

Country Report: Romania



2020
update



Acknowledgements & Methodology

This report was written by Felicia Nica with support from the Jesuit Refugee Service (JRS) Romania and was edited by ECRE.

The information in this report draws upon statistics provided by the General Immigration Inspectorate (IGI), interviews throughout 2020 with relevant stakeholders at IGI and civil society organisations, including legal counsellors providing services in the different Regional Centres for Accommodation and Procedures for Asylum Seekers of the country (Timișoara, Șomcuta Mare, Rădăuți, Galați, Bucharest and Giurgiu), as well as visits to the Public Custody Centre of Otopeni on 5 February 2021 and the Public Custody Centre of Arad on 9 February 2021. Permission requests to visit Timișoara, Bucharest and Giurgiu Regional Reception Centres were refused by IGI-DAI due to the pandemic situation. However, interviews were held with the directors of Bucharest and Timisoara centres remotely, as for Giurgiu answers were provided via email.

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

The Asylum Information Database (AIDA)

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



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Glossary & List of Abbreviations

Public custody centre	Detention centre for persons facing removal or transfer under the Dublin Regulation. There are two such centres, located in Otopeni and Arad.
Regional centre	Regional Centre for Accommodation and Procedures for Asylum Seekers ("reception centre"). There are six such centres, located in: Timișoara, Șomcuta Mare, Rădăuți, Galați, Bucharest and Giurgiu.
AIDRom	Ecumenical Association of Churches from Romania Asociația Ecumenică a Bisericii din România
AJOFM	County Employment Agency Agenția Județeană pentru Ocuparea Forței de Muncă
AJPIS	County Agency for Payments and Social Inspection Agenția Județeană pentru Plăți și Inspecție Socială
AMIF	Asylum, Migration and Integration Fund
ANOFM	National Employment Agency Agenția Națională pentru Ocuparea Forței de Muncă
CAS	Health Insurance House Casa de Asigurări de Sănătate
CJAS	County Health Insurance House Casa Județeană de Asigurări de Sănătate
CNRED	National Centre for Recognition and Validation of Diplomas Centrul Național pentru Recunoașterea și Echivalarea Diplomelor
CNRR	Romanian National Council for Refugees Consiliul Național Român pentru Refugiați
DGASPC	Directorate-General for Social Assistance and Child Protection Direcția Generală de Asistență Socială și Protecția Copilului
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
IGPF	General Inspectorate of the Romanian Border Police Inspectoratul General Poliția de Frontieră
IGI	General Inspectorate for Immigration Inspectoratul General pentru Migrări
IGI-DAI	General Inspectorate for Immigration – Directorate for Asylum and Integration Inspectoratul General pentru Migrări – Direcția Azil și Integrare
IML	Institute of Legal Medicine Institutul de Medicină Legală
IOM	International Organisation for Migration
IPJ	County Police Inspectorate Inspectoratul de Poliție Județean
ISJ	County School Inspectorate Inspectoratul Școlar Județean
ISR	Social Reference Indicator Indicator Social de Referință
JRS	Jesuit Refugee Service Romania
LADO	Liga Apărării Drepturilor Omului
LOGS	Grupul de Inițiativă Sociale
NAC	National Authority for Citizenship
NIML	National Institute of Legal Medicine Institutul Național de Medicină Legală
ROI	Regulation of Internal Order Regulamentul de Ordine Interioară

Statistics

Overview of statistical practice

The General Inspectorate for Immigration (IGI)'s Directorate for Asylum and Integration (DAI) publishes statistical information in its annual reports.

Applications and granting of protection status at first instance: 2020

	(First time) Applicants in 2020	Pending at end of 2020	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	6,158	2,217	251	416	-			

Breakdown by countries of origin of the total numbers

Afghanistan	2,381	1,437	8	25	342	0.3%	1.1%	14.3%
Syria	1,459	210	87	292	94	5.9%	20.01%	6.44%
Iraq	415	140	8	10	22	1.9%	2.4%	5.3%
Turkey	366	47	4	0	77	1.09%	-	21.03%
Morocco	232	22	0	0	81	-	-	34.9%
Pakistan	199	106	0	0	37	-	-	18.5%
Bangladesh	137	42	0	0	27	-	-	19.7%
Algeria	135	10	0	0	41	-	-	30.3%
Somalia	105	20	33	20	25	31.4%	19.04%	23.8%
Tunisia	97	4	2	0	32	2.06%	-	32.9%

Source: IGI-DAI. "Rejection" only covers negative decisions on the merit of the application. It does *not* cover inadmissibility decisions. Refugee status and subsidiary protection columns include both first instance procedure and court decisions, according to IGI-DAI.

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

	Number	Percentage
Total number of applicants	6,158	
Men	5,639	91.5%
Women	519	8.4%
Children	1,566	25.4%
Unaccompanied children	980	15.9%

Source: IGI-DAI

*This concerns only first time applicants. In case of subsequent applications, the applicant is not considered an asylum seekers. Only when granted access to a new procedure, the person will be considered as an asylum seeker.

Comparison between first instance and appeal decision rates: 2020

Full statistics are not available. In 2020, in first instance 2,480 decisions were issued by IGI-DAI, of which 667 granted a form of international protection (251 refugee status and 416 subsidiary protection), with a recognition rate of 26,89%.¹

¹ IGI-DAI, 'Benchmarks from the Activity of the Police Officers of the General Inspectorate for Immigration, in 2020', available in Romanian at: <https://bit.ly/3bvqdkE>.

Overview of the legal framework

Main legislative acts on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (RO)	Abbreviation	Web Link
Act No. 122 of 4 May 2006 on Asylum in Romania <i>Last updated:</i> 3 September 2016	Legeanr. 122 din 4 mai 2006 privind azilul în România <i>Formă actualizată:</i> 3 septembrie 2016	Asylum Act	http://bit.ly/2g3FTjf (RO)

Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (RO)	Abbreviation	Web Link
Government Decree No. 1251 of 13 September 2006 regarding the Methodological Norms for Applying Act 122/2006 <i>Last updated:</i> 25 January 2016	Hotărârea Guvernului nr. 1251 din 13 septembrie 2006 privind Normele Metodologice de aplicare a Legii 122/2006 <i>Formă actualizată:</i> 25 ianuarie 2016	Asylum Decree	http://bit.ly/2fJRi0 (RO)
Government Emergency Ordinance No. 194 of 12 December 2002 regarding the regime for foreigners in Romania <i>Last updated:</i> 9 November 2018	Ordonanță de urgență nr. 194 din 12 decembrie 2002 privind regimul străinilor în România <i>Formă actualizată:</i> 9 noiembrie 2018	Aliens Ordinance	http://bit.ly/2x9zGrL (RO)
Government Ordinance No. 44 of 29 January 2004 regarding the social integration of foreigners granted international protection or a right of residence in Romania, as well as the citizens of the Member States of the European Union, the European Economic Area and the citizens of the Swiss Confederation <i>Last updated:</i> 10 October 2019	Ordonanța Guvernului nr. 44 din 29 ianuarie 2004 privind integrarea socială a străinilor care au dobândit protecție internațională sau un drept de ședere în România, precum și a cetățenilor statelor membre ale Uniunii Europene, Spațiului Economic European și a cetățenilor Confederației Elvețiene <i>Formă actualizată:</i> 10 Octombrie 2019	Integration Ordinance	https://bit.ly/2pp5IHW (RO)
Decision No. 945 of November 5, 2020 for the approval of the Methodological Norms for the application of the Government Ordinance no. 44/2004 regarding the social integration of	Hotărâre nr. 945 din 5 noiembrie 2020 pentru aprobarea Normelor metodologice de aplicare a Ordonanței Guvernului nr. 44/2004 privind integrarea socială a străinilor care au dobândit protecție internațională	Integration Decree	https://bit.ly/3sXCMNQ (RO)

foreigners who have acquired a form of protection or a right of residence in Romania, as well as of the citizens of the state's members of the European Union and the European Economic Area <i>Last updated:</i> 12 November 2020	sau un drept de ședere în România, precum și a cetățenilor statelor membre ale Uniunii Europene, Spațiului Economic European și a cetățenilor Confederației Elvețiene <i>Formă actualizată:</i> 12 Noiembrie 2020		
Ordinance No. 441 of 4 April 2008 for determining the attributions of the authorities responsible for implementing the data in the Eurodac system and for establishing the practical methodology of cooperation in the application of European regulations, with amendments and additions	Ordinul nr. 441/2008 din 4 aprilie 2008 pentru stabilirea atribuțiilor autorităților responsabile cu implementarea datelor în sistemul Eurodac și pentru stabilirea metodologiei practice de cooperare în vederea aplicării regulamentelor europene în domeniul, cu modificările și completările ulterioare	Ordinance 441/2008	http://bit.ly/2x7WsFr (RO)
Regulation of Internal Order in the Regional Centres of Accommodation and Procedures for Asylum Seekers of 25 August 2016	Regulamentul de ordine interioară al centrelor regionale de proceduri și cazare a solicitanților de azil din 25.08.2016	ROI	http://bit.ly/2DefFYk (RO)
Regulation of Centres for Aliens Taken into Public Custody of 30 July 2014	Regulamentul centrelor de cazare a străinilor luați în custodie publică din 30.07.2014	Public Custody Centres Regulation	http://bit.ly/2DA2QHI (RO)

Overview of the main changes since the previous report update

The previous update was published in **March 2020**.

Asylum procedure

- ❖ **Access to the territory:** UNHCR Serbia reported that 13,409 persons were collectively expelled from Romania to Serbia from 1 January to 31 December 2020,² being the highest number of pushbacks registered since UNHCR Serbia began monitoring pushbacks in spring 2016. Higher numbers were registered in the second half of the year (1,636 in July; 1,409 in August; 1,771 in September; 1,600 in October; 1,758 in November and 1,449 December 2020). The number increased in comparison to 2018, when 746-persons were collectively expelled and 2019, when 1,561 were collectively expelled (a nine-fold increase). According to the Border Police, interpretation at the border for asylum information is still lacking. Asylum seekers complained about ill treatment by Border Police /Gendarmerie officers at the border.
- ❖ **Asylum seekers:** the number of asylum seekers has increased by 238% in 2020 compared to 2019. 6,158 new asylum applicants were registered in 2020, compared to 2,587 in 2019. 980 unaccompanied children were registered in 2020, compared to 189 registered in 2019.
- ❖ **Interpretation:** The availability and quality of interpretation has remained an issue. In several Regional Centres, IGI-DAI still uses double interpretation.
- ❖ **Videoconferencing:** Interviews and court hearings were held through videoconference.
- ❖ **Accelerated procedure:** 885 applications were assessed under the accelerated procedure, compared to 315 in 2019. Asylum applications of Afghan nationals were assessed also in accelerated procedure.

Reception

- ❖ Sub-standard reception conditions remain an issue in 2020, and preventive measures related to COVID-19 has severely restricted the liberty of movement of asylum seekers. During the state of emergency (16 March- 14 May 2020) granting of permissions to leave the centre were suspended. It was recommended to limit the movement of people outside the regional centres for 2 hours per day per person only for grocery shopping and other fundamental needs. During the state of alert (15 May 2020-present) the movement of people outside the centre is still limited. Some asylum seekers had been quarantined or isolated in tents even during the winter months, where they only had access to cold water.

Detention

- ❖ In 2020 due to the high number of arrivals in **Rădăuți, Șomcuta Mare, Galați** the specially designed closed spaces were used in order to accommodate asylum seekers.

Content of international protection

- ❖ **Methodological Norms for the application of the Integration Ordinance amended:** On 5 November 2020, the Methodological Norms for the application of the Government Ordinance no.44/2004 regarding the social integration of foreigners who have acquired a form of protection or a

² UNHCR, *UNHCR Serbia Update*, available at: <https://data2.unhcr.org/en/search>; see also: AIDA, *Country Update Serbia on the year 2020, March 2021*, available at: <https://bit.ly/3c7FB8n>

right of residence in Romania, as well as of the citizens of the state's members of the European Union and the European Economic Area was amended. The main amendments concern the following areas:

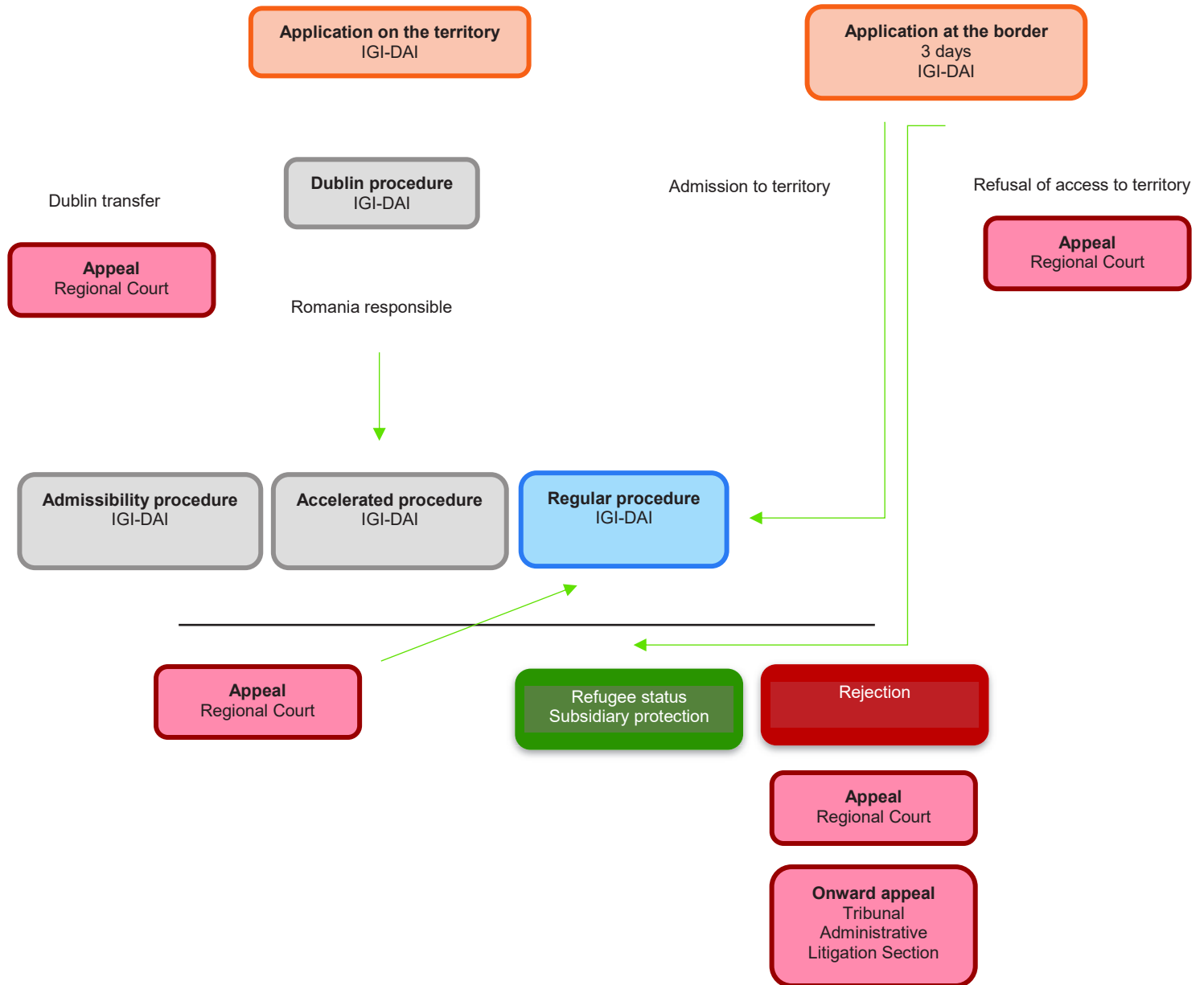
- Article 7(1) : the requests to participate in the language courses provided in art. 6 may be submitted by the interested persons throughout the calendar year to the county and Bucharest school inspectorates or to the headquarters of IGI;
- Article 7(2): provides a deadline of 30 days, from the registration of the application, for the County School Inspectorate to ensure the registration of the applicants for the Romanian language courses;
- Article 9: indicates the category of foreigners as beneficiaries of cultural accommodation activities and not of adults, as regulated in the former methodological norms approved by Government Decision no. 1483/2004 (thus excluding minors from this type of activity);
- Article 12: provides for a reduced period, of 10 days compared to 30 days under the former legislation, for organizing the interview for the inclusion in the integration program;
- Article 15: IGI performs individual / family assessments (and not social investigations as regulated by the former legislation), for the purpose of accommodation in the regional centres;
- Article 15 (4): provides that during the period in which the beneficiaries of international protection receive financial aid equal to that granted to asylum seekers, they are accommodated for free in the regional centres;
- Article 18: provides details on the subsidies afforded by IGI for rent and monthly costs, in case accommodation in regional centres and social houses is not available; and how this amount is calculated depending on the number of family members.

- ❖ **Integration programme:** In 2020 there was no integration project implemented in Region 1.
- ❖ **Family reunification:** A total of 212 applications were made in 2020, of which 96 were admitted and 10 were dismissed.
- ❖ **Cessation and review of protection status:** In 2020, IGI-DAI issued 55 decisions of cessation; 7 withdrawal decisions were issued.

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: | ☒ Yes | ☐ No |
| ▪ Prioritised examination: ³ | ☒ Yes | ☐ No |
| ▪ Fast-track processing: ⁴ | ☐ Yes | ☒ No |
| ❖ Dublin procedure: | ☒ Yes | ☐ No |
| ❖ Admissibility procedure: | ☒ Yes | ☐ No |
| ❖ Border procedure: | ☒ Yes | ☐ No |
| ❖ Accelerated procedure: ⁵ | ☒ Yes | ☐ No |
| ❖ Other: | ☐ Yes | ☒ No |

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

3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (SI)
Application ❖ At the border ❖ On the territory	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Migrari – Directia Azil si Integrare (IGI-DAI)
Dublin	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Migrari – Directia Azil si Integrare (IGI-DAI)
Refugee status determination	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Migrari – Directia Azil si Integrare (IGI-DAI)
First appeal	Regional Court	Judecatorie Sectia Civila, materie: Contencios Administrativ si Fiscal
Onward appeal	County Tribunal Administrative Litigation Section	Tribunal Sectia de Contencios Administrativ si Fiscal
Subsequent application	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Migrari – Directia Azil si Integrare (IGI-DAI)

4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
General Inspectorate for Immigration– Directorate for Asylum and Integration (IGI-DAI)	318 ⁶	Ministry of Internal Affairs	☐ Yes ☒ No

³ For applications likely to be well-founded or made by vulnerable applicants.

⁴ Accelerating the processing of specific caseloads as part of the regular procedure.

⁵ Labelled as “accelerated procedure” in national law.

⁶ Out of the total IGI-DAI staff: 37 work at DAI; 58-Regional Centre Bucharest; 54- Regional Centre Timișoara; 49- Regional Centre Rădăuți; 40- Regional Centre Somcuta Mare; 47- Regional Centre Galați; 33- Regional Centre Giurgiu.

The General Inspectorate for Immigration (IGI), a government agency under the Ministry of Internal Affairs, is in charge of the asylum procedure through its Directorate of Asylum and Integration (DAI). IGI-DAI is also in charge of operating the Regional Centres for Asylum Seekers ("reception centres") and specially designed closed spaces within the reception centres.

The competent authority for taking decisions on asylum applications at first instance is the General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI), specifically specialised in the field of asylum.

IGI-DAI may request public institutions, agencies or organisations operating in the territory of Romania, the necessary documentation to analyse the applicant's situation and take a decision, respecting the confidentiality rules. In these cases, the consent of the applicant is not required.⁷

The Head of IGI, the general inspector, is appointed by an order of the Minister of Internal Affairs.⁸ The head is assisted by 2 deputy general inspectors, who are selected after an examination/competition organised by IGI. The examination is organised in compliance with the provisions of Law no. 360/2002 on the Status of the Police Officer, the Order of the Ministry of Internal Affairs no. 140/2016 on the human resources management activity in the Ministry, the General Manager's Order of the General Directorate of Human Resources Management no. II / 1620 / 15.09.2015 on procedures and forms used in human resource management activity by the Ministry of Internal Affairs.

IGI-DAI includes a director and a deputy director. These positions are filled through an exam, the reassignment from a different location or by direct designation, according to Law 360/2002 on the Status of the Police Officer.⁹

Both the institutional structure and the IGI's mandate are prescribed by the Government Decision no.639 of 20 June 2007.

At the regional level, IGI-DAI has 6 regional centres for the accommodation and the legal procedure of asylum seekers. Every regional centre has a director and a deputy director; integration officer(s); officers responsible for fingerprinting and photographing; officers conducting preliminary interview; case officers conducting interviews and drafting decisions; legal counsellors representing the institution in the court in relation to the asylum cases; a logistics department, a financial department and medical personnel. The same case officers conducting the regular procedure conduct the border and accelerated procedure.

IGI-DAI has a total of 23 case officers¹⁰ and 16 officers responsible for the preliminary interviews.¹¹ According to IGI-DAI, the case officers receive internal and external training.

The internal training includes the following activities:

- IGI-DAI develops internal guidelines distributed among the specialised staff at the regional centres;
- The case officers at the regional centres attend common activities and trainings provided by officers from the International Protection Service within DAI.
- The International Protection Service issues recommendations on the interpretation and application of the asylum law;
- Relevant information gathered through different internal and external activities is disseminated among the case officers of the regional centres.
- Dissemination of EASO's common practical tools and guidance.

The external trainings include:

⁷ Article 49(2) Asylum Act.

⁸ Art.2(1) DECISION no. 639 of 20 June 2007 (amended) on the organizational structure and attributions of the General Inspectorate for Immigration.

⁹ Information provided by IGI-DAI, 22 July 2019.

¹⁰ Information provided by IGI-DAI, 16 February 2021.

¹¹ Information provided by IGI-DAI, 22 July 2019.

- Attendance at seminars organised by UNHCR, JRS, CNRR, AIDRom, Save the Children, etc.;
- Participation to EASO's Training Curriculum;
- Participation to EASO's working groups.¹²

Case officers are permanently informed through the Country of Origin Information Office (BITO) within IGI-DAI and through the COI website, developed together with CNRR INDICIUM¹³. They may also request COI in relation to individual cases. Case officers can also participate at thematic conferences analysing the geopolitical situation in specific countries.¹⁴

According to IGI-DAI, part of the case officers attended the EASO's training module on 'Interviewing vulnerable persons' and they also have access to UNHCR's materials. These case officers are responsible to decide on the applications submitted by vulnerable persons.¹⁵

IGI-DAI monitors the quality of the decisions issued at the regional level. IGI-DAI and UNHCR have a collaboration protocol regarding the quality control of the decisions. Based on this collaboration, UNHCR assesses monthly 10 interview transcripts and 10 decisions from all the regional centres. UNHCR and the International Protection Service of DAI are doing the assessment in parallel.¹⁶ The quality decision is assessed after the decision has been taken.¹⁷

To ensure uniform interpretation of the asylum law IGI-DAI has internal guidelines regulating different procedures. These internal working procedures are intended only for internal use and for IGI staff members.¹⁸

5. Short overview of the asylum procedure

Application

Access to the asylum procedure is ensured to any foreign national or stateless person who is on Romanian territory or at the border, from the time the person manifested his or her intention to request protection from the Romanian state, in writing or orally.¹⁹ An asylum application may be made at the border or on the territory.

Apart from IGI-DAI, there are also other authorities competent to receive asylum applications such as the Border Police operating offices, police units including pre-trial detention and detention centres, structures of the National Administration of Penitentiaries within the Ministry of Justice.²⁰ IGI-DAI has to register the asylum application within a maximum of 3 working days if the application was made at the IGI,²¹ or within a maximum of 6 working days if the application was made with another competent authorities. In case of a mass influx of applications for international protection filed with any of the latter competent authority, the registration can be made within 10 working days from the date when the application was filed.²²

First instance procedure

¹² Information provided by IGI-DAI, 22 July 2019.

¹³ <https://www.portal-ito.ro/#/home>

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Article 4 Asylum Act.

²⁰ Article 36¹(2) Asylum Act, citing Article 35 Asylum Act.

²¹ Article 36¹(1) Asylum Act.

²² Article 36¹(3) Asylum Act, citing Article 35 Asylum Act.

The first instance is an administrative procedure carried out by IGI-DAI. Asylum seekers are photographed, fingerprinted and issued with a temporary identity document,²³ which includes a personal numeric code.²⁴ The temporary identity document is extended periodically. After the asylum application is registered, a preliminary interview takes place for the purposes of determining the applicant's personal data, information on family members, relatives or any other persons of interest, the route from the country of origin to Romania, possible previous asylum procedures in another Member State or in a third country, as well as identity or travel documents in his or her possession.²⁵ If there are indications of another Member State's responsibility for assessing the asylum claim, the Dublin procedure is triggered, while the asylum procedure in Romania is suspended.

After the preliminary interview, a case officer of IGI-DAI conducts the personal interview. The law foresees a 30-day deadline to issue a decision, starting from the moment when the file is handed over to the case officer.²⁶ In the event of a negative decision, the applicant may appeal with suspensive effect to the Regional Court within 10 days since the communication of the decision.²⁷

Accelerated procedure

The Asylum Act provides for an accelerated procedure for manifestly unfounded applications, asylum applications of persons who, through their activity or membership of a particular group, pose a threat to national security or public order in Romania and asylum applications of persons coming from a safe country of origin.²⁸ The accelerated procedure may be triggered during the regular procedure if the case officer determines the existence of one of the grounds for applying an accelerated procedure.²⁹ A decision is issued within 3 days from the start of the accelerated procedure.³⁰ A negative decision in the accelerated procedure may be appealed within 7 days from the notification of the decision. If the appeal is filed within the deadline, it has automatic suspensive effect.³¹ The decision of the court is irrevocable.³²

Border procedure

The border procedure concerns asylum and subsequent applications submitted at a border-crossing point. The law provides a 3-day deadline to issue a decision in case of the border procedure.³³ As in the accelerated procedure, a negative decision may be appealed within 7 days from the notification. The decision of the court is irrevocable.³⁴

Appeal

The second phase of the asylum procedure consists of a two-instance judicial review procedure. The Regional Court has jurisdiction as first-instance judicial review. The County Tribunal, Administrative Litigation Section (Administrative County Court), has jurisdiction over the area of the Regional Court whose decision is appealed. These courts are not specialised on asylum.

²³ Article 17(1)(h) Asylum Act. Such a document is not issued to applicants: (i) who have applied for asylum at a border crossing point, as long as they have not been granted access to the territory by a decision of IGI-DAI; (ii) detained in public custody for reasons of national security and public order requesting asylum, as long as this measure is maintained; and (iii) who are taken into public custody due to a "significant risk of absconding" in a Dublin procedure.

²⁴ Article 17(1[^]1) Asylum Act.

²⁵ Article 43(1) Asylum Act.

²⁶ Article 52(1) Asylum Act.

²⁷ Article 55(1) Asylum Act.

²⁸ Article 75(1) Asylum Act.

²⁹ Article 78 Asylum Act.

³⁰ Article 79 Asylum Act.

³¹ Article 80(1) Asylum Act.

³² Article 81(2) Asylum Act.

³³ Article 82 Asylum Act.

³⁴ Article 86(2) Asylum Act.

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
 - ❖ Who is responsible for border monitoring? ☐ National authorities ☒ NGOs ☒ Other (UNHCR)
 - ❖ How often is border monitoring carried out? ☒ Frequently ☐ Rarely ☐ Never

According to Romanian Border Police reports, asylum seekers arrive in Romania mainly by land through the southwestern border with Serbia,³⁵ through the southern border with Bulgaria,³⁶ and through the

³⁵ Border Police, 'Patru cetățeni turci, depistați la frontiera cu Serbia' 30 January 2020, available in Romanian at: <https://bit.ly/3aaybPQ>; 'Opt cetățeni din Irak și Siria, călăuziți de un cetățean irakian, opriți la frontiera cu Serbia', 28 January 2020, available in Romanian at: <https://bit.ly/3plDMca>; 'Patru cetățeni sirieni, depistați la frontiera cu Serbia', 16 January 2020, available in Romanian at: <https://bit.ly/3iNIheg>; '15 de cetățeni din Irak și Siria, opriți la frontiera cu Serbia', 04 January 2020, available in Romanian at: <https://bit.ly/36dGI8L>; 'Cinci egipțeni depistați la malul românesc al Dunării', 29 February 2020, available in Romanian at: <https://bit.ly/2NtOijy>; '16 cetățeni sirieni, sprijiniți de doi conaționali, opriți la frontiera cu Serbia', 18 February 2020, available in Romanian at: <https://bit.ly/3a6tRRo>; 'Șase cetățeni turci și sirieni, depistați la frontiera cu Serbia', 13 Februarie 2020, available in Romanian at: <https://bit.ly/2MtCIV1>; 'Opt cetățeni din India care au vrut să intre ilegal în România, ajutați de doi cetățeni români, opriți la frontiera cu Serbia', 12 March 2020, available in Romanian at: <https://bit.ly/2Mua2LW>; 'O familie din Siria a încercat să intre ilegal în România' 29 Iulie 2020, available in Romanian at: <https://bit.ly/36cHTzW>; 'O familie din Siria a încercat să intre ilegal în România', 20 Iulie 2020, available in Romanian at: <https://bit.ly/2YgDQ1a>; 'Trei sirieni depistați ascunși printre paleți de carton, la P.T.F. Porțile de Fier I', 29 September 2020, available in Romanian at: <https://bit.ly/3cbxNTv>.

³⁶ Border Police, 'Patru cetățeni din Irak și unul din Siria ascunși într-un camion cu butelii, depistați la P.T.F. Calafat', 04 Ianuarie 2020, available in Romanian at: <https://bit.ly/2MqmTi9>; 'Cincisprezece cetățeni din Siria, Irak și Afganistan, ascunși într-o remorcă frigorifică, depistați la Calafat', 18 February 2020, available in Romanian at: <https://bit.ly/3iO4OXk>; 'Tânăr palestinian, ascuns într-un camion cu păsă, depistat la P.T.F. Giurgiu', 15 February 2020, available in Romanian at: <https://bit.ly/3ocJ0dW>; 'Doi tineri din Siria și Iran ascunși într-un camion cu saltele, depistați la P.T.F. Calafat', 10 February 2020, available in Romanian at: <https://bit.ly/3oeOwrr>; 'Trei cetățeni din Maroc și unul din Siria, ascunși într-un camion încărcat cu aragazuri, depistați la P.T.F. Giurgiu', 19 March 2020, available in Romanian at: <https://bit.ly/3cbGiOx>; 'Doi cetățeni din Pakistan, ascunși într-un camion încărcat cu pepeni, depistați la P.T.F. Giurgiu', 14 June 2020, available in Romanian at: <https://bit.ly/39f4hdL>; 'Patru cetățeni afgani s-au dat drept americani fără documente, la P.T.F. Giurgiu', 16 July 2020, available in Romanian at: <https://bit.ly/3ogVNab>; 'Doi sirieni, ascunși printre profile din termopan, depistați la P.T.F. Calafat', 29 August 2020, available in Romanian at: <https://bit.ly/2Mpdwiw>; 'Doi marocani și un algerian depistați de polițiștii de frontieră constănțeni, într-un lan de porumb', 30 September 2020, available in Romanian at: <https://bit.ly/2NDbQmg>; 'Șapte cetățeni vietnamezi, ascunși printre lăzi cu fructe, depistați la P.T.F. Giurgiu', 25 September 2020, available in Romanian at: <https://bit.ly/2NErYnx>; 'Afgani depistați ascunși într-un autocamion cu profile metalice, la P.T.F. Giurgiu', 23 October 2020, available in Romanian at: <https://bit.ly/3qMbNTk>; 'Tânăr din Palestina, descoperit ascuns într-un autocamion încărcat cu profile metalice, la P.T.F. Giurgiu', 20 October 2020, available in Romanian at: <https://bit.ly/39kLqxO>; '20 de irakieni depistați de polițiștii de frontieră constănțeni, la marginea unei păduri', 12 October 2020, available in Romanian at: <https://bit.ly/3pjMgRd>; 'Șase sirieni depistați de polițiștii de frontieră constănțeni', 26 November 2020, available in Romanian at: <https://bit.ly/2M8WBkt>; 'Cetățeni marocani și libieni, ascunși pe șasiul unor autovehicule, depistați la P.T.F. Calafat', 22 November 2020, available in Romanian at: <https://bit.ly/2MqA1Us>; 'Doi cetățeni din Siria, descoperiți ascunși într-un autocamion încărcat cu adeviz, la P.T.F. Giurgiu', 20 Decembrie 2020, available in Romanian at: <https://bit.ly/3iLgUR5>; 'Nouă tineri din Irak și Turcia depistați de polițiștii de frontieră constănțeni', 02 December 2020, available in Romanian at: <https://bit.ly/3a2iY37>.

northern border with Ukraine³⁷. In 2020, asylum seekers also tried to enter Romania by crossing the Danube River by boats or swimming coils.³⁸

In April 2020, 7 migrants drowned after a boat carrying 16 migrants capsized on the Danube River between the Serbian and Romanian border, near Drobeta Turnu Severin. The Romanian Border Police rescued 8 migrants and a Serbian, allegedly one of the smugglers. The boat carried 18 people including 2 Serbian nationals (the smugglers).³⁹ In August 2020, another asylum seeker drowned in the Danube River after trying to enter Romania with the help of swimming coils.⁴⁰

There were also isolated cases reported by the Border Police of foreigners arrived in Romania through the Eastern border with Moldova.⁴¹

According to the press release of the Romanian Border Police, all persons apprehended at the border with Bulgaria were “taken over by the Bulgarian Border Police, according to the Romanian-Bulgarian agreement, in order to continue the investigations and to arrange the legal measures that are required”⁴². The same was reported also for most of the foreigners apprehended at the border with Ukraine; they “were handed over to the Ukrainian border authorities for further investigations, based on the readmission agreement”.⁴³

The Border Police reported that 704 persons were returned to the neighbouring countries, under the readmission agreements, in 2020.⁴⁴

Returns under readmission agreements: 2020	
Border	Number
Serbia	436
Bulgaria	123
Ukraine	90
Moldova	46
Hungary	6
Maritime border	3
Total	704

Source: Border Police

³⁷ Border Police, 'Doi cetățeni din Egipt și unul din Yemen opriți la frontiera de nord a țării', 01 April 2020, available in Romanian at: <https://bit.ly/2NrxhGH>; 'Trei algerieni, opriți la frontiera de nord a țării', 16 June 2020, available in Romanian at: <https://bit.ly/3peugrn>; 'Patru cetățeni din Libia, opriți la frontiera de nord a țării', 14 June 2020, available in Romanian at: <https://bit.ly/2NtVqfO>; 'Trei cetățeni din Yemen, opriți la frontiera de nord a țării', 08 July 2020, available in Romanian at: <https://bit.ly/39icCNI>; 'Cinci tineri afgani, opriți din drumul ilegal la frontiera de nord a țării', 30 November 2020, available in Romanian at: <https://bit.ly/3sXyLJ5>.

³⁸ Border Police, 'Șapte cetățeni din Siria și Egipt, depistați traversând fluviul Dunărea cu o ambarcațiune', 13 February 2020, available in Romanian at: <https://bit.ly/2NwT9jX>; 'Șapte cetățeni din Siria, Yemen și Egipt, depistați trecând ilegal frontiera peste fluviul Dunărea, cu o ambarcațiune', 07 February 2020, available in Romanian at: <https://bit.ly/3cboLWB>; 'Doi tineri din Siria și Yemen, salvați din fluviul Dunărea de polițiștii de frontieră', 22 August 2020, available in Romanian at: <https://bit.ly/3a5ppSX>; 'Zece cetățeni din Siria și Kuweit, depistați pe malul fluviului Dunărea', 23 December 2020, available in Romanian at: <https://bit.ly/3a6iMzW>.

³⁹ Border Police, 'Barcă cu migranți răsturnată în Dunăre, nouă persoane salvate de la înec', 17 April 2020, available in Romanian at: <https://bit.ly/2MtcnqF>.

⁴⁰ Border Police, 'Doi tineri din Siria și Yemen, salvați din fluviul Dunărea de polițiștii de frontieră', 22 August 2020, available in Romanian at: <https://bit.ly/3a5ppSX>;

⁴¹ Border Police, 'Trei cetățeni turci călăuziți de un cetățean moldovean, depistați de polițiștii de frontieră', 10 January 2020, available in Romanian at: <https://bit.ly/2YdGmFt>; 'Opt cetățeni turci opriți la frontieră, în timp ce au încercat să intre ilegal în România', 05 March 2020, available in Romanian at: <https://bit.ly/2YbNORg>.

⁴² Border Police press releases.

⁴³ Border Police press releases.

⁴⁴ Information provided by Border Police, 3 March 2021.

According to the director of Arad public custody centre 612 foreigners detained in Arad were returned to Serbia under the readmission agreement.

The Border Police reported that persons who are detected by border guards in connection with an unauthorized crossing of the state border and who do not make an asylum claim are returned to the neighbouring state, either on the basis of readmission agreements concluded by the European Union with third countries (Ukraine, Moldova, Serbia), or on the basis of bilateral treaties (Bulgaria, Hungary). They receive an entry ban for 5 years which is communicated through information which includes the reason and possibility to challenge the measure. This information is provided with the help of an interpreter.⁴⁵

According to a JRS representative, the persons returned to the neighbouring countries under readmission agreement⁴⁶ are provided with a decision and notification for the neighbouring country. The people who are pushed back do not receive any decision when returned to the neighbouring country. A JRS representative reported that access to the territory was affected in 2020 due to the pandemic. The Border Police triggered a series of specific actions, such as: increasing surveillance actions, border control measures in the field of combating illegal migration and tightening the border verification measures, both at border crossing points and at border strips. The number of border guards was supplemented with approximately 4,000 border officers. The presence of public order structures on the streets has been strengthened at national level.

According to the Border Police, a total of 6,658⁴⁷ persons were apprehended for irregular entry in 2020 compared to 2,048 in 2019.⁴⁸

Breakdown by border region where the persons were apprehended:

Border regions where persons were apprehended for irregular entry: 2020	
Border	Number
Serbia	6,092
Bulgaria	357
Ukraine	110
Moldova	46
Hungary	31
Air border	16
Maritime border	6
Total	6,658

Source: Border Police

In 2020, as well as in previous years (2019 and 2018), it was reported that unaccompanied children who were apprehended trying to irregularly cross the border from Serbia to Romania, were prosecuted for illegal border crossing and for migrant smuggling. A JRS representative reported 8 cases of unaccompanied minors from Afghanistan who were under criminal investigation for illegal border crossing and migrant smuggling. The children were/ are held in pre-trial detention. In 2019 an unaccompanied minor from Afghanistan who admitted that he illegally crossed the state border, but declared to have no involvement in migrant smuggling criminal activities was sentenced to 1 year and 2 months of confinement in a re-education centre.⁴⁹ The child was in pre-trial detention for 7 months, from 20 June 2018 to 31 January 2019, when he was transferred to the Buziaş Education Center. On 18 March 2019 he was

⁴⁵ Information provided by Border Police, 3 March 2021.

⁴⁶ Act 61/2001 on the ratification of the Agreement between the Government of Romania and the Government of the Republic of Bulgaria on the readmission of its own citizens and aliens, available in Romanian at: <https://bit.ly/2G1aHjb>.

⁴⁷ Information provided by Border Police, 3 March 2021.

⁴⁸ Information provided by Border Police, 12 February 2020.

⁴⁹ Court of Appeal Timișoara, 2270/115/2018, 28.01.2019.

released early. The early release was revoked in December 2019 due to non-compliance with the reporting obligations. According to IGI-DAI, he left the reception centre.⁵⁰

The case of other two unaccompanied minors is still pending before the Court of Appeal Timișoara. They are in pre-trial detention since 23 October 2019. They are also indicted for illegally crossing the border and smuggling of migrants. Their attorneys' requests to revoke pre-trial detention to allow house arrest were dismissed by the Tribunal of Caras-Severin.⁵¹ According to a JRS representative, they applied for asylum a month after their criminal proceedings started.

Relocation and resettlement

Romania pledged to resettle 109 refugees during 2018-2019⁵² from Turkey (69) and Jordan (40). According to JRS and IOM, 73 persons were resettled (42 from Jordan and 31 from Turkey).⁵³ In addition, a number of 12 migrants rescued in the central Mediterranean were relocated to Romania.⁵⁴ 9 migrants were relocated from Italy and 3 from Malta.

In 2020 Romania resettled 37 Syrian refugees from Turkey and 4 migrants rescued in the Mediterranean Sea, were relocated from Malta.⁵⁵

Special measures imposed during the pandemic.

The Syrian refugees were tested for COVID-19, 72h before their scheduled departure. Upon their arrival they were quarantined for 14 days. Assistance, counselling and accommodation was provided by a NGO for 45 days through a AMIF funded project.⁵⁶

Pushbacks and border monitoring

In 2019, 2,048 persons were apprehended for crossing, or attempting to cross, the border.⁵⁷ The Border Police prevented the entry of 6,042 persons.⁵⁸ In 2020 this number increased significantly to 6,658 persons apprehended for crossing, or attempting to cross the border and 12,684 persons prevented to enter Romania.⁵⁹

Persons apprehended for irregular entry: 2020	
Country	Number
Afghanistan	3,243
Syria	3,018
Iraq	852
Turkey	718
Morocco	452
Total	8,283

Source: Border Police

⁵⁰ Tribunal of Caras Severin, Decision 80 of 12 December 2019.

⁵¹ Tribunal of Caras-Severin, Case file 2277/115/2019

⁵² Article 3^1 (1^3) Government Decision 1596/2008.

⁵³ IGI-DAI, Annual Activity Report of 2019, available in Romanian at: <https://bit.ly/3cUh1FU>.

⁵⁴ Information provided by IGI-DAI, 20 February 2020.

⁵⁵ Information provided by IGI-DAI, 16 February 2021.

⁵⁶ Information provided by IGI-DAI, 16 February 2021.

⁵⁷ Information provided by Border Police, 12 February 2020.

⁵⁸ *Ibid.*

⁵⁹ Information provided by Border Police, 13 March 2021.

UNHCR Serbia reported that 13,409 persons were collectively expelled from Romania to Serbia from 1 January to 31 December 2020,⁶⁰ being the highest number of pushbacks registered since UNHCR Serbia began monitoring pushbacks in the spring of 2016. Higher numbers were registered in the second half of the year (1,636 in July; 1,409 in August; 1,771 in September; 1,600 in October; 1,758 in November and 1,449 December 2020). The number increased in comparison to 2018, when 746-persons were collectively expelled and 2019, when 1,561 persons were collectively expelled. Therefore, there was a nine-fold increase in comparison with last year.

JRS reported that there were cases of pushbacks of single men, families and groups (at least 5 incidents were documented by JRS), but many remain unknown, as JRS Romania has no access to all cases (either because the victims refuse to talk about them, either because they leave the country shortly after arriving in Romania).

JRS is not aware of collective expulsions being carried out by Romania.

III- treatment at the border

According to JRS legal counselor in **Galați**, many asylum seekers declared that they were beaten by the border police/ gendarmerie (the asylum seekers used this term of “gendarmerie”) at the Serbian-Romanian crossing points. However, only one asylum seeker wrote a declaration about the treatment at the border, but out of fear refused to lodge a complaint against the authorities. The asylum seekers also complained that the border police/ gendarmerie took their telephones and money and that they were taken back to Serbia. They also stated that there was a lack of food and clothing at the border.

According to the legal counselor in **Rădăuți**, many asylum seekers complained of the treatment they receive at the Serbian-Romanian border. One asylum seeker declared that he was beaten and his phone and money were stolen by the Border Police. Another asylum seeker declared that he tried to enter Romania 3 times and 3 times he was sent back to Serbia.

According to JRS representative in **Rădăuți**, asylum seekers complained that the Border Police officers broke their phones, took their money, kicked them, and yelled at them. They also stated that they were pushed back to Serbia once and when they tried to enter again in Romania other Border Police officers being on duty, allowed them to enter, talked nicely to them and even offered them yoghurt and pretzels.

According to JRS representative in **Bucharest**, asylum seekers stated that they were pushed back to Serbia several times, that they were beaten and their phones and money were stolen. An asylum seeker refused to file a complaint against the Border Police’s treatment, even though he had visible signs of ill-treatment on his face. They also mentioned that they were kept for 24h at the border crossing point without any food.

With regards to the lack of food 2 detainees interviewed by the author in **Arad** public custody, apprehended at the Hungarian-Romanian border stated that they were held for 2 days at Oradea Border Police and received no food.

The JRS representative of Timișoara stated that one asylum seeker declared that he was beaten by Border Police officers, he even wrote a complaint, but soon after he left the reception centre.

JRS reported that there were cases of ill-treatment of single men, families and groups (at least 8 incidents were documented by JRS), but many remain unknown.

In 2020, JRS documented 11 incidents, involving 21 persons, who complained of being victims of either push-back actions, violent and aggressive behaviours, threats, LGBTQI discrimination or that they had no access to food, water or medical assistance. The alleged perpetrators were Border Police, gendarmerie or special intervention police officers.

⁶⁰ UNHCR, *UNHCR Serbia Update*, available at: <https://data2.unhcr.org/en/search>.

UNHCR Serbia - reporting the collective expulsions from neighbouring countries - noted that “many victims alleged denial of access to asylum procedures or mistreatment by officials of these countries”.⁶¹

Media outlet Euronews published an article documenting Border Police whippings and a case where the Romanian officers took the crutch of an amputee and beat him with it.⁶²

The Border Violence Monitoring Network (BVMN), which also collects testimonies from foreigners, published monthly reports highlighting not only pushbacks from Romania to Serbia, but also an increased violence of the Romanian officers towards migrants, men and women. They reported a certain practice of the Romanian authorities. The foreigners stated that the Romanian authorities were entering Serbia and pulling them into Romania for short periods of detention. Two families explained that the Romanian authorities forcibly took them across the Serbian border to Romania. The Romanian authorities kept them for a short time in a field, where they questioned them, stole their belongings and they were violent with the men and within an hour they pushed them back to Serbia. BVMN reports that the Romanian officers used cable or improvised whips to lash the people. Some of the persons interviewed by BVMN also shared how the Romanian Border Police officers stole their money, phones and even the food from children’s hands. Another interviewee declared that the Border Police burned their belongings (shoes, clothes, backpacks, phones, food). A friend of his suffered severe burns because he was trying to retrieve his phone from the fire, which exploded in his face. BVMN also reported that Romania Border Police uses drone surveillance in order to detect and apprehend migrants.⁶³

Information and interpretation at the border

According to the Asylum Act, if there are elements that indicate that a foreigner intends to apply for international protection in Romania in the context of pre-trial detention or detention facilities, penitentiaries, border crossing points or transit area, the competent authorities for the asylum application provide information on the possibility of submitting the request.⁶⁴

The Border Police stated that the territorial structures of the Border Police have leaflets in several languages of international circulation, as well as Arabic, Kurdish, Pashto, Farsi. The leaflets cover information on the rights and obligations of asylum seekers and information regarding the assistance provided by NGOs.⁶⁵

According to the JRS representative, JRS Romania, in partnership with UNHCR Romania, has developed information leaflets in English, French, Arabic, Farsi and Pashto for asylum-seekers at the border of Romania. The content of the leaflets has been agreed upon by the General Inspectorate of the Border Police. These information materials are available at the main border crossing points, and Border Police informed JRS that they are being distributed to migrants and asylum seekers. During their monitoring visits JRS supplies the border crossing points with 80-100 leaflets.

According to JRS the Border Police claims that they inform, orally or in writing, foreigners at the border about the possibility to make an asylum application in a language widely used internationally (such as English or French or through a translating telephone application), but there is no interpreter when they discuss with foreigners who express their willingness to submit an asylum application. The Border Police informed JRS that, when necessary, they have the support of the interpreters used by IGI-DAI, especially when there are indications that migrants want to apply for asylum at the border. Nevertheless, JRS is of the opinion that there is a need for more means of communication in remote areas, such as the green borders and border crossing points, in order to ensure proper information provision to all asylum seekers.

⁶¹ UNHCR, *UNHCR Serbia Update*, available at: <https://bit.ly/3b9OYmw>

⁶² Euronews, ‘Whips, sticks and batons: Romanian border police accused of violence against migrants’ available at: <https://bit.ly/3rWLZo4>

⁶³ The Border Violence Monitoring Network, *Monthly Reports*, available at: <https://bit.ly/3dgzMGP>

⁶⁴ Article 35^1 Asylum Act.

⁶⁵ Information provided by Border Police, 3 March 2021.

JRS further reported that the Border Police informed them that they provide information on the possibility of submitting an asylum requests through an interpreter (being used physically or by audio-video means) or directly, if there is no need for interpretation. Nevertheless, the majority of beneficiaries assisted by JRS stated that Border Police do not provide them with any information, very few declaring they were informed.

JRS representative from **Rădăuți** reported that some asylum seekers declared that they received no information at the border and that they are signing a lot of documents without knowing what they represent. When they arrive in **Rădăuți** they are not aware of anything, not even of what asylum means.

The presence of interpreters at the border was not reported as a common practice by the JRS representative of **Galăț**. One of the reasons for this may be the high number of new arrivals.

The legal counselor of **Rădăuți** reported that the asylum seekers complained of not having interpreters at the border. In general, the asylum applications are filled in Romanian and the given reasons in the application are socio-economic.

The JRS representative in **Bucharest** reported that asylum seekers declared that they were not understood at the border and they did not understand what the Border Police officers were saying; they were not aware that they made an asylum application.

At this stage, NGOs have access to border-crossing points only once third-country nationals have submitted the asylum application. Furthermore, NGOs need to be informed about the migrant's presence directly by the Border Police, through UNHCR Romania or by the migrant's family or friends or by him/herself.

A JRS report published in July 2018, based on findings collected through interviews, also raises issues concerning information provision.⁶⁶ It includes testimonies from 26 migrants who arrived in Romania. The testimonies describe how the Border Police and other officials fail to provide migrants with necessary information and have even given misleading information.⁶⁷

- The report lays out the experience of a 16-year-old boy who was rescued by the Romanian Coast Guard in the Black Sea: "He was told to 'go to court' to apply for asylum, and while he did have a court hearing eventually, the hearing was about his stay in detention and not about accessing the asylum procedure. It was only after initiating a hunger strike that the authorities finally relented and gave him access to the asylum procedure."⁶⁸
- Furthermore, another man stated that he "did not apply for asylum because the authorities discouraged it, telling him that Romania was unable to host more asylum seekers."⁶⁹
- A group of Iraqi Kurds, who were granted tolerated status⁷⁰ in Romania even though they wanted to apply for asylum did not do so because they believed their tolerated status prevents them from seeking asylum. As a consequence some of them agreed to voluntary repatriation.
- A Pakistani national, who prior to his arrival in Romania had made an asylum application in Bulgaria and did not want to return there, explained why he did not make an asylum application in Romania: "I was told that once registered as an asylum seeker in another European country, there is a real risk to be sent back there."⁷¹ After his fingerprints were found in the Eurodac database, he lodged an asylum application in Romania in order to avoid being transferred to Bulgaria. The asylum seeker declared: "[t]hey didn't tell me anything about it. They sent me to detention and looked at me as an offender, since I crossed the border illegally. I had no proper

⁶⁶ JRS, *Forgotten at the Gates of Europe: Ongoing Protection Concerns at the EU's External Border*, June 2018, available at: <https://bit.ly/2NcY0VL>.

⁶⁷ *Ibid*, 17 and 19.

⁶⁸ *Ibid*, 17.

⁶⁹ *Ibid*.

⁷⁰ Article 106¹ Aliens Act - Toleration status is granted to third country nationals who do not have the right to stay in Romania and due to objective reasons, foreseen by the Aliens Act cannot leave Romania.

⁷¹ JRS, *Forgotten at the Gates of Europe*, June 2018, 19.

interpreter, no lawyer, no information, and no time to understand my situation. Nobody gave me proper information on the possibility and consequences of asylum.”⁷²

The bipartite agreement on border monitoring

In Romania there is a framework of border monitoring, which takes place under a bipartite agreement between UNHCR and the General Inspectorate of the Romanian Border Police (*Inspectoratul General Politia de Frontiera*, IGPF). JRS Romania is the implementing partner of UNHCR, as described in the Memorandum of Understanding. The border monitoring activities include:

- ❖ Regular visits to designated border areas, including international airports, to monitor access to the territory and to the asylum procedure;
- ❖ Trainings for first and second-line officials in border crossing points;
- ❖ Training sessions delivered at Border Police Schools;
- ❖ Establishment of a mechanism for regular exchange of information at the borders with Serbia, Hungary and Bulgaria;
- ❖ Development of protection information material for potential asylum seekers at the border, under UNHCR coordination, containing up-to-date, accessible and age/gender diversity sensitive information;
- ❖ Assistance to asylum seekers during border procedures, within the framework of UNHCR-IGPF agreement.

The border monitoring activity implies gathering data on entries and exits in and from Romania through public sources – media monitoring – official statistics and visits to designated border areas. During the visits to the designated border areas, the implementing partner:

- ❖ Inspects the facilities in the transit zones designated for asylum seekers;
- ❖ conducts interviews with the asylum seekers accommodated there;
- ❖ discusses with the authorities at the border crossing point, border sector or Territorial Inspectorate of Border Police. The discussions with the authorities usually cover trends, routes, number of entries and exits, particular cases and other relevant information.

Visits are usually conducted at border crossing points where a relevant number of entries or exits was registered. The number of visits conducted depends on the circumstances, such as the number of arrivals, influx of migrants. In general, JRS conducts its monitoring visits separately from UNHCR, however there are periodic joint visits. UNHCR may also conduct visits separately from JRS. UNHCR conducts the same activities as the implementing partner, plus cross-border visits. In practice, cross-border visits are conducted jointly with JRS.

In case of regular monitoring visits, the Border Police is notified in advance. In case of emergency interventions regarding specific asylum cases, the Border Police is notified in the same day or shortly before the visit is conducted.

In 2020, the border monitoring activities were affected by the pandemic. During the state of emergency no visits were conducted and during the state of alert only essential visits were conducted. A part of the monitoring actions were held over the phone and via email.

A total of 25 monitoring visits were conducted by JRS in 2020, out of which 9 were conducted at the border and 16 at the detention centres. Monitoring visits were conducted jointly with UNHCR at Moravita and Jimbolia border crossing points and at the Territorial Inspectorate of Border Police. JRS carried out monitoring visits at Otopeni and Cluj-Napoca airports, Giurgiu, Moravita and Jimbolia border crossing points, Bucharest and Giurgiu reception centres and Mangalia Border Police. No cross-border monitoring visits were conducted in 2020.

⁷² *Ibid*, 19-20.

1.1. Refusal of entry

According to the Border Police 7,640 third country nationals were refused entry into Romania in 2019. In 2020, a noteworthy increase was registered of 12,684 of persons who were refused entry.⁷³

Persons refused entry: 2020	
Country	Number
Moldova	5,759
Ukraine	4,233
Albania	539
Turkey	425
Serbia	423
Total	12,684

Source: Romanian Border Police

Breakdown of the total number of persons refused entry by border region(2020):

Persons refused entry by border region: 2020	
Border	Number
Moldova	5,101
Ukraine	4,716
Serbia	986
Air border	737
Bulgaria	601
Hungary	394
Maritime border	149
Total	12,684

Source: Romanian Border Police

In 2020, there were 2 appeals against refusal of entry and 10 appeals against refusal of entry and entry ban; and 48 appeals challenging the entry ban.⁷⁴

Pursuant to the Aliens Act, the refusal of entry is motivated by the Border Police authorities and it is immediately communicated to the person concerned, using the form provided in Part B of Annex V of the Schengen Borders Code and the National Visa Centre within the Ministry of Foreign Affairs.⁷⁵ This form is provided to the person concerned in Romanian and English.⁷⁶

As the Aliens Act does not foresee a special remedy against the decision of refusal of entry, general administrative law applies.⁷⁷ As a result, the person concerned may lodge an action against the decision before the Administrative Court with territorial jurisdiction over the area in which the issuing body of the contested administrative act is located.⁷⁸

Prior to lodging an appeal at the Administrative Court, the person, who considers that his or her rights have been breached by an administrative act issued by a public institution, shall appeal to the issuing public authority within 30 days. The complaint should be addressed to the hierarchically superior body if

⁷³ Information provided by Border Police, 3 March 2021.

⁷⁴ Information provided by Border Police, 3 March 2021.

⁷⁵ Article 8(4) Aliens Act.

⁷⁶ Information provided by Border Police, 12 February 2020.

⁷⁷ Act 554/2004 on Administrative Litigation.

⁷⁸ Articles 6-18 Act on Administrative Litigation.

there still is one (for example when the act had already been taken by a superior there might no longer be a hierarchically superior body).⁷⁹ The appeal is assessed in 30 days.⁸⁰ An appeal lodged to the Administrative Court without fulfilling this prior procedural step will be declared inadmissible. The complaint and the appeal to the Administrative Court have no suspensive effect.

The applicant may request the suspension of the administrative act to the competent court, when lodging the prior appeal,⁸¹ or when appealing to the court.⁸²

The Aliens Act prescribes that the foreigner against whom the measure of non-entry to Romania has been taken has the possibility to voluntarily leave the bordercrossing point within 24 hours. The term is calculated from the time when the measure of non-entry to Romania was ordered.⁸³

Upon the expiration of the 24-hour term, the decision of refusal of entry to Romania is enforced by the Border Police, taking into account the state of health of the person concerned. The person is sent to the country of origin or to another destination accepted both by the person and the third state concerned, except Romania.⁸⁴ The consequence of this provision is that the foreigner against whom a decision of refusal of entry was taken has only 24 hours to lodge the appeal against the decision.

If the Border Police needs more than 12 hours to carry out the removal from the border-crossing point, the individual is accommodated in a space arranged for this purpose in the transit area, or, if this is not possible, to another location established outside the border-crossing point with transit area status.⁸⁵

The Aliens Act prescribes a special procedure when the foreigner declares to the Border Police authorities that, in case he or she was forced to leave the border crossing point, he or she would have to go to a state where he or she fears that his or her life is endangered or he or she will be subjected to torture, inhuman or degrading treatment and he or she does not submit an asylum application.⁸⁶ When this occurs the Border Police officers shall immediately inform IGI-DAI, which, within maximum of 10 days, shall analyse the situation of the foreigner and determine whether the declaration is well-founded.⁸⁷ If person's statement is unfounded, IGI-DAI communicates the decision to the border police authorities, which will inform the person concerned in this respect.⁸⁸

If the foreigner's declaration is well-founded, IGI-DAI will enforce the decision of refusal of entry to Romania by removal under the escort of the foreigner. The provisions of the Aliens Act on removal under the escort, public custody of foreigners and toleration status on the territory of Romania apply accordingly.⁸⁹

1.2. Apprehension for irregular exit to Hungary

While irregular entry or stay in Romania committed by persons who have been granted a form of protection is not punishable,⁹⁰ irregular exit from the country is punishable under the Criminal Code by imprisonment from 6 months to 3 years or a fine.⁹¹

⁷⁹ Article 7(1) Act on Administrative Litigation.

⁸⁰ Article 7(4) in conjunction with Article 2(1)g) Act on Administrative Litigation.

⁸¹ Article 14 Act on Administrative Litigation.

⁸² Article 15 Act on Administrative Litigation.

⁸³ Article 9(1) Aliens Act.

⁸⁴ Article 9(2) Aliens Act.

⁸⁵ Article 9(3) Aliens Act.

⁸⁶ Article 9(5) Aliens Act.

⁸⁷ Article 9(6) Aliens Act.

⁸⁸ Article 9(7) Aliens Act.

⁸⁹ Article 9(8) Aliens Act.

⁹⁰ Article 11 Asylum Act.

⁹¹ Article 262(1) Criminal Code.

Up to 2018, asylum seekers or other migrants apprehended trying to irregularly cross the border into Hungary, were sanctioned only with a fine.⁹² The situation changed in 2018 when the Regional Court of Chişineu-Criş delivered sentences of six months' imprisonment, coupled with a two-year entry ban from the territory of Romania and, in some cases, even legal expenses of 1,000 RON / €212.⁹³ At least 19 persons have been convicted, including a family with minor children. The family was apprehended in November 2018 and held in prison, while their four children were taken into care by the Directorate-General for Social Protection and Child Protection (DGASPC). The parents were released on 21 December 2018, after their appeal was admitted.

According to the Director of the Regional Centre Timişoara there were no cases as such in 2020. The same was echoed by the stakeholders interviewed from **Şomcuta Mare, Galaţi, Rădăuţi, Timişoara, Bucharest.**

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 for international protection be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

Asylum applications are registered by the General Inspectorate for Immigration – Asylum and Integration Directorate (IGI-DAI) within a maximum of 3 working days if the application is made at the IGI⁹⁴ and within a maximum of 6 days if the application is submitted to another competent authority such as the Border Police operating offices, the police units in which pre-trial detention and detention centres are established and functioning, or the structures of the National Administration of Penitentiaries within the Ministry of Justice.⁹⁵

In case of a mass influx of applications for international protection filed with any of the latter competent authorities, the registration of applications can be made within 10 working days from the date when the application was filed.⁹⁶

Asylum applications are recorded in special registers if they are submitted at a border-crossing point, at the units subordinated to the National Administration of Penitentiaries within the Ministry of Justice, and at the pre-trial detention and detention centres within the police units.⁹⁷

When a person expresses the intention to seek asylum at one of the structures of the Ministry of Internal Affairs of Romania, the asylum application is sent to the Regional Centres for Asylum Seekers, together

⁹² Only one case of imprisonment for attempt to irregularly cross the border from 2016 was reported by JRS representative.

⁹³ Regional Court Chişineu-Criş: Decisions 47/2018, 48/2018, 49/2018 and 50/2018, 29 March 2018; Decision 81/2018, 17 May 2018; Decisions 133/2018 and 134/2018, 27 September 2018.

⁹⁴ Article 36¹(1) Asylum Act.

⁹⁵ Article 36¹(2) Asylum Act, citing Article 35 Asylum Act.

⁹⁶ Article 36¹(3) Asylum Act, citing Article 35 Asylum Act.

⁹⁷ Article 38(5) Asylum Act.

with an outline of the asylum seeker's situation. In addition, authorities may also attach documents drawn up after the apprehension or the first submission to the competent authorities.⁹⁸

According to the Border Police, a person who expresses the intention to seek asylum at the Romanian border is given a form, which he or she fills in, in the language he or she knows. The form is registered in a special register of the Border Police structure. After registering the form, the person is informed, through an interpreter, about his or her rights and obligations. Subsequently, the form is submitted by fax to the territorially competent section of IGI-DAI.⁹⁹

Asylum applications made at border-crossing points or airports are transmitted to IGI-DAI together with an information note on the asylum seeker, which includes the hour of arrival, documents in his or her possession, persons accompanying him or her and other elements which may contribute to resolve the case in due time.¹⁰⁰

In 2018, there were 2 cases of Pakistani nationals, who wanted to make an asylum claim respectively in Otopeni Airport and Cluj Airport, but the Border Police never registered their claim. JRS had no access to them, even though the foreigners had contacted them. In 2020, JRS documented at least 3 similar cases, 2 in Otopeni and 1 in Cluj-Napoca.

According to JRS, in most of the cases asylum seekers are transported by the Border Police to IGI-DAI. Nonetheless, there are also cases when asylum seekers travel by train from the border to IGI-DAI. This occurred to asylum seekers apprehended at the border with Hungary, in **Oradea** County, which is further from Regional Centre **Timișoara**. However, if groups of asylum seekers are apprehended, they are transported to IGI-DAI by the Border Police. According to the Director of Regional Centre Timișoara, asylum seekers apprehended at border are transported by the Border Police to IGI-DAI.

There are no time limits set in law for making an application. According to Article 36(3) of the Asylum Act, competent authorities cannot refuse to register the asylum application on the grounds that it was filed at a later stage.¹⁰¹ In addition, when assessing an asylum claim, IGI-DAI cannot reject it solely on the ground that it was filed late.¹⁰²

According to IGI-DAI, asylum applications are registered in IGI-DAI database on the same day they are received, a registration number is automatically assigned. Simultaneously with the registration of the asylum application, the person is fingerprinted, photographed and issued a temporary identity document, which is extended periodically.¹⁰³ This practice is corroborated by the information provided by JRS representatives in the Regional Centres. As a consequence, there have been no delays in registering an asylum application in any of the Regional Centres.

If an unaccompanied minor expressed his or her intention to apply for asylum, in writing or orally, before the competent authorities, he or she will be registered as an asylum seeker in a special register, and the asylum application will be filed after a legal representative is appointed.¹⁰⁴ The identification data stated by unaccompanied minor are recorded in the special register.¹⁰⁵

If an unaccompanied child has expressed his or her intention to seek asylum, in writing or orally, before the competent authorities other than IGI-DAI, the respective authority will immediately inform IGI-DAI, which ensures the applicant's transport to the competent Regional Centre to assess the asylum application.¹⁰⁶

⁹⁸ Information provided by IGI-DAI, 21 August 2018.

⁹⁹ Information provided by Border Police, 27 August 2018.

¹⁰⁰ Information provided by IGI-DAI, 21 August 2018.

¹⁰¹ Article 36(3) Asylum Act.

¹⁰² Article 13(3) Asylum Act.

¹⁰³ Information provided by IGI-DAI, 21 August 2018.

¹⁰⁴ Article 39(3) Asylum Act.

¹⁰⁵ Information provided by IGI-DAI, 21 August 2018.

¹⁰⁶ Article 39(4) Asylum Act.

According to the JRS representatives working in the Regional Centres, there were no obstacles to the registration of applications in 2019. The Romanian National Council for Refugees (CNRR) stated that they are not aware of problems with regard to the registration of asylum applications.¹⁰⁷

However, according to the JRS representative in **Timișoara**, asylum seekers complained about the lack of interpreters at the stage of registration and lodging of the asylum application. The Director of the Regional Centre Timișoara confirmed this. He stated that they do not call interpreters even though they have the possibility to call an interpreter at this stage of the procedure. The same issue was reported in **Giurgiu** and **Rădăuți** with the mention that IGI-DAI turns to asylum seekers or refugees accommodated in the centre for interpretation. In **Bucharest** asylum seekers did not report problems at this stage, even though there are no interpreters when the asylum application is registered.

In **Rădăuți**, asylum seekers still complain about the fact that the Border Police does not use interpreters who speak their native language at the border. As consequence, information such as the name, the date of birth and the grounds of the asylum application, are not correctly recorded. Therefore, potential errors in the recording of personal information may arise during the assessment of their asylum application by IGI-DAI and contradictions may appear between the statements made at the border and those made during the personal interview. According to the legal counsellor of Rădăuți asylum seekers who directly make an asylum application at the centre have no interpreter at this stage. JRS representative of Rădăuți stated that while an interpreter was not always provided when an asylum application is made, there were cases where the interpreter signed the information note on the rights and obligations, that the asylum seekers receive upon arrival in the reception centre, when the asylum application is registered. She also mentioned that asylum seekers complain about the lack of interpreters in Timișoara or low quality of their services; the asylum seekers also mentioned that they signed documents without being aware of the content.

On the other hand, in **Șomcuta Mare**, there is not always an interpreter present when the asylum seekers are transferred from Timișoara, or when asylum requests are directly submitted in the centre. However, it was reported that soon after their arrival in the centre they are informed about the procedure with the help of an interpreter.

In addition to this, the Romanian Ombudsman noticed during the visit made in 2019 at the Regional Centre Șomcuta Mare that several documents signed by the asylum seekers were drafted only in Romanian, such as: the request for accommodation, the statement regarding the money that he or she has on her when accommodated in the centre, the obligation to respect ROI, information regarding prohibitions and sanctions, etc.¹⁰⁸ which, in general, are all signed when the asylum application is registered.

In **Galați**, it was reported that an interpreter is generally present when the asylum application is registered and lodged, with the exception of asylum applications made during the night, when authorities resort to asylum seekers or refugees accommodated in the Regional Centre who can speak the applicant's language or English.

There were no cases where IGI-DAI refused to have the asylum application lodged.

After the asylum application is lodged, the applicant receives a "temporary asylum seeker identity document" (*Document temporar de identitate solicitant de azil*). This is a card containing a photograph, personal details and a registration number.¹⁰⁹

In **Timișoara**, it was reported that when groups of 20-30 asylum seekers arrive in the centre, they are not issued temporary identity documents immediately, but they receive only a certificate containing the personal identification number, without picture. In these cases, the temporary identity documents are

¹⁰⁷ Information provided by CNRR, 9 December 2019.

¹⁰⁸ Ombudsman, Report 44, 24 September 2019, available in Romanian at: <https://bit.ly/2Txk0gT>.

¹⁰⁹ A template can be found at: <https://bit.ly/2Q77KQ6>.

issued the next days. In case only 2 or 3 asylum seekers arrive, they are issued immediately the temporary identity document. It was reported that there were cases when around 100 asylum seekers were arriving per day in the centre and in these cases the issue of temporary identity documents may take longer.

The JRS representative of **Rădăuți** mentioned that the majority of the asylum seekers transferred from Timișoara had temporary identity documents, and only a few had certificates.

Special measures imposed during the pandemic

According to IGI-DAI, during the state of emergency, the registration of asylum applications were organised in such a manner to allow the presence of only one person, except the cases where the presence of the legal representative, attorney, parent was required. Asylum applications were received and forms and other requests were filled in the designated spaces for these activities. The temporary identity documents issued were valid during the state of emergency. The photography and fingerprinting was carried out in the usual spaces. When asylum seekers were isolated or quarantined these activities were conducted afterwards. In addition, hygienic-sanitary measures were taken (masks, gloves, Plexiglas panels, social distancing). During the state of alert the same measures were applied, with the exception of the validity of the temporary identity document. The validity was extended according to the stage of the procedure.

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: | 30 days |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | ☒ Yes ☐ No |
| 3. Backlog of pending cases at first instance as of 31 December 2020: | 2,217 |

The law foresees a 30-day deadline to issue a decision, starting from the moment when the file is handed over to the case officer.¹¹⁰

The timeframe of 30 days provided in Article 52(1) of the Asylum Act shall be suspended during:

- (a) the Dublin procedure for determining the Member State responsible for examining the asylum application;
- (b) the **First Country of Asylum** procedure;
- (c) the **Safe Third Country** procedure; or, where appropriate,
- (d) the European safe third country procedure.

When the reason for suspension no longer exists, the assessment period cannot be less than 20 days.¹¹¹

The 30-day time limit shall be extended successively with further periods of no more than 30 days, and not exceeding 6 months from the lodging of the asylum application in total¹¹²: if the assessment of the case requires additional documentation, which makes it impossible to carry out the activities necessary

¹¹⁰ Article 52(1) Asylum Act.

¹¹¹ Article 52(4) Asylum Act.

¹¹² Article 52(2) Asylum Act.

to decide on the asylum application or could lead to the non-observance of the guarantees recognised by the law due to causes not imputable to the applicant.

However, if the maximum timeframe of 6 months is exceeded, the applicant should be informed of the delay and shall receive, upon request, information on the reasons of the delay and the time limit for the decision to be taken on his or her application.¹¹³

The term of 6 months may be extended successively for new cumulative periods, not exceeding 9 months, when:¹¹⁴

- (a) The asylum procedure involves complex elements of fact and/or law;
- (b) A large number of applications for international protection are lodged, making in practice very difficult to assess the claims within 6 months.

Exceptionally, in duly justified cases, a further extension may be applied for a maximum of 3 months.¹¹⁵

In practice, in the Regional Centres for Procedures and Accommodation for Asylum Seekers at **Rădăuți**, **Galați**, **Timișoara**, **Șomcuta Mare** (Maramureș) and **Giurgiu** the 30-day term is respected. In exceptional cases, the 30-day deadline to issue a decision was extended. In Bucharest, according to the JRS representative, the 30-day deadline was not respected in several cases. In the case of a Syrian asylum seeker, the decision was communicated after 2 months. He was not aware of the reasons of the delay, because he could not go to Tudor Gociu Centre, where the asylum applications are assessed, due to the restrictions imposed.

In **Rădăuți**, the JRS representative reported that there were cases in which the deadline was extended with 15 days, because 4 case officers had been infected with COVID-19. It was also reported that in the case of an asylum seeker, a Haitian national, who arrived in November 2020, his interview was not held because IGI-DAI could not identify an interpreter of Creole language. In January 2021 the directors had a meeting with him in order to agree on conducting the interview in French. Soon after this he left the centre. Another stakeholder mentioned that in 2020 the decisions were communicated rather swiftly, in 2 weeks.

In **Bucharest**, according to the JRS representative, in general the first instance decision is communicated within 2-3 weeks, especially when a form of protection is granted. Nevertheless, there were cases in which the 30-day deadline to issue a decision was extended for 10-20 days, in order to assess the country of origin information or the credibility of the asylum seeker.

According to IGI-DAI statistics, in 2020 the average duration of the asylum procedure was 30-60 days in case of regular procedure compared to 50 days in 2018¹¹⁶ and 3 days in case of accelerated procedure and border procedure¹¹⁷. In practice, the average length of the asylum procedure from the moment of lodging the application until the first instance decision is taken, differs from one centre to another as follows:

Average duration of the asylum procedure by Regional Centre: 2020	
Regional Centre for Procedures and Accommodation for Asylum Seekers	Average duration in days
Timișoara	35
Șomcuta Mare	30
Rădăuți	30
Galați	45-60

¹¹³ Article 52(3) Asylum Act.

¹¹⁴ Article 52(5) Asylum Act.

¹¹⁵ Article 52(6) Asylum Act.

¹¹⁶ Information provided by IGI-DAI, 5 March 2019.

¹¹⁷ Information provided by IGI-DAI, 16 February 2021.

Bucharest	45
Giurgiu	30

Timișoara: According to the Director of the Regional Centre Timișoara, the average duration of the asylum procedure is 35 days. According to the JRS representative the asylum procedure in the administrative phase was very fast; decisions were communicated also in 15 days. Interviews were held in a shipping container placed in the courtyard of the centre, according to JRS representative.

Bucharest: According to the experience of the JRS representative, the average duration of the asylum procedure is around 30 days. The director of Stolnicu centre stated that the average duration is 45 days. The JRS representative mentioned that in the first semester of 2020 decisions were communicated even before the 30 day deadline, because there were 70-80 asylum seekers in the centre. In March the number of asylum seekers accommodated in Bucharest centre dropped to 40-50 and began to grow in the summer; the highest number registered in 2020 was 260 persons.

Galați: the procedure lasted longer (1-2 weeks longer) in case of Afghan asylum seekers, because there is no interpreter in Galați. Interviews were held through videoconferences.

Șomcuta Mare: the average duration of the asylum procedure in the first instance is 30 days. However, from autumn 2020, due to an increased number of transfers from Timișoara, the duration of the procedure is longer (45 days).

According to CNRR, the average length of the asylum procedure is 30-45 working days from the time the application is handed over to the case officer until the decision is communicated. There are exceptions: in case of absence of the interpreter or where there is a need for an additional interview.¹¹⁸

1.2. Prioritised examination and fast-track processing

According to the law, priority is given to asylum applications lodged by unaccompanied children.¹¹⁹ IGI takes, in the shortest time, all the necessary measures for the appointment of a legal representative, which will assist the unaccompanied asylum-seeking child in all stages of the asylum procedure.¹²⁰ In practice, IGI-DAI instructs in writing the Directorate-General for Social Assistance and Child Protection to appoint a legal representative for the unaccompanied child, which will assist him or her during the asylum procedure. The notification is sent the next day or in a maximum of 3 days after the application was registered and the unaccompanied child was accommodated in one of the Regional Centres.

In case of vulnerable asylum seekers who are placed in specially designated closed spaces in the Regional Centres (see [Detention of Asylum Seekers](#)), the identity check and the assessment of their applications should be done with priority.¹²¹ There have been no reported cases of this situation in practice.

Șomcuta Mare. It was also noted that families with children were not interviewed before single male asylum seekers. The swiftness of the procedure in case of unaccompanied children depends on the availability of the legal representative and interpreter. It was noticed that the length of the procedure for unaccompanied children is the same as the procedure for adults (45 days).

Rădăuți: The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. The assessment of their application depends on the availability of a legal representative. A stakeholder stated that asylum applications made by unaccompanied children were examined with priority before the influx of asylum seekers. Asylum applications of single parent families are not assessed with priority.

¹¹⁸ Information provided by CNRR, 9 December 2019.

¹¹⁹ Article 16(1) Asylum Act.

¹²⁰ Article 16(2) Asylum Act.

¹²¹ Article 19¹¹ Asylum Act.

Galați: The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. The assessment of their application depends on the availability of a legal representative and interpreter. The rest of vulnerable groups are assessed in the same way.

Timișoara: According to the JRS representative, asylum applications of unaccompanied children are analysed with priority. However, the procedure lasts longer than the procedure of an adult with 15-20 days. Even though IGI-DAI takes all the necessary measures with priority – in a maximum of 3 days after the unaccompanied child has been accommodated in the centre – and the legal representative is assigned in 2-3 weeks. According to the director of the Regional Centre Timișoara, the asylum procedure of unaccompanied children may be delayed due to the bureaucratic procedures carried out by DGASPC.

Giurgiu: According to the JRS representative, the asylum applications of minors and very ill persons were prioritised. The director of Giurgiu stated that they prioritise the applications of minors and vulnerable persons.

Bucharest: According to the JRS representative, efforts were made to prioritise the asylum applications of unaccompanied minors and in general they were assessed with priority. However, even in their cases, there were numerous delays caused by the lack of interpreters. In the end the length of the procedure is the same as for an adult. Vulnerable persons are not treated with priority. Nevertheless, according to the director of Stolnicu applications made by asylum seekers coming from countries where there is no armed conflict or concerns linked to persecution were analysed with priority.

According to Save the Children Romania, the examination of the asylum application of an unaccompanied minor is prioritised but in terms of length is the same as for an adult.

CNRR stated that the asylum applications of vulnerable persons are examined with priority.

According to IGI-DAI, in comparison with the previous years when no asylum claim was prioritised under Article 31(7) of the recast Asylum Procedures Directive, in 2019, 189 asylum requests made by unaccompanied minors were prioritised.¹²²

In 2020, IGI-DAI issued 225 decisions in cases of applications made by unaccompanied children.¹²³

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 the interpreter to be of a specific gender? ☒ Yes ☐ No
❖ If so, is this applied in practice, for interviews? ☐ Yes ☒ No

According to the law, an interview is conducted in order to assess the elements of an application for international protection.¹²⁴ Although the general rule is that an interview should be held in order to correctly assess the asylum claim, there are two situations where the interview is not mandatory.¹²⁵

¹²² Information provided by IGI-DAI, 20 February 2020.

¹²³ Information provided by IGI-DAI, 16 February 2021.

¹²⁴ Article 19^6(2) Asylum Act.

¹²⁵ Article 45(3) Asylum Act.

- When IGI-DAI may take a decision to grant refugee status on the basis of evidence in the file;
- When there are serious doubts about the capacity of the adult asylum seeker.

All personal interviews, assessments of the reasons invoked by the asylum seeker and decisions are conducted by a designated case officer of IGI-DAI.¹²⁶

IGI-DAI reported that they have no statistics for 2020 regarding the number of interviews conducted, nor on the number of asylum applications assessed without an interview.¹²⁷

Special measures imposed during the pandemic

According to IGI-DAI, interviews, including preliminary interviews were conducted in the designated spaces for these activities. If the asylum seeker was isolated/ quarantined the interview was held afterwards. In addition, hygienic-sanitary measures were taken (masks, gloves, plexiglass panels, social distancing).

Interviews were not postponed or suspended during neither the state of emergency nor the state of alert.

In Bucharest, during the state of emergency, asylum seekers were transported by IGI-DAI from Stolnicu centre to Tudor Gociu centre, where the interviews are conducted. According to the director of Timișoara centre, asylum seekers received masks from IGI-DAI and from NGOs.

According to the JRS representative in Timișoara, during the state of emergency interviews were held in shipping containers installed in the centre's courtyard.

1.3.1. Interpretation

Article 45(2) of the Asylum Act sets out the rules regarding the right to have an interpreter during the personal interview. At the request of the applicant and when deemed necessary for presenting all the reasons for the asylum application, the interview shall be carried out by the case officer, with the support of an interpreter, in the language indicated by the applicant or in a language he or she understands and can communicate clearly. As far as possible, if the applicant requests it, both the case officer and the interpreter will be of the same gender as the interviewee.¹²⁸

Availability of interpreters and double interpretation

In the Regional Centres of Galați, Timișoara and Rădăuți, Giurgiu it has been reported that there are not enough interpreters available for the main nationalities of asylum seekers:

Galați: There are only one Urdu and few Arabic interpreters. There is no interpreter of Dhari and Farsi. Their services are used by IGI-DAI and by the courts. As a consequence, quality control of their interpretation services is impossible to carry out. In one case, the procedure was delayed because the asylum seeker spoke a dialect and the authorities could not find an interpreter. Double interpretation was not used in 2020. Due to the lack of interpreters at the preliminary interviews with Afghani asylum seekers, IGI-DAI used asylum seekers, who were speaking their mother tongue and English language.

Rădăuți: IGI-DAI frequently uses the same three interpreters – one for Arabic, one for Farsi / Dari / Urdu and one for Bengali. It was noted that the Bengali interpreter had no experience in interpretation in asylum cases or good command of Romanian. The Ombudsman noted that the low remuneration for interpreters, 23 RON/ €4.8/hour, is one reason for the low number of interpreters contracted by IGI-DAI.¹²⁹ The JRS

¹²⁶ Article 48 Asylum Act.

¹²⁷ Information provided by IGI-DAI, 16 February 2021.

¹²⁸ Article 45(2) Asylum Act.

¹²⁹ Ombudsman, Report 46,2019, available in Romanian at: <https://bit.ly/3am46vB>.

representative reported that the number of interpreters in Rădăuți is very low for such a high number of asylum seekers. The Farsi interpreter is also used in Timișoara and Galați.

Timișoara: The director of the Regional Centre Timișoara mentioned that they have interpreters for all languages and when they have no interpreter they conduct the interview through videoconference. JRS representative stated that double interpretation was not used in 2020.

Giurgiu: There is still a lack of interpreters, especially for Kurdish, Turkish, Farsi and Pashto, according to the director of the centre. According to the director the double interpretation was not used in 2020.

Bucharest: According to the director of Stolnicu there are interpreters for all the languages. The JRS representative stated that, as far as they are aware, double interpretation was not used. According to the director of Stolnicu centre double interpretation was used, but rarely, from Tamil to English and English to Romanian.

In **Rădăuți**, as it was reported in 2019, in 2020 IGI-DAI still uses double interpretation from Kurdish to Arabic and from Arabic to Romanian. The interpreter for Arabic is not qualified and the interpreter for Kurdish was an asylum seeker himself that later obtained protection.

This aspect was also brought to the attention of the court in the appeal lodged against a negative decision taken through the accelerated procedure by IGI-DAI, which acknowledged the reluctance of the applicant to share his whole story because of the presence of a Kurdish interpreter who also lived in the Regional Centre of Rădăuți. The applicant also criticised the fact that the Kurdish interpreter only graduated from Primary School and has no formal training in this field. The Regional Court Rădăuți dismissed the appeal without even assessing the applicant's claims regarding the double interpretation.¹³⁰

Șomcuta Mare: The Regional Centre collaborates with the same interpreters as last year, of the following languages: Farsi, Dari, Arabic, English and French. There is no Somali interpreter. Double interpretation was used during 2020.

Stakeholders interviewed also reported that there are a limited number of female interpreters in the asylum procedure. For example, in the Regional Centre of **Galați**, there is a female interpreter for Arabic, English, French, Russian and Ukrainian, Turkish. In **Giurgiu**, there is one female interpreter for English, in **Rădăuți** there is one interpreter for English/French, Ukrainian, in **Șomcuta Mare** there is a female English interpreter and **Timișoara** there are female interpreters for Arabic, French, English, Russian, Pashto and Dhari. In Bucharest there are 2-3 female interpreters for Arabic and one for English.

In 2020 the number of female case officers increased in all centres, except in Șomcuta Mare and Rădăuți where all the case officers are male. In **Timișoara** there are 3 case officers, out of which 2 are female, according to the director. The JRS representative of Timișoara stated that he was not aware of any female case officers. In **Bucharest**, there are 4 female case officers out of 6, according to the director of Stolnicu centre. In **Giurgiu** and **Galați** there is one female case officer.

All the stakeholders interviewed stated that asylum seekers may request an interpreter or case officer to be of specific gender, but in practice this is not possible in most of the cases, due to the lack of interpreters and lack of female case officers in some of the centres.

Quality and conduct

A number of problems regarding the quality of the interpretation and conduct of interpreters has been reported. Interpreters are not sufficiently trained and, therefore, they are not impartial. Related problems were also pointed out:

- Some interpreters do not refrain from making comments, they express doubt about the asylum seekers' declarations; e.g. "I was there, there are no Taliban", "I know better";

¹³⁰ Regional Court Rădăuți, Decision 3121/2019, 13 November 2019.

- Some interpreters have private conversations with the asylum seeker and do not translate the conversation, or they express emotions;
- Asylum seekers complained about an interpreter, who made comments during the personal interview like: “more briefly, I do not have all day at your disposal”, he selected the documents that the asylum seeker should present at IGI-DAI, and translated only a summary of what is written on the page and not the whole interview (question and answer). Even though the asylum seekers wanted to be assisted by the legal counsellor during the interview, the interpreter told them that “the presence of the legal counsellor is not necessary because you will be granted a form of protection anyway”.

In **Timișoara**, the JRS representative stated the asylum seekers had not reported any issues regarding the quality and conduct of interpreters. An attorney interviewed mentioned that the interpreters are not translating accurately and usually they do a summary of the declarations. The attorney further pointed out that only 1 of the interpreters with whom he interacted is dedicated and fulfils his duties with professionalism.

According to an attorney, many asylum seekers complained that the interpreters are not accurately translating the declarations made during the interview. For example, although they told their story in several phrases, the interpreter translated everything only in one sentence. Small mistakes were noticed in the transcripts, but these small details can be essential for the outcome of the decision in their cases.

In **Șomcuta Mare**, it was reported that interpreters are not professionally trained on asylum issues. It was also noted that asylum seekers complain about the quality of interpretation during the interview and also at the court. It was also reported, that for a Kurdish asylum seeker an interpreter of Arabic language was assigned by IGI-DAI; during the court proceedings a Kurdish interpreter was granted. A family from Iran complained that the interpreter translated something that they did not declare at the interview. It was noted that asylum seekers are complaining about the content of the interview after their asylum claim was rejected.

Rădăuți: asylum seekers complain about the quality of the double interpretation; that their declarations were not relayed exactly or coherently. It was also reported that the Arabic translator is not relaying the exact message. It was reported that 6 asylum seekers, Somali nationals, had their interviews during the same weekend. The interviews were held during the weekend because the interpreter travelled to Rădăuți from another county. They were dissatisfied with the interpreter, because he interfered with the manner in which the asylum seekers were telling their story. They also complained about the fact that the interviews were very similar. All of them were assessed in accelerated procedure.

Bucharest: There are problems with interpretations for rare languages, for Bengali language, for example, there are only two interpreters and one of them does not have a good command of Romanian language and sometimes he translates only with “yes” or “no” an obvious longer answer of the asylum seeker. The case officer has to insist in order for the interpreter to relay the exact answer of the asylum seeker. For Tigrinya language, there is only one interpreter who is rarely available for interviews. It was also reported that the Bengali interpreter was rephrasing or changing the meaning of the message. Another asylum seeker stated that the interpreter did not relay the exact message.

A detainee, an Iranian national, interviewed by the author during the visit in Otopeni centre, who previously was an asylum seeker in Bucharest, declared that at the interview he had an Afghani interpreter. At the end of the interview he was given the transcript in order to sign it, without being read aloud by the interpreter. He noticed after translating the transcript that the interpreter had not accurately translated his declarations. At the court he had an Iranian interpreter.

Giurgiu: In 2020, interpreters refused to be physically present at the interviews, thus interviews were conducted through videoconference.

In relation to the problems with the quality of interpretation and conduct of interpreters, CNRR stated that in general there were no issues reported, even though interviews were conducted through videoconference.¹³¹

It was noted that only CNRR and ICAR Foundation have funds for the services provided by interpreters. In addition, UNHCR funding may be extended to cover interpreter fees, in certain situations.

All the stakeholders interviewed by the author have declared that they have never heard about a Code of Conduct for interpreters in the asylum procedure, except one legal counsellor who stated that when JRS signs a contract with an interpreter they also have to sign a Code of Conduct. CNRR, on the other hand, stated that the Code of Conduct is applied in practice and provides elements such as the rights and obligations of the interpreter, the position and attitude during the personal interview and counselling sessions, the importance of using correct terminology, the impartiality and confidentiality concerning the information the interpreter comes into contact with. This Code of Conduct was transmitted to IGI-DAI by CNRR and they believe it is applied by IGI-DAI.¹³²

1.3.2. Recording

The law does not prescribe audio/video recording of the personal interview. Personal interviews and preliminary interviews are not audio/video recorded.

Court sessions are recorded according to the Civil Procedure Code.¹³³ The rules concerning the recording of court hearings are set out in Article 13 of Act 304/2004 on Judicial Organisation, which provides that:

- a. The court hearings are recorded by video or audio technical means or recorded by stenography. Recordings or transcripts are immediately transcribed;
- b. The clerk or the stenographer shall record all the affirmations, questions and submissions of those present, including the president of the court panel;
- c. Upon request, the parties may receive a copy of the transcript of the Registrars, minutes or notes of the Registrar.

In 2020, interviews were conducted through videoconferencing in all regional centres. IGI-DAI has no statistics on how many interviews were conducted this way.¹³⁴

Șomcuta Mare: According to the JRS representative interviews were held through videoconference for 3 asylum seekers from Tibet. During this interview the double interpretation was used from Tibetan to English and from English to Romanian.

Timișoara: JRS was not aware of any interviews being conducted through videoconferencing. However, the director of the Regional Centre Timișoara stated that several interviews were conducted through videoconferencing due to the lack of interpreters. They conducted interviews through this method with Pashto, Somali, and Urdu interpreters from Bucharest, Rădăuți and Giurgiu. The director of Arad public custody centre reported that at the start of the pandemic interviews with asylum seekers who made an application in detention were conducted through videoconference.

Galați: According to the JRS representative, IGI-DAI conducted interviews through videoconferencing with interpreters from other regional centres, in cases of asylum seekers who spoke Pashto, Farsi and Dari. Asylum seekers did not complain about the interviews conducted this way.

¹³¹ Information provided by CNRR, 10 February 2021.

¹³² *Ibid.*

¹³³ Article 231(4) Civil Procedure Code: The court will record the court hearings. If the parties are challenging the content of the clerk's notes, it will be verified and, if necessary, supplemented or rectified based on the records of the court hearing.

¹³⁴ Information provided by IGI-DAI, 16 February 2021.

Rădăuți: This year interviews were conducted through videoconferencing for Somali asylum seekers. It was reported that the sound during the videoconference is not so good, but in the end the participants could understand each other. In 2020, in around 10 applications the interview was conducted with an interpreter from Rădăuți, but with a case officer from Galați. The asylum seekers received the transcript after 3 weeks. In one of these cases a second interview was held in Rădăuți, because in the first interview it is not mentioned that the applicant has a child. In both interviews the double interpretation was used.

Giurgiu: Videoconferencing was also used to conduct interviews. According to the director of Giurgiu 73 interviews were held through videoconference. The JRS representative reported that there are technical problems and communication issues with the interpreter.

Bucharest: As far as the JRS representative was aware no interviews were conducted through videoconference. Conversely the director of Stolnicu centre mentioned that videoconference was used whenever there was no interpreter available or in cases of asylum application made from detention centres.

Transcript

The case officer conducting the interview transcribes the questions and the answers/statements *verbatim*. The transcript includes at least the following data: identification data of the applicant, the name of the case officer who performs the interview, the name of the interpreter and, as the case may be, of the legal representative, the counsellor and/or the lawyer assisting the applicant, the language of the interview, the reasons for the request for international protection, as well as the applicant's statement that all the data and information presented at the interview are correct. Where appropriate, the interview note shall also include the applicant's explanations of the failure to present elements to be considered when examining the asylum application and/or clarification of inconsistencies or contradictions in his or her statements.¹³⁵

At the end of the interview, the transcript of the interview is orally translated by the interpreter to the applicant.¹³⁶ The applicant has the possibility to formulate observations and/or to offer clarifications relating to any errors of translation or misunderstanding, which will be recorded in the interview transcript.¹³⁷ After this, the transcript is signed on every page by all the persons present at the interview.¹³⁸ A copy of the transcript is given to the asylum seeker or legal representative, his or her lawyer or counsellor, as the case may be, which assisted him or her at the interview, after the document was signed.¹³⁹ If the applicant refuses to sign the transcript, the reasons for his or her refusal will be mentioned on the transcript. The applicant's refusal to sign the transcript does not prevent IGI-DAI from taking a decision on the asylum application.¹⁴⁰

In **Timișoara**, asylum seekers complained that they are not notified in advance of the date of the interview. According to the JRS representative, the officers are waking them up on the day of the interview or they are not allowed to leave the accommodation centre in the morning, or they are informed about the interview the day before. The latter is not applied often because IGI-DAI is afraid that the asylum seekers might leave. Furthermore, the information on the practice was corroborated by an attorney who stated that some asylum seekers mentioned that they are woken up at 7 AM and taken to the interview. It was also reported by one of the attorneys that at the end of the interview, the transcript is not fully translated by the interpreter; the interpreter only informs the asylum seekers that they have to sign the transcript as it includes all of their statements. According to the director of Regional Centre Timișoara, asylum seekers are notified about the date of the interview in writing in their language or in English or at the preliminary interview when the interpreter is available. According to JRS representative, in 2020 there were no cases of asylum seekers complaining about the translation of the transcripts. It was also noted by the JRS

¹³⁵ Article 45(5) Asylum Act.

¹³⁶ Article 45(7) Asylum Act.

¹³⁷ Article 45(6) Asylum Act.

¹³⁸ Article 45(8) Asylum Act.

¹³⁹ Article 45(9) Asylum Act.

¹⁴⁰ Article 45(10) Asylum Act.

representative that not all the interpreters are reading the transcript at the end of the interview for the asylum seeker. Furthermore, it was mentioned that the translation of the transcript is at the discretion of the case officer.

In **Galați**, there have been cases of asylum seekers complaining about the quality of the interpretation and the transcript. Asylum seekers complain also about the fact that the interpreter did not relay everything, aspects that they mentioned were omitted by the interpreter and that the transcript is not translated at the end of the interview.

In **Giurgiu**, it was reported that in practice the transcript is not read at the end of the interview. Asylum seekers may formulate objections and make additional notes, which would be subsequently inserted in the transcript, however this is not a common practice.

In **Șomcuta Mare**, the legal counsellor is not aware if the transcript is translated at the end of the interview.

In **Rădăuți**, it was reported by the JRS representative that for a period of time, at the end of the interview, the case officer was reading the transcript from his computer, the interpreter was translating only after the transcript was printed out and signed by the asylum seeker. This was the practice only when NGO representatives were not attending the interviews.

In **Bucharest**, it was reported by the JRS representative that the interpreter reads the transcript and the asylum seeker is asked if he has any objections; objections are subsequently added in the transcript.

If necessary, the case officer may conduct another interview with the asylum seeker.¹⁴¹

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	☒ Yes	☐ No
❖ If yes, is it automatically suspensive	☒ Judicial	☐ Administrative
	☒ Yes	☐ Some grounds ☐ No
2. Average processing time for the appeal body to make a decision: 1-3 months (see a detailed overview per Regional Court below)

The decision taken (admission or rejection) by IGI-DAI is communicated, immediately, to the asylum seeker in writing, through direct communication by the representatives of the IGI-DAI if the asylum seeker lives in the Centre, or by post at the last declared residence of the applicant.¹⁴² The decision may be communicated to the lawyer or NGO representative representing the asylum seeker, if the asylum seeker has expressly requested this.¹⁴³

The decision is accompanied by written information, in Romanian and in a language that the applicant understands or is reasonably supposed to understand, related to the admission or rejection of the asylum application and the conditions under which the decision may be appealed, as the case may be.¹⁴⁴ In practice, the justification of the decision is written in Romanian and is translated by the NGO representatives.

The decision taken by IGI-DAI may be challenged in a two-instance judicial review procedure.

¹⁴¹ Article 45(11) Asylum Act.

¹⁴² Article 54(1) Asylum Act.

¹⁴³ Article 54(1⁴¹) Asylum Act.

¹⁴⁴ Article 54(1) Asylum Act.

1.4.1. Appeal before the Regional Court

The Regional Court (*Judecătoria Secția Civilă*) has jurisdiction in asylum cases, as the first-instance judicial review. The Regional Court is made up of a single judge. The judges are not specialised in asylum law. At most they have participated at national conferences organised by NGOs or UNHCR.

The appeals, as well as the other procedural acts regarding the resolution of the appeal, are exempt from legal taxes and legal expenses cannot be demanded.¹⁴⁵

In 2020, a total of 1,038 appeals against IGI-DAI decisions were filed before the Regional Courts.¹⁴⁶ According to the information provided by the Regional Courts the number of appeals in 2020 was 1,050.

Appeals registered by Regional Courts: 2020	
Regional Court	Number of appeals
Bucharest (District 4)	378
Galați	111
Baia-Mare	151
Giurgiu	120
Rădăuți	78
Timișoara	212
Total	1,050

Source: Regional Courts

Time limits

The deadline for lodging an appeal is 10 days from the day the decision was communicated.¹⁴⁷ The appeal has automatic suspensive effect, if it was lodged within the term prescribed by law.¹⁴⁸

The law contains a procedural safeguard in case of appeals lodged after the time limit set out by law.¹⁴⁹ Therefore, in case of filing the appeal or onward appeal after the deadline, the applicant may request the suspension of the execution of the return decision. The request for suspension shall be settled within 7 days from its registration, by the competent court, which shall pronounce the decision in the council chamber, without the parties being summoned, by an irrevocable decision.¹⁵⁰ While this review is pending, the foreigner cannot be removed from the country.¹⁵¹

If the court admits the request to suspend the execution of the removal decision, the foreigner has the right to remain in the country pending the outcome of the request for reinstatement of the legal term to appeal.¹⁵² The foreigner will benefit from all the rights provided by Articles 17 and 18 of the Asylum Act from the moment the court admits the request for reinstatement of the legal term to appeal.¹⁵³

The appeal has to be motivated in fact and in law.¹⁵⁴ It may be lodged at IGI-DAI, which has issued the decision or directly to the competent court.¹⁵⁵ The appeal has to be accompanied by a copy of the IGI-

¹⁴⁵ Article 65 Asylum Act.

¹⁴⁶ Information provided by IGI-DAI, 16 February 2021.

¹⁴⁷ Article 55(1) Asylum Act.

¹⁴⁸ Article 55(2) Asylum Act.

¹⁴⁹ Article 69 Asylum Act.

¹⁵⁰ Article 69(1) Asylum Act.

¹⁵¹ Article 69(2) Asylum Act.

¹⁵² Article 69(3) Asylum Act.

¹⁵³ Article 69(4) Asylum Act.

¹⁵⁴ Article 57(1)(c) Asylum Act.

¹⁵⁵ Article 56 Asylum Act.

DAI decision and other documents or elements on which the appeal is based.¹⁵⁶ The court carries out an assessment of both points of facts and law. The decision of the first instance court incorporates the reasons in fact and law on which it is based.¹⁵⁷

In general, there are no problems in appealing a decision, if asylum seekers consult the legal counsellor of an NGO.¹⁵⁸ In **Bucharest**, when communicating the decision, IGI-DAI also provides the asylum seeker with the postal address of the Romanian National Council for Refugees (CNRR) in English. Asylum seekers are told by the representative of IGI-DAI who communicates the decision, that they have to go to CNRR for legal counselling and assistance for lodging an appeal. This practice is in place since 2017. The JRS representative reported that sometimes this information is communicated to the asylum seeker, taking into account that CNRR has an office in Tudor Gociu Centre. Nevertheless, there were cases in which the rejected asylum seekers did not know who to turn to for the drafting the appeal against the decision of IGI-DAI.

Article 62 of the Asylum Act provides that asylum cases should be dealt with priority before other civil matters.¹⁵⁹ The court should take a decision on the appeal within 30 days.¹⁶⁰ The court has to motivate its decision within 5 days since it was pronounced.¹⁶¹

Special measures imposed during the pandemic

According to the information provided by the regional courts, some of them suspended the court hearings during the state of emergency, while others did not. In Regional Court District 4 Bucharest the court hearings were not suspended and the court hearings were held through videoconference, according to the court.¹⁶² Conversely, the director of Stolnicu centre reported that the court hearings were suspended. He stated that court hearings were conducted online and priority was given to asylum applications assessed in accelerated procedure. The videoconference system is in place in Tudor Gociu centre. According to a lawyer from the Bucharest Bar Association, the court hearings were organised as follows: the asylum seeker, his or her lawyer, interpreter and IGI-DAI's legal counsellor were present in Tudor Gociu and the judge and clerk in the court. She also mentioned that when these court hearings were taking place the courtyard of the centre was full of lawyers and their clients and social distancing was not respected.

According to the JRS representative court hearings were only suspended for asylum applications assessed in regular procedure, there were cases which lasted 4-5 months in the appeal procedure. Court proceedings for asylum claims assessed in accelerated procedure were held online. This was also echoed by an attorney. The attorney further mentioned that for a period of time the court hearings in asylum cases were all suspended, but they were resumed after IGI-DAI's requests.

Regional Courts **Rădăuți**¹⁶³ and **Baia-Mare**¹⁶⁴ stated that the court hearings were not suspended during the state of emergency. However, other stakeholders interviewed by the author reported the contrary.

Regional Court of **Galați** suspended the court hearings during the state of emergency (16 March-3 May 2020).¹⁶⁵ Regional Court of **Giurgiu** also suspended the court hearing during the state of emergency.¹⁶⁶

¹⁵⁶ Articles 56(1) and 57 Asylum Act.

¹⁵⁷ Article 425(b) Civil Code.

¹⁵⁸ Information provided by CNRR, 9 January 2018.

¹⁵⁹ Article 62(1) Asylum Act.

¹⁶⁰ Article 64(2) Asylum Act.

¹⁶¹ Article 64(3) Asylum Act.

¹⁶² Information provided by the Regional Court District 4 Bucharest, 21 January 2021.

¹⁶³ Information provided by the Regional Court Rădăuți, 25 February 2021.

¹⁶⁴ Information provided by the Regional Court Baia Mare, 19 January 2021

¹⁶⁵ Information provided by the Regional Court Galați, 18 January 2021

¹⁶⁶ Information provided by the Regional Court Giurgiu, 29 January 2021.

At Regional Court **Timișoara**, during the state of emergency, only appeals in the accelerated procedure and subsequent applications were examined by the court, the appeals in regular procedure were suspended.¹⁶⁷

At the same time, in order to prevent the spread of coronavirus the courts take all necessary measures such as: mandatory masks, hand sanitizers, ventilation of court rooms at short intervals, social distancing.

IGI-DAI statistics refer to 1 to 2 months average duration of the appeal procedure.¹⁶⁸ In practice, the average processing time for the first instance judicial court defers from county to county, as follows:

Average duration of the appeal procedure by Regional Court: 2020	
Regional Court	Number of days
Bucharest (District 4)	96,1
Galați	30-45
Baia-Mare	18,76
Giurgiu	30
Rădăuți	67
Timișoara	65

Source: Regional Courts

Șomcuta Mare: The JRS representative reported that the duration of the appeal procedure differs from case to case. There were cases where the appeal procedure lasted maximum 30 days, if the interpreter and the lawyers were present and the asylum seeker could be heard. In cases where there is no lawyer appointed or the interpreter is not present, the court hearings are postponed, and the appeal can last 3-4 months. The JRS representative noted that court hearings were suspended during the state of emergency.

Galați: According to the legal counsellor the average duration of the appeal procedure is around 90 days. However, if there is an interpreter the procedure may be finalised at the first hearing. In general, the appeal procedure has 2 court hearings at 2 weeks or 1 month apart. Court hearings were held through videoconference with interpreters of Dari or Pasto from other cities (Bucharest, Suceava).

Rădăuți: the legal counsellor noted that the appeal procedure lasted 30-45 days. According to the legal counsellor, the length of the procedure depends on the judge; there are some judges that are not postponing the hearing for any reason. The court hearings were suspended during the state of emergency. According to JRS representative's experience the average duration of the appeal procedure is around 2-3 months, in some cases shorter. It was reported that there were some delays in reasoning the decisions of the regional court. For example a family with children is waiting for the reasoned decision for 2 months.

CNRR reported that the appeal in accelerated procedures is finalized within maximum 30 days since the asylum application was made. In the regular procedure there are maximum 2 court hearings; more hearings may be granted in case there is no interpreter.¹⁶⁹

Timișoara: According to a lawyer, the average duration of the appeal procedure is around 75 days. Judges generally grant short terms of up to 2 weeks. It has often happened that the postponements are due to the absence of interpreters. On average there are about 2-3 court hearings for a case. At times, during the state of emergency court hearings were held through videoconference, the asylum seeker, interpreter and legal counsellor of IGI-DAI are in the centre and the judge in the courtroom.

¹⁶⁷ Information provided by the Regional Court Timișoara, 26 February 2021.

¹⁶⁸ Information provided by IGI-DAI, 16 February 2021.

¹⁶⁹ Information provided by CNRR, 10 February 2021.

CNRR reported that in Timișoara, the average duration of the appeal is between 1-3 months. It was also added that in the last months the majority of asylum claims were assessed in accelerated procedure and the average duration of the appeal was 3 weeks-1 month.¹⁷⁰

As CNRR pointed out in Timișoara the majority of cases examined by the court were in accelerated procedure. Regional Court **Timișoara** reported that out of the 138 cases in accelerated procedure, 130 were assessed in 1 court hearing. The length of the appeal procedure was 33,2 days. Under the regular procedure, 48 files were examined by the court; for which the duration of the appeal procedure was 65 days (54 until the decision is given and 11 for reasoning the decision). Out of the total appeals in the regular procedure 23 were examined in only 1 court hearing.¹⁷¹

Bucharest: the average duration of appeal procedure is around 2-4 months, according to the director of Stolnicu centre. According the JRS representative the average duration is around 3 months, but there were also cases that lasted for 4-5 months. An attorney reported that in 2020 the duration of the appeal proceedings lasted around 1 year from the moment the appeal was lodged until the decision was reasoned.

Giurgiu: according to the director of the centre the appeal procedure last around 60 days. This was also echoed by the JRS representative, who also stated that due to the pandemic there were certain delays of 1-2 weeks.

Hearing

The law establishes that the court may order the hearing of the asylum seeker when it considers that it is useful to settle the case.¹⁷²

In Regional Court **Galați**, always hear the asylum seeker *ex officio*. In some cases the judge asks the applicant if he or she has something to add; in others the judge may ask questions. However, it was reported that in one case the asylum seeker requested the judge of the Regional Court of Galați to be heard, but the judge said it was not necessary if he did not have anything new to add. In Baia-Mare, on the other hand, there is an actual hearing.

In Regional Court Baia Mare, asylum seekers are not always heard, according to JRS representative

In **Giurgiu** it was reported that asylum seekers are heard at the request of their attorney or *ex officio*. As regards the actual hearing of the applicant, some of the judges ask the applicants if they have anything else to add, others allow the applicants to recount their stories again in a few minutes.

In the Regional Court of **Timișoara**, the hearing of the asylum seeker is requested either by the lawyer. A lawyer reported that judges do not hear the asylum seekers *ex officio*, with the exception of one judge who hears the asylum seekers in certain cases.

In **Rădăuți**, asylum seekers are heard if this is specially requested in the appeal. There is no *ex officio* hearing. Some of the hearings consist in asking the asylum seeker if he has something to add, while in other cases all the parties ask questions and, only in few cases, asylum seekers have the opportunity to give full statements.

In the Regional Court of **Bucharest District 4**, the practice witnessed in 2017 of the asylum seekers not been heard in most of the cases, changed in 2018 when some of the judges started hearing the asylum seekers *ex officio*. However, the hearing consists in asking the asylum seeker if he has something else to add or to clarify contradictory aspects. A lawyer reported that in 2018 some of the judges started to exercise an active role, asking questions to the asylum seeker. This was still the case in 2020.

¹⁷⁰ Information provided by CNRR, 10 February 2021.

¹⁷¹ Information provided by Regional Court Timișoara, 26 February 2021.

¹⁷² Article 63 Asylum Act.

According to a lawyer, the hearing of the asylum seekers depends on the willingness of the judge to clarify some aspects of the interview or the appeal; some of the judges have additional questions and some of them only ask the applicant if they have something else to declare.

According to a JRS representative asylum seekers are heard at the request of their attorneys.

According to a lawyer, as a general rule the court conducts a hearing with the asylum seeker, albeit a very brief one. The hearing of the asylum seeker is usually requested by attorneys with expertise in the asylum field and not by attorneys paid from the legal aid scheme, assisting and representing asylum seekers for the first time and with limited knowledge in asylum law.

Hearings in asylum cases are not public.¹⁷³ This is respected in practice in all the courts.

Another improvement noticed by a lawyer in the Regional Court of **Bucharest District 4** is that, since October/November 2018, the list of hearings displayed outside the courtroom is anonymised and no longer contains the name of the asylum-seeking appellants. However, during the pandemic, due to the fact that access in the court's building is restricted, the gendarmerie, which is ensuring the compliance of this measure, has a list with the names of all parties, including asylum seekers.

Decision

The Regional Courts took 708 decisions in 2020, according to IGI-DAI.¹⁷⁴ According to the available data provided by the Regional Courts a total number of 861 decisions were issued in 2020.

Decisions by Regional Court: 2020				
Regional Court	Total	Refugee status	Subsidiary protection	Rejection
Bucharest (District 4)	399	10	9	283
Galați	95	1	-	94
Baia-Mare	127	1	2	124
Giurgiu*	-	-	-	-
Rădăuți	46	3	2	41
Timișoara	194	2	1	187
TOTAL	861	17	14	729

Source: Regional Courts

* Regional Court Giurgiu reported that the court has no system in place that registers the decisions of the court based on the given decision.

At the national level, there is a court's portal available online,¹⁷⁵ but only the asylum cases registered at Regional Court Giurgiu are published on it.

The practice shows that with no support from NGOs or attorneys, it is impossible for the asylum seekers to learn about the decision of the appeal courts. In certain instances even for the NGO representatives and attorneys is a hurdle. This has a direct effect on their access to onward appeal.

The practice regarding the publication of the decisions of the Regional Court varies. Until 2020, the appeals reviewed by the Regional Court of **Rădăuți** and Administrative Country Court of Suceava were all published on the national portal. In 2020 no information was published on the portal. Thus, in order to learn the decision of the court, the legal counselor calls the Court's Registry.

¹⁷³ Article 58 Asylum Act.

¹⁷⁴ Information provided by IGI-DAI, 16 February 2021.

¹⁷⁵ Ministry of Justice, *Portalul instanțelor de judecată*, available in Romanian at: <http://bit.ly/2hGMVhM>.

On the other hand, practice has not change at the Regional Court and the Administrative Country Court of **Giurgiu**, where all the appeals are published and include full names, file number and a summary of the decision.

In addition, some of the decisions of the Regional Courts of Rădăuți and Giurgiu are published on a website funded by the Supreme Council of Judges and the National Union of Public Notaries of Romania. Some of the names of the applicants are anonymised while others are not.¹⁷⁶

In 2019 asylum seekers could no longer consult the progress and outcome of their cases reviewed by the Regional Court of **Baia-Mare** and the Tribunal of Maramureș because the files are no longer scanned on the portal of the Court of Appeal, even though the court still communicates a password for the portal. As a consequence, it is now difficult for the asylum seeker and NGO representatives to follow the cases. It was reported that asylum seekers are not informed about their decision. In order to learn about the court proceedings and decisions, the JRS representative is asking IGI-DAI, only if it is aware whether the respective asylum seeker had a court hearing. Onward appeals were not lodged because she was not aware of the court hearings.

In **Timișoara**, even though the court communicates the password, the case files of asylum seekers are not recorded on the [Court of Appeal portal](#). In the past, a register for all the cases submitted to the court, including asylum cases, was available. The register where the decisions in asylum cases were written was abolished. One of the lawyers stated that in order to know the decision of the court, he calls the public information office of the court. The director of Timișoara centre stated that they receive the decision via email or fax from the court and that asylum seekers learn about the decision from the NGOs.

The decisions of the Regional Court and Administrative Country Court of **Galați** are not published on the national portal. In order to obtain the decisions or to receive other documents from the case file, the interested parties may file a request at the court's registry and the documents are sent to them via email. The asylum seeker is informed about the decision of the court either by the NGO representatives, who are in contact with the legal department of IGI-DAI.

The decisions of the Regional Court of **Bucharest District 4** are neither published on any portal nor written in the registers. The decisions may only be accessed through the court's archive. The JRS representative mentioned that the decision of the court is communicated by the attorney. According to an attorney, if the asylum seeker is assisted by a paid lawyer, the respective lawyer informs the asylum seeker about the decision of the regional court; the lawyers paid by state legal aid do not keep in touch with them; if the asylum seeker is accommodated in Stolnicu centre he may receive information from the NGOs about how to learn about his decision. In order to find out the decision of the court, the attorney is calling the court's archive; phone line which is always busy. Physical presence at the court's archive was restricted due to the pandemic, thus a prior appointment is necessary. A lawyer, member of the Bucharest Bar Association emphasised that during the pandemic it was more difficult to ensure follow up on the asylum cases.

1.4.2. Onward appeal

Special measures imposed during the pandemic

The Administrative County Court **Timișoara** reported that the onward appeal procedure was only marginally affected during the state of emergency. Thus, a single case was suspended based on Decree 195/2020 for a period of less than 3 months; the respective case was resolved within 6 months.¹⁷⁷

¹⁷⁶ Romanian Legal Information Institute (Rolii), available in Romanian at: <https://bit.ly/2PKL4Yw>.

¹⁷⁷ Information provided by the Administrative County Court Timișoara, 19 February 2021.

The Administrative County Court **Bucharest** stated that during the state of emergency, the trial of the files concerning refugees was suspended according to the Decrees of the President of Romania no. 195/2020 and no. 240/2020, respectively during 16.03.2020-14.05.2020.¹⁷⁸

The Administrative County Court **Suceava** reported that in 2 cases, that had court hearings after 23 March 2020, the court rescheduled the hearings and in 1 case that had court hearing during the state of emergency the court suspended the hearing during the state of emergency.¹⁷⁹

The Administrative County Court **Maramureş** reported that during the state of emergency the court hearings were suspended in 3 asylum cases.¹⁸⁰

On the other hand, the Administrative County Court **Galaţi** and **Giurgiu** did not suspend the trial in asylum cases.

At the same time, in order to prevent the spread of coronavirus (COVID-19) the administrative county courts take all necessary measures such as: mandatory masks, hand sanitizers, ventilation of court rooms at short intervals, social distancing, measuring the temperature of all visitors and equipping all premises with sanitizers.

Other measures to restrict public movement in court premises / buildings imposed during the state of alert: - limitation of the activities of the court's information centre to 3 day/week for 2 hours and electronic means; prior appointment required for accessing different departments of the court; recommendation made to parties/ attorneys /legal representatives to file their claims electronically or by post, and use telephone and e-mail to communicate with courts.¹⁸¹

IGI-DAI reported that, in 2020, there were 297 onward appeals before the Administrative County Courts.¹⁸² According to the information provided by the Administrative County Courts the number of onward appeals were 257.

Onward appeals by Administrative County Court: 2020	
Regional Court	Total
Bucharest	109
Galaţi	21
Maramures	33*
Giurgiu	41
Suceava	38
Timişoara	15
TOTAL	257

Source; Administrative County Courts.

* Including 2 cases registered in 2018 and 2019 respectively.

The law prescribes the possibility to appeal the decision of the Regional Court.¹⁸³ The competent court is the County Tribunal, Administrative Litigation Section (Administrative County Court), which has jurisdiction over the area of the Regional Court whose decision is appealed.¹⁸⁴ The Administrative County Court is made up of three judges.

¹⁷⁸ Information provided by the Administrative County Court Bucharest, 22 January 2021.

¹⁷⁹ Information provided by the Administrative County Court Suceava, 20 January 2021.

¹⁸⁰ Information provided by the Administrative County Court Maramureş, 8 February 2021.

¹⁸¹ Information provided by the Administrative County Court Galaţi, 15 January 2021.

¹⁸² Information provided by IGI-DAI, 16 February 2021.

¹⁸³ Article 66 Asylum Act.

¹⁸⁴ Article 67 Asylum Act.

The onward appeal has to be lodged within 5 days from the day the Regional Court decision was pronounced and has automatic suspensive effect, if it is lodged in due time.¹⁸⁵

The average duration of the onward appeal procedure is 2-3 months.¹⁸⁶ In practice, this varies from one court to another:

Average duration of the onward appeal procedure by Administrative County Court: 2020	
Administrative County Court	Number of days
Bucharest	0-180
Galați	60
Maramureș	120
Giurgiu	172
Suceava	115.74
Timișoara	115

Source: Administrative County Courts

The onward appeal does not look at facts, but examines if the appealed decision is compliant with the applicable rules.¹⁸⁷ As a consequence, the onward appeal has to include the grounds for illegality on which the appeal is based.¹⁸⁸ The decision has to be motivated within 10 days from the day it is communicated by the Regional Court.

Timișoara: The Administrative County Court added that the duration of the onward appeal varies from 2 months (6 files) to 11 months (1 file). According to a lawyer, the average duration of the onward appeal is 45 days. The court rules after the first court hearing. According to the director of the Regional Centre Timișoara, the average duration of the onward appeal is 3 months. CNRR reported that the duration of the onward appeal is between 1 and 3 months.¹⁸⁹

Galați: According to a JRS representative the average duration of the onward appeal is maximum 90 days. CNRR stated that the average duration is 45 days.¹⁹⁰

Giurgiu: according to the JRS representative the average duration of the onward appeal was around 1 month; the pandemic generated 1-2 weeks delays. The director of Giurgiu centre stated that the average duration was 120 days. It was further mentioned by the director that the procedure in asylum cases is too long and that asylum cases are not adjudicated with priority, in comparison with other civil cases.

Șomcuta Mare: The Administrative County Court mentioned that out of the total 32 cases examined in 2020 one case was finalised within 18 months since its registration, 7 cases were assessed in 5-8 months, 13 cases in 3-4 months and 11 in 1-2 months. The JRS representative reported that the onward appeal can be finalised in 30-40 days. 1 onward appeal has been pending since 2018. In this case, the court hearings were postponed several times due to the lack of an interpreter. It was emphasized that the asylum seekers are not informed about the courts' decisions.

Rădăuți: It was reported that in one case the onward appeal of an asylum seeker, a Somali national, lasted longer due to the lack of interpreters. In the end the court hearing was held through videoconference with an interpreter from Bucharest. It was mentioned that the sound during this videoconference was of poor quality, it was difficult for the parties and even for the judge to understand

¹⁸⁵ Article 66(2) and (4) Asylum Act.

¹⁸⁶ Information provided by IGI-DAI, 16 February 2021.

¹⁸⁷ Article 483(3) Civil Procedure Code.

¹⁸⁸ Article 486(1)(d) Civil Procedure Code.

¹⁸⁹ Information provided by CNRR, 10 February 2021.

¹⁹⁰ Ibid.

what the interpreter was saying and interruptions were also reported. JRS representative stated that the average duration of the onward appeal is around 5 months.

CNRR reported that the decision of the regional court might take 2-3 months. After the submission of the reasons for appeal, the case is referred to the administrative county court in 1 month and the case may be finalized after a maximum of 2 court hearings.¹⁹¹

Bucharest: According to the JRS representative, the average duration of the onward appeal in 2020 was 180-200 days; according to an attorney was 60 days; the director of Stolnicu mentioned 2-3 months.

One of the lawyers in **Bucharest** stated that some of the judges of the Regional Court of Bucharest District 4 take up to two or three months to draft and communicate the reasoned decision. This was also envisaged by the JRS representative. However, the director of Stolnicu reported the contrary, that there are no delays in reasoning the decision of the regional court, usually 1 month it is motivated.

The practice observed in **Bucharest** in 2017 that, in most of the cases lawyers paid by the legal aid scheme did not appeal against the decision of the Regional Court, changed in 2018 and 2019. According to a lawyer who is also the head of the Judicial Assistance Service of the Bucharest Bar Association, lawyers are starting to lodge onward appeals, but they are not aware if they have the mandate to also draft the reasoned appeal in these cases.

On the other hand, CNRR stated that in general, CNRR lodges onward appeals if the asylum seeker presents the decision.¹⁹²

According to the Civil Procedure Code, the attorney who represented or assisted the party during the trial may, even without a mandate, take any act for the preservation of rights subject to a term, which would be lost by failing to do so on time and appeal against the judgment. In these cases, only the party will handle all the procedural documents. The supporting of the appeal can only be based on a new power of attorney.¹⁹³

Therefore, attorneys can appeal the Regional Court decision even without a mandate in this regard, in order to preserve the rights of their client, which are subject to a term and will otherwise be lost by failure to act in time. The provision emphasises that the attorney may also appeal against a judgment without having a mandate. It also mentions that a new power of attorney is needed for representing/ arguing the appeal in the higher court. Therefore, the law makes a difference between declaring/filing an appeal and representing/arguing it.

Decisions

According to IGI-DAI, in 2020 280 onwards appeals were finalised and 204 were favourable for IGI-DAI.¹⁹⁴

Decisions by Administrative County Court: 2020								
Regional Court	Total	Refugee status	Subsidiary Protection	Admission appeal filed by IGI	Dismissed appeal filed by IGI	Dismissed as unfounded	Appeal annulled	Rehearing cases by the first court
Bucharest	92	2	4	6	10	37	23+ 7 statutory limitation+2 appeal waiver	1
Galati	18	-	-	1	1	13	2	1

¹⁹¹ Information provided by CNRR, 10 February 2021.

¹⁹² Information provided by CNRR, 9 December 2019.

¹⁹³ Article 87(2)(3) Civil Procedure Code.

¹⁹⁴ Information provided by IGI-DAI, 16 February 2021.

Maramures	32*	2	1	1	1	22	3+ 2 statutory limitation	-
Giurgiu	31	-	-	-	-	28	-	3
Suceava	34	-	16	-	5	6	7	1
Timișoara	17	-	-	-	2	14	1	-
TOTAL	224	3	21	8	19	120	47	6

Source; Administrative County Courts. Note that 7 decisions were issued for cases registered in 2019.

However, the Administrative County Courts reported a total of 224 decisions issued.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

- 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
- Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 - ☒ Yes ☐ With difficulty ☐ No
 - ❖ Does free legal assistance cover
 - ☐ Representation in courts
 - ☒ Legal advice

According to Article 17(1)(e) of the Asylum Act, the asylum seeker has the right to counselling and assistance from a representative of a Romanian or foreign NGO, in any phase of the asylum procedure. The asylum seeker has the right to be given, upon request, legal and procedural information, including information on the first instance procedure, in line with the provisions on public judicial assistance in civil matters, taking into account his or her personal situation.¹⁹⁵

The law sets out the right of the asylum seeker to be provided, upon request, according to the legislation on public judicial assistance in civil matters and taking into account the personal situation of the foreigner, information on the motivation of the rejection of the asylum application, the procedure for challenging the ordinance through which the measure of placement in a specially closed spaces was taken, as well as the possibility to challenge the decision which granted, reduced or withdraw the material reception conditions.¹⁹⁶

1.5.1. Legal assistance at first instance

There are no restrictions or conditions for accessing legal counselling at first instance.

In the administrative phase of the procedure, free legal counselling and assistance is provided by NGOs through projects funded by the national Asylum, Migration and Integration Fund (AMIF) scheme and UNHCR Romania. The Romanian National Council for Refugees (CNRR) provides specialised legal counselling and assistance to all asylum seekers upon request in the 6 Regional Centres for Accommodation and Procedures for Asylum Seekers, through a project funded by the national Asylum, Migration and Integration Fund (AMIF) programme. CNRR's legal counsellors have an office in the regional centres where they are available every week day for 8 hours per day.

The Ecumenical Association of Churches from Romania (AIDRom), one of the implementing NGOs, provides legal counselling to asylum seekers accommodated in their two Accommodation Centres, one

¹⁹⁵ Article 17(1)(s) Asylum Act.

¹⁹⁶ *Ibid.*

in **Timișoara**, operating since August 2012 with a capacity of 15 places and one in **Bucharest**, working since 2015 with 18 places. They accommodate vulnerable persons, especially single mothers with children. The AIDRom centres in these cities are funded both by AMIF and by external donors. In addition, the legal counsellor of AIDRom also provides legal counselling and assistance in the IGI-DAI of **Bucharest (Tudor Gociu)**.

The Jesuit Refugee Service (**JRS**), through the project “Border Management and Protection of Asylum-Seekers in Romania”, also provides legal assistance and information in all the Regional Centres, which is complementary to the assistance afforded by CNRR. The project is funded by UNHCR Romania.

The legal counsellors provide information with respect to the rights and obligations, the house rules of the Regional Centre, the asylum procedure and steps to be followed. They also prepare asylum seekers for the personal interview and once the decision was communicated to them, they also explain the decision and the possibility to challenge it. Information and counselling are provided on other matters related to the asylum procedure requested by the asylum seeker. The legal counsellor may assist the asylum seeker during his or her personal interview if he or she requests so.

Under the project funded by UNHCR, JRS may appoint a lawyer if the asylum seeker is a vulnerable or a person of interest for UNHCR or if it is a case that might lead to a practice altering-decision. According to JRS representative from Timișoara, the conditions for receiving funding for lawyers are even tighter. Legal representation by a lawyer under the Legal Aid Act includes representation in the administrative phase of the procedure.¹⁹⁷ According to Article 35 of Legal Aid Act, legal aid may also be extra-judicial and consist in consultations, filing of applications, petitions, referrals, initiation of other related legal steps, as well as representation before public authorities or institutions other than judicial or with jurisdictional powers, with a view to achieving the individual’s legitimate rights or interests. This was confirmed by the National Union of Romanian Bar Associations.¹⁹⁸ However, according to the head of the judicial Assistance Service at the Bucharest Bar Association no legal aid applications for representation in the administrative phase of the procedure were lodged.

In all other cases, the asylum seeker has to pay the lawyer’s fee if he or she wishes to be represented by a lawyer during the personal interview.

1.5.2. Legal assistance in appeals

In court proceedings, legal aid may be provided by NGOs (CNRR and JRS), which have limited funds for legal representation. In 2020, CNRR covered 100 attorney’s fees, from AMIF funds¹⁹⁹ and JRS covered 16 attorney’s fees and 2 cases received pro bono assistance. In addition, if the case of the asylum seeker is not eligible for a lawyer contracted through NGOs, legal counsellors may draft a request for legal state aid.

According to the answer provided by the Regional Court of **Giurgiu**, out of 120 appeals received by the court in 2020, 42 cases made an application for legal aid, and 10 legal aid applications were rejected.²⁰⁰ As for the reasons for dismissal of these requests, the court reported that in 7 cases, the applicants had benefited from legal counselling, in 2 cases the applicants had not proved a precarious material situation and in 1 case the court considered that the state legal aid is not mandatory.²⁰¹ No reviews of the applications for legal aid were lodged in these rejected cases.²⁰²

Regional Court Timișoara reported that out of 84 applications for state legal aid, only one was rejected for not fulfilling the legal provisions.²⁰³ Regional Court Rădăuți stated that the general rule is to appoint a

¹⁹⁷ Government Emergency Ordinance 51/2008.

¹⁹⁸ Information provided by the National Union of Romanian Bar Associations, 8 January 2018.

¹⁹⁹ Information provided by CNRR, 10 February 2021.

²⁰⁰ Information provided by the Regional Court Giurgiu, 29 January 2021.

²⁰¹ Information provided by the Regional Court Giurgiu, 29 January 2021.

²⁰² Information provided by the Regional Court Giurgiu, 29 January 2021.

²⁰³ Information provided by the Regional Court Timișoara, 26 February 2021.

lawyer paid through the state legal aid for the asylum seekers who are submitting such a request.²⁰⁴ The same was reported by Regional Court District 4 Bucharest.²⁰⁵ On the other hand in Regional Court Galați no such applications were submitted.²⁰⁶

According to CNRR, in 2020, there were no cases of rejected legal aid applications.²⁰⁷

In most of the cases, asylum seekers turn to legal counsellors for drafting and lodging the appeal against a negative decision of IGI-DAI. NGOs (CNRR and JRS) have funds for attorney's fees, which can assist asylum seekers in the court proceedings. Therefore, if the representative of the NGO which assisted the asylum seeker examines the case and considers that it is eligible for a lawyer, he or she sends a request using a standard form to their headquarters in Bucharest for the approval and, in case of a positive assessment, the asylum seeker will be assisted by one of the lawyers from the roster of the organisation.

Bucharest: According to a lawyer, who is the head of the Judicial Assistance Service of the Bucharest Bar Association, lawyers paid through the state legal aid scheme are becoming more involved, with some of them requesting guidance from the head of the Judicial Assistance Service. However, only a few lawyers requested an adjournment of the hearing in order to prepare the case. The JRS representative reported that there were cases where lawyers paid through the state legal aid did not show up for court. The asylum seeker only meets his or her lawyer paid through the state legal aid at the court hearing and, as a consequence, they cannot prepare and discuss the details of the case.

In 2020, the Bar Associations in Romania did not organise any training on asylum law for the lawyers inserted in the legal aid register and other interested lawyers.

CNRR reported that they organised trainings for lawyers in 2020.²⁰⁸

The legal counsellor in **Giurgiu** stated that there are certain aspects that can be improved regarding the legal representation through the state legal aid, especially when it comes to communication between the applicant and lawyer appointed *ex officio*. One of the problems identified is the language barrier. Nonetheless, lawyers paid through the legal aid scheme are not willing to make use of the interpreter, even when one is available. Most of the times, this happened at the first court hearing, when the lawyer meets for the first time the client and the interpreter is also present. Some of the lawyers do not even provide their contact details to their clients. Another aspect that can be improved is that lawyers should request evidence that can substantiate solid arguments before the court.

In Regional Centre of **Galați**, legal representation through the state legal aid scheme is ensured, in general, by lawyers who have participated in seminars and conferences organised by NGOs with whom NGOs are collaborating for a long time. They contact the NGO representatives (CNRR and JRS) to discuss the case with the asylum seekers and to obtain all the documents from their file. The rest of the attorneys paid by the state legal aid do not show interest in the asylum cases, they meet with their clients only at the court hearing. The onward appeal is filed by the legal counsellors from the NGOs.

In **Șomcuta Mare**, the JRS representative mentioned that she collaborates with 2 lawyers. The asylum seekers do not meet with the lawyer appointed through the state legal aid scheme before the court hearing.

In **Timișoara**, from a large number of attorneys appointed by the Bar Association through the legal aid scheme, only one or two attorneys are knowledgeable about asylum law, according to the director of the Regional Centre of Timișoara. The rest of the lawyers paid through the legal aid scheme are not specialized or effectively involved, some of them do not even attend the court hearings. According to a lawyer, the lawyers appointed through the state legal aid scheme show lack of interest in the asylum cases and they do not meet with their clients.

²⁰⁴ Information provided by the Regional Court Rădăuți, 25 February 2021.

²⁰⁵ Information provided by the Regional Court District 4 Bucharest, 21 January 2021.

²⁰⁶ Information provided by the Regional Court Galați, 18 January 2021.

²⁰⁷ Information provided by CNRR, 10 February 2021.

²⁰⁸ Information provided by CNRR, 10 February 2021.

In **Rădăuți**, the lawyers paid through the state legal aid scheme are not knowledgeable about asylum law. According to JRS representative the attorneys paid through the state legal aid do not contact or discuss with the asylum seekers. It was also reported that attorneys paid through the state legal aid are not making any oral arguments during the court hearing, not discussing with their clients and not lodging the onward appeal.

CNRR reported that the attorneys paid through state legal aid do not rise up to the level of specialized lawyers.²⁰⁹

Two different lawyers in **Bucharest** mentioned that one of the most important aspects that should be considered and addressed by institutions and organisations working with asylum seekers is to ensure continuity of legal assistance through the entire asylum procedure. One of the attorneys stated that there are asylum seekers leaving the Regional Centre and moving into the city who often lose contact with the NGOs. This situation may hinder their asylum procedure since they have no knowledge of the law and, if an attorney paid from the legal aid scheme assists them, there is no certainty that they will file an onward appeal.

This issue still persists in practice. It was reported that the communication between lawyer and client is not facilitated in any way, and no interpreter is involved. There are situations where the lawyers lose contact with the asylum seeker, including due to delays between the lodging of the onward appeal and the communication of the reasoned decision of the Regional Court to the asylum seeker, which can reach two to three months. There are also situations when asylum seekers move out of the Regional Centre and do not know that they have to inform the court of their new address. Hence the decision is communicated at the old address without reaching the asylum seeker and, as a result, the onward appeal is not motivated in the timeframe prescribed by law and ends up being dismissed. Another issue reported by a lawyer is that lawyers do not follow the state of play of the proceedings and as a result they do not keep their clients reasonably informed about their case.

The asylum seekers are not aware that they have to lodge the onward appeal within 5 days from the decision of the court, as they are do not know how to be informed of the decision taken by the Region Court on their case. An attorney from the Bucharest Bar reported that many onward appeals are lodged after the deadline and are dismissed as the Administrative County Court of Bucharest rules that the applicants had access to legal counselling from an NGO.

At the same time, CNRR reported that there were no problems in lodging the onward appeals.²¹⁰

The information provided by the domestic courts shows that in a high number of cases an onward appeal was not lodged. The Regional Court Galați reported that out of 95 decisions issued only 21 onward appeals were formulated.²¹¹ In Timișoara in 48 cases registered at the regional court only 15 onward appeals were lodged. In Giurgiu 57 decisions were not appealed.²¹² In Șomcuta Mare 93 decisions were not appealed.²¹³ In Rădăuți 8 decisions of the regional court were not appealed.²¹⁴

While in 2019²¹⁵ IGI-DAI provided statistics with regards to cases in which an onward appeal was not lodged, in 2020, IGI-DAI reported that they have no statistics on this matter.²¹⁶

²⁰⁹ Ibid.

²¹⁰ Information provided by CNRR, 10 February 2021.

²¹¹ Information provided by the Regional Court Galați, 18 January 2021.

²¹² Information provided by the Administrative County Court Giurgiu, 25 February 2021

²¹³ Information provided by the Administrative County Court Maramures, 5 February 2021.

²¹⁴ Information provided by the Administrative County Court Suceava, 20 January 2021.

²¹⁵ Information provided by IGI-DAI, 20 February 2019- in 58 cases the asylum seekers did not lodge an onward appeal against the decision of the Regional Courts.

²¹⁶ Information provided by IGI-DAI, 16 February 2021.

There are lawyers who are effectively involved in representing their client regardless of the amount of financial compensation, and others who complain about the small amount of their fee. The fee paid through the state legal aid ranges from 130 to 300 RON/ €28 to €66 per judicial instance. Lawyers working with the NGOs are aware of how the funding schemes work in this branch. The low level of remuneration is an obstacle in the sense that it seldom attracts new practitioners to this field. Usually, the lawyers with experience in asylum claims are also specialised in a more financially rewarding field (civil or commercial law), allowing them to continue also with asylum cases.

Since the fees available are part of projects, their level cannot be easily raised or decided based on a sustainable plan. The costs are subject to the evaluation of the team deciding on AMIF funding within the government structures. It often reflects an indicator calculus, which may be quite rigid. Any potential changes in the level of remuneration are subject to the “project echo” effect - from the moment an application and the budget are drafted to the last expense, a large period of time may pass, in some cases, even 2.5 years.

2. Dublin

2.1. General

Measures imposed during the pandemic

During the state of emergency (13 March 2020- 14 May 2020) Dublin transfers were suspended. No measures were imposed regarding outgoing and incoming requests. During the state of alert (still in place in April 2021) transfers were gradually resumed.

In practical terms, this meant that initially, between 15 May 2020 and 14 October 2020, only foreigners who were still considered asylum seekers by Romania were transferred. Transfers were only possible when the other Member States respected certain administrative and preventive measures. As from 15 October 2020 transfers for all categories of foreigners were resumed, with the obligation of authorities from all member states to respect the measures to contain the spread of the virus, such as: prior COVID test, cancelling the transfer in case of positive test results.²¹⁷

Dublin transfers to Romania take place under the following conditions:

- ❖ information about the transfer should be submitted 10 working days before the expected date of transfer;
- ❖ information about quarantine of the foreigner who will be transferred should be provided. Annex XI of the 118/2014 Regulation should be submitted jointly with the transfer data;
- ❖ information about past COVID-19 infection of the foreigner should be provided;
- ❖ transfers through commercial flights should be avoided; transfers should be carried out through charter flights;
- ❖ the foreigner should be tested for COVID-19 72h prior to the transfer; the test results should be transmitted 1 day before the transfer, at the latest;
- ❖ foreigners who are transferred from areas with a high risk of infection and spread of COVID-19, upon arrival, will be quarantined for 14 days.²¹⁸

As for transfers from Romania to other Member States, the rules and measures imposed by each Member States are followed.²¹⁹

²¹⁷ Information provided by IGI-DAI, 16 February, 2021.

²¹⁸ *Ibid.*

²¹⁹ *Ibid.*

Dublin statistics: 2020

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	168	5	Total	3,221	73
Bulgaria	112	0	Germany	1,076	30
Croatia	14	0	Austria	793	32
Germany	18	2	France	562	1
Austria	5	0	Netherlands	111	2
Italy	5	0	Slovakia	92	0
Spain	3	0	Belgium	95	1

Source: IGI-DAI, 3 March 2021.

In 2020, Romania issued 168 and received 3,221 requests under the Dublin Regulation. The following criteria were used:

Outgoing and incoming Dublin requests by criterion: 2019		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	13	19
Regular entry: Articles 12 and 14	4	186
Irregular entry: Article 13	13	47
Dependent persons and humanitarian clause: Articles 16 and 17(2)	0	4
"Take back": Articles 18 and 20(5)	138	2,964
Total outgoing and incoming requests	168	3,221

Source: IGI-DAI, 3 March 2021 (information requests under article 34 of the Dublin-regulation are not included).

2.1.1. Application of the Dublin criteria

To prove family links, the asylum seeker is not required to present original documents or to undertake DNA tests. In general, they present copies of the family book, birth certificate, residence permit of the relative with whom they would like to be reunited and, in the case of unaccompanied children, the relative's desire to be reunited with the unaccompanied child, expressed in writing. According to the legal counsellors, family unity is the most frequent criterion applied in practice, with the majority of cases concerning reunion with family outside Romania.

In **Timișoara** the family criterion was applied in 2020 in case of 2 unaccompanied children with relatives in other State Members. They arrived in the centre in 2019 and due to the pandemic their transfer was stayed. The COVID-19 test requested by the Member State was covered by DGASPC. According to the director of Timișoara centre they were transferred in June-July 2020.

Șomcuta Mare: There were no Dublin transfers; decisions were issued in their absence, as they left the centre, according to JRS representative. The case of an unaccompanied minor was reported who declared that he had a brother in the UK, but he failed to submit relevant documents. Thus his claim was assessed in Romania and it was rejected. The case of another unaccompanied minor is pending.

Giurgiu: according to the JRS representative there were no Dublin cases in 2020. The regional Court Giurgiu also reported that there were no appeals registered against decisions issued in Dublin procedure.

Galați: No transfers were carried out to other Member States. It was reported that there were many cases of a hit for Bulgaria, but the asylum seekers left the centre before the decision was communicated. An asylum seeker has been waiting for his transfer to Estonia for 6 months since the courts final decision

Rădăuți: family criterion was also applied; asylum seekers had relatives in Poland, Germany and Italy.

Bucharest: transfers were suspended from March 2020 until November 2020; according to JRS transfers to other countries were not carried out.

The most frequent criterion for outgoing requests were “take back”, mainly addressed to Bulgaria as it was in 2019. Similarly, the majority of incoming requests to Romania concern “take back” cases.²²⁰

2.1.2. The dependent persons and discretionary clauses

In 2020, Romania issued no outgoing requests and received 4 incoming requests based on the humanitarian clause. It issued 3 outgoing requests based on the dependent persons clause. The sovereignty clause was not applied in 2020.²²¹

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 responsible Member State has accepted responsibility?
3 months

Article 119 of the Asylum Act states that, if after lodging an application for international protection and before taking a decision in the national asylum procedure, IGI-DAI discovers proof or circumstantial evidence which indicates the responsibility of another Member State to examine the application under the Dublin Regulation, it shall initiate the Dublin procedure.

All asylum seekers are fingerprinted, photographed and checked against the Eurodac database. In practice, there were cases where asylum seekers refused to be fingerprinted but, after they were explained that this was necessary for the asylum procedure and, in case of refusal, they would have been detained, they agreed to it. In case the applicant does not comply with the obligation to be photographed and fingerprinted,²²² measures of constraint may be applied. The use of these measures must be non-punitive, proportionate and applied only for the necessary period, if there is no other way of determining the asylum seeker to cooperate with the staff of IGI-DAI.²²³

2.2.1. Individualised guarantees

Practice does not indicate that the Romanian Dublin Unit requests individual guarantees prior to a transfer.

The decisions issued by IGI-DAI in **Galați** and **Giurgiu** do not mention any information regarding the fact that individual guarantees were requested by the Romanian Dublin Unit or any information regarding the state of play of the applicant’s asylum procedure in the respective Member State. According to the director of Regional Centre **Timișoara**, the Dublin Unit does not seek individualised guarantees but requests information regarding the stage of the procedure prior to a transfer.

²²⁰ Information provided by IGI-DAI, 16 February 2021.

²²¹ Information provided by IGI-DAI, 16 February 2021.

²²² In accordance with Article 19(a) Asylum Act.

²²³ Article 18(3) Asylum Decree.

2.2.2. Transfers

According to Article 127 of the Asylum Act, an asylum seeker who is subject to the Dublin procedure has the same rights and obligations as an asylum seeker in the regular procedure until the date when the transfer is effectively carried out. This means that he or she has the right to stay in the regional centres until the date he or she is actually transferred to the responsible Member State.

Nevertheless, IGI-DAI may reduce or withdraw the material reception conditions of asylum seekers, including asylum seekers subject to the Dublin procedure. The motivated decision may be challenged in court.²²⁴

The restrictive measures prescribed by law, which may be imposed to the asylum seeker subject to Dublin procedure are:

- (a) The obligation to report at IGI;²²⁵
- (b) Designation of his or her residence in a Regional Centre of Procedures for Asylum Seekers;²²⁶
- (c) Placement or, as the case may be, remaining in public custody (detention).²²⁷

The only restrictive measure not applicable to asylum seekers subject to Dublin procedure is the placement in specially designated closed places, which are defined as alternatives to detention but in practice consist of detention rooms in the Regional Centres.²²⁸ Reporting duties and residence in a specific place may be imposed in order to ensure the transfer.²²⁹ Detention for the purpose of a transfer is discussed in [Grounds for Detention](#).

If after the asylum seeker is placed in detention, one of the deadlines provided by Article 28(3) of the Dublin Regulation expires, the measure ceases to have effect. IGI draws up a notice on the cessation of the measure, which is communicated to the applicant.²³⁰

In general, asylum seekers subject to the Dublin procedure are not placed in detention, this was also confirmed by the IGI-DAI director from Timișoara.

According to IGI-DAI, the average duration of the Dublin procedure between the issuance of a request and the transfer is 3 months. The average duration of the process between acceptance of responsibility and transfer takes also approximately 2 months.²³¹ In Bucharest, Giurgiu and Șomcuta Mare the stakeholders reported no transfers.

Timișoara: According to the director of the Regional Centre, the Dublin procedure lasted 4-5 months. The JRS representative reported the case of an unaccompanied minor who arrived in Romania in December 2019 and was transferred in September 2020 and the case of an another minor who stayed in Romania almost a year until his transfer.

Rădăuți: Transfers were carried out in 2-3 months.

Bucharest: No transfers were carried out to other Member States according to the director of Stolnicu and JRS representative.

Giurgiu: No transfers reported in Giurgiu, by the director and JRS representative.

²²⁴ Article 19¹(1)-(2) Asylum Act.

²²⁵ Article 19²(1)(a) Asylum Act.

²²⁶ Article 19²(1)(b) Asylum Act.

²²⁷ Article 19²(1)(d) Asylum Act.

²²⁸ Article 19²(3) Asylum Act.

²²⁹ Articles 19³ and 19⁴ Asylum Act.

²³⁰ Article 19¹⁴(10) Asylum Act.

²³¹ Information provided by IGI-DAI, 16 February 2021.

Șomcuta Mare: no transfers were reported.

Galați: in a case of an asylum seeker who appealed against IGI-DAI decision to transfer him to Estonia, received the court decision on 15 July 2021 and in February 2021 he was still not transferred to Estonia. The JRS representative reported 2 other cases, but there are no indications about the stage of their Dublin procedure.

Romania issued 164 requests and implemented 5 transfers in 2020, thereby indicating a transfer rate of 3.04%.²³²

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

According to the law, if during the preliminary interview the answers of the asylum seeker indicate the necessity to start the Dublin procedure, the preliminary interview is conducted pursuant to Article 5 of the Dublin Regulation.²³³

In **Șomcuta Mare** the Dublin interview is held during the preliminary interview; there is a special column dedicated to questions related to the Dublin procedure asking whether they had previously applied for asylum in another Member State. The officer in charge of fingerprinting and photographing the asylum seekers holds the interview. In **Rădăuți**, the Dublin interview is held after the preliminary interview. In **Galați** the interview is conducted after the preliminary interview by the officer in charge of fingerprinting and photographing the applicants. In **Giurgiu**, the Dublin interview is conducted when, on the basis of the applicant's statements and other documents, the officers determine the need to start the Dublin procedure; this is usually decided after the applicant's preliminary interview. In **Timișoara**, according to the director of IGI-DAI Timișoara, the Dublin interview is an annex to the preliminary interview. The annex includes questions regarding presence in the respective Member State, knowledge of any decision taken on their application, willingness to return there. The interview is carried out by the same officer who conducts the preliminary interview.

The interview in the Dublin procedure takes place faster than in the regular procedure, even on the same day as the preliminary interview. A copy of the transcript of the interview is not handed over to the asylum seeker after the interview. However, he or she may request it under the provisions of the Asylum Act.²³⁴ The modalities are the same as the regular procedure as regards the other aspects.

²³² Information provided by IGI-DAI, 16 February 2021.

²³³ Article 43(3) Asylum Act.

²³⁴ Article 17(1)(f¹) sets out the right to have access, personally or through a representative, to the information contained in the personal file, unless the disclosure of the information or sources, from which it was obtained would jeopardise the national security, the organisations or persons who provided that information, or if it would be prejudicial to the examination of the application for international protection. Access to the information in the personal file is based on a request addressed to the specialised asylum structure of IGI. At the request of the applicant for international protection, copies of documents from the personal file may be issued free of charge, in accordance with the provisions of the present law.

2.4. Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

- ❖ If yes, is it
- ❖ If yes, is it suspensive

☒ Yes	☐ No
☒ Judicial	☐ Administrative
☐ Yes	☒ No

Article 121 of the Asylum Act establishes the conditions of appeal in case of the Dublin procedure. The decision rejecting access to the asylum procedure in Romania and ordering the transfer to the responsible Member State may be challenged within 5 days since its communication. The transfer to the responsible Member State shall be suspended until the expiry of the legal deadline for filing the appeal.

In contrast with the regular procedure, lodging the appeal in the Dublin procedure does not have automatic suspensive effect. When appealing, the applicant may also request the suspension of the implementation of the transfer decision.²³⁵ The request for suspension is decided urgently in the council chamber by final conclusion, and the parties are summoned.²³⁶ The implementation of the transfer decision is suspended until the court decides on the request for suspension.²³⁷

In situations that could not have been taken into consideration at the moment of issuing the decision, the case officer may, *ex officio*, decide to suspend the transfer decision until the court has ruled on the appeal. The measure is communicated to the applicant, according to the provisions on communication of decisions in the regular procedure.²³⁸

The court shall settle the case within maximum 30 days.²³⁹ The competent court is the Regional Court (*Judecatoria*) with territorial jurisdiction over the area in which IGI has issued the decision.²⁴⁰ The decision of the court is final.²⁴¹

If the court admits the appeal and decides that the application for international protection in Romania should be resumed and the applicant has already been transferred to the responsible Member State, IGI shall take the necessary steps to readmit him or her to the territory of Romania.²⁴²

According to case law in **Giurgiu**, the Regional Court never takes into account reception conditions, recognition rates or procedural guarantees when assessing the complaint against a Dublin transfer decision. The appeal is only a formality, there is only one hearing and the decision is a copy-paste of the IGI-DAI decision.

The Regional Court of **Giurgiu** rejected the appeal of a male asylum seeker from Afghanistan on 23 January 2020. In its assessment of the case the Court held that the allegations of the applicant regarding the inhumane and degrading treatment to which a person may be subjected by the Bulgarian authorities were unfounded, because Bulgaria is an EU Member State and part of the ECHR, which requires the Member State to be compliant with a set of minimum strict obligations regarding the rights and conditions offered to asylum seekers. With regards to the arguments concerning the lack of effective access to an asylum procedure in Bulgaria the court reiterated the legal provisions of the Dublin Regulation, ruling that the Bulgarian authorities are obliged to ensure the possibility to challenge the decision issued by the authorities in his case.²⁴³

²³⁵ Article 121(3) Asylum Act.

²³⁶ *Ibid.*

²³⁷ Article 121(4) Asylum Act.

²³⁸ Article 121(5) Asylum Act.

²³⁹ Article 121(6) Asylum Act.

²⁴⁰ Article 121(2) Asylum Act.

²⁴¹ Article 121(7) Asylum Act.

²⁴² Article 121(8) Asylum Act.

²⁴³ Regional Court Giurgiu, Decision no.128/23.01.2020.

Galați: According to the legal counsellor, the authorities do not assess the individual guarantees within the Dublin procedure. In the case of the asylum seeker who waits for his transfer to Estonia, the court assessed the family unity principle, because the asylum seeker has a child in Romania.

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
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 - ❖ 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

According to Article 127 of the Asylum Act, an asylum seeker subject to the Dublin procedure has the same rights and obligations as an asylum seeker in the regular procedure until the date when the transfer is effectively carried out. Hence, they also have access to free legal assistance.

Asylum seekers have the same conditions to access legal assistance in the Dublin procedure as those subject to the regular procedure (see [Regular Procedure: Legal Assistance](#)). The only difference, which might be problematic, is the 5-day deadline to lodge an appeal against a Dublin decision. Nevertheless, legal counsellors have not reported any problems in filing appeals against negative decisions.

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?

Greece: Romania has resumed Dublin procedures to Greece as of 1 October 2018.²⁴⁴

No outgoing requests were made to Greece in 2020, according to the statistics provided by IGI-DAI.²⁴⁵

Bulgaria: the highest number of “take back” requests (111) were issued to Bulgaria but no transfers were carried out.

2.7. The situation of Dublin returnees

The Asylum Act includes provisions concerning cases of express and tacit withdrawal of an asylum application.²⁴⁶ An implicit or tacit withdrawal of an asylum application occurs when the applicant is not present on the scheduled time for the preliminary interview or personal interview, without presenting good reasons for his or her absence.²⁴⁷ In case of tacit withdrawal, IGI-DAI writes a report regarding the

²⁴⁴ Information provided by IGI-DAI, 5 March 2019.

²⁴⁵ Information provided by IGI-DAI, 16 February 2021.

²⁴⁶ Article 51 Asylum Act.

²⁴⁷ Article 51(1)(b) Asylum Act.

absence of the asylum seeker from the interview.²⁴⁸ In these cases, the decision to close the file shall be issued after the expiration of a period of 30 days from the date of the aforementioned report.²⁴⁹

When the asylum seeker expressly withdraws his or her asylum claim, this is considered an explicit withdrawal of the asylum application.²⁵⁰ The asylum seeker shall be informed of the consequences of his or her withdrawal in a language he or she understands or is reasonably supposed to understand.²⁵¹

When an asylum application was tacitly withdrawn and the asylum procedure was discontinued (i.e. the case of a person who have left Romania and moved to another EU Member State), if the person makes an asylum claim within 9 months of the decision to close the file issued for implicit withdrawal, the asylum procedure may be continued.²⁵² If the time limit has expired, the asylum claim is considered a **Subsequent Application**.

The legal framework is different when a person has left the territory for at least 3 months or had been removed to a third country or to the country of origin under Articles 19(2) and (3) of the Dublin Regulation and, consequently, the asylum procedure was discontinued by a decision closing the file. In this case, a new claim lodged successively in Romania is not considered a subsequent application.²⁵³

Therefore, persons who expressly withdrew their asylum applications without leaving the territory of the EU or being returned to a third country or the country of origin, cannot continue their asylum procedure in case of return to Romania. As a consequence, they will have to lodge a subsequent application.

It should be noted that the Asylum Act does not fully comply with Article 18(2) of the Dublin Regulation, which allows applicants whose claims have been withdrawn to have access to the procedure without lodging a subsequent application.

For persons returned to Romania who have been previously interviewed and received a negative decision in the administrative phase of the procedure and have not sought judicial remedy, the asylum procedure does not continue. They may only lodge a subsequent application. For persons returned to Romania who have not been previously interviewed the asylum procedure continues.

Timișoara: According to the director of the Regional Centre Timișoara, there were 4 requests of incoming transfers, from Germany to the Regional Centre Timișoara. The returned asylum seeker continued his asylum procedure.

Galați: According to the legal counsellor around 3 asylum seekers were transferred from other Member States in December 2020. One was transferred from Austria.

Rădăuți: According to the JRS representative, 1 asylum seeker was transferred in December from another Member State.

Bucharest: According to JRS representative, 3 asylum seekers were transferred from Germany. They all continued their procedure and most of the asylum applications in these cases were dismissed.

Romania received 73 incoming transfers in 2020.²⁵⁴

²⁴⁸ Article 51(3) Asylum Act.

²⁴⁹ Article 51(5) Asylum Act.

²⁵⁰ Article 51(1)(a) Asylum Act.

²⁵¹ Article 51(2) Asylum Act.

²⁵² Article 94^1 Asylum Act.

²⁵³ Article 94^1(1)(a) Asylum Act.

²⁵⁴ Information provided by IGI-DAI, 16 February 2021.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

An application is inadmissible where the applicant:

- Has been granted international protection by another Member State;²⁵⁵
- Comes from a **First Country of Asylum**;²⁵⁶
- Comes from a European safe third country which has agreed to his or her readmission;²⁵⁷
- Comes from a **Safe Third Country**;²⁵⁸
- Makes a subsequent application without new elements.²⁵⁹

The grounds relating to international protection granted by another Member State and safe country concepts were introduced in 2015.

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.²⁶⁰

The law does not mention any specific time limits for taking a decision on the admissibility of the application.

Timișoara: according to the director of Timișoara centre 1 asylum application was dismissed as inadmissible because the asylum seeker has been granted international protection by another Member State.

Giurgiu: the director reported 4 applications rejected as inadmissible because the applicants had been granted a form of protection by another Member State.

According to IGI-DAI, in 2020 there were no applications dismissed as inadmissible because the applicant came from a **First Country of Asylum**. As for inadmissible criteria- European safe third country or safe third country, IGI-DAI did not register such cases because it has no list of safe countries.²⁶¹

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility 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

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

Pursuant to Article 97¹ of the Asylum Act, the applicant is given the opportunity to present, in an interview, his or her personal situation in order to determine whether the safe country concepts are applicable. The responsible authority is IGI-DAI. The law does not prescribe specific requirements for the interview as part of the admissibility assessment.

²⁵⁵ Article 50¹ Asylum Act.

²⁵⁶ Article 95 Asylum Act.

²⁵⁷ Article 96 Asylum Act.

²⁵⁸ Article 97 Asylum Act.

²⁵⁹ Article 91(b) Asylum Act, in conjunction with Article 88(2)(a)-(b).

²⁶⁰ Information provided by IGI-DAI, 20 February 2020.

²⁶¹ Information provided by IGI-DAI, 16 February 2021.

An inadmissibility decision on first country of asylum, European safe third country or safe third country is issued without a substantive examination of the applicant's request and shall be communicated under the general provisions of the law.²⁶² After communicating the decision, IGI-DAI informs the authorities of the European safe third country or, as the case may be, of the safe third country, in the language of that country, that the applicant's application has not been assessed on the merits.²⁶³

In case the conditions provided by the law are not fulfilled, IGI-DAI grants access to the asylum procedure on the basis of a reasoned decision and examines the asylum application on the merits.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

- | | | |
|--|--|---|
| ❖ If yes, is it | ☒ Yes | ☐ No |
| ❖ If yes, is it automatically suspensive | ☒ Judicial | ☐ Administrative |
| | ☒ Yes | ☐ Some grounds ☐ No |

The appeal in case of the first country of asylum, European safe third country and safe third country is the same as in the **Accelerated Procedure**.²⁶⁴ The deadline for submitting the appeal is 7 days from the notification of the decision. The appeal has suspensive effect if it is filed within the deadline.

There were no reported cases of appeals against first country of asylum, European safe third country and safe third country decisions in 2020.

3.4. Legal assistance

The rules and practice applicable in the **Regular Procedure: Legal Assistance** apply.

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

- Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☐ Yes ☒ No
- Where is the border procedure mostly carried out? ☐ Air border ☒ Land border ☐ Sea border
- Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
- Is there a maximum time limit for a first instance laid down in the law? ☒ Yes ☐ No
❖ If yes, what is the maximum time limit? 20 days
- Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

According to the law, the border procedure applies to asylum applications and subsequent applications made at a border-crossing point. The asylum application made at the territorial border offices of the Romanian Border Police at a border crossing point is immediately submitted or forwarded to the competent structure of IGI-DAI, which examines it and issues a decision within 3 days.²⁶⁵ In addition,

²⁶² Article 97^1(2) Asylum Act.

²⁶³ Article 97^1(4) Asylum Act.

²⁶⁴ Article 97^1(3) Asylum Act.

²⁶⁵ Article 82 Asylum Act.

foreigners are also subject to the border procedure when after a first asylum procedure in Romania, they have made a subsequent application at a border crossing point.²⁶⁶

The substance of the application is assessed during the border procedure, if the case officer decides to do so, based on the statements of the asylum seeker during the interview. According to the law, after the interview and the assessment of the reasons invoked for granting international protection and country of origin information, IGI-DAI may: (a) grant a form of protection; (b) grant access to the territory and the regular procedure if the application is not manifestly unfounded or if there are indications that **Dublin** or **Admissibility** grounds apply; or (c) reject the application as manifestly unfounded and not grant access to the territory.²⁶⁷

According to Article 87 of the Asylum Act, an asylum seeker shall remain in the transit area of the border-crossing point until a decision granting access to the territory or a final decision rejecting the asylum application is issued. This period cannot exceed 20 days.²⁶⁸ However, if the asylum application is still pending after the 20-day deadline, the asylum seeker is granted access to the territory.²⁶⁹

The asylum seeker may be accommodated in special reception and accommodation centres near the border-crossing points, established by order of the Minister of Internal Affairs and having the legal status of a transit area.²⁷⁰ Asylum seekers accommodated in these centres receive 3 meals a day free of charge, under conditions established by a Government Decision.²⁷¹ The asylum seeker subject to border procedure is not entitled to receive the material reception conditions for meals.²⁷²

A new provision was included in 2015, which relates to the obligation to inform the asylum seeker. The asylum seeker shall be immediately informed in writing, in a language that he or she understands or is reasonably supposed to understand, on the border procedure, granting or not granting access to the territory, his or her rights and obligations during the procedure, the possibility to challenge the decision issued by the case officer, as well as the possibility to request legal aid according to the law.²⁷³ Leaflets have been updated as of 2019.

In practice, asylum seekers subject to the border procedure are accommodated in specially designed places, which officially should exist at every border crossing point:

- **Moravița:** There are two rooms specially designed for the border procedure. There is no courtyard where asylum seekers may go out.
- **Timișoara “Traian Vuia” Airport:** There is a separate building designed for the border procedure. The building has three rooms, each of the rooms have 4 or 5 beds, 2 toilets, 4 showers and a kitchen. The building has a courtyard where people may go out, but only under supervision, as they are under a closed regime.
- **Bucharest Henri Coandă Airport / Otopeni:** There are three rooms in the basement; two are communicating and the third one is separated. Women are accommodated in the separate room. There is no possibility to go outside.

The legal counsellor of JRS was not aware of situations where asylum seekers were able to go outside: The airport premises are developed in a way that makes impossible to go out.

According to the director of the Regional Centre of **Timișoara**, there was, only 1 asylum application (Pakistan) made in 2020 at a border-crossing point of **Moravița**, in the south-western part of Romania,

²⁶⁶ Article 83(3) Asylum Act.

²⁶⁷ Article 83(1)(a), (b) and (c) Asylum Act.

²⁶⁸ Article 87(1) Asylum Act.

²⁶⁹ Article 87(5) Asylum Act.

²⁷⁰ Article 87(2) Asylum Act.

²⁷¹ Article 87(3) Asylum Act.

²⁷² Article 87(4) Asylum Act.

²⁷³ Article 87(7) Asylum Act.

which was rejected. After 5 days he filed for the discontinuation of the procedure and he returned to Serbia.

The JRS representative reported the case of a single parent family (mother and child) whose application was processed under the border procedure at Cluj-Napoca Airport. They were granted access to territory, but her application was dismissed in the accelerated procedure. They stayed in the airport for 3 days before they were transferred to Șomcuta Mare, where they stayed in isolation for 14 days. While in isolation in the basement of the building, where the specially designated closed spaces are, the applicant and her daughter received 3 meals per day from the city hall.

There were only 3 asylum applications processed under the border procedure.²⁷⁴

4.2. Personal interview

Indicators: Border Procedure: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border 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

As a general rule, a decision is taken by the case officer of IGI-DAI after an interview and assessment of the reasons invoked by the asylum seeker against the country of origin information.²⁷⁵ However, the law also establishes the possibility to deliver a decision without conducting an interview, if it is possible to issue a decision to grant access to the regular procedure on the basis of the personal file.²⁷⁶ In case of subsequent applications, there is no interview. The decision is issued on the basis of a written application.

The interview is conducted at the border by a case officer of the territorially competent branch of IGI-DAI, under the same rules as the personal interview in the regular procedure. The only difference relates to the place where the interview is conducted and to the swiftness of the procedure. According to the Director of the Regional Centre of **Timișoara**, the personal interview in case of border procedure is the same as the personal interview in the regular procedure. The asylum seeker is asked about problems and reasons for fleeing. The case officers decide whether to go into details on the merits.

Access to legal representation by a lawyer or UNHCR during the interview in the border procedure is difficult given the 3-day time limit for issuing a decision. NGOs are only aware of the cases subjected to the border procedure if IGI-DAI informs them directly or through UNHCR.

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

	☒ Yes	☐ No
❖ If yes, is it	☒ Judicial	☐ Administrative
❖ If yes, is it automatically suspensive	☒ Yes	☐ Some grounds ☐ No

²⁷⁴ Information provided by IGI-DAI, 16 February 2021.

²⁷⁵ Article 83(1) Asylum Act.

²⁷⁶ Article 83(4) Asylum Act.

The asylum seeker has the possibility to challenge the decision issued by IGI-DAI within 7 days from the day the decision was communicated.²⁷⁷ The competent court to decide on the appeal is the territorially competent Regional Court.²⁷⁸ The provisions on submission of the appeal in the regular procedure apply accordingly.²⁷⁹

The court shall take a decision on the appeal within 5 days.²⁸⁰ The decision has to be motivated and it is irrevocable. The court may decide: (a) to grant access to the territory and the regular procedure; or (b) to uphold the decision of IGI-DAI.²⁸¹

If the court rejects the appeal, the General Inspectorate of the Romanian Border Police (IGPF) will take the necessary measures to remove the foreigner from the territory,²⁸² as the foreigner subject to the border procedure must leave Romania as soon as the asylum procedure has finished.²⁸³ The border procedure is considered completed on the date when the decision of the court is delivered.

According to the legal counsellor of JRS, asylum seekers do not face problems lodging an appeal. Asylum seekers subject to the border procedure were assisted by the NGOs and UNHCR.

4.4. Legal assistance

Indicators: Border Procedure: 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 negative decision in practice?

☐ Yes	☒ With difficulty	☐ No
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 - ❖ Does free legal assistance cover

☐ Representation in courts
☒ Legal advice

According to the law, asylum seekers subject to border procedure have the same rights to free legal assistance as the asylum seekers subject to the [Regular Procedure: Legal Assistance](#).

What is particularly problematic for asylum seekers in the border procedure is the swiftness of the procedure and access to legal counselling. As the deadline for delivering a decision is only 3 days, it is hard to get access to legal assistance; it depends on the willingness of IGI-DAI and the Border Police to inform the NGOs about these cases. Also, an examination of applications cannot be effectively conducted within such a short time limit.

JRS conducts monitoring visits to **Otopeni Airport** twice a month and upon need. JRS may enlist a lawyer when necessary.

²⁷⁷ Article 85(1) Asylum Act.

²⁷⁸ Article 85(2) Asylum Act.

²⁷⁹ *Ibid.*

²⁸⁰ Article 86(1) Asylum Act.

²⁸¹ *Ibid.*

²⁸² Article 86(3) Asylum Act.

²⁸³ Article 17(1)(a) Asylum Act.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

Under Article 75(1) of the Asylum Act, the grounds for assessing an asylum claim into an accelerated procedure are:

- a. Manifestly unfounded applications;
- b. Asylum applications of persons who, through their activity or membership of a particular group, pose a threat to national security or public order of Romania;
- c. Asylum applications of persons coming from a **Safe Country of Origin**.

An asylum application is considered manifestly unfounded if the applicant:²⁸⁴

1. Has no well-founded fear of being persecuted or exposure to serious risk in the country of origin as he or she:
 - Has not claimed any fear of persecution or risk of serious harm;
 - Has not provided data or information to support a fear of persecution or serious risk, or his or her statements do not contain circumstantial or personal details;
 - Clearly lacks credibility, meaning that his or her statements are incoherent, contradictory or flagrantly inconsistent with the situation in his or her country of origin;
2. Has misled the authorities or has submitted the application in bad faith by:
 - Filing an asylum application with a false identity or presenting false or falsified documents as authentic;
 - Deliberately submitting false information after the asylum application has been lodged;
 - Destroying, damaging or disposing of travel documents or a relevant document for his or her application, either to establish a false identity for the purpose of seeking and granting refugee status, or to obstruct the assessment of his or her claim;
 - Deliberately concealing previous asylum applications in one or more countries, especially when he or she used a false identity;
 - Making an asylum application for the obvious aim of preventing the enforcement of return, extradition or removal proceedings, after having been given the opportunity to make an asylum application;
 - Entering the territory of Romania unlawfully or prolonging his or her stay unlawfully and, without good reason, not presenting him or herself to the authorities, or not lodging the application as soon as possible given the circumstances of his or her entry.

According to stakeholders in **Galați, Rădăuți, Șomcuta Mare** and **Giurgiu**, most of the cases examined in the accelerated procedure are manifestly unfounded asylum applications. In practice, manifestly unfounded asylum applications are predominantly the applications made by economic migrants (Șomcuta Mare, Galați, Rădăuți), or applicants who lack credibility (Giurgiu).

Șomcuta Mare: The majority of asylum applications were assessed in an accelerated procedure, especially at the end of 2020. There were 20 applications rejected in accelerated procedure in 1 day. The asylum seekers were from Algeria, Tunisia, India, Sri Lanka, European safe third country or safe third country Pakistan, but also from Afghanistan. Many claims made by Afghan nationals were assessed in an accelerated procedure. The main reasons for assessing the Afghan nationals' asylum claims in accelerated procedure are the invocation of economic reasons, even though they also declare other problems such as issues with the authorities or with the Taliban. It was also reported that IGI-DAI invokes in its decisions the US-Afghanistan Agreement for Bringing Peace to Afghanistan (29 February 2020).²⁸⁵ The JRS representative reported that out of the 48 appeals she lodged, none was admitted.

²⁸⁴ Article 76 Asylum Act.

²⁸⁵ US-Afghanistan Agreement for Bringing Peace to Afghanistan (29 February 2020), available at: <https://bit.ly/2QdhwV6>.

Timișoara: According to the director of Regional Centre Timișoara, 260-270 asylum applications made by nationals of Algeria, Tunisia, Pakistan and Morocco were assessed in accelerated procedure. All the appeals submitted by them were dismissed.

Rădăuți: Around 20 asylum applications were assessed in accelerated procedure; the asylum seekers invoked economic reasons. The asylum seekers were Iraqi, Bangladeshi, Turkish, Algerian, Tunisian, Moroccan and Afghan nationals. Afghan nationals invoked economic reasons, but also the insecurity in their country of origin.

Galați: the legal counsellor reported a few cases at the beginning of 2020 (Algeria, Morocco, Tunisia).

Bucharest: According to JRS representative, most of the asylum applications assessed in accelerated procedure were made by Algerian, Moroccan, Pakistani and Bangladeshi nationals in the spring of 2020. The asylum applications were found manifestly unfounded. According to the director of Stolnicu Regional Centre 199 asylum claims were processed under the accelerated procedure in 2020, because they invoked economic reasons.

Giurgiu: According to the director of the centre 58 asylum claims were assessed under the accelerated procedure due to economic reasons invoked by the applicants from Algeria, Bangladesh, Egypt and India. The responsible authority for taking decisions at first instance on asylum applications in the accelerated procedure is IGI-DAI.

The accelerated procedure may be triggered during the regular procedure at the date when the case officer determines the existence of one of the grounds for applying an accelerated procedure.²⁸⁶ Article 79 of the Asylum Act provides that after the interview and the assessment of the reasons invoked in support of the asylum application, a decision should be issued within 3 days from the start of the accelerated procedure. Therefore, the trigger of the accelerated procedure may not coincide with the date of the personal interview. However, the cases where the accelerated procedure is triggered after the interview are very rare.

IGI-DAI reported 885 applications assessed under the accelerated procedure in 2020, up from 315 in 2019, up from 167 in 2018 and up from 382 in 2017.²⁸⁷

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 Asylum Act requires a personal interview of asylum seekers in the accelerated procedure. Article 79 of the Asylum Act clearly states that a decision is made after an interview and after examination of the reasons invoked by the applicant. In practice, the personal interview is always conducted by IGI-DAI.

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

²⁸⁶ Article 78 Asylum Act.

²⁸⁷ Information provided by IGI-DAI, 14 February 2018, 5 March 2019, 20 February 2020, 16 February 2021.

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?
- | | | |
|----------------------------|--|---|
| ❖ If yes, is it | ☒ Yes | ☐ No |
| ❖ If yes, is it suspensive | ☒ Judicial | ☐ Administrative |
| | ☒ Yes | ☐ Some grounds ☐ No |

The law provides for the appeal against a negative decision in the accelerated procedure, which must be submitted within 7 days from the notification of the decision. If the appeal is filed within the deadline, it has automatic suspensive effect.²⁸⁸

There were no problems reported in relation to lodging an appeal in the accelerated procedure, as the deadline for submitting an appeal against a negative decision in the accelerated procedure has been increased from 2 days to 7 days with the 2015 reform of the Asylum Act.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
- | | | | |
|-------------------------------------|---|--|-----------------------------|
| ❖ Does free legal assistance cover: | ☒ Yes | ☐ With difficulty | ☐ No |
| | ☒ Representation in interview | | |
| | ☒ Legal advice | | |
2. Do asylum seekers have access to free legal assistance on appeal against a decision in practice?
- | | | | |
|------------------------------------|---|--|-----------------------------|
| ❖ Does free legal assistance cover | ☒ Yes | ☐ With difficulty | ☐ No |
| | ☐ Representation in courts | | |
| | ☒ Legal advice | | |

The law provides for access to free legal assistance for asylum seekers during the accelerated procedure in the same conditions as the asylum seekers subject to the [Regular Procedure: Legal Assistance](#). However, if asylum seekers are in detention in one of the two detention centres (**Arad** and **Otopeni**), there is no permanent access to legal counselling.

Whereas prior to 2015 the Aliens Ordinance required the release of foreigners from detention as soon as a first application for international protection was lodged, the Aliens Act now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure (see [Detention of Asylum Seekers](#)).

For the asylum seekers accommodated in the detention centre in **Arad**, legal advice is provided by the legal counsellor of the Regional Centre of Timișoara. In most of the cases, the legal counsellor provides legal counselling based on contact and information provided by the legal department of IGI-DAI when the decision was already communicated to them. According to CNRR, in general, the legal counselling is provided after the decision is communicated, if there is a decision to reject the asylum application in an accelerated procedure.²⁸⁹ When asked if the asylum seekers in the detention centres benefit from legal counselling before the personal interview, CNRR reported that this depends on the moment they learn about the asylum applications and on the promptness of IGI-DAI in conducting the interview.²⁹⁰

In 2018 CNRR stated that there was a protocol concluded between CNRR and IGI on the communication/information on the submission of asylum applications at border-crossing points, integrated

²⁸⁸ Article 80(1) Asylum Act.

²⁸⁹ Information provided by CNRR, 9 December 2019.

²⁹⁰ Information provided by CNRR, 9 December 2019.

centres, police custody, prisons or Public Custody Centres. The communication is made after the application is registered at IGI-DAI.²⁹¹

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

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

The law defines an applicant in need of special procedural guarantees as an applicant whose ability to benefit from the rights and fulfil his or her obligations is limited as a result of individual circumstances that may be due, *inter alia*, to age, sex, sexual orientation, gender identity, disability, serious illness, mental illness or disorder, or torture, rape or other serious forms of psychological, physical or sexual violence etc.²⁹² This clause may be interpreted as a non-exhaustive list of persons which may be considered in need of special procedural guarantees.

Article 5¹(2) of the Asylum Act lists the following categories of vulnerable persons: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses, people with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, or persons in other special circumstances.

1.1. Screening of vulnerability

Romanian law provides that the assessment of who belongs to a category of vulnerable people is done after an asylum application has been lodged, as soon as possible, by specialists of IGI, based on an individual assessment. In order to carry out the individual assessment and take appropriate measures to ensure the rights and guarantees provided by this law, the competent authorities shall provide special support at the request of IGI.²⁹³

The Asylum Decree completes this provision by stating that the specialised personnel of IGI cooperates with UNHCR and relevant NGOs to identify asylum seekers who may be included in the category of vulnerable persons referred to in Article 5¹(2) of the Act.²⁹⁴ In order to assess the vulnerability of asylum seekers, specialists within IGI, in cooperation, where appropriate, with experts from other institutions and authorities competent in the field, make an assessment of the special needs of foreigners.²⁹⁵

Depending on the specific needs of each asylum seeker identified as a vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance.²⁹⁶ IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.²⁹⁷

There are no further explanations in the law on how the individual assessment is carried out in practice or who are the specialists conducting the assessments. The law also does not include guidelines on how

²⁹¹ Information provided by CNRR, 3 December 2018.

²⁹² Article 2(1)(b¹) Asylum Act.

²⁹³ Article 5¹(3) Asylum Act.

²⁹⁴ Article 5(1) Asylum Decree.

²⁹⁵ Article 5(2) Asylum Decree.

²⁹⁶ Article 5(3) Asylum Decree.

²⁹⁷ Article 5(4) Asylum Decree.

the cooperation between the IGI-DAI and UNHCR, on the one hand, and IGI-DAI and NGOs on the other hand, should work in practice in order to adequately identify such persons.

In practice, there is a special form that is filled in from the moment an application is lodged, while the preliminary interview and personal interview also have questions related to vulnerabilities. IGI-DAI has internal guidelines on early identification, but these guidelines are only for internal use and are not publicly available. According to the Director of Regional Centre of Timișoara, the identification mechanism has been developed together with UNHCR Romania. UNHCR Romania confirmed that in 2013 it worked together with IGI-DAI in developing a pilot mechanism to identify, refer and assist vulnerable asylum seekers, defined as such by the recast Reception Conditions and Asylum Procedures Directives. At that time all staff of IGI-DAI dealing with reception and procedures were trained by UNHCR and other agencies.

The director of the Regional Centre of **Timișoara** stated that the identification mechanism in place to systematically identify vulnerable asylum seekers consists of six annexes, of which three are mandatory: one filled out when the asylum application is registered; one filled out at the preliminary interview; and one filled at the personal interview. The other three annexes may be filled out, if necessary, by the medical, integration or legal department. The director of the Regional Centre of **Timișoara** mentioned that in 2020 they identified single women as vulnerable.

The majority of the stakeholders interviewed by the author in **Bucharest**, **Șomcuta Mare** and **Rădăuți** said that they are not aware of the content of the IGI-DAI identification mechanism in place to systematically identify vulnerable asylum seekers. The legal counsellor in **Galați** mentioned that there are 4 standardised forms, which are filled in at the first four stages of the asylum procedure: registration of the asylum application; photographing and fingerprinting; preliminary interview and personal interview.

In **Timișoara**, the JRS representative did not see the identification mechanism; what they know is that ICAR Foundation identifies the vulnerable person and this information is further communicated to IGI-DAI. IGI-DAI and the NGOs agreed to inform each other of cases of vulnerability. Until now, IGI-DAI has not referred any vulnerable asylum seeker to the NGOs. The NGO representatives are bringing up the issues or the existence of vulnerable persons accommodated in the centre during the monthly coordination meetings with IGI-DAI. According to the JRS representative, **ICAR Foundation** has a mechanism in place to identify victims of torture, i.e. specialised personnel drafts medical reports which are attached to the applicant's case file. ICAR Foundation also has an interpreter when the assessment is made. As of January 2020 Timișoara centre has a psychologist. According to the director of Timișoara the psychologist conducts psychological assessment interviews but not with all the asylum seekers. The interviews are conducted only if she observes something or if ICAR Foundation representatives are recommending it. It was reported by the director that if the psychologist identifies a person as vulnerable, the person is not identified as such by IGI-DAI. Still, special attention is afforded to the respective asylum seeker.

In **Bucharest**, the doctor and psychologist (who is in medical leave since November 2020) identify the vulnerable persons and the psychologist of ICAR Foundation identifies the asylum seekers with psychological problems. The NGOs are informed by IGI-DAI if vulnerable persons are identified. The JRS representative from Bucharest mentioned that the mechanism consists of medical and psychological examination.

The JRS representative in **Timișoara** stated that vulnerable persons are identified by the NGOs who then immediately inform IGI-DAI. According to the director of the Regional Centre of Timișoara, all the asylum seekers are screened for vulnerability, nevertheless he stated that the screening of vulnerability is done in detail by ICAR Foundation, with an interpreter.

The legal counsellor in **Giurgiu** stated that the identification mechanism is a multidisciplinary mechanism involving both IGI-DAI staff (case officers, doctor, officers who are collaborating with the NGOs) and NGOs' representatives. The mechanism is applied from the asylum seeker's arrival in the centre, when

the doctor examines him or her. Vulnerability may also be identified during the following stages of the procedure.

The legal counsellor in **Șomcuta Mare** said that IGI-DAI identifies most of the vulnerable asylum seekers. The vulnerabilities of the asylum seekers identified as such by IGI-DAI were visible: pregnant women, single parent families and unaccompanied children. 2 asylum seekers rescued from a sinking boat on the Danube River received treatment and counselling from IGI-DAI and ICAR Foundation. The NGOs may also identify vulnerable asylum seekers during their counselling sessions.

According to the legal counsellor in **Galați**, all asylum seekers are screened, as the annexes to which the legal counsellor and the director of the Regional Centre of Timișoara referred to are filled in for every person lodging an asylum application. According to the legal counsellor in Galați there were asylum seekers with psychological problems, with sleep disorders and depression in the centre in 2020. There were also several asylum seekers affected by FGM. The psychologist was subsequently informed about these cases.

According to the legal counsellor in **Șomcuta Mare**, the screening of vulnerability is done by the medical department of IGI-DAI, where the asylum seekers are also asked about their medical history.

The legal counsellor in **Rădăuți** said that theoretically asylum seekers are screened but has no knowledge as to whether this is done in practice. According to the JRS representative, the psychologist of ICAR Foundation identifies vulnerable asylum seekers and not IGI-DAI. It is worth mentioning that, since November-December 2019, IGI-DAI has signed a contract with a psychologist. In January 2020 the psychologist started to work in the centre. Nonetheless, there were several victims of FGM asylum seekers from Somalia, who reported this to the medical staff of the centre and they were all identified as vulnerable asylum seekers. Visible vulnerabilities are identified by IGI-DAI. However, in case vulnerabilities which are not so visible it is possible to remain unidentified even by the NGOs. JRS representative reported that an asylum seeker was identified as vulnerable (psychological problems) by the psychologist of IGI-DAI, nevertheless he was processed under accelerated procedure.

Article 12¹ of the Asylum Act prescribes that staff training programmes shall include, *inter alia*, methodology on assessment of asylum applications made by vulnerable persons and identification mechanisms and assistance for vulnerable persons.

Between 1 January 2019 and 31 September 2019, IGI-DAI identified 213 asylum seekers as vulnerable according to article 5¹(2) of the Asylum Act.²⁹⁸ Out of the total number of vulnerable asylum seekers, 63 were minors, 96 unaccompanied minors, 5 persons with disabilities, 1 pregnant woman, 36 single parent families and 4 persons experienced torture, rape or other serious forms of psychological, physical or sexual violence.

In 2020, IGI-DAI reported that it has neither statistics on the total number of vulnerable persons, nor statistics on categories of vulnerability. IGI-DAI only reported the total number of children, 1,566, out of which 980 unaccompanied children.²⁹⁹

1.2. Age assessment of unaccompanied children

The Asylum Act foresees that an age assessment can be carried out in case there are doubts as to the alleged age of the applicant or if the unaccompanied minor cannot prove his or her age.³⁰⁰ In these cases, before a decision is delivered at first instance, IGI-DAI requests forensic expertise to assess the applicant's age, with the prior written consent of the minor and his or her legal representative.³⁰¹

²⁹⁸ Information provided by IGI-DAI, 20 February 2020.

²⁹⁹ Information provided by IGI-DAI, 16 February 2021.

³⁰⁰ Article 41(2) Asylum Act.

³⁰¹ *Ibid.*

If the asylum seeker and/or the legal representative refuse to carry out the age assessment examination and no conclusive evidence regarding age is provided, the applicant shall be considered adult.³⁰² The person shall be deemed to have reached the age of 18 at the time of lodging the asylum application.³⁰³ However, if a psychologist of IGI-DAI determines, after an evaluation, that the grounds for refusal to carry out the age assessments examination are well-founded, the asylum seeker will not be considered an adult.³⁰⁴

The law provides that the interpretation of the examination results shall be carried out taking into account the principle of the best interests of the child.³⁰⁵

The asylum application cannot be refused on the sole ground that the person did not consent to the age assessment and cannot prevent IGI-DAI from granting international protection to the respective asylum seeker.³⁰⁶

According to the law, IGI-DAI informs the legal representative and the asylum seeker unaccompanied minor in writing, in a language that the latter understands or is reasonably supposed to understand, about the possibility of carrying out an age assessment. This information should also include details of the medical examination methods, the possible consequences of the outcome of the examination and the effects of any refusal to undergo medical examination.³⁰⁷ The law also prescribes that the medical examination shall be carried out in full respect of the minor's dignity, using the least invasive methods allowing, as far as possible, a reliable result.³⁰⁸

The Asylum Act does not, however, prescribe a method on how the age assessment should be carried out. When age assessment is ordered by IGI-DAI, this is carried out by the National Network of Legal Medicine, which comprises of the National Institute of Legal Medicine “Mina Minovici” in **Bucharest** (NIML), 5 Institutes of Legal Medicine (IML) in **Iași, Cluj-Napoca, Craiova, Târgu Mureș** and **Timișoara**, 36 County Legal Medicine Services and 11 Forensic Offices.³⁰⁹

According to the Procedural Rules on expert assessments and findings and other forensic work for establishing the age of a person, the forensic findings and forensic expertise related to living persons, at the request of the judicial bodies, consist of clinical and complementary radiological, haematological, serological, bacteriological, anthropological, dermatological, genetic exams and other.³¹⁰ The Procedural Rules also prescribe that minors are examined in the presence of one of the parents, or their legal representative or, in their absence, in the presence of an adult family member of the same sex.³¹¹

According to the stakeholders interviewed by the author, the method used by IML to assess age in all cases is bone measurement.

According to the legal counsellor in **Galați**, in case an age assessment is requested by IGI-DAI, in most of the cases, the results of the examinations carried out by IML state that the age of the asylum seeker is between 17-19 years. In these cases, IGI-DAI always affords the benefit of the doubt to the asylum seeker and he or she is registered with the lowest age. The legal counsellor also mentioned that in one case the court considered an asylum seeker to be a minor based on his statements regarding the issuance of an Afghan identity card called “*tazkiras*” [taskera], even though the age assessment decision of IML stated that he was 20-22 years old.

³⁰² Article 41(3) Asylum Act.

³⁰³ Article 41(4) Asylum Act.

³⁰⁴ Article 41(5) Asylum Act.

³⁰⁵ Article 41(6) Asylum Act.

³⁰⁶ Article 41(7) Asylum Act.

³⁰⁷ Article 16(4)(c) Asylum Act, in conjunction with Article 22 Asylum Decree.

³⁰⁸ Article 16(4¹) Asylum Act.

³⁰⁹ National Network of Legal Medicine, *Tipuri de expertize medico-legale*, available in Romanian at: <http://bit.ly/2ETRT4A>.

³¹⁰ Article 26(a) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

³¹¹ Article 14(2) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

The law does not prescribe the possibility to challenge the age assessment decision. However, it is possible to request a new expert opinion, which will be also conducted by IML and the cost should be covered by the person requesting it. There has been no such case in practice.

According to available information, no requests for age assessments were made in 2020 in **Timișoara, Galați, Șomcuta Mare, Bucharest** and **Giurgiu**.

Rădăuți: one age assessment was carried out for an asylum seeker from Afghanistan who claimed to be 16 years old. The procedure established that he was 20 years old.

In 2020, IGI-DAI requested 3 age assessments for 3 asylum seekers. The assessments determined that 2 asylum seekers were minors and 1 was adult.³¹²

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:

2.1. Adequate support during the interview

Pursuant to Article 5¹(4) of the Asylum Act, in cases where vulnerable persons with special needs are identified, specialised staff of IGI-DAI carry out assessments to identify specific needs and decide on appropriate steps to ensure the rights and guarantees provided by the law during the asylum procedure.

Romanian law provides an important safeguard in respect of procedural guarantees for vulnerable persons: in the administrative phase of the asylum procedure, documents drafted before the identification of special needs will be amended and/or supplemented only where it is necessary to adequately examine the asylum application.³¹³

The law also foresees a specific monitoring obligation throughout the entire asylum procedure in line with Article 22(1) of the recast Reception Conditions Directive.³¹⁴

The interview of vulnerable asylum seekers shall be carried out by case officers specialised in this respect, taking into account the special situation of these persons.³¹⁵

The director of the Regional Centre **Timișoara** mentioned that they read the psychological report drafted by ICAR Foundation and prepare accordingly for the interview, in the sense that they are more careful during the interview, better prepared and the interpreter is carefully chosen. However, the report of ICAR Foundation has no legal power; it is only the opinion of a psychologist. The decision issued by IGI-DAI mentions that a psychological report was attached to the case file.

The legal counsellor in **Giurgiu** stated that the case officers handle each case with diligence. For instance, if the asylum seeker is not feeling well, they will stop the interview. In another case, an LGBTI asylum seeker was assisted at the interview by a psychologist.

In **Rădăuți** vulnerable asylum seekers, chiefly unaccompanied minors, are treated the same way as the adults, no special attention is given to these cases during the interviews. It was reported by JRS

³¹² Information provided by IGI-DAI, 16 February 2021.

³¹³ Article 5¹(5) Asylum Act.

³¹⁴ Article 5¹(6) Asylum Act. IGI-DAI monitors the situation of applicants with special needs upon reception and, together with the competent authorities, will ensure that assistance is given throughout the entire asylum procedure.

³¹⁵ Article 46 Asylum Act.

representative that only in one case the legal representative asked guiding questions during the interview. It was also reported that in one case after the interview the legal representative suggested the necessity of an age assessment of the unaccompanied minor.

Șomcuta Mare: the JRS representative did not observe a special attention given to vulnerable persons.

Bucharest: the same was also reported by the JRS representative. The interviews with unaccompanied minors are quite hard; the case officer had no patience; he was insisting in receiving a certain answer from the minor, but the minor was not able to provide the answer. After a short break the interview continued well.

Galați: it was reported that special attention is given to vulnerable persons-questions, breaks are adapted to the special situation of the asylum seeker.

2.2. Exemption from special procedures

According to Article 75(2) of the Asylum Act, applicants in need of special procedural guarantees or with **Special Reception Needs** may be subjected to the **Accelerated Procedure** or the **Border Procedure** only if they represent a threat to national security or public order, due to their activity or membership to a certain group.³¹⁶ In practice, according to IGI-DAI, unaccompanied children or persons in need of special procedural guarantees are not channelled to the accelerated procedure or the border procedure.³¹⁷

In 2020, IGI-DAI **Șomcuta Mare** processed the asylum application of a single parent, a mother and her 6-year-old daughter, under the accelerated procedure, even though they are considered vulnerable persons under the Asylum Act, rejecting the asylum application as manifestly unfounded. During the interview she was not asked about the reasons why she fled her country of origin together with her daughter. They concluded that she is an economic migrant, even though the applicant did not mention anything related to this. The asylum application was wrongfully assessed in an accelerated procedure, as the applicants were vulnerable persons and according to the Asylum Act vulnerable persons may only be subjected to an accelerated procedure if they represent a threat to national security or public order, due to their activity or membership to a certain group. The decision of IGI-DAI does not mention the applicants as being vulnerable persons.³¹⁸ Their appeal was rejected by the regional court.

In **Rădăuți**, it was reported that an asylum seeker who was identified as vulnerable by the psychologist of IGI-DAI was assessed under the accelerated procedure.

3. Use of medical reports

Indicators: Use of Medical Reports

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

Romanian legislation explicitly refers to the use of medical reports in asylum procedures. Article 49¹ of the Asylum Act provides that, when IGI-DAI deems it relevant for the assessment of an asylum application, the asylum seeker will be subject - with his consent - to medical examination concerning signs that might indicate past persecution or serious harm.³¹⁹ The applicant's refusal to undergo such a medical

³¹⁶ Articles 75(2) and 84 Asylum Act.

³¹⁷ Information provided by IGI-DAI, 14 February 2018.

³¹⁸ IGI-DAI, Decision no 419955/h/HIA.

³¹⁹ Article 49¹(1) Asylum Act.

examination shall not prevent IGI-DAI from taking a decision on the application for international protection.³²⁰

Medical examinations shall be carried out by the legal medicine institutions and the result shall be transmitted immediately to IGI-DAI. The coverage of the expenses is ensured by the Ministry of Internal Affairs through the budget allocated to IGI in this respect.³²¹ If the medical examination is requested by IGI-DAI, it is therefore paid by IGI-DAI.

When no medical examination is carried out, IGI-DAI informs applicants that they may, on their own initiative and at their own cost, arrange for a medical examination concerning signs that might indicate past persecution or serious harm.³²² The results of the medical examination are assessed by IGI-DAI in corroboration with other elements of the application for international protection.³²³

Moreover, as a general rule, an applicant is not expected to provide written evidence but he or she is obliged to hand over to the authorities all the documents at his/her disposal which are relevant to his or her personal situation.³²⁴ The Asylum Decree provides that the examination of the asylum application must be carried out individually and taking into account, *inter alia*, the relevant documents submitted by the applicant, including information on whether he or she has been subjected to persecution or the possibility of being persecuted or of being exposed to a risk of serious harm.³²⁵ This means that the asylum seeker may submit relevant documents with regard to past persecution but also with a view to the possible future persecution and serious harm.

In addition, the Asylum Act foresees that when there are serious doubts regarding the adult's asylum seeker legal capacity, specialised staff at IGI-DAI request a medical examination in this regard.³²⁶ If the medical examination reveals lack of legal capacity of the asylum seeker, the case officer in charge of the case, requests the appointment of a counsellor, under the same conditions as for Romanian citizens.³²⁷ The asylum procedure is suspended until the appointment with the counsellor. During this period of suspension, the applicant benefits from the rights set out in the law.³²⁸ The asylum application of an asylum seeker who has no capacity is filed by the counsellor after his or her appointment.³²⁹ When conducting the personal interview, the counsellor will inform the asylum seeker of the purpose and possible consequences of this interview and will take the necessary steps to prepare the applicant for the interview.³³⁰ The interview of an asylum seeker without capacity shall be carried out in the presence of the counsellor.³³¹

Timișoara: According to the Director of Regional Centre Timișoara, in 2017 IGI-DAI requested a medical examination for an asylum seeker, as they had serious doubts regarding the legal capacity of the adult asylum seeker. Before requesting a medical examination IGI-DAI appointed as a counsellor the mother of the asylum seeker, but she left Romania soon after. Therefore, they had to request a medical examination in his case, in order to appoint a counsellor that may assist the asylum seeker during the asylum procedure. The medical examination was carried out by the legal medicine institution, IML and it was paid by IGI-DAI. The procedure lasted around 1 year. A Syrian national was appointed as the counsellor but the asylum seeker had left the country before he was appointed. IGI-DAI granted him a form of protection *in absentia*.

³²⁰ Article 49¹(2) Asylum Act.

³²¹ Article 49¹(3) Asylum Act.

³²² Article 49¹(4) Asylum Act.

³²³ *Ibid.*

³²⁴ Article 19(c) Asylum Act.

³²⁵ Article 16(1)(b) Asylum Decree.

³²⁶ Article 42(1) Asylum Act.

³²⁷ Article 42(2) Asylum Act.

³²⁸ Article 42(3) Asylum Act.

³²⁹ Article 42(4) Asylum Act.

³³⁰ Article 42(5) Asylum Act.

³³¹ Article 42(6) Asylum Act.

According to the NGO personnel, in **Galați, Rădăuți, Șomcuta Mare, Bucharest** and **Timișoara** there were no cases in which a medical examination under Article 49³³² was requested by IGI-DAI in 2020.

Bucharest: an attorney requested a medical examination for an asylum seeker at the regional court and it was granted. The asylum seeker was diagnosed with schizophrenia. The case is still pending.

IGI-DAI accepts medico-legal expert opinions issued by officially recognised experts enrolled on the lists drawn up by the Ministry of Health and the Ministry of Justice, with the approval of the Board of Forensics.³³² ICAR Foundation is the NGO that currently provides psycho-social services to asylum seekers, through the project “Health services accessible to the asylum seekers needs –SANSa” in partnership with AIDRom, funded through the AMIF national programme. According to the project description, psycho-social specialists identify vulnerable asylum seekers such as families in need, the elderly, persons with chronic illnesses, unaccompanied minors, victims of physical or psychological violence, and their needs. “Consequently, tests will be conducted to evaluate the general state of health of newly arrived asylum seekers, and general practitioners will provide medical examinations weekly”.³³³ Through this project additional tests and medical investigations will be provided, as well as drug and non-drug treatments, as recommended by collaborating doctors, in order to accurately respond to the medical needs of asylum seekers in Romania and also specialised medical consultations.

According to AIDRom representative of Timișoara: the new element that the project brings this year is a scheme of free blood tests for infectious diseases, for which all the asylum seekers are eligible, once they are registered in the reception centres. The blood specimen collection is performed at the regional centre by a phlebotomist from a private laboratory, with whom the NGO is collaborating. The blood collection chair arrived in the Regional Centre Timișoara on 18 October 2019 and the following week they started performing the blood tests. Before this, the blood tests were made at the private laboratory at the doctor’s recommendation. The basic tests also include: hemolothogram, glucose, creatinine, urinalysis, TGO, TGP. If the asylum seeker refuses the blood test, he or she cannot be assisted by AIDRom during the asylum procedure. The project provides for blood test for 600 asylum seekers and 600 treatments and medical investigations.

ICAR Foundation also prepares psychological reports for applicants in line with the requirements set out in the Istanbul Protocol. The psychologists of this NGO, however, are not officially recognised medico-legal experts and as a consequence their opinions are not fully recognised by IGI-DAI or courts when assessing the asylum seeker’s credibility. These reports are scrutinised in the sense that they have to be corroborated by other evidence. This was echoed by the directors of Timișoara and Stolnicu centres.

In general, asylum seekers submit either to IGI-DAI or the court medical reports from the country of origin. Practice in 2020 in relation to these reports is reported as follows:

Timișoara: According to the Director of the Regional Centre of Timișoara, medical reports are read by the case officers, but they have to be corroborated by further evidence. One lawyer from Timișoara reported that they had no cases where medical reports drafted by ICAR Foundation were submitted to IGI-DAI or the court. According to JRS representative, the psychological reports prepared by ICAR are not mentioned in the decision issued by IGI-DAI. On the contrary, the director stated the opposite.

Șomcuta Mare: Psychological evaluations were made by ICAR Foundation, but JRS representative was not aware if these were actually submitted to IGI-DAI.

³³² According to Article 34 Regulation implementing Government Ordinance 1/2000 approved by Government Decree 774/2000 as last amended by Government Decree 1204/2002, a medico-legal expert: (a) is a Romanian citizen and is fluent in Romanian; (b) has full legal capacity; (c) is a graduate of a medical university; (d) has a postgraduate specialisation courses in forensics; (e) practices this specialisation; (f) has not been convicted of an offence committed in circumstances related to his or her profession; and (g) is certified as an medico-legal expert at the Board of Forensics, available in Romanian at: <http://bit.ly/2B34lah>.

³³³ ICAR Foundation, *Health services for the improvement of reception and residence conditions for asylum seekers in Romania*, available at: <http://bit.ly/2jtR4Xw>.

Galați: According to the legal counsellor, the medical reports are taken into account when assessing the credibility of the asylum seeker but have to be corroborated by other evidence. In practice, the psychological reports of ICAR Foundation were never taken into consideration. IGI-DAI and the court have never ordered a medical examination. In 2020 ICAR Foundation drafted a medical report on basis of which the asylum seeker was referred to a specialist.

Rădăuți: According to the stakeholder interviewed in 2020 there were no medical reports submitted by ICAR Foundation to IGI-DAI or domestic courts.

Bucharest: the JRS representative medical reports drafted by ICAR Foundation were submitted to IGI-DAI and the court. The medical reports represent a notification about the state of the asylum seeker. The JRS representative is not aware if these reports are mentioned in the decisions.

Giurgiu: No medical reports prepared by ICAR Foundation were lodged in 2020 according to the director of the centre.

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 law provides for the appointment of a legal representative to an unaccompanied child.³³⁴ IGI-DAI shall take the necessary steps, as soon as possible, to appoint a legal representative to assist the unaccompanied minor applying for asylum during the procedure, including during the admissibility and Dublin procedure as the case may be.³³⁵

The law prescribes it is not necessary to appoint a legal representative for the unaccompanied minor asylum seeker if he or she is to reach the age of the majority within 15 days of the filing of the asylum application.³³⁶

The law also foresees that IGI shall:

- a. Ensure that the legal representative is given the opportunity to inform the unaccompanied child about the significance and possible consequences of the personal interview and, as the case may be, about the preparation for the personal interview;
- b. Provide procedural legal information, including information on the withdrawing of international protection, both to the child and to his or her legal representative;
- c. Inform the legal representative and the unaccompanied child, in a language that the latter understands or is reasonably supposed to understand, about the possibility of carrying out an age assessment. This information should also include details of the medical examination methods, the possible consequences of its outcome and the consequences of any refusal to undergo this examination.³³⁷

4.1. Timing of appointment

Neither the Asylum Act nor the Child Protection Act prescribes an exact time limit for the appointment of the legal representative. However, the Asylum Act prescribes that after registering the asylum claim of the unaccompanied child, IGI-DAI shall immediately notify the competent authority, the Directorate General for Social Assistance and Child Protection (DGASPC) territorially competent for the area in which the Regional Centres located, in order to start the appointment procedure of a legal representative. The Asylum Decree complements these provisions, stating that the officer in charge with the registration of

³³⁴ Articles 16 and 40 Asylum Act.

³³⁵ Article 16(2) Asylum Act.

³³⁶ Article 16(3) Asylum Act.

³³⁷ Article 16(4) Asylum Act.

the asylum claim of the unaccompanied child shall immediately notify the relevant DGASPC branch office in order to initiate the procedure of appointment of a legal representative.³³⁸ Once established, the legal representation of the unaccompanied asylum-seeking child continues to operate for as long as the child benefits from international protection in Romania.³³⁹

In the case of an unaccompanied child who has expressed the intention to apply for asylum, in writing or orally, he or she shall be registered as an asylum seeker and the asylum application will be lodged at the moment of appointment of the legal representative.³⁴⁰ The asylum procedure is suspended until the appointment of a legal representative. During the period of suspension of the asylum procedure, the child benefits from the rights provided by law.³⁴¹

In practice, the appointment of legal representatives takes place as follows:

Timișoara: The notification is sent as soon as possible to DGASPC and the legal representative is appointed within 30 days, according to the director of the centre. The appointment order is received by IGI-DAI within 30 days and without this order they cannot schedule the interview. DGASPC appoints the same person, who is a legal counsellor, as the legal representative for all the unaccompanied minors.

Șomcuta Mare: IGI-DAI sends out the notification to DGASPC the second day after the unaccompanied child is accommodated in the Regional Centre. In general, the legal representative is appointed as soon as possible; no delays in its appointment have been reported. In 2020, a single legal representative was appointed for all the unaccompanied children (around 60 children). He was overwhelmed by the situation. It was reported that when asylum seekers arrive from Timișoara the legal representative is also present. NGO representatives prepare the appeals against negative decisions.

Galați: IGI-DAI sends a notification to DGASPC for the appointment of a legal representative within a maximum of 3 days or even on the day of registration of the asylum claim of the unaccompanied child, if possible. In 2020, DGASPC started to appoint a new legal representative for unaccompanied children. She works at the Day Centre for Children in Situations of Risk of Separation from Parents within DGASPC. There is only one legal representative appointed for all the unaccompanied children (JRS registered in 2020 118 unaccompanied minors), with no other person to fulfil her duties in case she is on medical leave or holidays. The legal representative is a social assistant. In case the unaccompanied children leave the centre, a decision of withdrawal of the legal representative is issued and if they return to the centre the legal representative is appointed again. Unaccompanied children are not receiving the state financial allowance for children.

Rădăuți: IGI-DAI sends a notification to DGASPC for the appointment of a legal representative. The procedure of appointment is burdensome and delayed. There are 2 legal representatives appointed for unaccompanied children and one of them is a psychologist and the second one is legal counsellor. According to the stakeholders interviewed, the legal representatives do not meet or discuss with the unaccompanied children before the interview, only if this is requested by the NGO representatives, but even then the meeting is very short. They only attend the interviews and do not draft legal submissions.

Giurgiu: DGASPC appoints a legal counsellor to act as legal representatives. According to the director of the centre he is appointed in 1 day. The JRS representative reported that the legal representative does not show up when requested, his involvement in the asylum procedure is limited.

Bucharest: The notification for the appointment of the legal representative is made in 3-5 days, but there are delays in appointing the legal representative. The notifications are resent several times. It was

³³⁸ Article 21(3) Asylum Decree.

³³⁹ Article 40(1) Asylum Act.

³⁴⁰ Article 39(3) Asylum Act.

³⁴¹ Article 40(2) Asylum Act.

reported by the JRS representative that there were around 10 days' delays, and even longer if the child arrives in the centre during bank holidays.

In February 2020, UNHCR notified the Romanian Ombudsman on the situation of a number of asylum-seeking children under 16 years accommodated in Stolnicu Regional Centre because DGASPC District 2 Bucharest has no available places to take them over. Representatives of the Romanian Ombudsman conducted an investigation at the regional centre Stolnicu and DGASPC. Among other things it was found that out of 15 unaccompanied children accommodated in the centre only 9 had a legal representative appointed, as for the other 6 children DGASPC did not respond to IGI-DAI notifications. The Ombudsman stated that although there is no time limit prescribed by the law for the appointment of the legal representative for unaccompanied minors, the time frame in which DGASPC Sector 2 achieves this, sometimes up to almost 3 weeks, is far too long. It was also noticed by the Ombudsman that the delays are caused by bureaucratic rules.³⁴²

On the other hand the director of Stolnicu reported that there are no problems regarding the appointment of the legal representative, stating that within - 2-3 days they receive the relevant documents on the appointment of the legal representative. The date of the interview is scheduled together with the legal representative.

According to JRS representative, DGASPC Bucharest appointed only 2 legal representatives for all the unaccompanied minors. They are social assistants. Conversely, the director of Stolnicu regional centre mentioned that there are more legal representatives appointed for asylum-seeking children. The legal representative assists the minor only in the asylum procedure. There is also a legal representative which represents asylum-seeking children accommodated in Gavroche Centre.

The Ombudsman also reported that during their visit in September 2019 they were informed by the IGI-DAI staff that DGASPC has difficulties in appointing a legal representative for the unaccompanied children as well as in accommodating the minors in their centres, therefore IGI-DAI has to accommodate unaccompanied minors under 16 years of age in the reception centre.³⁴³

4.2. Qualifications and duties of the legal representative

According to the Child Protection Act the legal representative is either the parent or person designated, according to the law, to exercise the rights and to fulfil the parental obligations towards the child.³⁴⁴ This means that the legal representative substitutes the absent parents.

According to the Asylum Act, the interests of a child are defended by his or her legal representative.³⁴⁵ The unaccompanied child is immediately informed of the appointment of the legal representative. The legal representative performs his or her duties in accordance with the principle of the best interests of the child and has the necessary expertise for this purpose.³⁴⁶

The Child Protection Act provides that, in order to adequately support the interests of the child, DGASPC designates a person with legal or social assistance background from its staff or an authorised private body, to support the rights of the child and to participate, together with the child to the entire refugee status determination procedure.³⁴⁷

The legal representative has to be present at the interview with the unaccompanied child,³⁴⁸ and may intervene at the end of the interview.³⁴⁹ The legal representative informs the unaccompanied child asylum

³⁴² Ombudsman, Recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/380EvZR>.

³⁴³ Ombudsman, Report 75/2019, p.4-5.

³⁴⁴ Article 4(g) Child Protection Act.

³⁴⁵ Article 39(1) Asylum Act.

³⁴⁶ Article 16(2[^]1) Asylum Act.

³⁴⁷ Article 77(3) Child Protection Act.

³⁴⁸ Article 47(1) Asylum Act.

³⁴⁹ Article 23(1) Asylum Decree.

seeker of the purpose and possible consequences of the personal interview and takes the necessary steps to prepare the child for it.³⁵⁰ In the case of a child, the appeal is filed by his or her legal representative. A child who has reached the age of 16 may file the complaint in his or her own name.³⁵¹

The legal representative also has to submit the request of enrolment of the unaccompanied child to preparatory courses.³⁵²

The legal representatives consider their mandate limited to assisting the child in administrative and judicial procedures related to the asylum claim, i.e. to attend interviews and court hearings. As a consequence, this mandate ends when the asylum procedure is completed. Legal representatives consider that is not their mandate to ensure the well-being of the unaccompanied child.

Galați: the legal representative considers that it is not her duty to draft request for enrolment at school for unaccompanied children over 16 years of age. She is not discussing with the children before the interview. Children do not know the legal representative; they cannot contact her directly; in order to contact his or her legal representative the child has to submit a written request at IGI-DAI and IGI-DAI notifies DGASPC. An unaccompanied minor from Somalia did only have his interview after 3 months, because the interpreter can attend only during the weekend and the legal representative cannot attend during the weekend.

In **Șomcuta Mare**, 2 new legal representatives were appointed. It was reported that they are not knowledgeable in Asylum Law. The JRS representative was not aware if the legal representatives are discussing with the children before the interview. The state financial allowance for children is drafted by the NGO representatives. For the new asylum seeking unaccompanied minors no request for state financial allowance is made, because they leave the centre.

The legal representative who was appointed by DGASPC to represent unaccompanied children in **Rădăuți** was substituted by 1 male and 1 female representative. The legal representatives only attend the interviews and court hearings and do not file appeals against negative decisions.

In **Bucharest**, it was reported by the JRS representative that the unaccompanied minors, accommodated in Stolnicu Regional Centre, are not receiving the state financial allowance for children because the legal representative is not applying for it, considering that this is not his/her duty. However, for the children accommodated in Gavroche Centre the legal representatives are applying for the financial allowance, but even here not for all the children. JRS representative mentioned an unaccompanied child who is not receiving the state financial allowance. This is a persistent issue, which affects the social rights of unaccompanied children. In most of the cases, the unaccompanied children are meeting their legal representative at the preliminary interview. They do not discuss with them before the interviews.

In **Timișoara**, the legal representative only assists the unaccompanied child during the interviews; According to the director of Timișoara Regional Centre he is not discussing with the children before the interviews. Further, the director mentioned that he appeals the negative decision of IGI-DAI and assists the child in the court proceedings but does not fulfil any other task. Conversely the JRS representative reported that the legal representative is not drafting the legal submission anymore and there were also cases where he did not show up for court.

According to Save the Children Romania, legal representation of minors raises many issues. Although legal representatives are appointed shortly after the arrival of unaccompanied minors, most minors are not aware who is their legal representatives; they cannot contact them directly and they are not assisted for accessing the various social benefits and rights. The activities of legal representatives are limited to assisting the children at interviews and signing documents related to the procedure. There are also communication impairments between legal representatives and unaccompanied children caused not only by the language barriers but also by the lack of involvement of legal representatives. Given that there are

³⁵⁰ Article 47(2) Asylum Act.

³⁵¹ Articles 56(2) and 66(2) Asylum Act.

³⁵² Article 6(4) Asylum Decree.

no clear provisions regarding the role and duties of legal representatives, there have been cases in which legal representatives are managing the cases differently.

According to UNHCR Romania, the lack of active involvement of legal representatives in the asylum procedure is due to the lack of clarity of the current legislation regarding the duties of the legal representative. There is no coherence between the 2 legal acts (Asylum Act and Child Protection Act) and no guidelines regarding the role of the legal representative in the asylum procedure. This was confirmed by Save the Children.

The same was echoed in the special report of the Romanian Ombudsman on Respecting Children's Rights in Romania of 2019. It was stated that there are major legislative gaps regarding the legal representation of unaccompanied children and that there is a need for clear legal provisions on the appointment, duties and especially the scope of the duties of the legal representative of unaccompanied minors.³⁵³

Save the Children noted that previously there have been trainings and conferences on legal representation of unaccompanied minors organized by NGOs or UNHCR, but there is no coherent or mandatory training program.

The issue of the inefficient collaboration with DGASPC in the protection of unaccompanied children was discussed during a meeting between the Ombudsman's representatives and IGI. IGI stated that they are drafting a Protocol that will establish different points regarding the collaboration of the Regional Centres with DGASPC in order to remedy this situation.³⁵⁴

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

A subsequent application is considered as an application following a final termination or rejection decision on the former application, subsequent application or in case of a decision on cessation or withdrawal of the international protection granted.³⁵⁵ New elements or circumstances have to be submitted in order for a subsequent application to be admissible.³⁵⁶

Therefore, the Asylum Act prescribes that access to a new asylum procedure shall be granted if one of the following conditions is met:³⁵⁷

- a. The applicant relies on new elements which could not be presented for reasons beyond his or her control and which occurred during or after the completion of the previous procedure. The applicant is obliged to prove the existence of new elements invoked and impossibility of their submission until the date of application for access to a new asylum procedure. The new elements

³⁵³ Ombudsman, Special Report on Respecting the Children's Rights in Romania, 2019, 198, available in Romanian at: <https://bit.ly/362ZDef>.

³⁵⁴ Ombudsman, *Annual Report 2018*, 601-602.

³⁵⁵ Article 88(1) b) Asylum Act.

³⁵⁶ Article 88(2)(a)-(b) Asylum Act.

³⁵⁷ *Ibid.*

invoked cannot be the result of actions brought by the applicant in order to obtain a form of international protection from the Romanian State;

- b. From the date of completion of the previous asylum procedure, there have been political, social, military or legislative changes in the country of origin, likely to have serious consequences for the applicant.

For persons whose applications are considered to have been tacitly withdrawn, i.e. persons who have left Romania and moved on to another EU Member State, and the asylum procedure has been terminated, the asylum procedure may be continued if the person makes an asylum claim within 9 months of the decision to close the file, issued in case of implicit withdrawal.³⁵⁸ If the time limit has expired, the asylum claim is considered a subsequent application.

If the persons have left the territory of the EU or have been removed to a third country or the country of origin, as set out in Articles 19(2) and (3) of the Dublin Regulation, and their asylum procedure has been terminated by a decision closing the file, a new claim lodged in Romania is not deemed a subsequent application.³⁵⁹

Therefore, persons who expressly withdraw their asylum applications and have not left the territory of the EU or have not been removed to a third country or to the country of origin cannot continue their asylum procedure in case they return to Romania. As a consequence, they will have to submit new elements or circumstances.

The subsequent application should be submitted personally, with the exception of cases where the foreigner is in detention, is in pre-trial detention or serving a sentence.³⁶⁰

When a subsequent application is registered, IGI-DAI shall inform the IGI-Migration Directorate regarding the granting to the applicant of the permission to remain on the Romanian territory.³⁶¹ The law foresees that if the subsequent application is personally submitted by the foreigner and the previous asylum application is finalised, the foreigner is allowed to remain on the territory of Romania for a period of 5 days from the date of the registration of the application for granting access to a new asylum procedure.³⁶² The law does not impose a time limit on submitting a subsequent application or explicit limitation on the number of asylum applications that may be lodged. However, the right to remain does not apply in the case of a second subsequent claim, thus the applicant is not granted access to territory.³⁶³ The same applies where the documents from the file show that the application is made abusively in order to prevent the removal of the foreigner from the territory of Romania.³⁶⁴

The law provides for a safeguard against *refoulement*, stating that these cases shall apply only if the enforcement of the return decision is considered to be without prejudice to the principle of *non-refoulement*.

In these cases, a decision is issued as soon as possible justifying the non-granting of the permission to remain on the Romanian territory. This decision shall be communicated directly to the applicant, who is previously informed of the date on which he or she must present him or herself at IGI-DAI or by post.³⁶⁵

³⁵⁸ Article 94¹(1)(b) Asylum Act.

³⁵⁹ Article 94¹(1)(a) Asylum Act.

³⁶⁰ Article 88(1)(a) and (3) Asylum Act.

³⁶¹ Article 40(1) Asylum Decree.

³⁶² Article 89(1) Asylum Act.

³⁶³ Article 89(2)(b) Asylum Act. A foreigner submits a subsequent application after a previous application of this type has been rejected as inadmissible or if, after granting access to a new asylum procedure, his or her application has been rejected as manifestly unfounded.

³⁶⁴ Article 89(2)(a) Asylum Act.

³⁶⁵ Article 89(3) Asylum Act.

This decision may be appealed within 2 days from the day it is communicated.³⁶⁶ The competent court is the Regional Court territorially competent for the area in which IGI-DAI issued the decision.³⁶⁷

The assessment of the subsequent application is done solely on the basis of a written submission. The law does not provide for a preliminary interview. IGI-DAI delivers a decision within 5 days from the date when the application was registered, on the basis of the reasoned application, the documentation submitted by the foreigner and the elements existing in his or her personal file.³⁶⁸ The case officer may issue a decision by which: (a) grants access to a new asylum procedure; or (b) dismisses the application as inadmissible.

The decision is communicated to the foreigner immediately, in writing, by a direct communication of the IGI-DAI's representatives or by post, to the last declared residence thereof. The decision communicated shall be accompanied by written information in Romanian language and in a language that the applicant understands or is reasonably supposed to understand, of the admission or rejection solution of his or her application and the conditions under which the decision can be challenged.³⁶⁹ The decision may also be communicated to the lawyer or representative of the NGO who legally represents the applicant, to the extent that the applicant has expressly stated this.³⁷⁰

Rejected subsequent applications may be appealed before the territorially competent Regional Court within 10 days of communication.³⁷¹ Judicial review of rejected subsequent applications has no automatic suspensive effect.³⁷² The foreigner may ask for permission to stay on the territory of Romania. The application for permission to remain on the territory of Romania is solved as a matter of urgency by the competent court, which shall pronounce a final decision, in the council chamber, with the parties being summoned.³⁷³ In this case the foreigner has the right to remain on the territory of Romania until the court has ruled on this request.³⁷⁴ The permission to remain on the territory of Romania shall be granted until the moment of the court's pronouncement on the appeal.³⁷⁵

Under Article 94(1) of the Asylum Act the court assesses the appeal without hearing the foreigner, within 30 days, and delivers a reasoned decision, by which it either (a) rejects the complaint, or (b) admits the complaint, granting access to a new asylum procedure and ordering IGI-DAI to examine the application in the regular procedure. The decision of the court is irrevocable.³⁷⁶

In **Galați**, in some cases the court heard the applicants. In **Giurgiu**, according to the legal counsellor, in most of the cases the applicant does not submit new elements and practically the application is the same as the previous ones.

Even though foreigners who make a subsequent application have the right to be counselled and assisted at any stage of the procedure by a representative of NGOs, Romanian or foreign, the projects funded by the national AMIF programme do not cover counselling and assistance for these applicants, as they are not considered to be asylum seekers. CNRR representatives provide counselling and assistance on a voluntary basis. Under the project funded by UNHCR, JRS may also provide counselling and assistance to persons who apply for subsequent application and may appoint an attorney if it is a case that might lead to a practice-altering decision.

³⁶⁶ Article 89(4) Asylum Act.

³⁶⁷ Article 89(5) Asylum Act.

³⁶⁸ Article 91(1) Asylum Act.

³⁶⁹ Article 91(3) Asylum Act.

³⁷⁰ Article 91(4) Asylum Act.

³⁷¹ Article 93(1) and (2) Asylum Act.

³⁷² Article 93(3) Asylum Act.

³⁷³ Article 93(4) Asylum Act.

³⁷⁴ Article 93(5) Asylum Act.

³⁷⁵ Article 93(6) Asylum Act.

³⁷⁶ Article 94(2) Asylum Act.

Timișoara: to the knowledge of the JRS representative, there was only one subsequent asylum application submitted by a Syrian national, which was admitted. The Director of the Regional Centre Timișoara stated that there were 40 applications, which were all dismissed.

Giurgiu: the director of the regional centre stated that only 1 subsequent application was made in 2020, which was rejected.

Șomcuta Mare: 4 applications were lodged and all dismissed. The case of a family from Iran was reported. During the first asylum procedure their onward appeal was annulled by final decision of the administrative county court for not motivating the onward appeal, even though the onwards appeal was motivated. They lodged an extraordinary appeal which was dismissed. While in detention in Arad public custody centre they submitted a subsequent application. However, they did not declare anything because their 10 year-old child was translating and they did not want him/her to know. The application was rejected; no appeal was lodged. They were returned to Serbia.

Bucharest: According to the director of the regional centre there were 60 subsequent asylum applications; 25 in the last months of 2020, out of which only 2 were admitted.

Galați and Rădăuți: no subsequent applications were made in 2020.

A total of 105³⁷⁷ subsequent applications were lodged in 2020 down from 165 in 2019.

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

Article 77(1) of the Asylum Act defines the concept of "safe countries of origin" as the EU Member States, as well as other States established by order of the Ministry of Internal Affairs, on the basis of a list proposed by IGI, taking into account a number of criteria, *inter alia*:

1. The observance of human rights and fundamental freedoms, as provided for and guaranteed by the ECHR, as subsequently amended, hereinafter referred to as the European Convention and/or the ICCPR, and/or the Convention against Torture, in particular the rights from which no derogation is permitted, in accordance with Article 15(2) ECHR;
2. The functioning of democratic principles, political pluralism and free elections, as well as the existence of functional democratic institutions ensuring the guarantee and respect of fundamental human rights;
3. Effective mechanisms for reporting violations of human rights and fundamental freedoms;
4. Compliance with the principle of *non-refoulement*, in accordance with the provisions of the Geneva Convention;
5. Existence of stability factors.

³⁷⁷ Information provided by IGI-DAI, 16 February 2021.

When designating safe countries of origin, the government has to consider information sources from other Member States, EASO, UNHCR, the Council of Europe and other international organisations.³⁷⁸ IGI shall periodically review the situation in third countries designated as safe countries of origin and, on the basis of the resulting information, update the list.³⁷⁹ The asylum application of a person who comes from a safe country of origin is rejected as manifestly unfounded, unless the factual situation or the evidence presented by the applicant shows the existence of a well-founded fear of persecution or a risk of serious harm. In this case, the applicant shall be given access to the regular procedure.³⁸⁰

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.³⁸¹

No applications were rejected on the basis of the safe country of origin concept in 2020.³⁸²

2. Safe third country

Article 96 of the Asylum Act states that a European safe third country is a European country which is not a Member State of the European Union and:

- a. Has ratified and respected the provisions of the Refugee Convention without any geographical limitation;
- b. Has an asylum procedure provided for by domestic legislation;
- c. Has ratified the ECHR and complies with its provisions, including standards on effective remedies.

The concept of European safe third country may be applied only if the applicant has attempted to enter or has illegally entered Romania from the referring country and this country agreed to his or her readmission.³⁸³

Under Article 97(1) of the Asylum Act, a safe third country is considered to be a country in respect of which there are sufficient guarantees that the rights of an applicant for international protection are respected on its territory in accordance with the following principles:

- a. Life and freedom are not threatened for reasons of race, religion, citizenship, membership of a particular social group or political opinion;
- b. There is no serious risk for the purposes of this law;
- c. The principle of *non-refoulement* in accordance with the Refugee Convention is respected;
- d. The prohibition of expulsion to a State where the person may be subjected to torture or cruel, inhuman or degrading treatment is respected;
- e. There is a possibility to request refugee status and, if this status is granted, to benefit from protection in accordance with the Refugee Convention.

Pursuant to Article 97(2), IGI-DAI rejects an asylum application as inadmissible when these criteria are applicable, the third country has agreed to readmit the applicant and there is a link between the applicant and the third country, on the basis of which it may reasonably be expected that the country is safe in his or her personal situation.

Although the law prescribes that a list of the safe third countries shall be published in the Official Gazette,³⁸⁴ there is no such list available therein. NGO practitioners are also unaware of the existence of such a list. The Director of the Regional Centre of Timișoara thought that a list is published by the Ministry

³⁷⁸ Article 77(2) Asylum Act.

³⁷⁹ Article 77(3) Asylum Act.

³⁸⁰ Article 77(4) Asylum Act.

³⁸¹ Information provided by IGI-DAI, 20 February 2020.

³⁸² Information provided by IGI-DAI, 16 February 2021.

³⁸³ Article 96(2) Asylum Act.

³⁸⁴ Article 97^2 Asylum Act.

of Foreign Affairs. UNHCR stated that there is no list of safe third countries and the concept has not been applied in practice according to information available to them.

According to the law, ratification and respect for the provisions of the Refugee Convention without any geographical limitation is one of the criteria which has to be fulfilled by the country in order to be considered a European safe third country. This criterion does not figure in the conditions for a “safe third country”.

When claims are rejected as inadmissible on the ground of European safe third country, safe third country or first country of asylum, IGI-DAI must inform the authorities in the respective country in the language of the safe third country, stating that the claim of the applicant was not examined on the merits.³⁸⁵

One application was dismissed on the basis of the safe third country concept in 2018.³⁸⁶

In 2019, no applications were dismissed on the basis of the safe third country concept.³⁸⁷ The same was reported in 2020.³⁸⁸

3. First country of asylum

Article 95 of the Asylum Act provides that if the applicant has previously crossed a third country which has granted him or her protection, this country is considered a first country of asylum on the basis of the following criteria:

- ❖ Life and freedom are not threatened for reasons of race, religion, citizenship, membership of a particular social group or political opinion;
- ❖ There is no serious risk of harm;
- ❖ The principle of *non-refoulement* in accordance with the Refugee Convention is respected;
- ❖ The prohibition of expulsion to a State where the applicant is at risk of torture or cruel, inhuman or degrading treatment is respected;
- ❖ The protection granted subsists.

The law only refers to “protection”, without specifying whether the applicant must be granted refugee status or enjoy sufficient protection as per Article 35 of the recast Asylum Procedures Directive.

The criteria listed under Article 38(1) of the recast Asylum Procedures Directive with regard to “safe third country” also apply to the concept of “first country of asylum”.

In 2019, 3 applications (2 coming from Germany and 1 from the Netherlands) were dismissed on the basis of the first country of asylum concept.³⁸⁹

In 2020, no applications were dismissed on the basis of the first country of asylum concept.³⁹⁰

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

³⁸⁵ Article 97^1(4) Asylum Act.

³⁸⁶ Information provided by IGI-DAI, 5 March 2019.

³⁸⁷ Information provided by IGI-DAI, 20 February 2020.

³⁸⁸ Information provided by IGI-DAI, 16 February 2021.

³⁸⁹ Information provided by IGI-DAI, 20 February 2020.

³⁹⁰ Information provided by IGI-DAI, 16 February 2021.

1.1. General information on rights, obligations and the procedure

The Asylum Act provides that the asylum seeker has the right to be informed, at the time of submission of the asylum application or later, within 15 days from the filing of the application, in a language which he or she understands or is reasonably supposed to understand, regarding the procedure, his or her rights and obligations during the asylum procedure, the consequences of non-compliance with these obligations and the lack of cooperation with the competent authorities, as well as the consequences of an explicit or implicit withdrawal of the asylum application.³⁹¹

Competent officials are also obliged to inform asylum seekers about how they can contact non-governmental organisations and UNHCR, and how to obtain legal assistance and representation.³⁹²

The information has to be provided in writing by the official responsible for receiving the asylum application, according to a template established by order of the Director-General of IGI.³⁹³ Where necessary for the proper understanding of the information, this may also be communicated orally at the preliminary interview.³⁹⁴

In practice, the modalities of information in the different Regional Centres are as follows:

Timișoara: IGI-DAI provides information when the asylum application is filed and when the asylum seekers are fingerprinted and photographed. Unfortunately, there is no interpreter at this stage and, if the asylum seeker does not speak English, the whole interaction is limited to sign language and direction on where to sign different documents drafted in Romanian. The director of the Regional Centre stated that the information is provided in writing in Romanian and in writing when the asylum application is registered and in their language through the leaflets. IGI-DAI has leaflets in 10 languages and posters are displayed in the building where they are accommodated. The director also mentioned that there is no interpreter at this stage as there is no need for it because they receive the leaflet in their language.

According to the director of Timișoara Regional Centre for quarantined asylum seekers the information is provided by the Border Police on the basis of a protocol between Border Police and IGI, OMAI 130/2019. This order is establishing the tasks of the authorities responsible for implementing the data in the Eurodac system and to establish the practical methodology of cooperation for the application of the relevant European regulation. Thus this order is not prescribing the obligation of the Border Police to inform the asylum seekers about their rights and obligations during the asylum procedure while they are in quarantine.

According to JRS representative during the state of emergency collective information sessions were held in the courtyard twice a week. Information regarding COVID-19, prevention measures, cleaning schedule and shopping schedule, rights and obligations were provided. The information session was held by the doctor, psychologist, integration officers and NGOs, also an interpreter of Arabic and Kurdish were present. All the participants had masks, which were provided by UNHCR.

During the state of alert these information sessions are not held anymore. Once a week, IGI-DAI is informing the residents about their obligation to clean their rooms and common spaces.

On the other hand, twice a week or every time is necessary NGOs are organizing information session in open-air or ventilated spaces. Individual information provision is taking place in rooms with open windows.

With regard to children, the JRS representative reported that she has not seen any difference in interactions with IGI-DAI compared to adults. The director stated that children receive the same leaflets as the adult asylum seekers. Still the same in 2020.

³⁹¹ Article 17(1)(f) Asylum Act.

³⁹² Article 2(2) Asylum Decree.

³⁹³ Article 2(1) Asylum Decree.

³⁹⁴ *Ibid.*

CNRR also distributes leaflets on the asylum procedure, including rights and obligations. It also developed leaflets on the specially designed closed spaces of the centre (see [Place of Detention](#)).

Șomcuta Mare: information sessions are held by the director of the regional centre when asylum seekers are transferred from Timișoara, with the help of an interpreter, according to the JRS representative. Subsequently, collective information meetings are held by the NGO representatives. 2020 was a challenging year due to the influx of asylum seekers. Unaccompanied children are counselled in the same manner as the adults.

Rădăuți: No collective information sessions were held in 2020. As for the leaflets received by the asylum seekers, some asylum seekers presented 2 leaflets with the house rules (ROI) in Romanian. In the previous years, once asylum seekers arrive at the centre, they received leaflets on their rights and obligations together with the house rules (ROI). This was the case for a period, but not anymore. The rules of the centre are published in the hallways. In their files there are signed papers, proving that the asylum seekers received written information on their rights and obligations. Subsequently, the information about asylum seekers' rights and obligations and the procedure is provided by the NGOs individually or during a group counselling session, as the case may be.

Galați: Information is provided mainly on the house rules (ROI). IGI-DAI was providing the information in English, but there were asylum seekers who could not understand or needed the assistance of an interpreter. There were also cases where an interpreter was not present. Usually, NGO representatives are participating to these information meetings. They present each NGO and the services provided and short information about the Dublin procedure, interviews and ROI.

Bucharest: in 2020 asylum seekers received written information in Romanian about their rights and obligations and further explanations in English from the officers at the access point of the regional centre. Collective information sessions were held in case of transfers from Timișoara, with the assistance of a mediator working from an NGO, who speaks Arabic. Whenever asylum seekers have other questions they are contacting the integration officer or the NGO representatives. In 2019 as it was in 2017, in the Regional Centre **Stolnicu**, the JRS representative reported that the obligation of IGI-DAI to inform the asylum seekers is not respected in practice, as asylum seekers state that the information they receive is minimal and not necessarily related to the procedure. Due to an explicit lack of interpreters, IGI-DAI cannot provide information to each beneficiary, especially when asylum seekers speak different dialects. Therefore the information provided after lodging an asylum application is limited to: the obligation on the individual to present him or herself at the interview or to extend their visa, the fact that he or she will be accommodated in the Bucharest Regional Centre or that he or she must go through the medical check-up, which often does not take place. Whenever this information is provided, it is given orally and often with the help of other asylum seekers present in the centre who are available to help out or with interpreters who are there for the interview and have free time.

JRS Romania developed a platform on the asylum procedure in Romania, with general and specific information on seeking asylum in Romania, the different procedures (e.g. Dublin, border procedure, etc.) and information for minors. The platform is available in several languages: English, French, Arabic, Pashtu and Kurdish. In 2020 information will be added in Turkish, Farsi and Somali.³⁹⁵ Practitioners mainly use the platform, but it might also be helpful for literate asylum seekers.

IGI-DAI previously had leaflets, which were prepared by UNHCR or CNRR. However, these have not been distributed for more than two years. There are also posters with rights and obligations related to the asylum procedure, translated into several languages, but in most of the cases asylum seekers did not seem to read them.

NGOs provide information through counselling sessions, posters and sometimes leaflets. However, due to the fact that the asylum seekers in most of the cases are not reading the leaflets, NGOs are focusing on individual or group counselling.

³⁹⁵ Asylum Procedure Platform, available at: <https://bit.ly/3d2dZQK>.

Giurgiu: According to the legal counsellor, during the sessions in which she participated, asylum seekers receive leaflets on their rights and obligations in English or Arabic after going through medical check-up. During the preliminary interview, asylum seekers are offered general information regarding the asylum procedure, including their rights and obligations. According to the legal counsellor, JRS brought a monitor that plays the rights and obligations in different languages; this is placed in the hallway. JRS, ICAR Foundation and AIDRom representatives organise collective information sessions when a new group of asylum seekers arrives in the centre and a few times integration officers or logistics personnel attended these meetings. This was still the case in 2020.

The majority of respondents pointed out that the written information they receive from IGI-DAI or NGOs is not very effective as most asylum seekers are illiterate or have difficulty reading through information which is lengthy, complex and, consequently, difficult to comprehend. Thus, asylum seekers prefer face-to-face counseling with an NGO representative in order to understand the steps of the asylum procedure. The information leaflets are not adapted to the asylum seekers' level of education or knowledge. Usually the leaflets reiterate the provisions of the Asylum Act.

In practice, respondents reported that there is no specifically tailored information provided to unaccompanied asylum-seeking children. In most of the cases they are informed in the same way as adults, while they are also informed that they will have a legal representative. In general, unaccompanied children do not understand what this means. UNHCR also stated that there is a lack of accessible and adequate information materials for asylum-seeking children. The JRS representative confirmed that this problem persists as of 2018.

2.2. Information on the Dublin procedure

IGI-DAI has the obligation to inform the asylum seeker of the content of the common leaflet drawn up by the European Commission.³⁹⁶ The competent officer of IGI-DAI communicates the information contained in the common leaflet, drawn up according to Article 4(3) of the Dublin Regulation.³⁹⁷ If the applicant is an unaccompanied minor, the designated officer shall provide him or her, in a manner appropriate to his or her level of understanding, with the information contained in the special information leaflet drawn up by the European Commission, supplemented with additional specific information for Romania.

Bucharest: The information provided on the [Dublin Procedure](#) is basic, as IGI-DAI lacks staff, time and interpreters. The information is provided by the integration officer. In 2020, asylum seekers received more detailed information about the Dublin procedure from NGOs. The JRS representative was not aware if the special information leaflet was provided to asylum seekers. According to the director of Stolnicu Regional Centre asylum seekers receive leaflets.

Giurgiu: Asylum seekers receive the common leaflet at the preliminary interview and, if they have questions regarding the Dublin procedure, the officer answers them. They are briefly informed on the way the responsible Member State is determined and are told that they have to wait for a period of 1-3 months for a final answer. However, asylum seekers request more information about this procedure from NGOs.

Șomcuta Mare: Asylum seekers are informed at the beginning of the asylum procedure about the Dublin procedure, what it entails. Generally, information is provided when a specific issue arises. Information is provided orally as the legal counsellor did not receive any written documents from the asylum seekers. Asylum seekers are informed about the Member State to which a request was sent. In 2020 there were no cases.

Rădăuți: Asylum seekers receive the common leaflet and an information note in stating that the Dublin procedure was triggered and the Member State to which a request was sent. According to JRS representative information on the Dublin procedure is mainly provided by the NGOs.

³⁹⁶ Article 118 Asylum Act.

³⁹⁷ Article 118(1) Asylum Act.

Galați: The JRS representative reported that the majority of the asylum seekers are well informed about the Dublin procedure. General information is provided during the collective information sessions. When the asylum procedure is suspended they receive the common leaflet. Asylum seekers subject to the Dublin procedure are provided with the common brochure. In addition, information about the Dublin procedure is also provided by the NGOs. Where family unity criteria are applicable, asylum seekers are informed by IGI-DAI of the documents they have to present. If they require more information, they are referred to NGOs. Unaccompanied children are informed in the same manner as the adults.

In practice, asylum seekers in most of the Regional Centres are informed orally and in writing of the fact that the Dublin procedure has started, and they are handed the common leaflet. The information is provided with the help of an interpreter in all the centres. In **Bucharest** asylum seekers are informed about the country to which a Dublin request was addressed in this regard. The JRS representative in Bucharest stated that for this kind of procedure IGI-DAI usually use an interpreter from the NGOs.

In **Timișoara**, upon their arrival, when they are fingerprinted asylum seekers receive leaflets, according to the director of the centre. If after checking the fingerprints in Eurodac, IGI-DAI finds a match with the data introduced by another Member State, the asylum seeker is informed orally that he or she is subject to the Dublin procedure. IGI-DAI mentions which country has been contacted. They also receive leaflets, which according to the Director of the centre often end up in the bin. They are also informed by the NGOs and receive leaflets from CNRR. As regards the unaccompanied children IGI-DAI always takes the responsibility to assess their asylum claim, according to the director of the Regional Centre Timișoara. For minors there is no special information leaflet, the director said.

In **Șomcuta Mare**, asylum seekers are also informed orally of the beginning of the Dublin procedure and the State contacted. In **Rădăuți**, during the preliminary interview IGI-DAI informs asylum seekers in writing that they are subject to the Dublin procedure, provides them the common leaflet, and specifies the Member State which has been contacted, with the assistance of an interpreter. In **Giurgiu**, they are also informed orally of the fact that a Dublin procedure has been initiated, while the authorities also mention the country contacted. In **Galați**, however, asylum seekers are informed orally and in writing about the time frame of the procedure, the possibility to appeal the decision and about the country what has been contacted.

If the applicant is an unaccompanied child, the appointed official shall apprise him or her, in a manner appropriate to his or her level of understanding, of the information contained in the special information brochure drawn up by the European Commission according to Article 4(3) of the Dublin Regulation, supplemented with additional specific information for Romania. The legal representative of the unaccompanied child confirms by signature that the information has been provided.³⁹⁸

Șomcuta Mare: The JRS representative reported the case of 1 unaccompanied 5-year-old child. The JRS representative was not aware if he was informed about the Dublin procedure or how was he informed.

In **Galați**, in one of the most recent case, IGI-DAI, the JRS representative and legal representative were all present when the information about the Dublin procedure was provided to an unaccompanied child. The child was informed about the necessary documents. The JRS legal counsellor also discussed in advance with the legal representative. The legal representative also explained to the child what the Dublin procedure entails and what documents he or she has to present to the authorities.

Rădăuți: The information is provided in the presence of the legal representative, because he has to sign the notification. The legal representative does not explain to the child what the procedure entails. The case officer explains some of the aspects of the procedure with the help of an interpreter. The legal representative is only present when this information is provided, without giving any other information. Subsequently, the unaccompanied minor turns to the legal counsellor for further information. At the preliminary interview, the unaccompanied children are informed about the fact that they will be transferred

³⁹⁸ Article 118(2) Asylum Act.

to the responsible Member State. No unaccompanied minors under the Dublin procedure were reported in 2020.

Save the Children mentioned that information on the Dublin Regulation is mainly provided to children by the NGOs in the Regional Centres.

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

According to the Asylum Act, asylum seekers located at the border or in detention centres have the right to be counselled and assisted by a representative from non-governmental Romanian or foreign organisations and to contact and receive assistance from an official of UNHCR at any stage of the asylum procedure.

During the state of emergency some of the JRS representatives were present in the regional centres 2 or 3 days per week, while others were present everyday. When they were not present in the centre asylum seekers could contact them by the phone or whatsapp.

During the state of alert most of them are present in the centres everyday.

Some of the NGOs shortened their schedule in the regional centre, but they were present everyday. Other NGOs have 2 days of teleworking per week.

In practice, asylum seekers located at the border have difficulties in accessing NGO services and assistance. Access depends on whether the Border Police or IGI-DAI inform the NGOs of the presence of asylum seekers at the border-crossing check points. In relation to asylum seekers detained in detention centres, access to such services is not systematically ensured as NGOs, namely CNRR, do not have regular office hours in these centres.

In cases of asylum seekers accommodated outside the reception centres, access to NGOs is determined by the information, which was provided to them by the authorities and NGOs, if they exchanged contact details.

UNHCR Romania is contacted by the asylum seekers accommodated in one of the Regional Centres through their implementing partner JRS or directly via email, phone or walk-in interviews at its office.

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: Syria
2. Are applications from specific nationalities considered manifestly unfounded?³⁹⁹ ☐ Yes ☒ No
❖ If yes, specify which:

³⁹⁹ Whether under the “safe country of origin” concept or otherwise.

Romania mainly awards refugee status and subsidiary protection to applicants from countries such as **Syria** and **Iraq**, who made up for the majority of positive decisions in 2017. However, the trend with regard to Iraqi nationals changed during 2017 and IGI-DAI also started rejecting applicants from this country. The recognition rate for Iraqi nationals was 66.4% in 2017, dropped to 35% in 2018 and in 2019 dropped further to 10,9%. In **Timișoara** it was reported that not all Syrian nationals are granted a form of protection. The legal counsellor from Șomcuta Mare echoed the same. In **Rădăuți** it was noticed that Afghan and Iraqi nationals are also processed under the accelerated procedure. The JRS representative from Șomcuta Mare confirmed that asylum claims of Afghan nationals are rejected under the accelerated procedure.

Reception Conditions

Short overview of the reception system

Asylum seekers who do not have means of subsistence are entitled to reception conditions from the moment they have expressed their intention to apply for asylum until the completion of the asylum procedure and the expiry of their right to stay in Romania. Most asylum seekers are accommodated in Regional Centres for Accommodation and Procedures for Asylum Seekers, managed by IGI-DAI. The management of reception is decentralised to the level of counties. Asylum seekers may also request to stay in private accommodation, but at their own cost.

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 to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Admissibility procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Border procedure	☐ Yes	☐ Reduced material conditions	☐ No
❖ Accelerated procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ First appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Onward appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Subsequent application	☐ Yes	☐ Reduced material conditions	☒ No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

	☒ Yes	☐ No
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Asylum seekers who do not have means of subsistence are entitled to reception conditions from the moment they have expressed their intention to apply for asylum until the completion of the asylum procedure and the expiry of their right to stay in Romania.⁴⁰⁰ Asylum seekers have the right to stay in Romania until the expiration of a period of 15 days after the end of the asylum procedure, except when the asylum application was rejected after being examined in the accelerated procedure or in the border procedure, in this case the person is ordered to leave Romania as soon as the asylum procedure has been completed. Accelerated and border procedures are concluded from the date of delivery of the court's decision if an appeal has been lodged, or from the expiration of the deadline for filing the appeal.⁴⁰¹ In the Dublin procedure the right to remain on the territory of Romania ceases on the date of the transfer.⁴⁰²

Subsequent applicants do not have the right to material reception conditions.⁴⁰³

At the time of submission of an application for material reception conditions and when ever necessary, IGI-DAI shall analyse the provision of material reception conditions on a case-by-case basis, taking into account the material and financial means possessed by the applicant.⁴⁰⁴ If IGI-DAI finds that the applicant has the means to ensure an adequate standard of living and can contribute to the costs of material reception conditions and health care, it may suspend the granting of material reception conditions and may require reimbursement and impose future contribution to those costs.⁴⁰⁵

⁴⁰⁰ Article 56(6) Asylum Decree.

⁴⁰¹ Article 17(7) Asylum Act.

⁴⁰² Article 17(1)(a) Asylum Act.

⁴⁰³ Article 88¹ Asylum Act.

⁴⁰⁴ Article 55(8) Asylum Decree.

⁴⁰⁵ *Ibid.*

Although, according to the law, applicants are entitled to reception conditions from the moment they express the intention to seek asylum, in practice they are not accommodated in the reception centres until the asylum claim is registered.

Measures imposed during the pandemic

IGI-DAI reported that during the state of emergency (16 March- 14 May 2020) access of visitors and those who do not carry out activities in the regional centres was restricted. Granting permissions to leave the centre was suspended. It was recommended to limit the movement of people outside the regional centres for 2 hours per day per person only for grocery shopping and other emergencies.

During the state of alert (15 May-present) the movement of people outside the centre is still limited.⁴⁰⁶

Timișoara: during the state of emergency asylum seekers were allowed to exit the regional centre only 4h/day for grocery shopping. One person per room was nominated by the asylum seekers to do the grocery shopping for all the residents of that respective room. They were taken by car by IGI-DAI officers at grocery shopping, according to the JRS representative.

During the state of alert, from May to September they were allowed to exit the regional centre between 12 and 16 PM, according to JRS. Since September there are no more restrictions. However, according to the director of Timișoara Regional Centre, even though there are no more restrictions, asylum seekers are not granted permission to leave the centre.

Masks and disinfectant products were provided by UNHCR.

As of 21 November 2020, Serbia has been included on the list (called the 'yellow list') of countries at high risk of COVID-19 transmission, meaning that all those who cross the border into Romania from Serbia must be quarantined for 14 days. This had a major impact on the asylum seekers arriving from Serbia to Timișoara. In order to ensure their quarantine, they needed to be accommodated in a facility separate from the reception centre. Due to the lack of preparedness of authorities, asylum seekers which arrived in the following days had to sleep in front of the regional centre for 2 nights, according to the director of Timișoara Regional Centre. This was also echoed by the JRS representative, who stated that foreigners were sleeping in front of the centre on polystyrene, covered with blankets. During that period the temperature at night was dropping to zero degrees in Timișoara. After 2 days they were taken over by the Border Police and in 5 days they were quarantined.

The director of Timișoara Regional Centre stated for a press agency that they have no responsibilities in quarantining or isolating people. In addition, the law (136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biological risk) has no implementing rules. The methodology rules were adopted only on 18 December 2020.⁴⁰⁷ The director mentioned during the interview with the author that they notified the County Committee for Emergency Situations but received no answer. Subsequently he received an answer from the Directorate of Public Health (DSP) which did not reply to their request, stating that the quarantine of asylum seekers falls out of their duties and this is the responsibility of IGI-DAI. Unofficially it was communicated that they cannot be quarantined. Afterwards, at the persistence of the Border Police, the authorities finally decided that asylum seekers will be quarantined at the dorm of 'Dimitrie Leonida' Technological High School. The dorm has 150 places for accommodation. Each room has a bathroom. The conditions in the dorm were reported to be good. However, the director of Timișoara Regional Centre stated that the methodological norms are not respected as 7-10 persons are accommodated in the same room. Persons quarantined at the dorm receive 3 meals per day. In December 2020 one meal was ensured by UNHCR and one by the local

⁴⁰⁶ Information provided by IGI-DAI, 16 February 2021.

⁴⁰⁷ DECISION no. 1,103 of December 17, 2020 approving the methodological norms for determining the minimum conditions of accommodation, cost standards and the list of spaces intended to ensure the quarantine of persons, provided by the central and local public administration authorities, necessary for the application of measures in the field of public health in situations of epidemiological and biological risk, according to the provisions of Law no. 136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biological risk, available at: <https://bit.ly/384OddJ>

authorities and 1 by the NGOs. UNHCR also offered them hygienic products, towels and bed linen. In December 2020, Save the Children also offered rapid COVID-19 tests. The test was done on the 8th day of quarantine and if the result was negative the asylum seeker was transferred to the regional centre, according to JRS representative. As of January 2021 hygienic products were ensured by the Red Cross and food was ensured by the local authorities.

Between November 2020 and January 2021 approximately 1200 persons were quarantined at the high school dorm, according to the director of Regional Centre Timișoara.

During the quarantine asylum seekers are not provided any information on the asylum procedure or their rights and obligations.

Asylum seekers and migrants were kept at the Territorial Inspectorate of the Timișoara Border Police for 2-3 days, before they were quarantined at the dorm, according to the director of Timișoara Regional Centre. However, according to Logs Social Initiatives Grup (Logs), a new established NGO, working in Timișoara, representative there were persons who stayed there even for 6 days. Single women, families and even unaccompanied children were accommodated at the Border Police. Nevertheless, it was reported by Logs representative that they were swiftly transferred to the dorm in quarantine.

At the beginning of the pandemic the Border Police had 3 old shipping containers where asylum seekers were accommodated. Afterwards 3 new shipping containers were brought in, out of which 1 is used by the Border Police officers and the rest for accommodating the foreigners, according to Logs Social Initiatives Grup representative. According to Logs representative there is no total number of designated places for the accommodation of migrants and asylum seekers at the Border Police.

The highest number of migrants accommodated at the Border Police while there were only 3 containers was 130, Logs representative mentioned. However, some of them were also accommodated in one of the cantina's of the facility, which is out of order.

The JRS representative also mentioned that 20-30 people were accommodated in 1 container. It was also mentioned that they stay there for 5-10 days. While housed at the Border Police foreigners have no access to showers or running water, they only have access to 2 mobile toilets. Logs is ensuring 2 meals per day for each asylum seeker and migrants housed at the Border Police. As for counseling and information provision for them, Logs representative mentioned that this is not provided to them by the NGOs.

The Border Police received around 1,700 rapid tests from the Ministry of Health, according to the director of Timișoara Regional Centre.

According to the JRS representative, when Serbia was included on the 'yellow list', 3 unaccompanied children and 2 adults were accommodated in a military tent in IGI-DAI's courtyard. They arrived during the weekend as the NGO representatives found them there on the next working day. It was mentioned that DSP did not want to take them over and the director of Timișoara Regional Centre informed them that there is no special designated place in the centre where they can be isolated. As for the conditions in this tent it was reported that there was no heating, no toilet. They had access to cold water only. According to JRS they were kept here for 1 week before they were transferred in the rooms.

JRS reported that the tent was used again 2 days before Christmas, because there were no available places at the dorm and at the Border Police. The director of Timișoara Regional Centre confirmed the tent was used again in December 2020, when in the dorm an asylum seeker was tested positive for COVID-19 and had 5 contacts, all adults, in the regional centre. As DSP refused to take over the contacts, IGI-DAI placed them in the tent for 14 days. The tent was not heated, they only had access to cold water, no access to a toilet; and they were sleeping on mattresses.

Șomcuta Mare: temperature was measured by the medical staff. Asylum seekers received 5 masks per person every 2 weeks and every time it was requested. During the state of emergency asylum seekers were allowed to go only for grocery shopping, only 1 per room and they were accompanied by IGI-DAI. After the state of emergency they were allowed to go out of the regional centre only with a prior request, which had to be approved by the director. Asylum seekers were also accompanied at court hearings by

IGI-DAI. UNHCR drew up information notes on COVID-19. A video on COVID was also rolled at the entrance of the regional centre.

Galați: the newly arrived asylum seekers were isolated from the other asylum seekers. They were accommodated on a different floor and had to use the emergency exit in order to avoid contact with the other asylum seekers. A separate schedule for washing their clothes was established. During the state of emergency asylum seekers were accompanied at the shop and only 1-3 representatives were allowed to go. They were also taken to court hearings by car by IGI-DAI. During the state of alert asylum seekers were allowed to exit the centre only for 4 hours and based a list made a day before.

Rădăuți: during the state of emergency only one transfer was carried out, because as of 30 March 2020 the quarantine measure of the municipality of Suceava and in the neighboring area was imposed.⁴⁰⁸ The newly arrived asylum seekers were separated from the others in the specially designated closed space. During the state of emergency until July 2020, 1 representative per room was taken by car, by IGI-DAI, to grocery shopping. Until August 2020 asylum seekers were also taken by car to court hearings. According to the JRS representative, 4 asylum seekers who arrived from Serbia and made an asylum application directly at Rădăuți Regional Centre were placed in institutionalized quarantine. The meals were ensured by the General Directorate for Social Assistance. During the state of alert asylum seekers are allowed to go out of the regional centre between 12 and 16 PM, without prior request. Requests to leave the centre were admitted.

Bucharest: during the state of emergency exit from the center was restricted to 2 hours per day between 12 and 14 PM; 1 person per room was allowed to go grocery shopping and they were accompanied by IGI-DAI officers. For this reason 20 officers were delegated from other departments. The temperature was measured when entering the regional centre. Newly arrived asylum seekers were separated from the others, being accommodated at a different floor for 14 days, which was subsequently reduced to 10 days. The municipality provided 3 meals per day. They were monitored every morning by the medical staff. At the public relations office a COVID-19 video was rolling. Leaflets about the pandemic and prevention measures were also made available.

Asylum seekers were taken to Tudor Gociu centre for their interviews by IGI-DAI. They were allowed to go to CNRR in order for the legal counselor to draft their appeals. During the state of alert asylum seekers are allowed to go out of the city centre for 4 hours. Requests to leave the centre are not admitted.

Giurgiu: Asylum seekers were accompanied at grocery shopping by the staff of the regional center, according to the director of the centre. JRS reported that during the state of emergency going out of the centre was limited to 2-3 hours per day and only for shopping; this measure was in place until October 2020. As of October 2020 there are no more restrictions. UNHCR provided masks, gloves, hand and surface disinfectant and other cleaning products. The JRS representative reported that 2 asylum seekers with COVID-19 were identified. They were transferred from Timișoara. They were quarantined in a room in the regional centre. IGI-DAI staff monitored them.

JRS representatives in Rădăuți, Șomcuta Mare and Bucharest reported that the majority of asylum seekers transferred from Timișoara do not receive the financial allowance before they are transferred from Timișoara. The director of Timișoara regional centre, who stated that this depends on how soon they are transferred to other centres, also confirmed this. Once they are transferred in Rădăuți or Bucharest they receive the money in a few days (5 in Rădăuți). It was also reported that few of the asylum seekers transferred to Rădăuți from Timișoara were not issued temporary identity documents and only had a certificate. This was echoed by the JRS representative in Șomcuta Mare and Bucharest. The JRS representative in Galați reported that asylum seekers complain that they have no financial means to buy food or clothes when they arrive in Timișoara.

It was reported by AIDRom that asylum seekers who are to be transferred in other centres, while in Timișoara have no means to buy food or clothing. The NGOs tried to fill this gap by collecting donations. The installation packages provided by AIDRom within their project are insufficient to cover all asylum

⁴⁰⁸Military Ordinance 6/30.03.2020.

seekers. The JRS representative in Timișoara reported that asylum seekers who were quarantined received the financial allowance in 3-4 days after their arrival in the regional centre. During the quarantine asylum seekers do not receive the financial allowance, according to the director. According to the JRS representative, asylum seekers who have money with them are informed in writing, in Romanian, that they will not receive the financial allowance. Due to the fact that they do not understand what is written on the information note, they request the NGO representatives to explain the contents of the document.

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 single adult asylum seekers as of 31 December 2020 (in original currency and in €): 480 RON / €100

Reception conditions consist of:

- Accommodation in one of the reception centres;
- Financial allowance for food and clothing;
- And pocket money.

2.2. Allowance for food / clothing and pocket money

Asylum seekers are entitled to receive, upon request, the following allowances:⁴⁰⁹

- Food daily allowance of 10 RON / €2.08 per person;
- Clothing one-off allowance of 67 RON / €13.95 per person during summer and 100 RON / €20.83 per person during winter;
- Pocket money of 6 RON / €1.25 per day per person for other expenses such as local transport expenses, cultural services, press, repair and maintenance services and personal hygiene products expenses.

Monthly amounts of financial allowances for different categories of applicants are as follows:

Monthly amount of financial allowances for asylum seekers	
Category	Amount of allowances
Single adults	480 RON / €104
Pregnant women in months 1-4 Ill persons upon admission to infirmary	570 RON / €123
Pregnant women in months 5-9 Women giving birth who do not breastfeed	600 RON / €130
Women giving birth who breastfeed Children aged 0-5 months	630 RON / €136
Children aged 6-12 months	690 RON / €150

Before the 2015 reform, asylum seekers were granted a financial allowance of 3.6 RON per day, amounting to a monthly total of 108 RON/€23. In general, the financial allowance is sufficient to ensure a decent living. In cases of families, all members are entitled to receive the financial allowance. The only persons who have complained about the amount of the financial allowance are single men.

In comparison, Romanian nationals with low income benefit from social assistance,⁴¹⁰ heating assistance⁴¹¹ and a family allowance.⁴¹² Romanian nationals – families and single persons – are entitled

⁴⁰⁹ Article 55(1) Asylum Decree.

⁴¹⁰ Act 416/2001 on Minimum Guaranteed Income, available at: <http://bit.ly/2AWyH00>.

⁴¹¹ Emergency Government Ordinance 70/2011 on social protection measures during the cold season, available at: <http://bit.ly/2mtUk2t>.

⁴¹² Act 277/2010 on Family Allowance, available at: <http://bit.ly/2FvzrN3>.

to a minimum guaranteed income as a form of social assistance.⁴¹³ The monthly minimum guaranteed income is determined based on the social reference indicator (*indicator social de referinta*, ISR) set by law at 500 RON / €100. The minimum guaranteed income level is as follows:

Monthly amount of minimum guaranteed income		
Category	Percentage ISR	Amount
Single adults	28.3%	142 RON / €30
Family of two	51%	255 RON / €55
Family of three	71.4%	357 RON / €77
Family of four	88.4%	442 RON / €96
Family of five	105.4%	527 RON / €114
Family of six or more, for each family member	7.3%	36.5 RON / €7

In addition, the State affords an allowance for all children, including nationals and non-nationals, up to the age of 18.⁴¹⁴ This type of financial allowance is complementary to other forms of material support afforded by the State. The level of the state child allowance is determined by the ISR and amounts to:⁴¹⁵

- 200 RON / €43 for children up to the age of 2, or 3 in case of a disabled child;
- 84 RON / €18 for children between the age 2 and 18;
- 200 RON / €43 for disabled children between the age of 3 and 18.

Even though a comparison between financial assistance granted to nationals and asylum seekers is difficult to make due to the diversity of available allowances and the applicable calculation modes, asylum seekers are not treated less favourably than nationals as far as material support is concerned. They also benefit from other financial allowances than the ones provided by the Asylum Act, such as the allowance for children and they are also entitled to receive social assistance under the conditions provided by Act 292/2011 on Social Assistance, as amended.⁴¹⁶

2.3. Accommodation allowance where reception capacity is exceeded

A new form of reception conditions was included by the 2015 reform. When the capacity in the reception centres for asylum seekers is exceeded, IGI-DAI may grant asylum seekers an accommodation allowance for the purpose of renting a house or contracting specialised services for the reception and accommodation of asylum seekers in individual or collective locations, within the limits of the available funds.⁴¹⁷ This form of reception conditions has never been applied to date.

In these situations, IGI-DAI may provide, upon request, material assistance amounting to the following monthly sums per person: rental assistance of 450 RON; and maintenance assistance of 120 RON during the summer season and 155 RON during the winter season. In the case of a two-member household, the monthly amount paid to a person for rental decreases by 30%. In the case of households consisting of three or more members, the amount granted monthly to a person for rental decreases by 40%.⁴¹⁸

This material assistance shall be granted in the first month after the filing of the application, without the need for the submission of supporting documents for the rental. However, for the second month the submission of these documents is mandatory. If the requested documents are not submitted by the second month, the grant is suspended.

2.4. Reimbursement of expenses related to travel

⁴¹³ Article 1(1)-(2) Act 416/2001 on Minimum Guaranteed Income.

⁴¹⁴ Article 1 Act 61/1993 on the State Child Allowance.

⁴¹⁵ Article 3 Act 61/1993 on the State Child Allowance.

⁴¹⁶ Article 17(1)(n¹) Asylum Act.

⁴¹⁷ Article 17(8) Asylum Act.

⁴¹⁸ Article 55(4) Asylum Decree.

Asylum seekers also have the right to reimbursement, upon request, of transport costs associated with their court proceedings, if the judicial process takes place in a different area than the one where they are residing, and if transport is carried out by road, rail or ferry.⁴¹⁹

The reimbursement of transport expenses is made on the basis of a request filed by the asylum seeker, together with travel tickets, filed within 5 working days from the date of the court hearing at the Regional Centre where the asylum seeker is accommodated. The reimbursement is made after checks have been carried out in order to certify the presence of the asylum seeker in court.⁴²⁰

The Asylum Decree refers particularly to asylum seekers accommodated in **Șomcuta Mare** and **Rădăuți**, since the competent courts for onward appeals (see **Regular Procedure: Appeal**) are located in a different city than the one where the Regional Centres are located; respectively **Baia-Mare** and **Suceava**. The policy of reimbursement is applied in practice. No requests for reimbursement of transport costs were made in Șomcuta Mare in 2019, however, as there is only one transport operator per day, asylum seekers prefer carpooling. In Șomcuta Mare, asylum seekers were taken by car by IGI-DAI to court hearings until December 2020.

In **Rădăuți** asylum seekers were taken by car by IGI-DAI to court hearings until August 2020. IGI-DAI may also involve asylum seekers in activities related to the maintenance or redevelopment of the interior and exterior spaces of Regional Centres, or support to the centre staff in information and counselling activities.⁴²¹ Asylum seekers who perform this kind of activity benefit from an additional allowance for food of 5 RON / €1.08 per day.⁴²²

In **Timișoara**, and Galați no cases were reported. In Șomcuta Mare there were asylum seekers who provided their services but the JRS representative was not aware if they received the financial allowance. In Rădăuți it was reported that around 10 asylum seekers received this additional allowance. There were asylum seekers who received the additional allowance because they helped cleaning the centre.

2.5. Material and financial assistance from NGOs

In addition to the material reception conditions afforded by IGI-DAI, asylum seekers also benefit from material assistance provided by AIDRom through the project “Assistance and services for asylum seekers in Romania” funded by the AMIF national programme implemented between 13 August 2019 and 12 August 2020.⁴²³ A new project started on 29 September 2020 “A.C.A.S.A. - Complex Social Assistance for Asylum Seekers”.⁴²⁴ The project is implemented over a period of 27 months. AIDRom provides material assistance to asylum seekers accommodated in all Regional Centres, in the 2 Accommodation and Counselling Centres run by AIDRom in **Bucharest** and **Timișoara**, and also for asylum seekers detained in public custody.

The number of social vouchers granted through the new project by AIDRom to asylum seekers continued to decrease compared to the previous implemented projects. Within the project, ‘A.C.A.S.A- Complex Social Assistance for Asylum Seekers’, the assistance offered by AIDRom consists of:

1. Financial assistance for translation of civil status documents and/or diplomas, as well as legalisation / authentication / apostilles of approximately 45 pages of documents (instead of 50 in 2019 and 60 in 2018)

⁴¹⁹ Article 17(1)(q) Asylum Act.

⁴²⁰ Article 56(2[^]1) Asylum Decree.

⁴²¹ Article 55(9) Asylum Decree.

⁴²² Article 55(10) Asylum Decree.

⁴²³ The project, currently in its second phase, is implemented by AIDRom in partnership with CNRR, from 7 July 2017 to 6 July 2018. For more details, see: <http://www.aidrom.ro/proiecte/asistenti-solicitant-de-azil/>.

⁴²⁴ Information provided by AIDRom, 4 March 2021.

2. 385 packages of food for asylum seekers transferred between Regional Centres or transferred from the place where the asylum application was made to the Regional Centre (instead of 600 prescribed in the previous project);
3. 135 social vouchers for vulnerable asylum seekers (100 in the previous project) ;
4. 300 food packages / social vouchers for asylum seekers accommodated in Regional Centres and AIDRom Centres, or detained in specially designed closed spaces or in detention centres.
5. 350 installation packages for persons accommodated in AIDRom Centres and in Regional Centres at the time of filing the asylum application.
6. Support for ensuring food in situations similar to that created by COVID 19, for people accommodated in regional centers, which are in isolation and / or quarantine, for a number of 50 beneficiaries;
7. Direct material assistance for asylum seekers accommodated in public custody centers: food, personal hygiene products, clothing / footwear, as well as goods for cultural and recreational activities

Between August 2019 and August 2020, 1,318 asylum seekers received food packages when they were transferred (600 packages indicated in the project) and 591 asylum seekers received installation packages (300 packages indicated in the project). These were supplemented from budgeted amounts and donations.⁴²⁵ Between September and December 2020 216 asylum seekers benefited from installation packages, out of 350 provided by the project.⁴²⁶

AIDrom reported that due to the influx of asylum seekers, the indicators set out by IGI-DAI are not sufficient, for example the indicator for transfer packages has been exceeded, from 385 to 1,000 packages in just a few months.⁴²⁷

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 law provide for the possibility to withdraw material reception conditions?
☒ Yes ☐ No

IGI-DAI may limit or withdraw the material reception conditions granted to asylum seekers by a reasoned decision communicated to the applicant. The Asylum Act provides that the grounds for which material reception conditions may be limited or withdrawn are to be determined by a Government decision.⁴²⁸ Accordingly, these are laid down in the Asylum Decree.

IGI-DAI may limit or withdraw the material reception conditions where the applicant:⁴²⁹

1. Leaves the place of residence established for 72 hours without having previously informed the Regional Centre;
2. Does not comply with the obligation to present him or herself at the request of IGI-DAI in order to provide information or does not attend interviews notified to him or her;
3. Repeatedly violates the house rules of the Regional Centres.

The law does not foresee any limitation on reception conditions due to large numbers of arrival. Where reception capacity is exhausted, IGI-DAI grants a specific allowance to asylum seekers to secure accommodation (see [Forms and Levels of Material Reception Conditions](#)).

More particularly as regards violations of house rules, Article 47 of the Regulation of Internal Order (ROI) prescribes the applicable sanctions in cases of disciplinary deviations, with the exception of applicants

⁴²⁵ Information provided by AIDrom, 4 March 2021.

⁴²⁶ *Ibid.*

⁴²⁷ *Ibid.*

⁴²⁸ Article 19^1(1) Asylum Act.

⁴²⁹ Article 55^1 Asylum Decree.

held in the specially designed closed spaces. The Director of the centre or his or her legal substitute shall apply individually, gradually and proportionally with the seriousness of the act, one of the following sanctions:

1. Oral warning;
2. Written warning;
3. Suspension of the daily amount of 6 RON for local transport expenses, cultural services, press, repair and maintenance services and expenses for personal hygiene products, for a period of 1-3 months;
4. Temporary suspension from the centre for 24 hours;
5. Temporary suspension from the centre for 7 days;
6. Final eviction from the centre.

Decisions reducing or withdrawing material reception conditions must be reasoned and taken on an individual basis, impartially and objectively.⁴³⁰ The decision is signed by the Director of the Regional Centre. However, potential risks of destitution following the withdrawal of reception conditions are not assessed.

Practice as regards the reduction or withdrawal of reception conditions in the different Regional Centres is as follows:

Main grounds and forms of reduction/ withdrawal of reception conditions by Regional Centre: 2020		
Regional Centre	Main applicable grounds	Main sanctions imposed
Galați	ROI	Oral and written warning
Rădăuți	ROI, departure from centre	Allowance suspension
Șomcuta Mare	ROI	Oral warning
Timișoara	ROI, departure from the centre	Allowance suspension
Giurgiu	ROI, departure from the centre	Allowance suspension
Bucharest	Departure from the centre	Allowance suspension

According to the director of the Regional Centre **Bucharest**, in case the asylum seeker is re-accommodated in the centre, the daily allowance is suspended for 1-2 months.

Timișoara: According to the director of the Regional Centre Timișoara, an asylum seeker that leaves the centre without a formal request, will be reaccommodated in the centre upon return and his or her allowance will be suspended for maximum of 2 weeks.

Șomcuta Mare: the JRS representative is not aware of cases of withdrawal of reception conditions.

Rădăuți: It was reported that in a case of an unaccompanied children IGI-DAI decided to suspend his financial allowance for 1 month (16 RON/day), because IGI-DAI officers found 100 euro (his state financial allowance) on him, following a body search which was conducted after some time he was accommodated in the regional centre. He challenged the decision in court and it was admitted.

Giurgiu: according to the director of the regional centre decisions to withdraw the financial allowance were issued because the asylum seekers left the regional centre. JRS reported that the only sanction applied by IGI-DAI is eviction from the centre for 3 days of absence from the centre.

Galați: decisions to suspend, in general for 1 month, the daily financial allowance of 6 RON were issued to asylum seekers who left the regional centre without prior approval or for repeated violations. In the last months of 2020, sanctions were imposed for not following the house rules (ROI). It was also noted that

⁴³⁰ Article 55^1(3) Asylum Decree.

when the decision is communicated asylum seekers do not receive any further information and are not aware why they do not receive the whole amount of financial allowance.

Bucharest : JRS reported that oral and verbal warnings were given to Algerian and Moroccan nationals for not respecting the house rules. The director of Stolnicu Centre reported that they issued decisions suspending the 6RON daily allowance for asylum seekers who left the centre without prior permission request.

According to IGI-DAI, 803 withdrawals of reception conditions decisions were taken in 2020, compared to 639 in 2019.⁴³¹

Bucharest	Giurgiu	Galați	Rădăuți	Șomcuta Mare	Timișoara	Total
317	136*	208	31	52	49	803

* the director of Giurgiu indicated a number of 113 decisions.

Source: IGI-DAI, 16 February 2021.

All decisions to withdraw the reception conditions were taken because the asylum seekers departed from the reception centre without prior notification.⁴³²

The sanction imposed was suspension of the daily amount of 6 RON for local transport expenses, cultural services, press, repair and maintenance services and expenses for personal hygiene products, for a period of 1-3 months.⁴³³

The decision on reduction or withdrawal of reception conditions may be challenged, subject to the rules applicable in the [Accelerated Procedure: Appeal](#).⁴³⁴

In practice, reception conditions may be reinstated after having been withdrawn or reduced, upon a request, which in most of the cases is drafted by NGO representatives.

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

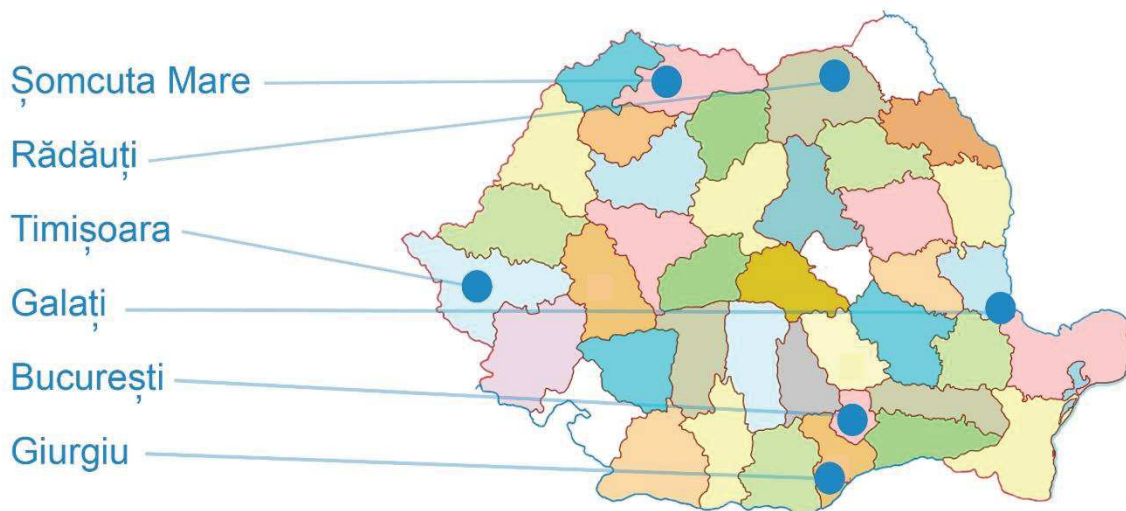
⁴³¹ Information provided by IGI-DAI, 20 February 2020.

⁴³² *Ibid.*

⁴³³ *Ibid.*

⁴³⁴ Article 19¹(1) Asylum Act.

Asylum seekers are allocated to a specific reception facility through a dispersal scheme operated by IGI-DAI. The Regional Centres for Accommodation and Procedures for Asylum Seekers are located in the following areas:



Source: AIDRom, Support for asylum seekers in Romania: <http://bit.ly/2mAeokN>.

According to the Asylum Act, asylum seekers are not allowed to leave their place of residence without authorisation from IGI-DAI.⁴³⁵ The request to leave the residence has to include the address, the full name of the person with whom the applicant will be staying and the period of time and reasons for his or her request to leave.⁴³⁶ Authorisation is issued following an individual, objective and impartial assessment. In case IGI-DAI refuses to grant authorisation, its decision shall be motivated.⁴³⁷

The provision of material conditions is subject to the applicant's actual residence in the assigned centre. This is monitored by IGI-DAI through its database. If an applicant leaves the Regional Centre without permission and does not return in 72 hours, IGI-DAI may apply **Reduction or Withdrawal of Reception Conditions**.

Applicants may also be transferred to different reception facilities for reasons of capacity. In practice, asylum seekers are transferred most often from **Timișoara** to other Regional Centres. This occurs due to the fact that, most of the asylum seekers arrive from Serbia and the Regional Centre of Timișoara has a limited capacity. Asylum seekers cannot appeal against the transfer decision. According to the Director of the Regional Centre of Timișoara, in 2020, transfers were carried out 4 times a week, even within 2 days from their arrival. When transferred the integration officer informs them orally about the transfer, in addition to written communication in Arabic or Kurdish. According to the JRS representative, asylum seekers are not informed beforehand about the transfers. IGI-DAI officers jointly with the special police forces wake them on the morning of the transfer. It was reported by the JRS representative that police officers behaved aggressively towards asylum seekers, because they did not want to exit the rooms. Conversely, the AIDRom representative stated that no incidents were reported.

According to the AIDRom representative, asylum seekers are informed on the spot by the integration officer and AIDRom representative. When the transfer is conducted, special police forces / riot police / rapid intervention police forces are attending. According to AIDRom, they are attending only to supervise the transfer process. An information note, written in Romanian and English, is given to the asylum seekers on the day of the transfer. In general, transfers are conducted once a week. AIDRom assists to the transfer procedure and provides them with packages.

⁴³⁵ Article 19(g) Asylum Act.

⁴³⁶ Article 7 Asylum Decree.

⁴³⁷ Article 19(g) Asylum Act.

As for the transfer packages JRS reported that some asylum seekers were transferred without being provided food. This was also reported by AIDRom representative, who mentioned that this was caused by the gap between the 2 projects implemented in 2020.

According to IGI-DAI, in 2020, 26 decisions assigning a specific residence, reception centres, for the asylum seekers, were taken, in line with article 19⁴ of the Asylum Act.⁴³⁸

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres:	6
2. Total number of places in the reception system:	900
3. Total number of places in private accommodation:	Not available
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	

Most asylum seekers are accommodated in Regional Centres for Accommodation and Procedures for Asylum Seekers, managed by IGI-DAI. The management of reception is decentralised to the level of counties.

The capacity of the different Regional Centres operating across the country (see [Freedom of Movement](#)) is as follows:

Capacity and occupancy of the reception system: 2020		
Centre	Capacity	Occupancy at 31 Dec 2019
Timișoara	250*	192
Șomcuta Mare	100	202
Rădăuți	130	132
Galați	200	247
Bucharest	320	286
Giurgiu	100	164
Total	1,100	1,223

*As of 1st December 2020 the capacity of the centre increased from 50 to 250.

Source:IGI-DAI, 16 February 2021.

The total capacity of the Regional Centres is 1,100 places. At the end of 2020, the number of persons staying in the centres was 1,223. Until now, it has not happened that asylum seekers were left without accommodation due to a shortage of places in the reception centres.

In addition to the Regional Centres, AIDRom, one of the NGOs implementing the AMIF national programme, runs two Accommodation Centres for vulnerable groups (see [Special Reception Needs](#)).

Asylum seekers may also request to stay in private accommodation at their own cost. In this case, they have to present to IGI-DAI a lease agreement registered with the tax authorities or a commodity contract concluded in authentic form.

⁴³⁸ Information provided by IGI-DAI, 20 February 2020.

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? Not available
3. Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No

Conditions in Regional Centres are monitored, *inter alia*, by the Ombudsman, who visits the centres on a regular basis. However, in 2020 no visits were conducted by the Ombudsman, except the one in Stolnicu Regional Centre, in order to assess the situation of unaccompanied children.

2.1. State of the facilities

The Regional Centre Timișoara

The Regional Centre was until 1st December 2020, located in the same premises as the Emergency Transit Centre (ETC) operated by UNHCR, where refugees evacuated from other countries stay before they are relocated to another country.⁴³⁹ ETC moved to another facility as of 1st December 2020. The facility is located 20 minutes by bus from the city centre. The facility was repainted and the doors and windows were repaired in December 2017.

The entire facility is split into four buildings, of which two are designed for accommodation. Each of these two buildings contains 12 rooms with 12 beds per room. One building ("Building B") is separated into two parts through a built-in wall: six rooms are dedicated to asylum seekers and another six to ETC refugees. Until December 2020 ETC had a total capacity of 200 places, the Regional Centre has a capacity of 50 places. According to the director of Timișoara Regional Centre during the year, asylum seekers were also accommodated in the spaces of ETC. The highest number of asylum seekers in 2020 was 450, the director reported.

At the time of the author's interview with the director on 29 January 2021, there were 260 asylum seekers.

Each building where persons are accommodated has a kitchen. However, "Building B" dedicated to families only has 2 refrigerators. "Building B" has two bathrooms, each equipped with two squat toilets, two urinals, three sinks and three showers.

The Regional Centre Șomcuta Mare

The Regional Centre is located not far from the city centre and 25km away from Baia Mare. The centre consists of a three-storey building. Rooms are located on the second and third floor, each floor containing 22 rooms with 8-10 persons sleeping in a room. There are two bathrooms on each floor, separated by gender. On the hallway of the first floor, there are 6 refrigerators, while the ground floor has two isolation rooms for medical purposes. The basement has a kitchen with ten stoves, a dining room and a laundry room with four washing machines but only two are functional. The basement also contains a specially designed closed space (see [Place of Detention](#)).⁴⁴⁰ During the pandemic, newly arrived asylum seekers were accommodated in this specially designated closed space for 14 days. Food was provided by the municipality and IGI-DAI was doing their grocery shopping.

⁴³⁹ UNHCR, *ETC Timișoara*, 14 December 2016, available at: <http://bit.ly/2DuZqDN>; *Operations in Romania*, 16 December 2016, available at: <http://bit.ly/2D0Ojko>.

⁴⁴⁰ Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Șomcuta Mare*, 36/2017, available in Romanian at: <http://bit.ly/2E7EANw>, 4-5.

In 2018 the bathrooms were renovated; tiles and doors were changed. Save the Children Romania has set up a playground and a room dedicated to mothers and children. According to the Ombudsman's report, repairs and paintings were made in 2019. The Ombudsman also reported that the centre does not accommodate the needs of small children, as there is no adequate toilet or furniture for them.⁴⁴¹

The Regional Centre Rădăuți

The Regional Centre is located at the entrance of the city, not far from the city centre. There are rooms with eight and ten beds. There are two bathrooms, one for women and one for men, each with three toilets and showers. There is a common kitchen, which lacked refrigerators and dishes at the time of the Ombudsman's visit.⁴⁴² The gym room and prayer room (in 2020) have been converted into an accommodation facility in order to increase reception capacity.⁴⁴³ Each room has a refrigerator, which serves 20 persons.

The Regional Centre Galați

The Regional Centre is located in the city, with easy access to public transport. The centre has three buildings: two for administrative purposes and one two-storey building for accommodation. On each floor of the accommodation building, there is one bathroom for men and one for women: each comprising of three showers and seven sinks. There is only one normal toilet for women per floor; the rest are 'squat toilets'.

In 2020, 2 tents were set up in the courtyard, as a preventive measure, in case the number of asylum seekers would increase. However, they were not used in this scope, but for medical screening of asylum seekers who made an asylum application directly in the regional centre.

The rooms have a maximum capacity of 12 beds. Generally, if there are available places asylum seekers are accommodated depending on nationality. Families are accommodated in the same room, separately from single men. There are two kitchens on each floor with three stoves and three sinks each, as well as one refrigerator for 12 people. In 2020, the clubs and the gym were transformed into accommodation rooms. Specially designed closed spaces were used as accommodation rooms. The prayer room still exists. In December 2020 there were 247 asylum seekers accommodated in the regional centre.

The Regional Centre Bucharest

The Regional Centre is located 20 minutes by bus from the city centre. The building accommodating asylum seekers has four floors. It contains a total of 80 rooms, each with four beds, a toilet and a shower. On each floor there are two kitchens, each with two refrigerators, two stoves and two sinks. When assigning asylum seekers to different rooms, IGI-DAI takes into consideration their religion, nationality and gender. Families are accommodated together. The renovation project of the regional centre, which should have started in 2020, was suspended, due to influx of asylum seekers.

The Regional Centre Giurgiu

The Regional Centre is a former barracks located in the outskirts of the city and repurposed in 2011, without any refurbishment beyond repaint. As a result, technical problems often occur. The capacity of the centre is 100 places arranged in seven rooms. At the time of the Ombudsman's visit in June 2017, the capacity of the centre had been increased by 70 places, as the gym and prayer room had been converted into bedrooms.⁴⁴⁴ Each room has 20 beds equipped with one refrigerator each, and there are

⁴⁴¹ Ombudsman, Report 44/2019, 4.

⁴⁴² Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Rădăuți*, 34/2017, available in Romanian at: <http://bit.ly/2nEuqcO>, 5.

⁴⁴³ *Ibid*, 3-4.

⁴⁴⁴ Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Giurgiu*, 29/2017, available in Romanian at: <http://bit.ly/2EvCLm>, 2.

two kitchens with stoves and sinks. There are two bathrooms, one for men and one for women, with five 'squat toilets' and five showers. The centre has a small courtyard but is not accessible as it is surrounded by a fence. In 2020 tents were set up in the courtyard for medical screening.

2.2. Food and hygiene

The Asylum Decree prescribes the necessary daily amount of nutritional value based on which the daily allowance for food is calculated in the Regional Centres.⁴⁴⁵ Asylum seekers may cook for themselves, using the kitchens available in every centre.

In all regional centres asylum seekers are obliged to clean their rooms, kitchen and bathrooms on a rotation basis. The number of toilets and showers are sufficient in all facilities during regular occupancy.

In 2018, 2019 and 2020, AIDRom implemented a project providing asylum seekers with cleaning products and they were also encouraged to clean their rooms and common spaces every week. All the interviewed stakeholders observed an improvement of hygienic conditions in the centres throughout 2018.

Galați : Hygienic conditions were described until 2020 as relatively good. As of 2020, JRS reported that the premises are filthy, beyond description; the toilets are clogged 3 times a week; bathrooms are rusty; asylum seekers are not cleaning their rooms and common spaces, even though it should be done once a week; some of the mattresses were changed, but soon after were infested with bed bugs; disinfections have no results; beds, blankets and bed linen are old and worn down; the kitchens are open according to a schedule from 6 to 14 and 17-23 and the ones of ground floor are closed due to gas leaks.

Șomcuta Mare: hygiene conditions have deteriorated due to the high influx and increased number of accommodated asylum seekers. Asylum seekers complained about bed bugs and other insects, even though they received repellent spray from UNHCR. For a week the heating was not working and the residents complained that it was cold. A refugee reported that people were also sleeping on the floor, due to the lack of mattresses. The state of the bathrooms did not change since last year when the former Ombudsman expressed concerns about the state of the toilets, lack of cleanliness and water flowing on the floor.⁴⁴⁶ Moreover, it got worse, the painting is falling because of water infiltrations, and the toilets are clogged. The kitchen is filthy; some of the stoves are not working. It was also reported that newly arrived asylum seekers do not have clothes.

In **Bucharest**, residents complain about the cleanliness and state of mattresses and bed sheets, as well as the lack of beds for children and the shortage in refrigerators. The hygienic conditions are not satisfactory. There are bedbugs in the rooms, even if disinfections were periodically done; the gym room is closed, there is a prayer room and a room where a TV was installed. There is an approved budget for the rehabilitation of the accommodation centre, however there is no information when this will start. The poor hygienic conditions of the reception centre were also pointed out by the Ombudsman. During the visit, the Ombudsman's team did not see any modifications compared to the situation witnessed in 2018: the doors of some rooms were damaged, the floor surface was in an advanced stage of usage, similar to bed mattresses; broken windows in kitchen spaces and staircases were not fixed; some bathrooms were damaged and did not ensure necessary privacy; faulty electrical installations were also observed as well as unsecured sockets (in a room where a single mother and her two children were staying, these were ripped out of the wall, the monitoring team requested that this should be fixed urgently), deteriorated electrical panels; in some hallways metal beds were stored (which constituted a safety hazard for children) etc. Some rooms were repainted, but at the date of the visit there were clear signs of water infiltration in the walls, probably from a recent malfunction of the piping system. The prayer rooms and the club were up and running, but the spaces were not refurbished and the chairs were broken.⁴⁴⁷

⁴⁴⁵ Article 55(1) Asylum Decree.

⁴⁴⁶ Ombudsman, *Report 44/2019*, 5.

⁴⁴⁷ Ombudsman, *Report 75/2019*, 10.

The JRS representative reported that Stolnicu Regional Centre is filthy. The hygienic conditions of the centre were better until summer 2020, because there were not so many asylum seekers accommodated in the centre. Asylum seekers are complaining about bed bugs, even though multiple disinfections were carried out; the mattresses are infested with bed bugs. The plumbing is worn out and leaking. There are infiltrations, even in the NGOs' offices; there is mold and dampness. The kitchens are very filthy; asylum seekers are reluctant to clean.

In **Giurgiu**, repair works were done in the bathrooms and in some rooms. There were issues with bedbugs and fleas, even though one disinfection had been carried out in 2019. Save the Children renovated and furnished accordingly a room for children, where a video explaining the rights and obligations of asylum seekers, is broadcasted. In 2020 repair works were done in the bathrooms and kitchens; the equipment, plumbing and paint were repaired. Multiple disinfections have been made to eradicate bedbugs.

In **Rădăuți**, at the time of the Ombudsman's visit in the centre on 13 September 2019, it was noticed that the bathrooms were heavily worn out; the tiles were damaged and broken. The stoves were also heavily worn out, even though according to the IGI-DAI staff they were 2-3 years old. In 2020, 2 stoves were replaced, but they are already worn down. The cleanliness in the kitchen was lacking, there was no place where asylum seekers could deposit their food and the tiles and pavement in the kitchen was old, broken, and not sanitized. According to the Ombudsman the building did not provide adequate conditions for accommodation, cooking and storage of food.⁴⁴⁸ At the time of the author's interview with the stakeholders from the centre, the doors were changed and the tiles in the bathrooms were replaced. According to them the renovation started in November 2019. The courtyard was also cleaned. The problem of the mattresses still persists; there are still bedbugs, even though disinfections were made.

In 2020, the state of the regional centre was described as filthy, there is an unpleasant odor; the kitchen is filthy. Asylum seekers complain about bed bugs. The mattresses are worn out. Even though the bathrooms were renovated last year, there is a lack of cleanliness.

In **Timișoara**, residents still complain about bed bugs, fleas, the poor condition of mattresses and plumbing in the showers and toilets. The flux of new asylum seekers arriving in the centre is also a reason for the lack of cleanliness in the centre. The regional centre was described by the JRS representative as a source of infections; asylum seekers do not want to clean; there is garbage everywhere. When the number of asylum seekers accommodated exceeded 100, the conditions were a disaster. It was impossible to enter the building where they were accommodated. AIDRom mentioned a lack of cleanliness due to the high number of asylum seekers and their unwillingness to clean their rooms and common spaces. The director of Timișoara Regional Centre confirmed a lack of cleanliness, and that the state of the kitchens and bathrooms is bad; the appliances are worn out, due to the high number of asylum seekers.

Even though IGI-DAI carried out 2-3 disinfection operations in 2020 and they also received sprays from UNHCR, asylum seekers still complained about insects. The issue of bugs and insects is still a major problem in the Regional Centre of Timișoara. The Ombudsman also noticed this problem in 2018 and reported the existence of cockroaches in the kitchen.⁴⁴⁹ The residents still complain about the existence of the cockroaches. The director of the centre mentioned that no repairs or renovations were made, neither in 2019 nor in 2020, except that they changed the water taps. He also mentioned that there is a rehabilitation project of the centre, which has to be approved.

There have not been any protests related to the conditions in the centres.

⁴⁴⁸ Ombudsman, *Report 46/2019*, 5.

⁴⁴⁹ *Ibid.*

2.3. Activities in the centres

Asylum seekers are allowed to go outside whenever they want, until 22:00. All Regional Centres except **Timișoara** have a prayer room where residents can practice their religion.⁴⁵⁰

AIDRom stated that the Romanian language classes were held mainly in physical format, respecting the preventive measures and social distancing. They continued in this format due to limited possibilities of asylum seekers to have access to a mobile phone for online courses. Where beneficiaries had access to an electronic device, the courses were held online.⁴⁵¹

Social and community workers in the centres organise different activities for both adults and children. In 2020, these activities were held in smaller groups and outside, when possible.

Save the Children Romania offers as part of the “Protecting the Children of Asylum Seekers and Refugees” program, educational and social services addressing the specific needs of asylum-seeking children and refugees, including unaccompanied minors. The activities are running in 5 Regional Centres, with the exception of Giurgiu.

The project foresees the following activities:

- Daily educational-recreational program for children in accommodation centers
- Facilitating access to education and cultural accommodation
- Services to ensure their basic needs
- Facilitating access to social and medical services
- Social counseling for children and adults.

In 2020, Save the Children provided educational and social services to 677 children (including 410 accompanied minors) and 1,077 adult asylum seekers and beneficiaries of international protection. Save the Children provided material support for 545 children and 737 adults (food, clothing, medicine, hygiene, social vouchers), educational services and recreational activities for 236 children, psychological counseling for 36 children and 8 adults.

In the context of the COVID-19 pandemic, Save the Children continued to provide its services, social workers being present in reception centers to provide material support and counseling - respecting all preventive measures. They provided tablets with internet connection for children to be able to participate in online school classes and also other educational materials, sanitary products, clothing, food and social vouchers.

JRS reported for 2020, that no activities with children were organised in **Timișoara**. Mainly food packages, hygienic products, clothes and toys were distributed.

Rădăuți: activities with children took place but in smaller groups and more rarely. During the state of emergency all the group activities were avoided and as far as possible NGOs were providing their services in open-air.

Șomcuta Mare: it was reported that activities with children were organised. Romanian language classes were held, but not constantly.

In **Bucharest**, activities for asylum seekers started during the summer. Romanian language classes were resumed during the state of alert.

Galați: activities were held during 2020. When the weather allowed it these were organised in open-air. Inside activities were organised taking into account the preventive measures. Romanian language classes were also held but in smaller groups.

⁴⁵⁰ Although the Ombudsman states that there is a confession room in Timișoara where Romanian classes are held, this is a hallway leading to the NGO offices rather than an actual room.

⁴⁵¹ Information provided by AIDRom, 4 March 2021.

In **Giurgiu**, AIDRom and ICAR Foundation provide activities for adults and children, even though the centre has no interior or exterior recreational spaces where such activities may be organised. The lack of playgrounds for children and places for sports activities has been highlighted by JRS and by the Ombudsman.⁴⁵² Many activities were carried out online.

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

Asylum seekers have access to the labour market following 3 months from the lodging of the application, if no decision has been taken by IGI-DAI due to no fault of the applicant, or during the appeal stage.⁴⁵³ This means that if a decision was made in the administrative phase of the procedure, the asylum seeker is allowed access to labour market even sooner than 3 months. Persons, who at the time of filing an application for asylum, have a right of residence on the territory of Romania and are working legally, may continue to work.⁴⁵⁴

Access to the labour market is granted under the same conditions set out by law for Romanian citizens.⁴⁵⁵ Accordingly, there is no labour market test, sectorial limitation or other restriction laid down in the law.

The Asylum Decree prescribes that asylum seekers may benefit, upon request, from mediation services, professional information and counselling services provided to persons seeking employment by the County Employment Agencies (AJOFM).⁴⁵⁶

In order to be registered as a job seeker by the AJOFM and to benefit from the aforementioned services, asylum seekers must present the documents requested by law, except for the civil status documents issued by the country of origin, together with their temporary identity document issued by IGI-DAI and a certificate which confirms their right to work. The same conditions apply for asylum seekers' participation in a vocational training programme or the evaluation of professional competences acquired through non-formal means.

Diplomas or certificates of education or graduation, as well as certificates of professional competence, qualification or other relevant documents, are accepted only if they are recognised on the territory of Romania according to the applicable legal provisions.

⁴⁵² Ombudsman, *Report of the visit to the Regional Centre Giurgiu*, 29/2017, 6.

⁴⁵³ Article 17(1)(o) Asylum Act.

⁴⁵⁴ *Ibid.*

⁴⁵⁵ *Ibid.*

⁴⁵⁶ Article 6[^]1(1)-(5) Asylum Decree.

According to the law, asylum seekers who have access to the labour market have the right to benefit from measures promoting employment, as well as protection within the unemployment insurance system, under the conditions provided by the law for the Romanian citizens.⁴⁵⁷ Moreover, the provisions of the Asylum Decree on access to employment for asylum seekers also refer to the possibility to participate in vocational training programmes.⁴⁵⁸

From the discussions held with the stakeholders, it appears that in 2019, like in 2018, asylum seekers have not faced obstacles in finding a job, as information about available jobs were provided to them. The jobs advertised by stakeholders were in the unskilled labour sector. As a result, asylum seekers did not encounter problems related to the lack of Romanian language knowledge, diplomas or other documents that would prove their qualifications. The majority of asylum seekers were reportedly unskilled workers in their country of origin.

Bucharest: According to the JRS representative, it was noticed that there are asylum seekers who are interested in accessing employment and employers are more open to offer them employment. The director of Stolnicu mentioned that around 45 asylum seekers were employed during 2020.

Rădăuți: It was reported that asylum seekers prefer leaving to obtaining employment. There were a few asylum seekers legally employed in wood processing, but after the first month they quit.

Șomcuta Mare: Only one asylum seeker was working, as far as JRS knew. Asylum seekers are considered to not face many obstacles in finding a job as they are informed by IGI-DAI and NGOs about the available jobs in the area. AIDRom periodically informs the persons accommodated in the Regional Centre of available jobs. They usually work in the unskilled sector.

Galați: it was reported that there were asylum seekers working in the unskilled sector, when the pandemic started they were the first to let go by the employer. It was reported that IGI-DAI received several job offers for asylum seekers in the unskilled labour sector and that information thereon was disseminated to the asylum seekers together with the NGOs. The NGOs are also drafting the request for the issuance of the certificate from IGI-DAI, which attests that the asylum seeker has the right to work.

Timișoara: according to the director of Timișoara Regional Centre around 10 asylum seekers were employed. JRS reported that many asylum seekers are reluctant to work in the construction sector or at farms. It was further mentioned that there are available jobs, but in general they are not interested. The AIDRom representative reported that they receive a list of the available jobs from AJOFM on a weekly basis and they inform the asylum seekers accordingly. She also reported the fact that the asylum seekers cannot legally work during the first 3 months and that the majority do not stay in Timișoara for that long.

Giurgiu: the director stated that 7 asylum seekers were employed in 2020, out of which 4 were in probation period. JRS reported that 3 asylum seekers lost their jobs because of the pandemic. It was also pointed out that finding a job in 2020 was harder.

The number of applicants who were employed as of the end of 2019 was 26.⁴⁵⁹ As for 2020, IGI-DAI reported that they have no statistics on the number of asylum seekers employed. It is provided only the number of asylum seekers with right to work (970).⁴⁶⁰

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 |

⁴⁵⁷ Article 17(1)(o¹) Asylum Act.

⁴⁵⁸ Article 6¹(4) Asylum Decree.

⁴⁵⁹ Information provided by IGI-DAI, 20 February 2020.

⁴⁶⁰ Information provided by IGI-DAI, 16 February, 2021.

The Asylum Act prescribes for the right of minor asylum seekers to have access to before pre-school (0-3 years), pre-school (3-6 years) and compulsory education (6-18 years) under the same conditions as minor Romanian citizens, as long as no measure is taken to remove them or their parents from Romania.⁴⁶¹ Access to education is therefore free and unconditional.⁴⁶²

Compulsory general education consists of 10 grades and includes primary and lower secondary education. Compulsory education ends at the age of 18.⁴⁶³

Education is provided in regular schools. In general, children are enrolled at local schools whose territorial jurisdiction covers the respective Regional Centres. Asylum-seeking children are enrolled in normal classes together with Romanian children as observers for the first year. Being an observer means that the child is not listed in the class book and he or she does not receive grades.

In **Bucharest, Giurgiu and Șomcuta Mare**, the NGO representatives together with IGI-DAI draft the enrolment request.

In **Galați**, the enrolment requests are made by NGO representatives and lodged by IGI-DAI, in order for IGI-DAI to notify the County School Inspectorate (*Inspectoratul Școlar Județean*, ISJ) The enrolment procedure may take up to 2 weeks. By the time the inspectorate sends its answer, the asylum procedure is usually completed, and the persons have left the country, or the parents did not take the children to the school. In 2020, neither of the children went to school or kindergarten or attended courses online.

In **Rădăuți**, no problems were reported with the enrolment procedure. This is ensured by Save the Children and the integration officer. Children attended the courses online, using the tablets provided by Save the Children. The classes were held in January-February 2020 and September–October. As of November the courses were held online.

Șomcuta Mare, only 4 asylum seeking children enrolled in 2019 were attending classes. It was reported by JRS that 2 families with children who arrived before the summer break were informed by the Romanian teacher that there are no more available places for their children. In 2020 no children were enrolled at school. This was echoed by ASSOC, who reported that in 2020, they submitted 40 requests to enrol asylum seeking children and beneficiaries of international protection, but none of the children were enrolled. In 2020, Ioan Buteanu High School in Șomcuta Mare operated in a hybrid scenario and decided not to enrol asylum seeking children or beneficiaries of international protection, preferring to bring them materials to the centre. ISJ was notified about this situation, but no solution was provided, stating that this is a matter that should be solved by the school. Because children were not issued with enrolment certificates, NGOs could not provide them school supplies. The ASSOC representative further mentioned that only 2 children from Baia Mare attended school in 2020.

In **Giurgiu**, the majority of schooling and kindergarten activities were carried out online. Children were enrolled at school by JRS jointly with IGI-DAI. Children's attendance at classes was more challenging during 2020, due to the lack of electronic devices. However, NGOs offered support in this sense; children were attending classes on the NGOs device or on the ones provided by the school.

Bucharest: the enrolment request for kindergarten and school is drafted by NGOs. At school, they are enrolled as students only after completing the Romanian language course and passing the exam. In 2019, the school no longer accepted to enrol children as observers, because children have to complete the preparatory classes and pass the exam first. 10 children accommodated in the Regional Centre Vasile Stolnicu were enrolled at school and attend classes. At kindergarten, children are enrolled upon availability. It was also reported that enrolment of children during the school year is almost impossible.

⁴⁶¹ Article 17(1)(p) Asylum Act.

⁴⁶² Article 6(1) Asylum Decree.

⁴⁶³ Article 16(1) and (2) Public Education Act.

As of 2020 children are enrolled at a different school, the “25 School”. In 2020 according to the director of Stolnicu 378 children were enrolled, out of which 80% were beneficiaries of international protection. According to the JRS representative children received tablets from Save the Children. However, only a few attended the courses.

Children accommodated at the DGASPC centre of **Timișoara** are enrolled at school. Save the Children offered tablets to unaccompanied children at DGASPC and families who are living outside the regional centre. All the children who received tablets were enrolled at school. The newly arrived children were transferred to other centres. The director also reported that unaccompanied children are transferred or leave the centre.

Preparatory classes

Following the 2015 reform, the Asylum Act foresees a free intensive preparatory course for asylum-seeking children in view of easing their access to education before the enrolment at the national education system.⁴⁶⁴ The training course is organised by the Ministry of National Education and Scientific Research, in collaboration with IGI-DAI. Children should be enrolled at the preparatory course within 3 months from the date their asylum application was made. At the same time, the child may be enrolled as an observer in the relevant year of study.

At the end of the preparatory course, an Evaluation Commission, whose composition and functioning are established by order of the Minister of National Education and Scientific Research assesses the level of knowledge of the Romanian language and establishes the registration of asylum seekers in the corresponding year of study.

As of 2019, the preparatory courses were provided in most of the regional centres, except Timișoara and Galați.

In **Galați**, according to JRS, an ISJ professor offers courses for child asylum seekers and beneficiaries of international protection. The course for asylum-seeking children takes place twice a week and lasts 2 hours. Children learn Romanian language but also mathematics. In 2020 these courses were not held, neither face-to-face nor online.

In **Rădăuți**, as of October 2019, the preparatory classes are held for the asylum seeking children and beneficiaries of international protection. Two age groups were formed, one for 6 to 10 years of age and the other from 10 to 18 years of age. The classes are held separately by a professor from ISJ twice a week for each group of children. Children learn Romanian language, colour and play. In 2020, the preparatory classes were held in January-February and September and October, as of November 2020 the classes are held online; as of the rest of the year these classes were not taking place.

In **Șomcuta Mare**, a representative of ISJ is teaching Romanian language to asylum seekers and beneficiaries of international protection, adults and children. According to JRS representative, courses were held twice a week, but mostly the teacher was teaching the beneficiaries of international protection.

In **Bucharest**, preparatory courses are held only for beneficiaries of international protection, according to JRS representative. During the preparatory classes, children learn Romanian language. According to the director of Stolnicu Regional Centre there are 3 professors from the “25 School” teaching Romanian; beneficiaries are grouped on the basis of their age; the classes are held online; beneficiaries are using their own devices or the tablets provided by Save the Children.

Asylum-seeking children with special needs enjoy the same alternative arrangements as those provided for Romanian children. Throughout 2020, there were no children with special needs in the Regional Centres of **Timișoara**, **Galați**, **Rădăuți**, **Giurgiu**, **Șomcuta Mare** and Bucharest.

⁴⁶⁴ Article 18(1)-(4) Asylum Act.

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

Measures imposed during the pandemic

According to the vaccination strategy in Romania, asylum seekers and migrants detained in public custody centres are included in phase III of vaccination, along with the wider public.⁴⁶⁵ Phase III of vaccination started on 10th of March 2021.⁴⁶⁶

Access to health care for asylum seekers covers the right to receive free primary care and appropriate treatment, emergency hospital care and free health care and treatment in cases of acute or chronic illnesses considered imminently life threatening, through the national emergency health care system and qualified first aid. These services shall be provided, as the case may be, through the medical service of the Regional Centres and/or other health care facilities accredited and authorised by law.⁴⁶⁷

In addition, asylum seekers have the right to be included in national public health programmes aimed at preventing, monitoring and controlling contagious diseases in epidemiological risk situations.⁴⁶⁸

Asylum seekers are assigned a personal identification number which figures on their temporary identity documents in order for them to enjoy all the rights provided by the law.⁴⁶⁹ After receiving the personal identification number, asylum seekers may register in the public health insurance system and, if they pay healthcare contributions and register at a general practitioner's office, they have the status of an insured person with the same rights and benefits as nationals.

As of 2019, asylum seekers have access to a general practitioner within all Regional Centres. In **Giurgiu**, according to the director of the centre, there are a medical doctor, a nurse and a psychologist since August 2018.

In **Rădăuți**, a medical doctor was hired in the summer of 2018, but his contract terminated in December 2018. In February 2019 a new medical doctor was hired. In 2020, the 2 medical assistants were hired. A medical doctor was contracted as a service provider, and a medical doctor of the ICAR Foundation was hired. Two tents were installed in the courtyard, where transferred asylum seekers are undergoing a medical screening, which is conducted swiftly. The medical screening includes the medical history of the asylum seeker. The interpreter is not used at this stage all the time.

In **Timișoara**, a medical doctor is present in the centre on a part time basis (11am-3pm) and two nurses are provided by IGI-DAI. The nurses are working on 8h shifts. According to JRS, the medical screening conducted by the medical persons in Timișoara was done without an interpreter and it is only a bureaucratic action. However, the AIDRom representative reported that, in general, the medical screening

⁴⁶⁵ Decision no. 1031 of 27 November 2020, Vaccination STRATEGY against COVID-19 in Romania of November 27 2020, available in Romanian at: <https://bit.ly/39XXHZ7>.

⁴⁶⁶ Romanian Government, Official Statements, available in Romanian at: <https://bit.ly/3wzHJhs>.

⁴⁶⁷ Article 17(1)(m) Asylum Act.

⁴⁶⁸ Article 17(1)(m[^]1) Asylum Act.

⁴⁶⁹ Article 17(1[^]1) Asylum Act.

is done the next day if the asylum seekers arrive during the night or in the same day if they arrive during the day, with an interpreter or someone from the community. The screening includes a visual check-up, weighing and measuring. According to the director of **Timișoara** Regional Centre medical screening/epidemiologic triage is conducted at the Border Police. Upon arrival or the following day asylum seekers are seen by the medical staff of the centre. A summary evaluation is made without an interpreter, after which the medical file is drafted.

Bucharest had a psychologist contracted by IGI-DAI until September 2017. The Ombudsman has stressed that the provision of a psychologist by IGI-DAI is “imperiously needed” and that psychological assistance and services provided by NGOs should be complementary thereto.⁴⁷⁰ According to the Ombudsman the psychologist resumed its activity in October 2018. During its visit, the Ombudsman observed a scarce number of psychological counselling provided to vulnerable persons. Also a number of 3 nurse positions were still vacant.⁴⁷¹ In 2020, the centre had 2 medical assistants and 1 medical doctor and a psychologist.

Galați: There is a medical doctor, one nurse and a full-time psychologist as of 15 October 2019, who currently is on maternity leave. The doctor and nurse do the medical screening, in general without an interpreter.

Somcuta Mare: The medical screening is done by the medical doctor of IGI-DAI. It is basically a general consult which includes the medical history, taking the pulse, heart rate and visual check-up if the person present any scars. If the interpreter of IGI-DAI is not in the centre at this stage, someone from the community will translate. The JRS representative has no information on how the medical screening is conducted.

In **Bucharest**, according to the medical doctor, the medical screening is conducted by her and the nurse when the asylum seekers are accommodated in the centre. They are visible checked if they present any signs of eczema, rabies, lice and a medical record is drawn up. In case of medical issues, the asylum seekers are referred to the Ministry of Internal Affairs hospitals. The screening is conducted without the assistance of an interpreter.

The ICAR Foundation, in partnership with AIDRom, implemented the project “Health Services Accessible to the Needs of Asylum Seekers (S.A.N.S.A.)”, between 13 August 2019 and 12 August 2020, funded through the AMIF national programme. Under the project they ensure the basic needs in terms of physical and mental health of asylum seekers are met. The project was implemented in all 6 regional centres. Under this project, at least 600 asylum seekers will benefit from medical consultations, investigations, analyses and treatments and will participate in information and counseling sessions on the healthcare system in Romania, their rights and obligations, the hygiene and public health rules. At the same time, at least 200 asylum seekers will receive specialist psychological assistance and counseling in the accommodation centres. Part of the psycho-social specialists’ activities was to identify vulnerable asylum seekers (families in difficulty, elderly people, people with chronic diseases, unaccompanied minors, victims of physical and mental violence), as well as to identify their needs. Subsequently, tests were performed to assess the general health of newly arrived asylum seekers, and general practitioners provided weekly medical consultations. According to the AIDRom programme coordinator, the tests are basic blood tests and not epidemiology tests. However, if there are signs or indications that such tests are needed, they will be conducted.

As of 26 September 2020 until 25 September 2021 ICAR Foundation, in partnership with AIDRom, implements the project “Health Insurance for Asylum Seekers in Romania (ASIG - RO)”. Under this project the indicators provided are at least 432 asylum seekers who will benefit from medical services and at least 216 asylum seekers will benefit from specialized psychological assistance and counselling.⁴⁷²

⁴⁷⁰ Ombudsman, *2017 Reports*, available in Romanian at: <http://bit.ly/2Expec>.

⁴⁷¹ Ombudsman, Report 75/2019,7.

⁴⁷² AIDRom, News Release, available in Romanian at: <https://bit.ly/38pzGtl>.

Specialised treatment

The Asylum Act provides for the right of asylum seekers with special needs to receive adequate health care.⁴⁷³ In practice, ICAR Foundation is the only organisation with the necessary experience in providing psychological assistance to torture survivors and traumatised asylum seekers in all the reception centres.

In **Timișoara**, ICAR personnel conduct the medical screening. IGI-DAI is notified if there are asylum seekers suffering from mental health issues and they are referred to specialised hospitals, if necessary. The doctor of ICAR Foundation is present in the centre once a week. According to the JRS representative, AIDRom representatives carry out a more detailed screening.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
☒ Yes ☐ No

An applicant with special reception needs is a vulnerable person according to Article 5¹ of the Asylum Act, who needs special guarantees to enjoy his or her rights and fulfil his or her obligations under the law.⁴⁷⁴ Article 5¹(2) lists the following categories of vulnerable persons: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses, people with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, or persons in other special circumstances.

The law does not prescribe actual mechanisms or methods for the identification of vulnerable persons. The Asylum Decree only states that specialised personnel of IGI-DAI cooperate with UNHCR and relevant NGOs to identify asylum seekers who may fall within in the category of vulnerable persons referred. In order to assess the vulnerability of asylum seekers, specialists within IGI-DAI, where appropriate together with experts from other institutions and authorities competent in the field, to make an assessment of the special needs of foreigners. Depending on the specific need of each asylum seeker identified as vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance. IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.⁴⁷⁵

Psycho-social specialists of the ICAR Foundation who carry out activities in the Regional Centres first seek to identify asylum seekers, especially those belonging to vulnerable groups (families in difficulty, elderly people, people with chronic illness, unaccompanied children, victims of physical and mental violence) and their needs. Subsequent tests are conducted to assess the general health status of newly arrived asylum seekers, while general practitioners provide weekly medical consultations (see **Health Care**).⁴⁷⁶

According to the Asylum Act, asylum seekers with special needs have the right to benefit from adapted accommodation and assistance conditions in the Regional Centres.⁴⁷⁷ However, not all centres are

⁴⁷³ Article 17(1)(n) Asylum Act.

⁴⁷⁴ Article 2(1)(b²) Asylum Act.

⁴⁷⁵ Article 5(1)-(4) Asylum Decree.

⁴⁷⁶ AIDRom, *Adapted and accessible health services for asylum seekers in Romania*, available at: <http://bit.ly/2Dz3v9U>.

⁴⁷⁷ Article 17(1)(l) Asylum Act.

adapted to such needs: **Bucharest** and **Timișoara**, for example, are not equipped with ramps for persons with disabilities, even though in Bucharest there is a person who uses a motorised wheelchair.⁴⁷⁸

The house rules of the Regional Centres stipulate that, in order to deal with situations of sexual or gender-based violence, the Director of the Centre shall:⁴⁷⁹

- a. Inform the persons accommodated in the centre about sexual or gender-based violence and the consequences of such acts;
- b. In case of such situations occurring during the period of accommodation in the centre, notify the competent public authorities and institutions and, depending on the seriousness of the deed, gradually apply one of the sanctions provided in Article 47 ROI (see [Reduction or Withdrawal of Reception Conditions](#));
- c. Cooperate with national and international NGOs, as well as with public authorities and institutions competent in this field to assist victims while they are accommodated in the Regional Centre.

1. Reception of unaccompanied children

1.1. Unaccompanied children below the age of 16

Unaccompanied children below the age of 16 are accommodated in a centre managed by DGASPC or an authorised private body.⁴⁸⁰ If they have relatives residing in a Regional Centre, DGASPC decides where they will be accommodated, taking into consideration their best interests. In case of unaccompanied children who have siblings under or above the age of 16, when taking a decision regarding their accommodation, IGI-DAI shall consult their legal representative, observe the principle of family unity and take into account the age and maturity of the older sibling.⁴⁸¹ The opinion of the unaccompanied child regarding the place where he or she will be accommodated is considered and given due importance, taking into account his or her age and degree of maturity.⁴⁸²

Based on information provided by Save the Children Romania, there have been cases where unaccompanied children below the age of 16 were left in the Regional Centres for months before being accommodated in a DGASPC centre. One of the reasons for this is likely the fact that DGASPC is facing a shortage of accommodation places. As regards the conditions in DGASPC facilities, Save the Children stated that the facilities are decent but there are no interpreters; thus, interaction with these children is limited until they learn Romanian. In most cases the staff is not trained to work with foreign children, the services provided are not adapted to their needs.

Timișoara: Unaccompanied children are accommodated in the DGASPC Emergency Accommodation Centre for Homeless Children and have described living conditions as good; they receive 3 meals per day. However, the director of the Regional Centre of Timișoara pointed out several issues regarding the centre and the assistance provided by the DGASPC social assistance, such as the lack of interpreters and specialised personnel. It was also mentioned that DGASPC does not assume responsibility for unaccompanied children under the age of 16. The social examination conducted by an employee of DGASPC, without an interpreter, always concludes that is in the best interests of the child to remain with his or her so called “relatives” in the Regional Centre. This was also confirmed by the JRS representative, who stated that if children are accompanied by their uncle, aunt or brothers, they are not taken over by DGASPC. It was reported, by the director, that the majority of unaccompanied minors under the age of 16 are accommodated in the centre, but not for a long time, because they are transferred to other centres. As regards the interpretation, the JRS representative mentioned that from time to time CNRR may provide interpretation services in case DGASPC wants to communicate information to the children about the

⁴⁷⁸ IGI-DAI takes into consideration any special needs of asylum seekers. Groups such as elderly persons are accommodated on the first floor of the building so as to avoid many flights of stairs. Moreover, in one case, a person suffering from epilepsy was accommodated alone.

⁴⁷⁹ Article 60 ROI.

⁴⁸⁰ Article 58(3) Asylum Decree, in conjunction with Article 78(1) Child Protection Act.

⁴⁸¹ Article 58(3^1) Asylum Decree.

⁴⁸² Article 58(4) Asylum Decree.

asylum procedure. As for the experience in working with asylum-seeking children, the DGASPC became more knowledgeable over time, JRS representative said.

Șomcuta Mare: Unaccompanied children are accommodated in family houses in **Baia Mare**, managed by the NGO **Somaschi Foundation**. JRS has reported that conditions in the facilities are good. In 2020 there were 2 unaccompanied minors accommodated in this centre, but they were over 16 years of age and specially requested to be accommodated here. As for minors under 16 years of age, according to a JRS representative they were all accommodated in the regional centre. In 2020, approximately 60 unaccompanied minors were registered in Șomcuta Mare, out of which 15-20% were under 16 years of age. There was also a 5 year-old unaccompanied child for whom IGI-DAI submitted a notification to DGASPC to take him over, but no answer was received from their part. In the regional centre unaccompanied children are accommodated separately.

Galați: In 2020, it was reported that no unaccompanied child was taken over by DGASPC in the day and night shelter for homeless children, under the authority of DGASPC. All children under the age of 16 were accommodated in the regional centre. No social examination was conducted by DGASPC in order to evaluate what is in his or her best interest, with regards to their housing. The reason for this are the lack of places in their accommodation centres and that it is better for the unaccompanied children to stay in the regional centre.

Rădăuți: Unaccompanied children are no longer accommodated in the **Solca Placement Centre** as it was closed. As of 2019 children were accommodated in the Children's Univers from Rădăuți. The centre is a family house located 200 m from the Regional Centre. The living conditions are satisfactory and hygienic conditions are good. In 2020 only 2 brothers of 15 and 17 years of age were accommodated in this centre. It was reported that there is no qualified staff, trained or equipped to deal with asylum seeking children. There is no interpreter, but when necessary they would turn to IGI-DAI's interpreters. The activities organised in the centre are not adapted to the needs of the unaccompanied minors. Unaccompanied children under 16 years of age orally declared that they are accompanied by relatives, with no further evidence being provided. Thus they remained in the regional centre, where they were not accommodated separately from the adults. A JRS representative reported that even 12-year old children remained in the centre, but they later on left the centre.

Giurgiu: the director of the regional centre reported that 21 unaccompanied children under 16 were accommodated in the regional centre, while no children were accommodated in DGASPC centres. He reported that unaccompanied children refused to go to DGASPC centres. On the other hand the JRS representative mentioned the lack of available places in DGASPC centres.

Bucharest: As of 2020, unaccompanied children are no longer accommodated in the **Pinocchio Day Centre** within DGASPC District 1. Unaccompanied children are only accommodated in **Gavroche Day Centre** within DGASPC District 2. In February 2020, UNHCR notified the Romanian Ombudsman on the situation of a number of asylum-seeking children under 16 accommodated in Stolnicu Regional Centre because DGASPC District 2 Bucharest has no available places to take them over. An inquiry was conducted by the representatives of the Romanian Ombudsman at the regional centre and DGASPC. It was found that the reception conditions in the regional centre were inadequate; the regional centre accommodates unaccompanied minors between the ages of 12 and 18, most of these minors are accommodated together with adults. There was only one room where only minors were accommodated. As for the living conditions in Stolnicu centre the Ombudsman reported that these are completely inadequate for a decent life and breaching many hygiene rules: unbreathable air in the hall ways and rooms, poorly oxygenated and the smell is hard to bear; the mess in the rooms is beyond description; the bed linen was very dirty and for some beds this was lacking; the furniture was in an advanced stage of degradation (broken chairs, broken window frames, that could not be locked, broken and dirty linoleum, etc). The Ombudsman further reported that the even though each room has its own bathroom, the conditions were the same as in the rooms: infiltrations, rusty toilet tanks, chipped sinks, showers (which

were connected directly to the sink) were broken. During the visit, the Ombudsman representatives were informed that during the year (2020) the centre will be rehabilitated.⁴⁸³

The Ombudsman reported that Gavroche centre has a capacity of 24 places and at the time of the investigation 19 places were occupied. Thus the centre was not confronted with an overcrowding as stated by UNHCR in their notification.⁴⁸⁴

The director of Stolnicu Regional Centre reported that 59 unaccompanied children under the age of 16 were referred to Gavroche centre. However, this not necessarily means that they were also taken over and accommodated there. Many of the children left and only 4-5 children were accommodated in the centre. It was also reported that there is a limited number of places (5-7 places) designated to asylum-seeking children in DGASPC centres.

Conditions in Gavroche centre are good according to JRS. It was also reported that many unaccompanied children are leaving the centre after the isolation period (14-10 days).

According to IGI-DAI, 98 unaccompanied children were accommodated in DGASPC centres in 2020.⁴⁸⁵

Occupancy at the end of 2020	
Bucharest	7
Giurgiu	2
Galați	0
Rădăuți	2
Șomcuta Mare	2
Timișoara	4
Total	17

Source: IGI-DAI, 16 February 2021.

1.2. Unaccompanied children aged 16 or more

Unaccompanied children, who have reached the age of 16 and do not have the necessary material resources to ensure their subsistence, are accommodated in the Regional Centres. They are accommodated together with adults in all regional centres, except Șomcuta Mare, where they are accommodated separately. Only one 6-year-old child is housed together with his uncle.

The director of **Stolnicu** Regional Centre reported that in 2020 there were 189 unaccompanied minors registered in the centre, out of which 59 were under the age of 16.

In **Giurgiu**, 95 unaccompanied children over the age of 16 were accommodated in the regional centre, the director of the centre reported and 2 were accommodated in Casuta Albastra centre managed by DGASPC.

During 2019, a total of 230 unaccompanied children were accommodated in Regional Centres.⁴⁸⁶ At the end of 2020, 412 unaccompanied children were accommodated in Regional Centres.⁴⁸⁷

Occupancy at the end of 2020	
Bucharest	64
Giurgiu	116

⁴⁸³ Ombudsman, recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/3kHBwuA>

⁴⁸⁴ Ombudsman, recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/3reuPIV>

⁴⁸⁵ Information provided by IGI-DAI, 16 February 2021.

⁴⁸⁶ Information provided by IGI-DAI, 5 March 2020.

⁴⁸⁷ Information provided by IGI-DAI, 16 February 2021.

Galați	95
Rădăuți	8
Șomcuta Mare	79
Timișoara	50
Total	412

Source: IGI-DAI, 16 February 2021.

2. Reception of families

Efforts are made to ensure that nuclear families can stay together during the asylum procedure. Families are accommodated in separate rooms.

Due to the high number of asylum seekers registered in 2020, families were accommodated together with other women in **Bucharest**.

In **Galați**, if there were available places families were accommodated separately. As of September 2020, this is no longer possible because of the increased number of asylum seekers. Single women are accommodated with single mothers with children; single fathers with boys accommodated together with single men; single mothers with boys with other families or women.

Timișoara: families are accommodated separately if there are available places. The director of Timișoara Regional Centre also mentioned that in 2020 due to the high number of asylum seekers, they were also sleeping in the kitchen or on the hall way or 2 persons in one bed.

In **Rădăuți** families are not always accommodated separately. There were cases where a single mother together with her child had to share a room with single men. It was also reported that asylum seekers are no longer accommodated based on their nationalities.

Beyond the Regional Centres managed by IGI-DAI, AIDRom runs two Accommodation Centres:

- One Accommodation Centre in **Timișoara**, which operates uninterruptedly since August 2012 with a capacity of 15 places; and
- One Accommodation Centre in **Bucharest**, which operates since 2015 with 18 places.

These centres accommodate vulnerable persons, especially single parents with children (mothers with children). The AIDRom centres are located within these cities, funded partially by AMIF and partially by external donors. Asylum seekers housed in these centres have access to social assistance, cultural activities and cultural orientation.

AIDRom reported that in 2020, approximately 25 asylum seekers were accommodated in the 2 AIDRom centers. In Bucharest they accommodated families who remained here for almost 1 year, until they finalised the asylum procedure.⁴⁸⁸

In 2020, according to IGI-DAI a total of 41 persons were accommodated in both AIDRom centres and at the end of the year there were 11 asylum seekers these centres.⁴⁸⁹

⁴⁸⁸ Information provided by AIDRom, 4 March 2021.

⁴⁸⁹ Information provided by IGI-DAI, 16 February 2021.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

Asylum seekers are informed of their rights and obligations pursuant to Article 17(1)(f) of the Asylum Act. IGI-DAI shall provide written information to asylum seekers in a language they understand or are reasonably supposed to understand, within a maximum of 15 days from the submission of the asylum application.⁴⁹⁰ The information shall be provided by the official responsible for receiving the asylum application, according to a template established by order of the General Director of IGI.⁴⁹¹ Where necessary to ensure an adequate understanding of the information by the applicant, it may also be presented orally during the preliminary interview.⁴⁹² Competent officers are also required to inform asylum seekers on how to contact NGOs and UNHCR and how to obtain legal assistance and representation.⁴⁹³ The General Director of IGI appoints the official responsible for ensuring the conditions to carry out the above activities.⁴⁹⁴

The house rules of the reception centres prescribe that, when accommodated in reception centres, asylum seekers also receive information on the rights, obligations, prohibitions and disciplinary sanctions applicable during their stay in the centre. In this regard information is handed to asylum seekers in the form of an information sheet in a language that he or she understands or is reasonably supposed to understand and in which he or she can clearly communicate. Where appropriate, for an adequate understanding of the applicant, information may also be provided orally using the services of an interpreter apt to ensure appropriate communication.⁴⁹⁵ The applicant has to sign an acknowledgment of receipt of the information leaflets.

According to the JRS representative, the information prescribed by the law is in practice more a presentation of the rights and obligations. The asylum seekers do not receive detailed information about their rights and obligations. It was noted that only in very few interview transcripts the asylum seeker declared that he or she is not aware of the rights and obligations.

In practice, asylum seekers are expected to contact the NGOs in the Regional Centres in order to get more detailed information on reception conditions, house rules and their rights and obligations.

Bucharest: the integration officer or the officer at the checkpoint of the regional centre explains the Regulation of Internal Order (ROI), when needed, without an interpreter or maybe with the help of AIDRom's cultural mediator, as reported by JRS. The director of Stolnicu Regional Centre reported that asylum seekers are informed in writing (in English) by the officer at the checkpoint. It has been reported that leaflets regarding the ROI, rights and obligations were distributed in the past but are no longer distributed. JRS drafted leaflets with ROI, which are displayed in the centre. According to the director of the Regional Centre, the information is provided at the time of accommodation in the centre by the officers at the access control point, with the help of an IOM Arabic interpreter who is present in the centre from 08:00 to 14:00, or by a person from the community. Written information is provided.

Giurgiu: Asylum seekers receive information about ROI upon arrival in the centre. The NGOs organise information sessions with asylum seekers after their arrival at the centre and offer information during individual counselling sessions.

Galați: The ROI is explained in an easily comprehensible manner at the moment of accommodation in the centre, with the assistance of an interpreter, where possible, or of a person from the community who

⁴⁹⁰ Article 17(1)(f) Asylum Act; Article 2(1) Asylum Decree.

⁴⁹¹ Article 2(1) Asylum Decree.

⁴⁹² Article 2(1[^]1) Asylum Decree.

⁴⁹³ Article 2(2) Asylum Decree.

⁴⁹⁴ Article 2(3) Asylum Decree.

⁴⁹⁵ Article 5(1) and (2) ROI.

speaks English. The information is provided every time it is requested. There is also written information in the rooms and in the hallway in different languages.

Șomcuta Mare: Asylum seekers are provided general information on the ROI and the projects implemented by NGOs in the Regional Centre, upon submission of the asylum application. In general, IGI-DAI provides information to asylum seekers only upon arrival in the centre, while NGO representatives cover the details and additional information on the procedure, rights and obligations.

Timișoara: Information on the ROI is provided in written at the registration of the asylum application. There are leaflets in several languages. ROI is explained by the NGOs during information sessions, with the help of interpreters paid by AIDRom. AIDRom organises information sessions on ROI twice a week, with the help of the cultural mediator who speaks Arabic. The sessions are focusing on ROI, co-living and hygiene rules, public health, fire prevention. The JRS representative also offers information during individual counselling sessions. The NGOs are organising a joint information session for the new arrivals, where they describe the activities and services of each NGO and also explain ROI and the asylum procedure.

Rădăuți: Asylum seekers receive leaflets when their asylum application is registered. NGO representatives inform them orally during counselling sessions. Posters with ROI are displayed in several languages on the doors where asylum seekers are accommodated. 1-2 information sessions were held over the year.

UNHCR developed information leaflets on COVID-19 in several languages, which were distributed in all regional centres.

Information on the rights, obligations, prohibitions and disciplinary sanctions applicable during the stay in the Regional Centre shall be displayed in each accommodation room in an international language.⁴⁹⁶ However, according to the stakeholders interviewed by the author, this is not respected in practice, although in **Șomcuta Mare** the main provisions of the ROI are incorporated in a poster in the form of infographics. In **Timișoara**, posters on the rights and obligations prepared by CNRR and AIDRom, and billboards with excerpts from the ROI and the Asylum Act, are displayed in the building where the asylum seekers are accommodated.

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

Pursuant to Article 17(1)(r) of the Asylum Act, asylum seekers have the right to be visited by family members, representatives of national and international NGOs and bodies with duties in the field of asylum or human rights, authorised and accredited under the law.

During the pandemic, access of visitors and those who do not carry out activities in the regional centers was restricted.

The house rules prescribe that visitors shall have access to the centre premises, including closed spaces, only through the access control post, based on identity documents such as identity card, passport, diplomatic identity card or residence permit. Visitors' access to the centre premises, including closed spaces, shall be allowed only after they have been authorised by the service staff at the access control post and after registering the entry in the Visitor Record Register. Authorities are forbidden from retaining the documents at the access control post.

⁴⁹⁶ Article 5(3) ROI.

NGOs implementing projects funded by the AMIF national programme have access to reception centres for the duration of their projects, based on protocols with IGI-DAI.

G. Differential treatment of specific nationalities in reception

There is no difference in treatment based on nationality with respect to reception. All Regional Centres accommodate different nationalities.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2020:	1,241
2. Number of persons in detention at the end of 2020:	155
3. Number of detention centres:	2
4. Total capacity of detention centres:	274

Specific measures imposed during the pandemic

IGI-DAI stated that during the state of emergency, visits in the public custody centre were restricted. In order to compensate this measure, detainees were allowed to use their personal phones, in accordance with the house rules. Access to money sent by the relatives was facilitated. Weekly shopping for detainees was not suspended. The premises and cars were disinfected. Staff members and other persons working in the centre were medically screened when entering the facility. In Otopeni medical assistance was ensured 24/7.⁴⁹⁷

In **Arad**, the newly arrived detainees are placed in quarantine for 14 days in a separate building (building B). The building has 52 places. They are accommodated in rooms with 4 bunk beds, a shower and a toilet. If the foreigners are apprehended together, they will be placed in the same room. They are not allowed to leave their rooms while in quarantine. The food is provided directly in the detainees' rooms. After the quarantine they are moved in building C, where the rest of foreigners are detained. They are monitored by the medical staff of the centre; they check their temperature.

In **Otopeni**, the newly arrived detainees are separated from the other detainees for 14 days, in separate rooms. According to the directors they are allowed to leave their rooms. However, 2 of the interviewed detainees, who were isolated in Otopeni, stated the contrary, that they were not allowed to leave the room during these 14 days. One of them described this period of isolation as horrible, because he was alone in the room, he was not allowed to leave the room, he was eating in his room and he was communicating very little with the police; "it is very easy to fall into depression" he said. He also mentioned that in these 14 days he was not informed about his situation, he didn't know what was the procedure to follow in his case.

The medical doctor reported that in 2020 there were no COVID-19 cases in Otopeni.

Communication, and information provision during a 14 day quarantine is very limited. The director of Arad said that the contact is limited to 15 minutes.

The JRS representative reported that in the context of the COVID-19 pandemic the management of the detention centres implemented the following measures: meals are served in small groups; detainees are taken outside in the courtyard in small groups; access to detention centres is partially restricted for visitors. Only NGO representatives, lawyers and consular officers were allowed to visit the centres. The management of the detention centres reported to JRS that IGI staff received sufficient gloves, masks and hygiene products.

During the author's interview with the detainees in Arad centre not all the interviewed foreigners had masks. The interviews took place in the dining room. In contrast, in Otopeni all the interviewed detainees had masks and the interviews were held in a room where usually the court hearings take place through videoconference and the table was separated by a plexiglass.

According to an officer working in Arad, the detainees receive masks from CNRR. In Otopeni the masks are provided by IGI and CNRR.

⁴⁹⁷ Information provided by IGI-DAI, 16 February 2021.

COVID-19 specific measures imposed on return procedures

According to the director of **Arad** a number of 612 foreigners were returned to Serbia on the base of the readmission agreement. They had to be tested for COVID-19 in order to return them. 8 persons were tested positive, however they were asymptomatic. The first case of COVID-19 was taken to the hospital, but he was released the same day because he was asymptomatic. The rest of the detainees tested positive were isolated in the detention centre. According to the directors of **Otopeni**, the detainees have to be tested for COVID-19 in order to return them. The PCR tests are performed in specialized clinics or an ambulance from DSP is sent to the detention centre in order to make the test.

Specially designed closed spaces

Before the recast Reception Conditions Directive, Romania only detained foreigners subject to removal. An asylum detention regime was established following the transposition of the Directive, taking the form of a specially designed closed place i.e. locked rooms in each Regional Centre, except **Giurgiu**.

Detention in a specially designed closed space is ordered in writing, for a period of 30 days, by an order motivated in fact and in law by the designated prosecutor within the Prosecutor's Office attached to the Court of Appeal territorially competent for the area where the Regional Centre is located, upon a motivated request by IGI.⁴⁹⁸ Romania does not apply this form of detention in practice. Since the entry into force of the reform on 20 April 2016 and until today, only one applicant in **Bucharest** has been subject to asylum detention, as he was considered dangerous for public order. The reasons behind the lack of use of the specially designed closed spaces of the reception centres include lack of staff, as well as unsuitable facilities to meet the standard requirements for detention, especially concerning daily meals.

In 2020 due to the high number of arrivals in **Rădăuți**, **Șomcuta Mare**, **Galați** the specially designed closed spaces were used in order to accommodate asylum seekers.

Capacity of specially designed closed spaces: 2020	
Centre	Capacity
Timișoara	15
Șomcuta Mare	15
Rădăuți	10
Galați	30
Bucharest	96
Giurgiu	0
Total	166

Source: IGI-DAI, 16 February 2021.

Public custody centres

The 2015 reform also amended the provisions of the Aliens Ordinance regarding the situation of foreigners who lodge an asylum application from detention. Whereas prior to 2015 the Aliens Ordinance required the release of foreigners from detention as soon as a first application for international protection was lodged, the Aliens Ordinance now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure in Romania.

The law defines the measure of taking a person into “public custody” as a temporary restriction of the freedom of movement on the territory of Romania, ordered against foreigners in order to accomplish all the necessary steps for removal or transfer under the Dublin Regulation under escort.⁴⁹⁹ In practice, however, it constitutes a measure of deprivation of liberty.

⁴⁹⁸ Article 19⁷(1) Asylum Act.

⁴⁹⁹ Article 101(1) Aliens Ordinance.

There are 2 detention centres, known as Centres for Accommodation of Foreigners Taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*), located in **Otopeni**, near Bucharest, and **Arad**, near Timișoara. The centres are managed by IGI and are specially designed for temporary accommodation of foreigners taken into public custody.⁵⁰⁰

Detention (“public custody”) is ordered in writing by an order, justified in law and in fact by the designated prosecutor within the Prosecutor’s Office attached to the Court of Appeal of Bucharest, upon a motivated request by IGI.⁵⁰¹

In general asylum seekers are not detained. The main categories of asylum seekers detained are those who applied for asylum from detention and their application was assessed in accelerated procedure.

In 2020, a total of 1,241 foreigners were detained in the public custody centres, compared to 377 in 2019.¹⁷¹ Asylum applications were made from detention, of which 148 in Arad and 23 in Otopeni.⁵⁰²

Arad: During the author’s visit to the Public Custody Centre of **Arad** on 9 February 2021, there were 141 foreigners in detention out of which 5 were asylum seekers. A total of 1,164 persons were detained in Arad in 2020, recording an increase of 435% in comparison with the previous year. Out of the total number of detainees, 499 were Syrian nationals. According to the director of Arad, a total number of 172 asylum applications were made in Arad, out of which 90 were granted access to regular procedure. However, the Director of Timișoara Centre reported that 28 asylum applications were made in 2020 in Arad, out of which only 2 were assessed in the regular procedure, the rest of 26 were assessed in accelerated procedure.

Otopeni: According to the director of Public Custody Centre Otopeni 391 persons were detained in **Otopeni** in 2020, out of which 19 were asylum seekers and 16 were migrants who lodged a subsequent application.

The law prescribes a deadline of 3 days for IGI-DAI to assess the asylum application of an applicant who is in detention and to issue a motivated decision.⁵⁰³ Therefore in these cases the procedure is rapidly conducted. Asylum seekers cannot prepare for the personal interview, as they have no time to contact an attorney or a legal counsellor in order to be counselled or assisted at the interview. According to the legal counsellor in **Timișoara**, personal interviews are rudimentary and the procedure is quickly conducted, also given the mental state of detained asylum seekers.

B. Legal framework of 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:⁵⁰⁴ ☐ Yes ☒ No
2. Are asylum seekers detained during a regular procedure in practice?
 - ☐ Frequently ☐ Rarely ☒ Never
3. Are asylum seekers detained during a Dublin procedure in practice?
 - ☐ Frequently ☒ Rarely ☐ Never

1.1. Detention of asylum seekers in specially designed closed spaces

⁵⁰⁰ Article 103(3) Aliens Ordinance.

⁵⁰¹ Article 19^14(1) Asylum Act; Article 101(2) Aliens Ordinance.

⁵⁰² Information provided by IGI-DAI, 16 February 2021.

⁵⁰³ Article 19^15(1) Asylum Act.

⁵⁰⁴ Accommodation in airport transit zone with very restricted freedom of movement.

Under Article 19⁵(1) of the Asylum Act, when **Alternatives to Detention** cannot be applied, IGI may place asylum seekers in specially designed closed places to carry out the necessary procedural steps and to limit abuse to the procedure, for the following reasons:

- a. To verify the applicant's identity
- b. To establish the elements on which the application is based, which could not be obtained in the absence of this measure, in particular where there is a risk of absconding by the applicant;
- c. At the request of one of the institutions with responsibilities in the field of national security, from which it follows that the applicant presents a danger for the national security.

The law provides that the “risk of absconding” within the meaning of Article 19⁵(1)(b) of the Asylum Act is to be understood as the factual situation which justifies the assumption that the applicant absconds from performing the activity of determining the elements of the asylum application made with the occasion of the personal interview.⁵⁰⁵ The Asylum Act sets out the criteria for determining the existence of a “risk of absconding”:⁵⁰⁶

- a. The applicant crossed or was caught trying to illegally cross the state border of Romania after filing the asylum application;
- b. The applicant was caught trying to illegally cross the state border of Romania, and the asylum application was filed after the person was apprehended;
- c. There are reasons to believe that the applicant intends to leave Romania after filing the application.

The measure of placement in specially designed closed spaces cannot be ordered in relation to asylum seekers subject to the Dublin procedure or to a measure of removal or expulsion from the Romanian territory.⁵⁰⁷

1.2. Detention of asylum seekers in public custody centres

Under Article 19¹³ of the Asylum Act an asylum seeker may be placed or maintained in detention (“public custody”) in the cases foreseen by the Aliens Ordinance,⁵⁰⁸ as well as in the following cases:

- a. In order to carry out the transfer to the responsible Member State under the Dublin Regulation, where there is a significant risk of absconding;⁵⁰⁹
- b. Where the applicant was detained with a view to removal or expulsion from Romania and filed an application in order to delay or prevent enforcement of the removal or expulsion measure, having had the possibility to lodge an application before.

The Asylum Act sets out a different set of criteria for the determination of a “significant risk of absconding” in the Dublin procedure, referring to cases where the applicant:⁵¹⁰

1. Has irregularly crossed the border and his or her fingerprints match with a Eurodac ‘hit’;
2. Has irregularly crossed the external border of the EU Member States or Schengen countries, or was caught trying to irregularly cross the Romanian border and applied for asylum after being apprehended;
3. Has irregularly crossed or attempted to cross the Romanian border after applying for asylum in Romania;

⁵⁰⁵ Article 19⁶(3) and (2) Asylum Act.

⁵⁰⁶ Article 19⁶(4) Asylum Act.

⁵⁰⁷ Article 19²(3) Asylum Act.

⁵⁰⁸ Article 101(2) Aliens Ordinance. The measure of public custody is ordered against a foreigner who cannot be removed under escort within 24 hours and who: (a) risks absconding from removal; (b) avoids or hampers the preparation of the return or removal under escort process; or (c) is subject to expulsion.

⁵⁰⁹ Article 19¹³ Asylum Act, in conjunction with Article 19¹⁴(1) Asylum Act.

⁵¹⁰ Article 19¹⁴(2) Asylum Act.

4. Has applied for asylum in Romania after having been transferred to the responsible Member State;
5. Has not complied with alternatives to detention;⁵¹¹
6. Opposes the transfer to the responsible Member State.

In practice, in most cases asylum seekers are detained on the territory. In relation to applicants subject to the Dublin procedure, who cannot be detained in specially designed closed spaces; most stakeholders reported that detention in public custody is generally not ordered. These asylum seekers are usually detained if they cross or attempt to cross into Hungary. According to the Director of the Regional Centre Timișoara, applicants subject to the Dublin procedure were never placed in detention.

Whereas prior to 2015 the Aliens Ordinance required the release of the foreigner from detention as soon as a first application for international protection was lodged, the law now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure. Therefore, if they are assessed in an **Accelerated Procedure**, they will stay in detention until the asylum procedure is concluded. If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined. When the applicant makes a subsequent application, detention ceases on the date he or she is granted access to the new procedure.⁵¹² If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined.

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
 - ☐ Other
2. Are alternatives to detention used in practice?
 - ☐ Yes ☒ No

Specially designed closed spaces

The Asylum Act provides for the possibility to impose alternatives to asylum detention, defined as “restrictive measures”, in order to fulfil the necessary formalities, to limit abuse of the asylum procedure, and in case the asylum seeker poses a threat to national security, on the basis of an individual assessment.⁵¹³ These consist of:⁵¹⁴

- ❖ Reporting duties;
- ❖ Designated place of staying in one of the Regional Centres.

Detention in specially designed closed spaces may be ordered if reporting duties and designated place of stay measures cannot effectively be applied to carry out the necessary procedural formalities and to limit abuse of the asylum procedure.⁵¹⁵

No restrictive measures may be imposed against an asylum applicant for the sole reason that he or she has lodged an application for international protection in Romania.⁵¹⁶

Detention (“public custody”) centres

⁵¹¹ Article 19¹⁴(2)(e) Asylum Act, citing Article 19²(1)(a)-(b).

⁵¹² Article 101(8) Aliens Ordinance.

⁵¹³ Article 19²(1) Asylum Act.

⁵¹⁴ Article 19²(1) Asylum Act.

⁵¹⁵ Article 19⁵(1) Asylum Act.

⁵¹⁶ Article 19²(2) Asylum Act.

The placement of an asylum seeker in detention centres (“public custody”) may be ordered if the prior assessment regarding the possibility to impose alternatives to detention demonstrates that these measures are not possible and sufficient to meet the procedure and the purpose sought,⁵¹⁷ namely removal from Romania or transfer under the Dublin Regulation.

IGI-DAI reported 39 asylum seekers subject to a decision of designated place of stay in one of the Regional Centres in 2019.⁵¹⁸ It was also reported, 3 foreigners subject to alternatives to detention of tolerated status.⁵¹⁹ In 2020, 33 foreigners were granted tolerated status as an alternative to detention.⁵²⁰

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

Specially designed closed spaces

Asylum detention, i.e. placement in specially designed closed spaces, cannot be ordered against unaccompanied asylum-seeking children, except for cases where the unaccompanied child cannot prove his or her age and, due to serious doubts thereon, IGI-DAI requests an age assessment.⁵²¹

Detention (“public custody”) centres

The Public Custody Centres Regulation explicitly provides that children cannot be detained in these centres, unless they are accompanied by at least one of the parents or their legal representative, who are taken into public custody.⁵²²

According to the amended Aliens Act, in case the foreigner declares that he or she is a minor and cannot prove his or her age, if there are serious doubts about his minority, he or she will be considered an adult.⁵²³ In this situation, IGI requests an age assessment, with his or her prior consent.⁵²⁴ As a consequence the child will be treated as an adult and placed in detention pending the age assessment, until his or her age is confirmed.

CNRR reported that in 2020, 35 accompanied children (by a single parent or his or her family) were detained in 2020. JRS was aware of 9 accompanied children detained in Arad.

According to the Directors of **Otopeni**, 3 single parent families accompanied by 5 underage children were detained in 2020. The families were transferred from Arad in order to return them to their country of origin; they stayed in Otopeni around 2 nights.

⁵¹⁷ Article 19^13(2) Asylum Act.

⁵¹⁸ Information provided by IGI-DAI, 20 February 2020.

⁵¹⁹ *Ibid.*

⁵²⁰ Information provided by IGI-DAI, 16 February 2021.

⁵²¹ Article 19^5 Asylum Act, in conjunction with Article 42(2) Asylum Act.

⁵²² Article 29 Public Custody Centres Regulation.

⁵²³ Article 131^1(1) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

⁵²⁴ Article 131^1(2) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

In 2020, in **Arad**, 43 accompanied children were detained for a period between 30 to 60 days. The youngest child was only 3 weeks old, according to the psychologist of Arad. The majority of these children were accompanied by a single parent.

According to the Director of the Public Custody Centre of **Arad**, a total of 21 single parent families and 2 families were detained in Arad in 2020. Also 34 single women were detained in Arad during the year.

According to IGI-DAI, 31 minors accompanied by both or one of the parents were detained in 2020.⁵²⁵

Romanian law does not prohibit detention of other vulnerable asylum seekers. IGI-DAI noted that detention of persons with special needs such as victims of torture or trafficking has not been applied in public custody.⁵²⁶

The JRS representative reported that there were vulnerable persons detained in both centres, with medical and psychological issues. They were identified as such by the NGOs. IGI granted tolerated status to those considered by them as vulnerable. The average duration of detention in case of vulnerable persons identified as such by the NGOs was 1-7 months. According to the Director of Otopeni there was a migrant with psychological issues, who was returned to the country of origin within 3 months. Another migrant suffering from diabetes was released within 1 month.

According to the director of Otopeni there were 5 children (from 1- 12-year old) detained in 2020, they were accompanied by their parents.

Save the Children stated that IGI doesn't officially take children in public custody, but children can be in public custody when they are sent there together with their parents – considering that it is in their best interest not to be separated from their family.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|---|------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | |
| ❖ Asylum detention | 2 months |
| ❖ Pre-removal detention | 18 months |
| 2. In practice, how long in average are persons detained?
(see below for more details) | 1-5 months |

Specially designed closed spaces

According to Article 19⁷(1) of the Asylum Act, detention in specially designed closed spaces is ordered for a period of 30 days. IGI may request the territorially competent Court of Appeal to prolong detention for an additional 30-day period.⁵²⁷ Accordingly, the total period of detention in those spaces may never exceed 60 days.⁵²⁸

IGI-DAI has to carry out the examination of the applicant's identity and establishment of the elements of the asylum claim expeditiously in order to maintain the measure of detention as short as possible. Delays due to the administrative procedures that cannot be imputed to the applicant cannot justify a continuation of detention, except for situations where it is necessary to continue to apply the measure for reasons of national security, without exceeding the 60-day limit.⁵²⁹

Detention ("public custody") centres

⁵²⁵ Information provided by IGI-DAI, 16 February 2021.

⁵²⁶ Information provided by IGI-DAI, 14 February 2018.

⁵²⁷ Article 19⁷(3) Asylum Act.

⁵²⁸ Article 19⁷(5) Asylum Act.

⁵²⁹ Article 19⁷(6) Asylum Act.

Detention in public custody centres is also ordered for an initial period of 30 days⁵³⁰ and it may not exceed 6 months.⁵³¹ However, this period may be extended exceptionally for an additional period no longer than 12 months, in cases where IGI-DAI is unable to transfer the asylum seeker to the responsible Member State due to delays in obtaining the necessary documentation for the transfer to the respective Member State.⁵³² Therefore, detention in public custody can last up to 18 months.

Specifically, as regards detention in the Dublin procedure, the Asylum Act recalls that detention ceases if the time limit of six weeks set out in Article 28(3) of the Dublin Regulation is reached.⁵³³

When asylum seekers lodge an application in detention centres and are assessed under the accelerated procedure, they spend the whole asylum procedure in detention.

The duration of detention in **Arad** in 2020 was as follows:

Duration of detention – Public Custody Centre Arad: in 2020	
Duration	Number of persons
> 5 days	148
> 10 days	140
>20days	422
>30 days	84
> 6 months	248
> 1 year	2
<1 year	1

Source: IGI, Director of Arad Public Custody Centre, 9 February 2021.

According to the JRS representative, in **Arad** there were 3 Indian nationals detained for 15 months, 2 Iraqi nationals detained for 7 months, 13 months respectively, 1 Bangladeshi and 1 Algerian national detained for 7 months and a Syrian national detained for 6 months.

In **Otopeni**, JRS reported 1 Indian national who was detained for 9 months, 1 Moroccan national and one Sri- Lankan national detained for 8 months and 1 Afghan national detained for 7 months.

According to the directors of **Otopeni** the average duration of detention in 2020 was 3 months. They mentioned that the duration of detention was longer due to the pandemic. Since 16th of March there were no more return flights. After the state of emergency a humanitarian flight to Iraq was organised. During the state of alert the flights were resumed.

According to IGI-DAI, in 2019, the average duration of detention was 1-5 months.⁵³⁴ In 2020, IGI-DAI reported an average duration of detention of 26,4 days.⁵³⁵

Detention in border and transit zones

Detention upon apprehension cannot exceed 24 hours under the Romanian Constitution and the Criminal Procedure Code.⁵³⁶

⁵³⁰ Article 19¹⁴(1) Asylum Act.

⁵³¹ Article 19¹⁴(6) Asylum Act.

⁵³² Article 19¹⁴(7) Asylum Act.

⁵³³ Article 19¹⁴(10) Asylum Act.

⁵³⁴ Information provided by IGI-DAI, 20 February 2020.

⁵³⁵ Information provided by IGI-DAI, 16 February 2021.

⁵³⁶ Article 23 Romanian Constitution; Article 209 Criminal Procedure Code.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

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

According to the law, asylum seekers may be detained in specially designed closed spaces within the Regional Centres, as well as in public custody centres. Asylum seekers are only detained in prisons if they are convicted of a criminal act or if they are sentenced to imprisonment.

1.1. Specially designed closed spaces in Regional Centres

All Regional Centres except **Giurgiu** contain specially designed closed spaces. In **Bucharest**, 96 places are established at the IGI-DAI **Tudor Gociu**. **Rădăuți** has 10 places in closed spaces, **Galați** has 30, **Timișoara** has 15 and **Somcuta Mare** has 15 places located in a closed space in the basement of the building.

1.2. Detention (“public custody”) centres

There are two Accommodation Centres for Aliens Taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*) in Romania with the following capacity:

Capacity of detention centres: 2020	
Detention centre	Capacity
Otopeni	114
Arad	160
Total	274

Capacity in Arad may be extended to 206 places but only for limited periods.

Capacity in Otopeni can be extended to 132 places.

In 2020, **Arad** centre reached the maximum capacity of 206 places. Detainees were placed in the common rooms or extra mattresses were placed in the rooms on the floor. According to the director of Arad this situation lasted around 3 days, because detainees were transferred to Otopeni.

Asylum seekers placed in public custody centres shall be detained, as far as possible, separately from other categories of foreigners.⁵³⁷ In practice, this not the case according to the directors of the **Arad** and **Otopeni** centres and JRS representative in Otopeni. The director of Arad stated that they try to take this into account, however, in reality it really depends on the availability of places and in practical terms the separation of asylum seekers from the other migrants would be only for a few days, as the asylum procedure in their case is swift and practically it would be burdensome.

Persons who are convicted of crimes are also to be accommodated in separate rooms from other categories of foreigners. The undesirable foreigners and those who are convicted of crimes are accommodated separately from the others, according to the Directors of Otopeni and Arad.

According to the directors of public custody centres and JRS families are detained separately.

⁵³⁷ Article 19¹⁶(1) Asylum Act.

1.3. Transit zones

In 2020 there were 16 airport transit zones, with a total capacity of 99 places.⁵³⁸

Capacity airport transit zones:2020		
Airport	Refusal of entry	Asylum seekers
“Henri Coandă” Bucharest	4	4
Băneasa Bucharest	2	4
Baia Mare	0	0
Suceava	1	2
Iași	2	2
Bacău	3	3
Craiova	4	4
„Delta Dunării” Tulcea	0	0
Timișoara	2	12
Arad	2	4
Oradea	4	4
Cluj-Napoca	4	4
Satu Mare	4	4
Târgu Mureș	2	2
Sibiu	3	3
„Mihail Kogălniceanu” Constanța	4	6
Total	41	58

Source: Border Police, 3 March 2021.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice? ☒ Yes ☐ No
 ❖ If yes, is it limited to emergency health care? ☐ Yes ☒ No

Given that detention of asylum seekers in specially designed closed spaces of Regional Centres is not used in practice, the following section focuses on conditions in detention (“public custody”) centres.

Public custody centres are managed by the IGI Migration Directorate. According to the Aliens Ordinance, the centres are established, organised, sanitary authorised and equipped to provide adequate accommodation, food, medical care and personal hygiene.⁵³⁹

The director of **Arad** emphasised the lack of interpreters and lack of nurses as an issue. At the time of the author’s visit there were only 2 nurses, one of which was on medical leave for more than 100 days. The Director mentioned that a new nurse will be hired in the coming period. In 2020 they managed to sign a service provider contract with a medical doctor. The doctor is present in the centre 3h/day on weekdays. The Ombudsman also reported the lack of personnel.⁵⁴⁰ The director further mentioned that they cannot communicate well with the detainees. Some of the interviewed detainees declared that they do not understand what the police officers are saying. The author noticed during the interviews that most of the

⁵³⁸ Information provided by the Border Police, 3 March 2021.

⁵³⁹ Article 103(3) Aliens Ordinance.

⁵⁴⁰ Ombudsman, *Report 52/2019*.

foreigners detained in Arad had basic knowledge of English. The communication with them was difficult; it was hard for the foreigners to understand basic questions.

The Ombudsman's report on **Otopeni** also mentions the existence of language barriers between IGI's staff and detainees.⁵⁴¹ The Ombudsman observed, after reading the medical records of the detainees, that the language barrier seemed to be one of the reasons why some of the detainees refused to see a specialist, a situation that might have put them in danger.⁵⁴² Nevertheless, the JRS representative in Otopeni stated that even though there are no interpreters in the centre, IGI communicates with the detainees with the help of other detainees who are speaking more languages and are trustworthy.

The directors of **Otopeni** stated that they manage to communicate with the foreigners in English or in Romanian. The NGOs also provided them with leaflets in several languages. In 2020 no trainings for staff members working in Otopeni or in Arad were held by outside actors. The directors of Otopeni mentioned they are organising internal trainings on a (bi)weekly basis for their staff on how to fulfil their attributions and how to interact with the foreigners detained in the centre. The same was also reported by the director of Arad that they organise monthly internal trainings in the centre on different topics such as: return, asylum, stopping illegal stay in the country.

None of the foreigners detained in **Arad or in Bucharest**, interviewed by the author, reported that the police officers are ill-treating them. Nevertheless, 2 of the foreigners interviewed by the author in Otopeni, who were also detained in Arad stated that the police officers in **Arad** are "not good", because they curse them and throw bad words at them, they do not respect them.

When transferred from the facility to court for hearings, detained foreigners are handcuffed and escorted. According to the director of Arad, the foreigners are not always handcuffed, only if there is a risk of absconding or the number of foreigners is higher than the number of police officers accompanying them. Asylum seekers detained in Arad are not handcuffed when they are taken to court hearings, reported the director of Arad.

According to the directors of **Otopeni**, foreigners are handcuffed and escorted to the court. The handcuffs are taken off once they entered the court. According to the foreigners interviewed by the author during the visit in Otopeni the handcuffs are taken off when they enter the courtroom, where the court hearing is held.

The JRS representative reported that only detainees with an uncooperative attitude are handcuffed in order to prevent absconding.

Regarding detainees' right to information on their rights and obligations in detention in **Arad** all detainees receive written information about their rights and obligations in English, upon arrival, the director stated. The author noticed that posters in different languages were also displayed on the dormitory doors and dining room.

According to the JRS representative, in **Otopeni** and in **Arad**, the information on ROI and asylum procedure is provided by IGI. The detainees receive leaflets in A4 format with rights and obligations, in a language that IGI considers that the foreigners know. In addition, CNRR and JRS also provide information. CNRR has leaflets with the rights and obligations in the asylum procedure in different languages.

According to the directors of **Otopeni**, detainees are informed about their rights and obligations and reasons for their detention upon arrival in the centre in writing in English and Romanian. Posters with the rights and obligations and ROI are displayed on the hallways of the centre in several languages. During the visit in Otopeni the author saw the posters with ROI and rights and obligations in different languages displayed on the hallways and in the room used for videoconferences with the court.

⁵⁴¹ Ombudsman, Report 68/2018.

⁵⁴² *Ibid.*

Some of the foreigners interviewed by the author during the visit in Otopeni mentioned that they receive the decision in Romanian and short information in English.

2.1. Overall conditions

Otopeni centre operates in Otopeni, Ilfov County, near the largest airport in Romania, Henri Coanda Airport, which facilitates the operative return of foreigners to their countries of origin. The centre was established in 1999 and renovated in 2004-2005 with PHARE funds of €1,500,000, including Romania's own contribution.⁵⁴³ Otopeni centre has two buildings. In November 2020 renovation works started for one of the buildings of the detention centre, with AMIF funds. The building, which has around 60 places of accommodation, will be renovated completely on the interior and exterior- the water pipes and tiles are changed, bathrooms are completely refurbished. Next to this building there is a small football field and a small park, which are also under renovation works. The directors said that the constructions may be finalised in April 2021. The centre has a capacity of 114, with the possibility of extension at 132 places. The majority of the rooms have 4 beds each, but there are also rooms with 6, 8 and one room with 12 beds.

Arad is located in Horia, a village in Arad County. It has a capacity of 160 places. There are two buildings: one (building B) hosting the administrative offices and 52 places of accommodation and another building (building C) designated for accommodation with 108 places, administration purposes and other activities, inaugurated in 2015.⁵⁴⁴ Each room is designed to accommodate 4 people and has 4.5 to 6m²per person.⁵⁴⁵

According to the directors of the two centres, both Otopeni and Arad have reached maximum capacity in the past. In 2020, in **Otopeni** the highest number of detainees was 96. In February/ March 2020 the number of detainees was around 30. A total of 1,164 persons were detained in Arad in 2020, recording an increase of 435% in comparison with the previous year. The JRS representative reported a 40% occupancy rate in both centres.

During the visit carried out to Otopeni on 5 February 2021, the detention conditions in the building which is not under renovation were satisfactory. The hallways and other shared spaces were clean. The dining room which is in the other building was also clean. The outside space cannot be used by the detainees due to the renovation works as of November 2020. However, one of the foreigners interviewed by the author mentioned that they are not allowed to go outside since June 2020. Instead, detainees have access to a spacious but otherwise a closed terrace.

During the visits carried out to Arad on 9 February 2020, the detention conditions in the public custody centre were decent, but not as satisfactory as in the last years. The walls in the rooms were scribbled, the shower curtains were worn down; the ping pong table from the common room was broken in half and left there; it was noticed that a mattress was placed on the floor in one of the rooms; in one of the common spaces there was only one chair and a TV, in another common room the detainees placed a mattress on the floor in order to watch the TV. In **Arad** both buildings were visited, except the second floor of the building C, where detainees are accommodated. Hygienic conditions and overall cleanliness of the centre were good. The empty rooms which were visited had bunk beds, a shower separated by a wall and with a curtain and a toilet near the shower, not separated from the rest of the room. The room for mother and children was not visited. The windows of the building where people were accommodated during the visit were opaque, so there is no possibility to look outside. The persons interviewed by the author in 2018 also mentioned this issue.

In **Otopeni**, the rooms are equipped with their own bathroom, individual beds with mattresses in good condition, table, chairs, closet, and television. During the author's visit in Otopeni an empty room was also

⁵⁴³ Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Otopeni*, 70/2016, available in Romanian at: <http://bit.ly/2BPRsSK>, 2.

⁵⁴⁴ Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Arad*, 30/2016, available in Romanian at: <http://bit.ly/2EbFM7g>, 3-4.

⁵⁴⁵ *Ibid*, 10.

visited. The room has 4 metallic bunk beds, a table, a wardrobe, a TV, a separated bathroom with shower, sink and a Turkish style toilet. The bed linen is changed every week, according to the director of Otopeni. In order to wash their clothes, the detainees have access to a washing machine, which is placed on the same floor with their rooms. The windows are not opaque, but they are covered with bars. One of the foreigners interviewed by the author said that for 2, 3 weeks there was an issue with bed bugs, but it was solved.

Each detainee has his or her own bed and there is sufficient space. Detainees are required to clean their own rooms and the common spaces in both centres. They receive cleaning products from CNRR, according to the Director of Otopeni.

Detainees are accommodated in separate rooms on the basis of gender. Family members are accommodated in the same room, separately from other people, ensuring an appropriate level of privacy.

In **Arad**, authorities are planning to build another facility; this is still in the project phase. The director stated that in 2021 they would start the constructions.

CNRR provides material assistance through the project "Counselling and Material Assistance in Public Custody Centres", funded by the AMIF national programme. The main objective of the project is to provide information and counselling to migrants about return operations and rules that must be respected during these operations; the rights, obligations and rules of the Public Custody Centres Arad and Otopeni; and to provide services and specific assistance (including material assistance) complementary to the one granted by the Romanian government during their detention in the Public Custody Centres and during their return under escort in the country of origin or other country of destination.⁵⁴⁶ According to the Ombudsman, CNRR provides complementary food, footwear and clothes to detainees.⁵⁴⁷ The interviewed detainees from both centres declared that they receive hygienic products once a month (shampoo, soap, toothpaste), one trouser and one jumper upon arrival and once in a while they receive sweets and juice. Some of the interviewed detainees in both Arad and Otopeni declared that they receive 1 toilet paper roll per month or twice per month.

The Public Custody Centres Regulation prescribes that food is provided three times a day, in the form of hot or cold meal, depending on the situation of the detainees during accommodation or transport. For sick people, pregnant women and other categories of persons, food provision follows the number of meals and the diet prescribed by the doctor of the centre. At the request of detainees, religious diet is respected.⁵⁴⁸

In **Otopeni** the food (3 meals/day) is provided by the gendarmerie. According to the Director of Otopeni the quality of the food is pretty good; once in a while he tastes the food to check its quality. Some of the interviewed detainees stated that the food is good, some of them said that is not that good, because it is not like the food they are used to in their country of origin or it is not sufficient; other foreigner said that even though the food is not that good he is grateful that he receives it. They also mentioned that they receive a juice and chocolate bar every 2 or 3 weeks from CNRR.

In **Arad** the food is provided by the Arad penitentiary facility. The foreigners interviewed by the author in Arad did not complain about the food quality. The nutritional value of food provided to persons suffering from medical conditions and requiring specific diets is ensured, as reported by the two centres' directors. Nevertheless, it was reported by the director of Arad that they have no special menus for children as meals are provided by the Arad penitentiary. Persons suffering from diabetes received special diet, according to the Ombudsman.⁵⁴⁹

4.1. Activities

⁵⁴⁶ Information provided by CNRR, 9 December 2019.

⁵⁴⁷ Ombudsman, *Report 68/2018*, available in Romanian at: <https://bit.ly/2veebdY>.

⁵⁴⁸ Article 30(1)-(4) Public Custody Centres Regulation.

⁵⁴⁹ Ombudsman, *Report 68/2018*; *Report 52/2019*.

The Public Custody Centres Regulation provides that every foreigner is entitled to an hour of recreational outdoor activities per day, depending on the weather conditions and the possibilities of surveillance. Recreational outdoor activities usually take place between 13:30 and 17:00. The director of the centre or his or her legal substitute may increase the duration of outdoor recreational activities.⁵⁵⁰

Arad has two courtyards of 120m² each for walking, with lawns and concrete surfaces, each equipped with a goalpost and basketball hoop with backboard and tables with benches. According to the director of Arad, between meals, people are let outside in the courtyard for an hour, under the police officers' supervision. There is a workout room in Arad with only 2 fitness machines, functional at the time of the author's visit. There is no library in Arad; the books are stored in the psychologist's office, and detainees may borrow them.

In **Otopeni** people are allowed outside after meals under supervision or depending on IGI missions. According to the directors of Otopeni until November 2020 detainees were allowed to go outside in the courtyard after lunch, but at their request they were also allowed outside in the morning. Since the renovation works started detainees are allowed to use the closed terrace. The centre has a functional gym, but it only has 2 appliances, which according to some of the interviewed foreigners are not enough. According to the Director of Otopeni, they are planning to bring other appliances, because they were destroyed. The prayer room is in the building, which is currently under renovation. According to the directors at the request of the detainees they may arrange a room for prayers, but until now there was no such request, they usually pray in their rooms.

Televisions in **Otopeni** are functional and available in every room, while in **Arad**, during the author's visit, there were only two televisions, one in each common room, with channels provided by the Romanian cable company. The director of Arad mentioned that they would like to install a TV in each room in 2021.

According to JRS and the directors of the two centres, detainees have no internet access in detention.

As for social activities, in **Otopeni**, the directors stated that CNRR with support from IGI, organised several competitions with the detainees, such as domino, chess and ping pong. However, the interviewed foreigners complained about the lack of any kind of activities; they cannot play sports outside, the gym is not well equipped, all they do is "sleep and eat, sleep and eat". Some of them prefer to stay the whole day in their rooms, they don't even go on the terrace.

The need for social workers in detention centres was emphasised by the Ombudsman since 2016.⁵⁵¹ This was still relevant in 2020.

The director of **Arad** stated that there are no social, cultural or educational activities organised in the centre, neither for adults nor for children. He mentioned as activities: the possibility to borrow books from the psychologist and the ping pong table and books from the common room. Nonetheless, the ping pong table is broken and no books were seen by the author during the visit. The persons interviewed by the author in **Arad** and Otopeni confirmed that there are no activities organised for them. The detainees in Arad appreciate that the doors of their rooms are open and they can socialise with the other detainees. The same was echoed by the JRS representative in **Arad** and **Otopeni**. According to the JRS representative, detainees complain about the lack of educational and recreational activities in the centre. They can only play football when the weather allows it, go to the gym or stay in the library. Access to

⁵⁵⁰ Article 26(1)-(2) Public Custody Centres Regulation.

⁵⁵¹ Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Otopeni*, 70/2016, The Ombudsman had also observed in 2016 that there was no social worker in Otopeni, as the management of the centre stated that there was no need for such a position. The report details that: "Despite the language difficulties and the short period of detention in the centre, there were no socio-cultural-educational activities, Romanian language courses or other types of information-education sessions for the beneficiaries. There is no hired person to provide social counselling to residents or to provide other information of interest responding to the needs of cultural adaptation or other needs of detainees".

these facilities is allowed only during the schedule established by IGI.⁵⁵² The library in Otopeni is properly equipped with books in different languages.

As for the children detained in Arad, the psychologist said that CNRR bought a toy for each of them and in the beginning when they were leaving the centre, the toy had to be return. Now the children are allowed to keep the toy. Also it was mentioned that there is a room for the mother and child and play ground in the courtyard. During the visit the author did not see any playground outside and the room was not visited.

It was emphasised by one of the detainees that because of the lack of activities, sports, football they are bored and they only sleep and think about their problems.

Otopeni has a small playground which is under renovation since November 2020. The children's room is under renovation. At the time of the Ombudsman's visit in Otopeni the children's room was closed because there were no children detained at that time in the centre. At the request of the Ombudsman the room was opened and it was found that there was a limited number of toys and games for children.⁵⁵³

The Aliens Ordinance provides for the right to access to education for children detained in public custody centres accompanied by at least one parent or by their legal representative; children have free access to the compulsory education system.⁵⁵⁴ Nevertheless, according to the directors of both **Arad** and **Otopeni**, none of the children detained in public custody centres were enrolled or attended school. The children detained in Otopeni stayed in the centre only for 2 days, according to the directors, therefore their enrolment at school was impossible.

4.2. Health care and special needs in detention

Foreigners detained in public custody centres have the right to legal, medical and social assistance and the right to have their own opinion, religious, philosophical and cultural matters respected.⁵⁵⁵

Otopeni has a general practitioner, a full-time psychologist and only 3 nurses. Until November 2020 there were 4 nurses, but one of them retired. The doctor's schedule is 7 hours per day on weekdays, while the medical staff works in 24h shifts.

Arad has a psychologist. In 2020 they managed to sign a service provider contract with a medical doctor. The doctor is present in the centre 3h/day, during the weekdays. During the author's visit on 9 February 2021, there were only 2 nurses. As a consequence, the shifts are not fully covered. When new persons arrive in the centre, a visual medical screening is conducted by the medical staff, who also take their pulse, temperature and blood pressure. The screening is conducted without an interpreter. The doctor mentioned that he speaks English and German and he manages to communicate with the detainees; if they do not speak any of the languages he uses sign language. In comparison with 2019, when the medical office in **Arad** did perform medical tests for the diagnosis of infectious / contagious diseases such as HIV, hepatitis and drug tests, in 2020 they performed only hepatitis tests. The medical office provides oral treatment and injections in the centre. If there is a need for specialist consultations and medical prescriptions from specialist doctors, foreigners are taken to public health care institutions in Arad County. In 2019 IGI signed a contract with the Arad county hospital that now covers all the examinations.

In **Otopeni**, the medical doctor reported that the medical staff prepares a medical file (after the body search), which contains the medical history and a clinical check-up of the foreigner. This procedure is done without an interpreter. The doctor stated that he does not encounter difficulties in communicating with the foreigners, because he speaks English, French, a little bit of Russian and Italian and if these languages are not of help, he is requesting the help of other detainees. The medical office in Otopeni performs HIV, hepatitis B and C and drug test to all of the detainees. The medical doctor stated that

⁵⁵² Ombudsman, Report 68/2018.

⁵⁵³ *Ibid.*

⁵⁵⁴ Article 104(6) Aliens Ordinance.

⁵⁵⁵ Article 104(2) Aliens Ordinance.

maybe in 2021 COVID-19 PCR test would also be approved. He also mentioned that they have rapid COVID-19 tests, which they bought from pharmacies. In 2019 and 2020 Otopeni had a collaboration contract with a private clinic for specialist consultations. In 2021 if there is a need for specialist consultations the detainees are taken to the Clinic or Hospital of MAI.

Once the state of emergency has been declared the new detainees were isolated for 14 days in separate rooms and they were under medical observation. According to the directors, the newly arrived detainees are allowed to go out of their rooms and to go outside. According to the directors, before they are returned to the country of origin the foreigners are required to have a negative COVID-19 test; the cost of the test is ensured by the Public Health Directorate (Directia de Sanatate Publica- hereinafter "DSP").

In 2020 there were no detainees released from **Arad** due to their medical conditions. In **Otopeni** 3 foreigners were released due to their medical conditions, according to the medical doctor. The decision to release them is taken when their stay in detention is aggravating their medical condition.

According to the law, the psychologist of the centre makes the psychological evaluation of persons detained in the centre, drafts psychological observation sheets and provides specialist assistance throughout their stay. For foreigners with psychological or psychiatric problems, the psychologist of the centre informs immediately the Director of the centre or his or her legal substitute and, where appropriate, makes proposals for specialist consultations to hospital departments.⁵⁵⁶

The psychologist in Arad stated that she provides primary psychological assistance to all detainees, if they agree to it. She said that it is more difficult to provide assistance to those in quarantine, because they can only talk through the door. They have the opportunity to have a longer consultation after the quarantine. The psychological assistance is provided without an interpreter. It was mentioned that many of them speak English or Romanian and if they do not speak these languages she solicits the assistance of another detainee, who may interpret for them but only if the foreigner agrees to it.

The psychologist said there were 15-20 foreigners who were diagnosed by a psychiatrist with adjustment disorder.

According to the psychologist there were no real suicide attempts. 23 foreigners participated in hunger strikes, 4 of them have been on hunger strike for 7 days and the rest of them only for a few days.

In Otopeni, the psychologist stated that all the detainees are registered and counseled. If necessary, the counseling is provided with the help of another trustworthy detainee. However, he said that he manages to discuss with the foreigners, because the majority of them speak English or Romanian. Therefore, there is no need for an interpreter. In 2020, due to the special circumstances the psychologist organized meetings with the foreigners in order to explain them why they cannot go back to their country of origin. According to him 8 persons had to be admitted to a psychiatric hospital. There were no suicide attempts in 2020. As for hunger strikes, there were persons who stated their intention to go on hunger strike, but in 2-3 days they were renouncing.

The Asylum Act provides that vulnerable asylum seekers detained in specially designed closed spaces within the Regional Centres are regularly monitored and benefit from adequate support, according to their individual situation, including their health situation.⁵⁵⁷ The Aliens Ordinance also provides for appropriate medical care and treatment for vulnerable persons in detention centres.⁵⁵⁸

According to UNHCR Romania, there is a lack of an established identification mechanism of vulnerable persons in public custody centres unlike the mechanisms used for reception centres, including specially arranged closed areas.

According to the directors of Otopeni there is no identification mechanism of vulnerable persons.

According to the director of Arad, vulnerable foreigners are identified by the psychologist, doctor or the officers with whom the person interacts. The director disseminated with the staff members a method of how the vulnerable persons should be identified. The director stated that this method consists of: medical

⁵⁵⁶ Article 38 Public Custody Centres Regulation.

⁵⁵⁷ Article 19¹¹(3) Asylum Act.

⁵⁵⁸ Article 104(7) Aliens Ordinance.

screening, and psychological evaluation. It was emphasized that the psychological evaluation is done without an interpreter.

On the other hand, the JRS representative reported that IGI has an internal identification program established jointly with UNHCR. No further details could be provided. On the other hand JRS reported that the NGOs have their own mechanism (UNHCR standard and Romanian legislation). They were trained by UNHCR and they have identification tools. They collaborate with IGI for the identification of vulnerable cases, in the sense that they are informing IGI about the vulnerable persons identified by them.

The authorities try to ensure assistance for this category of persons, but if the needs in question cannot be satisfied, the person is released. In rare cases, groups such as families with children have been released from detention.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers: | ☒ Yes | ☐ Limited | ☐ No |
| ❖ NGOs: | ☒ Yes | ☐ Limited | ☐ No |
| ❖ UNHCR: | ☒ Yes | ☐ Limited | ☐ No |
| ❖ Family members: | ☒ Yes | ☐ Limited | ☐ No |

The Aliens Ordinance provides that national, international and non-governmental organisations and other bodies competent in the area of migration, authorised and accredited under the law, shall be provided with the possibility to visit detention centres on the basis of the Protocols concluded with IGI or prior authorisation. In exceptional and duly motivated situations, it is possible to visit the centres within 48 hours.⁵⁵⁹

Article 13 of the Public Custody Centres Regulation details visiting hours in detention centres for the following groups:⁵⁶⁰

- a. Representatives of diplomatic missions or foreign consular offices representing the detainees' interests: 09:00 – 20:00 every day;
- b. Representatives of national, international or non-governmental organisations competent in the area of migration, authorised and accredited under the law: 09:00 – 20:00 every day;
- c. Family members or other persons who need to state the reasons for visiting: 10:00 – 12:00 and 14:00 – 17:00 for a maximum of 30 minutes, three times a week, usually on Tuesday, Friday and Sunday;
- d. Legal representatives: 09:00 – 20:00 every day.

Lawyers have to hold a power of attorney from the foreigner held in detention. In some cases, lawyers have not been allowed access to detention centre on the ground that they had not had their lawyer's card validated by the Bar Association.

Visits are authorised by the Head of the Centre or his or her legal representative. In the absence of cooperation Protocols, visits by NGO representatives are authorised by the Director of the IGI Migration Directorate.

Media and politicians have access to detention centres if their request is approved. As far as JRS is aware, neither media nor politicians have visited the detention centres.

JRS is present once a month in both centres. JRS provides assistance to cases not covered by projects funded by the AMIF national programme such as assistance for subsequent applications, voluntary repatriation and Dublin returnees.

⁵⁵⁹ Article 103(4) Aliens Ordinance.

⁵⁶⁰ Article 13(1)-(3) Public Custody Centres Regulation.

CNRR is present on daily basis. The NGO representatives are contacted by IGI every time is necessary. The Public Custody Centres Regulation prescribes the conditions under which detainees may use the phone in order to contact people outside the centre.⁵⁶¹ Foreigners may use the public telephone at their own expense from 09:00 to 22:00 every day. Every person is entitled to a card of 5 euro per month. All interviewed persons stated that this is not sufficient, because international calls are very expensive. Some of them, who were in detention for 10 days in Arad, complained that they did not receive the card yet. Another foreigner in Arad mentioned that he received only one card in 3 months.

In **Arad** there is only one functional public phone. Phone wires were installed in each common room in building C and a phone is connected for 2 hours in each common room. Each foreigner has around 20 minutes access to the phone. In **Otopeni**, according to the people interviewed, there are 2 wireless phones in the hallway next to their rooms and they can use them at any time with permission. In addition, they may use their own phones under the supervision of IGI staff, according to the directors of both centres.

Detainees may use their personal mobile phone upon request, provided that it is not equipped with a camera. They are forbidden from using their personal mobile phone as long as they are under escort.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

1. Is there an automatic judicial review of the lawfulness of detention? ☐ Yes ☒ No
2. If yes, at what interval is the detention order reviewed?

The Aliens Ordinance provides that foreigners detained in public custody centres have the right to be informed immediately after their arrival in these places, in their language or in a language they understand, of the main reasons for their detention and of the rights and obligations they have during their stay in these centres. These are communicated in writing by the persons designated to manage these centres.⁵⁶²

According to CNRR, there is an obligation to provide information in writing in a language that the person can reasonably be supposed to understand. The documents are received upon the individuals' arrival in the public custody centre. CNRR provides them counselling and, if they so wish, supports them to challenge the detention order.⁵⁶³

In practice, however, foreigners receive a document, in most cases written in Romanian and English, which cites the legal provision on which detention is based and the reasons for detention, according to the director of **Arad**. Communication is done only in writing when they arrive in detention and there is no interpreter provided at this stage. According to JRS, the reasons for detention are translated by the NGO representatives.

In **Otopeni**, detainees are informed in writing, in Romanian, about the reasons for detention, according to the directors. The following day the deputy director explains the reasons for their detention and their options.

⁵⁶¹ Article 12(1)-(4) Public Custody Centres Regulation.

⁵⁶² Article 104(3) Aliens Ordinance.

⁵⁶³ Information provided by CNRR, 9 December 2019.

Under Romanian law, only a Prosecutor is competent to order detention. The maximum duration of the initial detention order is 30 days both for public custody and for specially designed closed spaces in Regional Centres.

Foreigners subject to detention can appeal before the territorially competent Court of Appeal within 5 days.⁵⁶⁴ The appeal formulated against detention is subject to lighter formalities, as it is exempt from the judicial stamp duty.⁵⁶⁵ If the applicant is detained during the Dublin procedure, it does not have suspensive effect on the detention order or on the determination of the responsible Member State.⁵⁶⁶ The Court of Appeal has to examine the appeal within 3 days from the date of receipt, and its decision is final.

Few appeals were lodged against detention orders in 2020. In 2020, the Court of Appeal of Timișoara had registered only 7 appeals against detention orders of the Prosecutor's Office attached to the Court of Appeal of Bucharest.⁵⁶⁷ The Court of Appeal of Bucharest had registered only 1 appeal against detention as of 1 January 2020.⁵⁶⁸

According to the Courts of Appeal of Bucharest and Timișoara, during the state of emergency and state of alert, the court procedures in public custody cases were not affected. Court hearings were also held through videoconferences⁵⁶⁹. The directors of both centres confirmed this and stated that in 2020 the court hearings were held through videoconference as a general rule. In Arad the videoconference system was installed in April/May 2020.

The prolongation of detention is ordered by the territorially competent Court of Appeal, upon a motivated request by IGI, filed at least 5 days before the expiry of the time limit of initial detention. The court must rule before the expiry of the period of prior detention, and its decision is final.⁵⁷⁰

In general, the IGI Migration Directorate requests the extension of detention for an additional period of 5 months to enforce return decisions under escort and the court may grant an extension of detention for this period.

Questions are raised with regard to the effectiveness of judicial review against detention measures, particularly in light of recent case law from the Court of Appeal of Bucharest. In a case concerning a family from Cuba including a child enrolled at kindergarten and a grandmother suffering from thalassemia and hypertension, whose asylum application had been rejected, detained on the basis of a risk of absconding from the voluntary return procedure, the Court briefly concluded on the legality of detention. It dismissed the appellants' argument on alternatives to detention, stating that these only apply to asylum seekers. The Court also failed to consider the best interests of the child.⁵⁷¹

In the assessment of the IGI Migration Directorate's request for a two-month extension of detention, however, the Court of Appeal noted that even though detention was not ordered against the minor child, since the centre could not provide adequate conditions for raising and educating a child, it would be contrary to the best interests of the child to maintain the family in detention.⁵⁷²

In addition to judicial review upon request and judicial review in case of an extension of the duration of detention, the Aliens Ordinance requires IGI to examine the opportunity to maintain the measure of public

⁵⁶⁴ Articles 19⁷(7) and 19¹⁴(8) Asylum Act.

⁵⁶⁵ Article 19¹⁶(3) Asylum Act.

⁵⁶⁶ Article 19¹⁴(8) Asylum Act.

⁵⁶⁷ Information provided by the Court of Appeal Timișoara, 21 January 2021.

⁵⁶⁸ Information provided by the Court of Appeal Bucharest, 2 February 2021.

⁵⁶⁹ Information provided by the Court of Appeal Timișoara, 21 January 2021 and by the Court of Appeal Bucharest, 2 February 2021.

⁵⁷⁰ Article 19¹⁴(4) Asylum Act.

⁵⁷¹ Court of Appeal of Bucharest, Decision 2472/2018, 29 May 2018.

⁵⁷² Court of Appeal of Bucharest, Decision 2767/2018, 13 June 2018.

custody at intervals of up to 3 months. In the case of families with children, the analysis must be carried out at intervals of up to one month.⁵⁷³ However, there is no information about this procedure in practice.

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

During detention in public custody centres, asylum seekers have all the rights set out in the Asylum Act, except for those concerning the right to access employment, right to accommodation in the Regional Centres and reimbursement for travel costs.⁵⁷⁴ As a consequence, detained asylum seekers have the same rights to legal assistance as those at liberty.

Legal assistance for asylum seekers in detention is provided by CNRR through the project “Specialized legal assistance for asylum seekers in Romania”, funded by the AMIF national programme. In **Arad**, legal counselling is ensured by the legal counsellor of **Timișoara**.

According to the director of **Arad**, IGI informs via email CNRR Bucharest when an asylum application is made. It was also reported by the director that CNRR legal counsellor did not attend any of the interviews held in detention and was not present in the centre in order to provide legal counselling to asylum seekers. The appeals in case of asylum applications rejected by IGI-DAI are lodged by CNRR or by the asylum seekers themselves. According to the director of Timișoara centre the majority of appeals were lodged by the asylum seekers and also by their lawyers.

In most of the cases, the legal counsellor provides legal counselling based on contact and information provided by IGI, CNRR reported. According to CNRR, in general, the legal counselling is provided after the decision is communicated if there is a decision to reject the asylum application in an accelerated procedure.⁵⁷⁵ Provision of legal counselling before the interview, according to CNRR depends on when they learn about the submission of the asylum application and promptness of IGI-DAI in conducting the interview.⁵⁷⁶ According to CNRR, 51 asylum applications were made from detention in 2020 and in 42 cases they provided legal counselling. Out of the total number of asylum applications, 29 applications were assessed in the regular procedure.

Asylum interviews were held through videoconference with case officers from Timișoara.

JRS reported that legal counselling is provided by CNRR, JRS and IGI before the asylum application is made and also during the asylum procedure.

In **Otopeni**, according to the director, IGI informs CNRR about the asylum applications made. In the following days, CNRR legal counsellors are present in the centre in order to provide legal counselling to asylum seekers, a CNRR representative mentioned.

It is more difficult or even impossible for asylum seekers to contact the legal counsellors or attorneys in due time in order to prepare and/or assist them for the personal interview. They are made aware of their rights and obligation as asylum seekers only at the interview conducted by the IGI-DAI case officer. There is no legal counsellor providing legal counselling to asylum seekers in detention who works in the centre on a daily basis. Lawyers cannot contact their clients by phone, as the detainees are not allowed to have personal phones in detention and may only use their phone upon request if it has no camera. Lawyers

⁵⁷³ Article 101(13) Aliens Ordinance.

⁵⁷⁴ Article 19^16(2) Asylum Act.

⁵⁷⁵ Information provided by CNRR, 10 February 2021.

⁵⁷⁶ Information provided by CNRR, 10 February 2021

may only access them if they visit them or if the clients have free minutes left to talk on the phone. Meetings are held in private rooms.

E. Differential treatment of specific nationalities in detention

No differential treatment has been reported.

Content of International Protection

Under Government Ordinance No. 44/2004 (“Integration Ordinance”), beneficiaries of international protection are included in an integration programme upon request and according to a protocol concluded individually by IGI-DAI.⁵⁷⁷ The application for participation in the integration programme has to be submitted to IGI-DAI within 3 months of the grant of protection, compared to 30 days provided by the previous form of the Integration Ordinance.⁵⁷⁸

After the registration of the application, the integration officer of IGI-DAI interviews the beneficiary. At the interview representatives of NGOs, local public authorities or other institutions with competences in the integration area may participate. An individual needs assessment sheet is drafted to determine the type of assistance or activities needed for the social integration of the applicant.⁵⁷⁹ Based on this evaluation form, an individual plan is established, which includes deadlines, necessary activities to achieve the objectives, responsible persons, responsible institutions and / or organizations, as well as the decision of the IGI-DAI regarding the local community in which the integration activities of the program will be carried out.⁵⁸⁰

Participation in the integration programme is relevant to the enjoyment of certain rights such as [Housing](#) and [Social Welfare](#).

Activities which may be included in the plan mainly include, separately or cumulatively, the following:⁵⁸¹

- Counselling and support activities to ensure access to the rights listed in the Integration Ordinance;
- Cultural accommodation sessions;
- Romanian language courses (see [Access to Education](#)).
- educational and recreational activities;
- non-reimbursable financial aid, granted under the conditions of Asylum Act;
- financial allowance in an amount equal to that granted to asylum seekers;
- accommodation in one of the regional centres, depending on the number of available accommodation places;
- other types of activities or benefits established according to the individual needs of the foreigner and granted by NGOs carrying out activities in the field of integration of foreigners or by local public administration authorities.

The implementation period of the integration program is 12 months from the date of signing the protocol or from the date provided in the protocol, compared to 6 months prescribed by the IGI-DAI. It may grant an extension of maximum 6 months based on a motivated request of the beneficiary and assessment of the situation.⁵⁸²

In addition to the integration programme offered by the state authorities, there are several projects concerning the integration of beneficiaries of international protection and third-country nationals funded through the national AMIF scheme. Since 2016 the implementation of these projects covers 5 regions throughout the country.⁵⁸³ Each region has at least one Regional Centre for asylum seekers.

1. IOM Romania implemented the second phase of the project “INTERACT PLUS - Integrated services for migrants, social and intercultural dialogue” until 2 August 2019 in Region 1

⁵⁷⁷ Article 15 Integration Ordinance.

⁵⁷⁸ Article 16 Integration Ordinance.

⁵⁷⁹ Article 17 Integration Ordinance.

⁵⁸⁰ Article 18(1) Integration Ordinance.

⁵⁸¹ Article 18(2) Integration Ordinance.

⁵⁸² Article 20 Integration Ordinance.

⁵⁸³ Romania is Home, *Integration programs*, available in Romanian at: <https://bit.ly/2RXBfZk>.

which includes **Bucharest** and the following counties: Ilfov, Arges, Brasov, Buzau, Calarasi, Covasna, Dambovita, Dolj, Ialomita, Gorj, **Giurgiu**, Olt, Prahova, Teleorman, Valcea.⁵⁸⁴

According to IGI-DAI's announcement on AMIF grants awarded, JRS's project "My place – A bridge for the integration of beneficiaries of international protection and third country nationals in Romania" was retained for funding.⁵⁸⁵ However, the grant agreement was not concluded according to JRS representative. It would have been operational in Region 1, which now includes a smaller number and different counties than the previous project: **Bucharest**, Vrancea, Bacau, Vaslui, Braila, Tulcea. As of 2 August 2019 until January 2021 no integration project is implemented in Region 1.

2. JRS implements the project "My place to Integration". Supporting the process of effective integration of beneficiaries of international protection (BPI) and foreigners (RTT - third country nationals) legally residing in Romania in the following counties of Galați, Constanța, Vrancea, Bacău, Vaslui, Brăila, Tulcea. The project includes activities such as: information, counselling, material, legal, medical, psychological assistance, employment counselling, as well as social, cultural, recreational, educational activities, Romanian language courses and cultural orientation, in 2 regional training centres: Galați and Constanta. The project is introducing means of distance counselling / assistance for certain categories of beneficiaries (online courses, etc.) and facilitating access to the labour market through an online tool. The project also aims to involve cultural mediators, interpreters and volunteers at the local level as well as the development of local support networks at the level of institutions and organizations that come into contact with foreigners or within their communities.⁵⁸⁶ The project also covers the costs of meals in kindergarten and school, school supplies, rental fees in regional centres; offers social vouchers of 50RON/10EUR.
3. ICAR Foundation implements the project "Integration of foreigners with legal residence in Romania-INTEG-RO", in partnership with AIDRom in Region 3 which includes **Rădăuți** and Suceva, Botoșani, Iași and Neamț counties.⁵⁸⁷ The program provides information and social / legal counselling, vocational and professional guidance, psychological support to overcome difficulties and motivate participation in the integration program (in the case of beneficiaries of international protection). The services include both individual counselling sessions (social and psychological), information, assistance in contacting various public or private institutions and local community, as well as group activities (eg: Romanian language courses, cultural accommodation sessions, group counselling, development of life skills, socio-recreational activities).⁵⁸⁸
4. In Region 4 LADO Cluj, in partnership with Asociația Profesională Neguvernamentală de Asistență Socială Baia Mare (ASSOC), is implementing the project "SIM - CIS - Integrated services for migrants - intercultural and solidarity communities. The project covers **Maramureș**, Satu Mare, Sălaj, Cluj, Bistrița Năsăud, Mureș, Harghita, Sibiu și Alba counties. The project aims to offer a series of services tailored to the needs of the target groups, such as: Romanian language and cultural orientation courses; guidance on how to obtain Romanian citizenship; material assistance (food, clothing, hygiene products, etc.); translation of documents (especially identity documents); legal / psychological / medical assistance; socio-cultural and recreational activities; Support for insertion in the labor market.⁵⁸⁹
5. In Region 5, the Western part of Romania, AIDRom in partnership with Filantropia Oradea, implements the project "AIM 5 – Actions to integrate migrants in Region 5". Through this project,

⁵⁸⁴ IGI-DAI, *AMIF projects*, available in Romanian at: <http://bit.ly/2HVtES4>. According to IOM, 481 beneficiaries of international protection benefitted from its services in 2019.

⁵⁸⁵ IGI-DAI, *Closed Selections of projects*, available in Romanian at: <https://bit.ly/36fyCUP>

⁵⁸⁶ JRS Romania, available in Romanian at: <https://bit.ly/3l6oEOP>.

⁵⁸⁷ AIDRom, available in Romanian at: <https://bit.ly/38uRmnk>.

⁵⁸⁸ *Ibid.*

⁵⁸⁹ LADO, available in Romanian at: <https://bit.ly/3vhsOIm>.

the activity of the Timișoara Regional Integration Center will continue and will offer free specialized social and legal counselling services, material assistance for vulnerable categories, Romanian language courses and cultural accommodation, leisure activities for migrants, specific actions for minors. Region 5 includes **Timișoara**, and Arad, Bihor, Hunedoara, Mehedinți și Caraș Severin counties.⁵⁹⁰

The integration prospects for beneficiaries of international protection in Romania are assessed in the context of appeals against returns of beneficiaries from other European countries. Different courts in Germany and the Netherlands have dismissed such appeals on the ground that conditions for international protection holders in Romania do not present deficiencies triggering Article 3 ECHR,⁵⁹¹ including the case of a person with PTSD.⁵⁹² In one case in the Netherlands, the court opposed the return of a family on the basis that beneficiaries of protection have no effective assistance after the expiry of their integration programme in Romania.⁵⁹³

A. Status and residence

1. Residence permit

Indicators: Residence Permit

What is the duration of residence permits granted to beneficiaries of protection?

❖ Refugee status	3 years
❖ Subsidiary protection	2 years

The duration of residence permits granted for **refugee status** is 3 years and for **subsidiary protection** 2 years.⁵⁹⁴

The conditions for issuing a residence permit – in the form of a **card** – are prescribed by the Asylum Decree.⁵⁹⁵ In order to obtain a residence permit, issued free of charge, the beneficiary of international protection has the obligation to submit to IGI-DAI a document which proves his or her legal residence. This can be a: title of ownership; lease agreement registered with the fiscal administration; commodity contract concluded in authentic form; or any other documents concluded under the conditions of validity provided by Romanian legislation in force regarding the housing title, which prove the acquisition of some housing rights.⁵⁹⁶

Responsibility for issuing the residence permits lies with IGI-DAI. In practice there are no difficulties in the issuance of the residence permit. However, the AIDRom representative in **Timișoara** stated that beneficiaries encounter difficulties in obtaining a rental contract fulfilling the conditions required by the authorities. Currently, the landlords do not want to declare to the authorities that they rented out their apartments.

The beneficiary of international protection has to fill in a standard form,⁵⁹⁷ which is usually filled in together with the officer in charge. The time of issuance of the residence permit card is issued differs from one Regional Centre to another: 2-3 weeks in **Bucharest**, 3 weeks in **Timișoara**, according to the director of the regional centre of Timișoara, 3 weeks in **Rădăuți**, 3 weeks in **Galați**, 4 weeks in **Șomcuta Mare**, 2-3 weeks in **Giurgiu**. Also a case of an unaccompanied minor from Șomcuta Mare was reported, who was

⁵⁹⁰ AIDRom, available in Romanian at: <https://bit.ly/30z2ZVO>.

⁵⁹¹ (Germany) Administrative Court of Aachen, 6 L 202/18.A, 7 May 2018; Administrative Court of Düsseldorf, Decision 22 L 5230/17.A, 5 June 2018; Administrative Court of Hannover, Decision 12 B 3173/18, 3 July 2018; (Netherlands) Regional Court of The Hague, Decision NL.18.7700, 17 May 2018; Regional Court of Gravenhage, Decision NL18.21071, 5 December 2018.

⁵⁹² (Germany) Administrative Court of Aachen, Decision 6 L 606/18.A, 6 July 2018.

⁵⁹³ (Netherlands) Administrative Court of Roermond, Decision NL18.5246, 3 May 2018.

⁵⁹⁴ Article 20(6) Asylum Act.

⁵⁹⁵ Article 51 Asylum Decree.

⁵⁹⁶ Article 50(3) Asylum Decree.

⁵⁹⁷ The form is available at: <http://bit.ly/2xaDCgJ>.

granted subsidiary protection in September 2020 and until January 2021 he did not acquire a residence permit.

According to AIDRom the residence permit is issued within maximum 2 weeks from the submission of the file, but there were also situations in which this deadline was exceeded, caused by a large volume of applications.⁵⁹⁸ Some difficulties were reported by AIDRom as regards the proof of legal residence, some of the beneficiaries are not concluding lease agreements and accommodation in regional centres is currently more difficult due to the overcrowding of these centres.⁵⁹⁹

As regards the renewal of residence permit, beneficiaries of international protection do not encounter any problems. Before the expiry of the residence permit, they fill in a request of renewal and a new card is issued in the same time frame as mentioned above.

However, AIDRom reported that issues may arise when beneficiaries conclude a lease agreement which is not registered with the fiscal administration.⁶⁰⁰

IGI-DAI delivered 312 residence permits to refugees and 422 to subsidiary protection beneficiaries in 2020. These were first time issued residence permits; beneficiaries have not held another residence permit in the last 6 months⁶⁰¹

1. Civil registration

The procedure of civil registration is set out in Act 119/1996.⁶⁰²

2.1. Marriage and child birth registration

With regard to marriage registration, the law provides the obligation for the future spouses to present identity documents, birth certificates, and medical certificates.⁶⁰³ Beneficiaries of international protection have to present several documents, such as:

- Identity document, which in their case may be the travel document issued after granting a form of protection;⁶⁰⁴
- Birth certificate;
- Certificate/ evidence issued by diplomatic missions or consular offices;
- Declaration, authenticated by the notary, which proves that they fulfil the necessary conditions for getting married;
- Proof of divorce/ death certificate of the spouse as the case may be;
- Prenuptial medical certificate;
- Marriage convention.

In addition, foreign citizens who do not speak Romanian have to submit the marriage declaration in the presence of and through an authorised translator, which they have to pay for.

The ASSOC representative reported that access to relevant information on marriage registration is hindered as the information is provided only in Romanian, being very difficult for beneficiaries of international protection to marry without the assistance of NGOs. In Şomcuta Mare, 2 marriages were officiated between 2014 and 2021. They were assisted by NGOs who provided information on the legal procedure, translated the required documents and identified an authorized translator, who offered his/her services for free.⁶⁰⁵

⁵⁹⁸ Information provided by AIDRom, 4 March 2021.

⁵⁹⁹ Information provided by AIDRom, 4 March 2021.

⁶⁰⁰ *Ibid.*

⁶⁰¹ Information provided by IGI-DAI, 16 February 2021.

⁶⁰² Act 119/1996 on civil registration acts, available in Romanian at: <http://bit.ly/2nFDcYr>.

⁶⁰³ Article 25(3) Act 119/1996.

⁶⁰⁴ Local Council of Timișoara, *Marriage Registration*, available in Romanian at: <https://bit.ly/2CSb8si>.

⁶⁰⁵ Information provided by ASSOC, 16 February 2021.

As regards birth registration, ASSOC mentioned that the procedure is very difficult. Asylum seekers and beneficiaries of international protection have no documents. As a consequence they have to make a declaration at the notary regarding the place of birth, the names of the parents and the name of the newborn. In Şomcuta Mare, the ASSOC representative participated as a translator and mediator in this procedure. During 2014-2021, 15 children obtained a birth certificate. In 2020 only 1 child was assisted.

2.2. Bank accounts

According to the legal counsellor in **Galaţi**, beneficiaries are unable to open bank accounts at some banks as it appears there are certain third countries whose nationals (Syrian, Iraqi, Iranian and Afghan nationals) are not offered services for security reasons. Only one small bank agrees to open bank accounts for beneficiaries of international protection. Nevertheless in 2020 it was observed that in a few cases bank accounts were opened also by bigger banks.

In **Şomcuta Mare** some of the banks are also reluctant to open bank accounts, according to JRS representative, but there are a few banks that are opening bank accounts for beneficiaries of international protection. Beneficiaries are required to present their residence permit and travel document. In 2019, according to ASSOC, bank policies hindered beneficiaries to open bank accounts.⁶⁰⁶ In 2020 it was reported that there is only one bank that agrees to open bank accounts for beneficiaries.

In **Timișoara**, in most cases beneficiaries were not able to open bank accounts in 2018. The banks required not only the residence permit, but also the beneficiaries' passport or travel document issued by IGI-DAI. In 2019 some beneficiaries were able to open bank accounts. The AIDRom representative together with their legal counsel tried to find out why this issue occurred and it seems that there was a decision of the Romanian National Bank regarding the opening of bank accounts for Syrian, Afghan, Iraqi and Sudanese nationals.⁶⁰⁷ It was reported by the director of Timișoara Regional Centre that this is still an issue.

In **Rădăuți**: beneficiaries can only open a bank account when they have an employment contract. There is only one bank in Rădăuți that opens bank accounts for beneficiaries.

In **Giurgiu**, in general banks refuse to open accounts, with the exception of 2 banks. It was also reported that several bank accounts opened in previous years were closed in 2020. The reason invoked by the banks was increased financial risks presented by the beneficiaries.

Bucharest: it was reported that many beneficiaries were unable to open a bank account. However, the majority of beneficiaries managed to open bank accounts.

AIDRom reported that many beneficiaries complain about this issue. Banks refuse to open bank accounts, invoking reasons such as: money laundering and terrorist financing. Although the Romanian National Bank has officially informed them that banks may open a bank account to anyone, it is up to each bank to decide after assessing these aspects prescribed by Law no. 656/2002 on preventing and sanctioning money laundering, as well as on the establishment of preventing measures and combating terrorist financing.

2. Long-term residence

Indicators: Long-Term Residence

Number of long-term residence permits issued to beneficiaries in 2020:

Not available

⁶⁰⁶ Information provided by ASSOC, 5 March 2020.

⁶⁰⁷ Information provided by AIDRom, 16 January 2019.

During the state of emergency applications for long term residence permits were suspended. The long-term residence permits were valid during the state of emergency.⁶⁰⁸

Long-term residence or permanent residence status is regulated by Government Emergency Ordinance No. 194/2002 ("Aliens Ordinance"). The conditions for obtaining long-term or permanent residence status are prescribed by Article 71 of the Aliens Ordinance and do not differ for refugees and people granted subsidiary protection.

- a. **Lawful residence:** Permanent residence status may be granted to refugees or beneficiaries of subsidiary protection who have lawfully resided on the territory of Romania continuously during the last 5 years preceding the filing of the application.⁶⁰⁹ Continuity implies that a person has not been absent from Romania for more than 6 consecutive months and shall not exceed 10 months of absence in total.⁶¹⁰

The 5 years residence term may be reduced to 4 years for beneficiaries of international protection in Romania who actively participate in the economic, social and cultural life of the Romanian society, including following the integration programmes provided by the Integration Ordinance,⁶¹¹ or are married to a person holding Romanian citizenship for at least 5 years.⁶¹²

According to the law, this period of residence starts from the moment when the asylum application was lodged.⁶¹³

- b. **Knowledge of Romanian language:** In addition, the applicant has to know Romanian language at least at a satisfactory level. Usually this requirement is verified by the officer examining the request for a long-term residence card, by having a discussion in Romanian with the applicant.⁶¹⁴
- c. **Public order / national security:** The applicant must not pose a threat to public order or national security.⁶¹⁵
- d. Health insurance.⁶¹⁶
- e. Accommodation: The applicant has to prove the legal possession of a living space.⁶¹⁷
- f. Means of subsistence: The applicant has to prove he or she has at least the level of the gross average income in Romania.⁶¹⁸

Article 72 of the Aliens Ordinance sets out the documents that the applicant has to submit personally, when requesting the permanent residence status:

- ❖ Travel document;⁶¹⁹ for which there is an exemption for beneficiaries of international protection;⁶²⁰
- ❖ Proof of the legal possession of the living space, in accordance with the law;⁶²¹
- ❖ Proof of the means of subsistence at the gross average earning in Romania;⁶²²

⁶⁰⁸ Information provided by IGI-DAI, 16 February 2021.

⁶⁰⁹ Article 71(1)(a) Aliens Ordinance.

⁶¹⁰ Article 71(1)(a)(i) Aliens Ordinance.

⁶¹¹ Article 71(1)(a)(v) Aliens Ordinance.

⁶¹² Article 71(1)(a)(vi) Aliens Ordinance.

⁶¹³ Article 71(1)(a)(vii) Aliens Ordinance.

⁶¹⁴ *Ibid.*

⁶¹⁵ Article 71(1)(f) Aliens Ordinance.

⁶¹⁶ Article 71(1)(c) Aliens Ordinance.

⁶¹⁷ Article 71(1)(d) Aliens Ordinance.

⁶¹⁸ Article 71(1)(b) Aliens Ordinance.

⁶¹⁹ Article 72(1)(a) Aliens Ordinance.

⁶²⁰ Article 146 Asylum Act.

⁶²¹ Article 72(1)(b) Aliens Ordinance.

⁶²² Article 72(1)(c) Aliens Ordinance.

- ❖ Proof of health insurance;⁶²³
- ❖ Criminal record, issued by the Romanian authorities.⁶²⁴

According to AIDRom, documents have to be valid for at least 6 months when lodging the request for permanent residence status. As regards the interpretation of conditions, in practice the only issue reported was the health insurance. IGI requires as proof of the person's contribution to the state health insurance a certificate issued by the County Health Insurance House (CJAS), even though he or she has a work contract.⁶²⁵ The director of Regional Centre Timișoara confirmed this.

In relation to the proof of health insurance, beneficiaries have to present a certificate confirming that they are paying health insurance. Employees and their co-ensured persons prove their quality of insured with the certificate issued by the employer.⁶²⁶ In some cases, obtaining this certificate takes a lot of time as it has to be submitted by the employer.

Applications for permanent residence status are examined by a special committee of IGI.⁶²⁷ The decision has to be taken no later than 6 months from the day the application was registered. For objective reasons, the Head of IGI may extend this deadline by another 3 months, duly notifying the applicant.⁶²⁸

The applicant is notified within 15 days of the request being granted. Within 30 days from the receipt of the communication, the person who has been granted the right of permanent residence in Romania has to present him or herself to the regional office of the IGI, where the application was registered, for the issuance of the permanent residence permit.⁶²⁹

In 2020 in **Timișoara** 27 applications for a permanent residence permit were made and the decision was issued within 6 months, according to director of Timișoara Regional Centre. In **Bucharest** 141 applications were lodged and it was also reported that the decision is usually issued in 6 months. In **Giurgiu**, according to the director the legal deadlines were respected. The same was reported in **Galați**. No applications were reported in **Rădăuți**.

Galați: According to the legal counsellor, the beneficiaries of international protection have to prove that they have 12 minimum net wages/ salaries and if they are not working, they have to prove that they have 5,500 EUR in their accounts. Difficulties occur when they cannot open bank accounts. It was reported that there was a case when the person could not open a bank account and therefore did not apply for the long-term residence permit. It was reported that the majority of applicants had working contracts.

AIDRom mentioned that there is a lack of clarity in this area as well. AIDRom reported that an application was rejected on the basis that the foreigner has been outside Romania for more than 10 months. The applicant, stating the contrary and having also proofs, challenged the decision at the Court of Appeal and the case is still pending.

In 2017, 890 long-term residence permits were issued to refugees and 467 to beneficiaries of subsidiary protection.⁶³⁰ Statistics for 2018, 2019 and 2020 were not made available.

⁶²³ Article 72(1)(d) Aliens Ordinance.

⁶²⁴ Article 72(1)(e) Aliens Ordinance.

⁶²⁵ Information provided by AIDRom, 16 January 2019.

⁶²⁶ Health Insurance House (*Casa de Asigurări de Sănătate*), *Clarifications regarding validation of the quality of an insured person for employees*, available in Romanian at: <http://bit.ly/2Gb71YZ>.

⁶²⁷ Article 73(1)-(2) Aliens Ordinance.

⁶²⁸ Article 73(3) Aliens Ordinance.

⁶²⁹ Article 73(4)-(5) Aliens Ordinance.

⁶³⁰ Information provided by IGI-DAI, 14 February 2018.

3. Naturalisation

Indicators: Naturalisation

- | | |
|--|---------------|
| 1. What is the minimum residence period for obtaining citizenship? | |
| ❖ Refugee status | 4 years |
| ❖ Subsidiary protection | 8 years |
| 2. Number of citizenship grants to beneficiaries in 2020: | Not available |

The main criteria for naturalisation are laid down in Article 8(1) of the Act on Romanian Citizenship.⁶³¹

The applicant must:

- a. Have legally resided in Romania continuously for at least 8 years, or at least 5 years since the day of marriage to a Romanian national;
- b. Prove, through behaviour, actions and attitude, loyalty to the Romanian State, and not undertake or support actions against the rule of law or national security and declare that he or she has not taken such actions in the past;
- c. Have reached the age of 18;
- d. Have legal means for a decent existence in Romania, under the conditions established by the legislation on the regime of foreigners;
- e. Be known for good behaviour and have not been convicted in the country or abroad for an offense that makes him or her unworthy of being a Romanian citizen;
- f. Know Romanian language and possess basic notions of Romanian culture and civilisation, sufficient to integrate into the social life.

The minimum period of residence prior to the naturalisation application is shorter for a number of categories of applicants treated preferentially.⁶³² Recognised **refugees** are one of the categories required to have resided in Romania continuously for a period of at least 4 years prior to the submission of the application. Therefore, the aforementioned provision clarifies the distinction between refugee status and subsidiary protection, which means that preferential treatment is afforded only to those bearing refugee status, while persons with **subsidiary protection** need to fulfil the condition of living 8 years prior to submitting the application.

However, the Act on Romanian Citizenship has introduced two additional articles which extend the right to apply for nationality to stateless persons or foreigners who have “particularly contributed to the protection and promotion of Romanian culture, civilization and spirituality”⁶³³ or “who can significantly promote the image of Romania through outstanding performance in sports”.⁶³⁴ The Romanian Government considered these amendments “necessary” and found that “not adopting them urgently will significantly affect the nationality acquisition and reacquisition process”.⁶³⁵

The competent authority is the National Authority for Citizenship (NAC).⁶³⁶

In 2020, CNRR assisted 48 refugees who requested assistance for accessing Romanian citizenship (16 for long-term residence permits and 32 for citizenship). Of those assisted by CNRR, 6 refugees were granted the long-term residence permit and 6 refugees received Romanian citizenship. In general, the application for naturalisation is not solved in the year in which it is submitted, as a rule.⁶³⁷

⁶³¹ Act 21/1991 of 1 March 1991, available in Romanian at: <http://bit.ly/2xafo6v>.

⁶³² Article 8(2) Act on Romanian Citizenship.

⁶³³ Article 8¹ Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁶³⁴ Article 8² Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁶³⁵ Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁶³⁶ For further details, see European Statelessness Network, *Ending Childhood Statelessness: A case study on Romania*, 2015, available at: <http://bit.ly/2DXDsiz>.

⁶³⁷ Information provided by CNRR, 10 February 2021.

AIDRom reported that they have no statistics on the number of citizenship acquisitions. Many beneficiaries are requesting information on this subject, but not all of them fulfil the conditions imposed by the legislation and only a few of them are submitting an application at NAC.⁶³⁸

In **Timișoara**, one refugee applied for citizenship and he acquired it. CNRR Bucharest provided counselling.

Galați: applications for naturalisation were made and they are still pending.

Rădăuți: it was reported that there were no beneficiaries who applied for naturalisation.

Șomcuta Mare: ASSOC stated that 2 beneficiaries applied for citizenship in 2018, but they have not acquired it. A person from Iran obtained the citizenship in 2020/2019.⁶³⁹

IGI-DAI does not keep statistics on citizenship granted to beneficiaries of international protection.⁶⁴⁰

4. Cessation and review of protection status

Indicators: Cessation

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

Article 98(1) of the Asylum Act prescribes the grounds for cessation of **refugee status** as cases where the beneficiary:

- a. Has voluntarily re-availed him or herself of the protection of the country of nationality;
- b. Having lost his or her nationality, has voluntarily re-acquired it;
- c. Has acquired a new nationality and enjoys the protection of the country of his or her new nationality;
- d. Has voluntarily re-established him or herself in the country which he or she left or outside which he or she remained owing for the reasons on the basis of which he or she was granted refugee status;
- e. Can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail him or herself of the protection of the country of nationality or habitual residence and cannot invoke, in order to justify such refusal, imperious reasons of concern to previous persecutions; or
- f. Expressly renounces refugee status granted by Romania in writing.

Article 99(1) of the Asylum Act provides the following grounds for cessation of **subsidiary protection**:

- a. When the circumstances which led to its grant have ceased to exist or have changed to such an extent that this form of protection is no longer necessary; or
- b. When the beneficiary expressly renounces in writing, to the subsidiary protection granted by the Romanian State.

⁶³⁸ Information provided by AIDRom, 3 March 2021.

⁶³⁹ Information provided by ASSOC, 5 March 2020.

⁶⁴⁰ Information provided by IGI-DAI, 20 February 2020.

These provisions on changed circumstances do not apply to a person who has been granted refugee status or subsidiary protection and who can rely on compelling reasons resulting from previous persecution, in order to refuse the protection of the country of origin or habitual residence.⁶⁴¹

Article 102 of the Asylum Act describes the cessation and withdrawal procedure. It shall be triggered *ex officio* by IGI-DAI or at the proposal of one of the institutions responsible for national security or public order, when new elements or data indicate the existence of reasons to reconsider the situation of the persons enjoying international protection within the meaning of the Asylum Act. Where the procedure for the cessation or cancellation of international protection is initiated at the proposal of one of the institutions responsible for national security or public order, IGI-DAI shall inform the respective institution of the decision of the procedure.

Article 103 of the Asylum Act requires the case officer in charge to inform the beneficiary of international protection in writing of:

- (a) the initiation of the cessation or, as the case may be, withdrawal of the international protection granted by the Romanian state, as well as the reasons for initiating the procedure;
- (b) rights and obligations during this procedure;
- (c) the possibility to present, in a personal interview or written statement, the reasons why international protection should be maintained.

In addition, the same article sets out the rights and obligations of the person subject to cessation or withdrawal procedure. During the cessation or withdrawal of the international protection granted by the Romanian state, the beneficiary has the right to:

- (a) be assisted by a lawyer;
- (b) have an interpreter free of charge;
- (c) contact and receive assistance by a UNHCR official;
- (d) receive counselling an assistance by an NGO representative;
- (e) receive, upon request, legal and procedural information, including information on the procedure in the administrative phase, under the legislation on legal aid in civil matters, taking into account his or her personal situation;
- (f) be provided, on request, with information to clarify the reasons for a cessation or withdrawal of international protection decision at the administrative phase and to explain how such a decision may be challenged, under the legal provision on legal aid in civil matters. The beneficiary has the obligation to:
- (g) provide the competent authorities with full and complete information about their personal situation; submit all the documents at his or her disposal and relevant to his or her personal situation;
- (h) follow the stage of the procedure and inform IGI-DAI within 5 days regarding any change of residence;
- (i) respond to the requests of IGI-DAI.

The beneficiary of international protection has the possibility to present, in a personal interview or written statement, the reasons why his or her international protection should be maintained.⁶⁴² The interview is not conducted in case the beneficiary of international protection has acquired Romanian citizenship.⁶⁴³ If the beneficiary is not present at the interview, the case officer will assess the case on the basis of the documents in the personal file.⁶⁴⁴

The re-evaluation of the case may be carried out in the [Regular Procedure](#) or [Accelerated Procedure](#). The case officer decides on the re-examination of the case in the accelerated procedure, pursuant to the conditions set out in Article 75 for applying it.⁶⁴⁵

Upon request, IGI-DAI grants UNHCR access to information on the procedure for reconsideration of the situation of beneficiaries of international protection and on the decisions issued, if the beneficiary has

⁶⁴¹ Articles 98(2)-(3) and 99(2) Asylum Act.

⁶⁴² Article 103(1)(c) Asylum Act.

⁶⁴³ Article 103(3) Asylum Act, citing Article 98(1)(c).

⁶⁴⁴ Article 103(4) Asylum Act.

⁶⁴⁵ Article 103(5) Asylum Act.

consented to this. In fulfilling its supervisory role under Article 35 of the Refugee Convention, UNHCR has the right to present its views to IGI-DAI on the procedure for reconsidering the situation of beneficiaries of international protection at any stage of this procedure.⁶⁴⁶

After analysing the existing elements from the case file and, as the case may be, the reasons invoked during the interview, the case officer issues a reasoned decision, which maintains, ceases or withdraws international protection.⁶⁴⁷ The cessation or withdrawal of the form of protection shall not have effect on the person's family members.⁶⁴⁸

Depending on the reasons, which gave rise to the decision to cease or withdraw the form of protection, the case officer may mention, as the case may be, the obligation to leave the Romanian territory.⁶⁴⁹ If the decision states also the obligation to leave the Romanian territory, IGI shall issue and enforce the return decision.⁶⁵⁰

If the case officer decides to cease or to withdraw international protection, the beneficiary may appeal the decision, following the rules of the [Regular Procedure](#) or [Accelerated Procedure](#).

The law does not prescribe a systematic review of the protection status and cessation has not occurred systematically in 2018, 2019 or 2020.

No cases were reported by AIDRom.

In **Timișoara**, in 2020, 9 cessation decisions were issued (2 cessation of refugee status and 7 of subsidiary protection), according to the director of Timișoara Regional Centre. In **Galați** 2 cases of cessation of international protection were reported. In **Somcuta Mare** a single case of cessation was reported.

IGI-DAI provided the information that they had issued 55 cessation decisions (main countries Syria, Iraq and Ukraine) in 2020,⁶⁵¹ down from 57 in 2019 (31 cessation of refugee status and 26 of subsidiary protection), up from 3 decisions issued in 2018.⁶⁵²

5. Withdrawal of protection status

Indicators: Withdrawal

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

Refugee status is revoked where:

(a) the person who has been granted refugee status has made false statements, failed to provide certain data or used false documents that were decisive for granting refugee status, and there are no other grounds for maintaining the status of refugee; or

(b) after granting the refugee status it was discovered that the person should have been excluded from being a refugee.⁶⁵³

⁶⁴⁶ Article 103(6) Asylum Act.

⁶⁴⁷ Article 104(1) Asylum Act.

⁶⁴⁸ Article 104(2) Asylum Act.

⁶⁴⁹ Article 104(3) Asylum Act.

⁶⁵⁰ Article 104(4) Asylum Act.

⁶⁵¹ Information provided by IGI-DAI, 16 March 2021.

⁶⁵² Information provided by IGI-DAI, 5 March 2019, 20 February 2020.

⁶⁵³ Article 100 Asylum Act.

Subsidiary protection is revoked under the same grounds as the refugee status,⁶⁵⁴ the only difference being the grounds of exclusion.

The withdrawal procedure is the same as the Cessation procedure. There were no revocation cases in Bucharest, Timișoara, Galați, Giurgiu in 2020.

ASSOC and JRS representatives in Șomcuta Mare reported the case of an unaccompanied child from Syria whose international protection was withdrawn. In Bucharest a single case of withdrawal of protection status of unaccompanied minor child reported. The case is still pending before the domestic court.

IGI-DAI issued 7 decisions of withdrawal of protection status (Syria) in 2020.⁶⁵⁵

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

Measures imposed during the pandemic

IGI-DAI reported that submission of applications has been suspended during the state of emergency (16 March 2020- 15 May 2020). During the state of alert (as of 16 May 2020) no measures were imposed. If family members were arriving from countries or areas that are considered at high epidemiological risk, the same measure was imposed as in the case of other persons arriving from the same countries or areas.⁶⁵⁶ The measure referred to by IGI-DAI is the 14 days quarantine.

There is no difference between refugees and subsidiary protection beneficiaries in relation to the criteria and conditions for family reunification.

1.1. Eligible family members

Article 2(j) of the Asylum Act defines family members of the beneficiary of refugee status or subsidiary protection, to the extent that the family is in the country of origin at the date of the asylum application made by the sponsor, as:

- Spouse;
- Minor unmarried children of the beneficiary or the spouse, with the condition that they are unmarried, regardless of whether they are born in the marriage or out of wedlock or adopted in accordance with the national law of the country of origin.

The law does not set out any waiting period before a beneficiary of international protection may apply for family reunification. The law does not prescribe any deadline for applying for family reunification. The

⁶⁵⁴ Article 101 Asylum Act.

⁶⁵⁵ Information provided by IGI-DAI, 16 February 2021.

⁶⁵⁶ *Ibid.*

beneficiary of international protection in Romania may apply for asylum for his or her family members as long as they are not on the territory of Romania.⁶⁵⁷ Beneficiaries of international protection are also not required to prove the existence of income, accommodation or health insurance for family reunification.

They only need to prove the family relationship with the family member or the fact that the marriage was concluded before entering the territory of Romania.⁶⁵⁸ In practice, if the beneficiary of international protection does not have the financial means to pay for the translation of necessary documents to prove family ties, NGOs might help him or her in covering the costs of translation. In this case, the beneficiary has to wait until he or she receives the **Residence Permit**, as the terms of the project funded by the national AMIF programme clearly state that costs of such translations may be covered only based on residence permit.

1.2. Family reunification procedure

Prior to 2017, the applications for family reunification were assessed by IGI-DAI **Bucharest**. Currently, family reunification applications are to be processed by every Regional Centre.

According to the law, once the application has been submitted, the beneficiary shall also present original documents (birth certificate, marriage certificate, identity card) to prove family ties with the family members or, in the absence of these documents, any other documents proving the status of family member.⁶⁵⁹

In order to obtain additional data and information on family ties and to clarify other relevant aspects of the asylum application lodged for family members, IGI-DAI must conduct an interview with the beneficiary of international protection.⁶⁶⁰

If the beneficiary of international protection does not present to IGI-DAI sufficient documents showing his or her family relationship with the family member in whose name the application is made, where originals are in the possession of the family member who is in a third country, IGI-DAI must communicate to the Directorate-General for Consular Affairs of the Ministry of Foreign Affairs the list of the necessary documents.⁶⁶¹

The General Directorate for Consular Affairs requests the diplomatic mission or the consular office of Romania from the country where the family member of the beneficiary of international protection is, to establish the existence of the documents requested by IGI-DAI. The family member must present these documents, in original, to the diplomatic mission or consular office of Romania.⁶⁶² The documents shall be sent in copy, with the mention “according to the original”, through the General Directorate for Consular Affairs, to IGI-DAI by the diplomatic mission or consular office of Romania from the country where the family member is present.⁶⁶³

Cases of family reunification in 2020 per regional centre

In **Giurgiu**, according to the JRS representative there were no applications made.

Timișoara: The director of Regional Centre Timișoara reported 3 cases of family reunification in 2020, which were admitted.

In **Galați** there were 15 applications for family reunification, which were admitted, but there are also pending applications. In general, the procedure takes around 6 months, but there were also cases where a decision was issued in 3 months. When the application was assessed by IGI-DAI Bucharest the average

⁶⁵⁷ Article 71(1) Asylum Act.

⁶⁵⁸ Article 71(3) Asylum Act.

⁶⁵⁹ Article 30(1) Asylum Decree.

⁶⁶⁰ Article 30(2) Asylum Decree.

⁶⁶¹ Article 30(3) Asylum Decree.

⁶⁶² Article 30(4) Asylum Decree.

⁶⁶³ Article 30(5) Asylum Decree.

duration of the procedure was 2-3 months. Thus, the procedure for family reunification takes much more time since the assessment of the application is done at the regional level. It was reported by the JRS representative that visas were not granted due to the pandemic or even if they were granted visas they could not travel because of border closure.

Rădăuți: 6 requests were lodged; all of them were admitted in swiftly in 1 week. The family members arrived in Romania in 4 weeks.

Șomcuta Mare: JRS reported 3 applications for family reunification, which were all admitted, and 4 still pending. According to ASSOC representative, 5 applications for family reunification were submitted and all admitted. ASSOC representatives made the applications. As for the translation fees of the documents these are covered by the NGO or by the beneficiary. It was also reported that IGI-DAI requests original documents.⁶⁶⁴

AIDRom mentioned that within the current project they are working on a single case of family reunification. Many are interested in family reunification; however only one person has submitted an application and it was admitted.⁶⁶⁵

It was reported by some of the stakeholders interviewed that in general IGI-DAI requests original documents, but if the applicant cannot present the original documents, he or she is informed that the family members have to present them at the Romanian Embassy.

1.3. Specific procedure for unaccompanied children

The Asylum Act provides for a family reunification procedure for unaccompanied children, with specific requirements. The family reunification for unaccompanied minors, beneficiaries of international protection, shall be done with respect to his or her best interests.⁶⁶⁶ The procedure may be triggered *ex officio* by IGI-DAI. In this case the consent of the legal representative and/or the unaccompanied child is also required.⁶⁶⁷ In all cases, the unaccompanied child's views will be taken into account and given due weight.⁶⁶⁸

If the unaccompanied child's family has been traced, the case officer analyses the possibility and the conditions for carrying out family reunification and issues a reasoned decision in this respect.⁶⁶⁹ The decision provided may be challenged under the same conditions as a decision delivered by IGI-DAI in the [Regular Procedure](#).⁶⁷⁰

IGI-DAI shall take, as soon as possible, the necessary measures to trace the unaccompanied child's family, while protecting his or her best interests.⁶⁷¹ The unaccompanied child's opinion on the tracing of his or her family is taken into account and given the due importance, in relation to his or her age and maturity.⁶⁷²

The data and information collected for the purpose of family tracing are processed in accordance with the principle of confidentiality, especially when the life or physical integrity of a child or his or her close family who have remained in the country of origin is endangered.⁶⁷³

According to Save the Children, the family reunification procedure is initiated by the unaccompanied child.

⁶⁶⁴ Information provided by ASSOC, 16 February 2021.

⁶⁶⁵ Information provided by AIDRom, 3 March 2021.

⁶⁶⁶ Article 72(1) Asylum Act.

⁶⁶⁷ Article 72(2) Asylum Act.

⁶⁶⁸ Article 72(2) Asylum Act.

⁶⁶⁹ Article 72(3) Asylum Act.

⁶⁷⁰ Article 72(4) Asylum Act.

⁶⁷¹ Article 73(1) Asylum Act.

⁶⁷² Article 73(2) Asylum Act.

⁶⁷³ Article 73(3) Asylum Act.

In **Galați**, it was reported that an unaccompanied child who applied for family reunification requested the assistance of the NGO representative, who was in contact with IGI-DAI and his legal representative. In 2020 there no cases were reported.

In **Rădăuți**, the reunification procedure is triggered by the NGOs.

The same was reported in **Șomcuta Mare**; the NGOs are initiating the procedure, taking care of the documents, with the legal representative's support and approval. However, according to the ASSOC representative, IGI-DAI is triggering the reunification procedure for unaccompanied minors.⁶⁷⁴

In **Bucharest** the family reunification procedure in case of unaccompanied children is triggered by the NGOs.

Time limits and duration

The law prescribes that the family reunification procedure must be completed as soon as possible, not exceeding 9 months from the date the application was made. If further checks are required, the 9-month period may be extended by up to 6 months.⁶⁷⁵

Timișoara: The family reunification procedure takes around 3 months and family members usually arrive in Romania in 6-7 months, according to the director of IGI-DAI. In comparison with 2017, in 2018 the procedure at the level of the National Centre for Visas for foreigners who want to travel to Romania did not delay the process. In 2019 there were no applications for family reunification.

Șomcuta Mare: According to the ASSOC representative the average duration of the family reunification procedure is between 3 to 6 months. It was also mentioned that 4 family members (spouse and 3 children) arrived in Romania quickly, as they were already in Turkey when the family reunification procedure started.⁶⁷⁶ Conversely, the JRS representative stated that family members' arrival in Romania was delayed this year due to flight cancellations.

Rădăuți: The family members arrived within 1 month from the date of communication of the decision. IGI-DAI is assessing the applications swiftly within 1-2 weeks.

Bucharest: an unaccompanied minor lodged an application in January 2020 and his mother arrived in November. The average duration of the procedure in previous years was 6 months; in 2020 the procedure lasted longer.

Giurgiu: The procedure takes 6 months.

Galați: The procedure takes 6 months.

AIDRom reported that the application was submitted on 16 July 2020 and the decision was communicated on 10 November 2020. The family member is still waiting for the visa.⁶⁷⁷

In 2020, IGI-DAI reported a total of 212 applications for family reunification (90 Somalia, 80 Syria, 15 Iraq, 27 other), of which 96 were admitted and 10 dismissed.⁶⁷⁸

⁶⁷⁴ Information provided by ASSOC, 5 March 2020.

⁶⁷⁵ Article 31(4) Asylum Decree.

⁶⁷⁶ Information provided by ASSOC, 16 February 2021.

⁶⁷⁷ Information provided by AIDRom, 3 March 2021.

⁶⁷⁸ Information provided by IGI-DAI, 16 February 2021.

2. Status and rights of family members

If the case officer considers that the family relationship or, as the case may be, the conclusion of the marriage before entering Romania, has been proved by the beneficiary international protection, he or she will request the diplomatic missions or consular offices of Romania to grant the short stay visa for the family members holding valid travel documents.⁶⁷⁹

For the family members who do not hold valid travel documents or are unable to obtain them and they are outside the country of origin, at the request of the case officer, the diplomatic missions or consular offices of Romania shall issue *laissez passer* and shall grant a short stay visa in order to enter the country. The validity of the travel document shall be no more than 30 days and ceases on the date of entry of the holder into the territory of Romania.⁶⁸⁰

After their entry into Romania, if they consent to the asylum application, family members will have their application assessed according to the provisions of the Asylum Act.⁶⁸¹ In practice, the family members are registered as asylum seekers, they are fingerprinted and photographed, granted temporary identity documents and follow the steps of the asylum procedure. They are scheduled for an interview and receive a decision. In all reported cases, family members were granted the same form of protection as the sponsor. IOM also stated that family members are granted the same form of protection as the beneficiary that applied for family reunification.⁶⁸²

Galați: The family members were granted the same form of protection as the sponsor. The asylum procedure in their case is the same as for the other asylum seekers, there is no differential treatment.

Șomcuta Mare: The family members received the same form of protection as the sponsor. The asylum procedure in their case is carried out swiftly by IGI-DAI. The same was reported by the ASSOC representative. The same was reported in **Rădăuți**.

If the conditions for family reunification set out in Article 30 of the Asylum Decree are not fulfilled, the case officer shall issue a decision to reject the asylum application of the family members. The rejection of the application cannot be solely based on the lack of documentation certifying family ties or marriage.⁶⁸³ The decision shall be communicated to the sponsor beneficiary of protection who submitted the asylum application for the family members.⁶⁸⁴

C. Movement and mobility

1. Freedom of movement

Beneficiaries of international protection enjoy freedom of movement within Romania, in the sense that they may choose their place of residence freely and move freely, under the same conditions as other legally residing foreigners.⁶⁸⁵ Beneficiaries are not allocated to specific geographic regions or facilities.

2. Travel documents

The travel document is issued, upon request, to the beneficiaries of international protection (both persons with refugee status and subsidiary protection) in Romania for a period of 2 years, without the possibility of prolonging its validity. Upon expiry, a new travel document with the same validity period is issued.⁶⁸⁶

⁶⁷⁹ Article 71(3) Asylum Act.

⁶⁸⁰ Article 71(3[^]1) Asylum Act.

⁶⁸¹ Article 71(4) Asylum Act.

⁶⁸² Information provided by IOM, 18 November 2019.

⁶⁸³ Article 31(2) Asylum Decree.

⁶⁸⁴ Article 31(3) Asylum Decree.

⁶⁸⁵ Article 20(1)(b) Asylum Act.

⁶⁸⁶ Article 20(8) Asylum Act.

Refugees receive a dark blue trilingual travel document (Romanian, English, French) as specified in the 1951 Refugee Convention, while beneficiaries of **subsidiary protection** receive a different travel document, also trilingual but of grey colour, which mentions “subsidiary protection”.⁶⁸⁷

For beneficiaries of international protection who are abroad and do not possess valid travel documents, the diplomatic missions or consular offices of Romania, with the approval of IGI, will provide them with travel documents valid only for the return to Romania. The validity of the travel title is at most 30 days and ceases upon the holder’s entry on Romanian territory.⁶⁸⁸

The travel document is valid for travel to all countries, except the country of origin of the beneficiary.

Refugees may travel freely in the EU, without a visa, while beneficiaries of **subsidiary protection** must apply for a visa. At the base of this trend lies the European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959,⁶⁸⁹ and the Council Regulation (EC) No 539/2001. Before 2014, beneficiaries with subsidiary protection were assimilated to refugees and they were also exempt from the visa requirement.

In order to apply for a travel document, beneficiaries of international protection are obliged to certify their residence by submitting one of the following documents: lease agreement registered with the fiscal authority; commodity contract concluded in authentic form; or any other documents concluded under the conditions of validity provided by Romanian legislation in force regarding the housing title, which prove the acquisition of some housing rights. In addition, beneficiaries should also submit an ID photo when applying for a travel document. The travel document is issued for a fee of 258 RON/€60, which represents a tax imposed by the National Printing House.

The application (standard form) for the travel document is made at IGI-DAI, after the temporary residence permit is issued. The authority issues the travel document within 30 days.

IGI-DAI issued 1,622 travel documents to beneficiaries of international protection in 2019.⁶⁹⁰ In 2020, IGI-DAI issued 573 new travel documents and 909 travel documents were renewed.⁶⁹¹

D. Housing

Indicators: Housing

1. For how long are beneficiaries entitled to stay in reception centres?	12 months
2. Number of beneficiaries staying in reception centres as of 31 December 2020	114

1. Stay in reception centres

Beneficiaries of international protection who participate in integration programmes and have no financial means are allowed to stay in the Regional Centres, subject to availability of places.⁶⁹² They may stay in the centres for 6 months with the possibility of extension for another 6 months in case of well-founded reasons, with the approval of IGI-DAI, without exceeding the implementation period of the integration programme.⁶⁹³

⁶⁸⁷ Annexes 5 and 6 Government Decision 557/2006.

⁶⁸⁸ Article 20(9) Asylum Act.

⁶⁸⁹ European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959, signed by Romania on 5 November 1999 and ratified through Act 75/2001.

⁶⁹⁰ Information provided by IGI-DAI, 20 February 2020.

⁶⁹¹ Information provided by IGI-DAI, 16 February 2021.

⁶⁹² Article 21(1) Integration Ordinance.

⁶⁹³ Article 21(2) Integration Ordinance.

A total of 114 beneficiaries of international protection were residing in the Regional Centres at the end of 2019:

Beneficiaries of international protection in Regional Centres	
Centre	Total
Timișoara	1
Șomcuta Mare	25
Rădăuți	28
Galați	27
Bucharest	27
Giurgiu	6
Total	114

Source: IGI-DAI, 20 February 2020.

As for 2020, IGI-DAI reported that there are no statistics on the number of beneficiaries accommodated in the Regional centres.

In **Giurgiu**, the director mentioned that during 2020, 40 beneficiaries of international protection were accommodated in the centre and at the end of the year there were 22 persons. In **Timișoara**, the director of the regional centre reported that in 2020 there were 8-9 beneficiaries in the centre, but they were transferred in other regional centres.

Beneficiaries accommodated in Regional Centres have to pay rent and maintenance costs after 3 months.⁶⁹⁴ The daily rental fee is different in every regional centre. Vulnerable beneficiaries may be accommodated free of charge in the Regional Centres.⁶⁹⁵

Beneficiaries of international protection who participate in integration programmes and have no financial means have the right to stay in Regional Centres or in other facilities managed by the Ministry of Internal Affairs for a general period of 12 months instead of 6 months, which may be extended for 6 months.⁶⁹⁶

In practice, beneficiaries of international protection in **Timișoara**, **Șomcuta Mare**, **Rădăuți**, **Galați** and **Giurgiu** are allowed to stay for free, according to the amended Integration Ordinance, for up to 3 months, in comparison to 2 months as prescribed by the previous version of the Ordinance. Beneficiaries of international protection have to pay a rental fee after that period.

After this period the rental fees may be covered by NGOs through the implemented projects. JRS and AIDRom mentioned that this is paid until the beneficiary receives the non-refundable financial aid.

According to AIDRom, only vulnerable persons (single parent families, persons with health problems, unaccompanied minors, victims of torture, elderly, etc.) may be housed in regional centres for free.

According to IGI-DAI, 223 vulnerable beneficiaries of international protection were registered in the integration program in 2020 (53 in Bucharest, 43 in Galați, 7 in Giurgiu, 62 in Maramures, 61 in Rădăuți, 7 in Timișoara). The average duration of their accommodation in the regional centres is 12 months.⁶⁹⁷

⁶⁹⁴ Article 21(5) Integration Ordinance. The rental fee is established at local level for the living facilities which are in the state's or territorial / administrative unit's property.

⁶⁹⁵ Article 34(2) and (3) Integration Ordinance. IGI-DAI may provide accommodation in its centers to vulnerable persons that do not require specialised assistance and who cannot benefit from a home from the institutions ability within the space and funds available. For well-founded reasons, the IGI-DAI may extend the integration program for these persons.

⁶⁹⁶ Article 21(2) Integration Ordinance.

⁶⁹⁷ Information provided by IGI-DAI, 16 February 2021.

In **Șomcuta Mare**, after the 90 days that beneficiaries of international protection are allowed to stay for free, ASSOC covers the rental for at least 2 months.⁶⁹⁸

In **Rădăuți**, ICAR Foundation pays the rental fee for another two months. As a result, the beneficiary has to pay for rent only after 5 months after obtaining international protection.

In addition to this, JRS implements the project “A New House” in all the Regional Centres, funded through the AMIF national programme, which covers partially or entirely the rental fees and/or the utility costs for beneficiaries of international protection. In 2019, 241 beneficiaries of international protection received rental/utilities subsidies. The rental/utilities subsidies may be covered for a maximum of 12 months within this project. However, in 2019, the longest period for which these subsidies were granted was 10 months. These services are available to: (a) relocated or resettled beneficiaries; (b) beneficiaries enrolled in the integration programme; and (c) beneficiaries in a vulnerable situation. For each case, a request is made to IGI-DAI in order to receive their approval for assisting the case.

2. Social housing

According to the law, beneficiaries of international protection have the right to access the social housing scheme under the same conditions as Romanian citizens.⁶⁹⁹

After the integration programme is completed or when a job opportunity has been identified, IGI-DAI guides the assisted person to the community where there are vacancies and informs him or her on how to get a social home under the conditions set in the law.⁷⁰⁰

The local public administration authorities have the obligation to ensure, within the limits of available resources, social housing for persons who have acquired a form of protection in Romania and who are to move to the respective community under the same conditions as the Romanian citizens, even if they have not established their domicile or residence in that area.⁷⁰¹

If the local public administration authorities cannot provide a social home, the beneficiary may rent housing within the respective local community.⁷⁰² IGI-DAI subsidises up to 50% of the rent, subject to availability of funding, for a maximum period of one year.⁷⁰³ According to IGI-DAI, 11 persons benefitted from this subsidy in 2018.⁷⁰⁴ In 2020, no beneficiary benefitted from this aid.⁷⁰⁵

Timișoara: Requests for social housing have been submitted, but until now no one has benefited from this. The local public administration authority has no social houses available; the list of requests for social housing is endless. In order to benefit from financial aid from IGI-DAI for the rent, beneficiaries have to prove that they have requested social housing and they have to have a rental contract registered at the tax authorities. According to the director of the Regional Centre Timișoara, in 2020, IGI-DAI granted subsidies (50% of the rent) to a single man and a family. According to JRS there were no such cases.

Rădăuți, Giurgiu and Șomcuta Mare: This provision has never been applied in practice. In Șomcuta Mare, Galați, Giurgiu and Rădăuți they request assistance under the aforementioned project “A New House” run by JRS.

Galați: As far as JRS is aware, no beneficiary of international protection was granted this subsidy by IGI-DAI.

⁶⁹⁸ Information provided by ASSOC, 5 March 2020.

⁶⁹⁹ Article 20(1)(q) Asylum Act.

⁷⁰⁰ Article 28 Integration Ordinance.

⁷⁰¹ Article 29(1) Integration Ordinance.

⁷⁰² Article 29(2) Integration Ordinance.

⁷⁰³ Article 29(3) Integration Ordinance.

⁷⁰⁴ Information provided by IGI-DAI, 5 March 2019.

⁷⁰⁵ Information provided by IGI-DAI, 16 February 2021.

E. Employment and education

1. Access to the labour market

Beneficiaries of international protection have the right to be employed by natural or legal persons, to carry out voluntary activities, to exercise free professions and to carry out legal acts, to carry out acts and deeds of commerce, including independent economic activities, under the same conditions as Romanian citizens.⁷⁰⁶ There are no differences between refugees and subsidiary protection beneficiaries in relation to access to employment.

Beneficiaries participating in the integration programme are registered as individuals looking for a job at the National Agency for Employment, within 30 days of signing the protocol.⁷⁰⁷

In order to carry out measures to stimulate employment, the National Agency for Employment, through its agencies, has the obligation to draw up an individual plan for each person included in the integration program and register them as a person looking for a job, according to the legal provisions. For this purpose, IGI-DAI provides information on the education and professional profile of the beneficiaries. The National Agency for Employment may also collaborate with NGOs in order to inform, counsel or provide other services to beneficiaries of international protection.

Unemployed beneficiaries of international protection included in the integration programme may also benefit from relocation, mobility or activation allowance, if they are registered as unemployed.⁷⁰⁸

1.1. Obstacles to access in practice

Although beneficiaries of international protection have the same rights as Romanian citizens when it comes to access to labour market, there are some fields where there is limited or no access. For example, doctors with refugee status or subsidiary protection do not have the right to practice medicine in Romania,⁷⁰⁹ unless they are married to a Romanian citizen, they are family members of an EU citizen, or they have a **Long-Term Residence** permit granted by Romania or an EU Member State.⁷¹⁰

Legally there are no limitations imposed on beneficiaries of international protection regarding access to labour market. In practice, knowledge of Romanian language (and in some cases English) may hinder beneficiaries' access to labour market. In addition, many of the beneficiaries do not have diplomas that certify their studies, which makes it impossible for them to apply for certain positions.

In practice, access to labour market also depends on the economic power of the city or region.

Timișoara: There are jobs available and beneficiaries may easily find a job, even if they do not speak Romanian, in fast-food shops owned by people from the foreign community. As a consequence, they may work and face no language barrier.

Bucharest: IOM reported that the difficulties encountered by the beneficiaries of international protection in 2018 in accessing the labour market, still persists in 2019. Mainly for beneficiaries who do not have

⁷⁰⁶ Article 20(1)(c) Asylum Act.

⁷⁰⁷ Article 24 Integration Ordinance.

⁷⁰⁸ Article 25 Integration Ordinance.

⁷⁰⁹ The issue was debated during a meeting on 26 October 2017 with representatives of the Romanian Government, the College of Doctors, IGI, NGOs, UNHCR and the International Organisation for Migration (IOM). The conclusions of the meeting were that the Government will analyse the proposals and will try to find solutions. See EMINET, 'Obținerea dreptului de practică de către medicii străini, în contextual deficitului de personal din sistemul de sănătate românesc', 26 October 2017, available in Romanian at: <http://bit.ly/2hK7IUb>.

⁷¹⁰ Article 376(1) Act 95/2006 on Health Reform.

diplomas, certificates of studies or qualifications. Some of the employers are not aware of the conditions under which foreigners can be employed in Romania and of the status of beneficiaries of international protection. Another difficulty encountered is the level of knowledge of Romanian language, which usually is required at an advanced level.⁷¹¹ This is still the case in 2020. It was also reported by JRS that beneficiaries are reluctant to finding a job (as jobs may not be on their level, are poorly paid, or they plan to leave Romania in the near future)

Șomcuta Mare: According to the JRS representative, persons accommodated in the centre are periodically informed about available jobs in the area by AIDRom. There are a couple of companies which constantly recruit people in the unskilled labour sector. There were 2 beneficiaries of international protection legally working in Baia Mare. No problems or difficulties in accessing the labour market were reported by the JRS representative, who also mentioned that if the beneficiaries are willing to work, jobs will be found for them. Even though there are jobs available, beneficiaries have not expressed interest in seeking employment. Beneficiaries do not intend to remain in Șomcuta Mare because it is a small city and there is no community of foreigners; they prefer to go to **Bucharest**.

In 2020 ASSOC mentioned that in general is not difficult for beneficiaries to find a job. However, it is impossible for them to find a job in a field where higher education is required due to the bureaucratic procedure of equivalence of diplomas and because they are not proficient in Romanian.

Galați: It was reported that several beneficiaries transferred their integration programme to Bucharest where there is a foreign community. 95% of the beneficiaries are leaving Galați and heading to Cluj or Bucharest. There are jobs available especially in the unskilled labour sector and employment offers are received from different companies and periodically from AJOFM. Employers from the construction industry are coming directly to the centre. The employers are requiring a basic or intermediary knowledge of Romanian language or English. There were beneficiaries who accepted to work for 1,200 RON / €255 and others who refused such jobs.

Rădăuți: it was reported that the majority of beneficiaries are leaving Rădăuți and heading to bigger cities such as Iasi, Cluj or Bucharest or even to other countries. There are only 2 families living in Rădăuți. It was reported that due to the pandemic the number of available jobs decreased.

Giurgiu: According to the JRS representative, the main obstacles in finding a job are the language barrier, the lack of diplomas and the lack of qualifications.

AIDRom reported that many beneficiaries face discrimination on the grounds of colour / race (they are referred to as "gypsy" or "terrorist") and language barriers. Most beneficiaries have no documents proving their professional qualifications or experience; there are cases where persons with higher education are working in the unskilled sector.⁷¹²

As for the impact of the pandemic in accessing the labour market AIDRom stated that there have been many layoffs or reduced working hours and therefore wage cuts. Many of their beneficiaries worked in HORECA sector, which was the most affected.⁷¹³

Recognition / equivalence of professional qualifications

According to the Asylum Act, beneficiaries of international protection have the right to equal treatment to Romanian citizens regarding the equivalence of studies or periods of study, the recognition of diplomas, attestations and certificates of competency, as well as of professional qualifications which give access to regulated professions in Romania, in accordance with the regulations in force.⁷¹⁴

⁷¹¹ Information provided by IOM Romania, 18 November 2019.

⁷¹² Information provided by AIDRom, 3 MARCH 2021.

⁷¹³ Ibid.

⁷¹⁴ Article 20(1)(r) Asylum Act.

If the beneficiary would like to be employed in a position according to his or her qualifications, he or she has to obtain the recognition and validation of his or her diplomas. The request for recognition and validation of diplomas is assessed by the National Centre for Recognition and Validation of Diplomas (CNRED), within the Ministry of Education.

The request should include the following documents:⁷¹⁵

1. Standardised application;
2. Certificate (act) of study for equivalence or recognition:
 - Copy if studies are in Romanian, English, French, Spanish or Italian;
 - Copy and legalised translation into Romanian for other languages;
3. Transcript or any other document from the education institution certifying the courses taken. If the recognition of the specialisation, or the field of study is not mentioned in the diploma,
 - Copy if studies are in Romanian, English, French, Spanish or Italian;
 - Copy and legalised translation into Romanian for other languages;
4. Other relevant documents e.g. full programme of course for the pursuit of a regulated profession in case of study documents obtained in third countries:
 - Copy if studies are in Romanian, English, French, Spanish or Italian;
 - Copy and legalised translation into Romanian for other languages;
5. Copies of personal identification documents i.e. passport, identity card, proof of name change if applicable;
6. Processing fee of 50 RON / €11.

The CNRED website also mentions that Apostille or over-legalisation is required for the authentication of the diplomas subject to recognition. For states parties to the Hague Apostille Convention, diplomas subject to recognition must be addressed to the Hague Apostille by the competent authorities of the issuing countries. Education titles in Italy, Greece, Spain, Portugal and Cyprus are covered by the Hague Convention Apostille, whereas other EU Member States are exempted.

For States who are not party to the Hague Apostille Convention, education titles shall be legalised or accompanied by the Certificate of Authenticity issued by the competent authorities of the country of origin. The legalisation is applied by the Ministry of Foreign Affairs of the issuing country and the Embassy / Consular Office of Romania in that country or by the Ministry of Foreign Affairs of the issuing country and its Embassy / Consular Office in Romania and the Ministry of Foreign Affairs of Romania. For countries where there are no diplomatic missions of Romania or who do not have diplomatic missions in Romania, titles are endorsed by the Ministry of Education and the Ministry of Foreign Affairs of the issuing country.

When requested, CNRED did not clarify whether this procedure also applies to beneficiaries of international protection. However, in case Apostille is required for beneficiaries, this would be contrary to the essence of international protection, as the person would be required to request the over-legalisation or Apostille from the Ministry of Foreign Affairs of the issuing country and its Embassy. According to AIDRom representative in **Timișoara** and Save the Children, if the beneficiary of international protection has studied in the country of origin, CNRED does not require Apostille or over-legalisation. CNRED only requires Apostille if the studies are completed in another country. However, according to IOM, depending on the country of origin, CNRED may require Apostille or over-legalisation of beneficiaries' diplomas.⁷¹⁶

The recognition procedure lasts 30 days according to AIDRom. Beneficiaries receive assistance from them and from the Department of International Relations of universities where they would like to apply.⁷¹⁷

No cases of such were reported in Rădăuți, Galați, Timișoara in 2020.

⁷¹⁵ CNRED, *Recunoașterea studiilor superioare ale cetățenilor din state membre UE, SEE și din Confederația Elvețiană, membrii de familie ai acestora, posesorii unui permis de ședere pe termen lung CE și refugiați, în vederea accesului pe piața forței de muncă*, available in Romanian at: <http://bit.ly/2ySVHRc>.

⁷¹⁶ Information provided by IOM Romania, 18 November 2019.

⁷¹⁷ Information provided by AIDRom, 3 March 2021.

Șomcuta Mare: It was reported that 2 beneficiaries of international protection, medical doctors, from Iraq and Syria, respectively, requested the equivalence of their professional qualifications. The Iraqi national submitted the request at the Ministry of Education at the beginning of 2019 and received an answer in June 2019. He was informed that he needs to pass 8-9 exams in order to receive the diploma. The Ministry does not inform the applicant where he or she is supposed to take the exams; it only mentions that they have to be accredited institutions. The 2 beneficiaries had to inquire at universities if it is possible for them to take the necessary exams. One university informed them that they have to enrol at university and take all the courses from the first academic year until the last one. Later on, the beneficiaries were informed by one person from the community that they have to present the explicit curriculum, with all the subjects taught in their country of origin. The Iraqi national submitted the curriculum at the Ministry of Education and he received the diploma. The ASSOC representative, reported that they had no cases of such in 2019.⁷¹⁸

ASSOC representative reported that they have 2 unresolved requests for recognition and validation of a BA and a MA diploma, lodged in 2019. He is not aware of the reason of delay.

IGI-DAI does not keep statistics on the number of beneficiaries of international protection in employment.

2. Access to education

Beneficiaries of international protection have the right to have access to all forms of education, under the same conditions as Romanian citizens.⁷¹⁹ In order to have access to education, children beneficiaries of international protection need to have the minimum age provided by law for all children: 3 to 6 for pre-school education and 6 for primary education.

2.1. Enrolment at schools

The legal provisions regarding the Romanian language courses for children were detailed by the new amendment of the Integration Ordinance. Therefore, it is stated that, in order to integrate minors beneficiaries of international protection into the Romanian education system, they benefit from a preparatory course for learning the Romanian language, emphasising that the course is intensive and free of charge during a school year. It was also added that the enrolment is made throughout the calendar year, and the attendance of the course may continue during the following school year, as the case may be.⁷²⁰

During the first year, children are enrolled at schools as viewers and listeners; they do not receive grades and are not registered in the class book.⁷²¹ At the end of the preparatory course, the level of knowledge of Romanian language is assessed and an evaluation commission determines enrolment at school.⁷²²

Bucharest (Region 1): In 2020, enrolment of children was ensured on a voluntary basis by AIDRom and Save the Children.

Giurgiu: only 2 children accommodated in DGASPC centre were enrolled and attended online school classes during 2020.

Galați: Children are enrolled at school from the moment they become asylum seekers. Only 3 of them finalised the preparatory course; they undergone the test and soon after they left the centre. There are children enrolled at school in Bacau county.

⁷¹⁸ Information provided by ASSOC, 5 March 2020.

⁷¹⁹ Article 20(1)(h) Asylum Act.

⁷²⁰ Article 10(1) Integration Ordinance.

⁷²¹ Article 10(2) Integration Ordinance. During the preparatory course children beneficiaries of international protection participate free of charge in pedagogical activities within the school units, without their presence being registered in official documents.

⁷²² Article 10(3) Integration Ordinance

Timișoara: AIDRom reported that they are not aware of the total number of children enrolled in school in 2020, as the enrolment address is sent by the integration to the County School Inspectorate. However, they are familiar with 2 children who are enrolled in school and also beneficiaries of the services provided within the project implemented by AIDRom. As for Region 3 (Rădăuți) they had no such cases.

Rădăuți: Children are enrolled at school during the asylum procedure. No children asylum seekers or beneficiaries of international protection attended classes in 2020.

Șomcuta Mare: ASSOC representative, reported that in 2020, they submitted 40 requests to enrol asylum seeking children and beneficiaries of international protection and none of the children were enrolled. In 2020, Ioan Buteanu High School in Șomcuta Mare operated in a hybrid scenario and decided not to enrol asylum seeking children or beneficiaries of international protection, preferring to bring them materials in the centre. ISJ was notified about this situation, but no solution was provided, stating that this is a matter that should be solved by the school. Because children were not issued with enrolment certificates, NGOs could not provide them school supplies.

ASSOC representative further mentioned that only 2 children from Baia Mare attended school in 2020. JRS representative also reported that no children beneficiaries of international protection were enrolled at school in 2020.

As regards children with special needs, the conditions for accessing education are the same as for Romanian children. The child should first be issued a degree of disability by the Complex Assessment Service of the Child with Disabilities within the Directorate-General for Social Assistance and Child Protection (DGASPC). This is a particularly complicated and bureaucratic process, which has to be repeated every year.⁷²³

Based on the evaluation, the Complex Assessment Service of the Child with Disabilities also decides if the child should be enrolled in a school for children with special needs or in a state school, and at what grade.

In **Timișoara** the same rules apply for beneficiaries of international protection as for Romanian citizens. In the case of a girl with disabilities, the case was referred to other NGOs and public authorities dealing with disabled minors. There were no problems regarding their integration, as the mother of the girl is employed as a personal assistant of the girl, and she is paid according to the law applicable to Romanian citizens. The only difficulties faced by the family are the language barrier and bureaucracy, the mother's employment and the issue of the disability certificate. Without proper support and assistance in this process, the family of the girl would not have managed. No cases reported in 2019, nor in 2020.

In **Șomcuta Mare**, the ASSOC representative reported a case, for which the diagnostic procedure was ceased because the minor and its family left the centre.⁷²⁴

Beneficiaries of international protection that have reached the age of 18 encounter the same problems in accessing vocational training or education, regardless their age, according to the AIDRom representative. The language is an impediment. If they do not have diplomas, they have to be examined for all subjects from the first to twelfth grade, or if they cannot certify the years of study, they have to repeat those school years in Romania following the Romanian curricula. There are very few youngsters that have chosen this path, even though professors were understanding and helpful. Another reported situation is that of youngsters that went to an Arabic school and after one year transfer to public schools. IOM also pointed out the lack of diplomas and language barriers as an obstacle or the fact that certain beneficiaries are illiterate and / or do not have the appropriate level of education (for example for enrolling at certain courses

⁷²³ For the highly onerous administrative requirements to be met for this process according to Common Order No 1985/1305/5805/2016, see DGASPC, *Necessary documents for the complex assessment of the child's disability*, available in Romanian at: <http://bit.ly/2hK8T0r>.

⁷²⁴ Information provided by ASSOC, 5 March 2020.

it is necessary to finalise primary education (4 years of schooling). ASSOC, on the other hand, specified that along with the language barrier, in some cases there is also a lack of determination.

2.2. Integration courses

Measures imposed during the pandemic

IGI-DAI reported that during the state of emergency and also during the state of alert the Romanian language courses were not held by the County School Inspectorates. However, the Romanian language courses were held online by NGOs. Because many beneficiaries had no devices to participate to these courses, the integration officers - based on an individual assessment of each case - extended the integration program.⁷²⁵

The new amendments of the Integration Ordinance stipulate that IGI-DAI, in collaboration with the authorities of the local public administration, organizes sessions of cultural accommodation and counselling activities, aiming to familiarize the adult beneficiaries of international protection with the traditions, customs, legislation and specifics of the Romanian society.⁷²⁶ The previous provision stipulated that IGI organizes these activities and may collaborate with public authorities and NGOs. IGI and the local public administration authorities may collaborate with other public institutions and non-governmental organizations in order to organize these activities.⁷²⁷

Adult beneficiaries of international protection benefit from intensive and free of charge Romanian language courses, organized by the specialized structures of the Ministry of National Education, in collaboration with IGI. Enrolment is made throughout the calendar year, and the attendance of the course may continue throughout the following school year.⁷²⁸ IGI-DAI, in collaboration with the NGOs provides the necessary spaces for organizing the courses.⁷²⁹ The Ministry of Education appoints a qualified person to teach the Romanian language course for adults and minors and it also ensures adequate training for these teachers.⁷³⁰ The Ministry of Education establishes the organisation, duration and schedule of these courses.⁷³¹ At the end of the preparatory course, a commission issues a certificate that demonstrates the level of knowledge of the Romanian language.⁷³²

For unaccompanied minors who are beneficiaries of international protection, IGI-DAI collaborates with DGASPC and NGOs representatives. They establish the integration plan for the children and implement the activities included in the plan.⁷³³

In practice, some deficiencies in Romanian courses are reported in **Timișoara** and **Rădăuți**. Participants are not grouped based on their age – children and adults are in the same class – or on their level of education, meaning that illiterate persons and persons with higher education are grouped together. In Timișoara they are grouped in advanced and beginner groups. The classes are held only twice a week, from 5-6pm for advanced learners and from 3-5pm for beginners. There is only one teacher in Timișoara for all beneficiaries.

In **Timișoara**, according to JRS representative the Romanian language courses were not held in 2020. On the contrary, the director of the regional centre stated that the courses were held in person. AIDRom reported that the language classes were suspended for a while during the pandemic. In Bucharest they were held online and in Timișoara, the courses were conducted both in person and

⁷²⁵ Information provided by IGI-DAI, 16 February 2021.

⁷²⁶ Article 13(1) Integration Ordinance.

⁷²⁷ Article 13(2) Integration Ordinance.

⁷²⁸ Article 14(1) Integration Ordinance.

⁷²⁹ Article 14(2) Integration Ordinance.

⁷³⁰ Article 14(3) Integration Ordinance.

⁷³¹ Article 14(4) Integration Ordinance.

⁷³² Article 14(5) Integration Ordinance.

⁷³³ Article 35(3) Integration Ordinance.

online.⁷³⁴ According to JRS representative in Bucharest the Romanian language courses were not organised in 2020.

Rădăuți: As of September 2019, beneficiaries were grouped based on their age, but they are not grouped on their level of education or level of Romanian language knowledge. The classes are held on Monday and Thursday for children and on Wednesday for adults. During the summer break the Romanian language course is not held. On the other hand, ICAR Foundation is also organising Romanian language courses. These courses are framed on the needs, level of education and knowledge of Romanian language of the beneficiaries. Before starting the course, beneficiaries have to take a test.

Another stakeholder reported that as regards the Romanian classes organised by the Ministry of Education, beneficiaries are not grouped based on their age; they are all in the same class, advanced or beginners. It was also reported that the professor does not explain well enough and some of the beneficiaries are not attending the course anymore, which can affect their integration programme, because they need to have 80% attendance at this course. It was also mentioned that all beneficiaries are attending ICAR Foundation's classes because the professor does her best to explain the class material.

Șomcuta Mare: The Romanian language courses are held 2 times a week in the Regional Centre with beneficiaries of international protection and asylum seekers. In addition, ASSOC also organises language courses according to JRS representative. ASSOC representative reported that in theory, the courses are organized within the regional centre, but considering the COVID situations, the teachers were not present.⁷³⁵

In **Timișoara**, it was reported that there is goodwill by the teacher, but there seems to be a lack of support at the national level. The lack of efficiency was emphasised by the AIDRom representative who stated that in case a new beneficiary starts participating in Romanian language classes the whole group of beginners will have to repeat all the introductory courses. There were 10 beneficiaries of international protection registered in the integration programme and also third-country nationals participating in the Romanian language classes. AIDRom also organises Romanian language classes in the same way as ICAR Foundation.

The AIDRom representative in Timișoara deems that beneficiaries should benefit from proper measures which will give them the opportunity to learn Romanian extensively in the first 3 months. Language courses should be daily and intensive. In reality, beneficiaries are concerned about sustaining their families or themselves and pay for rent. As a result, they focus on employment and they have less or no time at all to attend Romanian classes.

In **Galați**, beneficiaries are grouped based on their age, but when the number of beneficiaries attending the class is low, they are not grouped into age categories. There are 2 teachers, 1 for the children and the other for the adults. The classes are held twice a week for 2 hours. JRS is also organising Romanian language courses every weekday in Constanta and Galați. In 2020, it was reported that the classes were held neither in person, nor online.

In **Giurgiu**, according to JRS representatives the Romanian language classes were held online and in person, but on rare occasions; 2-3 times per week by the School Inspectorate and AIDRom; beneficiaries are not divided into groups; there is no constant participation, hence the low efficiency. The director of Giurgiu Regional Centre mentioned the same that the language courses are held online and in persons in the centre and are organised by NGOs and not ISJ. It was further mentioned that beneficiaries are not divided based on their age, but they are grouped based on their level of education and knowledge of Romanian language.

⁷³⁴ Information provided by AIDRom, 3 March 2021.

⁷³⁵ Information provided by ASSOC, 16 February 2021.

IOM Romania, in partnership with the Intercultural Institute in Timișoara and the Schottener Social Services Foundation, implemented between July 2017 and January 2019 the project “REACT_RO: educational resources for learning Romanian language and cultural accommodation of beneficiaries of International Protection (BPI) and Third-Country Nationals (RTT) in Romania”. The project aimed at contributing to the development of a coherent package of educational resources for learning Romanian as a foreign language and orientation in society that takes into account the needs of beneficiaries of international protection and third-country nationals in Romania.⁷³⁶

F. Social welfare

Beneficiaries of international protection who for objective reasons lack the necessary means of subsistence have the right to receive, upon request and within the limits of the state's financial resources, a monthly non-reimbursable aid (“aid”) for a maximum period of 12 months.⁷³⁷ The amount of aid is related to the reference social indicator under the terms and conditions established by Government Decision.⁷³⁸

The Integration Ordinance states that to ensure effective access to social rights, the competent authorities take into account the specific situation of the beneficiaries of international protection.⁷³⁹ New provisions were added by the amendments, stipulating that at IGI's request, local support teams may be set up to integrate beneficiaries of international protection and other foreigners who have a right of residence in Romania, as well as citizens of the Member States of the European Union, the European Economic Area and citizens of the Swiss Confederation. The local support teams are composed of IGI-DAI, local public administration authorities, public institutions and NGO representatives.⁷⁴⁰ Further rules will be published, prescribing how these support teams are established, how they operate and what their responsibilities are.⁷⁴¹

The timeline for the submission of the application for inclusion in the integration program was prolonged from 30 days to 3 months from the date the international protection was granted, by the amended Integration Ordinance.⁷⁴² Another legal provision introduced by the amendment prescribes that NGO representatives may participate at the interview conducted by the integration officer of IGI-DAI with the beneficiary of international protection. The scope of the interview is to establish the type of assistance or activities necessary for the social integration of the applicant.⁷⁴³

The duration of integration programmes for beneficiaries of international protection is prolonged from 6 months to 12 months, which may be extended with 6 months.⁷⁴⁴

1. Conditions for aid

The non-refundable financial aid is granted for an initial period of 6 months, with the possibility of extending it to 12 months. In order to receive non-refundable aid, beneficiaries of international protection must be enrolled in the integration programme.⁷⁴⁵ However, some groups, referred to as “special cases”, are exempt from the obligation to be enrolled in the programme. The special cases are:⁷⁴⁶

- a. Unaccompanied children;

⁷³⁶ IOM Romania, ‘REACT_RO: resurse educaționale pentru învățarea limbii româneși acomodarea culturală a Beneficiarilor de Protecție Internațională (BPI) și Resortisanților Țărilor Terțe (RTT) în România’, available in Romanian at: <http://bit.ly/2F9Wlw5>.

⁷³⁷ Article 20(1)(m) Asylum Act.

⁷³⁸ *Ibid.*

⁷³⁹ Article 14^1(1) Integration Ordinance.

⁷⁴⁰ Article 14^1(2) Integration Ordinance.

⁷⁴¹ Article 14^1(3) Integration Ordinance.

⁷⁴² Article 16 Integration Ordinance.

⁷⁴³ Article 17(1) (2) Integration Ordinance.

⁷⁴⁴ Article 20 integration Ordinance.

⁷⁴⁵ Article 60(1) Asylum Decree.

⁷⁴⁶ Article 33(2) Integration Ordinance.

- b. Persons with disabilities;
- c. Persons who have reached retirement age and do not benefit from retirement;
- d. Pregnant women;
- e. Single-parent families with juvenile children;
- f. Victims of human trafficking;
- g. Victims of torture, rape or other serious forms of psychological or sexual violence.

In 2018, 1,146 beneficiaries of international protection were enrolled in such a programme, of whom 608 continued a programme started in 2017. 10 unaccompanied children beneficiaries of international protection were enrolled in the integration programme in 2018.⁷⁴⁷

In 2019, 793 beneficiaries of international protection were enrolled in the integration programme, of whom 450 started in 2019 while the rest continued the programme started in 2018.⁷⁴⁸

In 2020, 588 beneficiaries of international protection were enrolled in the integration programme and in total there were 1,003 beneficiaries, of which 32 were unaccompanied minors.⁷⁴⁹

The provision of aid is subject to actual residence of the beneficiary, which is mentioned on the **Residence Permit**. The beneficiary of international protection is included in the integration programme coordinated by the IGI-DAI office territorially competent for the area where he or she resides.⁷⁵⁰

In case a beneficiary would like to change his or her place of residence, he or she has to communicate this intention to IGI-DAI where he or she started the integration programme and has the obligation, within 15 days from the date of moving to the new address, to present him or herself to the IGI-DAI office territorially competent for the area in which he or she now resides or, as the case may be, to the relevant territorial entity of the Aliens Authority, to register him or herself and to make the necessary changes to the identity document.⁷⁵¹

IGI-DAI reported that 668 applications for non-refundable financial aid were lodged in 2020.⁷⁵²

2. Application procedure for aid

The authority responsible for granting the non-refundable aid is the County Agency for Payments and Social Inspection (*Agencia Județeană pentru Plăți și Inspecție Socială*, AJPIȘ). The funds necessary for granting aid are provided from the budget of the Ministry of Labour and Social Protection through the Agency for Payments and Social Inspection of the County.⁷⁵³

The application for non-refundable aid is drafted individually by each beneficiary of international protection who fulfils the conditions set out in the law or by his or her legal representative or guardian, according to a template established by IGI.⁷⁵⁴ This requirement raises issues in practice for unaccompanied children in Bucharest. An unaccompanied child beneficiary of international protection may not access non-refundable financial aid due to the fact that he was not appointed a legal representative by DGASPC, since the legal representative only assists unaccompanied asylum-seeking children during the asylum procedure and not after they are granted a form of protection.

According to the integration officer in Stolnicu Regional Centre, unaccompanied children who are granted a form of protection are left without a legal representative. Within 15 days children should be taken over

⁷⁴⁷ Information provided by IGI-DAI, 5 March 2019.

⁷⁴⁸ Information provided by IGI-DAI, 20 February 2020.

⁷⁴⁹ Information provided by IGI-DAI, 16 February 2021.

⁷⁵⁰ Article 60(1) Asylum Decree.

⁷⁵¹ Article 52(2) Asylum Decree.

⁷⁵² Information provided by IGI-DAI, 16 February 2021.

⁷⁵³ Article 20(5) Asylum Act.

⁷⁵⁴ Article 60(2) Asylum Decree.

by DGASPC. However, in reality they remain in the regional centre, without a legal representative. IGI-DAI submits the application for state legal aid for children, but the decision of appointment of legal representative is required in order to receive this aid. Therefore children are not receiving this financial aid for children. As for the non-refundable aid, if children are 15-16 years old they may sign the application for this aid.

AIDRom reported that in Timișoara, unaccompanied children are taken over by DGASPC and are represented by the social worker/case manager within DGASPC Timișoara. In Bucharest, there are still difficulties because the legal representative usually does not sign other documents than those related to asylum procedure.⁷⁵⁵

In **Giurgiu** it was also reported that in some cases the legal representative refused to sign the necessary documents in order for the unaccompanied minor to access his or her rights, especially where the minors were accommodated in the regional centre.

Children have access to the financial aid only when they are 18. Until then, the money is collected in an account on behalf of the beneficiary. Upon leaving the centre, the child will live in a DGASPC centre, and the director of the centre becomes the legal representative of the child.⁷⁵⁶

According to the AIDRom representative in **Timișoara**, unaccompanied children benefit from the state child allowance and non-refundable financial aid only if they are accommodated in an emergency residential centre of DGASPC or if they are appointed a legal representative. When unaccompanied children were not appointed a legal representative, who would have to sign the processing of personal data agreement for them according to the General Data Protection Regulation, NGOs could no longer assist them. Between 2017 and 2019, AIDRom had 3 cases of unaccompanied minors who did not benefit from the abovementioned financial aid and other benefits since no legal representative had been appointed. IGI-DAI does not keep statistics on the number of unaccompanied children beneficiaries of international protection who received the non-refundable financial aid.⁷⁵⁷

In practice, the application is made within 3 months of the date of granting international protection, with an NGO's assistance. IGI-DAI forwards the file of the beneficiary to the AJPIS for review. The application must be accompanied by the decision granting international protection, the temporary residence permit, as well as a certificate attesting the registration in the integration programme issued by the territorially competent IGI-DAI office.⁷⁵⁸

In order to establish the right to aid, the AJPIS makes a social investigation within 10 days from the receipt of the application to confirm that the applicant lacks the necessary means of subsistence.⁷⁵⁹ The Executive Director of the AJPIS approves granting the financial aid, starting with the following month in which the application was registered with the territorial agency, on the basis of the documents submitted by IGI-DAI.⁷⁶⁰ Until the first month of payment of the aid, beneficiaries who have no means of subsistence shall receive from IGI-DAI material aid equal to the amount granted to asylum seekers, within the limits of available funds, but no more than three months.⁷⁶¹ In 2020, 588 beneficiaries of international protection benefited from this material aid.⁷⁶²

⁷⁵⁵ Information provided by AIDRom, 3 March 2021.

⁷⁵⁶ Information provided by IOM Romania, 18 November 2019.

⁷⁵⁷ Information provided by IGI-DAI, 5 March 2019.

⁷⁵⁸ Article 60(2)-(3) Asylum Decree.

⁷⁵⁹ Article 60(5) Asylum Decree.

⁷⁶⁰ Article 60(4) Asylum Decree.

⁷⁶¹ Article 22(3) Integration Ordinance.

⁷⁶² Information provided by IGI-DAI, 16 February 2021.

IGI-DAI reviews the situation of each beneficiary of aid, twice a year, depending on the active participation of the person in the activities stipulated in the individual integration plan and submits to the competent AJPIIS proposals for extending the period of granting, suspending or terminating the payment of aid.⁷⁶³

No problems to obtain financial aid were reported in Șomcuta Mare, Galați, Rădăuți, Bucharest.

Beneficiaries of international protection who participate in the integration programme, who do not meet the conditions for receiving non-refundable financial aid and who have no means of subsistence, are supported in order to fulfil the legal conditions for obtaining the minimum guaranteed income.⁷⁶⁴

Beneficiaries of international protection also have the right to benefit from social insurance, social assistance measures and social health insurance, under the conditions provided by the law for Romanian citizens.⁷⁶⁵

G. Health care

Beneficiaries of international protection have the right to benefit from health insurance under the conditions provided by the law for the Romanian citizens.⁷⁶⁶ Persons suffering from mental health problems, including torture survivors and traumatised persons also have access to treatment in the same conditions as Romanian nationals.

Challenges in practice include lack of awareness of how the Health Insurance House (*Casa de Asigurări de Sănătate*, CAS) works and what it entails. Therefore, NGOs play a key role in assisting beneficiaries of international protection to overcome all the practical obstacles, which would be insurmountable without this type of support.

The JRS representative in **Rădăuți** reported difficulties regarding the identification of family doctors. Family doctors refuse to register beneficiaries of international protection, including children, because they have to register patients for at least six months and are afraid that beneficiaries will leave Romania. Beneficiaries who decide to stay for long term have family doctors. For the ones who have no health insurance ICAR Foundation is covering the costs of medical consultations and treatment if necessary.

Another reported issue is related to health insurance. Persons who do not earn an income are obliged to pay state health insurance for 12 months, which equals 6 gross national salaries, irrespective of the date of filing the declaration.⁷⁶⁷ In practice the amount which has to be paid monthly by the beneficiaries is 208 RON/ €44, so it increased from 190 RON/ €40 of last year. An annual health insurance (valid for 12 months) costs the equivalent of 10% of six gross minimum wages, which is 1248 RON/ €265.

NGOs may reimburse the cost of this. The payment of one month of health insurance triggers an obligation to pay for the entire year in order to access health services. If beneficiaries stop paying health insurance, they enter into debt. If they commit to stay for six months, ICAR Foundation may pay for their health insurance.

In **Galați**, within the project implemented by JRS on integration it is possible to pay for the state health insurance for a maximum of 6 months. The JRS representative reported that no persons required this service since October 2020

⁷⁶³ Article 60(6) Asylum Decree.

⁷⁶⁴ Article 22(1) Integration Ordinance.

⁷⁶⁵ Article 20(1)(g) Asylum Act.

⁷⁶⁶ Article 20(1)(g) Asylum Act.

⁷⁶⁷ Article 180(3) Fiscal Code.

ASSOC representative mentioned that the process of registering the beneficiaries with the fiscal administration in order to pay for health insurance is very difficult and lengthy (around 2 months).⁷⁶⁸

In Bucharest there was no NGO covering the health needs of beneficiaries.

AIDRom reported that some of the beneficiaries of international protection are not aware if they are insured or not; they have difficulties in accessing this information on the National Insurance House (CNAS) platform. The staff of CNAS is not particularly helpful and communication with beneficiaries is hindered as the staff of CNAS have no knowledge of any other language apart from Romanian.

⁷⁶⁸ Information provided by ASSOC, 16 February 2021.

ANNEX I – Transposition of the CEAS in national legislation

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

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive			
Directive 2013/32/EU Recast Asylum Procedures Directive			
Directive 2013/33/EU Recast Reception Conditions Directive	Art 20(5)	Art 55 ¹ Asylum Decree	According to article 20(5) decisions for reduction or withdrawal of material reception conditions shall be based on the particular situation of the person concerned, especially with regard to persons covered by Article 21, taking into account the principle of proportionality. Member States shall ensure a dignified standard of living for all applicants. These provisions were not transposed in the Asylum Act and Decree.
Regulation (EU) No 604/2013 Dublin III Regulation	18(2)	94 ¹ Asylum Act	For persons whose applications are considered to have been tacitly withdrawn, i.e. persons who have left Romania and moved on to another EU Member State, and the asylum procedure has been discontinued, the asylum procedure may be continued if the person makes an asylum claim within 9 months of the decision to close the file, issued in case of implicit withdrawal. If the time limit has expired, the asylum claim is considered a Subsequent Application. Therefore, persons who withdraw their asylum applications and have not left the territory of the EU for at least 3 months or have not been returned to a third country or to the country of origin cannot continue their asylum procedure in case they return to Romania. As a consequence, they will have to lodge a subsequent application. This is not in line with the second paragraph of the article 18(2), which clearly states that when the Member State responsible had discontinued the examination of an application following its withdrawal by the applicant before a decision on the substance has been taken at first instance, that Member State shall ensure that the

			applicant is entitled to request that the examination of his or her application be completed or to lodge a new application for international protection, which shall not be treated as a subsequent application. Moreover, the Dublin III Regulation does not foresee a time limit for the possibility to continue the asylum procedure. The Romanian Asylum Act does not prescribe the possibility to continue the asylum procedure if the previous application of the returned person has been rejected at first instance. In this case the person returned has to submit a subsequent application. According to Article 18(2), Member States responsible shall ensure that the person whose application was rejected only at first instance has or has had the opportunity to seek an effective remedy.
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