres. Since 2015, SAR began to carry out registrations and asylum procedures in MOI immigration detention centres instead. In 2022, SAR almost entirely discontinued this unlawful practice, carrying out only 1 registration and 1 procedure in a MOI immigration detention centre.<sup>148</sup>

At the end of the process, the asylum seeker receives a registration card (регистрационна карта) in paper format. It should be noted, however, that the registration card is not issued to subsequent applicants.<sup>149</sup>

Under the law,<sup>150</sup> 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. The national courts notoriously refuse to check or verify the facts raised by the SANS as security concerns in individual cases. As a result, in the past the European Court on Human Rights (ECtHR) repeatedly ruled that Bulgaria has been regularly violating the right to an effective remedy.<sup>151</sup>

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<sup>144</sup> Ibid.

<sup>145</sup> The SAR leadership was replaced in March-April 2022.

<sup>146</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>147</sup> Article 45(b) etc. LAR.

<sup>148</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>149</sup> Article 76c(3) LAR.

<sup>150</sup> Article 58 (10) LAR.

<sup>151</sup> ECtHR, *Al-Nashif and other v. Bulgaria*, Case N50963/99, 20 September 2002; *Musa and other v. Bulgaria*, Case N61259/00, 11 January 2007; *Hassan v. Bulgaria*, Case 54323/00, 14 June 2007; *Bashir and other v. Bulgaria*, Case N65028/01, 14 June 2007; *C.G. and other v. Bulgaria*, Case N1365/07, 24 April 2008.; *Raza v. Bulgaria*, Case N31465/2008, 11 February 2010; *Kaushal and other v. Bulgaria*, Case N1537/08, September 2010; *GC and other v. Bulgaria*, Case N1365/07, 24 June 2008; *O.D. v. Bulgaria*, Case N34016/18, 10 October 2019; *M.A. and other v. Bulgaria*, Case N5115/18, 20 June 2020.

## 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 2022:  | 11,185  |
| 4. Average length of the first instance procedure in 2022:  | 3 to 6 months   |

The LAR sets a 6-month time limit for deciding on an asylum application admitted to the regular procedure.<sup>152</sup> The LAR requires that, within 4 months of the beginning of the procedure,<sup>153</sup> 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 the 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.

In 2022, the general decision-making 6 months deadline was observed in 100% of the cases, leaving no case with prolonged determination duration.<sup>154</sup> 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, and Afghanistan.<sup>155</sup>

While the number of asylum applications has been constantly decreasing from 2015 to 2019,<sup>156</sup> the percentage of already registered asylum seekers who abandoned their asylum procedures in Bulgaria remained high; reaching 80% to 90% of all decisions up until 2019.<sup>157</sup> This tendency reverted in 2020 when the number of the new arrivals increased for the first time in four years and reached a total of 3,525, but the asylum seekers who abandoned their procedures decreased to 39% of all decisions<sup>158</sup> and 22% of all caseloads.<sup>159</sup> In 2021 and 2022, the number of new arrivals continued to increase, reaching a total of 10,999 asylum seekers (+212% increase) in 2021 and 20,407 asylum seekers (+55% increase) in 2022.

The backlog of pending cases continued to significantly increase from 2,021 cases in 2020, 7,556 cases

<sup>152</sup> Article 75(1) LAR.

<sup>153</sup> Article 74 LAR.

<sup>154</sup> Bulgarian Helsinki Committee, *2022 Annual RSD Report*, published on 1 January 2023, based on a statistical quota of 50 cases examined on the merits, available at: <https://bit.ly/3Jkd3t0>. SAR, reg. No. №РД05-40 from 16 January 2023.

<sup>155</sup> 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.

<sup>156</sup> See, AIDA updates from 2015 to 2019 at: <https://asylumineurope.org/reports/country/bulgaria/>.

<sup>157</sup> This is calculated based on 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).

<sup>158</sup> This is calculated based on a total of 3,908 cases i.e. 383 persons with pending claims at the end of 2019 plus 3,525 new applicants.

in 2021 to more than 8,000 cases in 2022.<sup>160</sup> Many of these cases have been delayed by 5 to 7 months beyond the legally set deadline.<sup>161</sup> Of these, 4,700 files had been pending with decisions drafted and ready to be issued in cases mainly relating Syrian applicants. During the period January - March 2022, the SAR issued a total of 2,152 decisions, of which 16 decisions granting refugee status, 789 decisions granting humanitarian status, 87 refusals of international protection and 1,621 discontinuations of the procedure, mainly due to absconding. Thus, in the first quarter of the year, the SAR issued 837 decisions monthly on average. From mid-April to mid-May, the SAR did not issue decisions due to a hacker attack against its database. After that during the period May - December 2022 the SAR issued 16,780 decisions, of which 84 decisions granting refugee status, 3,485 decisions granting humanitarian status, 358 refusals of international protection and 12,853 discontinuations of the procedure, mainly due to absconding.<sup>162</sup> It represented a 667% increase in comparison with the first quarter, or 2,097 decisions monthly on average. The average length of the procedure in the second half of the year decreased to 6 months.

46% (14,474 persons) of all 31,592 asylum seekers with pending proceedings in 2022<sup>163</sup> abandoned their procedures in Bulgaria. This was a significant increase compared to 26% in 2021, 39% in 2020, but still lower than 83% in 2019. The usual reasons motivating asylum seekers to abandon their asylum procedures in Bulgaria and abscond were the congested procedures, low recognition rates for some nationalities as well as poor reception conditions. Although for the first time in a decade the Afghan applicants did not register a recognition rate significantly lower than the EU-average, with 49% overall recognition rate (14% refugee recognition rate and 35% subsidiary protection rate) and 51% rate of rejection, the vast majority of them (95%)<sup>164</sup> continued to abscond before their first instance decision, which was issued on the merits in just 0.7%<sup>165</sup> of the caseload.

Out of the 19,340 decisions taken, 74% of asylum procedures were terminated (discontinued) *in absentia*:

First instance SAR decisions on asylum applications: 2022		
In-merit decisions		
Refugee status	100	4,866
Subsidiary protection	4,273	
Unfounded	199	
Manifestly unfounded	246	
Inadmissible	48	
Abandoned applications		
Terminated	14,474	14,474
Total	19,340	

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](#).

<sup>160</sup> Teleconference with SAR Deputy on Procedure from 20 January 2023.

<sup>161</sup> Article 75 (1) LAR, 6 months from the date of the registration.

<sup>162</sup> Source: SAR.

<sup>163</sup> SAR, reg. №ПД05-40 from 16 January 2023: 20,407 asylum seekers who applied in 2022 and 11,185 asylum seekers pending determination from 2021.

<sup>164</sup> 9,895 discontinued procedures out of all 10,414 Afghan applicants pending in 2022, of whom 7,164 applied in 2022 and 3,250 were pending from 2021.

<sup>165</sup> See, Table Statistics, page 7 of this report: 69 Afghan decisions on the merits.



### 1.3. Personal interview

#### Indicators: Regular Procedure: Personal Interview

1. 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
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision?  Yes  No
3. Are interviews conducted through video conferencing?  Frequently  Rarely  Never
4. 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 is completed, a date for an interview is set. The law requires that asylum seekers whose applications were admitted to the regular procedure be interviewed at least once regarding the facts and circumstances of their applications.<sup>166</sup> 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.<sup>167</sup> In practice, all asylum seekers are interviewed at least once 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.<sup>168</sup> 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.<sup>169</sup> The law also introduced instructions on COI sources and information gathering.<sup>170</sup>

In 2022,<sup>171</sup> timely invitations for personal interviews were sent in 24% of monitored procedures; in another 27%, asylum seekers signed interview invitations without being given a copy thereof; the signed invitation was attached to their personal file. 8 of these cases concerned unaccompanied children. Therefore, it can be concluded that in 2022 asylum seekers did not enjoy timely notification about the personal interview’s appointments, which violation was particularly serious at SAR’s reception centre in Banya where all invitations were served at its beginning.

The SAR uses the standard set of questions used during eligibility interviews and relied entirely on caseworkers’ decision if and when to ask open questions. However, such type of questions are rarely, if ever, asked during the interview. The standardized interview form is applied to all, including unaccompanied children, without any adaptation or account to children’s immaturity. This has resulted in a poor quality of examination of asylum claims; i.e. little investigation of the individuals’ statements and refugee stories. At the beginning of 2023, the new SAR management introduced an interview form adapted for asylum seeking children, including unaccompanied ones.<sup>172</sup>

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 age or gender-sensitive mechanisms in place in relation to the conduct of interviews, except for the asylum seekers’ right to ask

<sup>166</sup> Article 63a (3) LAR.

<sup>167</sup> Article 63a (7) LAR in conjunction with Article 61a (5) LAR.

<sup>168</sup> Article 63a (5) LAR.

<sup>169</sup> Article 61a (2)-(4) and (6) LAR.

<sup>170</sup> Article 63(3) LAR.

<sup>171</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>172</sup> SAR, reg. №ПД05-40 from 16 January 2023.

for an interpreter of the same gender.<sup>173</sup> In 2022,<sup>174</sup> considering all the cases where the case-worker and the asylum seeker were from different genders, only in 13% the asylum seeker was informed about the possibility to request that the interview be conducted by an interviewer of the same gender and only in 12% about the possibility to request an interpreter of the same gender.

### 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.<sup>175</sup> 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 in many cases (see above 1.3. Personal interview).

Both at first and second instance, interpretation continued to present shortcomings in 2022, and its quality was often poor and unsatisfactory. Interpretation in determination procedures has remained 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. In such cases, as well as in cases when an interpreter from the spoken language is available in another reception centre, the asylum administration organises videoconference interpretation. Communication interruptions and other technical problems are the most common obstacles during interpretation via videoconference. It often creates an environment which does not allow the applicant to present properly his accounts in a detailed and systematic way, thus preventing the case worker from clarifying the relevant facts and circumstances for the decision-making process. The scarce fees paid for interpretation by the asylum agency SAR remain one of main reasons for the lack of proper interpretation during the eligibility interviews at first instance.

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, but no similar issues were registered in 2021 and 2022, therefore it can be concluded that this serious procedural gap was finally solved.<sup>176</sup> The control over interpreters was considerably strengthened in 2022<sup>177</sup> with only 0.2% of personal interviews in which the case-workers failed to keep the interpreter's behaviour under control. In 2021 there were 11% such cases.

65% of the monitored court hearings were assisted by interpreters in 2022.<sup>178</sup> The Administrative Court in **Haskovo** continued to persist in its unlawful practice to summon an interpreter for the first court hearing by telephone at the day of the hearing, if and when the appellant had already appeared in the court room. It created undue delays in 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.<sup>179</sup>

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<sup>173</sup> Article 63a (6) LAR.

<sup>174</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>175</sup> Article 63a(6) LAR.

<sup>176</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid.

<sup>179</sup> Ibid.

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 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.

The lack of adequate budget for interpretation also affects the translation of written evidence, in cases where written evidence is submitted by applicants. In view of making savings and accelerating the procedure, caseworkers are told to advise the applicants to pay for translation fees of their documents themselves so as to be taken into consideration during the status determination.

### 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.<sup>180</sup> The positive practice in this regard persisted in 2021 and 2022, as 100% of all monitored interviews were tape-recorded. This being said, the benefits of such a procedure are hindered 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. This type of interpretation creates additional difficulties for the applicants, as video communication significantly delays the process of statements' collecting.

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.

In 2022,<sup>181</sup> the registration forms or the records from the interviews were not read out to asylum seekers in 18% of the monitored procedures, which was an improvement in comparison with the previous years as this omission was made in 24% of the monitored cases in 2021, in 22% in 2020, in 46% in 2019, in 36% in 2018, and in 26% of the cases in 2017. The compliance with EU standards<sup>182</sup> in this respect is of paramount importance as far as, 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 to validly contest the content of the report in case of inaccuracies. Court expertise expenses in asylum cases have instead to be met by the appellants.<sup>183</sup>

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 56% of monitored registrations,<sup>184</sup> asylum seekers were informed about their obligation to submit all the available evidence to support their statements, while in the remaining 44% this was not done. In 67% of monitored cases asylum seekers submitted evidence in support of their refugee story; in 49% of them the evidence was properly protocolled. Hence this

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<sup>180</sup> Article 63a(3) LAR.

<sup>181</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>182</sup> 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.

<sup>183</sup> Article 92 LAR.

<sup>184</sup> Ibid.

important safeguard that the submitted evidence would be taken into consideration in the decision-taking was not observed in 51% of the monitored cases. Notwithstanding this, it marked a continuing regress in this respect in comparison with the previous years, when this omission was made in 16% of the cases in 2021 and in just 12% of the cases in 2020.

## 1.4. Appeal

### Indicators: Regular Procedure: Appeal

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

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<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 proven 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,<sup>185</sup> 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.<sup>186</sup>

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.<sup>187</sup> 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,<sup>188</sup> but also served personally to the appellants.

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 3<sup>rd</sup> to 4<sup>th</sup> department. While the 3<sup>rd</sup> 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, the 4<sup>th</sup> department had never been assigned such cases prior to the decision. The arrangement led to a deterioration for what concerned the quality of the decisions issued on asylum cases at this highest court instance, whose jurisprudence sets the standards to all lower national administrative

<sup>185</sup> Article 85(4) LAR

<sup>186</sup> Article 85(3) LAR in conjunction with Article 84(1)-(2) LAR.

<sup>187</sup> Article 84(2)-(4) LAR in conjunction with Article 133 Administrative Procedure Code.

<sup>188</sup> 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).

courts. In 2022 it affected in 81% negative SAC decision issued on asylum cases<sup>189</sup>, which although a slight improvement in comparison with 86% in 2021 still represents the overwhelming majority of the asylum cases brought before this highest court instance. Thus, in practice, asylum seekers did not enjoy two-instance court revision as the control exercised from the Supreme Administrative Court's 4<sup>th</sup> department in the vast majority of the cases continued to be purely formal and superficial.

First instance appeal courts must 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,<sup>190</sup> complying with the court's instructions on the application of the law. As in previous years, SAR did not fully observe these deadlines, although in 2022 no repeated refusals despite the court's instructions were issued.<sup>191</sup> In the past, repeated appeal procedures against the second SAR negative decisions issued in breach of the court instructions, caused some asylum procedures to extend for over 2-3 years. Therefore, the fact that, in 2022, SAR observed court instructions, significantly improved the effectiveness of the judicial control in particular, and the length of the asylum procedure in general.

### 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
------------------------------	--	--

  - ❖ 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
------------------------------	---	-----------------------------

  - ❖ Does free legal assistance cover:
 

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

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<sup>192</sup>, though in practice due to lack of funding such is provided only to vulnerable persons with specific needs<sup>193</sup> upon their explicit request. Amendments to the law in 2020 also entrusted to listed legal aid lawyers the representation of unaccompanied asylum seeking and refugee children both during the procedure, but also after their recognition. The law however does not explicitly provide for legal aid to any other beneficiaries of international or temporary protection. The National Legal Aid Bureau in October 2022 put forward a draft proposal to amend the law and include these categories in the scope of the legal aid.<sup>194</sup> The amendment was adopted in December 2022 and entered into force on 26 December 2022.<sup>195</sup>

The general legal aid system was introduced in Bulgaria in 2005, extending it to court representation in all types of cases beyond its mandatory provision in criminal, child protection and tort disputes. In 2017 the scope of the legal aid was extended<sup>196</sup> to include oral consultations at the national help line<sup>197</sup> or in

<sup>189</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>190</sup> Article 85(5) LAR.

<sup>191</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>192</sup> Article 22(8) Law on Legal Aid.

<sup>193</sup> §1(17) from Additional Clauses LAR, namely: 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

<sup>194</sup> National parliament, Draft amendment of the Law on Legal Aid, reg.No. 48-202-01-19 from 28 October 2022, available in Bulgarian at: <https://bit.ly/3ygoCei>.

<sup>195</sup> State Gazette No.102 from 23 December 2022.

<sup>196</sup> Articles 30d to 30o Law on Legal Aid, as amended St.G. №13 from 7 February 2017.

<sup>197</sup> National Legal Aid Bureau, tel. 0700 18 250.

regional legal aid centres. The condition for the legal aid to be provided is the applicants for legal aid to lack means and resources to engage a lawyer privately against remuneration.

### 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 2022.

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 introduce - for the first time ever in Bulgaria - the provision of legal aid to asylum seekers during the administrative phase of the asylum procedure.<sup>198</sup> 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.<sup>199</sup> The project however ended on 31 July 2021.

After the end of the project, the National Legal Aid Bureau agreed to continue representing vulnerable applicants under its general rules, which would require the asylum seekers to fill in and submit complicated legal aid applications. The NGO Bulgarian Helsinki Committee funded by UNHCR assisted the NLAB with the adaptation and translation of the legal aid forms in English, French, Russian, Arabic, Farsi, Dari, Pashto, Urdu, Kurdish and Turkish languages to facilitate the access to legal aid to vulnerable applicants. A problem persists, however, for those who are illiterate and where the assistance of case workers is the only way to get access to legal aid. Yet, some of them are reluctant to grant access to legal aid as it would mean that their role in and quality of the procedure would be assessed. In 2022, legal aid was not provided to applicants other than unaccompanied asylum seeking and refugee children. This represented a significant deterioration of national practices in this respect, as 50 asylum seekers at first instance had been assisted with state provided legal aid in 2021, and 818 vulnerable applicants in 2020.<sup>200</sup> Other asylum seekers who were not recognised as having specific vulnerabilities did not enjoy access to legal aid at the first instance of the asylum procedure even in previous years.

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.<sup>201</sup> 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.<sup>202</sup> 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 was carried out in May-June 2021. Since July 2021, 16 lawyers from the Sofia Bar, 8 lawyers from Haskovo Bar and 3 lawyers from Sliven Bar have been implementing the representation of unaccompanied asylum seeking and refugee children. Preliminary feedback both from children and child protection monitoring, implemented by BHC with the support of UNICEF so far remain predominantly positive with respect to legal aid lawyers acting in Sofia reception centres and predominantly reserved to negative with respect to legal aid lawyers acting in Harmanli reception centre.<sup>203</sup>

### 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, it ended on 31 July 2021.

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<sup>198</sup> National Legal Aid Bureau, 'Обява за конкурс за адвокати за работа по проект', 29 January 2018, available in Bulgarian at: <http://bit.ly/2DP376C>.

<sup>199</sup> *Ibid.*

<sup>200</sup> SAR, reg. №РД05-40 from 16 January 2023.

<sup>201</sup> 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>.

<sup>202</sup> Article 25 LAR.

<sup>203</sup> Bulgarian Helsinki Committee/UNICEF, Monthly progress report on child protection, 15 January 2023.

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.

## 2. Dublin

### 2.1. General

#### Dublin statistics: 1 January – 31 December of 2022

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
<b>Total</b>	<b>175</b>	<b>79</b>	<b>Total</b>	<b>19,993</b>	<b>201</b>
<b>Take charge</b>	<b>108</b>	<b>78</b>	<b>Take charge</b>	<b>423</b>	<b>12</b>
Austria	3	1	Austria	44	3
Belgium	18	17	Belgium	2	0
Switzerland	7	1	Croatia	12	0
Czech Republic	3	0	Estonia	2	0
Germany	38	31	Czech Republic	1	0
Estonia	1	0	France	8	0
Spain	3	0	Germany	128	4
Finland	3	4	The Netherlands	12	0
France	6	5	Norway	1	0
Italy	2	1	Poland	2	1
Malta	6	3	Romania	197	4
The Netherlands	6	5	Slovenia	9	0
Norway	5	3	Sweden	2	0
Sweden	5	5	Switzerland	3	0
Slovenia	2	0			
Cyprus	0	2			
<b>Take back</b>	<b>67</b>	<b>1</b>	<b>Take back</b>	<b>19,570</b>	<b>189</b>
Austria	6	0	Austria	9,087	30
Belgium	4	0	Belgium	953	0
Switzerland	2	0	Croatia	89	0
Germany	23	1	Czech Republic	114	11
Denmark	3	0	Denmark	57	2
Finland	2	0	Estonia	1	0
France	2	0	Finland	4	1
Greece	1	0	France	3,330	35
Hungary	5	0	Germany	4,763	83
Italy	2	0	Greece	13	0
Malta	2	0	Hungary	3	3
The Netherlands	3	0	Ireland	19	0
Norway	3	0	Iceland	1	0
Poland	1	0	Italy	69	0
Sweden	7	0	Luxembourg	11	0
Slovenia	1	0	Malta	3	0
			The Netherlands	253	2

			Norway	37	0
			Poland	29	10
			Portugal	3	0
			Romania	176	0
			Slovakia	122	8
			Slovenia	95	0
			Sweden	45	1
			Switzerland	293	3

Source: SAR.

Outgoing Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Requests sent	Requests accepted
<b>“Take charge”: Articles 8-15:</b>	<b>108</b>	<b>60</b>
Article 8 (minors)	87	52
Article 9 (family members granted protection)	6	3
Article 10 (family members pending determination)	0	0
Article 11 (family procedure)	0	0
Article 12 (visas and residence permits)	11	4
Article 13 (entry and/or remain)	0	0
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	4	1
<b>“Take back”: Article 18</b>	<b>67</b>	<b>3</b>
Article 18 (1) (b)	67	3
Article 18 (1) (c)	0	0
Article 18 (1) (d)	0	0
Article 20(5)	0	0

Source: SAR.

Incoming Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Requests received	Requests accepted
<b>“Take charge”: Articles 8-15</b>	<b>433</b>	<b>106</b>
Article 8 (minors)	8	5
Article 9 (family members granted protection)	30	4
Article 10 (family members pending determination)	1	1
Article 11 (family procedure)	11	2
Article 12 (visas and residence permits)	78	64
Article 13 (entry and/or remain)	299	29
Article 14 (visa free entry)	2	1
“Take charge”: Article 16	1	0
“Take charge” humanitarian clause: Article 17(2)	3	0
<b>“Take back”: Articles 18 and 20(5)</b>	<b>19,571</b>	<b>13,769</b>
Article 18 (1) (b)	19,567	13,767
Article 18 (1) (c)	1	1
Article 18 (1) (d)	2	0
Article 20(5)	1	1

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 through relevant documents, some EU Member States (**Germany, Austria**) require DNA tests in cases of unaccompanied children 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 **Türkiye** and **Greece**, therefore cases when the responsibility of another EU Member State can be established 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 2022, Bulgaria received 20,014 incoming requests and made 175 outgoing requests, compared to 7,811 incoming and 190 outgoing requests in 2021; 1,904 incoming requests and 116 outgoing requests in 2020; and 3,088 incoming and 80 outgoing requests in 2019.

### 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. Since 2017 and including in 2021, Bulgaria did not apply the sovereignty clause. However, in 2022, Bulgaria applied the humanitarian clause of Article 17(2) in 1 case.

## 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? 1 to 4 months<sup>204</sup>

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.<sup>205</sup> In June 2022 the government adopted amendments<sup>206</sup> to the ordinance<sup>207</sup> regulating the coordination between the asylum and police (border and immigration) administrations while implementing Dublin III Regulation. The amendments updated and clarified the division of responsibilities among these authorities.

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 to implement the Dublin Regulation. Nonetheless,

<sup>204</sup> SAR, reg. №РД05-40 from 16 January 2023.

<sup>205</sup> Article 67a(2) LAR.

<sup>206</sup> State Gazette No.46 from 21 June 2022.

<sup>207</sup> COM No.332/2007: Наредба за отговорността и координацията на държавните органи, осъществяващи действия по административно сътрудничество при прилагането на регламент Дъблин и регламент Евродак.

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), now European Union Agency for Asylum (EUAA), 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**.<sup>208</sup> 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 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. The overwhelming part of outgoing transfers relating to vulnerable groups were carried out with respect to unaccompanied children since 2016 and up until the end of 2022.<sup>209</sup> 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, Belgium, Switzerland, The Netherlands, Sweden, France, and Norway in 2022, 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 was usually implemented within 5 months on average in practice. However, in 2022 SAR reported to have shrunk the period up to 1 month.<sup>210</sup> If incoming transfer is being organised, however, the duration of actual implementation varies, reaching in the past up to 15 months. In 2022, some reorganizations undertaken by SAR in its Internal Regulations decreased the implementation of incoming transfers up to 4 months on average.<sup>211</sup>

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 III 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

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<sup>208</sup> EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

<sup>209</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>210</sup> Ibid.

<sup>211</sup> SAR, Internal Regulations for Implementation of the Procedure for Granting International Protection, Article 55.

responsible, nor of any progress made with regard to such requests, unless the applicants actively require information on the progress. In distinction with many other national authorities SAR continue to provide such information to asylum seekers pending outgoing but also incoming transfers, including to their duly authorized representatives from Bulgaria or abroad.

In 2022, 79 outgoing transfers were carried out compared to 175 requests, indicating a 45% outgoing transfer rate. In the same time out of 20,014 incoming requests just 202 transfers were carried out in practice, thus marking 1% incoming transfer rate. The majority were Dublin transfers of unaccompanied children to members of their family in receiving Member States.

### 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 circumstances and evidence.<sup>212</sup> If an interview is conducted, it is not different from any other eligibility interviews in the [Regular procedure](#), 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.<sup>213</sup>

### 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?
  - Yes  No
  - ❖ If yes, is it  Judicial  Administrative
  - ❖ If yes, is it suspensive  Yes  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.

<sup>212</sup> Article 67b(2) LAR.

<sup>213</sup> Article 63a(3) LAR.

## 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?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover:  Representation in interview  
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover  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 in 2022, legal aid to initiate and undergo a Dublin procedure was only provided to unaccompanied asylum-seeking children in order to assist their reunion with parents, relatives or family members in other European countries. This special legal aid was provided under the adopted 2020 amendment to the law, when the obligation to represent unaccompanied children was shifted from the municipalities to the National Legal Aid Bureau (see section [Regular Procedure: Legal Assistance](#)).<sup>214</sup> The statutory legal aid lawyers who represented unaccompanied children were assisted with training, interpretation and support to make sure that they are able to provide adequate and child-friendly information, and to manage their Dublin cases in accordance with the *ad-hoc* arrangements established jointly by BHC and SAR's Dublin Unit since August 2019. These *ad-hoc* arrangements are funded by UNICEF, which will continue to provide funding until 31 December 2023.

## 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.<sup>215</sup> 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 2022, Bulgaria has not ruled out or implemented any Dublin transfer to Greece in practice despite the submission of 1 outgoing request.

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.

<sup>214</sup> Article 25 LAR.

<sup>215</sup> Commission Recommendation on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525, 8 December 2016.

## 2.7. The situation of Dublin returnees

In 2022, Bulgaria received 20,014 incoming requests under the Dublin Regulation and 202 incoming transfers.<sup>216</sup> In 2022, the number of Dublin returns actually implemented to Bulgaria increased by 158% compared to 2021 and by 1,342% compared to 2020 (see table below). Overall, the percentage of actual transfers remains quite low compared to the number of incoming requests:

Incoming Dublin requests and transfers: 2014-2022									
	2014	2015	2016	2017	2018	2019	2020	2021	2022
Requests	6,884	8,131	10,377	7,934	3,448	3,097	1,904	7,811	20,014
Transfers	174	262	624	446	86	73	14	78	202

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 territory of Bulgaria upon 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:

- ❖ If the returnee has a pending asylum application in Bulgaria, or the procedure was terminated because of the returnee's absconding, he or she is transferred to a SAR reception centre. In the past the SAR usually suspended asylum procedures when asylum seekers had left Bulgaria before their procedures were completed. After the amendments of the law in 2020, the SAR obtained the right to directly terminate (discontinue) the asylum procedure in such cases without passing through a stage of suspension. In both cases, no decision on the merits is issued, therefore the procedure can be reopened.<sup>217</sup>
- ❖ If, however, the returnee's asylum application was rejected with a final decision on the merits before, or after, he or she left Bulgaria, and the decision was served *in absentia* and therefore became final,<sup>218</sup> 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, provided that he, or, she has **not** been issued a decision on merits while *in absentia*.<sup>219</sup> The SAR's practice following this particular amendment has been so far in line with the law, and returnees whose asylum procedures had been only terminated (discontinued) after their absconding do not face obstacles in principle to have their determination procedures reopened. However it does not secure their access to state provided food and accommodation in reception centres as these are guaranteed only to vulnerable applicants.<sup>220</sup>

For any other Dublin returnees, who are not considered vulnerable, food and accommodation is contingent to the limited national reception capacity and availability. If there is no available place for accommodation in reception centres of the asylum agency SAR, Dublin returnees will have to secure

<sup>216</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>217</sup> Article 77(3) LAR.

<sup>218</sup> Articles 18(1)(d) and (2) Dublin III Regulation.

<sup>219</sup> Article 18(2) Dublin III Regulation.

<sup>220</sup> Article 29(7) LAR.

accommodation and nutrition at their own expenses. In 2022, SAR reported<sup>221</sup> a severe lack of capacity to accommodate in its reception centres any other Dublin returnees that were not identified as vulnerable, both due to the constantly increasing new arrivals (55% in 2022; 205% in 2021),<sup>222</sup> and due to the reduced reception capacity, as in practice only 3,932 out of 5,160 official accommodation places were assessed as fit for living (see [Overview of the main changes since the previous report update, Reception capacity](#)).

Although the access to the national health care system is automatically reinstated after the Dublin return,<sup>223</sup> the national health care package is generally scarce and does not provide for any tailored medical or psychological treatment or support, nor for the treatment of many chronic diseases or surgical interventions, prosthetics, implants or other necessary medications or supplies.<sup>224</sup> Therefore the patients need to pay for them at their own expense.

Access to the labour market is guaranteed after a period of three months from their personal registration and for the duration of the procedure.<sup>225</sup> However, the national economic situation remain challenging. Any improvements which finally started to occur after the end of COVID-19 pandemic were reverted in the beginning of the year by the war in Ukraine. It further complicated asylum seekers' and refugees' employment and self-sufficiency. In 2022, only 12 asylum seekers, 5 beneficiaries of international protection and 2,214 temporary protection holders were actually employed under different state programmes.<sup>226</sup>

If, however, the Dublin returnee is among those, whose asylum procedures ended prior their return to Bulgaria with a refusal *in absentia* on the merits (substance), they are treated as irregular migrants.

In the vast majority of the cases these returnees are arrested upon return and detained in **Busmantsi** or **Lyubimets** pre-removal immigration centres to further enable their removal. In the few cases when the returnees are not detained after their arrival, usually – due to administrative or institutional entanglements, they may face homelessness and destitution because of their irregular status in Bulgaria and the lack of valid residence and/or identity documents. This means that even, if the returnees do have financial means, their access to the labour market and most of the basic public services (health care, social support, bank services, etc.) is nearly impossible.

In principle, no “take back” requests have been made so far under the Dublin Regulation regarding individuals with special needs. In the few cases in the past where the return of families with minor children, the requesting Member states usually asked the assurances of SAR for accommodation, adequate reception conditions 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 Member State's embassy in Bulgaria.

In 2022, 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.<sup>227</sup>

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<sup>221</sup> SAR, reg. No.ПД-05-72 from 26 February 2023.

<sup>222</sup> MOI Migration Directorate, Monthly migration statistics, December 2022, available in Bulgarian at: <https://bit.ly/3kRy7xE>.

<sup>223</sup> Article 29(8) LAR.

<sup>224</sup> National Health Insurance Office, statutory health care package, available in Bulgarian at: <https://bit.ly/3nDcrU1>.

<sup>225</sup> Article 29 (3) LAR.

<sup>226</sup> SAR, reg. №ПД05-40 from 16 January 2023; National Employment Agency, reg. No.ПД-08-13 from 5 January 2023.

<sup>227</sup> 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.

Suspensions of Dublin transfers to Bulgaria in 2022			
Country	Judicial authority	Case	Date of decision
Germany	Administrative Court of Freiburg	A 14 K 900/22	19 Sep 2022
	Administrative Court of Ansbach	14 S 22.50126	31 Oct 2022
Slovenia	Administrative Court	20 K 3733/22.A	15 Nov 2022
		UP00059585	11 Mar 2022
Switzerland	Federal Administrative Court	UP00060224	25 Jul 2022
		D-1569/2022	26 Jul 2022
		D-3180/2022	19 Sep 2022
		F-2707/2022	12 Oct 2022

In Germany, the Administrative Court of Ansbach, considered that the conditions awaiting Dublin returnees in Bulgaria did not rise to the level of systemic weaknesses. However, the Court suspended the transfer upon concluding that the applicant, if they were to be afforded protection, would likely find themselves in extreme material distress as a beneficiary of protection in the country due to the difficulties in obtaining identity documents and the consequent difficulties in obtaining housing, and access to the labour market.<sup>228</sup> The administrative Court of Köln found that risks of inhuman and degrading treatment existed for both for asylum seekers and BIPs in the country.<sup>229</sup> Regarding asylum seekers, the Court pointed to systemic deficiencies across the entire asylum system, creating a real risk for all individuals of facing inhuman or degrading treatment. The Administrative Court of Freiburg cancelled transfers of Afghan nationals to Bulgaria due the fundamental deficiencies in the asylum procedure specifically relating to Afghan nationals (extremely low recognition rates, discrimination, and the use of Türkiye as a safe third country), and systemic deficiencies in general covering all aspects of the Bulgarian asylum system which entailed risk of violations of article 3 ECHR and 4 EU Charter for any individual.<sup>230</sup>

In two cases in 2022,<sup>231</sup> the Slovenian Administrative Court found the applicants had demonstrated a reasonable presumption of systemic deficiencies, given reception and detention conditions in the country, low protection rates for Afghans and Iraqis, discriminatory conduct of the asylum authorities, police violence. The Court notably highlighted the risk that the claim had been processed *in absentia*, so that the Dublin returnee would be considered as an irregular migrant that could be arrested, and/or left without access to food and accommodation

In Switzerland, the Federal Administrative Court sent back to the State Secretariat for Migration (SEM) the cases of two Afghan nationals who feared refoulement from Bulgaria to Afghanistan.<sup>232</sup> Although, per its previous case law, it considered that the shortcomings in the Bulgarian asylum system did not amount to systemic deficiencies justifying a suspension of all transfers to the country, it found that, in the case of Afghan nationals, given the country's asylum practice and the applicants' statements about their treatment, it could not currently be ascertained whether the asylum application would be examined with sufficient guarantees against refoulement. The Court then requested the SEM clarify several points of law and fact as to the situation of the asylum seeker and the conditions in Bulgaria. In case F-2707/2022, the Court requested the SEM re-examine the case of a vulnerable asylum seeker with PTSD by inter alia obtaining positive assurances from the Bulgarian authorities with regard to access to medical assistance. The Court took into account the numerous problems encountered by vulnerable asylum seekers in accessing healthcare, the absence of a positive answer to the transfer request which made it impossible to assess future accommodation and access to pertinent treatment, and the risk of

<sup>228</sup> Administrative Court of Ansbach, Decision 14 S 22.50126, 31 October 2022, available at: <http://bit.ly/40rjAlf>.

<sup>229</sup> Administrative Court of Köln, 20 K 3733/22.A, 15 November 2022, available at: <https://bit.ly/3zdPDQp>.

<sup>230</sup> Administrative Court of Freiburg, A 14 K 900/22, 19 September 2022, available at: <https://bit.ly/3JW8yVR>.

<sup>231</sup> Slovenian Administrative Court, Decision UP00059585, 11 March 2022, available at: <http://bit.ly/40GPMHN>; Decision UP00060224, 25 July 2022, available at: <http://bit.ly/3FFoERi>.

<sup>232</sup> Swiss Federal Administrative Court, Decisions D-1569/2022 and D-3180/2022.

the healthcare system being overburdened by arrivals from Ukraine of in general highly traumatised persons. Lastly, the Court stated that the situation within the borders could not be considered *in silo* from the situation at the borders, which meant there were potential risks of detention and refoulement that the SEM should clarify.

Courts throughout European countries have, however, also often upheld Dublin transfers to Bulgaria in 2022.<sup>233</sup>

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.<sup>234</sup>

The examination can result in finding the asylum application inadmissible, where the applicant:<sup>235</sup>

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;
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 1<sup>236</sup>, 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 has been gathered to consider the application as manifestly unfounded.<sup>237</sup>

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 applicants relating to their personal situation or country of origin.<sup>238</sup> The admissibility assessment of subsequent applications differs in many aspects from the rules, deadlines and guarantees applicable when an inadmissibility decision is taken on the basis of the other admissibility grounds.

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<sup>233</sup> See e.g. (Austria) Federal Administrative Court, Decision W144 2256527-1, 4 July 2022; (Belgium) Council of Alien Law Litigation, Decision 274 962, 4 July 2022, (Denmark) Immigration Board of Appeals, Decision Dub-Bulg/2022/1/EDO, June 2022; (Germany) Administrative Court of Appeal of North Rhine Westphalia, Decision 11 A 1397/21.A, 16 December 2022; (Luxemburg) Administrative Court, decision 48230, 12 December 2022; (Netherlands) District Court of the Hague, Decision NL22.14416, 26 October 2022.

<sup>234</sup> Article 15 LAR.

<sup>235</sup> Article 13(2)(1)-(5) LAR.

<sup>236</sup> Dublin transfers.

<sup>237</sup> Article 15(2) LAR.

<sup>238</sup> Articles 75a to 76c-76d LAR.



In 2022, 87 applicants submitted subsequent asylum claim and were dealt with in an admissibility procedure. Of these, 48 (55%) were declared inadmissible and 29 (33%) 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.<sup>239</sup> 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.

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;<sup>240</sup>
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;<sup>241</sup>
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;<sup>242</sup>
4. The applicant refuses to comply with an obligation to have his or her fingerprints taken;<sup>243</sup>
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;<sup>244</sup>

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<sup>239</sup> Article 13(1) LAR.

<sup>240</sup> Article 13(1)(1)-(2) LAR.

<sup>241</sup> Article 13(1)(3)-(4) LAR.

<sup>242</sup> Article 13(1)(6)-(9) LAR.

<sup>243</sup> Article 13(1)(10) LAR.

<sup>244</sup> Article 13(1)(11) LAR.

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;<sup>245</sup>
7. The applicant arrives from a safe country of origin;<sup>246</sup>
8. The applicant arrives from a safe third country, provided that s/he will be accepted back to its territory<sup>247</sup>; 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.<sup>248</sup>

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.<sup>249</sup>

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") procedure.<sup>250</sup> The law explicitly provides that such an opinion should not be requested in the accelerated procedure.

All grounds are applied in practice. In 2022, 246 asylum applicants have been rejected under the accelerated procedure. Of those, 74 came from Morocco, 74 from Pakistan, 28 from the Russian Federation, 17 from Algeria, 14 from Afghanistan, 7 from Tunisia, 6 from Türkiye, 5 were stateless and 21 individuals held other nationalities. Nationalities from certain countries such as Algeria, Morocco Tunisia and Pakistan thus continue to be systematically treated as manifestly unfounded applicants. However, in 2022 none of these nationalities registered zero recognition rates (i.e. a 100% rejection rate).

In the past, Turkish and Afghan nationals were subjected to unfair and discriminatory treatment with very low recognition rates with their applications overwhelmingly determined in accelerated procedure. In 2022 their situation, especially concerning Afghan applicants, improved. Out of all 69 Afghan cases decided on their substance just 20% were dealt in accelerated procedure as manifestly unfounded, while in 2021 these were 86% of the decided cases, and 95% in 2020. The improvement in the treatment of Turkish applicants was not so significant, as 33% of cases were dealt as manifestly unfounded in accelerated procedure, while in 2021 these were 83% of the decided cases, and 58% in 2020.

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<sup>245</sup> Article 13(1)(12) LAR.

<sup>246</sup> Article 13(1)(13) LAR.

<sup>247</sup> Article 13(1)(14) LAR.

<sup>248</sup> Article 13(1)(15) LAR.

<sup>249</sup> Article 70(1) LAR.

<sup>250</sup> Article 58(10) LAR.

## 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.

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.<sup>251</sup>

#### 1.1. Screening of vulnerability

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).<sup>252</sup> 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.<sup>253</sup> The revision of SGBV SOPs ended in December 2021 with their formal adoption by the SAR<sup>254</sup>. However, they were neither communicated to the field SAR staff, nor implemented in practice ever since.<sup>255</sup>

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 2022 no SOPs whatsoever were implemented in practice.

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,<sup>256</sup> as well as a new procedure allowing for the regularisation of rejected and migrant unaccompanied children until they reach adulthood,<sup>257</sup> 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.

EUAA, formerly – 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

<sup>251</sup> §1(17) Additional Provisions, LAR.

<sup>252</sup> Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.

<sup>253</sup> UNHCR, *SGBV Task Force*, established on 15 February 2014.

<sup>254</sup> Exh. No.СД-172/в/23.12.2021 approved with resolution by SAR Chairperson.

<sup>255</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>256</sup> 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.

<sup>257</sup> Article 63k and 63l LARB Regulations, St.G. №23/2019, enforced on 26 November 2019.

until 31 October 2018.<sup>258</sup> The identification and referral mechanism was set to build on the Quality tool for the Identification of Persons with Special Needs (IPSN).

In the end of 2020, amendments to the law introduced a mandatory vulnerability assessment implemented by the SAR social experts with their vulnerability reports and recommendations referred to the case workers in order these circumstances to be taken into account in the decision-taking process. SAR social expert are also obligated to carry out a needs assessment and propose individual support plans which have to be also attached to asylum seeker's file.<sup>259</sup> The SAR internal rules foresee that these two documents have to be added to the personal file to enable the case worker to take them into account when examining the application. These activities have to be implemented also in the cases when the vulnerability or the special needs are established at a later stage of the asylum procedure. Additionally, an early identification questionnaire was created for applicants who experienced traumatising experiences in order to determine their special needs and to facilitate the referral to adequate psychological or medical care.<sup>260</sup>

In 2022 the overall lack of due vulnerability assessment and identification remained the most significant omission during the asylum procedure.<sup>261</sup> The SAR's social experts attended 67% of the registrations of asylum seekers. Out of them 28% related to cases of unaccompanied children. Only in 18% of all these cases the files of vulnerable asylum seekers contained vulnerability identification and needs assessment, and only in 7% of them the files contained an attached support plan. In none of these cases (0%) the established vulnerability was taken into account in the first instance decision. In the remaining 33% of the cases the registration of asylum seekers was carried out without the presence of a SAR social expert and without any guarantees for early identification of their vulnerabilities, if such existed. Thus, in practice the vulnerability assessment is still missing in 33% of the monitored cases. Additionally, needs assessment as well as planning and provision of support measures with respect to applicants with identified vulnerabilities are carried out yet sporadically than systematically. However, unaccompanied children's files continue in many cases to lack the mandatory social report by the respective statutory child protection service from the Agency for Social Assistance (ASA). It has been confirmed that these reports are prepared in practice, but in the overwhelming majority of the cases they are not shared with the case workers. The social reports, if properly prepared and communicated, could play a vital role not only in the asylum procedure, but also after it to outline the measures which need to be taken with respect to the child depending on the outcome of the procedure – rejection or recognition. Such mandatory social reports with needs assessment in 2022 could be found just in 24% of the monitored children's files<sup>262</sup>. Moreover, only 1 of these reports contained a proper risk assessment, while the rest were purely formal.

Although still moderate, the efforts made for the vulnerability identification resulted in a notable increase in the absolute number of asylum seekers formally recognised to have special needs or vulnerabilities. While this concerned 797 asylum seekers in 2019; 1,259 in 2020, and 3,928 asylum seekers in 2021, the number rose to 5,482 considered as vulnerable in 2022 (27% of all new applicants).<sup>263</sup> However it has to be noted that 3,348 of them were unaccompanied children, i.e. cases where the vulnerability identification is straightforward and almost automatic as it derives from the child's statement about his or her age, or from the identity documents, if available.

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<sup>258</sup> 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/2S9FwUJ>.

<sup>259</sup> Article 30a LAR.

<sup>260</sup> Early Identification and Needs Assessment form (ФИОН), Individual Support and Referral Plan form (ФИПП) and Social Consultation form (ФСК).

<sup>261</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>262</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>263</sup> SAR, reg. №РД05-40 from 16 January 2023.

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 2022, the following groups were identified among asylum seekers:

Asylum seekers identified as vulnerable in Bulgaria: 2017-2022						
Category of vulnerable group	2017	2018	2019	2020	2021	2022
Unaccompanied children	60	52	524	799	3,172	3,48
Accompanied children	not included	not included	207	326	561	1,793
Single parents	21	16	20	28	57	69
Pregnant women	4	0	8	18	34	24
Elderly persons	1	3	4	0	15	108
Disabled persons	11	3	10	20	21	42
Persons with chronic or serious illnesses	20	19	13	42	52	72
Persons with serious psychiatric issues	0	0	8	24	12	15
Victims of physical, psychological or sexual violence	5	6	3	2	3	5
Other (LGTBI)	not included	not included	not included	not included	1	2
<b>Total</b>	<b>122</b>	<b>99</b>	<b>797</b>	<b>1,259</b>	<b>3,928</b>	<b>5,482</b>

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.<sup>264</sup> 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,<sup>265</sup> which is also explicitly laid down in the LAR.<sup>266</sup>

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

<sup>264</sup> Article 61(2) LAR.

<sup>265</sup> Supreme Administrative Court, Decision No 13298, 9 November 2009.

<sup>266</sup> Article 75(3) LAR.

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 2022, the SAR conducted age assessments in 33 cases, in 5 of them (15%) concluding applicants to be adults, while in 2021 these were 80% of conducted age assessments. 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.<sup>267</sup> Reports from medical organisations consider the X-ray as invasive but, more importantly, inaccurate with an approximate margin of error of 2 years.<sup>268</sup>

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.<sup>269</sup> 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 2022.

## 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

Although in 2022 a needs assessment was carried out in 67% of the cases, the assessment of applicants established as vulnerable or having specific needs was included only in 18% in their personal files. However even in these cases the assessment was not taken into consideration by caseworkers in their decision-making process in 100% of the monitored cases.<sup>270</sup>

The law excludes the application of the [Accelerated Procedure](#) to unaccompanied asylum-seeking children, but not to torture victims.<sup>271</sup>

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.<sup>272</sup> In all of the cases monitored in 2022, these reports were produced but in their vast majority not included to the files nor shared with the SAR's caseworkers for further consideration.<sup>273</sup>

<sup>267</sup> Bulgarian Helsinki Committee, *2021 Annual RSD Monitoring Report*, 31 January 2022.

<sup>268</sup> 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>.

<sup>269</sup> Draft amendments of the LAR, Public Consultations Portal, 13 December 2019, available at: <https://bit.ly/2u4mFUy>.

<sup>270</sup> Bulgarian Helsinki Committee, *2022 Annual RSD Monitoring Report*, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>271</sup> Article 71(1) LAR.

<sup>272</sup> Article 15(4) and (6) Law on Child Protection.

<sup>273</sup> Bulgarian Helsinki Committee, *2022 Annual RSD Monitoring Report*, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

At the end of 2017, the National Legal Aid Bureau, which is 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.<sup>274</sup> Legal aid under this 80,000 € pilot project was implemented until 31 January 2021 and was limited to the vulnerable applicants for international protection.<sup>275</sup> The project was extended until 31 July 2021 (see [Regular Procedure: Legal Assistance](#)). After the end of the project, the National Legal Aid Bureau agreed to continue representing vulnerable applicants under its general rules, which would require the asylum seekers to fill in and submit complicated legal aid applications. The non-governmental organisation Bulgarian Helsinki Committee funded by UNHCR assisted the NLAB with the adaptation and translation of the legal aid forms in English, French, Russian, Arabic, Farsi, Dari, Pashto, Urdu, Kurdish and Turkish languages in order to enable the access to legal aid of vulnerable applicants. A problem persists, however, for those who are illiterate and where the assistance of case workers is the only way to get access to legal aid. Yet, some of them are reluctant to grant access to legal aid as it would mean that their role in and quality of the procedure would be assessed. In 2022, beyond unaccompanied children, legal aid was not provided to any other vulnerable asylum seekers at first instance, which represents a further deterioration in this respect in comparison to 2021, when 50 asylum seekers were provided legal aid, and 818 asylum seekers in 2020.<sup>276</sup> Other asylum seekers, i.e. who are not considered as vulnerable, did not enjoy access to legal aid at the first instance of the asylum procedure.

In 2022, the Minister of Labour and Social Policy approved a coordination mechanism for interaction between the authorities and organisations working on cases of unaccompanied migrant children separated from their families in Bulgaria, including children seeking and/or receiving international or temporary protection.<sup>277</sup> However, this coordination mechanism was neither endorsed, nor signed by any other ministry or government agency, including SAR, therefore it is not applied in practice.

### 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.<sup>278</sup> 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.<sup>279</sup> In this case, if the result of the

<sup>274</sup> National Legal Aid Bureau, 'Обява за конкурс за адвокати за работа по проект', 29 January 2018, available in Bulgarian at: <http://bit.ly/2DP376C>.

<sup>275</sup> *Ibid.*

<sup>276</sup> SAR, reg. №РД05-40 from 16 January 2023.

<sup>277</sup> MLSP, Order No. RD-06-6 of 18 April 2022.

<sup>278</sup> Article 61a(7) LAR.

<sup>279</sup> Article 61a(5) LAR.



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.<sup>280</sup> Highly criticised when adopted, this approach of the law proved to be more inadequate than previous arrangements. The municipalities lacked not only qualified staff, but also basic experience and expertise in child protection. In addition to that, the number of legal representatives appointed – one or two per reception facility – was insufficient to meet the need of the population of unaccompanied children who, remained 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.<sup>281</sup> The obligation to represent these children not only in the procedure, but also after the recognition and before all agencies and institutions regarding 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.<sup>282</sup> It aimed to address the absence of guardians, and ensure proper legal representation and care for the best interests of unaccompanied children in asylum procedures to mitigate high rates of absconding and related protection and safety risks.

The selection of these lawyers was carried out in June 2021. In the past, the SAR used to significantly delay the notification to the National Legal Aid Bureau of the necessity to appoint a representative, reaching a period longer than 1 month in certain cases.<sup>283</sup> As a result these unaccompanied children had no access to credible information about the asylum procedure and their rights, and especially the right to be legally transferred under the Dublin III Regulation to other EU countries to reunite with their family members. In 2022 however the practice in this respect drastically improved. NLAB agreed<sup>284</sup> with SAR to provide the latter with access to its automated individual database, which could be used not only to send an immediate notification by SAR to NLAB about requested new representative's appointments, but also allowing the SAR to obtain immediately and directly information about the appointed representative. Thus, in 2022 the appointment of a representative to unaccompanied children was carried out in 14 calendar days on average.<sup>285</sup> In total, 3,382 unaccompanied children<sup>286</sup> were appointed legal aid and representation, although due to the high rates of absconding in practice just 245 unaccompanied children were represented in practice during asylum procedure or after recognition.

Another improvement related to provision of information to unaccompanied children regarding the appointment of the respective representative and their contact details. Under the law,<sup>287</sup> SAR has the obligation to provide this information to unaccompanied children immediately and in written form. Fully omitted until the very end of 2021, when such information began to be partially provided in Ovcha Kupel

<sup>280</sup> Former Article 25(1) LAR.

<sup>281</sup> 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>.

<sup>282</sup> Article 25 LAR.

<sup>283</sup> Bulgarian Helsinki Committee, 2021 Annual RSD Monitoring Report, available at: <https://bit.ly/3Ad4wlt>.

<sup>284</sup> Teleconference with NLAB Chair Natalia Ilieva on 22 December 2022.

<sup>285</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>286</sup> Teleconference with NLAB Chair Natalia Ilieva on 22 December 2022: 3,348 children in 2022 and 34 children pending from 2021, of whom to 3,103 children the appointed legal aid was abolished due to absconding.

<sup>287</sup> Article 25(5) LAR.

and Voenna Rampa safe-zones, in 2022 96% of monitored children were duly and timely informed about the appointment of their representative.<sup>288</sup>

Since mid-2022 the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (LHCT). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition, these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to wait the reunification with their parents or other family members in SAR reception centres.<sup>289</sup> As a result of this positive practice, a total of 26 unaccompanied children were accommodated during the course of the year in specialized childcare centres, of whom 2 were asylum seeking children and 24 children granted international protection. Altogether ten licensed childcare centers have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare center's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account.

The number of unaccompanied child applicants rose to 3,348 unaccompanied children in 2022, compared to 3,127 in 2021, 799 in 2020, 524 in 2019, 481 in 2018, 440 in 2017 and 2,772 in 2016:

Unaccompanied asylum-seeking children: 2022	
Country of origin	Number
Afghanistan	1,803
Syria	1,383
Iraq	35
Morocco	34
Egypt	31
Somalia	20
Pakistan	12
Stateless	11
Ukraine	11
Tunisia	3
Libya	1
Yemen	1
Iran	1
Eritrea	1
Algeria	1

Source: SAR.

Despite unaccompanied children being better informed about their rights and the asylum procedure, the vast majority still abandoned the asylum procedure and moved irregularly to the countries of their final destination.<sup>290</sup>

<sup>288</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>289</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

<sup>290</sup> SAR statistics: a total of 3,103 unaccompanied children terminated their procedures, i.e. 91% of all 3,382 children (3,348 children who applied in 2022 and 34 children pending from 2021).

## 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.<sup>291</sup> 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.<sup>292</sup>

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 within the preclusive 14 days deadline, 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.<sup>293</sup> The competent court is the territorially competent regional administrative court,<sup>294</sup> 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 2022, 87 asylum seekers in total submitted subsequent applications. Out of them, 48 (55%) were declared inadmissible and 29 (33%) were granted access to further determination, the rest 23 (26%) subsequent applications were still pending as of 31 December 2022. A breakdown per country of origin is as follows:

<sup>291</sup> Articles 75a to 76c LAR; Article 76d in conjunction with Article 13 (2) LAR.

<sup>292</sup> Article 42(2)(b) recast Asylum Procedures Directive.

<sup>293</sup> Article 84(6) LAR.

<sup>294</sup> Article 84(20) LAR.

Subsequent applications: 2022	
Country of origin	Number
Afghanistan	18
Iraq	16
Syria	12
Iran	9
Morocco	4
Stateless	7
Bangladesh	1
Pakistan	2
Türkiye	2
Central African Republic	2
Ukraine	3
Lebanon	1
Libya	1
Russia	1
Armenia	1
Egypt	1
Nigeria	2
DR Congo	1
Cote D'Ivoire	1
Myanmar	2

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 common practice.

## F. The safe country concepts

### Indicators: Safe Country Concepts

1. Does national legislation allow for the use of “safe country of origin” concept?  Yes  No
  - ❖ Is there a national list of safe countries of origin?  Yes  No
  - ❖ Is the safe country of origin concept used in practice?  Yes  No
2. Does national legislation allow for the use of “safe third country” concept?  Yes  No
  - ❖ Is the safe third country concept used in practice?  Yes  No
3. Does national legislation allow for the use of “first country of asylum” concept?  Yes  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.”<sup>295</sup> This concept is a ground for rejecting an application as manifestly unfounded in the [Accelerated Procedure](#).<sup>296</sup>

<sup>295</sup> Additional Provision §1(8) LAR.

<sup>296</sup> Article 13(1)(13) LAR.

National legislation allows for the use of a safe country of origin and safe third country concept in the asylum procedure.<sup>297</sup>

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.<sup>298</sup> 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.<sup>299</sup> When approving the lists, the government has to consider information sources from other Member States, the EUAA, 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.

## 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.”<sup>300</sup>

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](#).<sup>301</sup> 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.<sup>302</sup> 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

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<sup>297</sup> Article 13(1)(13)(14) LAR.

<sup>298</sup> See e.g. Supreme Administrative Court, Decision No 4854, 21 May 2002.

<sup>299</sup> Articles 98-99 LAR.

<sup>300</sup> Additional Provision §1(9) LAR.

<sup>301</sup> Article 13(1)(14) LAR.

<sup>302</sup> Article 13(1)(14) LAR.

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.<sup>303</sup> 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.

## 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.<sup>304</sup> 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. 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.

<sup>303</sup> Article 15(1)(6) LAR.

<sup>304</sup> Article 58(8) LAR.

at the border) until the registration process is finished.<sup>305</sup> Since end of 2017, information boards are placed in all reception centres, indicating the respective movement zones applicable for the asylum seekers there accommodated, to reflect the needs following the 2015 reform of the LAR (see [Freedom of Movement](#)).<sup>306</sup> SAR centres 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.<sup>307</sup> 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.<sup>308</sup> 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.<sup>309</sup>

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, information should be provided in a language that they understand.<sup>310</sup> This obligation was not met in 2020 and 2021. In 2022, UNICEF developed for SAR special videos in Arabic and Farsi/Dari/Pashto languages targeting as audience the unaccompanied asylum seeking and refugee children. The videos aim to promote the specialized childcare facilities (ЛНСТ) where the children should be accommodated after the recognition, but also can be accommodated during the asylum procedure. Since mid-2022, the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЛНСТ). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to wait the reunification with their parents or other family members in SAR reception centres.<sup>311</sup> However, the majority of the children hesitate to leave the familiar conditions of the reception centres. Therefore, the videos showcase other children who have been already accommodated in specialized childcare facilities who share their positive experience thus assisting to mitigate the existing prejudice among the children in reception centres and their anxiety of the unknown.

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

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<sup>305</sup> EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

<sup>306</sup> Article 29(1)(2) LAR.

<sup>307</sup> Information provided by the Protection Working Group, 29 November 2016.

<sup>308</sup> 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.

<sup>309</sup> Bulgarian Helsinki Committee, *2020 Annual RSD Monitoring Report*, 31 January 2021.

<sup>310</sup> Art. 45d (3) LAR.

<sup>311</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

kind of information is also provided orally to the asylum seekers by BHC or the Red Cross. In 2018, the information on [asylum.bg](http://asylum.bg) – the online accessible tool, whose development was funded in 2014 by UNHCR - was revised and made available in audio version for illiterate users. In 2022, an additional [section on temporary protection](#) in Ukrainian was added; until the end of the year, it generated over 28,337 views.

## 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.<sup>312</sup> Despite that, the subject remains difficult to explain, and an extremely high percentage of asylum seekers claim not to understand the reasons for which they are held in detention.

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.<sup>313</sup> The information should at least include how one can apply for asylum and the 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. In practice, however, interpretation services are not secured by the authorities, 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 borders, is transposed in the national law,<sup>314</sup> in practice there are no other NGOs besides the Bulgarian Helsinki Committee which provide regular legal assistance in these areas. Other NGOs such as Centre 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, to also provide legal counselling on status determination procedure to asylum seekers in reception centres and to irregular migrants in detention centres regarding assisted voluntary return. This assistance however is not conditioned by requirements about the qualifications of assistance providers and is ensured by shifting mobile teams on a weekly schedule. During the period 202-2021 IOM restricted its visits to detention centres in Busmantsi and Lyubimets, while during 2022 its reception rooms remained locked with no services provided.

<sup>312</sup> 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.

<sup>313</sup> Article 58(6) LAR; Article 8(1) recast Asylum Procedures Directive.

<sup>314</sup> Article 23(3) LAR.



Concerning urban asylum seekers and refugees living in the **Sofia** region, UNHCR has funded an Information Centre, run by the Red Cross along with an Information Bureau for Third Country Nationals, co-funded by Sofia Municipality, both located in Sofia. In 2022, 992 asylum seekers and beneficiaries of international protection (438 individuals at the Information Centre; 554 at the Information Bureau) were provided 1,494 consultations and different types of information (654 consultations at the Information Centre; 842 consultations at the Information Bureau).<sup>315</sup>

From mid-April to the end of May 2022, UNHCR and UNICEF gradually opened Blue Dot services at two main border entry points in Ruse and Durankulak as well as in the rest of the major hot-spots in Sofia, Varna, Dobrich and Burgas, which after the beginning of the war in Ukraine received and hosted large number of refugees.<sup>316</sup> Blue Dots expand the assistance provided by national government and are organized in coordination with state authorities and other partners along key transit routes and destinations to help children and families in need. The services are provided in partnership with local NGOs such as the Red Cross, the Helsinki Committee, the Council of Refugee Women and representatives from the refugee community. The Blue Dots are safe spaces and one-stop hubs for protection and essential services, rolled out in countries hosting refugees from Ukraine (including Poland, Romania and Moldova) to provide key protection and social services including information, legal counselling, psychological support, identification and referrals for children, women, families, and other people and groups exposed to specific heightened risks as they flee the conflict in Ukraine. The so-called “Light Blue Dots” – posters, providing key information, are located at the two main entry points along the Bulgarian northern border with Romania, Ruse and Durankulak, where most arrivals are registered. The posters provide information in Ukrainian, Russian and English and refer to the available telephone help lines and online resources.

## 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?<sup>317</sup>  Yes  No  
❖ If yes, specify which: Algeria, Bangladesh, Morocco, Pakistan and Tunisia

Except for the cases of Syrian nationals, over an extended period of time in Bulgaria the recognition rates of all other nationalities were below 8% on average, with nationals from certain countries of origin - such as Afghanistan and Türkiye - treated discriminatory as manifestly unfounded cases with extremely low recognition rates.<sup>318</sup> In 2022, the overall recognition rate increased to 91% of all decisions on the merits. Although the refugee recognition decreased to 2%,<sup>319</sup> the subsidiary protection rate (humanitarian status) increased significantly reaching 89%.<sup>320</sup> The rejection rate decreased to 9% of all decisions issued on the substance of asylum claims.<sup>321</sup> These ratios appear clearly connected to the main countries of origin of asylum seekers entering Bulgaria, 77% of whom were from Syria (42%) and Afghanistan (35%).

<sup>315</sup> Teleconference with the Red Cross, Refugee service deputy manager Violeta Galabova on 10 March 2023.

<sup>316</sup> UNHCR Bulgaria, UNHCR and UNICEF open Blue Dot support hubs for Ukrainian refugees in Bulgaria, 9 May 2022, available at: <https://bit.ly/3eCAxgq>.

<sup>317</sup> Whether under the “safe country of origin” concept or otherwise.

<sup>318</sup> AIDA Country Report on Bulgaria - 2021 update, 23 February 2022, [Differential treatment of specific nationalities in the procedure](#).

<sup>319</sup> Previous refugee recognition rates: 4% in 2021; 13% in 2020; 13% in 2019; 15% in 2018; 14% in 2017; 25% in 2016; 76% in 2015; 69% in 2014.

<sup>320</sup> Previous subsidiary protection rates: 57% in 2021; 47% in 2020; 15% in 2019; 20% in 2018; 18% in 2017; 19% in 2016; 14% in 2015; 25% in 2014.

<sup>321</sup> Previous rejection rates: 39% in 2021; 39% in 2020; 71% in 2019; 65% in 2018; 68% in 2017; 56% in 2016; 10% in 2015; 6% in 2014.

In the past, Turkish and Afghan nationals were subjected to unfair and discriminatory treatment with very low recognition rates with their applications overwhelmingly determined in accelerated procedure. In 2022 however, their situation improved, especially concerning Afghan applicants.

## 1. Afghanistan

From 2016 to 2021, Afghanistan has been the top country of origin of asylum applicants in Bulgaria. This changed in 2022, when the top country of origin became Syria. Yet, during this period of time, or arguably because of it, applications from Afghan nationals were arbitrarily considered as manifestly unfounded. They were predominantly channelled in the **Accelerated Procedure** and successively rejected, to the point that Bulgaria registered the lowest recognition rates for Afghans in Europe – 2.5% in 2016, 1.5% in 2017, 4% in 2019 and 1.8% in 2020. In the majority of cases, protection was granted following court decisions overturning the refusals of the asylum administration. The “striking discrepancy between the Bulgarian and the EU average recognition rate for Afghans” has been mentioned by the European Commission,<sup>322</sup> as well as jurisdictions in other Member States, as a matter of concern.<sup>323</sup>

During the second half of 2021, Afghan cases began to gradually change, with some high-profile cases and increased claims regarding personal risk of persecution. As a result, the annual recognition rate of Afghan applicants reached a national record of 10%, although still far below the average EU recognition rate.

In 2022 for the first time in a decade the Afghan applicants were treated non-discriminatory with 49% overall recognition rate (14% refugee recognition rate and 35% subsidiary protection rate) and 51% rate of rejection. Out of all 69 Afghan cases decided on their substance just 20% were dealt in accelerated procedure as manifestly unfounded, while in 2021 these were 86% of the decided cases, and 95% in 2020. Afghan applicants enjoyed a 49% overall recognition (14% refugee status and 35% subsidiary protection), with 51% rejection. The majority of them (95%),<sup>324</sup> however, continued to abscond before receiving a first instance decision, which was issued on the merits in just 0.7%<sup>325</sup> of the caseload.

## 2. Türkiye

Similar to the situation of Afghan asylum seekers, the applications for protection lodged by Turkish nationals were treated as manifestly unfounded and considered as originating from a “safe country of origin” for many years (from 2014 to 2021), notwithstanding the fact that the Bulgarian asylum system presently does not officially apply any of the safe country concepts.<sup>326</sup> Bulgaria has not adopted a list of “safe countries or origin” since 2001.<sup>327</sup>

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 were kept in immigration detention centres for the duration of their entire asylum procedure, in violation of national law. They were subsequently subject to negative decisions and deported back to Türkiye. In such cases, the immigration police made every effort to prevent Turkish detainees from accessing lawyers and legal advice. This practice has been publicly recognised and acknowledged by the former Prime

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<sup>322</sup> European Commission, *Measures for improvement of the Bulgarian asylum system*, 6 July 2017, available at: <http://bit.ly/2EudWMH>, 7.

<sup>323</sup> 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.

<sup>324</sup> 9,895 discontinued procedures out of all 10,414 Afghan applicants pending in 2022, of whom 7,164 applied in 2022 and 3,250 were pending from 2021.

<sup>325</sup> See, Table Statistics, page 7 of this report: 69 Afghan decisions on the merits.

<sup>326</sup> Bulgaria has not adopted a list of “safe countries or origin” since 2001; 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.

<sup>327</sup> The last national annual lists were adopted with Decision №205/19.04.2000 of the Council of Ministers, in which Türkiye was not enlisted as a safe country of origin nor as a third safe country.

Minister,<sup>328</sup> and seemed to be the result of an informal political agreement between the Bulgarian and Turkish governments.<sup>329</sup> It was 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.<sup>330</sup>

Therefore, the rejection rate of Turkish asylum seekers over the years was increasing to reach 100% both in 2018 and 2019. In 2020, just one Turkish national was granted protection in Bulgaria. In 2021, there were little changes for Turkish applicants despite the altered political situation. If not immediately readmitted, Turkish asylum seekers still faced a 92% rejection rate.

In July 2021, the European Court of Human Rights (ECtHR) ruled that Bulgarian authorities violated European human rights law by summarily returning a man to Türkiye, thus condemning the longstanding practice of denying Turkish refugees protection from persecution and handing them straight back to Türkiye.<sup>331</sup> On 8 July 2021 the MOI's General Border Police Directorate, UNHCR and the Bulgarian Helsinki Committee signed an annex to 2010 Tripartite Memorandum of Understanding including the readmission procedures in the scope of the national monitoring. The aim was to assist the third country nationals who wish to apply for asylum in Bulgaria to be safeguarded from refoulement perpetrated by the means of readmission, among whom the Turkish nationals were designated as a special target group.

In 2022, a gradual improvement in Turkish applicants' treatment was registered. Just 33% of cases were dealt as manifestly unfounded in accelerated procedure, while in 2021 these were 83% of the decided cases. Even so, the overall recognition rate they enjoyed quite modest, representing 16% of the total decisions (5% refugee status and 11% subsidiary protection), while the rejection rate remained significantly high (84% of the total).

### 3. Iraq

For many years Iraqi applicants enjoyed relatively fair assessments and an overall recognition rate ranging between 40% to 55% with respective refusal rate variations.<sup>332</sup> In 2017, however, their recognition dropped drastically. After some fluctuations in the following years, for 2021 it could be said that the situation further deteriorated, as their overall recognition rate dropped to 13% (8% refugee status, 5% subsidiary protection), corresponding to 87% rejection rate. 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 the country's conflict areas and war zones. Claims by applicants from Central and Southern Iraq are considered manifestly unfounded in general. In 2022, the situation changed and Iraqi applicants enjoyed 45% overall recognition (13% refugee recognition and 32% subsidiary protection rates) with a 54% rejection rate.

### 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 2022, Syrians continued to be the nationality with the highest recognition rate, reaching

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<sup>328</sup> Businessinsider, 'Strasbourg Court Quizzes Bulgaria over Gullenists Extradition', 25 April 2018, available at: <https://bit.ly/2S0ZPGU>.

<sup>329</sup> 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>.

<sup>330</sup> 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>.

<sup>331</sup> ECtHR, *D v. Bulgaria* (application №29447/17), Judgement of 20 July 2021. See also: ecchr.eu, 'European Court of Human Rights: Bulgaria's pushback practice violates human rights', 20 July 2021, available at: <https://bit.ly/3niDVyf>.

<sup>332</sup> For example, in 2015: 22% refugee status, 20% subsidiary protection; 2016: 33% refugee status, 10% subsidiary protection.

99% overall - out of which 2% concerned the granting of refugee status and 97% the granting of the subsidiary protection, with just 1% rate of rejection. In 2022, out of 8,598 Syrian applicants, who submitted asylum claims in Bulgaria, nearly 51% (3,769 individuals) had their decisions issued within the duration of the year with a 99% recognition rate (2% or 65 refugee statuses, 97% or 3,651 subsidiary protection) and only 1% rejection rate (53 refusals).

## 5. Other nationalities

Applications of nationals from certain countries such as **Algeria, Bangladesh, Morocco, Pakistan,** and **Tunisia** are treated as manifestly unfounded and have low recognition rates, and zero recognition in the case of Algeria. In the majority of the cases for these nationalities, the status determination is conducted under an [Accelerated Procedure](#).

### Short overview of the reception system

- **Access to reception:** The national asylum agency SAR is the authority responsible for the reception of asylum seekers.<sup>333</sup> 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.<sup>334</sup> The right to accommodation applies to asylum seekers subject to Dublin, accelerated and general procedures.<sup>335</sup> Asylum seekers who submitted a subsequent application, and which were admitted to the determination procedure, are excluded from access to reception centres, food, accommodation and social support unless they are considered to be vulnerable.<sup>336</sup>
- **Reception centres:** SAR operates two types of collective reception facilities - transit centres and reception-and-registration centres.<sup>337</sup> 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 centres. Originally, the transit centres were designed to operate in border areas and to accommodate only the asylum seekers subject to the accelerated procedure, while the reception-and-registration centres had to accommodate those who have been admitted to a general procedure.<sup>338</sup> This difference was gradually erased with series of amendments from 2002 to 2015. Moreover, safe zones for unaccompanied children were recently opened, the first one in mid-2019, and then the second one in early-2020.<sup>339</sup> Both 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 with total capacity to accommodate 288 unaccompanied children are operated by the International Organisation for Migration (IOM) - Bulgaria and funded by the EC's financial instruments. However, none of the other reception centres, including the biggest one in Harmanli, provides a safe zone for unaccompanied children and capacity is thus insufficient. This becomes particularly problematic in situations of significant increase of the number of newly arriving unaccompanied children. In such cases, children are accommodated in mixed dormitories without proper care, safety and security measures. Accommodation outside the reception centres 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.<sup>340</sup> At the end of 2022, the new SAR management and UNICEF agreed on funding for a third safe-zone for unaccompanied children to be open in Harmanli reception centre,<sup>341</sup> which is expected to become operational at the end of 2023 after the completion of the necessary refurbishment and logistics.

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.<sup>342</sup> These concerns have not been entirely addressed as of the end of 2022.

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<sup>333</sup> Article 47(2) in conjunction with Article 48(1)(11) LAR.

<sup>334</sup> Article 68(1)(1) LAR.

<sup>335</sup> Article 29(2) LAR.

<sup>336</sup> Article 29(7) LAR.

<sup>337</sup> Article 47(2) LAR.

<sup>338</sup> Law on Asylum and Refugee, as adopted St.G. №54 from 31 May 2002.

<sup>339</sup> IOM, 'Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria', 29 May 2019, available at: <https://bit.ly/2RnAG7N>.

<sup>340</sup> Article 29(9) LAR.

<sup>341</sup> The SAR leadership was replaced in March-April 2022.

<sup>342</sup> 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.<sup>343</sup> 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.<sup>344</sup> 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.<sup>345</sup> 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.<sup>346</sup>

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 situations, the removal of their monthly financial allowance, and insufficient procedural safeguards regarding the assessment of claims and the granting of international protection.<sup>347</sup> Despite the period of time which has passed since the CAT report, there have been only moderate improvements in 2022 and

<sup>343</sup> Article 29(1) and (7) LAR.

<sup>344</sup> Article 29(1)(7) LAR.

<sup>345</sup> Article 40(3) LAR.

<sup>346</sup> National Commission for Consumers Protection, Payment Disputes Committee, Ref. №ЛJ-03-5033 from 1 September 2020.

<sup>347</sup> 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>.

all the findings remain valid to a great extent as of the end of 2022. (see [Conditions in reception facilities](#))

**Dublin procedure:** Certain asylum seekers channelled in an outgoing Dublin procedure are not automatically entitled to 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,<sup>348</sup> 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 formal request submitted by the arresting police department or security services.<sup>349</sup>

Regarding Dublin returnees, the treatment depends on how their individual case has developed in Bulgaria while they were not present in the country:

- In cases where the asylum claim under the Dublin procedure has been rejected *in absentia*, the applicant is treated as an irregular migrant 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 returnee's procedure in Bulgaria has only been discontinued while he or she was abroad, the asylum procedure is re-open and continues after his/her return. In 2021 the number of new arrivals in Bulgaria increased significantly by 55% adding to a previous increase by 212% in 2021. It increased their occupancy rate from 47% in 2021 to 77% on average in 2022.<sup>350</sup> Dublin returnees for whom the procedure can be reopened and continued are usually accommodated in an asylum reception centre upon request, although this depends on the occupancy in reception centres. The sole reason to avoid overcrowded reception centres in 2022 was the high absconding rate of Afghan applicants, which reached 95%<sup>351</sup>, while they represented the second largest country of origin after Syria. The main reason for Afghan absconding laid in almost ten-year period of low recognition rates varied from 0.1% to 1%, which demotivated them to remain in Bulgaria (see [Differential treatment of specific nationalities in the procedure](#)).

For more information on Dublin returnees' accommodation - see [2.7.The situation of Dublin returnees](#).

**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.<sup>352</sup> 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. In 2022, this affected a total of 48 subsequent applicants who received an inadmissibility decision. 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](#)).

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<sup>348</sup> Article 67a(2)(1) LAR.

<sup>349</sup> Article 67a(2)(2) LAR.

<sup>350</sup> 118<sup>th</sup> Coordination meeting held on 22 December 2022.

<sup>351</sup> 9,895 discontinued Afghan procedures out of all 10414 Afghan applicants pending in 2022 (7,164 applicants in 2022 and 3,250 applicants pending from 2021 as of 31 December 2021)

<sup>352</sup> Article 76b LAR.

## 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 2022 (in original currency and in €): None

According to the law, reception conditions 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 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.

From February 2015, the SAR 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.<sup>353</sup> In 2022, three meals per day were thus distributed to all asylum seekers accommodated in reception centres. The food distribution to adults is provided once a day, while for unaccompanied children the food is distributed three times a day in order to prevent the excess meals to be taken from them by the adults. Since 2017, the food has been delivered by catering services and the quality, but also quantity of the food became one of the most common complaints from asylum seekers, accommodated in reception centres, along with poor hygiene and dismal living conditions. (see [Conditions in reception facilities](#))

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.<sup>354</sup> However, the Supreme administrative 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.<sup>355</sup>

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.<sup>356</sup> These decisions should be issued in writing as all

<sup>353</sup> SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

<sup>354</sup> Bulgarian Helsinki Committee, Bulgarian Council on Refugees and Migrants, and Council of Refugee Women. Article 29(8) LAR.

<sup>356</sup> Article 51(2) LAR.



other acts of administration,<sup>357</sup> 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 for 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 based on the monetary indicator of the national poverty threshold. From 1 January 2022 and up to the moment, this threshold is at BGN 413, equivalent to 211.22€ monthly.<sup>358</sup> The law defines as “basic needs” sufficient food, clothing and housing provided according to the national socio-economic development.<sup>359</sup> The risk of destitution is not formally assessed but the SAR takes it into account in the majority of cases.

Bulgaria does not apply sanctions for serious breaches of the rules of accommodation centres and violent behaviour, except for destruction of a reception centre’s property, which is sanctioned with a fine between 50 to 200 BGN (25.50-102 €) plus the value of the destroyed property.<sup>360</sup> 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.<sup>361</sup> 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.<sup>362</sup>

Consecutive failure to observe the zone limitation can result in placement in a closed centre until the asylum procedure ends with a final decision.<sup>363</sup> From September 2017, the government formally designated the “movement zones”.<sup>364</sup> These consist of zones covering designated geographical areas around the respective reception centres. The following map illustrates the zone around **Sofia**:

<sup>357</sup> Article 59(2) Administrative Procedure Code.

<sup>358</sup> Council of Ministers, Decision No 286 of 19 August 2021 adopting the 2022 national poverty threshold.

<sup>359</sup> Article 1(1) Law on Social Assistance.

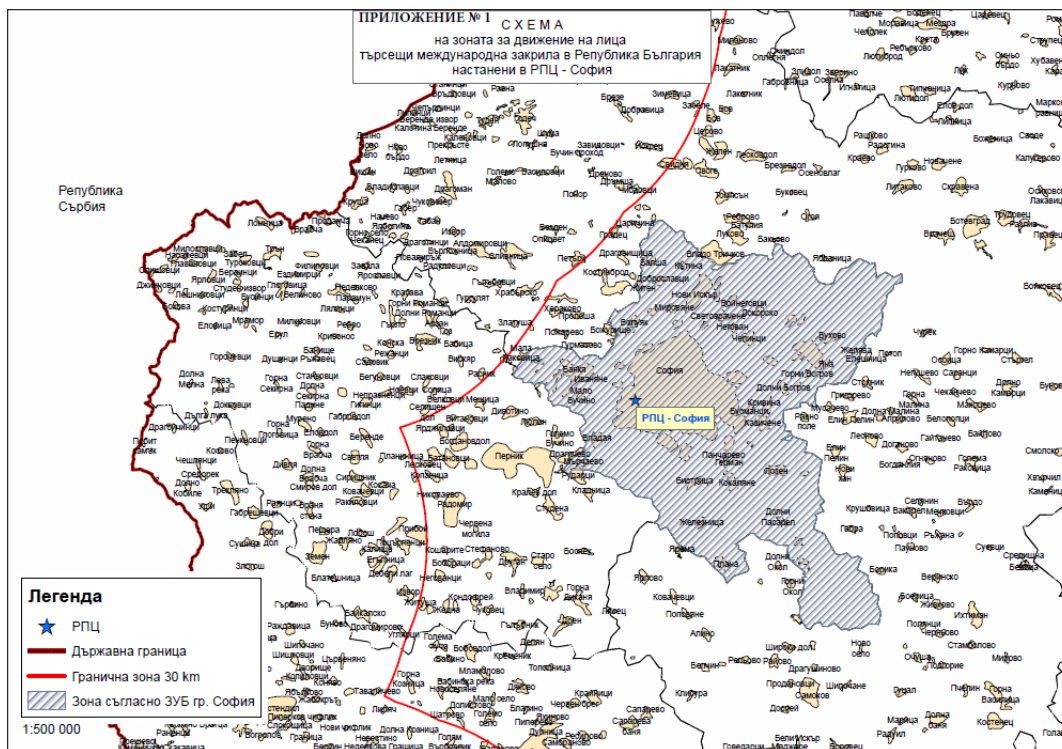
<sup>360</sup> Article 93 LAR.

<sup>361</sup> Article 30(2) and (3) LAR.

<sup>362</sup> Article 44(1)(11) LAR.

<sup>363</sup> Article 95a LAR.

<sup>364</sup> Council of Ministers, Decision No 550 of 27 September 2017.



At the end of 2017, information boards were placed in all reception centres indicating the respective movement zones applicable for the asylum seekers accommodated therein. However, since then, the SAR has not applied this as a ground for detention in a closed centre. In 2022, the SAR did not apply asylum detention based solely on the person's attempts to leave Bulgaria (0 cases registered throughout the year).

## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres: 365 4
2. Total number of places in the reception centres: 5,160
3. Total number of places in private accommodation: 405<sup>366</sup>
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 2022, there were 4 reception centres in Bulgaria. The total capacity as of 31 December 2022 was as follows:

<sup>365</sup> Both permanent and for first arrivals. Note that the Refugee Reception Centre Sofia has 3 reception shelters, namely Ovcha Kupel, Vrazhdebna and Voenna Rampa.

<sup>366</sup> The government does not provide accommodation for asylum seekers in private lodgings. This figure refers to the number of asylum seekers who opted to live outside reception centers in private lodgings paying rent at their own expense.

Reception centre	Location	Capacity	Occupancy end 2020	Occupancy end 2021	Occupancy end 2022
Sofia	Sofia	2,060	463	742	1,047
<i>Ovcha Kupel shelter</i>		860	54	220	615
<i>Vrazhdebna shelter</i>		370	154	168	184
<i>Voenna Rampa shelter</i>		800	249	343	236
<i>Closed reception ward in Busmantsi</i>		30	6	11	12
Banya	Central Bulgaria	70	36	93	53
Pastrogor	South-Eastern Bulgaria	320	46	261	134
Harmanli	South-Eastern Bulgaria	2,710	487	1,381	1,178
<b>Total</b>		<b>5,160</b>	<b>1,032</b>	<b>2,447</b>	<b>2,412</b>

Source: SAR. Please, note that the occupancy rate includes asylum seekers accommodated in the closed reception ward within the premises of Busmantsi immigration detention centre - a closed type asylum facility under the SAR's jurisdiction.

For many years, SAR's claimed that the maximum capacity of its reception centres was of 5,160 individuals.<sup>367</sup> However, in December 2022 the new SAR management shared<sup>368</sup> that the actual reception capacity was up to 3,932 individuals maximum, since the remaining 1,228 places were located in premises unfit for living, considering also that in the end of 2021 SAR did not plan to destine funds for repair or refurbishment.<sup>369</sup> Temporary protection holders were not accommodated in SAR reception centres as due to the large number of arrivals their housing was secured outside them under a Humanitarian Aid Program<sup>370</sup> adopted in March by the regular government (see [Temporary Protection](#)). Notwithstanding the increase by 85% compared to 2021 of asylum seekers originating from other countries, mainly Syria and Afghanistan, further worsened the situation regarding reception capacity, also due to the fact that SAR's 2022 budget for accommodation, food, medical and other key assistance was calculated based on a forecast of up to 10,000 individuals,<sup>371</sup> while the real number of newly arrived asylum seekers during the year was twice the estimated figure.<sup>372</sup> The sole factor that prevented overcrowding in reception centres in 2022 was the high absconding rate of Afghan applicants, which reached 95%,<sup>373</sup> while they represented the second largest country of origin after Syria. The main reason for the extremely high absconding rate is likely attributable to the almost ten-year period of low recognition rates (varying between 0.1% and 1%), which discouraged them from remaining in Bulgaria. This discriminatory approach however began to turn in 2022 (see [Differential treatment of specific nationalities in the procedure](#)), which might motivate more Afghan applicants to remain until their first instance decisions are issued. This, however, could further aggravate the situation in terms of national reception capacity.

<sup>367</sup> 110<sup>th</sup> Coordination meeting held on 10 January 2022.

<sup>368</sup> 118<sup>th</sup> Coordination meeting held on 22 December 2022.

<sup>369</sup> SAR, reg. No.PD05-72 from 26 February 2023.

<sup>370</sup> COM No.145 from 10 March 2022.

<sup>371</sup> SAR, reg. No.PD05-72 from 26 February 2023.

<sup>372</sup> 2021: 10,999 asylum seekers; 2022: 20,407 asylum seekers.

<sup>373</sup> 9,895 discontinued Afghan procedures out of all 10,414 Afghan applicants pending in 2022 (7,164 applicants in 2022 and 3,250 applicants pending from 2021 as of 31 December 2021)

2,412 asylum seekers resided in reception centres as of the end of 2022, thereby marking an occupancy rate of 61%.

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, **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.

Alternative accommodation outside the reception centres is allowed under the law, but only if it is paid by asylum seekers themselves and if they have consented to waive their right to social and material support.<sup>374</sup> 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.<sup>375</sup> Except for the few asylum seekers who are able to finance private accommodation on their own, another group of individuals living at external addresses is that of 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](#)).<sup>376</sup> As of 31 December 2022, 890 asylum seekers lived outside the reception centres under the conditions as described above.<sup>377</sup>

## 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? 1 to 18 months
3. Are unaccompanied children ever accommodated with adults in practice?  Yes  No

### 2.1. State of the facilities

Since 2015 conditions in national reception centres in general have been deteriorating and as a whole, substandard, with support limited to accommodation, nutrition and rudimentary medical help without provision of psychological care or assistance.<sup>378</sup> 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. Except Vrazhdebna shelter and the two safe zones for unaccompanied children in Sofia reception centre, all the other SAR shelters and centres during this seven-year period were maintained solely in a survival mode and have been experiencing recurring problems with the infrastructure and the material conditions, at some instances failing to provide even the most basic services including adequate amenities for personal and community spaces hygiene. Regular water, hot water, repair of utilities and equipment in bathrooms, rooms and common areas remain problematic. Vermin infestation, such as bedbugs, lice, cockroaches and rats also remain among the most persisting problems in reception centers for many years. Occupants from all reception centres, except in **Vrazhdebna**, have complained about the poor sanitary conditions, especially

<sup>374</sup> Article 29(9) LAR.

<sup>375</sup> Ibid.

<sup>376</sup> Article 29(4) LAR.

<sup>377</sup> Ministry of Interior, *Migration statistics*, 28 December 2022.

<sup>378</sup> See, AIDA Country Updates on Bulgaria: Forth Update from October 2015, 2016 Update from February 2017, 2017 Update from February 2018, 2018 Update from January 2019, 2019 Update from February 2020, 2020 Update from February 2021 and 2021 Update from February 2022.

regarding soiled mattresses infested with bedbugs which regularly cause health issues, i.e. constant skin inflammations and allergic reactions. This problem arose after 2013 and has been continuously neglected until 2022. Monthly disinfection, pest control and desacarization began in May 2022,<sup>379</sup> on the basis of contracted services for a period of 12 months and was regularly carried out in all reception centers. However, crumbling buildings and poor sewage and bathroom conditions prevented any significant improvements in this respect and kept sanitation levels to, or below, the necessary minimum.

The running costs for medicines and medical supplies, Bulgarian language courses as well as urgent maintenance and refurbishment were met only to the extent of the remaining funds of a SAR AMIF project, which, however, ended on 31 December 2022. No tenders for supply of clothes, shoes or other basic items were held by the SAR due to the lack of any funds planned or secured for these necessities in its annual budget.<sup>380</sup> In order to be able to meet these needs at least partially the SAR had to negotiate nine separate donor agreements throughout the year with different agencies, organizations and individuals, e.g. food products (Food Bank), mattresses, pillows, blankets, bed linen and hygiene packages (UNHCR with BGN 700,000 donation), medicines and medical supplies (Red Cross), textbooks and other school items (Caritas), toys and other children's items (UNICEF).<sup>381</sup>

## 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 meals are served a day. Both the quality and quantity of the food is regularly criticised by asylum seekers.

Asylum seeker's nutrition in reception centres is provided under catering arrangements. In mid-2022, the catering contract started in 2020 expired. The new contracts, valid for a period of two years, agreed on BGN 6.00, equal to EUR 3.06 value for three daily meals, the lowest price condition within an already scarce SAR budget. These catering contracts will expire at the end of 2023, but just in 2022 the rate of inflation reached +17%.<sup>382</sup> Towards the middle of the year, it forced the SAR's new management to look for donations to secure the food provision of asylum seekers accommodated in its reception centres, for example – from 12 April to 15 May, the food in the largest Harmanli reception centre was provided entirely through donations. Apart from the mobilization of donors, the other factor that prevented asylum seekers hosted in reception facilities to suffer from malnutrition, was the above-mentioned high absconding rate of Afghan applicants, that would otherwise have also had access to reception conditions. This is particularly relevant as this nationality represents the second largest (7,164 individuals) in 2022 after Syrian applicants (8,598 individuals).

As already mentioned, the individual monthly allowance provided for in the law is not corresponded 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 SAR to address them through different approaches. (see 2.1. State of facilities, last paragraph)

The running costs for medicines and medical supplies in 2022 were met only to the extent of the remaining funds of a SAR AMIF project, which, however, ended on 31 December. Preventive measures against the widespread infectious diseases, such as scabies and pyoderma, as well as provision of personal hygiene and treatment packages in 2022 were delivered through donations. Due to lack of budget, the Red Cross provided the major part of the necessary medicines. The country's fundamental shortage of general practitioners was the main reason the medical care of asylum seekers was mainly carried out in the surgeries organised in Sofia and Harmanli reception centres with a total of 29,071 outpatient examinations

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<sup>379</sup> SAR, reg. No. PД05-72 from 26 February 2023.

<sup>380</sup> Ibid.

<sup>381</sup> Ibid.

<sup>382</sup> National Statistical Institute, available in Bulgarian at: <https://bit.ly/3KMYHT5>.

until the end of the year.<sup>383</sup> However the access of asylum seekers to repeated and specialized medical treatment remained impeded.

### 2.3. Activities in the centres

Places for religious worship are available in all 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 previous years, Caritas continued to carry out language training and leisure activities for the children in the reception centres in **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 centres in **Harmanli** (Red Cross) and **Sofia** and **Banya** centres (Nadya Centre).

The Red Cross maintained several language courses throughout the year including such organised after the working hours and during weekends for the needs of employed individuals. All children accommodated in the centres were supplied with laptops, purchased in 2021 by the Red Cross with AMIF co-funding, to secure children's online access to primary and secondary education. In 2022 none of these laptops could be located by the new management of the SAR.<sup>384</sup>

### 2.4. Physical security

The most serious concern among all remained the safety and security of asylum seekers accommodated in the reception centres. Except for **Vrazhdebna** shelter in Sofia, the security of asylum seekers accommodated in reception centres is not fully guaranteed. Personal safety and security continue to be seriously compromised due to the presence of smugglers, drug dealers and sex workers who have access to reception centres during the night hours without any interference from the contracted security staff. Starting from May, the SAR began monthly security inspections along with targeted checks following separate security or public disorder complaints.<sup>385</sup> During the period from 1 April to 23 December, SAR reported<sup>386</sup> to have held numerous meetings with the security company's management in attempt to mitigate the security concerns and address the identified security failures, including missing guards at some of the designated posts.<sup>387</sup> In August, the non-governmental organisations raised alarm demanding concrete measures to ensure the personal safety in reception centres.<sup>388</sup> After that, the SAR submitted several requests to the Ministry of Interior to provide police guards in replacement of private security of reception centres, but all requests were rejected,<sup>389</sup> both by the Interior Minister of the regular government and from the new Minister within the caretaker cabinet. A police detail is granted only in the largest Harmanli reception centre, which, however, is just one and located at the central entrance, therefore insufficient to ensure the safety and security of nearly 4,000 individuals accommodated in. The rest of the reception centres continue to be guarded by private security companies, which for the purposes of cost effectiveness usually employ as guards predominantly men of retirement age or above and therefore, therefore security services are rather formal than real.

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 daily. However, there is an ongoing competition among asylum seekers to be accommodated in premises/rooms found to be in a better condition than others, thus corruption among SAR staff, who deals with accommodation issues, is widespread. For example, in February 2023 the BHC office in Harmanli reception center received

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<sup>383</sup> Ibid.

<sup>384</sup> SAR, reg. No.РД05-72 from 26 February 2023.

<sup>385</sup> Ibid.

<sup>386</sup> Ibid.

<sup>387</sup> Ibid.

<sup>388</sup> Bulgarian Helsinki Committee, reg.No.Б-67 from 4 August 2022.

<sup>389</sup> SAR, reg. No.РД05-72 from 26 February 2023.

reports that a former SAR employee continued to collect without problems a “monthly rent” of 50.00€ from asylum seekers accommodated in the container compartment within the centre.

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.<sup>390</sup> In December 2022, the SAR reported to have its reception occupancy at 61%, i.e. 2,412 occupants out of 3,932 available places,<sup>391</sup> compared to 2,447 occupants at the end of 2021; 1,032 occupants at the end of 2020, and 461 occupants at the end of 2019.

## 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? ❖ If yes, when do asylum seekers have access the labour market?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 3 months
2. Does the law allow access to employment only following a labour market test?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Does the law only allow asylum seekers to work in specific sectors? ❖ If yes, specify which sectors	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Does the law limit asylum seekers’ employment to a maximum working time? ❖ If yes, specify the number of days per year	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Are there restrictions to accessing employment in practice?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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.<sup>392</sup> 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,<sup>393</sup> 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.<sup>394</sup>

In 2022, the SAR issued 302 labour permits to asylum seekers pending status determination who were looking to support themselves while their asylum claims were being processed.<sup>395</sup> Out of them, only 12 asylum seekers, and 5 beneficiaries of protection were employed. Among them, only 1 beneficiary of protection and 10 asylum seekers did so through employment programs, while the rest found work independently and on their own initiative.<sup>396</sup> At the same time, a total of 2,214 persons with temporary protection were employed, of whom 191 persons found work independently, 16 persons through

<sup>390</sup> Article 29(4)-(9) LAR.

<sup>391</sup> 118<sup>th</sup> Coordination meeting held on 22 December 2022.

<sup>392</sup> Article 29(3) LAR.

<sup>393</sup> 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>.

<sup>394</sup> Article 39(1)(2) LAR.

<sup>395</sup> SAR, reg. No. №PД05-40 from 16 January 2023.

<sup>396</sup> Employment Agency, reg. No. PД08-13 from 6 January 2023.

employment programs and 2,007 persons under schemes of the EU OP Human Resources Development program.<sup>397</sup>

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. Comprehensive statistics on the number of asylum seekers in employment is not collected, except for those officially registered as seeking employment. In 2022, only 4 status holders and 2 asylum seekers and 191 temporary protection holders were registered as job seekers.<sup>398</sup>

## 2. Access to education

### Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children?  Yes  No
2. Are children able to access education in practice?  Yes  No

Access to education for asylum-seeking children is provided explicitly in national legislation without an age limit.<sup>399</sup> 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 school grade 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. The increasing number of applicant children prompted more focus on their education. Overall 229 applicant children started the school year in Bulgaria,<sup>400</sup> including – for the first time – 7 first-graders. SAR organised the daily commute to and from the school with civil society organisations stepped in to support children with preparatory and catch-up classes.<sup>401</sup>

In 2021 all children accommodated in the centres 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. However, none of these laptops could have been located in 2022 by the new management of the SAR.<sup>402</sup>

Asylum-seeking children with special needs do not enjoy alternative arrangements other than those provided for Bulgarian children.<sup>403</sup>

Moreover, asylum-seeking children may be detained in closed reception centres or facilities following the detention of their parents.<sup>404</sup> This could deprive children of their right to education as accommodation in 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 the right to access vocational training. Practical obstacles may be encountered by asylum seekers in relation to access to universities as they have difficulties to provide proof regarding diplomas already acquired in their respective countries of origin. This is due to a lack of relevant information on diplomas. The academic autonomy of Bulgarian universities largely prevented the adoption of common government rules that would allow facilitated access for

<sup>397</sup> Ibid.

<sup>398</sup> Employment Agency, reg. No. PД08-13 from 6 January 2023.

<sup>399</sup> Article 26(1) LAR.

<sup>400</sup> SAR, 118<sup>th</sup> Coordination meeting held on 22 December 2022.

<sup>401</sup> EUAA, Annual Asylum Report (2022), available at: <https://bit.ly/3JbdHYK>.

<sup>402</sup> SAR, reg. No. PД05-72 from 26 February 2023.

<sup>403</sup> National Integration Plan for Children with Special Needs and/or Chronic Illness, adopted with Council of Ministers Ordinance No 6, 19 August 2002.

<sup>404</sup> Article 45e LAR.



beneficiaries of international protection, taking into account their special circumstances and limited possibility to obtain official documents from their countries of origin.

## 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.<sup>405</sup> Under the law, the SAR has the obligation to cover from its budget the health insurance fees of asylum seekers.

In practice, asylum seekers have access to available health care services, but do face the same difficulties as Bulgarian nationals due to the general state of deterioration in the 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, medical assistance cannot be accessed if 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. 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.<sup>406</sup> 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. In practice, Dublin returnees whose procedures were reopen experience delays of a couple of months before being able to re-access the health care system.

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.

Bulgaria's fundamental shortage of general practitioners is the main reason the medical care of asylum seekers is mainly carried out in the surgeries organised in Sofia and Harmanli reception centres.

Basic medical care in reception centres is provided either through own medical staff or by referral to emergency care units in local hospitals. Also, in the framework of an AMIF project supported by Caritas in partnership with UNICEF, a new mobile ambulance unit operated in Sofia with a nurse providing

<sup>405</sup> Article 29(1)(5) LAR.

<sup>406</sup> Article 29(8) LAR.

health counselling and basic medical care, and an ambulance available to transport patients to health facilities.<sup>407</sup>

A total of 29,071 outpatient examinations were implemented in the reception centres' surgeries until the end of 2022.<sup>408</sup> However the access of asylum seekers to following and specialized medical treatment remained impeded.

## 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.<sup>409</sup> 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.<sup>410</sup>

There are no specific measures either in law or in practice to address the needs of these vulnerable categories, except for some additional practical arrangements in place to ensure the provision of medication or nutrition necessary for certain serious chronic illnesses, e.g. diabetes, epilepsy, etc. The law only requires that vulnerability has to be taken into account when deciding on accommodation, but this is applied discretionally, and no guidelines on the application of such a criterion are provided by the SAR. 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.<sup>411</sup> 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, an 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.<sup>412</sup>

In 2022, the overall lack of due vulnerability assessment and identification remained the most significant omission during the asylum procedure.<sup>413</sup> Monitoring in 2022 established that needs assessment was conducted in 67% (145 of 350 cases) when vulnerability or special needs were actually established.<sup>414</sup> However, only in 18% of all these cases the files of vulnerable asylum seekers contained vulnerability identification and needs assessment, and only in 7% of them the files contained an attached support plan. In none of these cases (0%) the identified vulnerability was taken into account in the first instance decision. In the remaining 33% of the cases the registration of asylum seekers was carried out without the presence of a SAR social expert and without any guarantees for early identification of their vulnerabilities, if such existed. However, unaccompanied children's files continue to lack the mandatory social report by the respective statutory child protection service from the Agency for Social Assistance (ASA). It has been confirmed that these reports are prepared in practice, but only a very few are shared

<sup>407</sup> EUAA, Annual Asylum Report (2022), available at: <https://bit.ly/3JbdHYK>.

<sup>408</sup> SAR, reg. No. PД05-72 from 26 February 2023.

<sup>409</sup> Additional Provision 1(16) LAR.

<sup>410</sup> Additional Provision 1(17) LAR.

<sup>411</sup> Article 29 SAR Internal Rules of Procedure; SAR, Internal Rules of Procedure for assessing and granting international protection, adopted on 17 December 2018.

<sup>412</sup> Early Identification and Needs Assessment form (ФИОН), Individual Support and Referral Plan form (ФИПП) and Social Consultation form (ФСК).

<sup>413</sup> Ibid.

<sup>414</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

with the case workers. The social reports, if properly prepared and communicated, could play a vital role not only in the asylum procedure, but also after it to outline the measures which need to be taken with respect to the child depending on the outcome of the procedure – rejection or recognition. Such mandatory social reports with needs assessment in 2022 could be found just in 24% of the monitored children’s files.<sup>415</sup> Moreover, only 1 of these reports contained a proper risk assessment, while the rest were purely formal. Thus, in practice the vulnerability assessment is still missing in 33% of the monitored cases. Additionally, needs assessment as well as planning and provision of support measures with respect to applicants with identified vulnerabilities are carried out yet sporadically than systematically.

An applicant’s belonging to a vulnerable group has to be taken into account by the authorities when deciding on accommodation.<sup>416</sup> In practice, except the two safe-zones for unaccompanied children other separate facilities for vulnerable applicants, 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,<sup>417</sup> 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 2022, no progress was achieved in this regard. (see section on [Identification](#)).

A safe zone for unaccompanied children in the refugee reception centre (RRC) of Sofia at the **Voenna Rampa** shelter with capacity to accommodate 150 children is available since mid-2019,<sup>418</sup> 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 2021. A second safe-zone at the RRC Sofia, in the **Ovcha Kupel** shelter, opened on 20 January 2020 with capacity to accommodate 138 children hosts primarily children originating from Arab speaking countries. Both safe-zones are operated by the International Organisation for Migration (IOM) Bulgaria and funded by AMIF, and their operativity was extended until the end of 2022. 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 due to 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. Many also complain that their food or possessions are often taken by the adults with whom they live together. At the end of 2022, the new SAR management<sup>419</sup> and UNICEF agreed on funding for a third safe-zone for unaccompanied children to be open in Harmanli reception centre, which is expected to become operational at the end of 2023 after the completion of the necessary refurbishment and logistics.

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.<sup>420</sup> In practice, none of these opportunities was used or applied until 2022, when the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЦХСТ). During the procedure such efforts were

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<sup>415</sup> Ibid.

<sup>416</sup> Article 29(4) LAR.

<sup>417</sup> 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>.

<sup>418</sup> IOM, ‘Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria’, 29 May 2019, available at: <https://bit.ly/2RnAG7N>.

<sup>419</sup> The SAR leadership was replaced in March-April 2022.

<sup>420</sup> Article 29(10) LAR.

undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to wait the reunification with their parents or other family members in SAR reception centres.<sup>421</sup> As a result of this positive practice, a total of 26 unaccompanied children were accommodated during the course of the year in specialized childcare centres, of whom 2 were asylum seeking children and 24 children granted international protection. Altogether ten licensed childcare centres have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare centre's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account.

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 Centre for unaccompanied children, proposed and endorsed by UNICEF and UNHCR. As far as until 31 December 2021 this centre was not established the donor withdrew the funding.

In 2021, 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 17 arrived by the end of 2021 and were accommodated in a specially prepared unit in Harmanli reception centre.

## 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).<sup>422</sup> In 2014, both agencies agreed that the SOPs need to be updated,<sup>423</sup> as they have never been applied in practice, but also to include other categories applicants with special needs. At the end of 2021, SAR endorsed the revisions, but the NGOs monitoring could not confirm any implementation of the SGBV SOPs in practice during 2022.<sup>424</sup>

## 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 and rights and obligations of asylum seekers during procedures, as well as the organisations providing legal and social assistance.<sup>425</sup> 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

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<sup>421</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

<sup>422</sup> Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.

<sup>423</sup> UNHCR, *SGBV Task Force*, established on 15 February 2014.

<sup>424</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>425</sup> Article 58(8) LAR.

Committee in 2022 shows that oral guidance on determination procedures is provided by caseworkers in the majority of the cases (94%), with information brochures delivered in 77% of the cases.<sup>426</sup>

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](#)).<sup>427</sup> The web platform [asylum.bg](https://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.

In 2022, UNICEF developed for SAR special videos in Arabic and Farsi/Dari/Pashto languages targeting as audience the unaccompanied asylum seeking and refugee children. The videos aim to promote the specialized childcare facilities (ЦХСТ) where the children should be accommodated after the recognition, but also can be accommodated during the asylum procedure. Since mid-2022, the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЦХСТ). However, the majority of the children do hesitate to leave the familiar conditions of the reception centres. That is why the videos show-case other children who have been already accommodated in specialized childcare facilities who share their positive experience thus assisting to mitigate the existing prejudice among the children in reception centres and their anxiety in view of facing an unknown situation.

## 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.<sup>428</sup> Until the beginning of 2015, no limitations were applied in practice.

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 sex workers 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

Up to the moment, no cases of discrimination based on nationality was reported concerning the reception system. 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

<sup>426</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>427</sup> Article 45e(1)(5) LAR.

<sup>428</sup> Article 23(1) LAR.

applicants coming through the relocation scheme in 2015-2017 as well as for those resettled from Türkiye.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2022: <sup>429</sup>	15,262
2. Number of asylum seekers in detention at the end of 2022:	127
3. Number of detention centres:	3
❖ Pre-removal detention centres	2
❖ Asylum detention centres	1
4. Total capacity of detention centres:	760

There are two pre-removal detention centres in operation: **Busmantsi** and **Lyubimets**. An additional container-type detention centre with capacity for 1,750 individuals was built in **Elhovo** Regional Border Police Directorate premises with the objective to serve as a buffer in a situation of mass arrivals from the global South. In 2022 it was the regular government which first tried to use it as a transit centre for Ukrainian refugees.<sup>430</sup> This attempt was abandoned following widespread protests from the public and non-governmental organisations. On 16 November 2022, the caretaker government<sup>431</sup> officially designated Elhovo detention centre to serve as a transit centre for re-distribution of newly arrived Ukrainian refugees despite its utterly unsuitable conditions, including due to its remote location, and the repeated protests that such decision sparked.<sup>432</sup>

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 2022, 39 asylum seekers have been detained in the asylum closed facility, situated in the premises of the **closed reception ward (ПЗТ)** in the **Busmantsi** pre-removal centre, the only closed centre for that purpose. 8 asylum seekers were held there at the end of the year 2022.

Not all persons who apply for international protection when apprehended at the border or inland are directly detained. An exception is applied to unaccompanied children from July 2018, when a referral mechanism was promulgated in the law,<sup>433</sup> although in practice the police applies it only with respect to unaccompanied children who are visibly minor and below 14 years of age. In 2022, the Border police referred 79 children to childcare services.<sup>434</sup> Other exceptions from detention are arbitrarily applied by police authorities in cases where the border applicants have family members who are already in Bulgaria, when applicants provide valid documents, as well as when applicants have specific needs such as disabilities or infants.

Out of a total of 20,407 applicants registered in 2022, 15,262 individuals applied for asylum at border and immigration detention; just 2% had a direct access to asylum procedure without detention.<sup>435</sup>

There are several reasons for detention to be applied in most cases with respect to the third country nationals apprehended at the borders or inside the country's territory. Instructions are given by the State Agency for National Security (Държавна агенция "Национална сигурност", ДАНС/SANS) to all police authorities not to transfer anyone to open reception centres before screening and realisation of all security checks. Another reason is the situation at the border with Türkiye. Along this main entry border, those who are apprehended are either pushed back, or they are allowed to continue with their smugglers, board

<sup>429</sup> This figure includes *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention

<sup>430</sup> *dnes.bg, Временният център в Елхово е готов за бежанците, ето как изглежда*, available in Bulgarian at: <https://bit.ly/3l0ck73>.

<sup>431</sup> COM No. 980 from 16 November 2022.

<sup>432</sup> Bulgarian Helsinki Committee, *Кой настанява украинските бежанци в лагера за задържане на мигранти в Елхово?*, published on 4 November 2022, available in Bulgarian at: <https://bit.ly/3YACdYW>.

<sup>433</sup> LARB Regulations, amended with State Gazette No.57 from 10 July 2028, Articles 63k-63l.

<sup>434</sup> Ministry of Interior, *Migration statistics*, 28 December 2022.

<sup>435</sup> Bulgarian Helsinki Committee, *Monthly Situation Report for December 2022*, 3 January 2023: 49 applicants out of all 2,068 applicants at entry border.

on different vehicles, transit the country and exit without being stopped.<sup>436</sup> The direct access to asylum procedure is additionally hindered by the congested coordination between the police and the SAR to enable registration and accommodation of asylum seekers after 17:00 or during the weekends. From September 2015, the SAR began to operate shift schemes and on-call duty during the weekends in order to assist with the reception of asylum seekers referred by the police. This on-call scheme however was fully cancelled by the SAR from 2019 to mid-2022, when it was re-established and put into operation once again.

Detention of first-time applicants from the making of their application until their personal registration is systematically applied in Bulgaria and most asylum seekers apply from pre-removal detention centres for irregular migrants.<sup>437</sup>

Immigration detention in Bulgaria: 2015-2022								
Year	2015	2016	2017	2018	2019	2020	2021	2022
Total detentions orders	11,902	11,314	2,989	2,456	2,184	3,487	10,799	16,767

Out of the 704 persons being detained in immigration detention centres at the end of 2022, 127 were asylum seekers.<sup>438</sup>

## B. Legal framework for detention

### 1. Grounds for detention

**Indicators: Grounds for Detention**

1. In practice, are most asylum seekers detained

- ❖ on the territory:  Yes  No
- ❖ at the border:  Yes  No

2. Are asylum seekers detained in practice during the Dublin procedure?

Frequently  Rarely  Never

3. Are asylum seekers detained during a regular procedure in practice?

Frequently  Rarely  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:

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

The different grounds are often used in combination to substantiate detention orders in practice. 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.

<sup>436</sup> See, [Access to the territory and push-backs](#).

<sup>437</sup> 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).

<sup>438</sup> Ministry of Interior, *Migration statistics*, 28 December 2022.



## 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.<sup>439</sup> The law entered into force on 6 June 2018.<sup>440</sup> After the amendments, police 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.

Short-term detention orders were frequently applied by the police until the summer of 2022 when, in attempt to give proof to EU institutions of the readiness of Bulgaria to join the Schengen zone, the caretaker cabinet’s MOI management instructed on direct application of long-term detention orders - with initial period of 6 months - without any prior consideration of personal circumstances or submitted asylum claim.

In general, the immigration police implements very few removals of detained third country nationals on an annual basis. In 2022, out of 16,767 third country nationals issued a detention orders the MOI carried out 583 removals, which represented just 3% implementation rate.<sup>441</sup> The rest of the detainees had to be released either on account of submitted first asylum applications, or because the ordered initial 6 months detention duration has expired. The inability of MOI to implement the removals is attributed to the fact that the overwhelming majority of the third country nationals originate from Syria or Afghanistan,<sup>442</sup> to which removal or return are legally and/or practically impossible. These circumstances made the majority of the detention orders not only issued without a legitimate purpose, but also pointless from a practical point of view.

In May 2022, the European Court on Human Rights issued a judgment which found the Bulgarian authorities in violation of Article 5(1) of the ECHR relating the length of the detention as it did not appear that the authorities took any active steps to check the realistic prospects of the removal; and that the reasons which initially justified the detention were no longer valid throughout the period of the applicant’s deprivation of liberty in light of the authorities’ failure to exercise sufficient diligence in carrying out that measure, therefore giving rise to a violation of Article 5(1).<sup>443</sup>

## 1.3. Registration and determination of asylum seekers in immigration detention

The law does not allow the SAR to conduct any determination procedures in the pre-removal detention centres.<sup>444</sup>

However, as of 2018 the SAR began to register, fingerprint, and determine asylum seekers in pre-removal detention centres and to keep them there after issuing them asylum registration cards. The applicants release and access to asylum procedure was usually secured only by an appeal against detention and a court order for their release. In principle, this practice affected individuals who were deemed deportable for having valid passports or other original national identity documents. With the exception of subsequent applicants who are excluded by law from the right to remain in Bulgaria pending the admissibility assessment of their subsequent claims,<sup>445</sup> the asylum seekers processed in pre-removal detention centres were being determined by the SAR in an **Accelerated Procedure**, which stripped them of the right to an onward appeal and thereby prevents them from challenging the practice further before the Supreme Administrative Court. This malpractice was mostly supported by the courts, which found asylum

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<sup>439</sup> Article 44(13) LARB.

<sup>440</sup> 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>.

<sup>441</sup> Ministry of Interior, *Migration statistics*, 28 December 2022.

<sup>442</sup> Ibid.

<sup>443</sup> European Court on Human Rights and Fundamental Freedoms, application No.35422/16 Ali Reza v. Bulgaria, Judgement from 17 May 2022, available at: <https://bit.ly/3kYRu8a>.

<sup>444</sup> Additional Provision 5 LAR; Article 45b LAR.

<sup>445</sup> Article 76c(2) LAR.

procedures in pre-removal centres in violation of procedural standards, though this violation was considered insignificant one as the rights of asylum seekers were not severely affected.<sup>446</sup> 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.<sup>447</sup>

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*.<sup>448</sup>

In 2022, the new SAR management reversed and almost completely abandoned this malpractice,<sup>449</sup> with only 1 registration and only 1 determination conducted in **Busmantsi** detention centre.

## 1.4. 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:<sup>450</sup>

- (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.

In 2022, 39 asylum seekers were detained in the asylum closed facility, situated at the premises of the **closed reception ward (П3Т)** in the **Busmantsi** pre-removal detention centre, the only closed reception facility for that purpose. 8 asylum seekers were held there at the end of the year 2022. The grounds applied were verification of identity or nationality, and protection of national security or public order.

## 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 general *immigration law* (LAR) do not specifically target asylum seekers, rather all third-country nationals. The LAR was amended in 2017 to introduce new

<sup>446</sup> 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, 21<sup>st</sup> 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, 57<sup>th</sup> Division, Decision No 7499, Case No 11273/2018, 11 December 2018.

<sup>447</sup> Administrative Court of Sofia, Decision No 977, 16 February 2018.

<sup>448</sup> European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

<sup>449</sup> Bulgarian Helsinki Committee, *2022 Annual RSD Monitoring report*, 1.1.2. Procedure at the police detention centers, page 6, available at: <https://bit.ly/3Y3WzJJ>.

<sup>450</sup> Article 45b(1) LAR.

alternatives, namely:

1. Surrendering documents;<sup>451</sup>
2. Financial guarantee;<sup>452</sup>
3. Weekly reporting, already existing prior to the reform.<sup>453</sup>

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.<sup>454</sup> The situation did not change in 2022.

The *asylum law* (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.<sup>455</sup> 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 general immigration law, 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.<sup>456</sup>

The asylum law, 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.<sup>457</sup> 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,<sup>458</sup> 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, managed by the Ministry of Interior. 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

<sup>451</sup> Article 44(5)(3) LARB.

<sup>452</sup> Article 44(5)(2) LARB.

<sup>453</sup> Article 44(5)(1) LARB.

<sup>454</sup> Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, available at: <http://bit.ly/2jluOxS>, 21.

<sup>455</sup> Article 45a LAR.

<sup>456</sup> Article 44(9) LARB.

<sup>457</sup> Article 45f(1) LAR.

<sup>458</sup> Article 44(5) LARB.

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**. 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.<sup>459</sup> 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.<sup>460</sup> National jurisprudence has proved controversial and inconsistent in this regard, however.<sup>461</sup> Accordingly, at the end of 2017 the Ombudsperson assisted by the Bulgarian Helsinki Committee requested the Supreme Administrative Court to deliver mandatory interpretation of the law in this respect.<sup>462</sup> The case was finally administered in 2019 and a decision was finally issued on 29 March 2021. In its decision, the Supreme Administrative Court noted that children detained as a result of the detention of their accompanying adult have their own right to appeal against the detention decision. The court also clarified that the information provided by the police on the relationship between children and accompanying adults is not binding, and that the authorities ordering the detention can further assess the relationship.<sup>463</sup>

In 2021, the UN Subcommittee Prevention of Torture expressed concerns about the detention of children highlighting the need to ensure humane conditions for detained migrants, especially children, and that detention should only be used when strictly necessary.<sup>464</sup>

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.<sup>465</sup> The reform resulted in almost immediate change in the national police practices on detention of unaccompanied minor children below 14 years of age. In 2022, 79 unaccompanied children<sup>466</sup> were referred to child protection services without detention, all by the Border Police and none by the Immigration Police. Children are assisted by the police and child care services to apply for asylum, thus ensuring their free and direct 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 mechanism<sup>467</sup> 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.<sup>468</sup> The amendments are thus expected to put an end to

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<sup>459</sup> Additional clauses § 1(4) LAR.

<sup>460</sup> Article 44(9) LARB.

<sup>461</sup> See e.g. Supreme Administrative Court, 7<sup>th</sup> 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.

<sup>462</sup> Ombudsperson, Request No 11-78, 8 December 2017, available in Bulgarian at: <http://bit.ly/2DSflva>.

<sup>463</sup> Supreme Administrative Court, General Assembly, Case No.1/2019, 29 March 2021, available in Bulgarian at: <https://bit.ly/3FMWPUm>.

<sup>464</sup> OHCHR, Bulgaria torture prevention: UN experts concerned about migrant children in detention, published on 5 November 2021, available at: <https://bit.ly/423qKUI>.

<sup>465</sup> Council of Ministers, Decision No 129 of 5 July 2018, available in Bulgarian at: <https://bit.ly/2DpJHHK>.

<sup>466</sup> Ministry of Interior, *Migration statistics*, 28 December 2022.

<sup>467</sup> Article 28a LARB, St.G. №34/2019, enforced on 24 October 2019.

<sup>468</sup> 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.

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.<sup>469</sup> The draft methodology on age assessments was finalised and referred for adoption to the government. However, due to the political instability and repeated general elections during 2021 to 2023 the national legislative agenda was significantly congested, which prevented the endorsement of the draft. The latter was therefore still pending by 31 December 2022.

In 2022, 1,510 children were detained in pre-removal detention centres. Among them, the Bulgarian Helsinki Committee identified 870 unaccompanied children, including children detained as “attached” to an adult or wrongly registered as adults. However, another 2,848 unaccompanied children were safeguarded from detention due to the gradual improvement in implementation of the referral mechanism, regulated in the law. Thus, 74% of all unaccompanied children, who arrived in the country, were safeguarded from detention vs. 24% who unduly suffered it.<sup>470</sup>

#### 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 <sup>471</sup> |
| 2. In practice, how long in average are asylum seekers detained?           |                           |
| ❖ Short-term detention   | 6 days                    |
| ❖ Asylum detention   | 56 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.<sup>472</sup> Each consecutive extension is also issued for a minimum of 6 months until the 18-month limit is reached.

Short-term detention can be ordered for a maximum of 30 days.<sup>473</sup>

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.<sup>474</sup> 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,<sup>475</sup> the average detention duration decreased back to 9 days in

<sup>469</sup> LAR amendments, State Gazette No.89 from 16 October 2020, available in Bulgarian at: <https://bit.ly/2M5pyh6>.

<sup>470</sup> Bulgarian Helsinki Committee, *December 2022 UNICEF report*, 15 January 2023.

<sup>471</sup> Article 45d(1) LAR.

<sup>472</sup> Article 46a(3) and (4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.

<sup>473</sup> Article 44(13) LARB.

<sup>474</sup> Article 58(4) LAR.

<sup>475</sup> 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.*

2018 to increase again to 12 days in 2019 and decreased in 2020 to 8 calendar days and 7 calendar days in 2021 on average. In 2022 the average detention duration continued to decrease to 6 calendar days.

Average period of pre-removal detention pending registration (days)								
Year	2015	2016	2017	2018	2019	2020	2021	2022
Average detention period	10	9	19	9	12	8	7	6

Source: SAR, MOI, Bulgarian Helsinki Committee.

Out of the 8,592 persons applying from pre-removal detention, no 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 2022. It should 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.<sup>476</sup> 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 one case in 2018. The regular review of necessity as per the law is so far applied formally,<sup>477</sup> resulting in detained asylum seekers being released only following the engagement of legal assistance and representation.<sup>478</sup>

The average asylum detention duration in 2022 continued to decrease to 56 days on average in comparison to 86 days in 2021, and 91 days in 2020, although it remains far from the legal standard set in the law according to which detention should last for the “shortest period possible”. It has to be noted that this duration used to be quite extensive (252 days in 2019 and 192 days in 2018).

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

- 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
- 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.

<sup>476</sup> Article 45e LAR.

<sup>477</sup> Article 45d (2) LAR.

<sup>478</sup> Bulgarian Helsinki Committee, *Monthly Situation Report: December 2017*, 10 January 2018.

## 1.1. Pre-removal detention centres

There are 2 detention centres for irregular migrants in the country, totalling a capacity of 1,060 places. Due to the increased number of the new arrivals from 25 August to 19 November 2021, the Ministry of Interior reopened as auxiliary the former Elhovo Triage centre with a capacity 240 places. However, from August to November, the detention capacity increased to 1,300 places:

Pre-removal detention centres in Bulgaria			
Detention centre	Location	Capacity	Occupancy end 2022
Busmantsi	Sofia	400	494
Lyubimets	South-Eastern Bulgaria	660 <sup>479</sup>	210
<b>Total</b>		<b>1,060</b>	<b>704</b>

Source: MOI.

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,<sup>480</sup> **Elhovo** was thereupon used as an “allocation centre” or “triage centre” to detain asylum seekers apprehended at the land borders outside the official border checkpoint until its closure in February 2017. In 2021, due to the increased number of new arrivals the Ministry of Interior reopened as auxiliary the former Elhovo Triage centre with capacity of 240 places from 25 August to 19 November 2021, after which the centre was closed again. In May 2022 the MOI finished working on the instalment of a new detention facility in the town of Elhovo, which consists of 221 container compartments fit for 1,768 individuals. In 2022 it was the regular government which first tried to use it as a transit centre for Ukrainian refugees<sup>481</sup>. This attempt was abandoned following widespread protests from the public and non-governmental organisations. On 16 November 2022 the caretaker government<sup>482</sup> officially designated Elhovo detention center to serve as a transit centre for re-distribution of newly arrived Ukrainian refugees despite its utterly unsuitable conditions, including due to its remote location, and the repeated protests.<sup>483</sup>

Regarding 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.<sup>484</sup> However, the few short-term detention orders issued in 2022 were 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 **the closed reception ward (ПЗТ)** in Busmantsi detention centre, with 20 places.

The SAR **Pastrogor** transit centre, situated on the Bulgarian-Turkish border can also be used as a closed facility, if necessary. Presently, it operates as an open reception facility with a capacity of 320 places.

<sup>479</sup> 360 containers installed in Lyubimets detention centre.

<sup>480</sup> EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

<sup>481</sup> dnes.bg, *Временният център в Елхово е готов за бежанците, ето как изглежда*, published on 31 May 2022, available in Bulgarian at: <https://bit.ly/3l0ck73>.

<sup>482</sup> COM No. 980 from 16 November 2022.

<sup>483</sup> Bulgarian Helsinki Committee, *Кой настанява украинските бежанци в лагера за задържане на мигранти в Елхово?*, published on 4 November 2022, available in Bulgarian at: <https://bit.ly/3YACdYW>.

<sup>484</sup> Article 44(13) LARB.

## 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. In 2022, pre-removal detention centres were once more close to maximum capacity, 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 and 728 at the end of 2021 and 704 at the end of 2022 out of 16,767 detainees in total placed in both national detention centres throughout the year.<sup>485</sup>

Overall conditions with respect to means to maintain personal hygiene as well as general level of cleanliness remain unsatisfactory. In 2017, it was reported that the number of showers and toilets available was not sufficient to meet the needs of the detained population, especially when premises are overcrowded.<sup>486</sup> 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 major 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.<sup>487</sup>

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**.<sup>488</sup>

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 2021, as in previous years, detainees have complained

<sup>485</sup> Ministry of Interior, *Migration statistics*, 2021.

<sup>486</sup> 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.

<sup>487</sup> Bulgarian Helsinki Committee, based on organization's regular observations from its weekly detention monitoring, implemented in Busmantsi detention center since 2006 and since 2011 in Lyubimets detention center.

<sup>488</sup> 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.<sup>489</sup> This has led to risks of re-traumatisation for persons with vulnerabilities.<sup>490</sup>

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** centres 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.<sup>491</sup> 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 centres, 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 centres 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 centres, 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.<sup>492</sup>

## 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 as far as they do not cause problems.<sup>493</sup> 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.<sup>494</sup> The CPT underlined that communication problems between detained foreign nationals and psychologists severely limited the possibilities to provide any psychological assistance.<sup>495</sup>

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.<sup>496</sup> Single men are separated from single women. Other vulnerable persons are detained together with all other detainees. The LAR provides for access to

<sup>489</sup> 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.

<sup>490</sup> CPT, 2019 *Bulgaria report*, July 2019, available at: <https://rm.coe.int/1680966286>; Cordelia Foundation et al., *From Torture to Detention*, January 2016, 19.

<sup>491</sup> CPT, 2019 *Bulgaria report*, July 2019, available at: <https://rm.coe.int/1680966286>.

<sup>492</sup> 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>.

<sup>493</sup> Cordelia Foundation et al., *From Torture to Detention*, January 2016, 18.

<sup>494</sup> CPT, 2019 *Bulgaria report*, July 2018, Executive summary, available at: <https://rm.coe.int/1680966287>.

<sup>495</sup> *Ibid.* para 35

<sup>496</sup> Article 45f(4) LAR.

education and leisure activities for children in closed asylum facilities,<sup>497</sup> but there is no relevant practice yet as children have not been placed in closed reception centres in 2022.

The lack of mechanisms for identification and support of vulnerable asylum seekers was also indicated by the European Commission a letter of formal notice from 8 November 2018.<sup>498</sup>

### 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.<sup>499</sup> Some NGOs have signed official agreements with the Migration Directorate and do visit detention centres for monitoring and assistance once a week.<sup>500</sup> In practice the Bulgarian Helsinki Committee is the only NGO which visits both detention centres on a weekly basis without exclusions. Other NGOs do random visits to Busmantsi detention centre, but none except BHC visits the centre in Lyubimets. 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.<sup>501</sup> However, the Bulgarian Helsinki Committee was the only NGO in 2020 and 2021 visiting border and detention centres regularly as well as the SAR closed facility as all the rest refrained from visitations due to COVID-19. In 2022, some of the NGOs re-established their visits to Busmantsi detention center near Sofia, although still not on a regular basis.<sup>502</sup>

## 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.

<sup>497</sup> Article 45f(2) LAR.

<sup>498</sup> European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

<sup>499</sup> 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. Bulgarian Helsinki Committee, Bulgarian Red Cross, Nadya Centre, Centre for Legal Aid-Voice in Bulgaria, Foundation for Access to Rights, etc.

<sup>501</sup> Article 23(3) LAR.

<sup>502</sup> Center for Legal Aid-Voice in Bulgaria, available at: <https://bit.ly/3ntNoW9>.

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.<sup>503</sup> This reform took place against a backdrop of lack of legal aid ensured to detainees to challenge their detention.

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.<sup>504</sup> The appeal does not suspend the execution of the detention order.<sup>505</sup> 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.<sup>506</sup>

## 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.<sup>507</sup> 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 centres and assist detained individuals *pro bono* in their immigration and asylum procedures, including for access to courts. In this context, the CPT reiterated 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 charge.<sup>508</sup>

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.<sup>509</sup> 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.

<sup>503</sup> Article 46a(3)-(4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.

<sup>504</sup> Article 46 LARB.

<sup>505</sup> Article 46a LARB.

<sup>506</sup> Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, para 23.

<sup>507</sup> Article 22(9) Law on Legal Aid.

<sup>508</sup> CPT, *2019 Bulgaria report*, July 2019, para 41.

<sup>509</sup> Article 15(8) Law on Child Protection.

## E. Differential treatment of specific nationalities in detention

In 2022, no cases of discrimination against specific nationalities were reported concerning detention. In the past, when this malpractice was more widely applied, asylum seekers who had their registrations in the pre-removal facilities ranged from all nationalities without exclusion. The reasons provided by the national asylum agency SAR to implement registrations in pre-removal centres was the inability to fulfil otherwise the obligation to meet the short 6-working days deadline under the national and community law,<sup>510</sup> if the release from detention and the transfer of detained applicants to open asylum centres was delayed by the immigration police or national security services. In 2022, the SAR almost completely abandoned this malpractice,<sup>511</sup> with only 1 registration and only 1 determination conducted in a police pre-removal detention centre.

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<sup>510</sup> Article 58(4) LAR, Article 6(1) APD.

<sup>511</sup> BHC 2022 Annual RSD Monitoring report, 1.1.2. Procedure at the police detention centers, page 6, available at: <https://bit.ly/3Y3WzJJ>.

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.<sup>512</sup> Individuals granted **subsidiary protection** (“humanitarian status”) have the same rights as third-country nationals with permanent residence.<sup>513</sup>

### 2022 as the ninth “zero integration year”

Since 2013 and up to 2022, Bulgaria followed a “zero integration policy”. 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.<sup>514</sup> In 2022, 45% of asylum applicants abandoned their status determination procedures in Bulgaria,<sup>515</sup> which were subsequently terminated. In comparison, this percentage was 25% in 2021, 39% in 2020, 86% in 2019, and 79% in 2018.

The necessary integration legal framework, the Integration Decree, was finally adopted in 2016,<sup>516</sup> but it remained unused throughout 2016 and 2017, as none of the 265 local municipalities had applied for funding 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.<sup>517</sup> A new Decree was adopted on 19 July 2017, which in its essence repeated the provisions of its predecessor.<sup>518</sup> 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) provided an integration support in 2021 to 83 individuals among whom the majority were families but also 2 single status holders. The eligibility criteria and the selection process were adopted, respectively implemented jointly by the municipalities, UNHCR and the Red Cross Refugee Service. The support itself consisted of rent expenses covered by the municipalities and the fee for the Bulgarian language courses, covered by the Red Cross. In 2022 just 6 families with total 20 individuals approximately including the minor children signed 6 integration agreements.<sup>519</sup> It represented a retreat from 2021, when a total of 83 refugees received integration support from these two metropolitan district administrations based on 17 integration agreements. No other integration measures or activities were planned, funded or available to individuals granted international protection – refugee or humanitarian status. The program for the integration of displaced persons from Ukraine under temporary protection drafted by the regular government was not adopted as this government was

<sup>512</sup> Article 32(1) LAR.

<sup>513</sup> Article 32(2) LAR.

<sup>514</sup> 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.

<sup>515</sup> 14,474 terminated procedures out of the 31,592 asylum seekers (20,407 who applied in 2022, and 11,185 pending from 2021), source: SAR.

<sup>516</sup> 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>.

<sup>517</sup> Liberties.eu, ‘Bulgarian caretaker government repealed regulation on refugee integration’, 13 April 2017, available at: <http://bit.ly/2BLqhsS>.

<sup>518</sup> Ordinance No 144 of 19 July 2017 State Gazette No 60/25.08.2017, available in Bulgarian at: <http://bit.ly/2Ec2uHL>.

<sup>519</sup> Statistics provided by the Bulgarian Council for Refugees and Migrants on 16 January 2023.

ousted by a vote of no confidence on 22 June 2022. Therefore, Bulgaria marked the ninth consecutive year of the national “zero integration” policy.

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 volunteered to conclude Integration Agreements, although funds would be allocated to them for every refugee participating in such agreements.<sup>520</sup>

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.<sup>521</sup> 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.<sup>522</sup> 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.<sup>523</sup> For example, the German Administrative Court of Köln, for example, found that risks of inhuman and degrading treatment existed for both for asylum seekers and BIPs in the country, through a decision issued on 15 November 2022.<sup>524</sup> In the case of BIPs, the Court concluded that there was a lack of almost any state support to ensure minimum subsistence and fulfilment of basic needs, as well as widespread racism and intolerance, at the very least ignored by the police.

Moreover, the Committee on the Rights of the Child (CRC) issued its decision in the case of *MKAH v Switzerland* on 6 October 2021, which was brought by the Centre Suisse pour la défense des droits des migrants (CDSM) with the intervention from the AIRE Centre, ECRE and the Dutch Council for Refugees.<sup>525</sup> The CRC found that, although the applicants were granted subsidiary protection status in Bulgaria, they had to live for eight months in a camp with inadequate material conditions and no access to education nor the labour market. This forced them to leave Bulgaria and seek the support of relatives. The CRC thus recommended Switzerland to: reconsider the decision to return MKAH to Bulgaria; urgently re-examine the applicant and his mother’s asylum application ensuring the best interests of the child are a primary consideration, the applicant is duly heard and taking into account the particular circumstances of the case; take in to account that MKAH may remain stateless in Bulgaria, ensure MKAH receives qualified psychological assistance to facilitate his rehabilitation and to take all necessary measures to ensure violations don’t recur.<sup>526</sup>

The National Strategy on Migration was adopted in Bulgaria for the period 2021-2025, including a chapter on integration, which mentions that policies are implemented with AMIF funding but no specific areas for improvement are listed. As an initiative from non-state actors, the Multi-Kulti Collective, the Bulgarian Council on Refugees and Migrants and UNHCR Bulgaria started to develop the country’s first

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<sup>520</sup> 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.

<sup>521</sup> Human Rights Committee, *R.A.A. v. Denmark*, Communication No 2608/2015, 15 December 2016.

<sup>522</sup> Human Rights Committee, Communication No 2942/2017.

<sup>523</sup> See AIDA Country Report on Bulgaria – 2021 Update.

<sup>524</sup> (Germany) Administrative Court of Köln, 20 K 3733/22.A, 15 November 2022, available at: <https://bit.ly/3zdPDQp>.

<sup>525</sup> UN Committee on the Rights of the Child (CRC), *A.M. (au nom de M.K.A.H.) c. Suisse*, No 95/2019, 6 October 2021, available at: <https://bit.ly/3rv6iur>.

<sup>526</sup> See also : EDAL summary, CRC: *Declares Switzerland did not consider the best interests of the child in a removal decision to Bulgaria*, 6 October 2021, available at: <https://bit.ly/3GguTIQ>.

Refugee Integration Manifesto, which is planned to be used as an advocacy document to shape the integration of beneficiaries of international protection at national and local levels.<sup>527</sup>

## 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,<sup>528</sup> and 3 years for **subsidiary protection** holders.<sup>529</sup> 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 law introduced a new illegal ground to cease or withdraw international protection (see [Cessation and review of protection status](#)).<sup>530</sup>

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 2022, the Ministry of Interior issued 9,928 refugee identity cards and 16,020 humanitarian identity cards.<sup>531</sup>

### 2. Civil registration

No identity documents can be issued unless the individual is registered in the civil national database (ЕЦГПАОН) except for certain categories, including asylum seekers.<sup>532</sup> 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.

The registration in ЕЦГПАОН is mandatory to the beneficiaries of international protection.<sup>533</sup> 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.<sup>534</sup> 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, as the valid identity document is a pre-condition to exercising their rights.

<sup>527</sup> EUAA, Annual Asylum Report (2022), page 230, available at: <https://bit.ly/3YD0NYU>.

<sup>528</sup> Article 59(1)(2) Law on Bulgarian Identity Documents.

<sup>529</sup> Article 59(1)(3) Law on Bulgarian Identity Documents.

<sup>530</sup> Article 42(5) LAR, enforced on 20 October 2020.

<sup>531</sup> MOI, Identity Documents Department, reg. No.УПИ 812104-3 from 3 January 2023.

<sup>532</sup> Article 29(1)(7) LAR.

<sup>533</sup> Articles 100-115 Law on Civil Registration.

<sup>534</sup> Article 92(2) Law on Civil Registration.

## 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.<sup>535</sup>

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.<sup>536</sup> 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.<sup>537</sup>

According to general legislation relating to family arrangements, only civil marriages are legally valid in Bulgaria.<sup>538</sup> 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.

## 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,<sup>539</sup> subject to a few exceptions,<sup>540</sup> whereas individuals granted **subsidiary protection** enjoy the same rights as the permanent residents.

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<sup>535</sup> Article 42(1) Law on Civil Registration.

<sup>536</sup> Article 76(2) Code on Private International Law.

<sup>537</sup> 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.

<sup>538</sup> Article 4 Family Code.

<sup>539</sup> Article 32 LAR.

<sup>540</sup> 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.



Refugees and subsidiary protection holders can apply and receive long-term residence in 5 years after their recognition.<sup>541</sup> 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 2022:	112

**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 this, 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.<sup>542</sup> 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 2022, Bulgaria granted citizenship to 485 beneficiaries of international protection, namely 163 refugee status holders and 322 subsidiary protection holders.<sup>543</sup>

#### 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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3. Do beneficiaries 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

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

- 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;
- Voluntarily avails him or herself of the protection of his or her country of origin;
- Voluntarily re-acquires citizenship after having lost it, or acquires new citizenship in another country;
- Acquires Bulgarian citizenship;
- Voluntarily settles in the country where he or she was previously persecuted;
- Has been granted refugee status by the President; or

<sup>541</sup> Article 24r(4) LARB.

<sup>542</sup> Article 35(1)(1) Law on Bulgarian Citizenship.

<sup>543</sup> Ministry of Justice, reg. No.95-00-139 from 12 January 2023.

- (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.<sup>544</sup> Despite being contrary to 1951 Refugee Convention, the amendment was aimed at legalising a malpractice applied by the SAR since 2018.

This broadened interpretation of the recast Qualification Directive introduces *de facto* an additional 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; 886 persons in 2020, 105 in 2021, and 41 in 2022.<sup>545</sup> In 2022, cessation affected individuals from the following countries of origin:<sup>546</sup>

Cessation of refugee status: 2022	
Country of origin	Number
Syria	21

Cessation of subsidiary protection: 2022	
Country of origin	Number
Syria	15
Iraq	5

The introduction of said additional clause led national courts in some European countries to halt transfers of beneficiaries of protection to Bulgaria. In May 2022, the German Administrative Court of Düsseldorf refused to uphold a transfer of a BIP whose residency card had expired in 2019, considering that, in light of the new law and practices in terms of cessation and withdrawal, it was sufficiently likely

<sup>544</sup> Article 42(5) LAR, enforced on 20 October 2020.  
<sup>545</sup> SAR, reg. No. №ПД05-40 from 16 January 2023.  
<sup>546</sup> Ibid.

that their protection status had been since withdrawn and that they would not be able to have it reinstated without presenting an entirely new application.<sup>547</sup>

In the Netherlands, the District Court of the Hague took several decisions concerning two groups of families potentially affected by the 2020 Bulgarian law on cessation of protection. In the first decisions from July 2022, the Court stated that this new ground was illegal under international law and that the authorities should ascertain Bulgarian practice on the matter and secure procedural safeguards, notably with regard to non-refoulement. The authorities however refused to do so, thus the Court contacted Bulgarian authorities directly. Once it had received the answers from Bulgarian authorities, in its final decisions the court concluded that there was a significant likelihood the families' statuses would be ceased or withdrawn upon them requesting new identity documents, without their current need for protection being assessed; the families would have to file subsequent applications, which would be subject to an admissibility procedure. This would thus entail risks of refoulement.<sup>548</sup>

## 6. Withdrawal of protection status

Refugee status ought to be withdrawn where:<sup>549</sup>

- (a) 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;
- (b) There are serious grounds to assume that he or she has committed a serious non-political crime outside the territory of Bulgaria;
- (c) 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;
- (d) 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;
- (e) The competent authorities of his or her state of permanent residence have recognized the rights and obligations resulting from the citizenship in that country;
- (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:

- (a) The same grounds applicable for the withdrawal of a refugee status are met;
- (b) A protection holder for whom there are serious reasons to assume that he or she has committed a serious crime;
- (c) 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;
- (d) 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;
- (e) 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 2022, a total of 14 withdrawals were made. The withdrawals affected individuals from the following countries of origin:<sup>550</sup>

<sup>547</sup> (Germany) Administrative Court of Düsseldorf, [12 L 1073/22.A](#), 25 May 2022.

<sup>548</sup> District Court of the Hague, NL22.2064 en NL22.2066 T, 8 July 2022, available at: <https://bit.ly/42POziX>; District Court of the Hague, NL22.2064 en NL22.2066, 26 October 2022, available at: <https://bit.ly/3nmnxiZ>.

<sup>549</sup> Article 12(1) LAR.

<sup>550</sup> SAR, reg. No. №PД05-40 from 16 January 2023.

Withdrawal of refugee status: 2022	
Country of origin	Number
Syria	2

Withdrawal of subsidiary protection: 2021	
Country of origin	Number
Syria	11
Afghanistan	1

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?  Yes  No
  - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?  Yes  No
  - ❖ If yes, what is the time limit?
3. 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.<sup>551</sup> Both recognised **refugees** and **subsidiary protection** holders are entitled to ask to be reunited with their families in Bulgaria without 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 responsible for them by law or custom when the parents are deceased or missing.<sup>552</sup>

<sup>551</sup> Article 34(1) LAR.

<sup>552</sup> Article 34(4) LAR.

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.<sup>553</sup>

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.<sup>554</sup>

## 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.<sup>555</sup> However, in practice, 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.

Despite COVID-19, family members did not encounter any major problems in approaching Bulgarian consulates and submitting their visa applications. Family members without national identity documents however experienced serious difficulties and delays as their right to be issued Bulgarian laissez-passers to replace the lacking passports was not respected uniformly by all consulate services and some needed further intervention to, and by the Consulate Directorate of the Ministry of Foreign Affairs (MFA). The MFA itself however continued to request in all of these cases the usual supporting documents, e.g. documents proving sufficient financial means or secured housing, which should have not been the case in visa applications based on family reunification procedure due to the previous vetting and special exclusions with regard to these requirements, envisaged and implemented by the asylum agency SAR when issuing the family reunification permit.<sup>556</sup>

In 2022, a total of 839 family reunification applications were submitted to the SAR, out of which 802 were approved and 37 rejected.<sup>557</sup>

## 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.

## 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 **Vitoshka** and **Oborishte** Districts (Sofia municipality) provided in 2021 an

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<sup>553</sup> Article 34(3) LAR.

<sup>554</sup> Article 34(5) LAR.

<sup>555</sup> Article 34(7)-(8) LAR.

<sup>556</sup> Ministry of Foreign Affairs, Consulate Department, Exh. N KOB-25-00-1 from 25 August 2021.

<sup>557</sup> SAR, reg. No. №РД05-40 from 16 January 2023.

integration support to 20 refugee families and 2 single status holders, or in total 83 individuals granted international protection. In 2022, just 6 families for a total of approximately 20 individuals, including minor children, signed 6 integration agreements.<sup>558</sup>

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.<sup>559</sup>

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 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 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 between 1 January 2014 and 31 December 2021, the Ministry of Interior issued 13,829 refugee travel documents and 17,871 travel documents for subsidiary protection holders.<sup>560</sup> In 2022, these figures refer to a total 634 refugee travel documents and 6,674 travel documents for subsidiary protection holders.

## 2. Travel documents

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<sup>558</sup> Statistics provided by the Bulgarian Council for Refugees and Migrants on 16 January 2023.

<sup>559</sup> Article 59(1)(5) and (7) Law on Bulgarian Identity Documents.

<sup>560</sup> MOI, Identity Documents Department, reg. No.УПИ 812104-3 from 3 January 2023.

<sup>561</sup> Article 59(1)(5) and (7) Law on Bulgarian Identity Documents.

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.

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## D. Housing

### Indicators: Housing

- |   |          |
|---|----------|
| 1. For how long are beneficiaries entitled to stay in reception centres?        | 0 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2022: | N/A      |

At the end of 2020, the law was amended to abolish the provision which foresaw 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.<sup>562</sup> In practice, however, some more vulnerable beneficiaries of international protection are still allowed to remain in the reception centres for couple of months due to lack of any integration support (see [General Remark on Integration](#)), unless in situations of mass influx or increased new arrivals. At the end of 2022, the number of beneficiaries staying in reception centres was 298.<sup>563</sup>

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 contacts and domiciles stated by the beneficiaries of international protection 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 2022, the SAR issued 302 labour permits to asylum seekers pending status determination who were looking to support themselves while their asylum claims were being processed.<sup>564</sup> Out of them, only 12 asylum seekers, and 5 persons granted protection were employed. Among them, only 1 person granted protection and 10 asylum seekers did so through employment programs, while the rest found work

<sup>562</sup> Para 4 of Article 32 LAR, State Gazette, N89 from 16 October 2020.

<sup>563</sup> SAR, reg. No. №ПД05-40 from 16 January 2023.

<sup>564</sup> SAR, reg. No. №ПД05-40 from 16 January 2023.

independently and on their own initiative.<sup>565</sup> At the same time, a total of 2,214 persons with temporary protection were employed, of whom 191 persons found work independently, 16 persons through employment programs and 2,007 persons under schemes of the EU OP Human Resources Development program.<sup>566</sup>

## 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](#)).

## F. Social welfare

Beneficiaries of international protection have access to all types of social assistance envisaged by the law.<sup>567</sup> 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.<sup>568</sup> 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

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<sup>565</sup> Employment Agency, reg. No.РД08-13 from 6 January 2023.

<sup>566</sup> Ibid.

<sup>567</sup> Article 2(1) Law on Social Assistance.

<sup>568</sup> Article 5 Law on Social Assistance.



insurance payment. This minimum fee is 44.80 BGN / 22.90 € for unemployed persons who do not receive indemnities.<sup>569</sup>

In 2022, both beneficiaries for international protection and asylum seekers had unrestricted access to vaccination against COVID-19.

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<sup>569</sup> 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
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive			Article 8 of the recast Reception Conditions Directive remains the only transposed provision at national level.
<b>Regulation (EU) No 604/2013</b> 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.<sup>570</sup> 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.<sup>571</sup> 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.

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.<sup>572</sup> Despite being contrary to 1951 Refugee Convention, the amendment was aimed at legalising a malpractice applied by the SAR since 2018. This broadened interpretation of the recast Qualification Directive introduces *de facto* an additional cessation ground in violation of national and EU legislation.

<sup>570</sup> European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

<sup>571</sup> 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>.

<sup>572</sup> Article 42(5) LAR, enforced on 20 October 2020.