

Country Report: Romania



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 2017 with relevant stakeholders at IGI, UNHCR Romania 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 a visit to the Regional Centre of Timișoara on 9-10 October 2017.

The information in this report is up-to-date as of 31 December 2017, 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 20 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) 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.



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



Table of Contents

Glossary & List of Abbreviations	6
Statistics	7
Overview of the legal framework	9
Asylum Procedure	11
A. General	11
1. Flow chart.....	11
2. Types of procedures	12
3. List of authorities that intervene in each stage of the procedure	12
4. Number of staff and nature of the first instance authority	12
5. Short overview of the asylum procedure.....	13
B. Access to the procedure and registration.....	14
1. Access to the territory and push backs	14
2. Registration of the asylum application	16
C. Procedures	18
1. Regular procedure	18
2. Dublin	30
3. Admissibility procedure	39
4. Border procedure (border and transit zones).....	41
5. Accelerated procedure	44
D. Guarantees for vulnerable groups	46
1. Identification	46
2. Special procedural guarantees	50
3. Use of medical reports	52
4. Legal representation of unaccompanied children	54
E. Subsequent applications	57
F. The safe country concepts	60
1. Safe country of origin	60
2. Safe third country	60
3. First country of asylum	61

G. Relocation	62
H. Information for asylum seekers and access to NGOs and UNHCR.....	64
1. Provision of information on the procedure	64
2. Access to NGOs and UNHCR.....	67
I. Differential treatment of specific nationalities in the procedure	68
Reception Conditions.....	69
A. Access and forms of reception conditions	69
1. Criteria and restrictions to access reception conditions.....	69
2. Forms and levels of material reception conditions.....	70
3. Reduction or withdrawal of reception conditions.....	73
4. Freedom of movement	74
B. Housing.....	75
1. Types of accommodation	75
2. Conditions in reception facilities.....	76
C. Employment and education	79
1. Access to the labour market.....	79
2. Access to education	80
D. Health care	82
E. Special reception needs of vulnerable groups	83
F. Information for asylum seekers and access to reception centres	86
1. Provision of information on reception.....	86
2. Access to reception centres by third parties	87
G. Differential treatment of specific nationalities in reception	87
Detention of Asylum Seekers	88
A. General.....	88
B. Legal framework of detention.....	89
1. Grounds for detention	89
2. Alternatives to detention.....	91
3. Detention of vulnerable applicants.....	92
4. Duration of detention.....	92
C. Detention conditions	93

1. Place of detention	93
2. Conditions in detention facilities.....	94
3. Access to detention facilities	98
D. Procedural safeguards	99
1. Judicial review of the detention order	99
2. Legal assistance for review of detention.....	101
E. Differential treatment of specific nationalities in detention	101
Content of International Protection	102
A. Status and residence	103
1. Residence permit	103
2. Civil registration.....	104
3. Long-term residence	104
4. Naturalisation	106
5. Cessation and review of protection status	107
6. Withdrawal of protection status	109
B. Family reunification	110
1. Criteria and conditions	110
2. Status and rights of family members.....	112
C. Movement and mobility	113
1. Freedom of movement.....	113
2. Travel documents.....	113
D. Housing.....	114
E. Employment and education	116
1. Access to the labour market.....	116
2. Access to education	118
F. Social welfare	120
G. Health care	122
ANNEX I – Transposition of the CEAS in national legislation	123

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
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 Politia de Frontiera
IGI	General Inspectorate for Immigration Inspectoratul General pentru Imigrari
IGI-DAI	General Inspectorate for Immigration – Directorate for Asylum and Integration Inspectoratul General pentru Imigrari – Direcția Azil și Integrare
IML	Institute of Legal Medicine Institutului 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
NAC	National Authority for Citizenship
NIML	National Institute of Legal Medicine Institutului 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: 2017

	Applicants in 2017	Pending at end 2017	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	4,820	1,699	849	460	604	44.4%	24%	31.6%

Breakdown by countries of origin of the total numbers

Iraq	2,742	1,103	325	145	238	46%	20.4%	33.6%
Syria	945	186	433	242	:	:	:	:
Afghanistan	257	107	23	42	45	20.9%	38.1%	41%
Pakistan	247	48	:	6	129	:	:	:
Iran	207	119	9	:	35	:	:	:
Turkey	54	30	4	3	12	21%	15.9%	63.1%
Palestine	35	15	5	4	11	25%	20%	55% ^s
Stateless	33	:	15	15	:	:	:	:
Somalia	29	11	12	:	8	:	:	:
India	29	10	:	:	17	:	:	:

Source: IGI-DAI

Gender/age breakdown of the total number of applicants: 2017

	Number	Percentage
Total number of applicants	4,820	-
Men	3,263	67.7%
Women	1,557	32.3%
Children	994	20.6%
Unaccompanied children	266	5.5%

Source: IGI-DAI

Comparison between first instance and appeal decision rates: 2017

	First instance		Onward appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	1,913	-	234	-
Positive decisions	1,309	66.4%	36	15.4%
• <i>Refugee status</i>	849	46%	7	3%
• <i>Subsidiary protection</i>	460	20.4%	29	12.4%
Negative decisions	604	33.6%	198	84.6%

Source: IGI-DAI. Statistics for first appeal decisions are not available.

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: 3 September 2016</i>	Legea nr. 122 din 4 mai 2006 privind azilul în România <i>Formă actualizată: 3 septembrie 2016</i>	Asylum Act	http://bit.ly/2g3FTjf (RO)

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

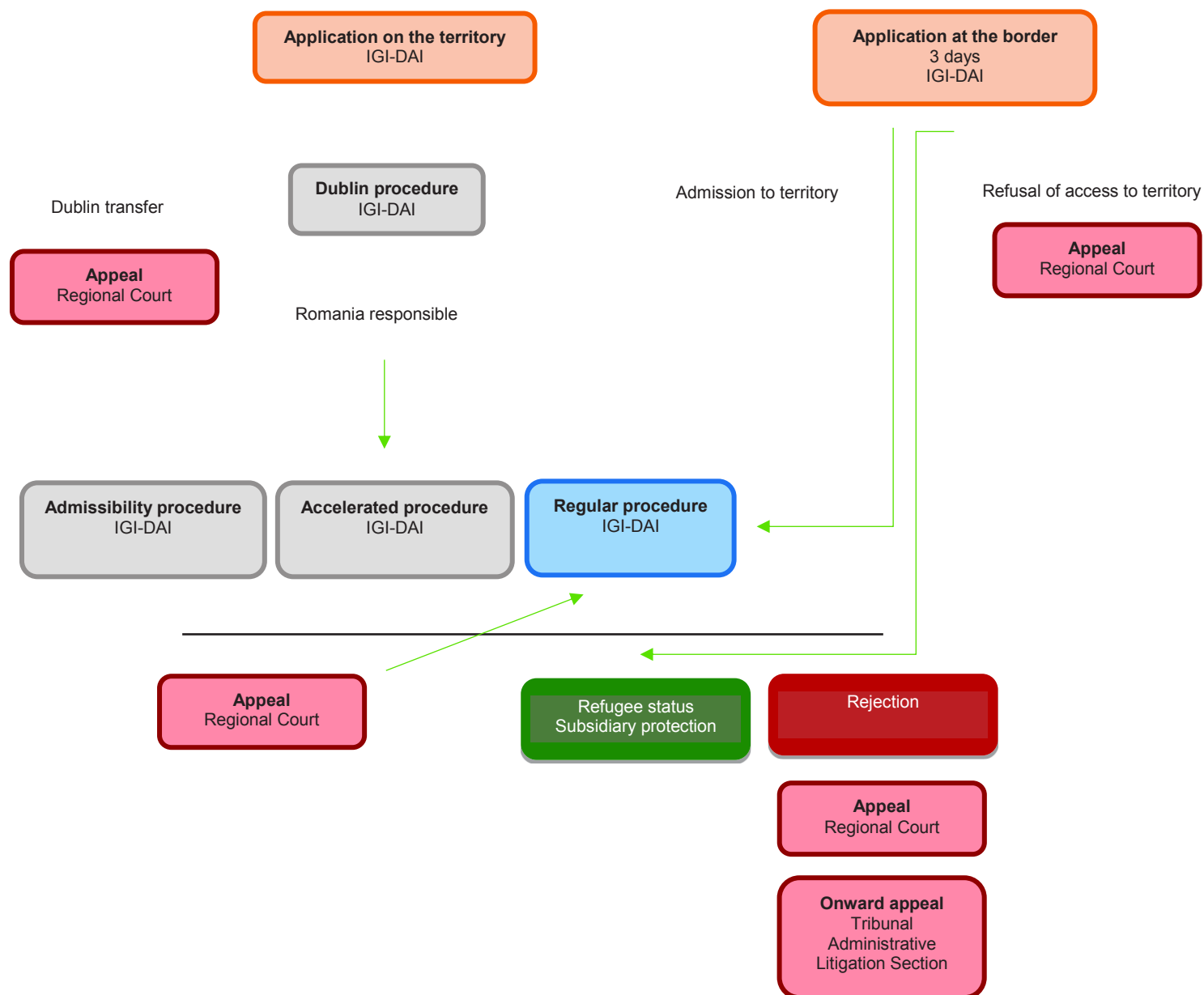
Title (EN)	Original Title (RO)	Abbreviation	Web Link
Government Decree No. 1251 of 13 September 2006 regarding the Methodological Norms for Applying Act 122/2006 <i>Last updated: 25 January 2016</i>	Hotărârea Guvernului nr. 1251 din 13 septembrie 2006 privind Normele Metodologice de aplicare a Legii 122/2006 <i>Formă actualizată: 25 ianuarie 2016</i>	Asylum Decree	http://bit.ly/2fJRiI0 (RO)
Government Emergency Ordinance No. 194 of 12 December 2002 regarding the regime for foreigners in Romania <i>Last updated: November 2016</i>	Ordonanță de urgență nr. 194 din 12 decembrie 2002 privind regimul străinilor în România <i>Formă actualizată: noiembrie 2016</i>	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 the right to stay in Romania as well as of the citizens of European Union and European Economic Area states <i>Last updated: November 2016</i>	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 și Spațiului Economic European <i>Formă actualizată: noiembrie 2016</i>	Integration Ordinance	http://bit.ly/2keDoz7 (RO)
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	Ordinului 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 domeniu, 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	Regulament centrelor de cazare a străinilor luați în custodie publică din 30.07.2014	Public Custody Centres Regulation	http://bit.ly/2DA2QHI (RO)

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: ¹	☒ Yes	☐ No
▪ Fast-track processing: ²	☐ Yes	☒ No
❖ Dublin procedure:	☒ Yes	☐ No
❖ Admissibility procedure:	☒ Yes	☐ No
❖ Border procedure:	☒ Yes	☐ No
❖ Accelerated procedure: ³	☒ 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 Imigrari – Directia Azil si Integrare (IGI-DAI)
Dublin	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Imigrari – Directia Azil si Integrare (IGI-DAI)
Refugee status determination	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Imigrari – 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 Imigrari – Directia Azil si Integrare (IGI-DAI)

4. Number of staff and nature of the first instance 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)	239	Ministry of Internal Affairs	☐ Yes ☒ No

Source: IGI-DAI, 14 February 2018.

IGI-DAI employs a total of 239 persons, of whom 35 at the Directorate of Asylum and Integration and 207 in the different Regional Centres. 22 persons take decisions on asylum applications.

¹ For applications likely to be well-founded or made by vulnerable applicants.

² Accelerating the processing of specific caseloads as part of the regular procedure.

³ Labelled as “accelerated procedure” in national law.

5. Short overview of the asylum procedure

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.

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.⁴ 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 in which pre-trial detention and detention centres are established and operate, or structures of the National Administration of Penitentiaries within the Ministry of Justice.⁵ IGI-DAI has to register the asylum application within a maximum of 3 working days if the application was made at the IGI,⁶ or within a maximum of 6 working days if the application was made with the other competent authorities. 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.⁷

First instance procedure

The first instance is an administrative procedure carried out by IGI-DAI. Asylum seekers are photographed, fingerprinted and they are issued a temporary identity document,⁸ which also includes a personal numeric code.⁹ 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, family members, relatives or any other persons in a relationship family travel, the route from the country of origin to Romania, information on possible previous asylum procedures in another Member State or in a third country, as well as on identity or travel documents in his or her possession.¹⁰ If there are indications that another Member State is responsible for assessing the asylum claim, the Dublin procedure is triggered, while the asylum procedure in Romania is suspended.

After the preliminary interview, the personal interview is conducted by a case officer of IGI-DAI. 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.¹¹ In the event of a negative decision, the applicant may appeal with suspensive effect to the Regional Court within 10 days since the decision it was communicated.¹²

⁴ Article 4 Asylum Act.

⁵ Article 36¹(2) Asylum Act, citing Article 35 Asylum Act.

⁶ Article 36¹(1) Asylum Act.

⁷ Article 36¹(3) Asylum Act, citing Article 35 Asylum Act.

⁸ 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.

⁹ Article 17(1¹) Asylum Act.

¹⁰ Article 43(1) Asylum Act.

¹¹ Article 52(1) Asylum Act.

¹² Article 55(1) Asylum Act.

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.¹³ 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.¹⁴ A decision is issued within 3 days from the start of the accelerated procedure.¹⁵ 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.¹⁶ The decision of the court is irrevocable.¹⁷

Border procedure

The law provides that the border procedure applies to asylum applications and subsequent applications made at a border-crossing point. The law stipulates a 3 day deadline to issue a decision in case of border procedure.¹⁸ As well as in the accelerated procedure a negative decision may be appealed within 7 days from notification. The decision of the court is irrevocable.¹⁹

Appeal

And the second phase of the asylum procedure consists of a two-instance judicial review procedure. The Regional Court has jurisdiction in asylum cases, as the 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 courts dealing with asylum cases.

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

Asylum seekers arrive in Romania mainly by land through the South-Western border with Serbia,²⁰ and the Southern border with Bulgaria,²¹ according to Romanian Border Police reports.

According to a legal counsellor from **Galați** Regional Centre, an asylum seeker from Syria claimed that he tried to enter Romania at least twice from Serbia. He and the group accompanying him were

¹³ Article 75(1) Asylum Act.

¹⁴ Article 78 Asylum Act.

¹⁵ Article 79 Asylum Act.

¹⁶ Article 80(1) Asylum Act.

¹⁷ Article 81(2) Asylum Act.

¹⁸ Article 82 Asylum Act.

¹⁹ Article 86(2) Asylum Act.

²⁰ Border Police, '11 cetățeni iranieni și irakieni și două călăuze din Turcia, opriți de polițiștii de frontieră timișeni', 16 October 2017, available in Romanian at: <http://bit.ly/2hfzRjA>; 'Patru cetățeni irakieni și o călăuză sârbă, opriți de polițiștii de frontieră timișeni', 8 October 2017, available in Romanian at: <http://bit.ly/2zz95tN>; 'Două familii de cetățeni din Irak și Afganistan, depistate la frontiera de sud-vest', 27 September 2017, available in Romanian at: <http://bit.ly/2h8HJzu>.

²¹ Border Police, 'Unsprezece migranți ascunși într-un microbuz cu mobilă, descoperiți la P.T.F. Giurgiu', 5 October 2017, available in Romanian at: <http://bit.ly/2Am3Lr5>; '14 cetățeni irakieni și cinci traficanți bulgari, opriți la frontiera cu Bulgaria', 5 October 2017, available in Romanian at: <http://bit.ly/2hfrapl>; 'Doi cetățeni sirieni ascunși sub un camion, descoperiți la P.T.F. Giurgiu', 11 September 2017, available in Romanian at: <http://bit.ly/2hdWQve>; 'Nouăsprezece irakieni depistați în două autoturisme, în apropierea malului Dunării', 10 September 2017, available in Romanian at: <http://bit.ly/2j3eT84>.

intercepted by the Romanian Border Guards in the free zone and they kept them there until the Serbian Border Guards arrived and removed them to the Serbian side.

In the early hours of 28 August 2017 the Romanian Border Police, organising a filter on motorway E70 outside **Denta** commune (Timiș county, close to the Serbian border of Moravița), tried to stop two cars, which they believed were transporting irregular migrants. The two cars:

“[D]id not stop and passed through the filter, jeopardising their integrity, injuring a policeman, and damaging more of the institution's cars. In order to immobilise the cars and their drivers, the border guards used their hand guns, initially by firing two gunfire vertically, then targeting the tires of the cars in question, managing to stop one of the cars.

“At the same time, two passengers from the cars, were injured by the ricochet of a shot fired by the police. The two people, of African-Asian origin, were transported urgently to the hospital to receive medical care. Following the action of the border guards, 12 African-Asian nationals and a Serbian national, the driver of one of the cars, were detained.”²²

According to the legal counsellor of the Jesuit Refugee Service (JRS) in Timișoara, who conducted interviews with the persons involved in the incident, there were 11 Afghan nationals and one Pakistani national involved in the incident. There were three cars involved; one car, only with the driver, crossed the border at **Moravița** first in order to inform the others if there were police controls on the way and two other cars transporting six migrants each. In one of the cars there was a 7-year-old girl and a 10-year-old boy accompanied by their father. One of the cars was able to escape the police, but the other did not. The car which did not escape the police filter was shot at by the police, after the driver refused to stop to police signals. Two persons were injured as a result of the police shootings. Both of them were Afghan nationals and one of them was a 16-year-old unaccompanied minor. One person was shot in the liver and the other was injured in the arm. The ambulance arrived in 50 minutes and transported them to the hospital in Timișoara. Following medical treatment the unaccompanied minor, injured in the arm, was discharged from the hospital and taken to the Regional Centre of Timișoara, where he lodged an asylum application on 28 August 2017, together with the rest of the group, except for the person shot in the liver. He underwent a surgery and made an asylum application on 8 September 2017, after he was discharged from the hospital. According to five asylum seekers involved in the incident, the police border did not shoot any warning shots, when the car did not stop to its signals.

Reports from UNHCR Serbia show an increased number of push backs and collective expulsions from Romania, with a total 1,386 cases considered as collective expulsions occurring since April 2017. A peak was noted in recent months, with 338 cases in September, 346 in October, 319 in November and 267 in December 2017.²³

At the same time, Romania has witnessed an increased number of sea arrivals in August and September 2017, as indicated by several incidents of Coast Guard interception of boats travelling through the Black Sea. Reports from the Coast Guard reveal an increasing number of interceptions of boats in August and September, including incidents involving: 69 persons on 13 August 2017, including 10 women and 29 children;²⁴ 70 persons on 20 August 2017, including 12 women and 23 children;²⁵ 97 persons on 3 September 2017, including 16 women and 23 children;²⁶ 120 persons on 8 September 2017, who were taken over by the Turkish Coast Guard, as the boat was intercepted 5 nautical miles

²² Border Police, ‘Traficanți de migranți opriți cu focuri de armă, la frontiera cu Serbia’, 28 August 2017, available in Romanian at: <http://bit.ly/2EF7OQD>.

²³ See latest at UNHCR, *Serbia Operational Update*, December 2017, available at: <http://bit.ly/2GYWxvk>.

²⁴ Coast Guard, ‘Ambarcațiune cu migranți din Irak, interceptată de polițiștii de frontieră români, în apropierea țărmului românesc al Mării Negre’, 13 August 2017, available in Romanian at: <http://bit.ly/2IVx0h5>.

²⁵ Coast Guard, ‘Pescador cu migranți, interceptat de polițiștii de frontieră români în apropierea țărmului românesc al Mării Negre’, 21 August 2017, available in Romanian at: <http://bit.ly/2h8IGlh>.

²⁶ Coast Guard, ‘Pescador cu migranți, interceptat de polițiștii de frontieră români în apropierea țărmului românesc al Mării Negre’, 3 September 2017, available in Romanian at: <http://bit.ly/2zlfZA>.

from the territorial waters; 97 persons on 9 September 2017, including 21 women and 36 children;²⁷ and 157 persons on 12 September 2017 including 56 children;²⁸ and 67 persons on 27 November 2017, including 23 children and 11 women.²⁹

The persons who have entered Romania by sea have stated that they were not informed about the asylum procedure in Romania by the Coast Guard and Border Police. The Coast Guard reportedly only inquired into their destination and not into the reasons why they fled their country of origin. On the other hand, according to the legal counsellor of JRS, the authorities declared that the persons did not claim asylum.

The persons also complained about the reception conditions they were provided while in Border Police / Coast Guard custody. They were accommodated in the former school of the Border Police in **Constanța**, which is basically a decommissioned facility.

According to the legal counsellor of JRS, the persons who arrived by sea on 3 September 2017 at **Midia** port jumped in the sea when the boat arrived in the port, because they did not want to be arrested by the police. According to the legal counsellor of JRS, some of the groups of persons arriving by sea in Romania were held in Border Police custody for more than 24 hours for preliminary hearings. The legal counsellor also mentioned that while the migrants were held in the Border Police custody for preliminary hearings, NGOs could not reach them; they could only contact and assist them when taken over by the IGI-DAI or IGI Migration Directorate.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for asylum seekers to lodge their application?
☐ Yes ☒ No
2. If so, what is the time limit for lodging an application?

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 was made at the IGI,³⁰ within a maximum of 6 days if the application was made with the other competent authorities such as the Border Police operating offices, police units in which pre-trial detention and detention centres are established and functioning, or structures of the National Administration of Penitentiaries within the Ministry of Justice.³¹

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.³²

Asylum applications lodged at a border crossing point, those lodged with the units subordinated to the National Administration of Penitentiaries within the Ministry of Justice, as well as those lodged at the pre-trial detention and detention centres within the police units, are recorded in special registers.³³

In practice, if an asylum application was made with other competent authorities, the authorities in question have to forward immediately the application to the competent structure of IGI-DAI. IGI-DAI will

²⁷ Coast Guard, 'Ambarcațiuni cu migranți, interceptate și blocate de polițiștii de frontieră români în Marea Neagră', 9 September 2017, available in Romanian at: <http://bit.ly/2iyi1Vk>.

²⁸ Coast Guard, 'Intervenție dificilă pe Marea Neagră', 13 September 2017, available in Romanian at: <http://bit.ly/2lSKhHj>.

²⁹ Coast Guard, 'Intervenție dificilă pe Marea Neagră', 28 November 2017, available in Romanian at: <http://bit.ly/2oquP3P>.

³⁰ Article 36¹(1) Asylum Act.

³¹ Article 36¹(2) Asylum Act, citing Article 35 Asylum Act.

³² Article 36¹(3) Asylum Act, citing Article 35 Asylum Act.

³³ Article 38(5) Asylum Act.

register the asylum application with the date mentioned in the application made with the competent authorities, giving its own registration number.

There are no time limits set in law for lodging 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.³⁴ In addition, when assessing an asylum claim, IGI-DAI cannot reject it solely on the ground that it was filed late.³⁵

For three weeks in August 2017, the Regional Centre of **Timișoara** encountered an increased number of asylum seekers. Groups of 20 to 100 persons were brought in the centre. For example, in August 2017, the local police identified a group of 100 foreigners in a guest house and brought them in the centre. IGI-DAI placed the persons in the courtyard on the grass and, while they were verifying them, nobody was able to go outside; the centre was closed. After a few hours people became very upset because they were unable to buy food and water for their children and the temperature outside was very high. After IGI-DAI completed their verification, the persons were able to go out. IGI-DAI also found out that many persons were already registered as asylum seekers in other Regional Centres in the country. Even though the Regional Centre of Timișoara faced a high number of asylum applications, these were registered as soon as possible and the 10-day deadline prescribed by law was respected in each case, as IGI-DAI had to consider whether to transfer them to other Regional Centres or not.

NGO workers in Timișoara have reported that the printing machine used for issuing temporary identity documents to asylum seekers broke down in August 2017 and the problem had still not been solved at the time of interviews with the author on 9-10 October 2017. As a result, asylum seekers were issued temporary certificates only with their picture and a period of validity.

In **Rădăuți**, asylum seekers complained about the fact that the Border Police does not use interpreters who speak their native language at the border and, as a consequence, their names, date of birth and reasons for their asylum application are not recorded correctly. 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.

The Romanian National Council for Refugees (CNRR) stated that there are no difficulties in practice for asylum seekers with regard to the registration of their applications.³⁶

No other difficulties have been raised in practice with regard to the registration of asylum applications.

³⁴ Article 36(3) Asylum Act.

³⁵ Article 13(3) Asylum Act.

³⁶ Information provided by CNRR, 9 January 2018.

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 2017: | 1,699 |

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

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.³⁷

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 an 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.³⁸

If the assessment of the case requires additional documentation, as well as in other duly justified cases, which make impossible the carrying out of the activities necessary for deciding on the asylum application or lead to the non-observance of the guarantees recognised by the law due to causes not imputable to the applicant, the 30-day time limit shall be extended successively with further periods of no more than 30 days, not exceeding 6 months from the lodging of the asylum application in total.³⁹

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 for the delay and the time limit for the decision to be taken on his or her application.⁴⁰

The term of 6 months may be extended successively with new cumulative periods not exceeding 9 months where:⁴¹

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

Exceptionally, in duly justified cases, a further extension may be applied for a maximum of 3 months.⁴²

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 from the moment the case officer receives the file is respected in practice. In exceptional cases, the 30-day

³⁷ Article 52(1) Asylum Act.

³⁸ Article 52(4) Asylum Act.

³⁹ Article 52(2) Asylum Act.

⁴⁰ Article 52(3) Asylum Act.

⁴¹ Article 52(5) Asylum Act.

⁴² Article 52(6) Asylum Act.

deadline to issue a decision may be extended with a maximum of: 10 days in **Rădăuți**, 7 days in **Giurgiu**, and 14 days in **Galați**.

According to IGI-DAI statistics, the average duration of the asylum procedure is 4 months, with no difference in length of procedures for nationalities such as Syria, Iraq or Afghanistan.⁴³

In practice, the average length of the asylum procedure from the moment of lodging the application until a final decision is taken at first instance differs from one centre to another as follows:

Average duration of the asylum procedure by Regional Centre: 2017	
Regional Centre for Procedures and Accommodation for Asylum Seekers	Average duration in days
Timișoara	30-60
Șomcuta Mare	60-90
Rădăuți	30
Galați	45-60
Bucharest	150-180
Bucharest for relocated applicants	30-45
Giurgiu	60

In Șomcuta Mare and Giurgiu, the duration depends on the number of applicants accommodated in the centres. In Rădăuți, it may be 2-3 weeks if the asylum seeker does not leave the Regional Centre, but in a case where the asylum seeker left the centre and was afterwards brought back, the first instance procedure lasted 1 month and 12 days.

According to CNRR, the average length of the asylum procedure is 30 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.⁴⁴

1.2. Prioritised examination and fast-track processing

According to the law priority is given to asylum applications lodged by unaccompanied children.⁴⁵ 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.⁴⁶ 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.⁴⁷ There have been no reported cases of this situation in practice.

In practice, there have been cases in the Regional Centre of **Șomcuta Mare** where an asylum application of an unaccompanied child was assessed in a shorter period of time (1.5 months) than the application of an adult asylum seeker (2-3 months). In the Regional Centre of **Galați** and **Timișoara** the length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult, even though IGI-DAI takes all the necessary measures with priority – in a maximum of 3 days after the unaccompanied child was accommodated in the centre – and the legal representative fulfils his or her

⁴³ Information provided by IGI-DAI, 14 February 2018.

⁴⁴ Information provided by CNRR, 9 January 2018.

⁴⁵ Article 16(1) Asylum Act.

⁴⁶ Article 16(2) Asylum Act.

⁴⁷ Article 19¹¹ Asylum Act.

obligations swiftly. According to the JRS legal counsellor, the case of three unaccompanied asylum-seeking children, accommodated in the Regional Centre of **Bucharest**, was extended several times due to the lack of a legal representative and the lack of an interpreter who spoke their language. In their case, the first-instance procedure lasted 8 months, from October 2016 to May 2017.

CNRR has referred to a few cases of applications by vulnerable groups being prioritised.⁴⁸ According to IGI-DAI, however, no asylum claim was prioritised under in the sense of Article 31(7) of the recast Asylum Procedures Directive in 2017.⁴⁹

Applications from asylum seekers arriving in Romania through **Relocation** have also been processed more rapidly than others. On average, they were examined within 1 to 1.5 months in **Bucharest**. In **Timișoara**, asylum applications made by Syrian nationals are processed faster than other applications. For example, for one Syrian asylum seeker the interview was conducted in 45 days after the application was made and the applicant received the decision within 30 days. In some cases, for other nationalities such as Iraqis, who make up for about 80% of applicants in Timișoara, the interview was scheduled after 60 days or even 75 days from the date they filed the asylum application. This might happen also because there are only two Kurdish interpreters, who are also contracted by the Border Police. According to the legal counsellor in the centre, IGI-DAI usually delivers a decision in 2-3 weeks after the interview.

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

According to the law, an interview is conducted in order to establish the elements of an application for international protection.⁵⁰ 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:⁵¹

- 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.

In practice, all asylum seekers are interviewed. There have been no reported cases where the interview was not conducted due to the situations mentioned above and there are no caseloads or nationalities which are not interviewed.⁵²

All personal interviews, assessments of the reasons invoked by the asylum seeker and decisions are conducted by a designated case officer of IGI-DAI.⁵³

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

⁴⁸ Information provided by CNRR, 9 January 2018.

⁴⁹ Information provided by IGI-DAI, 14 February 2018.

⁵⁰ Article 19^6(2) Asylum Act.

⁵¹ Article 45(3) Asylum Act.

⁵² Information provided by IGI-DAI, 14 February 2018.

⁵³ Article 48 Asylum Act.

understands and can communicate clearly. As far as possible, if the applicant so requests, both the case officer and the interpreter will be of the same gender as the interviewee.⁵⁴

In practice, there are no reported problems regarding the availability of interpreters for the main nationalities of asylum seekers. When IGI-DAI transfers asylum seekers from one centre to another – in most of the cases from **Timișoara** to the other centres of the country – they take into consideration the availability of interpreters of the required language in the centre where the asylum seeker will be transferred to. In addition, if there is no interpreter for a certain language, IGI-DAI will send a request to the other centres for an interpreter who speaks that particular language.

For some languages, such as Kurdish, for which there was no interpreter in the Regional Centre **Galați**, IGI-DAI has used double interpretation in order not to delay the asylum procedure. However, before making use of this method of interpretation, the case officer asked for the asylum seeker's consent and he or she agreed to it. In the Regional Centre **Rădăuți**, IGI-DAI uses double interpretation for Kurdish to Arabic and from Arabic to Romanian. The interpreter for Kurdish is an asylum seeker.

For other languages rarely spoken in Romania, such as Tigrinya, for which there is no interpreter, IGI-DAI also used double interpretation; from Tigrinya to Arabic and from Arabic to Romanian. IGI-DAI also asked for the asylum seeker's consent beforehand. Nevertheless, even if the asylum seeker would not agree to this form of interpretation, there was no other option for conducting the interview.

A number of problems regarding the quality of the interpretation and the conduct of interpreters are reported. Interpreters are not sufficiently trained and as a consequence they are not impartial, while associated problems were pointed out with these deficits:

- Some interpreters do not refrain from making comments, they express doubt at the asylum seekers' declarations; e.g. "I was there, there are no Taliban", "I know better";
- Some interpreters have private conversations with the asylum seeker and do not translate the conversation, or they express emotions;
- Asylum seekers are complaining about an interpreter, who tells them during the personal interview: "more briefly, I do not have all day at your disposal", he is selecting the documents that the asylum seeker should present at IGI-DAI, he is translating only a summary of what is written on one page and not the whole interview (question and answer). Even though the asylum seekers wanted to be assisted by the legal counsellor at the interview, the interpreter told them that "the presence of the legal counsellor is not necessary because anyway you will be granted a form of protection".

CNRR stated that there are no problems with the quality of interpretation and the conduct of interpreters in general, although in some cases applicants declared that interpreters translated incorrectly or omitted some elements of their statements.⁵⁵

The interviewees also reported that there is a limited number of female interpreters in the asylum-procedure. For example in the Regional Centre **Galați** there is only one woman interpreter for Arabic, in the Regional Centre **Rădăuți** there is one interpreter for English, in **Șomcuta Mare** there are no women interpreters for rare languages; they are only available for English, Spanish, Russian and French.

There is equally a limited number of female case officers at IGI-DAI. In **Bucharest** and **Timișoara** there is only one female case officer per city. In the rest of the Regional Centres, there are no female case officers. In **Giurgiu** and **Șomcuta Mare** there are only two male case officers. In **Galați** there are four case officers and all are male. In **Rădăuți** there are three male case officers.

Stakeholders interviewed by the author have declared that they have never heard about a Code of Conduct for the interpreters in the asylum procedure. 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

⁵⁴ Article 45(2) Asylum Act.

⁵⁵ Information provided by CNRR, 9 January 2018.

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.⁵⁶

CNRR also stated that it organises specific training sessions for interpreters with the aim of improving linguistic assistance during the asylum procedure, and that interpreters are provided with materials on interviewing techniques, a glossary of terminology in the asylum field and UNHCR recommendations on communication and interpretation techniques for vulnerable persons requiring special attention. The Code of Conduct also provides for the applicant's possibility to request and where available obtain an interpreter of the same gender.⁵⁷

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.⁵⁸ 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.

Interviews are never conducted through video conferencing.

Transcript

The questions and the answers / statements are transcribed *verbatim* by the case officer conducting the interview. 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 and 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.⁵⁹

At the end of the interview, the transcript of the interview is orally translated by the interpreter to the applicant.⁶⁰ 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.⁶¹ After this, the transcript is signed on every page by all the persons present at the interview.⁶² 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.⁶³ If the applicant refuses to sign the transcript, the reasons for his or her refusal will be

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ 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.

⁵⁹ Article 45(5) Asylum Act.

⁶⁰ Article 45(7) Asylum Act.

⁶¹ Article 45(6) Asylum Act.

⁶² Article 45(8) Asylum Act.

⁶³ Article 45(9) Asylum Act.

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.⁶⁴

In **Timișoara**, two asylum seekers (a father and his underage daughter) declared that they were woken up by the authorities at 9 am in order to attend the interview, without receiving any notification of the date of the interview in advance, thereby being completely unprepared for it. They also stated that, at the end of the interview, the transcript was not translated by the interpreter at all. Thus, they were unable to formulate observations and/or to offer clarifications relating to any errors of translation or misunderstanding. After that, the daughter declared that she translated the transcript of the interview using Google Translate and noticed that there were some errors in the transcript. Due to these errors, there are inconsistencies in the transcript between the declarations of the two of them regarding the same matter.

Another asylum seeker declared that, at the end of the interview, the interpreter translated only his answers to the questions asked by the case officer. After this he was told: "this is all, you may go, in two weeks you will receive the decision." The legal counsellor in Timișoara stated, however, that there were no problems in relation to the translation of the transcript and formulation of observations in the interviews where she assisted asylum seekers.

According to the legal counsellor in **Galati** there have been cases when asylum seekers declared that at the end of the interview the transcript was not translated and complained about the quality of the transcript, not immediately after the interview but when they received a negative decision.

In **Giurgiu** the legal counsellor explained that no asylum seeker has complained about inconsistencies in translation or partial translation of the transcript. Similarly in **Șomcuta Mare**, according to the legal counsellor, asylum seekers have never complained about the fact that the transcript was not read in total by the interpreter and have faced no impediments when wishing to clarify specific facts.

In **Rădăuți**, some of the asylum seekers have reported that the interpreter does not translate the whole transcript (questions and answers), but only makes a summary thereof. There were no problems reported regarding the formulation of observations at the end of the interview.

If necessary, the case officer may conduct another interview with the asylum seeker.⁶⁵

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 ❖ If yes, is it automatically suspensive	<table border="0"><tr><td>☒ Yes</td><td>☐ No</td></tr><tr><td>☒ Judicial</td><td>☐ Administrative</td></tr><tr><td>☒ Yes</td><td>☐ No</td></tr></table>	☒ Yes	☐ No	☒ Judicial	☐ Administrative	☒ Yes	☐ No
☒ Yes	☐ No						
☒ Judicial	☐ Administrative						
☒ Yes	☐ No						
2. Average processing time for the appeal body to make a decision: 2 months

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.⁶⁶ The decision may be communicated to the lawyer or NGO representative representing the asylum seeker, if the asylum seeker has expressly requested this.⁶⁷

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

⁶⁴ Article 45(10) Asylum Act.

⁶⁵ Article 45(11) Asylum Act.

⁶⁶ Article 54(1) Asylum Act.

⁶⁷ Article 54(1[^]1) Asylum Act.

asylum application and the conditions under which the decision may be appealed, as the case may be.⁶⁸ 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.

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 appeal, as well as the other procedural acts regarding the resolution of the appeal, are exempt from legal taxes and legal expenses cannot be demanded.⁶⁹

Time limits

The deadline for lodging an appeal is 10 days from the day the decision was communicated.⁷⁰ The appeal has automatic suspensive effect, if it was lodged within the term prescribed by law.⁷¹

The law contains a procedural safeguard in case of appeals lodged after the time limit set out in law.⁷² 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.⁷³ While this review is pending the foreigner cannot be removed from the country.⁷⁴

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.⁷⁵ 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.⁷⁶

The appeal has to be motivated in fact and in law.⁷⁷ It may be lodged at IGI-DAI, which has issued the decision or directly to the competent court.⁷⁸ The appeal has to be accompanied by a copy of the IGI-DAI decision and other documents or elements on which the appeal is based on.⁷⁹ The court carries out an assessment of both points of facts and law. The decision of the first instance court incorporates the reasons on points of facts and law on which it is based.⁸⁰

In general, there are no problems in appealing a decision, if asylum seekers consult the legal counsellor of an NGO.⁸¹ 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

⁶⁸ Article 54(1) Asylum Act.

⁶⁹ Article 65 Asylum Act.

⁷⁰ Article 55(1) Asylum Act.

⁷¹ Article 55(2) Asylum Act.

⁷² Article 69 Asylum Act.

⁷³ Article 69(1) Asylum Act.

⁷⁴ Article 69(2) Asylum Act.

⁷⁵ Article 69(3) Asylum Act.

⁷⁶ Article 69(4) Asylum Act.

⁷⁷ Article 57(1)(c) Asylum Act.

⁷⁸ Article 56 Asylum Act.

⁷⁹ Articles 56(1) and 57 Asylum Act.

⁸⁰ Article 425(b) Civil Code.

⁸¹ Information provided by CNRR, 9 January 2018.

have to go to CNRR for legal counselling and assistance for lodging an appeal. This practice is in place since the January/February 2017.

Article 62 of the Asylum Act provides that asylum cases should be dealt with priority before other civil matters.⁸² The court should take a decision on the appeal within 30 days.⁸³ The court has to motivate its decision within 5 days since it was pronounced.⁸⁴

IGI-DAI statistics refer to a 2-month average duration of the appeal procedure.⁸⁵ In practice, the average processing time for the first instance judicial court defers from county to county, as follows:

Duration of the appeal procedure by Regional Court: 2017		
Regional Court	Calculation	Number of days
Bucharest (District 4)	Maximum	180
Galați	Average	90
Baia-Mare	Average	21-180
Giurgiu	Average	180
Rădăuți	Maximum	30
Timișoara	Average	60

In the Regional Court of Rădăuți, the procedure takes on average three weeks if there is an interpreter available and there are no reasons to postpone the case, and 6 months in case of several requests for postponement. There have been cases where a motivated decision is notified within one week of the hearing.

Hearing and decision

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.⁸⁶ Some Regional Courts (**Galați**, **Giurgiu**, **Baia-Mare**) always hear the asylum seekers *ex officio*, in the sense that they are asking the asylum seeker if he or she has anything else to add or say something regarding his or her application or to tell about the persecution faced. In the Regional Court of **Timișoara** the hearing of the asylum seeker is requested either of the lawyer or the judge. However, in 99% of the cases the asylum seeker is heard. In the Regional Court of **Bucharest District 4**, asylum seekers are not heard in most of the cases. However, if the asylum seeker requires this, the court will grant his or her request.⁸⁷ 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.⁸⁸ In practice, this rule is respected, although practice varies from one court to another.⁸⁹ There have been minor exceptions reported by lawyers from the Bucharest Bar Association in the Regional Court of **Bucharest District 4**, where the judge has forgotten to declare the hearing closed or the lawyer has forgotten to request so. Nevertheless, no incidents were reported. In the Regional Court of **Timișoara**, the parties were asked by the judge if they agree with the presence of the other asylum seekers and the guardians of the detention centre of **Arad**.

⁸² Article 62(1) Asylum Act.

⁸³ Article 64(2) Asylum Act.

⁸⁴ Article 64(3) Asylum Act.

⁸⁵ Information provided by IGI-DAI, 14 February 2018.

⁸⁶ Article 63 Asylum Act.

⁸⁷ According to CNRR, the Regional Court of Bucharest District 4 “generally orders the hearing of the asylum seeker (during the court hearing when evidence is to be requested and administered)”: Information provided by CNRR, 9 January 2018.

⁸⁸ Article 58 Asylum Act.

⁸⁹ Information provided by CNRR, 9 January 2018.

The principle of confidentiality is generally respected by courts, with the exception of the Regional Court of **Giurgiu**.⁹⁰

At national level, there is a court portal,⁹¹ but not all the asylum cases are published on this portal. Practice regarding the publication of the decisions of the Regional Court varies. For example, the appeals reviewed by the Regional Court of **Rădăuți** and the Tribunal of Suceava are all published on the national portal, including full names, file number and the decision reached by the court in short i.e. acceptance or dismissal of the appeal. The same practice is in place for the Regional Court in **Giurgiu** and the Tribunal in Giurgiu.

The asylum cases reviewed by the Regional Court of **Baia-Mare** and the Tribunal of Maramureș are registered on another portal of the Court of Appeal,⁹² which comprises the whole file scanned, including the decision from IGI-DAI, the appeal, documents presented by the parties, minutes of court sessions, court decisions etc. The file may be consulted only with a password communicated to the asylum seeker or his or her legal representative by the court.

The decisions of the Regional of **Timișoara** are not published on either of the portals. 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 there used to be a register for all the cases registered at the court, including asylum cases. At present, all the registers are abolished except one, which is used only for the asylum cases. In the register the clerk is writing the case file, initials of the asylum seekers name and the decision of the court.

The decisions of the Regional Court of **Galați** and Tribunal of Galați are not published on the national portal. They have started to scan the files in order to publish them on the Court of Appeal portal. The solutions of the courts may be verified in the registers of the courts.

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 at the court's archive.

1.4.2. Onward appeal

The law prescribes the possibility to appeal against the decision of the Regional Court.⁹³ The competent court to review the onward appeal is the County Tribunal, Administrative Litigation Section (Administrative County Court), which has jurisdiction over the area of the Regional Court whose decision is appealed.⁹⁴ The Administrative County Court is made up of three judges.

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.⁹⁵ According to CNRR, although there are no problems in the exercise of this remedy in general, there are applicants who have been unable to lodge an appeal in time due to a lack of awareness of the deadline, knowledge of Romanian or possibility to be assisted by a lawyer.⁹⁶

The average duration of the onward appeal procedure is 3 months.⁹⁷

The onward appeal does not look at facts, but examines if the decision which is appealed is compliant with the applicable rules.⁹⁸ As a consequence, the onward appeal has to include the grounds for

⁹⁰ *Ibid.*

⁹¹ Ministry of Justice, *Portalul instanțelor de judecată*, available in Romanian at: <http://bit.ly/2hGMVhM>.

⁹² Curtea de Apel Cluj, available in Romanian at: <http://bit.ly/2khDTbA>.

⁹³ Article 66 Asylum Act.

⁹⁴ Article 67 Asylum Act.

⁹⁵ Article 66(2) and (4) Asylum Act.

⁹⁶ Information provided by CNRR, 9 January 2018.

⁹⁷ Information provided by IGI-DAI, 14 February 2018.

⁹⁸ Article 483(3) Civil Procedure Code.

illegality on which the appeal is based.⁹⁹ The decision has to be motivated within 10 days from the day it is communicated by the Regional Court.

Before 4 September 2015 all onward appeals should have been signed by the appellant and his or her lawyer or a legal counsellor, under the sanction of nullity of the appeal. Romanian legislation does not allow legal counsellors to represent a person in court, only legal entities, so this provision of the Civil Procedure Code limited access to court not only for asylum seekers but also for the other nationals who did not afford a lawyer. As a consequence the provision was challenged at the Constitutional Court and it was declared unconstitutional and its legal effects ceased to apply as of 4 September 2015.¹⁰⁰

In **Bucharest**, a lawyer reported that in most of the cases the lawyers paid from the legal aid scheme, who assist and represent the asylum seeker in the first appeal, do not appeal against the decision of the Regional Court. They consider that their mandate is granted only to assist the appellant in the first-instance court procedure and that appealing against the decision of the Regional Court is a procedural act outside their mandate.

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 and which would be lost by failing to do so on time and may also introduce any appeal against the judgment. In these cases, all procedural documents will be handled only by the party. Supporting the appeal may only be based on a new power of attorney.¹⁰¹

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. Nevertheless, 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 an appeal.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

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
❖ 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.¹⁰²

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, taking into account the personal situation of the foreigner, information on the reasons for the decision to reject the application for asylum, the procedure for challenging the ordinance through which the measure of placement in a specially closed spaces was

⁹⁹ Article 486(1)(d) Civil Procedure Code.

¹⁰⁰ Constitutional Court, Decision 485/2015 of 23 June 2015, available in Romanian at: <http://bit.ly/2yRSn5k>.

¹⁰¹ Article 87(2)(3) Civil Procedure Code.

¹⁰² Article 17(1)(s) Asylum Act.

taken, as well as the possibility of challenge the decision which granted, reduced or withdraw the material reception conditions.¹⁰³

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 all 6 Regional Centres for Accommodation and Procedures for Asylum Seekers, through a project funded by the national AMIF scheme. CNRR's legal counsellors are present in the regional centres every week day for 8 hours per day. They have an office in the regional centre.

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

The Jesuit Refugee Service (JRS), through the project "Improving the situation 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.

A legal counsellor from **Bucharest** mentioned that, lately, 150-200 asylum seekers are accommodated in the Regional Centre every month, and it is quite difficult to talk to everyone; the legal counsellor manages to counsel an average of 60 asylum seekers per month.

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 is 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 so requests.

Under the project funded by UNHCR, JRS may appoint a lawyer if the asylum seeker is a vulnerable person or a person of interest for UNHCR or if it is a case that might lead to a practice altering-decision.

Legal representation by a lawyer under the Legal Aid Act includes representation in the administrative phase of the procedure.¹⁰⁴ 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.¹⁰⁵

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.

¹⁰³ *Ibid.*

¹⁰⁴ Government Emergency Ordinance 51/2008.

¹⁰⁵ Information provided by the National Union of Romanian Bar Associations, 8 January 2018.

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 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. Although CNRR stated that there are no problems and that the court accepts legal aid applications,¹⁰⁶ there has been a significant number of cases in 2017 where the Regional Court of **Giurgiu** rejected legal aid applications.¹⁰⁷ Only in two cases did the applicant lodge a review of the application for legal aid, which was also rejected.¹⁰⁸

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 also 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 approval and, if it is approved, the asylum seeker will be assisted by one of the lawyers from the roster of the organisation.

Each NGO has its own list of attorneys at the regional level. If NGOs consider that the case is not eligible for a lawyer, they will draft a request for free legal aid according to the provisions of the Civil Procedure Code¹⁰⁹ and the special Legal Aid Act.¹¹⁰ The competent court for reviewing the case assesses the request and in all of the cases they grant free legal aid. The Bar Association will appoint a lawyer, who in most of the cases is not specialised in asylum law. Asylum seekers complain about the representation through the state legal aid scheme, as the lawyers are not keeping in touch or talking with them. Legal counsellors from **Giurgiu** and **Bucharest** interviewed by the author say that they are not reading the case, they are totally unprepared for the court hearings, they do not show up to hearings and they are not knowledgeable in asylum law.

In the Regional Centre of **Galați**, legal representation through the state legal aid scheme is ensured by lawyers who have participated in seminars and conferences organised by NGOs.

In **Timișoara**, the legal counsellor pointed out that not all the attorneys paid through the legal aid scheme are knowledgeable in asylum law or are effectively involved. The Bar Association appoints a large number of attorneys, which cannot be considered an effective strategy, as they cannot improve their knowledge if they assist a case only once in a while.

In **Bucharest**, the Bar Association may appoint any of the attorneys registered on the legal aid register to represent an asylum seeker in court. Due to their lack of preparedness and knowledge in asylum law some of the judges began to request the Bar Association to appoint specialised lawyers in cases involving asylum seekers. On 1 November 2017, the Bar Association organised for the first time a course on asylum law for the lawyers registered in legal aid register and other interested lawyers.¹¹¹

Two different lawyers from Bucharest mentioned that one of the most important aspects that should be considered and addressed by the 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 they are assisted by an attorney paid from the legal aid scheme, there is no certainty that they will file an onward appeal.

¹⁰⁶ Information provided by CNRR, 9 January 2018.

¹⁰⁷ Regional Court of Giurgiu, Decisions 11100/236/2017; 11100/236/2017; 9266/236/2017; 14254/236/2017; 16460/236/2017; 17849/236/2017; 16831/236/2017; 16461/236/2017; 16459/236/2017; 15703/236/2017; 17700/236/2017; 15803/236/2017; 8686/236/2017; 10932/236/2017; 9077/236/2017.

¹⁰⁸ Regional Court of Giurgiu, Decisions 11100/236/2017/a1 and 8686/236/2017/a1.

¹⁰⁹ Article 90 Civil Procedure Code.

¹¹⁰ Government Emergency Ordinance 51/2008.

¹¹¹ Bucharest Bar Association, *Suporturi de curs*, available in Romanian at: <http://bit.ly/2AzZNhG>.

On the other hand, CNRR noted that “the continuation of the assistance is provided by the CNRR by granting an attorney and/or by motivating the onward appeal and informing and explaining the last phases of the asylum procedure.”¹¹²

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 the way the funding schemes work in this area. The low level of remuneration is an obstacle in the sense that it seldom attracts new practitioners to this field and those who have experience in asylum cases are also specialised in a more financially-rewarding field (civil or commercial law) which enables them to continue to also have 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 and any potential changes in the level of remuneration are subject to the “project echo” effect – from the moment an application and a budget are drafted and until the last cost contained in this is spent a large period of time may pass, even 2.5 years in some cases.

2. Dublin

2.1. General

Dublin statistics: 2017

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	1,272	98	Total	2,403	89
Bulgaria	1,113	71	Germany	1,373	23
Germany	37	19	Austria	497	20
Cyprus	9	:	France	115	:
Sweden	:	2	Hungary	:	13

Source: IGI-DAI

In 2017, Romania issued 1,272 and received 2,403 requests under the Dublin Regulation. The following criteria were used:

Outgoing and incoming Dublin requests by criterion: 2017		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	33	4
Documentation: Article 12	16	5
Irregular entry: Article 13	5	6
Humanitarian clause: Articles 17(2)	11	4
“Take back”: Article 18	1,207	2,384
Total outgoing and incoming requests	1,272	2,403

Source: IGI-DAI

¹¹² Information provided by CNRR, 9 January 2018.

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 frequently applied criterion in practice, with the majority of cases concerning reunion with family outside Romania.

One relevant issue with regard to family unity concerns cases where IGI-DAI refuses to trigger a Dublin procedure. In one case, IGI-DAI refused to conduct a Dublin procedure for an elderly Syrian woman who declared that she had seven children in Germany. During the personal interview she declared that she has nine children, two of which were accompanying her in Romania. She also mentioned that one of her daughters has been living in Germany for two years. When asked by the case officer if she had something else to add, she mentioned that she would like to be reunited with her daughters in Germany. One of her accompanying children was transferred to Germany to his spouse and child under the Dublin procedure, but she was granted subsidiary protection in Romania. On appeal, the Regional Court of Timișoara ruled that it was impossible to trigger a Dublin procedure since the appellant had already been granted international protection.

The most frequent criteria for outgoing requests were "take back", mainly addressed to Bulgaria. Similarly, the majority of incoming requests to Romania concern "take back" cases.¹¹³

The dependent persons and discretionary clauses

Romania issued 11 outgoing requests and received 4 incoming requests based on the humanitarian clause in 2017.¹¹⁴ The most commonly accepted ground for the use of humanitarian clause is family unity. There have been cases where Bulgaria assumed its responsibility for examining the application for international protection only for a part of a family and then Romania decided to examine the asylum application of the whole family under Article 17(2) of the Regulation, in order to keep the family together.

Romania applied the sovereignty clause in 7 cases in 2017. The dependent persons clause has not been used during that year.¹¹⁵

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 2 months

Article 119 of the Asylum Act states that where, 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 when asylum seekers refused to be fingerprinted, but after they were explained that this is necessary in the asylum procedure and if they refused they would be detained, they agreed to it. In case the applicant does not comply with the obligation to be photographed and fingerprinted,¹¹⁶ measures of constraint may be applied. The use of these measures of constraint must

¹¹³ Information provided by IGI-DAI, 14 February 2018.

¹¹⁴ Information provided by IGI-DAI, 14 February 2018.

¹¹⁵ Information provided by IGI-DAI, 14 February 2018.

¹¹⁶ In accordance with Article 19(a) Asylum Act.

be non-punitive, proportionate, applied only for the necessary period and only when there is no other way of determining the asylum seeker to cooperate with the staff of IGI-DAI.¹¹⁷

Individualised guarantees

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

In a decision of 31 July 2017 concerning a family with three minor children from Iraq, IGI-DAI Regional Centre **Somcuta Mare** denied them access to asylum procedure in Romania and ordered their transfer to Bulgaria. In the decision it is mentioned that “on the occasion of drawing up the annex to the preliminary interview the mother said she does not want to go back to Bulgaria but she did not substantiate her statement.”¹¹⁸ As a result of her declarations and information from Eurodac, IGI-DAI suspended the asylum procedure.

The Bulgarian authorities assumed responsibility to take back the asylum seekers. In one short paragraph, IGI-DAI explained its decision not to examine their application: “Assessing the minors’ mother’s statements, these do not indicate impediments to transfer. The access to asylum procedure was not restricted, there is no mention that the Bulgarian authorities did not fulfil their obligations undertaken at European and international level related to reception conditions and assessment of asylum claims.”¹¹⁹ The family challenged the decision, but their appeal was dismissed by the court on 27 August 2017 and they were transferred to Bulgaria.

In one decision of 29 June 2017 concerning an asylum seeker from Iraq, IGI-DAI Regional Centre **Rădăuți** denied access to the asylum procedure in Romania and ordered his transfer to Bulgaria. The decision states that “access to the asylum procedure has not been restricted, there is no mention of failure to comply with the obligations assumed by the Bulgarian authorities at European and international level regarding the provision of reception standards and the analysis of the application for international protection.” It is mentioned in the decision that the asylum seeker made an asylum application in Bulgaria on 9 December 2016, without any other detail regarding the stage of his procedure.¹²⁰

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

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.¹²¹

¹¹⁷ Article 18(3) Asylum Decree.

¹¹⁸ IGI-DAI Somcuta Mare, Decision 2766412/h/GS, 31 July 2017. Unofficial translation by the author.

¹¹⁹ *Ibid.*

¹²⁰ IGI-DAI Rădăuți, Decision 2766322/D/DIM, 29 June 2017.

¹²¹ Article 19¹(1)-(2) Asylum Act.

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

- (a) The obligation to report at IGI;¹²²
- (b) Designation of his or her residence in a Regional Centre of Procedures for Asylum Seekers;¹²³
- (c) Placement or, as the case may be, remaining in in public custody (detention).¹²⁴

The only restrictive measure which cannot be applied to asylum seekers subject to Dublin procedure is placement in specially designated closed places, which are defined as alternatives to detention but in practice consist of detention rooms in the Regional Centres.¹²⁵ Reporting duties and residence in a specific place may be imposed in order to ensure the transfer.¹²⁶ 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 in 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.¹²⁷

In general, asylum seekers subject to the Dublin procedure are not placed in detention.

According to IGI-DAI, the average duration of the Dublin procedure between the issuance of a request and the transfer is 3-4 months. The average duration of the process between acceptance of responsibility and transfer is approximately 2 months.¹²⁸ This is corroborated by information provided by the legal counsellors in **Bucharest** and **Giurgiu** interviewed by the author, who indicated that the average duration of the Dublin procedure is around 1-2 months.

According to the stakeholders interviewed by the author, once they are informed about the final decision of their Dublin transfer, most asylum seekers continue their journey to other countries.

Timișoara: according to the legal counsellor, there were no transfers to Bulgaria. 2 transfers to Norway were carried out within 4-5 months from the start of the procedure, while another transfer to Germany was carried out in 2 months.

Rădăuți: transfers may be carried out within 2, 3 or even 6 months. 2 unaccompanied minors from Syria and Afghanistan received their decision in March and April 2017 were transferred in October-November 2017.

Bucharest: transfers are carried out within a maximum 1 to 2 months. No asylum seeker has waited for more than 6 months.

Giurgiu: transfers are carried out in 30-60 days. The legal counsellor reported that there are some delays with transfers to Bulgaria but could not provide more details as to why they occur.

Galați: According to the legal counsellor in, all asylum seekers who stayed in Romania were granted access to asylum procedure in Romania, thus she could not report if there were delays or obstacles in transferring an asylum seeker to the responsible Member State.

Romania issued 1,272 requests and implemented 98 transfers in 2017, thereby indicating a transfer rate of 7.7%¹²⁹

¹²² Article 19^2(1)(a) Asylum Act.

¹²³ Article 19^2(1)(b) Asylum Act.

¹²⁴ Article 19^2(1)(d) Asylum Act.

¹²⁵ Article 19^2(3) Asylum Act.

¹²⁶ Articles 19^3 and 19^4 Asylum Act.

¹²⁷ Article 19^14(10) Asylum Act.

¹²⁸ Information provided by IGI-DAI, 14 February 2018.

¹²⁹ Information provided by IGI-DAI, 14 February 2018.

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 are indicating the necessity to start the Dublin procedure, the preliminary interview is conducted pursuant to Article 5 of the Dublin Regulation.¹³⁰

In **Rădăuți**, **Bucharest**, **Giurgiu** and **Șomcuta Mare** the Dublin interview is held during the preliminary interview by the officer in charge of fingerprinting and photographing the asylum seekers. In **Galați** the interview is conducted after the preliminary interview by the officer in charge of fingerprinting and photographing the applicants. In **Timișoara** the Dublin interview is an annex to the preliminary interview. The annex comprises questions 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.¹³¹ The modalities are the same as the regular procedure as regards the other aspects.

2.4. Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

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 of the foreigner to the responsible Member State may be challenged within 5 days since it was communicated. 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.¹³² The request for suspension is decided urgently in the council

¹³⁰ Article 43(3) Asylum Act.

¹³¹ 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.

¹³² Article 121(3) Asylum Act.

chamber by final conclusion, and the parties are summoned.¹³³ The implementation of the transfer decision is suspended until the court decides on the request for suspension.¹³⁴

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.¹³⁵

The court shall settle the case within maximum 30 days.¹³⁶ The competent court is the Regional Court (*Judecatoria*) with territorial jurisdiction over the area in which IGI has issued the decision.¹³⁷ The decision of the court is final.¹³⁸

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.¹³⁹

According to the legal counsellor in **Giurgiu**, the Regional Court never takes reception conditions, recognition rates or procedural guarantees into account 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 **Rădăuți** admitted on 19 July 2017 the appeal of a family with five underage children from Iraq, suspended their transfer to Bulgaria and granted access to the asylum procedure in Romania.¹⁴⁰ The decision restates what the parties submitted in the appeal and counterclaim. In a paragraph, the court analyses the situation and finds the following: “the information provided by ROCCORD in relation with the poor reception conditions available in Bulgaria, deficiencies in the provision of medical services, education, lack of a legal framework to ensure the needs of the underage asylum seekers, placement in detention, including children, in case of dismissal of the asylum claim, UNHCR recommendations, given the particular situation of the appellants – husband, wife and their minor children – pleads for the admission of the appeal, dismissal of the transfer decisions and assessment of the asylum application in Romania.”

¹³³ *Ibid.*

¹³⁴ Article 121(4) Asylum Act.

¹³⁵ Article 121(5) Asylum Act.

¹³⁶ Article 121(6) Asylum Act.

¹³⁷ Article 121(2) Asylum Act.

¹³⁸ Article 121(7) Asylum Act.

¹³⁹ Article 121(8) Asylum Act.

¹⁴⁰ Regional Court of Rădăuți, Decision 2353/2017, 19 July 2017.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

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

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. 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 filling 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

Greece: Greece is the only Member State to which transfers have been suspended since 2011 following the European Court of Human Rights (ECtHR)'s ruling in *M.S.S. v. Belgium and Greece*.¹⁴¹

Bulgaria: Practice on transfers to Bulgaria was not uniform in 2017, although several decisions suspended transfers. On 27 September 2017 the Regional Court of **Bucharest District 4** admitted the appeal of a pregnant mother and her 2-year-old daughter and suspended their transfer to Bulgaria.¹⁴² The court examined the vulnerability of the appellants as it found that there was "no intervention on the part of the European Commission as the application of the Regulation is not imperilled by a particularly high pressure on the asylum system" and that "UNHCR considers that the suspension of the transfers to Bulgaria are only appropriate for vulnerable people". The Regional Court examined the information on reception conditions and the situation of the vulnerable groups annexed to the case file, the situation of the Dublin returnees, the AIDA country report on Bulgaria and relevant European case law on suspension of Dublin transfers to Bulgaria in 2016. "Taking into consideration these conditions, the court states that the appellant and her underage daughter are vulnerable persons, and the reception conditions from the responsible Member State do not meet the requirements in order to ensure that their right to physical and mental integrity is respected, the protection required for an unaccompanied mother is afforded and the right to access education for the underage daughter is also respected."¹⁴³

In another decision, the Regional Court of Bucharest District 4 annulled the decisions of transfer to Bulgaria regarding a mother and her 4-year-old daughter.¹⁴⁴ The court analysed the AIDA country report on Bulgaria and relevant information published by UNHCR regarding the situation of vulnerable

¹⁴¹ ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.

¹⁴² Regional Court of Bucharest District 4, Decision 11681/2017, 27 September 2017.

¹⁴³ *Ibid.* Unofficial translation by the author.

¹⁴⁴ Regional Court of Bucharest District 4, Decision 4865/2017, 12 April 2017.

persons. In addition, the decision also mentions European case law on suspension of Dublin transfer in Bulgaria. The court ruled that even though single-parent families are considered vulnerable persons there are no practical methods to address the special needs of these groups, there is no separate accommodation for this group of vulnerable persons.

The Regional Court of **Galați** also annulled a transfer to Bulgaria concerning a couple from Iraq on 30 June 2017. They described their journey to Romania in detail, “stating that while they were accommodated in a house in Bulgaria, the police found them and beat them, they put their guns to their heads; they were jailed for two days, in miserable and inhumane conditions, without any food.” “Afterwards they were accommodated in reception centres for asylum seekers, where they did not even receive water”. They also mentioned that the Bulgarian police asked for money from them, if they wanted to leave that place.¹⁴⁵

The court corroborated the statements of the asylum seekers with the information provided by UNHCR and the AIDA country report on Bulgaria and dismissed the argument of IGI-DAI that Bulgaria has no systemic deficiencies in its asylum procedure and reception conditions. It stated that “even though IGI-DAI claims that EASO implemented an operational plan from 2014, which was extended until the end of June 2016, to support the efforts to manage the large number of foreigners present in the Bulgarian centres, despite this support, the judicial practice and the most recent reports of the international bodies, mentioned above, determine serious reasons for concluding that the applicants are at risk of degrading treatment once returned to the Bulgarian territory.” The Regional Court concluded by ruling that “taking into consideration the particular situation of the applicants, husband and wife, and the poor reception and accommodation conditions are likely to cause a real risk of exposure to degrading treatment incompatible with the respect for family life which the applicants proved to have.”

The Regional Court of **Baia Mare** annulled a transfer decision to Bulgaria on 4 December 2017 concerning a family with two minor daughters. The decision describes in great detail the situation in Bulgaria. The appellants stated that once they were apprehended by the Bulgarian police they were detained for two days in a prison. While in detention they were required to undress in front of other asylum seekers for bodily search, which would have been conducted by a male officers. Both of the appellants asking for a female police officer to conduct the body search of the wife, who at that time was four-months pregnant. Police officers refused their request and started beating the husband. In this altercation the wife was also hurt in the abdominal area. Due to this and to a lack of medical assistance, the wife suffered a miscarriage. The appellants also described the poor conditions of the centre where they were detained, the lack of adequate living conditions for children, food, poor hygiene and access to education and the fact that their belongings were confiscated. The Regional Court ruled that the appellants’ statements are confirmed by the latest information provided by UNHCR, the AIDA report on Bulgaria and Human Rights Watch. It concluded that the particular situation of the appellants and the reception conditions in Bulgaria and the problematic access to an effective asylum procedure are in the support of admitting the appeal of the asylum seekers as “a transfer to Bulgaria is likely to cause a real risk that they will be subjected to a degrading and inhuman treatment, incompatible with the provisions of Article 3 of ECHR.”¹⁴⁶

On the other hand, in a decision of 18 December 2017, the Regional Court of **Rădăuți** rejected the appeal of a male asylum seeker from Afghanistan against his transfer to Bulgaria. Even though the attorney representing the asylum seeker stated that the applicant had been treated inhumanly in Bulgaria, had had no access to medical services or sufficient food, his belongings had been stolen by the officers who had to offer him protection, and had also attached to the appeal several decisions from other similar cases in Romania (in which the transfer to Bulgaria was suspended), the Court in this instance rejected the appeal. The court stated: “With regard to the arguments invoked in the appeal, namely that if the applicant will be returned to Bulgaria he will have no effective access to the asylum procedure, the court finds that the petitioner did not motivate these statements in any way, and considers that they are rather assumptions on his part”. The Regional Court decided to disregard the

¹⁴⁵ Regional Court of Galați, Decision 5362/2017, 30 June 2017. Unofficial translation by the author.

¹⁴⁶ Regional Court of Baia Mare, Decision 9685/2017, 4 December 2017. Unofficial translation by the author.

arguments of the attorney and the decisions of fellow judges and gave more weight to the arguments of IGI-DAI.¹⁴⁷

The Regional Court of **Timișoara**, in its final conclusion of 29 August 2017, dismissed the request for suspensive effect against the implementation of a transfer decision to Bulgaria concerning a woman who had recently given birth to a child.¹⁴⁸ The appellant was not present at the court hearing as she had been evacuated from the Regional Centre since 3 August 2017. The appellant argued that it was possible she would have no effective access to the asylum procedure upon transfer to Bulgaria, as the decision of transfer of IGI-DAI did not mention if her asylum procedure in Bulgaria was still pending. In this regard, the court took into consideration only the communication between the Dublin Units of the two countries, which was attached to the court file by IGI-DAI and from which it resulted that Bulgaria accepted her transfer. For the court this document was sufficient to conclude that the statements of the appellant regarding the possibility that her asylum application in Bulgaria was already terminated are unfounded. "In relation to the other arguments invoked by the asylum seeker such as the lack of effective access to the asylum procedure, individual and correct assessment of her claim, the risk of being returned to her country of origin, where she fears for her life, the court considers that these statements are related to the merits of the case – not the request to annul the decision of transfer to Bulgaria, therefore they cannot be taken into consideration by the court when assessing the request of suspension of this transfer."¹⁴⁹

Romania assumes responsibility for the asylum application where the transfer to another Member State is suspended.

2.7. The situation of Dublin returnees

The Asylum Act includes provisions concerning cases of express and tacit withdrawal of an asylum application.¹⁵⁰ 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.¹⁵¹ In case of tacit withdrawal, IGI-DAI writes a report regarding the absence of the asylum seeker from the interview.¹⁵² 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.¹⁵³

When the asylum seeker expressly withdraws his or her asylum claim, this is considered an explicit withdrawal of the asylum application.¹⁵⁴ 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.¹⁵⁵

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.¹⁵⁶ If the time limit has expired, the asylum claim is considered a **Subsequent Application**.

On the other hand, persons who have left the territory or have been removed from the EU to a third country or to 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 considered a subsequent application.¹⁵⁷

¹⁴⁷ Regional Court of Rădăuți, Decision No 2252/2017, 18 December 2017. Unofficial translation by the author.

¹⁴⁸ Regional Court of Timișoara, Case No 18294/325/2017, 29 August 2017. Unofficial translation by the author.

¹⁴⁹ *Ibid.*

¹⁵⁰ Article 51 Asylum Act.

¹⁵¹ Article 51(1)(b) Asylum Act.

¹⁵² Article 51(3) Asylum Act.

¹⁵³ Article 51(5) Asylum Act.

¹⁵⁴ Article 51(1)(a) Asylum Act.

¹⁵⁵ Article 51(2) Asylum Act.

¹⁵⁶ Article 94¹ Asylum Act.

¹⁵⁷ Article 94¹(1)(a) Asylum Act.

Therefore persons who expressly withdraw their asylum applications and have not left the territory of the EU 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.

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 previously 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.

Romania received 89 incoming transfers in 2017.¹⁵⁸

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

An application is inadmissible where the applicant:

- a. Has been granted international protection by another Member State;¹⁵⁹
- b. Comes from a **First Country of Asylum**;¹⁶⁰
- c. Comes from a European safe third country which has agreed to his or her readmission;¹⁶¹
- d. Comes from a **Safe Third Country**;¹⁶²
- e. Makes a subsequent application without new elements.¹⁶³

The grounds relating to international protection granted by another Member State and safe country concepts were introduced in 2015. From the interviews and discussion with legal counsellors, there were no reported cases of first country of asylum, European safe third country and safe third country.

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

IGI-DAI dismissed 6 applications as inadmissible during 2017. These concerned 3 Iraqi, 2 Syrian and 1 Moldovan applicant. No inadmissibility decision was issued on the basis of the “first country of asylum” or “safe third country concepts”.¹⁶⁴

¹⁵⁸ Information provided by IGI-DAI, 14 February 2018.

¹⁵⁹ Article 50¹ Asylum Act.

¹⁶⁰ Article 95 Asylum Act.

¹⁶¹ Article 96 Asylum Act.

¹⁶² Article 97 Asylum Act.

¹⁶³ Article 91(b) Asylum Act, in conjunction with Article 88(2)(a)-(b).

¹⁶⁴ Information provided by IGI-DAI, 14 February 2018.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

1. 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
2. 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 for specific requirements for the interview as part of the admissibility assessment.

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.¹⁶⁵ 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.¹⁶⁶

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?

☒ Yes	☐ No
❖ If yes, is it	☒ Judicial ☐ Administrative
❖ If yes, is it automatically suspensive	☒ Yes ☐ 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](#).¹⁶⁷ 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 2017.

3.4. Legal assistance

The rules and practice applicable in the [Regular Procedure: Legal Assistance](#) apply.

¹⁶⁵ Article 97¹(2) Asylum Act.

¹⁶⁶ Article 97¹(4) Asylum Act.

¹⁶⁷ Article 97¹(3) Asylum Act.

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☐ Yes ☒ No
2. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
3. 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

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.¹⁶⁸ In addition to this, foreigners who have previously had an asylum procedure in Romania and have made a subsequent application at a border crossing point are also subject to border procedure.¹⁶⁹

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 an interview and an 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.¹⁷⁰

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.¹⁷¹ However, if the asylum application is still pending after the 20-day deadline, the asylum seeker is granted access to territory.¹⁷²

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.¹⁷³ Asylum seekers accommodated in these centres receive 3 meals a day free of charge, under conditions established by a Government Decision.¹⁷⁴ The asylum seeker subject to border procedure is not entitled to receive the material reception conditions afforded for meals.¹⁷⁵

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, 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.¹⁷⁶ In practice, this obligation is not always fulfilled by the border guards according to the legal counsellor of JRS. According to UNHCR Romania the leaflets available at the border need to be updated in line with the legislative amendments adopted in 2015 and 2016.

¹⁶⁸ Article 82 Asylum Act.

¹⁶⁹ Article 83(3) Asylum Act.

¹⁷⁰ Article 83(1)(a), (b) and (c) Asylum Act.

¹⁷¹ Article 87(1) Asylum Act.

¹⁷² Article 87(5) Asylum Act.

¹⁷³ Article 87(2) Asylum Act.

¹⁷⁴ Article 87(3) Asylum Act.

¹⁷⁵ Article 87(4) Asylum Act.

¹⁷⁶ Article 87(7) Asylum Act.

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 of such a nature as to render this impossible.

According to the legal counsellor of JRS, there were only three or four asylum applications assessed in the border procedure in 2016, while 17 other applications made at a border-crossing point were granted access to territory and to regular procedure. In 2016, a mother and her daughter made an asylum application in the South-Western part of Romania at **Moravița** and after IGI-DAI informed the representative of CNRR in Timișoara the asylum seekers were counselled and assisted at the interview by the legal counsellor. In 2017, in Moravița, there was a single asylum seeker from Serbia who was subject to border procedure.

There were 4 asylum applications processed under the border procedure, of which 2 were rejected and 2 were granted access to the regular procedure.¹⁷⁷

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?

❖ If so, are questions limited to nationality, identity, travel route?	☒ Yes	☐ No
❖ If so, are interpreters available in practice, for interviews?	☐ Yes	☒ No
	☒ 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, checked against country of origin information.¹⁷⁸ 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 elements of the file.¹⁷⁹ 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 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 decides whether to go into details on the merits.

¹⁷⁷ Information provided by IGI-DAI, 14 February 2018.

¹⁷⁸ Article 83(1) Asylum Act.

¹⁷⁹ Article 83(4) Asylum Act.

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 aware of the cases subjected to the border procedure only 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?

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

The asylum seeker has the possibility to challenge the decision issued by IGI-DAI within 7 days from the day the decision was communicated.¹⁸⁰ The competent court to decide on the appeal is the territorially competent Regional Court.¹⁸¹ The provisions on submission of the appeal in the regular procedure apply accordingly.¹⁸²

The court shall take a decision on the appeal within 5 days.¹⁸³ 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.¹⁸⁴

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,¹⁸⁵ as the foreigner subject to the border procedure must leave Romania as soon as the asylum procedure has finished.¹⁸⁶ The border procedure is considered completed on the date when the decision of the court was delivered.

According to the legal counsellor of JRS, asylum seekers do not face any 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?

- | | | | |
|-------------------------------------|---|---|-----------------------------|
| ❖ 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 negative decision in practice?

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

¹⁸⁰ Article 85(1) Asylum Act.

¹⁸¹ Article 85(2) Asylum Act.

¹⁸² *Ibid.*

¹⁸³ Article 86(1) Asylum Act.

¹⁸⁴ *Ibid.*

¹⁸⁵ Article 86(3) Asylum Act.

¹⁸⁶ Article 17(1)(a) Asylum Act.

inform the NGOs about these cases. Also an examination of applications cannot be effectively conducted within such a short time limit.

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 in Romania;
- c. Asylum applications of persons coming from a **Safe Country of Origin**.

An asylum application is considered manifestly unfounded if the applicant:¹⁸⁷

1. Has no well-founded fear of being persecuted or exposure to serious risk in the country of origin
 - 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;
 - In bad faith 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, Timișoara** 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 (Galați, Rădăuți), applicants who lack credibility (Giurgiu), or applicants who do not claim any fear of persecution or risk of serious harm (Timișoara).

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.¹⁸⁸ Article 79 of the Asylum Act provides that after the interview and 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.

¹⁸⁷ Article 76 Asylum Act.

¹⁸⁸ Article 78 Asylum Act.

IGI-DAI reported 382 applications processed under the accelerated procedure.¹⁸⁹

According to the legal counsellor in the Regional Centre, in 2017 there were no cases processed in accelerated procedure in **Galați**. Two cases were reported in **Rădăuți**. In **Giurgiu**, applications from Pakistan and even Afghanistan were assessed in accelerated procedure.

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 IGI-DAI.

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

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

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

The law provides for an 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.¹⁹⁰

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.

¹⁸⁹ Information provided by IGI-DAI, 14 February 2018.

¹⁹⁰ Article 80(1) 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?
☒ 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 decision in practice?
☒ Yes ☐ With difficulty ☐ No
❖ Does free legal assistance cover:
☐ 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 Director of the detention centre

The legal counsellor also mentioned that NGOs are not informed when an asylum seeker is granted access to regular procedure and is transferred to the Regional centre of Timișoara. This lack of information may be problematic as asylum seekers tend to believe that they are being granted international protection and not access to regular procedure. They therefore do not know that there are further steps to follow, such as a potential appeal, and there is a real risk of missing deadlines. Furthermore, the decision of the Regional Court may be notified at the detention centre if the applicant does not know that he or she has the obligation to inform the court of any changes of residence.¹⁹¹

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

¹⁹¹ Article 172 Civil Procedure Code.

violence etc.¹⁹² 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.¹⁹³

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.¹⁹⁴ 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.¹⁹⁵

Depending on the specific needs of each asylum seeker identified as vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance.¹⁹⁶ IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.¹⁹⁷

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 comprise guidelines on how 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 majority of the stakeholders interviewed by the author in **Bucharest**, **Șomcuta Mare** and **Galați** 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 from **Bucharest** said that IGI-DAI claimed to have a specific mechanism in place in this regard, but they were not informed about the procedural framework of this mechanism. The same was echoed by CNRR.¹⁹⁸

¹⁹² Article 2(1)(b¹) Asylum Act.

¹⁹³ Article 5¹(3) Asylum Act.

¹⁹⁴ Article 5(1) Asylum Decree.

¹⁹⁵ Article 5(2) Asylum Decree.

¹⁹⁶ Article 5(3) Asylum Decree.

¹⁹⁷ Article 5(4) Asylum Decree.

¹⁹⁸ Information provided by CNRR, 9 January 2018.

JRS, in the framework of the “HELP-MED – health care network – psychological and cooperation in identifying and assisting asylum seekers” project, offered in the period 16 December 2015 to 15 June 2016 healthcare and related services complementary to those offered by the responsible authorities. In addition to this they developed a methodology of early identification and providing assistance for asylum seekers. This was shared with all NGOs working in this field and also to IGI-DAI. The legal counsellor in **Galați** stated that she is using this methodology.

The legal counsellor in **Timișoara** said that vulnerable persons are identified by the NGOs who then immediately inform IGI-DAI. The legal counsellor from **Giurgiu** stated that during the coordination meetings with all the NGOs and IGI-DAI representatives, the NGOs inform the authorities if they have identified a vulnerable person, but this kind of information-sharing is not reciprocal; IGI-DAI invokes the confidentiality of the doctor-patient information. On the other hand, the legal counsellor in **Somcuta Mare** said that she never had to inform IGI-DAI about a vulnerable person because they were already identified by IGI-DAI.

According to the legal counsellor from **Galați** not all the asylum seekers are screened. Asylum seekers with psychological problems are not identified by IGI-DAI, while the authorities and NGOs are not even prepared to identify and assist a person suffering from female genital mutilation (FGM). Asylum seekers suffering from a psychological problem are identified by the NGOs.

Article 12⁴¹ of the Asylum Act regarding the training of staff prescribes that training programmes *inter alia* incorporate methodology on assessment of asylum applications made by vulnerable persons and identification mechanisms and assistance for vulnerable persons.

According to the Director of the Regional Centre of **Timișoara** case officers are trained on how to identify vulnerable persons by UNHCR Romania and occasionally by CNRR.

According to the Director of the Regional Centre of Timișoara the identification mechanism in place to systematically identify vulnerable asylum seekers also refers to victims of torture, however it does not cover victims of trafficking. For the latter cases IGI-DAI collaborates with **ICAR Foundation**.

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.¹⁹⁹ 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.²⁰⁰

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.²⁰¹ The person shall be deemed to have reached the age of 18 at the time of lodging the asylum application.²⁰² 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.²⁰³

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.²⁰⁴

¹⁹⁹ Article 41(2) Asylum Act.

²⁰⁰ *Ibid.*

²⁰¹ Article 41(3) Asylum Act.

²⁰² Article 41(4) Asylum Act.

²⁰³ Article 41(5) Asylum Act.

²⁰⁴ Article 41(6) Asylum Act.

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.²⁰⁵

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.²⁰⁶ 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.²⁰⁷

The Asylum Act does not, however, prescribe for 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) and 5 Institutes of Legal Medicine (IML) in **Iași, Cluj-Napoca, Craiova, Târgu Mureș** and **Timișoara**, and 36 County Legal Medicine Services and 11 Forensic Offices.²⁰⁸

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 and other.²⁰⁹ 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.²¹⁰

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.

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.

IGI-DAI conducted 2 age assessments conducted in 2017, of which one found the applicant to be an adult.²¹¹

According to available information, age assessment practice has varied from one Regional Centre to another as follows:

²⁰⁵ Article 41(7) Asylum Act.

²⁰⁶ Article 16(4)(c) Asylum Act, in conjunction with Article 22 Asylum Decree.

²⁰⁷ Article 16(4[^]1) Asylum Act.

²⁰⁸ National Network of Legal Medicine, *Tipuri de expertize medico-legale*, available in Romanian at: <http://bit.ly/2ETRT4A>.

²⁰⁹ Article 26(a) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

²¹⁰ Article 14(2) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

²¹¹ Information provided by IGI-DAI, 14 February 2018.

Timisoara: In 2016, there was a request for an age assessment for an unaccompanied minor from Afghanistan who initially was placed in the detention centre of **Arad**, probably given that he had been registered by the Border Police as an adult. The applicant was released after the age assessment.

Șomcuta Mare: IGI-DAI has not requested any age assessment examination in 2017 and has granted young people the benefit of the doubt.

Rădăuți: IGI-DAI requested an age assessment for an asylum seeker who declared to be 16 years old. The report of IML stated that the asylum seeker was 20 years old and he was registered accordingly by IGI-DAI.

Galați: The legal counsellor from mentioned that the last age assessment was conducted in 2014-2015.

Bucharest: The legal counsellor reported that two unaccompanied minors from Libya were placed in the detention centre in **Otopeni** after the Border Police registered them as being adults. After insistence from NGOs and UNHCR, IGI requested an age assessment. The decision of IML showed that the two asylum seekers were minors and they were released after 3 months spent in the detention centre. Most of these age assessment examinations are requested for the migrants accommodated in the detention centre – if it is found that they are minors they are released immediately. In the Regional Centre there have not been many requests for age assessment.

Giurgiu: According to the legal counsellor, IGI-DAI has never requested an age assessment. However, one particular case was reported regarding an asylum seeker identified and registered by IGI-DAI as a child from the outset, whose asylum claim was assessed taking his minority into consideration. After the failure to appeal the negative decision of IGI-DAI, when he had to be removed from the Regional Centre, JRS sent a notification to the Directorate-General for Social Protection and Child Protection (DGASPC) in order for them to take over the unaccompanied child, as he could not be placed in detention due to his minority. DGASPC took over the child and he was accommodated in one of their facilities specially designed for minors without parents, “**Casuta Albastra**”. He stayed in this facility for almost a month and was not allowed to leave the building, therefore his liberty was restricted. During this time, DGASPC requested an age assessment and the child was taken to NIML without prior information and without his consent he was not accompanied by his legal guardian. Furthermore, even before the decision of IML was delivered, the child was placed in the detention centre of **Otopeni**. The IML report established that there were reasonable indications that he was an adult.

The situation of four unaccompanied children who were placed in detention, even though they had been registered as such by the Border Police, was also reported. While in detention they lodged an asylum application and after the personal interview, IGI-DAI granted them access to regular procedure because they were children.

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:

Pursuant to Article 5[^]1(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.²¹²

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.²¹³

The interview of vulnerable asylum seekers shall be carried out by case officers specialised in this respect, who take into account the special situation of these persons.²¹⁴ The legal counsellor in **Giurgiu** stated that the case officers are more careful in these cases. 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.

On the other hand, according to the legal counsellor in **Galati**, in case of asylum seekers who suffer from post-traumatic stress disorder (PTSD), mental disabilities or psychological problems, IGI-DAI does not request for medical examination. Not even the court orders a medical examination, even where requested by the applicant.

According to Article 75(2) of the Asylum Act, applicants in need of special procedural guarantees or with **Special Reception Needs** may only be subjected to the **Accelerated Procedure** or the **Border Procedure** if they represent a threat to national security or public order, due to their activity or membership to a certain group.²¹⁵ 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.²¹⁶

In one case, however, a mother and her 2-year-old daughter who arrived in Romania on 6 September 2017 by boat were detained in the detention centre of **Arad** for the purpose of return. While in detention, they made an asylum application on 18 September 2017 and received a negative decision under the accelerated procedure, rejecting their claim as manifestly unfounded even though they are considered vulnerable persons under Romanian law. During the personal interview the mother stated that she wanted to get to any European country because she had heard that women there have more rights. The case officer chose not to ask any question regarding this statement and as a consequence did not explore a lead which could have indicated past persecution. Furthermore, when the applicant said she had claimed asylum due to the problems she had with her husband's creditors, the case officer did not go into details. The same situation was noted when the mother declared that her in-laws threatened to take her daughter away from her. 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.²¹⁷

The asylum seekers were represented by a specialised attorney and the Regional Court of **Timișoara** granted them access to the regular procedure, while after deliberations they were also granted refugee status.

²¹² Article 5[^]1(5) Asylum Act.

²¹³ Article 5[^]1(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.

²¹⁴ Article 46 Asylum Act.

²¹⁵ Articles 75(2) and 84 Asylum Act.

²¹⁶ Information provided by IGI-DAI, 14 February 2018.

²¹⁷ IGI-DAI, Decision No 2768610/h/MA.

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, where IGI-DAI deems it relevant for the assessment of an asylum application, subject to the applicant's consent, the asylum seeker will be subject to medical examination concerning signs that might indicate past persecution or serious harm.²¹⁸ The applicant's refusal to undergo such a medical examination shall not prevent IGI-DAI from taking a decision on the application for international protection.²¹⁹

Medical examinations shall be carried out by the legal medicine institutions, and the result shall be transmitted immediately to IGI-DAI. Coverage of expenses is ensured by the Ministry of Internal Affairs through the budget allocated to IGI in this respect.²²⁰ 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.²²¹ The results of the medical examination are assessed by IGI-DAI in corroboration with other elements of the application for international protection.²²²

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.²²³ 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.²²⁴ 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.

According to the legal counsellor in **Giurgiu**, if an asylum seeker claims to be a victim of torture, he or she is requested to bring documents proving this allegation. IGI-DAI has never requested a medical examination in such a case.

In addition, the Asylum Act foresees that where there are serious doubts regarding the adult's asylum seeker legal capacity, specialised staff at IGI-DAI request a medical examination in this regard.²²⁵ 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.²²⁶ The asylum procedure is suspended until the appointment of a counsellor. During this period of suspension, the applicant benefits from the rights set out in the law.²²⁷ The asylum application of an asylum seeker who has no capacity is filed by the counsellor after his or her appointment.²²⁸ When

²¹⁸ Article 49¹(1) Asylum Act.

²¹⁹ Article 49¹(2) Asylum Act.

²²⁰ Article 49¹(3) Asylum Act.

²²¹ Article 49¹(4) Asylum Act.

²²² *Ibid.*

²²³ Article 19(c) Asylum Act.

²²⁴ Article 16(1)(b) Asylum Decree.

²²⁵ Article 42(1) Asylum Act.

²²⁶ Article 42(2) Asylum Act.

²²⁷ Article 42(3) Asylum Act.

²²⁸ Article 42(4) Asylum Act.

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.²²⁹ The interview of an asylum seeker without capacity shall be carried out in the presence of the counsellor.²³⁰

According to the NGO personnel in **Galați, Rădăuți, Șomcuta Mare, Giurgiu, Bucharest and Timișoara** there were no cases in which a medical examination under Article 49¹ was requested by IGI-DAI. According to the Director of the Regional Centre Timișoara, IGI-DAI requested a medical examination in order to appoint a counsellor for an asylum seeker who was referred by the doctor of the centre and the doctor working for ICAR Foundation. The procedure for the appointment of the counsellor was still pending at the time of the interview and the asylum seeker had already left Romania. There were no other cases where IGI-DAI requested a medical examination based on serious doubts regarding the adult's asylum seeker capacity.

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.²³¹ ICAR Foundation is the NGO which currently provides psycho-social services to asylum seekers, through the project "Adaptable and accessible health services for asylum seekers in Romania" 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."²³² 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.

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.

In general, asylum seekers submit either to IGI-DAI or the court medical reports from the country of origin. Practice in 2017 in relation to these reports is reported as follows:

Timișoara: There was a case of an asylum seeker with psychological issues, who held medical reports from the country of origin proving his medical condition. These were translated by NGOs and submitted to IGI-DAI, which requested a medical examination and as a result provided treatment. The practice of the Regional Court of Timișoara regarding the admissibility and assessment of psychological reports submitted by ICAR is not uniform,²³³ although these have been admitted in onward appeals before the Administrative County Court of Timișoara.²³⁴

²²⁹ Article 42(5) Asylum Act.

²³⁰ Article 42(6) Asylum Act.

²³¹ 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>.

²³² ICAR Foundation, *Health services for the improvement of reception and residence conditions for asylum seekers in Romania*, available at: <http://bit.ly/2jtR4Xw>.

²³³ See Regional Court of Timișoara, Decision 14951/2017, 8 December 2017, which does not mention that a report has been submitted in the case. Contrast Decision 7068/2017, 7 June 2017, where the court granted refugee status to a 70-year-old Syrian woman based *inter alia* on "depressive and anxiety symptoms" identified in the ICAR report.

²³⁴ Administrative County Court of Timișoara, Decision 77/2015, 19 June 2015.

Șomcuta Mare: Only one medical report prepared by ICAR was submitted to the Regional Court in a case concerning the Dublin procedure. Yet the ruling of the Regional Court does not mention the ICAR report or the fact that it was submitted.²³⁵

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. All the reports submitted to IGI-DAI or the court were medical reports from the country of origin of the asylum seeker. IGI-DAI and the court have never ordered a medical examination.

Bucharest: There were cases where asylum seekers who presented signs of burns or open wounds underwent medical examinations paid by ICAR Foundation or themselves. The medical reports were submitted to IGI-DAI or the court and as a consequence they were considered vulnerable persons and in the overwhelming majority of cases were granted a form of protection.

Giurgiu: If a medical report from the country of origin is attached to the case file, the decision mentions this, however it does not take into consideration medical reports when assessing the asylum seeker's credibility. No medical reports prepared by ICAR Foundation were issued in Giurgiu.

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.²³⁶ IGI-DAI shall take the necessary steps, as soon as possible, to appoint a legal representative to assist the asylum seeker unaccompanied minor during the asylum procedure, including during the admissibility and Dublin procedure as the case may be.²³⁷

The law prescribes it is not necessary to appoint a legal representative for the asylum seeker unaccompanied minor if he or she is to reach the age of the majority within 15 days of the filing of the asylum application.²³⁸

The law also foresees that IGI shall:

- 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 how to prepare for the personal interview;
- Provide procedural legal information and information on procedures for withdrawing international protection, both to the child and to his or her legal representative;
- 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 the outcome of the examination and the consequences of any refusal to undergo this examination.²³⁹

4.1. Timing of appointment

Neither the Asylum Act nor the Child Protection Act prescribe 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

²³⁵ Regional Court of Baia Mare, Decision 9865/2017, 4 December 2017.

²³⁶ Articles 16 and 40 Asylum Act.

²³⁷ Article 16(2) Asylum Act.

²³⁸ Article 16(3) Asylum Act.

²³⁹ Article 16(4) Asylum Act.

General for Social Assistance and Child Protection (DGASPC) territorially competent for the area in which the Regional Centre is 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 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.²⁴⁰ 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.²⁴¹

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.²⁴² 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.²⁴³

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 without significant delays; they present themselves within a few days or even on the same day of the notification being sent. DGASPC appoints the same person as legal representative, who is a legal counsellor.

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. DGASPC usually appoints the same two social assistants as legal representatives for unaccompanied asylum-seeking children. The appeals against negative decisions are prepared by NGO representatives or attorneys.

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. The legal representative presents him or herself immediately. The legal representative is not a legal counsellor.

Bucharest: The notification is transmitted to DGASPC when the unaccompanied asylum-seeking child is accommodated in the Regional Centre. In some cases, NGOs have to insist in order for DGASPC to provide an answer to IGI-DAI's request. Legal representatives were even appointed after 1.5 to 2 months in some cases.

Following the local elections of 2016 the Director of DGASPC changed and it was temporarily impossible to reach the institution. For two weeks, notifications were sent and left without any answer, while several redundancies were also reported in the period September-November 2016. As a result, 3 unaccompanied children had to wait for their decision from October 2016 until March-April 2017.

Giurgiu: DGASPC appoints the same legal counsellor to act as legal representative.

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.²⁴⁴ This means that the legal representative substitutes the absent parents.

²⁴⁰ Article 21(3) Asylum Decree.

²⁴¹ Article 40(1) Asylum Act.

²⁴² Article 39(3) Asylum Act.

²⁴³ Article 40(2) Asylum Act.

²⁴⁴ Article 4(g) Child Protection Act.

According to the Asylum Act, the interests of a child are defended by his or her legal representative.²⁴⁵ 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.²⁴⁶

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.²⁴⁷

The legal representative has to be present at the interview with the unaccompanied child,²⁴⁸ and may intervene at the end of the interview.²⁴⁹ The legal representative informs the unaccompanied child asylum seeker of the purpose and possible consequences of the personal interview and takes the necessary steps to prepare the child for it.²⁵⁰ 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.²⁵¹

The legal representative also has to submit the request of enrolment of the unaccompanied child to preparatory courses.²⁵²

In **Bucharest**, it has been reported that a male beneficiary of international protection is appointed as a legal representative for several asylum-seeking children. This practice has been in place for 2-3 years.

With the exceptions of the legal representative in **Galați** and **Șomcuta Mare**, representatives consider that their mandate is only to assist the child in administrative and judicial procedures related to the asylum claim, i.e. to attend interviews and court hearings, and 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.

Several issues regarding legal representatives have been reported by NGO workers. In **Giurgiu** legal representation is reported to be simply a formality and no counselling, guidance and psychological, emotional or moral support is offered to the child.²⁵³ The legal representative, who has a legal background, only attends the preliminary and personal interview without asking any questions, does not talk to the unaccompanied child before but only sits beside him or her, does not prepare appeals against the negative decision, as these are lodged by CNRR or JRS, is present at the court hearing but does not act besides requesting the admission of the appeal in the way it was formulated. NGOs are also present at the hearings to make sure that the procedure is respected.

The same situation was reported also in **Rădăuți**, where the legal representative does not prepare the unaccompanied children for the interview, does not talk with them before or after the interviews and does not even know their names. The representative only attends the interviews and court hearings and does not file appeals against negative decisions.

On the other hand, in **Timișoara**, the legal representative only assists the unaccompanied child during the interviews, he appeals the negative decision of IGI-DAI and assists the child in the court proceedings, but does not fulfil any other task.

²⁴⁵ Article 39(1) Asylum Act.

²⁴⁶ Article 16(2[^]1) Asylum Act.

²⁴⁷ Article 77(3) Child Protection Act.

²⁴⁸ Article 47(1) Asylum Act.

²⁴⁹ Article 23(1) Asylum Decree.

²⁵⁰ Article 47(2) Asylum Act.

²⁵¹ Articles 56(2) and 66(2) Asylum Act.

²⁵² Article 6(4) Asylum Decree.

²⁵³ 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/2EvCLrn>, 3.

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.

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.²⁵⁴ New elements or circumstances have to be submitted in order for a subsequent application to be admissible.²⁵⁵

Therefore the Asylum Act prescribes that access to a new asylum procedure shall be granted if one of the following conditions is met:²⁵⁶

- 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 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.²⁵⁷ 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.²⁵⁸

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.

²⁵⁴ Article 88(1) b) Asylum Act.

²⁵⁵ Article 88(2)(a)-(b) Asylum Act.

²⁵⁶ *Ibid.*

²⁵⁷ Article 94^1(1)(b) Asylum Act.

²⁵⁸ Article 94^1(1)(a) Asylum Act.

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.²⁵⁹

When a subsequent application is registered IGI-DAI shall inform the IGI-Migration Directorate regarding the granting of permission to remain on the Romanian territory, to the applicant.²⁶⁰ 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 application for granting access to a new asylum procedure was registered.²⁶¹ 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 and as a consequence the applicant is not granted access to territory.²⁶² 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.²⁶³

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 has been informed of the date on which he or she must present him or herself at IGI-DAI or by post.²⁶⁴ This decision may be appealed within 2 days from the day it is communicated.²⁶⁵ The competent court is the Regional Court territorially competent for the area in which IGI-DAI issued the decision.²⁶⁶

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, of the documentation submitted by the foreigner and in relation to the elements existing in his or her personal file.²⁶⁷ 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 direct communication by the representatives of IGI-DAI 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.²⁶⁸ The decision may also be communicate, to the lawyer or representative of the NGO who legally represents the applicant, to the extent that the applicant has expressly stated this.²⁶⁹

Rejected subsequent applications may be appealed before the territorially competent Regional Court within 10 days of communication.²⁷⁰ Judicial review of rejected subsequent applications has no

²⁵⁹ Article 88(1)(a) and (3) Asylum Act.

²⁶⁰ Article 40(1) Asylum Decree.

²⁶¹ Article 89(1) Asylum Act.

²⁶² 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.

²⁶³ Article 89(2)(a) Asylum Act.

²⁶⁴ Article 89(3) Asylum Act.

²⁶⁵ Article 89(4) Asylum Act.

²⁶⁶ Article 89(5) Asylum Act.

²⁶⁷ Article 91(1) Asylum Act.

²⁶⁸ Article 91(3) Asylum Act.

²⁶⁹ Article 91(4) Asylum Act.

²⁷⁰ Article 93(1) and (2) Asylum Act.

automatic suspensive effect.²⁷¹ 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.²⁷² In this case the foreigner has the right to remain on the territory of Romania until the court has ruled on this request.²⁷³ The permission to remain on the territory of Romania shall be granted until the moment of the court's pronouncement on the appeal.²⁷⁴

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, grants access to a new asylum procedure and orders IGI-DAI to examine the application in the regular procedure. The decision of the court is irrevocable.²⁷⁵

In **Galați**, in some cases the foreigners were heard by the court. In **Giurgiu**, according to the legal counsellor, the subsequent applications are not treated as thoroughly as the other asylum applications, because in most of the cases the applicant does not submit new elements and practically the application is the same with the previous ones.

Even though foreigners who make a subsequent application have the right to be counselled and assisted by a representative of NGOs, Romanian or foreign, at any stage of the procedure, the projects funded by the national AMIF programme do not cover counselling and assistance for these applicants, because 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.

A total of 131 subsequent applications were lodged in 2017:

Subsequent asylum applications lodged in 2017	
Country	Number
Iraq	50
Pakistan	22
Turkey	11
Iran	7
Egypt	6
Total	131

Source: IGI-DAI, 14 February 2018.

²⁷¹ Article 93(3) Asylum Act.

²⁷² Article 93(4) Asylum Act.

²⁷³ Article 93(5) Asylum Act.

²⁷⁴ Article 93(6) Asylum Act.

²⁷⁵ Article 94(2) Asylum Act.

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*:

- a. 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;
- b. 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;
- c. Effective mechanisms for reporting violations of human rights and fundamental freedoms;
- d. Compliance with the principle of *non-refoulement*, in accordance with the provisions of the Geneva Convention;
- e. Existence of stability factors.

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.²⁷⁶ 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.²⁷⁷ 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.²⁷⁸

No applications were rejected on the basis of the safe country of origin concept in 2017.²⁷⁹

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.

²⁷⁶ Article 77(2) Asylum Act.

²⁷⁷ Article 77(3) Asylum Act.

²⁷⁸ Article 77(4) Asylum Act.

²⁷⁹ Information provided by IGI-DAI, 14 February 2018.

The concept of European safe third country may be applied only if the applicant has attempted to enter or has illegally entered Romania from such a country and this country has agreed to his or her readmission.²⁸⁰

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 where these criteria are applicable, where the third country has agreed to readmit the applicant and where 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,²⁸¹ 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 also had difficulties talking about the content of this list, mentioning that the list is published by the Ministry 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.²⁸²

No applications were rejected on the basis of the safe third country concept in 2017.²⁸³

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:

- 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 of harm;
- c. The principle of *non-refoulement* in accordance with the Refugee Convention is respected;
- d. The prohibition of expulsion to a state where the applicant is at risk of torture or cruel, inhuman or degrading treatment is respected;

²⁸⁰ Article 96(2) Asylum Act.

²⁸¹ Article 97^2 Asylum Act.

²⁸² Article 97^1(4) Asylum Act.

²⁸³ Information provided by IGI-DAI, 14 February 2018.

- e. 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 with regard to the first country of asylum concept.

No applications were rejected on the basis of the first country of asylum concept in 2017.²⁸⁴

G. Relocation

Indicators: Relocation

- | | |
|---|--------|
| 1. Number of persons effectively relocated since the start of the scheme: | 728 |
| 2. Are applications by relocated persons subject to a fast-track procedure? | Varies |

Relocation statistics: 22 September 2015 – 31 December 2017

Relocation from Italy			Relocation from Greece		
	Requests	Relocations		Requests	Relocations
Total	:	45	Total	:	683
Eritrea	:	45	Syria	:	552
			Iraq	:	135
			Yemen	:	13
			Stateless	:	13

Source: IGI-DAI

Romania has pledged 4,180 places for relocation and 728 persons have been relocated as of 31 December 2017. This includes 45 from Italy and 683 from Greece.²⁸⁵

1. Relocation procedure

The main nationalities relocated from Greece are Syria and Iraq, and from Italy the only nationality is Eritrea. No persons with special needs have been relocated.²⁸⁶

Romania has rejected 15 relocation requests on national security grounds. This includes 3 requests from Italy concerning Eritrean nationals and 12 requests from Greece concerning 10 Syrians and 2 Iraqis.²⁸⁷

The average duration of the procedure, from the moment a request is received until a transfer is conducted, is approximately 2-3 months for Italy and 3 months for Greece.²⁸⁸

²⁸⁴ Information provided by IGI-DAI, 14 February 2018.

²⁸⁵ European Commission, *Member States' support to Emergency Relocation Mechanism*, available at: <http://bit.ly/2ifnGlX>; *Relocation: EU solidarity between Member States*, November 2017, available at: <http://bit.ly/2mEC6yB>. Note, however, that IGI-DAI statistics refer to 2,182 pledges: Information provided by IGI-DAI, 14 February 2018.

²⁸⁶ Information provided by IGI-DAI, 14 February 2018.

²⁸⁷ *Ibid.*

²⁸⁸ *Ibid.*

2. Post-arrival treatment

Relocated persons are subject to the regular asylum procedure and are received in Regional Centres. The Regional Centre **Timișoara** is the only one centre where relocated asylum seekers have not been accommodated, due to the particular situation of increased arrivals from Serbia through the South-Western border of Romania and the limited 50-place capacity of the centre.

According to the legal counsellor in **Bucharest**, mainly relocated families with children have been accommodated there. **Șomcuta Mare** and **Galați** have hosted mainly families and also single men. In Galați, however there were also pregnant women, a man with ocular prosthesis and a young boy who uses crutches due to an injury suffered from a bomb attack. **Rădăuți** has accommodated pregnant women, single women, and single parent families. In **Giurgiu** only one family has been relocated, which afterwards was transferred to Bucharest because they refused to stay in Giurgiu and refused any kind of counselling and assistance. The rest of the relocated persons were single men.

In relation to procedural treatment, practice in each Regional Centre is reported as follows:

Șomcuta Mare: Relocated asylum seekers were processed faster than the other asylum seekers. 80% of them were granted refugee status and the rest was granted subsidiary protection.

Rădăuți: Relocated asylum seekers are processed in the same way as the other asylum seekers. In one case of a relocated asylum seeker from Syria, the asylum claim was rejected in the administrative phase of the procedure and he was granted subsidiary protection on appeal.

Galați: The first group (12 persons) which was relocated had their personal interviews and decisions delivered in one week. However, the following groups of people were processed approximately under similar timeframes as other asylum seekers; the second group had their cases processed in 2-3 weeks. 98% of the persons relocated were granted refugee status, 2 families were granted subsidiary protection, while there was no case of persons receiving a negative decision.

Bucharest: In general, relocated asylum seekers are processed with priority, as they usually arrive in the Regional Centre during week days and other asylum seekers transferred from Timișoara arrive during the weekend.

Giurgiu: Relocated asylum seekers were processed with priority; the majority were granted refugee status and 2 persons were granted subsidiary protection.

None of the relocated asylum seekers have received negative decisions in Romania.²⁸⁹ IGI-DAI does not keep statistics on the duration of the asylum procedure for relocation cases.

²⁸⁹ *Ibid.*

H. 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

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.²⁹⁰

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.²⁹¹

The information is to be provided in writing by the official responsible for receiving the asylum application, according to template established by order of the Director-General of IGI.²⁹² Where necessary for the proper understanding of the information, this may also be communicated orally at the preliminary interview.²⁹³

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

Timișoara: According to the JRS representative, IGI-DAI provides information when the asylum application is filled 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. In some cases, applicants also receive an excerpt of the Asylum Act in their language; these documents are located in the IGI-DAI lobby. However, not all the officers distribute these documents in practice. With regard to children, the JRS representative reported that she has not seen any difference in interactions with IGI-DAI compared to adults.

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

Șomcuta Mare: Asylum seekers receive leaflets with their rights and obligations. The leaflets are available Romanian, English and Arabic but not in Kurdish, which concerns the majority of asylum seekers in the current period.

There is also a separate information session with each of the families, as soon as possible after they are transferred from Timișoara, with the help of an interpreter. Rights and obligations and general information regarding the asylum procedure are communicated during these sessions.

Rădăuți: In Rădăuți, where usually asylum seekers arrive through transfer from Timișoara, the information is provided during a group counselling session. Information on their rights and obligations

²⁹⁰ Article 17(1)(f) Asylum Act.

²⁹¹ Article 2(2) Asylum Decree.

²⁹² Article 2(1) Asylum Decree.

²⁹³ *Ibid.*

and the asylum procedure is presented to them by an IGI-DAI officer, who is on call when the group arrives in the centre – usually around 20:00 – with the help of an interpreter. During these information sessions IGI-DAI also provides information regarding the NGOs present in the centre. During the preliminary interview and the personal interview, asylum seekers are asked if they are aware of their rights and obligations and are informed again if necessary. One of the difficulties reported by the JRS representative is the lack of Kurdish interpreters, due to which both IGI-DAI and NGOs have to use double interpretation; from Kurdish to Arabic they use an asylum seeker or status holder from the community.

Asylum seekers also receive leaflets with their rights and obligations, which in most of the cases are thrown away, because many applicants are illiterate or are not interested in reading them.

Galați: Asylum seekers received leaflets on the procedure, their rights and obligations upon registration. These leaflets are user-friendly and easy to read. In cases of groups of asylum seekers arriving from Timișoara or through [Relocation](#), the Director of the Regional Centre presents general information on the procedure, rights and obligations, with the assistance of an interpreter. IGI-DAI also informs NGO representatives of new arrivals. NGOs repeat the information provided by IGI-DAI to ensure it is effectively understood by applicants.

Bucharest: in the Regional Centre **Stolnicu**, the legal counsellor 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.

Unaccompanied children are counselled by the integration officer regarding the fact that they will have a legal representative, that a social investigation will be conducted, and that they may or may not be moved to a DGASPC centre. In addition, NGOs provide them with more information and monitoring them as they are vulnerable persons and receive more attention.

IGI-DAI previously had leaflets, which were prepared by UNHCR or CNRR. However, these have not been distributed for more than a year. 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 do not 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.

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 and their rights and obligations. However, this also depends on the officer conducting the interview.

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 as a result difficult to comprehend. Thus, asylum seekers prefer face-to-face counselling with an NGO representative in order to understand the steps of the asylum procedure.

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.

1.2. 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.²⁹⁴ 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.²⁹⁵ 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. Asylum seekers receive more detailed information about the Dublin procedure from NGOs.

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 Dublin procedure about what this procedure entails. Generally information is provided when a specific issue arises.

Rădăuți and **Galați:** JRS reported that the majority of the asylum seekers are well informed about the Dublin procedure, at times even better than the NGOs representatives. In **Galați**, asylum seekers subject to the Dublin procedure are provided with the common brochure. 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.

In practice, asylum seekers in most of the Regional Centres are informed orally 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, with some exceptions reported by the counsellor in **Bucharest**. In Bucharest asylum seekers are informed about the country to which a Dublin request was addressed in this regard. The legal counsellor in Bucharest stated that for this kind of procedure IGI-DAI does not use an interpreter to communicate the information to the asylum seeker, but the majority of them understand the procedure and that they will be transferred to the responsible Member State eventually.

In **Timișoara**, 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 the country which country has been contacted. In **Șomcuta Mare**, asylum seekers are also informed orally that the Dublin procedure has started and about the country contacted. In **Rădăuți**, IGI-DAI orally informs asylum seekers that they are subject to the Dublin procedure and specifies the Member State which has been contacted. In **Giurgiu**, they are also informed orally of the fact that a Dublin procedure has been initiated, while the authorities sometimes also mention the country contacted. In **Galați**, however, asylum seekers are informed in writing about the country which has been contacted.

²⁹⁴ Article 118 Asylum Act.

²⁹⁵ Article 118(1) Asylum Act.

If the applicant is an unaccompanied child, the appointed official shall inform him or her, in a manner appropriate to his or her level of understanding, 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.²⁹⁶

Respondents were unaware of the use of a special information leaflet for unaccompanied children pursuant to Article 4(3) of the Dublin Regulation. This may be due to various reasons e.g. the lack of cases of unaccompanied children in **Șomcuta Mare**, or the fact that unaccompanied children were not subject to the Dublin procedure in **Galați** and **Giurgiu** even in the case of a Eurodac hit pointing to the responsibility of Bulgaria. In **Galați**, the legal representative is also present when the information is provided to the unaccompanied child. The legal representative also explains to the child what the Dublin procedure entails and what documents he or she has to present to the authorities.

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.

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.

²⁹⁶ Article 118(2) Asylum Act.

I. 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?²⁹⁷ ☐ Yes ☒ No
❖ If yes, specify which:

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 decision 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 Iraq was 66.4% last year.

²⁹⁷ Whether under the “safe country of origin” concept or otherwise.

Reception Conditions

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
---	-----------------------------

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.²⁹⁸ 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 which 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.²⁹⁹ In the Dublin procedure the right to remain on the territory of Romania ceases on the date of the transfer.³⁰⁰

Subsequent applicants do not have the right to material reception conditions.³⁰¹

At the time of submission of an application for material reception conditions and whenever 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.³⁰² 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.³⁰³

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.

In **Timișoara**, it occurred that asylum seekers were allocated to receive the financial allowance 10 days after their asylum application had been registered. In practical, terms this means that IGI-DAI draws up a list of beneficiaries of the financial allowance. When this list is drawn, IGI-DAI requests NGOs to inform the asylum seekers accordingly. Within 3 days, eligible asylum seekers may obtain their financial allowance from IGI-DAI. If they have not obtained the allowance within that period mentioned, asylum seekers have to make a request duly explaining the reasons for their delay. Furthermore, some of the

²⁹⁸ Article 56(6) Asylum Decree.

²⁹⁹ Article 17(7) Asylum Act.

³⁰⁰ Article 17(1)(a) Asylum Act.

³⁰¹ Article 88¹ Asylum Act.

³⁰² Article 55(8) Asylum Decree.

³⁰³ *Ibid.*

asylum seekers could not obtain their financial allowance due to the fact that they were not issued temporary identity documents, but only a ticket without their photograph which was not deemed sufficient. In December 2017, the list of asylum seeker to be granted financial allowance was drawn up twice a month and the waiting period for receiving the allowance therefore decreased. However, there are still problems vis-à-vis the issuance of temporary identity documents.

According to the JRS representative, asylum seekers who have money on them are not informed that they will not receive the financial allowance.

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 2017 (in original currency and in €): 480 RON / 104 €

Reception conditions consist of: accommodation in one of the reception centres; financial allowance for food and clothing; and pocket money.

2.1. Allowance for food / clothing and pocket money

Asylum seekers are entitled to receive, upon request, the following allowances:³⁰⁴

- Food daily allowance of 10 RON / 2.16 € per person;
- Clothing one-off allowance of 67 RON / 14.48 € per person during summer and 100 RON / 21.60 € per person during winter;
- Pocket money of 6 RON / 1.30 € 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 the 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,³⁰⁵ heating assistance,³⁰⁶ and a family allowance.³⁰⁷ Romanian nationals – families and single persons – are

³⁰⁴ Article 55(1) Asylum Decree.

³⁰⁵ Act 416/2001 on Minimum Guaranteed Income, available at: <http://bit.ly/2AWyH00>.

³⁰⁶ Emergency Government Ordinance 70/2011 on social protection measures during the cold season, available at: <http://bit.ly/2mtUk2t>.

³⁰⁷ Act 277/2010 on Family Allowance, available at: <http://bit.ly/2FvzrN3>.

entitled to a minimum guaranteed income as a form of social assistance.³⁰⁸ The monthly minimum guaranteed income is determined based on the social reference indicator (*indicator social de referinta*, ISR) set by law at 500 RON / 108 €. 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 18.³⁰⁹ 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:³¹⁰

- 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.³¹¹

2.2. 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.³¹² 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%.³¹³

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 in the second month, the grant is suspended.

³⁰⁸ Article 1(1)-(2) Act 416/2001 on Minimum Guaranteed Income.

³⁰⁹ Article 1 Act 61/1993 on the State Child Allowance.

³¹⁰ Article 3 Act 61/1993 on the State Child Allowance.

³¹¹ Article 17(1)(n¹) Asylum Act.

³¹² Article 17(8) Asylum Act.

³¹³ Article 55(4) Asylum Decree.

2.3. Reimbursement of expenses related to travel

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.³¹⁴

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.³¹⁵

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** respectively. The policy of reimbursement is applied in practice.

IGI-DAI may also involve asylum seekers 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.³¹⁶ Asylum seekers who perform this kind of activity benefit from an additional allowance for food of 5 RON / 1.08 € per day.³¹⁷

2.4. 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.³¹⁸ 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.

Material assistance offered by AIDRom consists in:

1. Financial assistance for translation of civil status documents and/or diplomas, as well as legalisation / authentication / apostilles of approximately 60 pages of documents;
2. 200 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;
3. 600 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;
4. 600 hygiene 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. 600 installation packages for persons accommodated in AIDRom Centres and in Regional Centres at the time of filing the asylum application;
6. 300 packs of clothing for asylum seekers accommodated in Regional Centres and AIDRom Centres, or detained in specially designed closed spaces or in detention centres.
7. Accommodation services for approximately 40 asylum seekers belonging to vulnerable groups in **Bucharest** and **Timișoara**;
8. Monthly financial assistance / social vouchers for vulnerable asylum seekers.

According to the Coordinator of the Department for Development and Cooperation of AIDRom, material assistance is individualised based on the actual needs of asylum seekers.

³¹⁴ Article 17(1)(q) Asylum Act.

³¹⁵ Article 56(2[^]1) Asylum Decree.

³¹⁶ Article 55(9) Asylum Decree.

³¹⁷ Article 55(10) Asylum Decree.

³¹⁸ 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/>.

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.³¹⁹ Accordingly, these are laid down in the Asylum Decree.

IGI-DAI may limit or withdraw the material reception conditions where the applicant:³²⁰

1. Leaves the place of residence established 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 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.³²¹ 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 withdrawal of reception conditions by Regional Centre: 2017			
Regional Centre	Number of decisions	Main applicable grounds	Main sanctions imposed
Galați	115	Violation of house rules	Oral warning; written warning

³¹⁹ Article 19^1(1) Asylum Act.

³²⁰ Article 55^1 Asylum Decree.

³²¹ Article 55^1(3) Asylum Decree.

Rădăuți	32	Departure from the centre	-
Șomcuta Mare	179	Departure from the centre	Verbal warning
Timișoara	0	-	-
Giurgiu	99	No decisions taken	No decisions taken
Bucharest	553	Departure from the centre; violation of house rules	-

Source for statistics: IGI-DAI, 14 February 2018. Note that according to JRS there has been a significant number of withdrawals of reception conditions due to departure from the centre in Timișoara.

According to IGI-DAI, 60% of the withdrawal decisions taken in 2017 were issued *in absentia* on the ground of departure from the place of residence without previously informing the Regional Centre. Asylum seekers were not re-accommodated after the first deviation.³²²

The decision on reduction or withdrawal of reception conditions may be challenged, subject to the rules applicable in the **Accelerated Procedure: Appeal**.³²³ In practice, however, there were no cases where an appeal was formulated against decisions on reduction or withdrawal of reception conditions in 2017.

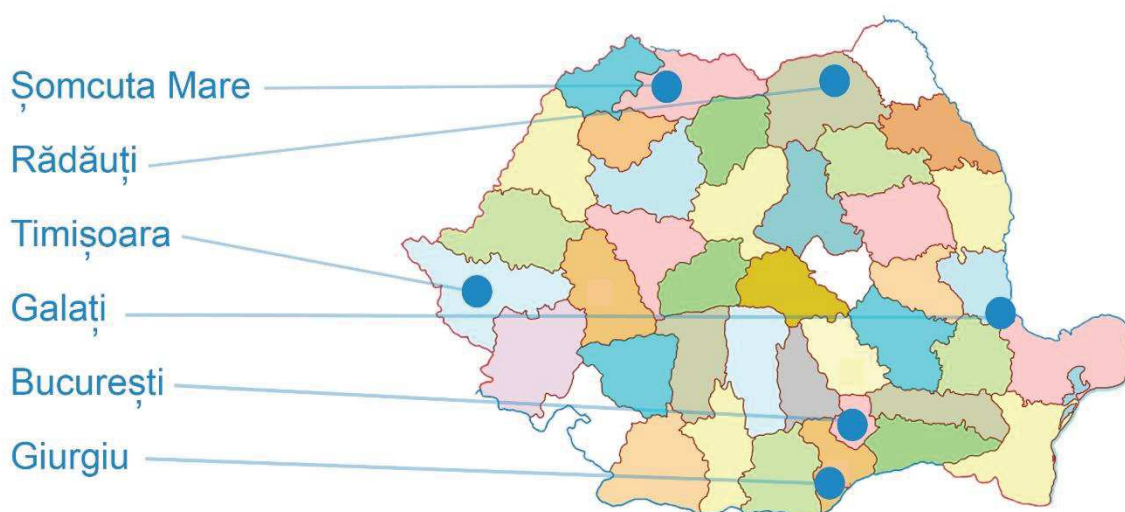
In practice, reception conditions may be reinstated after having been withdrawn or reduced, upon a request which in most of the cases is drafted by NGO representatives.

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

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, Sprijin pentru Solicitanții de Azil din România: <http://bit.ly/2mAeokN>.

³²² Information provided by IGI-DAI, 14 February 2018.

³²³ Article 19¹(1) Asylum Act.

According to the Asylum Act, asylum seekers are not allowed to leave their place of residence without authorisation from IGI-DAI.³²⁴ The request to leave the residence has to include the address, full name of the person with whom the applicant be staying and the period of time and reasons for his or her request to leave.³²⁵ Authorisation issued following an individual, objective and impartial assessment. In case IGI-DAI refuses to grant authorisation, its decision shall be motivated.³²⁶

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 high number of arrivals from Serbia and limited capacity of the Regional Centre Timișoara. Asylum seekers cannot appeal against the transfer decision.

There have been no cases of applicants assigned to a specific residence for reasons of public interest or public order or for the effective assessment of the asylum application.

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**) are as follows:

Capacity and occupancy of the reception system: 2017		
Centre	Capacity	Occupancy at 31 August 2017
Timișoara	50	51
Șomcuta Mare	100	44
Rădăuți	130	56
Galați	200	143
Bucharest	320	142
Giurgiu	100	82
Total	900	518

³²⁴ Article 19(g) Asylum Act.

³²⁵ Article 7 Asylum Decree.

³²⁶ Article 19(g) Asylum Act.

Source: IGI-DAI, 14 February 2018. Note that according to the JRS in Timișoara, the number of persons accommodated at that time was 189.

The total capacity of the Regional Centres is 900 places, with the possibility of extension to a total of 1,090 places. At the end of August 2017, the number of persons staying in the centres was 518, of which 350 were asylum seekers and the rest were beneficiaries of international protection.³²⁷ 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.

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.

2.1. State of the facilities

Timișoara: The Regional Centre is located in the same premises as the Emergency Transit Centre (ETC) operated by UNHCR, where refugees evacuated from other countries stay before they are resettled to another country.³²⁸ 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. The second building ("Building C") only accommodates families. Therefore, while the ETC has a total capacity of 200 places, the Regional Centre has a capacity of 50 places. At the time of the author's visit on 10 October 2017, there were 100 asylum seekers and 15 refugees under the ETC programme staying there.

Each building where persons are accommodated has a kitchen. However, "Building C" dedicated to families only has one refrigerator. Despite repeated requests from NGOs, IGI-DAI has invoked bureaucracy-related reasons for its delay in installing more refrigerators.

"Building B" has two bathrooms, each equipped with two squat toilets, two urinals, three sinks and three showers.

³²⁷ Information provided by IGI-DAI, 14 February 2018.

³²⁸ UNHCR, *ETC Timisoara*, 14 December 2016, available at: <http://bit.ly/2DuZqDN>; *Operations in Romania*, 16 December 2016, available at: <http://bit.ly/2D00jko>.

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 two, four or six beds. 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, and the basement has a kitchen with ten stoves, a dining room, and a laundry room with four washing machines, only two of which are functional. The basement also contains a specially designed closed space (see [Place of Detention](#)).³²⁹

In 2017 the centre was fully repainted, bathrooms were renovated and all mattresses, blankets, bed linen were changed.

Rădăuți: The Regional Centre is located at the entrance in 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.³³⁰ The gym room has been converted into an accommodation facility in order to increase reception capacity.³³¹

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 a per floor; the rest are 'squat toilets'.

The rooms have a maximum capacity of 12 beds. Generally, 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.

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 kitchen, 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.

Giurgiu: The Regional Centre is a former barracks located in the outskirts of the city and re-purposed in 2011, without any refurbishment beyond repaint. As a result, technical problems occur often. 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.³³² Each room has 20 beds equipped with one refrigerator each, and there are two kitchens with stoves and sinks. There are two bathrooms, one for men and one for women, with five 'squat toilets' and five showers.

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.³³³ Asylum seekers may cook for themselves, using the kitchens available in every centre.

³²⁹ 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.

³³⁰ 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.

³³¹ *Ibid*, 3-4.

³³² 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/2EvCLrn>, 2.

³³³ Article 55(1) Asylum Decree.

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. Hygienic conditions are satisfactory in **Galați** and **Șomcuta Mare**, although for the latter the Ombudsman expressed concerns about inadequate conditions in rooms, bathrooms and the kitchen.³³⁴ Conversely, stakeholders have noted hygiene issues in other centres.

In **Bucharest**, residents complain about the cleanliness and state of mattresses and bedsheets, as well as the lack of beds for children and the shortage of refrigerators. Similar issues have been raised in **Giurgiu**, in addition to the lack of central heating and very poor condition of showers and toilets, which are confirmed by the Ombudsman.³³⁵ In **Rădăuți**, asylum seekers have also raised the shortage of cleaning products, while the Ombudsman refers to overused stoves, lack of storage spaces for food and unsatisfactory hygienic conditions in the kitchen.³³⁶

In **Timișoara**, residents complain about the existence of bed bugs and the poor condition of mattresses and plumbing in the showers and toilets. It was also reported that applicants were not provided with bed linen during periods with high numbers of arrivals due to limited supply. Though the Ombudsman found the facilities in Timișoara to be in acceptable state, the report refers to poor sanitation in the “Building B” bathrooms, and dirty walls and floors in the bathroom and kitchen.³³⁷

There have not been recent protests related to the conditions in the centres.

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.³³⁸

Social and community workers in the centres organise different activities for both adults and children:

Timișoara: Save the Children organises activities for children, based on a project funded by Save the Children UK. They have also renovated the children's room. AIDRom organises cultural educational and sports activities for adults and children such as football and table tennis games, visits to the museum, zoo, city walks. They also organise Romanian language courses for children, but also adults attend them.

Bucharest: Save the Children organises activities for children. A psychologist of IGI-DAI organises activities for adults.

Galați, Rădăuți and Șomcuta Mare: Save the Children and AIDRom organise activities for asylum seekers, especially for children.

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. However, the lack of playgrounds for children and places for sports activities has been highlighted by JRS and by the Ombudsman.³³⁹

According to the stakeholders interviewed by the author, **Șomcuta Mare, Bucharest, Timișoara, Rădăuți** and **Giurgiu** are all faced with staff shortage, while in **Galați** the sufficiency of staff depends on

³³⁴ Ombudsman, *Report of the visit to the Regional Centre Șomcuta Mare*, 36/2017, 5.

³³⁵ Ombudsman, *Report of the visit to the Regional Centre Giurgiu*, 29/2017, 5.

³³⁶ Ombudsman, *Report of the visit to the Regional Centre Rădăuți*, 34/2017, 5.

³³⁷ Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Timișoara to verify the implementation of recommendations made in the 2015 report*, 4/2017, available in Romanian at: <http://bit.ly/2s19gv5>, 7-8.

³³⁸ 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.

³³⁹ Ombudsman, *Report of the visit to the Regional Centre Giurgiu*, 29/2017, 6.

the number of the asylum seekers accommodated. According to JRS, IGI-DAI staff is trained internally and also externally by NGOs and UNHCR Romania on different topics.

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 imputable to the applicant, or during the appeal stage.³⁴⁰ 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. Prior to the 2015 reform, this time limit was 1 year. Persons who, at the time of filing an application for asylum, have a right of residence on the territory of Romania and are legally working, they may continue to work.³⁴¹

Access to the labour market is granted under the same conditions set out by law for Romanian citizens.³⁴² Accordingly, there is no labour market test, sectoral 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).³⁴³

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.

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

³⁴⁰ Article 17(1)(o) Asylum Act.

³⁴¹ *Ibid.*

³⁴² *Ibid.*

³⁴³ Article 6[^]1(1)-(5) Asylum Decree.

system, under the conditions provided by the law for the Romanian citizens.³⁴⁴ 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.³⁴⁵

In practice, asylum seekers face a variety of obstacles to finding a job. These include lack of knowledge of the Romanian language, lack of diplomas, degrees, documents which prove their professional competence, and high qualification requirements for some positions. In addition, employment opportunities are influenced by the unemployment rate of the counties where the centres are located. Therefore, based on statistics of the National Employment Agency (ANOFM), it is easier to find a job in **Timișoara** or **Bucharest** than in **Galați** or **Suceava**.³⁴⁶

Employers are also reluctant to hire asylum seekers due to their precarious legal situation and to the fact that applicants need to take free days when they have court hearings. There are no tax incentives for employers in case they hire an asylum seeker.

NGOs provide assistance to asylum seekers in searching and finding a job.

IGI-DAI does not collect statistics on asylum seekers actively in employment. The number of applicants who were entitled to work as of the end of 2017 was 924.³⁴⁷

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 |

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 minors Romanian citizens, as long as no measure is taken to remove them or their parents from Romania.³⁴⁸ Access to education is therefore free and unconditional.³⁴⁹

Compulsory general education consists of 10 grades and includes primary and lower secondary education. Compulsory education ends at the age of 18.³⁵⁰

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.

However, children may face delays in enrolment. In **Galați**, where the enrolment procedure may take up to 2 months, parents or the legal representative have to lodge a request to IGI-DAI in this regard, in order for IGI-DAI to notify the County School Inspectorate (*Inspectoratul Școlar Județean*, ISJ). Until the inspectorate sends its answer, the asylum procedure is usually completed and the persons have left the country. In **Rădăuți**, the enrolment procedure also takes a lot of time and NGOs and parents have to insist in order to enrol children at school. In **Bucharest**, **Giurgiu** and **Șomcuta Mare**, the enrolment request is drafted by the NGO representatives together with IGI-DAI.

³⁴⁴ Article 17(1)(o¹) Asylum Act.

³⁴⁵ Article 6¹(4) Asylum Decree.

³⁴⁶ ANOFM, *Total number of registered unemployed and unemployment rate by county*, 30 November 2017, available in Romanian at: <http://bit.ly/2FyMRbj>.

³⁴⁷ Information provided by IGI-DAI, 14 February 2018.

³⁴⁸ Article 17(1)(p) Asylum Act.

³⁴⁹ Article 6(1) Asylum Decree.

³⁵⁰ Article 16(1) and (2) Public Education Act.

In **Bucharest**, children complain of not being integrated in classes and not being involved in educational activities. In **Galați**, on the other hand, according to JRS, children above the age of 16 attend courses of the “**Second Chance**” programme,³⁵¹ as they feel uncomfortable at high school due to their lower level of Romanian and other subjects compared to Romanian pupils. They can continue their studies under the “**Second Chance**” programme after reaching the age of 18.

Children accommodated in the Regional Centres of **Rădăuți** and **Timișoara** are not enrolled at school at all, although children residing in the AIDRom Accommodation Centre in Timișoara are enrolled at school and are taught Romanian language twice a week.

Conversely, children in **Șomcuta Mare** do not face issues with regard to access to the education system. ISJ also organises activities together with Romanian high school pupils as part of a project entitled “**Together we will succeed**”.

AIDRom is the only entity which provides Romanian language classes to asylum-seeking children inside the different Regional Centres.

Preparatory classes

Following the 2015 reform, the Asylum Act foresees a free intensive preparatory course for asylum-seeking children with a view to easing their access to education prior to enrolment at the national education system.³⁵² 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.

In practice, however, such preparatory courses are not provided in **Bucharest**, **Giurgiu**, **Timișoara**, **Șomcuta Mare** and **Rădăuți**. In **Galați**, according to JRS, an ISJ professor offers courses for child asylum seekers and beneficiaries of international protection. The course takes place twice a week – one day for adult beneficiaries of international protection and one for all children – and lasts 2 hours, although a stakeholder interviewed by the author was unaware of its specific content.

Asylum seeking children with special needs enjoy the same alternative arrangements as those provided for Romanian children. Throughout 2017, there were children with special needs in **Bucharest** and **Șomcuta Mare** but they left the country before the necessary measures could be taken in order to enrol them in special schools.

³⁵¹ The “**Second Chance**” programme is aimed at adolescents, young people and adults from different social backgrounds and ages, who have not attended or have not completed primary and secondary education. The programme offers these categories of people the opportunity to continue and complete compulsory education without having to interrupt any professional or family activities they are engaged in.

³⁵² 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

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 which are 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.³⁵³

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.³⁵⁴

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.³⁵⁵ After receiving the personal identification number, asylum seekers may register in the public health insurance system and, if they pay health care contributions and register at a general practitioner's office, have the status of an insured person, with the same rights and benefits as nationals.

Until 2017, most of the Regional Centres lacked medical doctors.³⁵⁶ Since 2017, however, asylum seekers have access to a general practitioner within all Regional Centres except for **Rădăuți**, where only a nurse is present. In **Timișoara**, a medical doctor was provided by IGI-DAI from March-April until December 2017. According to JRS, the medical screening conducted by the medical doctor in Timișoara was done without an interpreter. **Bucharest** is the only Regional Centre which also 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.³⁵⁷

ICAR Foundation, in partnership with AIDRom, also provides medical services to asylum seekers under the project "Adaptable and accessible health services for asylum seekers in Romania", funded through the AMIF national programme. They provide psycho-social specialists and collaborate with general practitioners in all the Regional Centres.³⁵⁸

For newly arrived asylum seekers in the centres, ICAR Foundation facilitates tuberculosis screening examinations according to the recently adopted National Tuberculosis Control Strategy for the period 2015-2020, through collaborating general practitioners. "Ensuring universal access to methods of rapid diagnosis" is implemented through local tuberculosis medical offices, located in all the cities where reception centres are located.³⁵⁹

³⁵³ Article 17(1)(m) Asylum Act.

³⁵⁴ Article 17(1)(m¹) Asylum Act.

³⁵⁵ Article 17(1¹) Asylum Act.

³⁵⁶ For example, Timișoara had not had a medical doctor since 2012: Ombudsman, *Report of the visit to the Regional Centre for Accommodation and Procedures for Asylum Seekers Timișoara*, 28/2015, available in Romanian at: <http://bit.ly/2DUSyz2>.

³⁵⁷ Ombudsman, *2017 Reports*, available in Romanian at: <http://bit.ly/2Expec>.

³⁵⁸ AIDRom, *Adapted and accessible health services for asylum seekers in Romania*, available at: <http://bit.ly/2Dz3v9U>.

³⁵⁹ *Ibid.*

General practitioners provide weekly medical consultations based on the appointments made by ICAR personnel – which includes psychologists, social counsellors or psycho-social counsellors – in the medical offices of the Regional Centres.³⁶⁰

Through the project, other medical tests and investigations recommended by collaborating general practitioners, as well as medical and non-medical treatments prescribed by them, are provided in order to respond as closely as possible to the medical needs of asylum seekers.³⁶¹

Specialised treatment

The Asylum Act provides for the right of asylum seekers with special needs to receive adequate health care.³⁶² 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**, the medical screening is conducted by ICAR personnel. IGI-DAI is notified if there are asylum seekers suffering from mental health issues and they are referred to specialised hospitals, where necessary.

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.³⁶³ 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, 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.³⁶⁴

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

³⁶⁰ *Ibid.*

³⁶¹ *Ibid.*

³⁶² Article 17(1)(n) Asylum Act.

³⁶³ Article 2(1)(b²) Asylum Act.

³⁶⁴ Article 5(1)-(4) Asylum Decree.

arrived asylum seekers, while general practitioners provide weekly medical consultations (see [Health Care](#)).³⁶⁵

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.³⁶⁶ However, not all centres are 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.³⁶⁷

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:³⁶⁸

- 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 gradually, depending on the seriousness of the deed, 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 in competent in this field, to assist victims while in they are accommodated in the Regional Centre.

In **Timișoara**, in the summer of 2017, a representative of the County Police Inspectorate (*Inspectoratul de Politie Judetean*, IPJ) held an information session on domestic violence and criminal law sanctions applicable to such crimes committed in Romania.

In **Galați**, if it is found that a crime of domestic violence has been committed, IGI-DAI applies the sanctions mentioned in the ROI.

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.³⁶⁹ 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.³⁷⁰ 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 the age and degree of maturity.³⁷¹

Timișoara: Unaccompanied children are accommodated in the DGASPC Emergency Accommodation Centre and have described living conditions as good.

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.

³⁶⁵ AIDRom, *Adapted and accessible health services for asylum seekers in Romania*, available at: <http://bit.ly/2Dz3v9U>.

³⁶⁶ Article 17(1)(l) Asylum Act.

³⁶⁷ 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.

³⁶⁸ Article 60 ROI.

³⁶⁹ Article 58(3) Asylum Decree, in conjunction with Article 78(1) Child Protection Act.

³⁷⁰ Article 58(3^1) Asylum Decree.

³⁷¹ Article 58(4) Asylum Decree.

Galați: Unaccompanied children are accommodated in the day and night shelter for homeless children, under the authority of DGASPC. They are housed in rooms with other children beneficiaries of international protection. Children have reported that they are generally treated well and have not complained about conditions. They have only stated that they would prefer to stay in the Regional Centre with their peers.

Rădăuți: Unaccompanied children are accommodated in the **Solca Placement Centre**, located 20km away from Rădăuți. According to JRS, the living conditions in this centre are very poor: the walls are cracked and have not been recently painted, bed linen are dirty and there are no rugs. Some of the asylum seekers accommodated here were also reportedly robbed by the other children residing in this centre. While Romanian children accommodated in the same centre have access to different cultural and educational programmes, unaccompanied asylum-seeking children have limited access due to the lack of interpreters.

Bucharest: Unaccompanied children are accommodated in two centres: **Pinocchio Day Centre** within DGASPC District 1 and **Gavroche Day Centre** within DGASPC District 2. Conditions in the centres good, while children have a legal representative who keeps in touch with the NGOs and attends to their needs. There have been reported situations when children stayed in the Stolnicu reception centre for up to 2-3 months due to lack of available places at the DGASPC centre or delays in the coordination between the authorities.

Giurgiu: Unaccompanied children are accommodated in DGASPC family houses, where living conditions are decent. However, children have reported that they feel discriminated against – e.g. they are referred to as “terrorists” – and have had their belongings stolen by some of the Romanian children who are also accommodated there, while the personnel does not take any measure to stop these incidents. Personnel has not taken action to identify the perpetrators and inform the police. They reportedly have a distant attitude towards asylum-seeking children. In addition, meals offered in the family houses do not accommodate dietary arrangements for religious reasons. Due to these reasons, children often refuse to go to such places of accommodation.

1.2. Unaccompanied children aged 16 or more

Unaccompanied children who have reached the age of 16 and who do not have the necessary material resources to ensure their subsistence are accommodated in the Regional Centres. They are accommodated separately from adults in **Bucharest** and **Șomcuta Mare**, although if there is a relative in the centre they will be accommodated with him or her. On the other hand, they are not separated from adults in **Timișoara**, **Rădăuți**, **Galați** and **Giurgiu**.

During 2017, the following number of unaccompanied children were accommodated in Regional Centres:

Unaccompanied children accommodated in Regional Centres: 2017	
Centre	Number of unaccompanied children
Timișoara	5
Șomcuta Mare	1
Rădăuți	6
Galați	4
Bucharest	1
Giurgiu	0
Total	17

Source: IGI-DAI, 14 February 2018.

2. Reception of families

Efforts are made to ensure that nuclear families can stay together during the asylum procedure. Families are accommodated in a different building in **Timișoara**, and in separate rooms in **Bucharest**, **Rădăuți**, **Giurgiu**, **Șomcuta Mare** and **Galați**.

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.

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.³⁷² 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.³⁷³ Where necessary to ensure an adequate understanding of the information by the applicant, it may also be presented orally during the preliminary interview.³⁷⁴ Competent officers are also required to inform asylum seekers on how to contact NGOs and UNHCR and how to obtain legal assistance and representation.³⁷⁵ The General Director of IGI appoints the official responsible for ensuring the conditions for carrying out the above activities.³⁷⁶

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 which he or she understands or is reasonably supposed to understand and in which he or she can clearly communicate in. 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.³⁷⁷ The applicant has to sign an acknowledgment of the receipt of the information leaflets.

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 Regulation of Internal Order (ROI) is explained by the integration officer when needed or during the interview with each asylum seeker. It has been reported that leaflets regarding the ROI, rights and obligations were distributed in the past but are no longer distributed. The ROI is explained by the NGO representatives and the officer at the gate of the centre each time an event occurs.

³⁷² Article 17(1)(f) Asylum Act; Article 2(1) Asylum Decree.

³⁷³ Article 2(1) Asylum Decree.

³⁷⁴ Article 2(1[^]1) Asylum Decree.

³⁷⁵ Article 2(2) Asylum Decree.

³⁷⁶ Article 2(3) Asylum Decree.

³⁷⁷ Article 5(1) and (2) ROI.

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 speaks English.

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.

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.³⁷⁸ However, according to the stakeholders interviewed by the author, this is not complied with in practice, although **Șomcuta Mare** the main provisions of the ROI are incorporated in a poster in the form of infographics.

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.

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.

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 with respect to reception based on nationality. All Regional Centres accommodate different nationalities.

³⁷⁸ Article 5(3) ROI.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2017:	690
2. Number of persons in detention at the end of 2017:	116
3. Number of detention centres:	2
4. Total capacity of detention centres:	274

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, which took 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 ordered 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.³⁷⁹

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.

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.³⁸⁰ In practice, however, it constitutes a measure of deprivation of liberty.

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.³⁸¹

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.³⁸²

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.

³⁷⁹ Article 19^7(1) Asylum Act.

³⁸⁰ Article 101(1) Aliens Ordinance.

³⁸¹ Article 103(3) Aliens Ordinance.

³⁸² Article 19^14(1) Asylum Act; Article 101(2) Aliens Ordinance.

During 2017, 690 persons were placed in detention and 116 remained detained at the end of the year. Statistics provided by IGI-DAI do not include the number of asylum seekers among those. Six asylum seekers applied from penitentiary facilities.³⁸³

In the Otopeni Centre, 184 foreigners were detained 2016.³⁸⁴

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.³⁸⁵ 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:³⁸⁶ ☐ 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

Under Article 19⁵(1) of the Asylum Act, IGI may place asylum seekers in specially designed closed places where **Alternatives to Detention** cannot be applied 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.³⁸⁷ The Asylum Act sets out the criteria for determining the existence of a "risk of absconding":³⁸⁸

- a. The applicant crossed or was caught trying to illegally cross the state border of Romania after filing the asylum application;

³⁸³ Information provided by IGI-DAI, 14 February 2018.

³⁸⁴ 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>, 4.

³⁸⁵ Article 19¹⁵(1) Asylum Act.

³⁸⁶ Accommodation in airport transit zone with very restricted freedom of movement.

³⁸⁷ Article 19⁶(3) and (2) Asylum Act.

³⁸⁸ Article 19⁶(4) Asylum Act.

- 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.

In relation to asylum seekers subject to the Dublin procedure or to a measure of removal or expulsion from the Romanian territory, the measure of placement in specially designed closed spaces cannot be ordered.³⁸⁹

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,³⁹⁰ 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;³⁹¹
- 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 such an application before.

The Asylum Act sets out a different set of criteria for the determination of a “significant risk of absconding” in a Dublin procedure, referring to cases where the applicant:³⁹²

- 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;
- 4. Has applied for asylum in Romania after having been transferred to the responsible Member State;
- 5. Has not complied with alternatives to detention;³⁹³
- 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 to Hungary.

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 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 under the appeal has been examined. When the applicant makes a subsequent application, detention ceases on the date he or she is granted access to the new procedure.³⁹⁴ If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention under the appeal has been examined.

³⁸⁹ Article 19²(3) Asylum Act.

³⁹⁰ 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.

³⁹¹ Article 19¹³ Asylum Act, in conjunction with Article 19¹⁴(1) Asylum Act.

³⁹² Article 19¹⁴(2) Asylum Act.

³⁹³ Article 19¹⁴(2)(e) Asylum Act, citing Article 19²(1)(a)-(b).

³⁹⁴ Article 101(8) Aliens Ordinance.

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.³⁹⁵ These consist of:³⁹⁶

- ❖ Reporting duties;
- ❖ Designated place of stay 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.³⁹⁷

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.³⁹⁸

Detention (“public custody”) centres

The placement of an asylum seeker in detention centres (“public custody”) may be ordered if the outcome of a prior assessment regarding the possibility to impose reporting duties to IGI or to designate their residence demonstrates that these measures are not possible and sufficient to meet the procedure and purpose sought,³⁹⁹ namely removal from Romania or transfer under the Dublin Regulation.

IGI-DAI reported 55 asylum seekers subject to alternatives to detention in 2017, of which 21 under reporting duties and 34 under designated place of stay in one of the Regional Centres.⁴⁰⁰ However, JRS was unaware of alternatives to detention being ordered in practice in 2017.

³⁹⁵ Article 19²(1) Asylum Act.

³⁹⁶ Article 19²(1) Asylum Act.

³⁹⁷ Article 19⁵(1) Asylum Act.

³⁹⁸ Article 19²(2) Asylum Act.

³⁹⁹ Article 19¹³(2) Asylum Act.

⁴⁰⁰ Information provided by IGI-DAI, 14 February 2018.

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

Specialty 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.⁴⁰¹

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.⁴⁰²

While IGI-DAI stated that children are not detained in public custody,⁴⁰³ according to JRS, 80 children (accompanied and unaccompanied) were detained in public custody centres in 2017. In one case, 4 unaccompanied children were placed in the **Otopeni** detention centre, even though they had been registered as such by the Border Police. While in detention they lodged an asylum application and, after the personal interview, IGI-DAI granted them access to regular procedure on account of their minority.

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.⁴⁰⁴

Whereas previously families with children were not detained in practice, they are now held in detention centres. A mother and her 2-year-old daughter, who arrived in Romania on 6 September 2017 by boat, were detained in the **Arad** detention centre as they did not make an asylum claim from the outset (see [Special Procedural Guarantees](#)).

4. Duration of detention

Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions): 18 months
2. In practice, how long in average are persons detained?
❖ Arad 36 days
❖ Otopeni 41 days

Specialty 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

⁴⁰¹ Article 19⁵ Asylum Act, in conjunction with Article 42(2) Asylum Act.

⁴⁰² Article 29 Public Custody Centres Regulation.

⁴⁰³ Information provided by IGI-DAI, 14 February 2018.

⁴⁰⁴ Information provided by IGI-DAI, 14 February 2018.

for an additional 30-day period.⁴⁰⁵ Accordingly, the total period of detention in those spaces may never exceed 60 days.⁴⁰⁶

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 for 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.⁴⁰⁷

Detention ("public custody") centres

Detention in public custody centres is also ordered for an initial period of 30 days,⁴⁰⁸ and may not exceed 6 months.⁴⁰⁹ However, this period may be extended exceptionally for an additional period not exceeding 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.⁴¹⁰ 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.⁴¹¹

Asylum seekers who make an asylum application while in detention centres and are assessed under the accelerated procedure spend the whole asylum procedure in detention.

Detention in borders and transit zones

Detention upon apprehension cannot exceed 24 hours under the Romanian Constitution and the Criminal Procedure Code.⁴¹² According to JRS, however, some of the groups arriving in Romania by sea were held in Border Police custody for more than 24 hours for preliminary hearings, in some cases even 72 hours.

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, **Galati**

⁴⁰⁵ Article 19^7(3) Asylum Act.

⁴⁰⁶ Article 19^7(5) Asylum Act.

⁴⁰⁷ Article 19^7(6) Asylum Act.

⁴⁰⁸ Article 19^14(1) Asylum Act.

⁴⁰⁹ Article 19^14(6) Asylum Act.

⁴¹⁰ Article 19^14(7) Asylum Act.

⁴¹¹ Article 19^14(10) Asylum Act.

⁴¹² Article 23 Romanian Constitution; Article 209 Criminal Procedure Code.

has 30, **Timișoara** has 15 and **Șomcuta 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 and occupancy of detention centres: 2017		
Detention centre	Capacity	Occupancy at end 2017
Otopeni	114	59
Arad	160	57
Total	274	116

Source: IGI-DAI, 14 February 2018.

Asylum seekers placed in public custody centres are detained, as far as possible, separately from other categories of foreigners.⁴¹³ Persons who are convicted of crimes are also accommodated in separate rooms from other categories of foreigners. In practice this is respected.

1.3. Transit zones

Romania has one airport transit zone in **Otopeni Airport** in Bucharest, with a capacity of 22 places. Three people were detained in Otopeni during 2017.⁴¹⁴

According to JRS, asylum seekers are detained at **Otopeni Airport** and at the **Moravița** border-crossing point.

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.⁴¹⁵

According to JRS, the staff of the public custody centres has hands-on experience. NGOs and UNHCR do not hold trainings for staff working in detention centres.

Some of the persons who were transferred from **Arad** to **Otopeni** declared that they had been beaten and shoved. However, these declarations cannot be verified as the persons did not present any signs of aggression and the internal investigations are not public. On the other hand, the legal counsellor in **Timișoara** stated that asylum seekers did not complain about staff behaviour. Furthermore, asylum seekers declared that they all know the Director of the centre, as he is very active and engages with everyone.

⁴¹³ Article 19^16(1) Asylum Act.

⁴¹⁴ Information provided by IGI-DAI, 14 February 2018.

⁴¹⁵ Article 103(3) Aliens Ordinance.

When escorted from the facility to court for hearings, detained foreigners are handcuffed and escorted. The situation of a father brought to the court in handcuffs who was accompanied by his son was also reported.

Regarding detainees' right to information on their rights and obligations in detention in **Arad**, the Ombudsman reported in 2016 that:

"[I]nformation concerning aliens' rights, obligations and prohibitions during their detention in the centre is done by submitting under signature a written document drafted in the language spoken by the foreigner or in a language he / she understands. The information was displayed in each room in an international language, leaflets were also available; in 2016 there were no complaints from foreigners detained in public custody centres."⁴¹⁶

Moreover, when making recommendations regarding detainees' right to information, the Ombudsman suggested to the management of the centre to urgently take all the necessary measures to connect the television to a cable television network.

2.1. Overall conditions

Otopeni 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.⁴¹⁷ At the time of the Ombudsman's visit in 2016, Otopeni had two buildings, distributed in 25 accommodation rooms. The centre had a capacity of 114 places, with the possibility of extension in times of crisis up to 140 places.⁴¹⁸

Arad is located in Horia, a village in Arad County. It has a capacity of 160 places. There are two buildings: one hosting the administrative offices and 52 places of accommodation, and another building designated for accommodation with 108 places, administration purposes and other activities, inaugurated in 2015.⁴¹⁹ Each room is designed to accommodate 4 people and has 4.5 to 6m² per person.⁴²⁰

Stakeholders describe the detention conditions in the two public custody centres as satisfactory. In **Otopeni** the rooms are equipped with their own bathroom, individual bed, table, chairs, closet, television with access to foreign stations, electric sockets and lighting. The bathrooms are equipped with a toilet, sink, shower, ensuring the privacy of detainees while using the bathroom.⁴²¹ Conditions in **Arad** are described as much better than the conditions in the Regional Centres. The centre is clean overall and each room has a bathroom. Detainees are required to clean their own rooms.

According to JRS, there were no problems of overcrowding as the maximum capacity was never reached. Each asylum seeker has his or her own bed and there is sufficient space.

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

⁴¹⁶ Ombudsman, *Annual Report 2016*, available in Romanian at: <http://bit.ly/2n1iYsr>, 447. In 2014 the Romanian Ombudsman became the only national authority to perform the duties specific to the National Mechanism for Torture Prevention in places of detention. In this sense it also visits detention centres, including public custody centres.

⁴¹⁷ 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.

⁴¹⁸ *Ibid*, 4.

⁴¹⁹ 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.

⁴²⁰ *Ibid*, 10.

⁴²¹ Ombudsman, *Report of the visit to Otopeni*, 70/2016, 4-5.

privacy. Beyond this, JRS noted that detention centres do not have other arrangements in place for families, although in **Arad** authorities are planning to build a facility for families with children.

In practice it has also occurred that families without children were separated by being placed in separate rooms on the basis of gender, due to limited capacity.

People have sufficient privacy in the centres, although in relation to **Arad** the Ombudsman found that the bathrooms in the rooms are not provided with a separating curtain, thereby not ensuring privacy. The Ombudsman also noted the lack of disposable hygienic protection in the bathrooms.⁴²²

CNRR provides material assistance through the project "Counselling and Material Assistance in Public Custody Centres", funded by the AMIF national programme. In **Otopeni**, this includes hygienic and sanitary items supplementing those provided by the centre, as well as clothes, materials for educational and recreational activities, certain foods such as sweets, fruit, juices and tea, medical materials, and items for children where needed.⁴²³

The Public Custody Centres Regulation prescribes that food is provided three times a day, in the form of hot or cold food, 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.⁴²⁴

The legal counsellor in **Timișoara** reported that the food is of good quality and includes chicken, while the nutritional value of food provided to persons suffering from medical conditions and requiring specific diets is ensured.⁴²⁵ JRS was not aware whether specific diets are respected.

2.2. Activities

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 Head of the centre or his or her legal substitute may increase in the duration of outdoor recreational activities.⁴²⁶

Arad has two courtyards of 120m² each for walking, with lawns and concrete surfaces, equipped with sports grounds – soccer, basketball, handball – and tables with benches.⁴²⁷ According to the legal counsellor in Timișoara, between meals, people are let outside in the courtyard for an hour, under supervision by two agents. In **Otopeni** people are also allowed outside under supervision.

Televisions in **Otopeni** are functional, while in **Arad** the television was not connected to a cable network in 2016.⁴²⁸ According to JRS, detainees have no internet access in detention.

According to the Ombudsman report on **Otopeni**, "migrants have access to common spaces which are designated for cultural, recreational activities, and a prayer room with a library including books and dictionaries in foreign languages (French, English, German, Arabic), a gym with equipment, a club, a guest room, a playroom for minors accompanying migrants in public custody."⁴²⁹

The Ombudsman also observed 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:

⁴²² Ombudsman, *Annual Report 2016*, 447.

⁴²³ Ombudsman, *Report of the visit to Otopeni*, 70/2016, 5.

⁴²⁴ Article 30(1)-(4) Public Custody Centres Regulation.

⁴²⁵ Ombudsman, *Annual Report 2016*, 447.

⁴²⁶ Article 26(1)-(2) Public Custody Centres Regulation.

⁴²⁷ Ombudsman, *Report of the visit to Otopeni*, 70/2016, 8.

⁴²⁸ Ombudsman, *Annual Report 2016*, 448.

⁴²⁹ Ombudsman, *Report of the visit to Arad*, 30/2016, 8.

“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”.⁴³⁰

The report also mentions that CNRR often provides support and legal advice, including social assistance and information regarding rights and obligations in the centre, material aid, goods and products, as well as providing access to the interpreter for custody.⁴³¹

Otopeni has a small playground. According to JRS, there also used to be a children’s room with games and different leisure materials, but these were taken into their rooms and disappeared over time. More generally, JRS observed that no activities are held in detention centres, including for children.

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.⁴³² Nevertheless, according to JRS, none of the children detained in public custody centres was enrolled or attended school.

2.3. 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.⁴³³

Otopeni has a general practitioner and used to also have a psychologist until April-May 2017. During the Ombudsman’s visit in 2016 there was a doctor and three nurses, one nurse position being vacant at the time. The doctor’s schedule was 7 hours per day on weekdays, while the medical staff worked in shifts. The Ombudsman observed that due to a partial shortage of health care professionals, some night shifts were not covered, especially on weekends.⁴³⁴

Arad has a general practitioner and a psychologist. According to the Ombudsman’s 2016 report, the medical office of Arad was equipped with furniture and appliances according to the norms in force. Foreigners detained in the centre benefited from periodic medical consultations, additional para-clinical examinations and specialist consultations at public health care institutions in Arad county, while they also received medicine free of charge, based on a medical prescription issued by the doctor of the centre. The medical office in the Arad detention centre did not perform medical tests for the diagnosis of infectious / contagious diseases such as HIV or viral hepatitis, however.⁴³⁵

JRS reported that around 30 persons were released in 2017 due to medical conditions such as cancer or spine problems which could not be properly treated in detention.

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.⁴³⁶

In relation to psychological assistance in Arad Centre the Ombudsman’s 2016 report indicates that psychological assistance is provided according to the law and that the psychological assistance is

⁴³⁰ *Ibid*, 11.

⁴³¹ *Ibid*, 12.

⁴³² Article 104(6) Aliens Ordinance.

⁴³³ Article 104(2) Aliens Ordinance.

⁴³⁴ Ombudsman, *Report of the visit to Otopeni*, 70/2016, 6.

⁴³⁵ Ombudsman, *Annual Report 2016*, 448.

⁴³⁶ Article 38 Public Custody Centres Regulation.

registered in a log and in the individual observation records.⁴³⁷ The report refrains from mentioning how this assistance is provided in practice, whether interpretation services are available when the evaluation is conducted and whether consultations are confidential.

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.⁴³⁸ The Aliens Ordinance also provides for appropriate medical care and treatment for vulnerable persons in detention centres.⁴³⁹

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.

In practice, according to JRS, the identification of vulnerable persons in detention is done on a case-by-case basis. There is no adequate support or special treatment for vulnerable groups and persons with special needs. The authorities try to ensure such assistance, but if the needs in question cannot be catered for, 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.⁴⁴⁰

Article 13 of the Public Custody Centres Regulation details visiting hours in detention centres for the following groups:⁴⁴¹

- 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

⁴³⁷ Ombudsman, *Annual Report 2016*, 447.

⁴³⁸ Article 19^11(3) Asylum Act.

⁴³⁹ Article 104(7) Aliens Ordinance.

⁴⁴⁰ Article 103(4) Aliens Ordinance.

⁴⁴¹ Article 13(1)-(3) Public Custody Centres Regulation.

Directorate. There have been exceptional situations whereby NGOs were not allowed to enter the public custody centre as the authorities declared that they were holding interviews during that day.

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 week in the public custody centre of **Otopeni** and once every two weeks in **Arad**. JRS provides assistance in cases which are not covered by projects funded by the AMIF national programme such as assistance for subsequent applications, voluntary repatriation and Dublin returnees.

CNRR implements two projects funded by the AMIF national programme in public custody centres. According to CNRR “the project ‘Counselling and Material Assistance in Public Custody Centres’ has the general objective of advising and informing migrants about rights, obligations and rules of conduct in the public custody centres and providing them with services and assistance which is complementary to what Romania grants, both during their stay in the accommodation centres and for their return under escort to the country of origin or country of destination under conditions of dignity.”⁴⁴²

Regarding the second project implemented under AMIF, CNRR stated that “the overall objective of the project ‘Counselling and Legal Assistance, Interpretation and Legal Representation in Court for Aliens Subject to a Return Decision on the Territory of Romania’ is to ensure the minimum guarantees regarding the possibility of using the remedies provided by the current legislation concerning third country nationals who are subject of a return decision, through the provision of legal counselling, legal assistance, interpretation and legal representation in court.”⁴⁴³

The Public Custody Centres Regulation prescribes the conditions under which detainees may use the phone in order to contact people outside the centre.⁴⁴⁴ Foreigners may use the public telephone at their own expense from 09:00 to 22:00 every day. Every person is entitled to no more than 20 minutes free of charge phone per month.

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.⁴⁴⁵

⁴⁴² Information provided by CNRR, 9 January 2018. See CNRR, *Material assistance for foreigners who are subject of a return decision and are taken in public custody*, available at: <http://bit.ly/2F2c8JY>.

⁴⁴³ Information provided by CNRR, 9 January 2018. See CNRR, *Counseling and legal assistance, interpretation and legal representation in court for migrants who are subject of a removal decision from Romania's territory*, available at: <http://bit.ly/2DvFqV3>.

⁴⁴⁴ Article 12(1)-(4) Public Custody Centres Regulation.

⁴⁴⁵ Article 104(3) Aliens Ordinance.

According to CNRR, detainees are informed in writing.⁴⁴⁶ In practice, however, foreigners receive a document, in most cases written in Romanian and in rarer cases in English, which only cites the legal provision on which detention is based. The reasons for their detention and the possibility to appeal the decision are not mentioned. No further oral explanation is given to the person, according to JRS.

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.⁴⁴⁷ The appeal formulated against detention is subject to lighter formalities, as it is exempt from the judicial stamp duty.⁴⁴⁸ It does not have suspensive effect on the detention order or on the determination of the responsible Member State, if the applicant is detained in the Dublin procedure.⁴⁴⁹ The Court of Appeal has to examine the appeal within 3 days from the date of receipt, and its decision is final.

According to JRS, very few appeals are lodged against detention orders.

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.⁴⁵⁰

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.

Although IGI is not the authority deciding on the prolongation of detention, as confirmed by CNRR,⁴⁵¹ 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 Timișoara.

In a case concerning a single-parent family (mother and her 2-year-old daughter) whose asylum application had been channelled under the accelerated procedure and rejected, the Court of Appeal of Timișoara dismissed the argument that detention violated the best interests of the child on the ground that it “is a measure of temporary restriction on freedom of movement on the territory of Romania, ordered against aliens to ensure the execution of necessary steps for removal under escort”. The Court also dismissed the appellants’ argument that they may not be lawfully detained as asylum seekers since they cannot be returned under Article 6 of the Asylum Act as irrelevant, and approved the prolongation of detention for 5 months.⁴⁵²

In the case of five Iranian nationals who had arrived in Romania on 12 September 2017 by boat and applied for asylum on 2 October 2017 from detention, the Court of Appeal of Timișoara found that “the measure of custody has not been challenged by the appellants, and in the present case the legality of the removal measure is not debated and the arguments relating to the possible illegality of this measure are not relevant.”⁴⁵³

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

⁴⁴⁶ Information provided by CNRR, 9 January 2018.

⁴⁴⁷ Articles 19⁷(7) and 19¹⁴(8) Asylum Act.

⁴⁴⁸ Article 19¹⁶(3) Asylum Act.

⁴⁴⁹ Article 19¹⁴(8) Asylum Act.

⁴⁵⁰ Article 19¹⁴(4) Asylum Act.

⁴⁵¹ Information provided by CNRR, 9 January 2018.

⁴⁵² Court of Appeal of Timișoara, Decision 285/2017, 11 October 2017. Unofficial translation by the author.

⁴⁵³ Court of Appeal of Timișoara, Decision 286/2017, 11 October 2017. Unofficial translation by the author.

public 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.⁴⁵⁴

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.⁴⁵⁵ 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**.

JRS stated that asylum seekers face obstacles in accessing legal assistance in detention. In most cases NGO representatives are aware of the asylum claims made in public custody after a decision has been delivered by IGI-DAI in their cases.

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. For example, in one case a vulnerable applicant, a single parent, was only informed of her rights and obligations at the beginning of the personal interview with IGI-DAI.⁴⁵⁶ Lawyers cannot contact their clients by phone, as they detainees not allowed to have personal phones in detention and may only use their phone upon request if it has no camera. Lawyers 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

According to JRS, nationalities most susceptible to detention are **Pakistan**, **India** and **Russia**. There are cases when **Pakistani** and **Bangladeshi** nationals stay longer in detention due to the fact that the respective embassies do not reply to the requests submitted by IGI.

⁴⁵⁴ Article 101(13) Aliens Ordinance.

⁴⁵⁵ Article 19^16(2) Asylum Act.

⁴⁵⁶ IGI-DAI, Case No 162866/2017.

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 IGI-DAI.⁴⁵⁷ The application for participation in the integration programme has to be submitted to IGI-DAI within 30 days of the grant of protection.⁴⁵⁸

After the registration of the application, the beneficiary is interviewed by the integration officer of IGI-DAI. An evaluation form of the person’s needs is drafted in order to determine the necessary assistance or activities for his or her social integration.⁴⁵⁹ Based on this evaluation form, an individual plan is established, which includes deadlines, necessary activities to achieve the objectives, responsible persons, institutions and/or organisations are communicated to the beneficiary. The implementation of this plan is monitored by IGI-DAI.⁴⁶⁰

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:⁴⁶¹

- Counselling and support activities to ensure access to the rights listed in the Integration Ordinance;
- Cultural orientation sessions;
- Romanian language courses (see **Access to Education**).

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. Each region has at least one Regional Centre for asylum seekers.

1. IOM Romania implements the project “INTERACT PLUS - Integrated services for migrants, social and intercultural dialogue” in Region 1 which includes **Bucharest** and the following counties: Ilfov, Arges, Brasov, Buzau, Calarasi, Covasna, Dambovită, Dolj, Ialomița, Gorj, **Giurgiu**, Ilt, Prahova, Teleorman, Valcea.⁴⁶²
2. JRS implements the project “My place – A bridge for the integration of beneficiaries of international protection and third country nationals in Romania” in Region 2 in partnership with Children’s heart Foundation (Fundatia Inima de copil). The objective of the project is to sustain an effective integration of the beneficiaries of international protection and third country nationals at the level of **Galati**, Constanța, Vrancea, Bacau, Vaslui, Braila, Tulcea counties, with special attention afforded to vulnerable persons and persons with special needs, by providing services complementary to those provided by state. These include activities such as information, counselling, material assistance, legal assistance, medical, psychological as well as social, cultural, recreational, educational, training courses Romanian language and cultural orientation, at the level of the two regional integration centres in Galati and Constanța.⁴⁶³
3. ICAR Foundation implements the project “Integration of foreigners with legal residence in Romanian society - a common challenge” in the Region 3 which includes **Suceava**, Botoșani, Iași and Piatra Neamț counties.⁴⁶⁴

⁴⁵⁷ Article 15 Integration Ordinance.

⁴⁵⁸ Article 16 Integration Ordinance.

⁴⁵⁹ Article 17 Integration Ordinance.

⁴⁶⁰ Article 18(1) Integration Ordinance.

⁴⁶¹ Article 18(2) Integration Ordinance.

⁴⁶² IGI-DAI, *AMIF projects*, available in Romanian at: <http://bit.ly/2HVtES4>.

⁴⁶³ JRS, ‘My Place – o punte pentru integrarea BPI si RTT in Romania’, available in Romanian at: <http://bit.ly/2t45amz>.

⁴⁶⁴ IGI-DAI, *AMIF projects*, available in Romanian at: <http://bit.ly/2F2ysaC>.

4. In Region 4 LADO Cluj in partnership with Asociația Profesională Neguvernamentală de Asistență Socială Baia Mare is implementing the project "SIM - CIS 4 - 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 educational social, cultural and recreational activities, Romanian language and cultural orientation courses to beneficiaries of international protection and third country nationals. The project also foresees financial incentives for completing some social integration activities; a number of health insurances are covered and the costs of meals of children from kindergarten, pre-school or school are reimbursed.⁴⁶⁵
5. In Region 5, the Western part of Romania, AIDRom in partnership with Filantropia Oradea implements the project "Integration NOW - Complex and Uniform Approaches for Migrants". "The project aims to support the socio-economic and cultural integration of beneficiaries of international protection and third-country nationals in the Romanian society through an integrated approach, in providing the information and services they need, and by enhancing active collaboration and involvement the authorities / institutions, the private sector and other entities with attributions in the field of migrant integration". The project is implemented for a period of 2 years since June 2017.⁴⁶⁶ Region 5 includes **Timișoara**, and Arad, Bihor, Hunedoara, Mehedinți și Caraș Severin counties.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
 - ❖ Refugee status 3 years
 - ❖ Subsidiary protection 2 years

The duration of residence permits granted for **refugee status** is 3 years and for **subsidiary protection** 2 years.⁴⁶⁷

The conditions for issuing a residence permit – in the form of a **card** – are prescribed by the Asylum Decree.⁴⁶⁸ 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.⁴⁶⁹

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 which fulfils the conditions required by the authorities. For example, a rental contract signed with an entity is not enough; they also need to present a notary declaration that they live there. A rental contract signed with a student dorm was also rejected by IGI.

⁴⁶⁵ Liga Apărării Drepturilor Omului (LADO) Cluj, 'SIM_CIS4 – Servicii integrate pentru migranți – comunități interculturale și solidare', available in Romanian at: <http://bit.ly/2F963Pv>.

⁴⁶⁶ AIDRom, 'Integrare ACUM – Abordari complexe si unitare pentru migranti', available in Romanian at: <http://bit.ly/2owtzw3>.

⁴⁶⁷ Article 20(6) Asylum Act.

⁴⁶⁸ Article 51 Asylum Decree.

⁴⁶⁹ Article 50(3) Asylum Decree.

The beneficiary of international protection has to fill in a standard form,⁴⁷⁰ 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: from a maximum of 2 weeks in **Bucharest**, to 3 weeks in **Timișoara**, **Rădăuți** and **Galați**, to 4 weeks in **Șomcuta Mare**, to 1 month in **Giurgiu**.

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.

IGI-DAI delivered 1,372 residence permits to refugees and 923 to subsidiary protection beneficiaries in 2017.⁴⁷¹

2. Civil registration

The procedure of civil registration is set out in Act 119/1996.⁴⁷²

With regard to marriage registration, the law provides the obligation for the future spouses to present identity documents, birth certificates, and medical certificates.⁴⁷³ Beneficiaries of international protection have to present their residence permit and an identity document, which in their case is the national passport. The travel document issued by IGI-DAI based on the grant of international protection is not considered to be an identity document by the civil registration authorities.

Therefore beneficiaries may only get married if they have a national passport issued in their country of origin. This issue was confirmed by the JRS representative in **Șomcuta Mare** and AIDRom representative in **Timișoara**.

According to the legal counsellor in **Galați**, beneficiaries are unable to open bank accounts at some banks (large banks), as it appears there are certain third countries whose nationals are not offered services for security reasons.

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2017: 1,357

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.⁴⁷⁴ Continuity implies that a person have not been absent from Romania for more than 6 consecutive months and shall not exceed 10 months of absence in total.⁴⁷⁵

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

⁴⁷⁰ The form is available at: <http://bit.ly/2xaDCgJ>.

⁴⁷¹ Information provided by IGI-DAI, 14 February 2018.

⁴⁷² Act 119/1996 on civil registration acts, available in Romanian at: <http://bit.ly/2nFDcYr>.

⁴⁷³ Article 25(3) Act 119/1996.

⁴⁷⁴ Article 71(1)(a) Aliens Ordinance.

⁴⁷⁵ Article 71(1)(a)(i) Aliens Ordinance.

Integration Ordinance,⁴⁷⁶ or are married to a person holding Romanian citizenship for at least 5 years.⁴⁷⁷

According to the law, this period of residence starts from the moment when the asylum application was lodged.⁴⁷⁸

- 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.⁴⁷⁹
- c. **Public order / national security:** The applicant must not pose a threat to public order or national security.⁴⁸⁰
- d. Health insurance.⁴⁸¹
- e. Accommodation: The applicant has to prove the legal possession of a living space.⁴⁸²
- f. Means of subsistence: The applicant has to prove he or she has at least the level of the gross average income in Romania.⁴⁸³

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;⁴⁸⁴ for which there is an exemption for beneficiaries of international protection;⁴⁸⁵
- ❖ Proof of the legal possession of the living space, in accordance with the law;⁴⁸⁶
- ❖ Proof of the means of subsistence at the gross average earning in Romania;⁴⁸⁷
- ❖ Proof of health insurance;⁴⁸⁸
- ❖ Criminal record, issued by the Romanian authorities.⁴⁸⁹

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, there was case of a beneficiary of international protection suffering from cancer and benefiting from invalidity pension of 93 RON / 20 € who was advised by IGI to deposit 2,000 € in his bank account to make sure that his request for permanent residence card would not be rejected for lack of means of subsistence.

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.⁴⁹⁰ In some cases, obtaining this certificate takes a lot of time as it has to be submitted by the employer.

⁴⁷⁶ Article 71(1)(a)(v) Aliens Ordinance.

⁴⁷⁷ Article 71(1)(a)(vi) Aliens Ordinance.

⁴⁷⁸ Article 71(1)(a)(vii) Aliens Ordinance.

⁴⁷⁹ *Ibid.*

⁴⁸⁰ Article 71(1)(f) Aliens Ordinance.

⁴⁸¹ Article 71(1)(c) Aliens Ordinance.

⁴⁸² Article 71(1)(d) Aliens Ordinance.

⁴⁸³ Article 71(1)(b) Aliens Ordinance.

⁴⁸⁴ Article 72(1)(a) Aliens Ordinance.

⁴⁸⁵ Article 146 Asylum Act.

⁴⁸⁶ Article 72(1)(b) Aliens Ordinance.

⁴⁸⁷ Article 72(1)(c) Aliens Ordinance.

⁴⁸⁸ Article 72(1)(d) Aliens Ordinance.

⁴⁸⁹ Article 72(1)(e) Aliens Ordinance.

⁴⁹⁰ 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>.

Applications for permanent residence status are examined by a special committee of IGI.⁴⁹¹ 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.⁴⁹²

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.⁴⁹³

In practice, the decision is given in most of the cases in 6 months, in some centres even in 3-4 months. The permit is issued within 3-4 weeks. In **Timișoara** the decision is taken within 1-2 months and the permit is issued in 1 month. In **Galați** it takes 4 months until a decision is taken and the document is generally issued within 3 weeks.

In 2017, 890 long-term residence permits were issued to refugees and 467 to beneficiaries of subsidiary protection.⁴⁹⁴

4. 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 2017: | Not available |

The main criteria for naturalisation are laid down in Article 8(1) of the Act on Romanian Citizenship.⁴⁹⁵ 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.⁴⁹⁶ 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.

⁴⁹¹ Article 73(1)-(2) Aliens Ordinance.

⁴⁹² Article 73(3) Aliens Ordinance.

⁴⁹³ Article 73(4)-(5) Aliens Ordinance.

⁴⁹⁴ Information provided by IGI-DAI, 14 February 2018.

⁴⁹⁵ Act 21/1991 of 1 March 1991, available in Romanian at: <http://bit.ly/2xafo6v>.

⁴⁹⁶ Article 8(2) Act on Romanian Citizenship.

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”⁴⁹⁷ or “who can significantly promote the image of Romania through outstanding performance in sports”.⁴⁹⁸ The Romanian Government considered these amendments “necessary” and found that “not adopting them urgently will significantly affect the nationality acquisition and reacquisition process”.⁴⁹⁹

The competent authority is the National Authority for Citizenship (NAC).⁵⁰⁰

IGI-DAI does not keep statistics on citizenship granted to beneficiaries of international protection.⁵⁰¹

5. 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.

These provisions on changed circumstances do not apply to a persons 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.⁵⁰²

⁴⁹⁷ Article 8^1 Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁴⁹⁸ Article 8^2 Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁴⁹⁹ Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁵⁰⁰ For further details, see European Statelessness Network, *Ending Childhood Statelessness: A case study on Romania*, 2015, available at: <http://bit.ly/2DxDsiz>.

⁵⁰¹ Information provided by IGI-Dai, 14 February 2018.

⁵⁰² Articles 98(2)-(3) and 99(2) Asylum Act.

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 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 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 down 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.⁵⁰³ The interview is not conducted in case the beneficiary of international protection has acquired Romanian citizenship.⁵⁰⁴ 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.⁵⁰⁵

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.⁵⁰⁶

A new safeguard was introduced by the 2015 reform of the Asylum Act, which states that, 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 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.⁵⁰⁷

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.⁵⁰⁸ The cessation or withdrawal of the form of protection shall not have effect on the person's family members.⁵⁰⁹

⁵⁰³ Article 103(1)(c) Asylum Act.

⁵⁰⁴ Article 103(3) Asylum Act, citing Article 98(1)(c).

⁵⁰⁵ Article 103(4) Asylum Act.

⁵⁰⁶ Article 103(5) Asylum Act.

⁵⁰⁷ Article 103(6) Asylum Act.

⁵⁰⁸ Article 104(1) Asylum Act.

⁵⁰⁹ Article 104(2) Asylum Act.

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.⁵¹⁰ If the decision states also the obligation to leave the Romanian territory, IGI shall issue and enforce the return decision.⁵¹¹

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 2017. IGI-DAI issued 49 cessation decisions – 19 refugee status and 30 subsidiary protection – throughout the year. The main nationalities concerned were Iraq and Syria, with 12 and 11 cessations respectively.⁵¹²

Of these cases, in **Galați** there was a case of cessation of international protection for a Syrian national, although IGI-DAI decided to maintain the status of protection granted to him. In **Bucharest** an Iraqi national voluntarily renounced the international protection granted by Romania. In **Șomcuta Mare** two Afghans renounced their international protection status because they wanted to return to their country of origin. In **Giurgiu** an Iraqi national renounced refugee status granted to him by Romania, because he was unable to integrate in Romania, faced depression and wanted to return to his country of origin.

6. 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.⁵¹³ **Subsidiary protection** is revoked under the same grounds as the refugee status,⁵¹⁴ the only difference being the grounds of exclusion.

The withdrawal procedure is the same as the [Cessation](#) procedure. International protection was revoked in 4 cases in 2017, all concerning Syrian nationals.⁵¹⁵

⁵¹⁰ Article 104(3) Asylum Act.

⁵¹¹ Article 104(4) Asylum Act.

⁵¹² Information provided by IGI-DAI, 14 February 2018.

⁵¹³ Article 100 Asylum Act.

⁵¹⁴ Article 101 Asylum Act.

⁵¹⁵ Information provided by IGI-DAI, 14 February 2018.

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

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 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.⁵¹⁶ 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.⁵¹⁷ 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 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.⁵¹⁸

⁵¹⁶ Article 71(1) Asylum Act.

⁵¹⁷ Article 71(3) Asylum Act.

⁵¹⁸ Article 30(1) Asylum Decree.

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.⁵¹⁹

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.⁵²⁰

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.⁵²¹ 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.⁵²²

1.3. Specific procedure for unaccompanied children

The Asylum Act provides also 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.⁵²³ 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.⁵²⁴ In all cases, the unaccompanied child’s views will be taken into account and given due weight.⁵²⁵

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.⁵²⁶ The decision provided may be challenged under the same conditions as a decision delivered by IGI-DAI in the [Regular Procedure](#).⁵²⁷

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.⁵²⁸ 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.⁵²⁹

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.⁵³⁰

In **Galați** there were around 10-15 applications for family reunification and they were all admitted or still pending a decision. The procedure takes around nine months, as the application is assessed by the case officer, according to article 31(2) of the Asylum Decree. When the application was assessed by IGI-DAI Bucharest the average duration of the procedure was 2-3 months. Thus, the procedure for

⁵¹⁹ Article 30(2) Asylum Decree.

⁵²⁰ Article 30(3) Asylum Decree.

⁵²¹ Article 30(4) Asylum Decree.

⁵²² Article 30(5) Asylum Decree.

⁵²³ Article 72(1) Asylum Act.

⁵²⁴ Article 72(2) Asylum Act.

⁵²⁵ Article 72(2) Asylum Act.

⁵²⁶ Article 72(3) Asylum Act.

⁵²⁷ Article 72(4) Asylum Act.

⁵²⁸ Article 73(1) Asylum Act.

⁵²⁹ Article 73(2) Asylum Act.

⁵³⁰ Article 73(3) Asylum Act.

family reunification takes a lot more time since the assessment of the application is done at the regional level.

1.4. 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.⁵³¹

Timișoara: the family reunification procedure takes around 6-7 months. In general the procedure takes a lot of time at the level of the National Centre for Visas for foreigners who want to travel to Romania. For example, an unaccompanied child beneficiary from Syria had been waiting for an answer from the National Centre for Visas since May 2017 and received a positive answer by the end of 2017.

Șomcuta Mare: there was an Afghan national beneficiary of subsidiary protection who made a successful family reunification application. The procedure lasted around 6 months. Another application was made by a Cameroonian national, which was also admitted. According to JRS, all family reunification applications were successful.

Rădăuți: there are two applications for family reunification still pending. The two Syrian men made the application in May 2017.

Bucharest: in 2016 a Burundian national who was granted refugee status made an application for family reunification and the procedure lasted around 3 months.

Giurgiu: there were 4-5 applications for family reunification made by Eritrean men and two applications made by Iraqi men. None of the applications have been decided upon.

A total of 71 applications for family reunification were submitted in 2017, of which 33 from Syrian, 11 from Iraqi, 8 from Eritrean, 5 from Sudanese and 4 from Somali nationals. IGI-DAI took 32 decisions, 28 of which approved the application and 4 rejected it. 39 applications are still pending.⁵³²

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.⁵³³

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.⁵³⁴

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.⁵³⁵ 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

⁵³¹ Article 31(4) Asylum Decree.

⁵³² Information provided by IGI-DAI, 14 February 2018.

⁵³³ Article 71(3) Asylum Act.

⁵³⁴ Article 71(3[^]1) Asylum Act.

⁵³⁵ Article 71(4) Asylum Act.

receive a decision. In all reported cases, family members were granted the same form of protection as the sponsor.

According to a legal counsellor in **Bucharest**, who assisted a family member during the personal interview, the interview was shorter than the interview of the main beneficiary. The IGI-DAI case officer did not explore all the details of the case and basically confirmed the facts already existing in the file; the case officer even told the family member (wife of the beneficiary) “not to worry as you will receive a positive decision.”

If it is determined 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.⁵³⁶ The decision shall be communicated to the sponsor beneficiary of protection who submitted the asylum application for the family members.⁵³⁷

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.⁵³⁸ 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.⁵³⁹ **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”.⁵⁴⁰

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.⁵⁴¹

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 1959,⁵⁴² 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.

With regard to non-EU countries, according to the AIDRom representative in **Timișoara**, refugees and beneficiaries of subsidiary protection have stated that they are not issued visas on the basis of the travel

⁵³⁶ Article 31(2) Asylum Decree.

⁵³⁷ Article 31(3) Asylum Decree.

⁵³⁸ Article 20(1)(b) Asylum Act.

⁵³⁹ Article 20(8) Asylum Act.

⁵⁴⁰ Annexes 5 and 6 Government Decision 557/2006.

⁵⁴¹ Article 20(9) Asylum Act.

⁵⁴² 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.

document, for the following countries: Turkey, Saudi Arabia, Lebanon and other Arab countries. That said, they have chosen to request their national passports from IGI-DAI and travel to those countries with their national passports.

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 1,977 travel documents to beneficiaries of international protection in 2017.⁵⁴³

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 August 2017 | 168 |

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.⁵⁴⁴ 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.⁵⁴⁵

A total of 168 beneficiaries of international protection were residing in the Regional Centres at the end of August 2017:

Beneficiaries of international protection in Regional Centres: 31 August 2017			
Centre	Refugee status	Subsidiary protection	Total
Timișoara	0	1	1
Șomcuta Mare	6	7	13
Rădăuți	2	24	26
Galați	36	37	73
Bucharest	15	24	39
Giurgiu	16	0	16
Total	75	93	168

Source: IGI-DAI

⁵⁴³ Information provided by IGI-DAI, 14 February 2018.

⁵⁴⁴ Article 21(1) Integration Ordinance.

⁵⁴⁵ Article 21(2) Integration Ordinance.

Beneficiaries accommodated in Regional Centres have to pay rent and maintenance costs.⁵⁴⁶ The daily rental fee is 6.6 RON / 1.4 € during winter and 5.67 RON / 1.2 € during summer. Vulnerable beneficiaries may be accommodated free of charge in the Regional Centres.⁵⁴⁷

In practice, beneficiaries of international protection **Timișoara, Șomcuta Mare, Rădăuți, Galați and Giurgiu** are allowed to stay for free for up to 2 months, and have to pay the rental fee after that period. According to JRS, beneficiaries in **Bucharest** are not allowed to stay in the centre for free during the first 2 months. They stay for a maximum of 2-3 months in the centre and are then requested to leave due to shortages in available places. According to the AIDRom representative in **Timișoara**, beneficiaries prefer to leave the centre after being granted protection because they have no intimacy.

In addition to this, JRS is implementing 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. 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.

From July to October 2017, 90 persons were assisted through this project and from the beginning of the year more than 150 persons have benefitted from these services. Most of the beneficiaries assisted are in **Bucharest**. According to the JRS representative, beneficiaries receive counselling and assistance, when they need it, in the majority of the cases. There are cases in which they already have a rental contract or manage without support and then only ask for the actual cover of the costs.

According to the AIDRom representative in **Timișoara**, beneficiaries of international protection are not assisted in searching for accommodation, which makes it very difficult for them if they do not speak Romanian and are not able to communicate with landlords.

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.⁵⁴⁸

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.⁵⁴⁹

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.⁵⁵⁰

If the local public administration authorities cannot provide a social home, the beneficiary may rent housing within the respective local community.⁵⁵¹ IGI-DAI subsidises up to 50% of the rent, subject to availability of funding, for a maximum period of one year.⁵⁵²

⁵⁴⁶ Article 21(4) 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.

⁵⁴⁷ 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.

⁵⁴⁸ Article 20(1)(q) Asylum Act.

⁵⁴⁹ Article 28 Integration Ordinance.

⁵⁵⁰ Article 29(1) Integration Ordinance.

⁵⁵¹ Article 29(2) Integration Ordinance.

⁵⁵² Article 29(3) Integration Ordinance.

Timișoara: 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 AIDRom representative, IGI-DAI granted subsidies (50% of the rent) to a family of five from Iraq in 2017.

Rădăuți, Bucharest, Giurgiu and Șomcuta Mare: this provision has never been applied in practice. In Rădăuți beneficiaries never stayed until the end of their 12-month integration programme, while in Șomcuta Mare they request assistance under the aforementioned project “A New House” run by JRS.

Galați: as far as JRS is aware no beneficiary was granted this subsidy by IGI-DAI.

Other issues reported by AIDRom are the high rental fees in **Timișoara** (around 250 € for a studio) and landlords’ reluctance to accept foreigners as they do not speak Romanian and they need a rental contract registered at the tax authority in order to receive the residence permit and all the other documents; many landlords do not declare their contracts because they do not want to pay taxes.

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.⁵⁵³ There are no differences between refugees and subsidiary protection beneficiaries in relation to access to employment.

1.1. Obstacles to access in practice

In practice, access to labour market also depends on the economic power of the city or region.

Timișoara: There are jobs available and the only obstacle beneficiaries face in the labour market is the language barrier.

Bucharest: According to JRS there are jobs available. NGOs are contacted by different employers and in some cases employers even come to the Regional Centre to present their job opportunities. However, most of the beneficiaries are not interested for different reasons such as unsatisfactory remuneration, schedule starts at early hours.

Șomcuta Mare: Even though there are jobs available, beneficiaries have not express interest in seeking employment.

Galați: There are generally no jobs available and any available vacancies are not seen as attractive due to low levels of pay and most beneficiaries’ preference to travel to other countries such as Germany.

Rădăuți is also a small city, so the situation of the job market is similar. Beneficiaries refuse to work for the minimum wage of around 300 €, they are not interested in learning the language, even though there are jobs available.

Giurgiu: Reportedly, it often happens that employers do not pay the salaries of beneficiaries or do not conclude employment contracts with them. It was also mentioned that a large number of beneficiaries would want to continue working in the same field they are specialised in but have difficulties in doing so because they lack the necessary academic and professional credentials. Another issue which was

⁵⁵³ Article 20(1)(c) Asylum Act.

reported by the legal counsellor in Giurgiu is the lack of NGOs providing assistance and counselling for beneficiaries of international protection in the Regional Centre. Due to this, beneficiaries are unaware of their rights and benefits.

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,⁵⁵⁴ 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.⁵⁵⁵

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 which certify their studies, which makes it impossible for them to apply for certain positions.

One of the limitations which was mentioned by all stakeholders interviewed is the language barrier.

1.2. 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.⁵⁵⁶

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:⁵⁵⁷

1. Standardised application;
2. 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 where 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 €.

⁵⁵⁴ 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 contextul deficitului de personal din sistemul de sănătate românesc', 26 October 2017, available in Romanian at: <http://bit.ly/2hK7IUb>.

⁵⁵⁵ Article 376(1) Law 95/2006 on Health Reform.

⁵⁵⁶ Article 20(1)(r) Asylum Act.

⁵⁵⁷ 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>.

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, CRNED 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**, 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.

The recognition procedure lasts around 2 months generally. In **Galați**, however, the average length of the recognition of diplomas procedure is 6 months.

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.⁵⁵⁸ In order to have access to education, children beneficiaries of international protection have to have the minimum age provided by law for all children: 3 to 6 for pre-school education-age and 6 for primary education.

2.1. Enrolment at schools

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. This way they can learn the Romanian language.

Bucharest: Most of the children are enrolled at school. However, only 30% are actively going to school. According to JRS they are not going to school because they parents are not taking them, even though the school is located very close to the centre.

Giurgiu: None of the children beneficiaries of international protection are enrolled in schools.

Galați: it was reported that the School Inspectorate does not designate a school which is in the territorial range of the Regional Centre. As a consequence, beneficiaries preferred not to go to school anymore, as they had to travel long distances.

⁵⁵⁸ Article 20(1)(h) Asylum Act.

Timișoara: the AIDRom representative reported that the School Inspectorate does not take the necessary diligence to designate a school for the beneficiaries and the integration officer has too many duties to perform to deal with all the issues. Younger children are enrolled by their parents, even when they are still in the asylum procedure, at the Arab School in Timișoara. The Arab School is a private school which has functioned for over 7 years. Teaching takes place in Arabic, Romanian and English. If they have the financial means to afford the fee of around 400 RON / 87 € per month, prefer to enrol their children in this school as the cultural impact is not so high and it is considered a more appropriate way of cultural integration for their children. Only after one year are children enrolled at the state school. Children aged 15-16 are enrolled at the state school.

According to the legal counsellor in **Galați**, it is easier for younger children to adapt as they learn easily the language in comparison with older children who cannot learn the language as fast. In their case, they cannot adapt to the class and teachers cannot provide all pupils with the necessary support, therefore they often abandon school.

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.⁵⁵⁹

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** there is a child with mental and learning disabilities currently enrolled at the Arab School. In the meantime, necessary steps are being taken in order to enrol the child in a school for children with special needs. NGOs are providing assistance in order to speed up this process.

2.2. Integration courses

According to the Integration Ordinance, foreigners who have acquired the right to stay in Romania and citizens of the Member States of the EU and of the European Economic Area benefit, upon request and free of charge, from courses of Romanian language, cultural orientation and counselling sessions.⁵⁶⁰

The cultural orientation sessions are organised in order to familiarise the persons with the traditions, customs and values of the Romanian culture and for providing practical information on Romanian society.⁵⁶¹ Romanian language courses are organised by the Ministry of Education in collaboration with IGI-DAI and aim to familiarise the participants with the Romanian language.⁵⁶²

In practice, some deficiencies in Romanian courses are reported in **Timișoara**. 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. 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.

Romanian language course are organised based on demand. Therefore isolated cases remain uncovered. For example, a beneficiary of international protection from **Oradea** has not benefitted from the integration programme because no Romanian language courses were organised in the county.

⁵⁵⁹ 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>.

⁵⁶⁰ Article 35^1(1) Integration Ordinance.

⁵⁶¹ Article 35^1(2) Integration Ordinance.

⁵⁶² Article 35^2(1) Integration Ordinance.

According to the AIDRom representative in **Timișoara**, Romania does not have a sustainable integration programme. In her view, beneficiaries should benefit from proper measures which will give them the opportunity to learn Romanian extensively in the first 3-4 months. After they are granted a form of protection, 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.

IOM Romania, in partnership with the Intercultural Institute in Timișoara and the Schottener Social Services Foundation, is implementing 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 aims to contribute 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.⁵⁶³

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.⁵⁶⁴ The amount of aid is related to the reference social indicator under the terms and conditions established by Government Decision.⁵⁶⁵

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.⁵⁶⁶ However, some groups, referred to as “special cases”, are exempt from the obligation to be enrolled in the integration programme. The special cases are:⁵⁶⁷

- a. Unaccompanied children;
- 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.

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.⁵⁶⁸

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

⁵⁶³ IOM Romania, ‘REACT_RO: resurse educaționale pentru învățarea limbii române și acomodarea culturală a Beneficiarilor de Protecție Internațională (BPI) și Resortisanților Țărilor Terțe (RTT) în România’, available in Romanian at: <http://bit.ly/2F9Wlw5>.

⁵⁶⁴ Article 20(1)(m) Asylum Act.

⁵⁶⁵ *Ibid.*

⁵⁶⁶ Article 60(1) Asylum Decree.

⁵⁶⁷ Article 33(2) Integration Ordinance.

⁵⁶⁸ Article 60(1) Asylum Decree.

relevant territorial entity of the Aliens Authority to register him or herself and to make the necessary changes to the identity document.⁵⁶⁹

2. Application procedure for aid

The authority responsible for granting the non-refundable aid is the County Agency for Payments and Social Inspection (*Agenția Județeană pentru Plăți și Inspecție Socială*, AJPIS). 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.⁵⁷⁰

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.⁵⁷¹ This requirement raises issues in practice for unaccompanied children, as confirmed by Save the Children, JRS and AIDRom representatives in Timișoara. 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.

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.⁵⁷²

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.⁵⁷³ 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.⁵⁷⁴ 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 two months.⁵⁷⁵

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 submit to the competent AJPIS proposals for extending the period of granting, suspending or terminating the payment of aid.⁵⁷⁶

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.⁵⁷⁷

In **Giurgiu** it was also reported that unaccompanied minors do not benefit from the non-refundable financial aid because they have no legal representative. Moreover, even if they have appointed a legal representative AJPIS stated that they are only entitled to receive the financial aid if they are accommodated in one of the DGASPC centres. If they are accommodated in one of the DGASPC

⁵⁶⁹ Article 52(2) Asylum Decree.

⁵⁷⁰ Article 20(5) Asylum Act.

⁵⁷¹ Article 60(2) Asylum Decree.

⁵⁷² Article 60(2)-(3) Asylum Decree.

⁵⁷³ Article 60(5) Asylum Decree.

⁵⁷⁴ Article 60(4) Asylum Decree.

⁵⁷⁵ Article 22(3) Integration Ordinance.

⁵⁷⁶ Article 60(6) Asylum Decree.

⁵⁷⁷ Article 22(1) Integration Ordinance.

centres unaccompanied children are still not entitled to receive the aid as the money enters in the DGASPC account.

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.⁵⁷⁸

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.⁵⁷⁹ 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.

Stakeholders have also mentioned difficulties related the generally poor condition of the state health care system which also affects Romanian nationals. As a consequence beneficiaries prefer to access private medical clinics instead of state hospitals.

⁵⁷⁸ Article 20(1)(g) Asylum Act.

⁵⁷⁹ Article 20(1)(g) Asylum Act.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	27 January 2014	Ordonanța nr. 1/2014 pentru modificarea și completarea Legii nr. 122/2006 privind azilul în România și a Ordonanței Guvernului nr. 44/2004 privind integrarea socială a străinilor care au dobândit o formă de protecție sau un drept de ședere în România, precum și a cetățenilor statelor membre ale Uniunii Europene și Spațiului Economic European	http://bit.ly/2C7UWoI (RO)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	24 December 2015	Legea nr. 331/2015 pentru modificarea și completarea unor acte normative în domeniul străinilor	http://bit.ly/2Hy9NIG (RO)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	24 December 2015	Legea nr. 331/2015 pentru modificarea și completarea unor acte normative în domeniul străinilor	http://bit.ly/2Hy9NIG (RO)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	24 December 2015	Legea nr. 331/2015 pentru modificarea și completarea unor acte normative în domeniul străinilor	http://bit.ly/2Hy9NIG (RO)