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Asylum Information Database

Country Report: Bulgaria

2017 Update

БЪЛГАРСКИ ХЕЛЗИНКСКИ КОМИТЕТ

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Acknowledgements & Methodology

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

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

The information in this report is up-to-date as of 31 December 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 accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

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European Programme for Integration and Migration

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Glossary & List of Abbreviations

Closed reception centre	Detention centre for asylum seekers managed by the SAR
Humanitarian status	Subsidiary protection under the recast Qualification Directive
Zero integration	Period during which all beneficiaries of international protection have been left without any integration support in Bulgaria
ACET	Assistance Centre for Torture Survivors
AMIF	Asylum, Migration and Integration Fund
BCP	Border-crossing point
BHC	Bulgarian Helsinki Committee
CERD	Committee on Elimination of Racial Discrimination
CRF	Closed reception facilities
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
EASO	European Asylum Support Office
ЕСГРОН	Civil national database
ЕГН	Unique identification number | Единен граждански номер
ERF	European Refugee Fund
Eurodac	European fingerprint database
Frontex	European Border and Coast Guard Agency
LAR	Law on Asylum and Refugees
MOI	Ministry of Interior
NLAB	National Legal Aid Bureau
NPIR	National Programme for the Integration of Refugees
RRC	Refugee reception centre
RSD	Refugee status determination
SGBV	Sexual and Gender based Violence
SOP	Standard Operating Procedures
SANS	State Agency for National Security
SAR	State Agency for Refugees
SIS	Schengen Information System
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees

Statistics

Overview of statistical practice

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

Applications and granting of protection status at first instance: 2017

	Applicants in 2017	Pending at end 2017	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	3,700	1,301	804	900	3,048	16.9%	18.9%	64.2%

Breakdown by countries of origin of the total numbers

Afghanistan	1,139	:	16	6	1,375	1.1%	0.4%	98.5%
Iraq	1,023	:	41	74	895	4%	7.3%	88.7%
Syria	970	:	727	803	97	44.7%	49.4%	5.9%
Pakistan	212	:	4	0	281	1.4%	0%	98.6%
Iran	88	:	0	0	136	0%	0%	100%
Sri Lanka	43	:	0	0	44	0%	0%	100%
Bangladesh	30	:	0	0	37	0%	0%	100%
Stateless	29	:	14	11	6	45.2%	35.5%	19.3%
Algeria	28	:	0	0	29	0%	0%	100%
Turkey	10	:	0	0	6	0%	0%	100%

Source: SAR. Pending applicants as of 29 December 2017.

1 SAR, *Statistics and reports*, available at: http://bit.ly/2DPWIxw. Only the latest available statistics are published at any given time.
2 Ministry of Interior, *Migration statistics*, available at: http://bit.ly/2mJszDs.

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

	Number	Percentage
Total number of applicants	**3,700**	100%
Men	2,748	74.2%
Women	952	25.8%
Children	1,208	32.6%
Unaccompanied children	440	11.9%

Source: SAR

Comparison between first instance and appeal decision rates: 2017

Statistics for appeals are not available.

Overview of the legal framework

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

Title in English	Original Title (BG)	Abbreviation	Web Link
Law on Asylum and Refugees *Amended by*: Law amending the Law on Asylum and Refugees, № 101/2015 of 11 December 2015, № 33 of 26 April 2016, №97 of 6 December 2016, №101 of 20 December 2016, №103 of 27 December 2016	Закон за убежището и бежанците Закон за изменение и допълнение на Закона за убежището и бежанците	LAR	http://bit.ly/1RklHor (EN) http://bit.ly/2k8slq7 (BG)
Law on Aliens in the Republic of Bulgaria *Amended by:* Law amending the Law on Aliens in the republic of Bulgaria, № 97/2016 of 2 December 2016, №101 of 20 December 2016, №103 до 27 December 2016, №97 of 5 December 2017	Закон за чужденците в Република България Закон за изменение и допълнение на Закона за чужденците в Република България	LARB	http://bit.ly/2jpEaqx (BG) http://bit.ly/2kJoYpi (BG)

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

Title in English	Original Title (BG)	Abbreviation	Web Link
Ordinance № 332 of 28 December 2008 for the responsibilities and coordination among the state agencies, implementing Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, Council Regulation No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin	Наредба приета с ПМС №332 от 28.12.2008 за отговорността и координацията на държавните органи, осъществяващи действия по прилагането на Регламент (ЕО) № 343/2003 на Съвета от 18 февруари 2003 г. за установяване на критерии и механизми за определяне на държава членка, компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна, Регламент (ЕО) № 1560/2003 на Комисията от 2 септември 2003г. за определяне условията за прилагане на Регламент (ЕО) № 343/2003 на Съвета за установяване на критерии и механизми за определяне на държавата	ORD332/08	http://bit.ly/1IJ1Cl5 (BG)

Convention and Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000	членка, която е компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна, Регламент (ЕО) № 2725/2000 на Съвета от 11 декември 2000г. за създаване на система "ЕВРОДАК" за сравняване на дактилоскопични отпечатъци с оглед ефективното прилагане на Дъблинската конвенция и Регламент (ЕО) № 407/2002 на Съвета от 28 февруари 2002 г. за определяне на някои условия за прилагането на Регламент (ЕО) № 2725/2000 относно създаването на системата "ЕВРОДАК" за сравняване на дактилоскопични отпечатъци с оглед ефективното прилагане на Дъблинската конвенция		
Ordinance № I-13 of 29 January 2004 on the rules for administrative detention of aliens and the functionning of the premises for aliens' temporary accommodation	Наредба № I-13 от 29 януари 2004 за реда за временно настаняване на чужденци, за организацията и дейността на специалните домове за временно настаняване на чужденци	ORD1-13/04	http://bit.ly/2k37Dbd (BG)
Ordinance № 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection	Постановление № 208 от 12 август 2016 г. за приемане на Наредба за условията и реда за сключване, изпълнение и прекратяване на споразумение за интеграция на чужденци с предоставено убежище или международна закрила	Integration Ordinance	http://bit.ly/2jtVsTE (BG)

Overview of the main changes since the previous report update

The report was previously updated in **February 2017**.

Asylum procedure

- **Access to the territory:** The Ministry of Interior reported 2,985 apprehensions in 2017, down from 18,659 the year before. Although zero push backs were officially reported, media sources refer to continued large-scale push backs. The government has also acknowledged that migrants continued to enter through the border fence with Turkey by using ladders and that corruption among the staff of the Bulgarian border authorities contributed to continued human smuggling and trafficking.

- **Interview**: Interpretation and appropriate communication in the language preferred by the applicant are not secured during registration and eligibility interviews to all applicants. With respect to those who speak languages without interpreters available in Bulgaria, communication takes place in a language chosen by the decision-maker, without the applicant's consent or evidence that he or she is able to communicate clearly in that language.

- **Manifestly unfounded claims:** Nationalities from countries such as Algeria, Bangladesh, Pakistan, Sri Lanka, Turkey and Ukraine are discriminated and treated as manifestly unfounded, with 0% recognition rates. The same approach is applied to asylum seekers from Afghanistan who were subject to a 1.5% recognition rate in 2017.

- **Legal aid:** At the end of 2017 the National Legal Aid Bureau received AMIF funding to commence for the first time the provision of legal aid to asylum seekers at first instance. The legal aid pilot project will be limited to vulnerable categories, however, and is expected to commence in February to March 2018.

Reception conditions

- **Living conditions:** Living conditions remain poor and below or at the level of minimum standard threshold, except for Vrazhdebna shelter in Sofia. Unaccompanied children receive neither 24-hour care by an assigned caretaker nor the due care for their overall well-being, and are basically left on their own and without supervision after the end of the working hours of the SAR staff. IOM Bulgaria has received national AMIF funding to build safety zones for unaccompanied children in reception centers in Ovcha Kupel and Voenna Rampa, but reconstruction has not yet started.

- **Physical security:** Physical security is not guaranteed in reception centres except for Vrazhdebna shelter in Sofia. Asylum seekers in Voenna Rampa report that outsiders have access to dormitories during night hours without any major obstacles, leading to alcohol consumption, gambling, drug distribution and other illicit trades or disturbances. Verbal and physical abuse, attacks and robbery committed against asylum seekers in the surroundings of Voenna Rampa shelter escalated in 2017. This led to a joint letter by NGOs urging the Sofia Police Directorate to take effective preventive and investigative measures, but to no avail so far.

- **Freedom of movement:** Following a reform at the end of 2016, asylum seekers are entitled to freely move only in certain zones within the Bulgarian territory, to be indicated in each individual asylum identification card. Consecutive failure to observe the zone limitation can result in asylum detention. It was not before September 2017 that the government formally designated such zones, although this has not been yet applied as a ground for detention in a closed centre. At the end of 2017, information boards were placed in all reception centres to indicate the respective movement zones applicable for the asylum seekers accommodated therein.

Detention of asylum seekers

- **Duration of detention**: The delays in the release and registration of asylum seekers applying while in pre-removal detention centres exacerbated, rising from 9 days in 2016 to 19 days in 2017.

- **Status determination in pre-removal centres**: The most negative development concerned the practice of the SAR to conduct status determination procedures in pre-removal detention centres, in violation of the law. This was applied to specific nationalities discriminated as "manifestly unfounded", while courts held that the violation of procedural standards was insignificant as asylum seekers' rights were not severely affected.

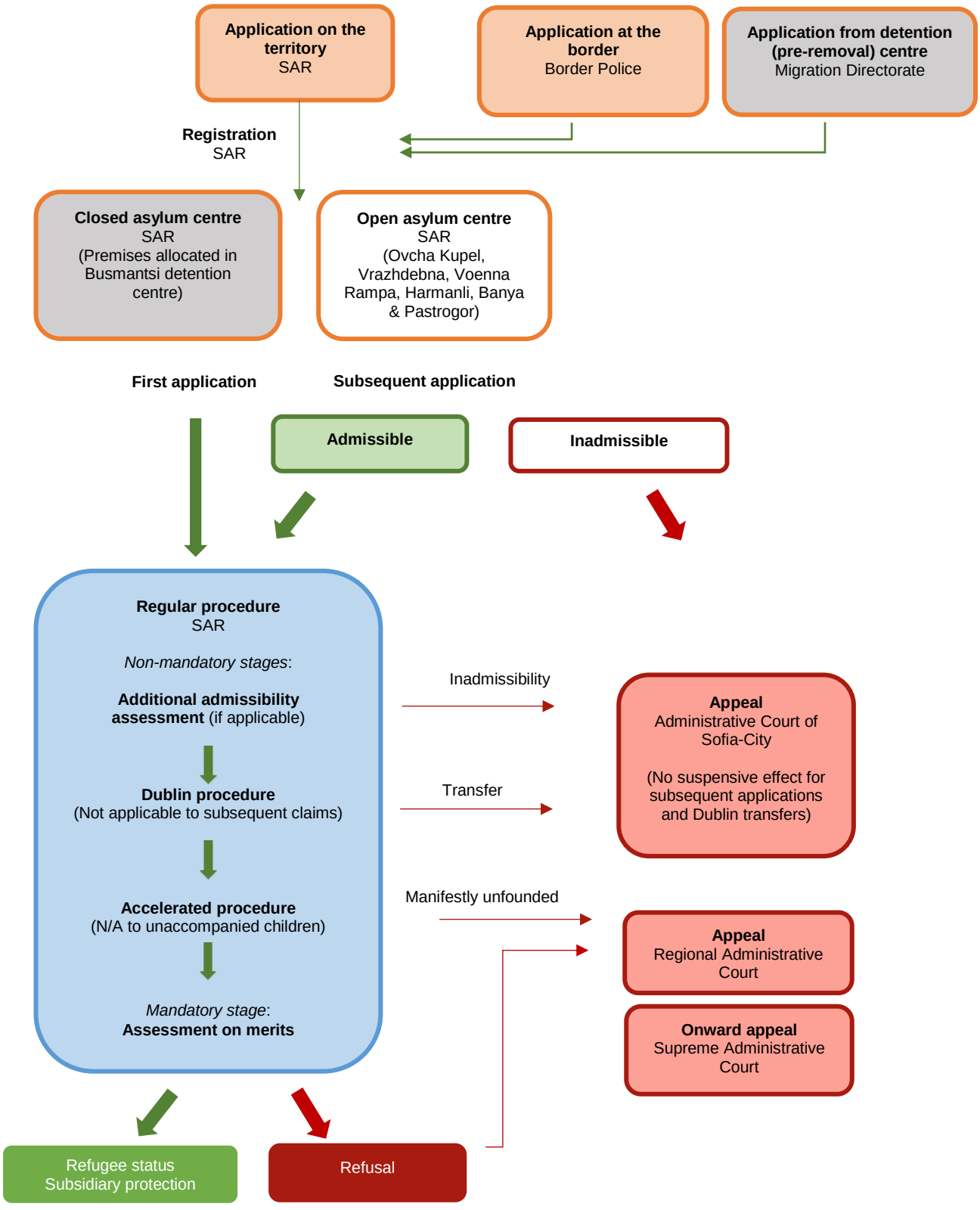
Content of international protection

- **Integration:** The Integration Decree adopted in 2016 remained futile and out of use throughout 2016 and 2017, as none of 265 local municipalities has so far applied for funding in order to commence an integration process with any of the individuals granted international protection in Bulgaria. On 31 March 2017, the caretaker Cabinet fulfilled the election promise of the newly elected Bulgarian President and repealed the Decree without any reasonable justification. A new Decree was adopted on 19 July 2017, which in its essence repeated the provisions of its predecessor. Nevertheless, the situation remained the same without any actual integration activities planned, funded or available to recognised refugees or subsidiary protection holders. The national "zero integration" situation thus now continues over 4 consecutive years.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

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

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

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

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

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?
State Agency for Refugees (SAR)	303	Council of Ministers	☒ Yes ☐ No

5. Short overview of the asylum procedure

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

[3] For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.
[4] Accelerating the processing of specific caseloads as part of the regular procedure.
[5] Labelled as “accelerated procedure” in national law. See Article 31(8) recast Asylum Procedures Directive.
[6] Article 58(4) Law on Asylum and Refugees (LAR).

immediately,[7] otherwise it could be ruled out as manifestly unfounded.[8] If the asylum application is made before a state authority other than the SAR, status determination procedures cannot legally start until the asylum seeker is physically transferred from the border or detention centre to any of the SAR's reception centres for the so-called registration to lodge the claim "in person".[9]

The asylum administration, SAR is competent to decide on all individual asylum applications and to grant or reject either of the two types of international protection; refugee status or subsidiary protection ("humanitarian status"). In case of mass influx where individual asylum applications cannot be processed, a temporary protection status is granted by the government following a collective decision made by the EU Council.[10] These forms of individual or collective protection can be applied without prejudice to the authority of the Bulgarian President to grant asylum to any foreigner based on the national constitution, if he or she is persecuted for convictions or activities undertaken in order to protect internationally recognised rights or freedoms.[11]

The asylum procedure stages are unified in one, single regular procedure. Dublin and accelerated procedures are now considered as non-mandatory phases of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to either engage the responsibility of another Member State to determine the asylum application in question,[12] or to consider the asylum application as manifestly unfounded respectively.[13]

Admissibility procedure: The 2015 amendments to the law took the admissibility criteria out of the accelerated procedure assessment thus introducing the admissibility assessment as a separate procedure that could be applied during the status determination.[14] An application can be deemed inadmissible if the applicant has been granted protection or a permanent residence permit in another EU Member State or "safe third country". An admissibility assessment is also conducted with respect to subsequent applications which provides the opportunity to consider their admissibility based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.[15]

Accelerated procedure: The accelerated procedure is presently applied by a decision of the respective caseworker, if and when there is information or indications to consider the application as manifestly unfounded based on a number of different grounds.[16] A decision should be taken within 10 working days from lodging, otherwise the application has to be examined under the regular procedure. The accelerated procedure is not applicable to unaccompanied children.

Regular procedure: The regular procedure (titled under the law as a "general procedure") requires detailed examination of the asylum application on its merits. A decision should be taken within 4 months from the lodging of the asylum application but this deadline is indicative, not mandatory. The deadline can be extended by 9 more months with an explicit decision in this respect by the Head of the SAR,[17] but in any case the SAR is obligated to conclude the examination procedure within a maximum time limit of 21 months from the lodging of the application.[18]

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

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7 Article 4(5) LAR.
8 Article 13(1)(11)-(12) LAR.
9 Article 61(2) LAR.
10 Article 2(2) LAR.
11 Article 27(1) LAR in conjunction with Article 98(10) Bulgarian Constitution.
12 Article 67b(2) LAR.
13 Article 70(1) LAR.
14 Article 13(2) LAR.
15 Articles 75a to 76c LAR; Article 76d in conjunction with Article 13(2)(4) LAR.
16 Article 70(1) LAR. The 14 applicable grounds are set out in Article 13(1) LAR.
17 The State Agency for Refugees is managed by a Chairperson: Article 46 et seq. LAR.
18 Article 75(4) and (5) LAR.

- Dublin / Subsequent application: A non-suspensive appeal must be submitted within 7 days to the Administrative Court of Sofia, which has exclusive competence, in one instance;[19]

- Accelerated procedure: A suspensive appeal must be submitted within 7 days to the territorially competent Regional Administrative Court, in one instance.

- Inadmissibility / Regular procedure: A suspensive appeal must be submitted within 14 days to the territorially competent Regional Administrative Court.

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

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

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

Access of asylum seekers to the territory was severely constrained in 2017. The Ministry of Interior reported to have apprehended a total 4,957 third-country nationals, of which 2,989 were new arrivals,[20] thereby marking a sharp decrease from previous years:

Irregular migrants apprehended in Bulgaria: 2016-2017			
Apprehension	2015	2016	2017
Irregular entry	10,709	4,600	743
Irregular exit	11,710	4,977	2,413
Irregular stay on the territory	11,637	9,267	1,801
Total apprehensions	**34,056**	**18,844**	**4,957**

Source: Ministry of Interior, Migration Statistics, December 2015: http://bit.ly/2kyMTc3; December 2016: http://bit.ly/2Fx9hIY; December 2017: http://bit.ly/2ntEXaR.

Although zero push backs were reported in the country throughout the whole year, other indirect information from the media bespeak a continuation of push backs at large scale.[21] The EU-Turkey deal of 18 March 2016 resulted in intensified cooperation by the Turkish authorities, which in December stated to have prevented in 2017 not less than 20,014 migrants collectively from entering Bulgaria and Greece through their land borders in 2017,[22] including by accepting factual returns parallel to the official readmission procedures. This cooperation, however, should not be attributed solely to the EU-Turkey deal

19 Article 84(4) LAR.
20 Only 445 of the 2,413 persons apprehended for irregular exit were new arrivals in Bulgaria: Ministry of Interior, *Migration Statistics*, December 2017.
21 Vesti.bg, 'Турция: Нови орди мигранти напират към България и Гърция', 11 January 2017, available in Bulgarian at: http://bit.ly/2DTVyQ0.
22 See Hurriyet, 'Edirne'de geçen yıl toplam 50 bin kaçak göçmen yakalandı', 3 January 2018, available in Turkish at: http://bit.ly/2DPACK5.

implementation, but also to the severely tightened border control measures undertaken by the Turkish government to prevent the exit to Europe of their own nationals, who would attempt to flee the country.

Push backs, excessive use of force by Border Police and engagement of the authorities in *refoulement*, including in respect of individuals with specific needs or vulnerabilities, was also mentioned as a matter of concern by the Committee on Elimination of Racial Discrimination (CERD) in its 2017 Report on Bulgaria.[23] Earlier in the year, UNHCR had voiced concern regarding an incident of two Iraqi men found dead near the Bulgarian-Turkish border, reportedly succumbing to cold and exhaustion, while the body of a Somali woman was also found by the authorities.[24]

No institutional or practical arrangements or measures exist to ensure a differentiated approach that gives access to the territory and protection for those who flee from war or persecution. In 2017, the Bulgarian government stopped disclosing the number of prevented entries in publicly available statistical reports.

However, on the background of the officially reported 2,989 new arrivals, the State Agency for Refugees (SAR) stated to have registered 3,700 asylum seekers in 2017.[25] This disparity, as well as the comparison of the number of new arrivals arrested on entry with those arrested in the territory and on exit, as well as other general inconsistencies in various government data, either put the official migration statistics to question or suggest that many third-country nationals still are able to enter and – in their vast majority – transit through Bulgaria under the radar.

In October 2017, the Deputy Prime Minister publicly acknowledged that migrants continued to enter through the border fence with Turkey using ladders and that corruption among the staff of the Bulgarian border authorities contributed to continued human smuggling and trafficking.[26] The statement coincides with reports from asylum seekers who claim crossing the EU's external frontier often to be facilitated by the Bulgarian Border Police for a bribe.[27] In November 2017 a member of an opposition political party published a documentary, showing that the migration control along the Bulgarian-Turkish border is applied selectively, questioning the effectiveness of the border fence, as well as providing facts about refugee trafficking to Europe through Bulgaria with the alleged cooperation of the Border Police.[28]

As a result of these practices at the border in 2017, only 743 people were apprehended upon entry through the Bulgarian-Turkish border; less than 25% of the total number of new apprehensions. Of the 343 persons who applied for asylum upon entry, 98 persons (29%) apprehended in the border points of **Svilengrad** and **Malko Tarnovo**, mainly with valid identification documents or with serious health conditions, had direct access to the asylum procedure without detention. The remaining 245 persons were firstly sent to pre-removal detention centres.

Conversely, 490 asylum applications were submitted after individuals were apprehended trying to irregularly exit Bulgaria.

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?

[23] CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: http://bit.ly/2wSzIpq, para 21(a).
[24] UNHCR, 'Refugees and migrants face high risks in winter weather in Europe', 13 January 2017, available at: http://bit.ly/2jqKTP4.
[25] SAR, *Asylum statistics*, December 2017.
[26] Дневник, 'Каракачанов призна, че мигранти преминават оградата с Турция чрез стълби', 20 October 2017, available in Bulgarian at: http://bit.ly/2EteNNA.
[27] BBC, 'Bulgaria on the Edge', 2 August 2017, available at: http://bbc.in/2ezp5U2.
[28] Elena Yoncheva, *Граница*, 14 November 2017, available at: http://bit.ly/2DPcuTY.

An asylum application may be lodged either before the specialised asylum administration, the SAR, or before any other state authority, which will be obligated to refer it immediately to the SAR.[29] Thus, asylum can be requested on the territory, at the borders before the Border Police staff, or in detention centres before the Migration Directorate staff of the Ministry of Interior. The asylum application should be made within a reasonable time after entering the country, except in cases of irregular entry or residence when it ought to be made immediately.[30] Failure to make an application within a reasonable time or immediately in those cases can be a ground for rejecting it as manifestly unfounded under the Accelerated Procedure.[31]

If the asylum application is made before an authority different than the SAR, then status determination procedures could not legally start until the asylum seeker is transferred from the border / detention centre and accommodated in any of the SAR's premises for registration to lodge the claim in person.[32] Under the law, this personal registration is to be implemented in any of the territorial units (see Types of Accommodation) of the SAR and within 3 working days after the making of the asylum application. Exceptions to this deadline are allowed only in cases where the asylum application is lodged before a different government authority or institution, in which case the deadline is set at 6 working days.[33]

Delays with respect to the release and registration of asylum seekers who applied while in immigration detention centres have been exacerbated in the course of 2017. The average Duration of Detention rose from 9 days in 2016 to 19 days in 2017, despite the substantial decrease in new arrivals and asylum applications in particular.[34] This contradiction cannot but stem from deterrence measures against those willing to apply for asylum after their arrest and detention.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1.	Time limit set in law for the determining authority to make a decision on the asylum application at first instance:	6 months
2.	Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?	☒ Yes ☐ No
3.	Backlog of pending cases at first instance of 31 December 2017:	1,301

SAR is competent for deciding on all individual asylum applications and for granting or rejecting either of the two types of international protection; refugee status or subsidiary protection (“humanitarian status”). In case of mass influx where individual asylum applications cannot be processed, a temporary protection status is granted by the government following a collective decision made by the EU Council.[35] SAR has an advisory role to the government in this respect when it decides whether to communicate to EU Council a request for temporary protection decision to be taken on a group basis in cases of a mass influx of asylum seekers who flee from a war-like situation, gross abuse of human rights or indiscriminate violence. These forms of individual or collective protection can be applied without prejudice to the authority of the Bulgarian President to grant asylum to any foreigner based on the national constitution if he or she is

29 Article 58(4) LAR.
30 Article 4(5) LAR.
31 Article 13(1)(11)-(12) LAR.
32 Article 61(2) LAR.
33 Article 61(2) LAR in conjunction with Article 45b LAR.
34 Bulgarian Helsinki Committee, *Monthly Situation Report*, 10 January 2018.
35 Article 2(2) LAR.

persecuted for convictions or activities undertaken in order to protect internationally recognised rights or freedoms.[36]

The LAR sets a 6-month time limit for deciding on an asylum application admitted to the regular procedure.[37] The LAR requires that, within 4 months of the beginning of the procedure,[38] caseworkers draft a proposal for a decision on the asylum application concerned. The asylum application should firstly be assessed on its eligibility for refugee status. If the answer is negative, the need for subsidiary protection on account of a general risk to the applicant's human rights should be also considered and decided upon. The interviewer's position is reported to the decision-maker, who has another 2 months for consideration and decision.

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

According to monitoring activities in 2017, the general decision-taking 6 months deadline was observed in 92% of the cases, leaving only 8% of the cases with prolonged determination duration.[39]

Whereas the number of asylum applications decreased from 20,391 in 2015 and 19,418 in 2016 to 3,700 in 2017, the percentage of already registered asylum seekers who abandoned their asylum procedures in Bulgaria continued to be high in 2017, reaching 77.2% of all caseloads: Out of those, 46.4% of asylum procedures were terminated (discontinued) and 30.8% suspended *in absentia.* Only 23% of asylum seekers remained in the country long enough to be issued decisions on the merits:

First instance SAR decisions on asylum applications: 2017		
In-merit decisions		
Refugee status	804	4,752
Subsidiary protection	900	
Unfounded	2,416	
Manifestly unfounded	632	
Abandoned applications		
Terminated	9,662	16,085
Suspended	6,423	
Total	**20,837**	

Source: SAR

1.2. Prioritised examination and fast-track processing

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

36 Article 27(1) in conjunction with Article 98(10) Bulgarian Constitution.
37 Article 75(1) LAR.
38 Article 74 LAR.
39 Bulgarian Helsinki Committee, *2017 Annual RSD Report*, 31 January 2018, monitoring 225 cases examined on the merits.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No

2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No

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

After registration has been completed, a date for an interview shall be set. The law requires that asylum seekers whose applications were admitted to the regular procedure be interviewed at least once with regard to the facts and circumstances of their applications.[40] The law requires that the applicant be notified in due time of the date of any subsequent interviews. Decisions cannot be considered in accordance with the law if the interview is omitted, unless it concerns a medically established case of insanity or other mental disorder.[41] In practice, all asylum seekers are interviewed at least once in order to determine their eligibility for refugee or subsidiary protection ("humanitarian status"). Further interviews are usually only conducted if there are contradictions in the statements or if some facts need to be clarified.

Interpretation

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

Interpretation in determination procedures remains one of the most serious, persistent and unsolved problems for a number of years. Interpretation is secured only from English, French and Arabic languages, and mainly in the reception centres in the capital **Sofia**. Interpreters from other key languages such as Pashto, Farsi, Dari, Kurdish (Sorani), Urdu, Tamil, Ethiopian and Swahili are largely unavailable. With respect to those who speak languages without interpreters available in Bulgaria, the communication takes place in a language chosen by the decision-maker, not the applicant. This is done without the asylum seeker's consent or evidence that he or she understands it or is able to communicate clearly in that language.[42]

Both at administrative and court stages, interpretation continued to be difficult, and its quality poor and entirely unsatisfactory. In 2% of the 225 cases monitored by the Bulgarian Helsinki Committee in 2017, the determination was conducted in a language which was not spoken by the applicant or conducted with the assistance of another asylum seeker, who was the only one to speak the language in question. This malpractice could result in gross miscommunication, inaccurate personal data registration and overall failure to understand the procedure. 96% of the monitored court hearings were assisted by interpreters. However, in 16% of the cases before the court the interpreters demonstrated insufficient knowledge of Bulgarian language. National courts continued not to verify the qualifications of appointed interpreters, which created serious problems with respect to the level of understanding and communication between the court and the appellants, thus seriously undermining this legal safeguard.[43]

The quality of interpretation is insufficient. Interpreters' Code of Conduct rules adopted in 2009 are not applied in practice. As a result, quite often the statements of asylum seekers are summarised or the interpreters provide comments on their authenticity or likelihood. There are no guidelines or a code of

40 Article 63a(3) LAR.
41 Article 63a(6) LAR in conjunction with Article 61(3) LAR.
42 Bulgarian Helsinki Committee, *2017 Annual RSD Monitoring Report*, 31 January 2018.
43 *Ibid*.

conduct for asylum caseworkers, elaborating on the manner interviews should be conducted. There are currently no gender-sensitive mechanisms in place in relation to the conduct of interviews, except the asylum seekers' right to ask for an interpreter of the same gender.[44]

Recording and report

The law provides for mandatory audio or audio-video tape-recording of all eligibility interviews as the best safeguard against corruption and for unbiased claim assessment.[45] The practice in this respect continued to improve in 2017, as 94% of all monitored interviews were tape-recorded. However, 100% of the interviews conducted in the pre-removal centres were in violation of the law, as they were not tape-recorded.

Videoconference interpretation is also used, usually in **Pastrogor**, **Harmanli** and **Banya**, the reception centres outside the capital **Sofia**, where interpreters are harder to find and employ, in which case interviews are conducted with the assistance of the interpreters who work in **Ovcha Kupel**, **Vrazhdebna** and **Voenna Rampa**, the reception centres and shelters in Sofia.

All interviews are conducted by staff members of the SAR, whose competences include interviewing, case assessment and preparing a draft decision on the claim. In practice almost all interviews continue to be recorded also in writing by interviewers by summarising and typing questions / answers in the official protocol. A report of the interview is prepared and it shall be read to, and then signed by the applicant, the interpreter and by the caseworker. However, in 95 cases (26%) of the procedures monitored by the Bulgarian Helsinki Committee in 2017, the interview or the registration reports were not read out to asylum seekers before being served for signature, in violation of EU standards.[46] Under such circumstances, the information recorded in the report of the interview could be prone to potential manipulation, and the applicant would require a phonetic expertise requested in eventual appeal proceedings in order to validly contest the content of the report in case of inaccuracies. Court expertise expenses in asylum cases have to be met by the appellants, however.[47]

Notwithstanding the small number of asylum seekers who presented any evidence to support their claims, caseworkers continued to omit their obligation to collect these pieces of evidence with a separate protocol, a copy of which should be served to the applicant. In 19% of the monitored cases in 2017, the evidence submission was not properly protocoled as one of the safeguards for proper credibility assessment.

Legal aid is not provided in general. In none of the cases monitored by the Bulgarian Helsinki Committee in 2017 did asylum seekers have an appointed legal aid lawyer (see section on Regular Procedure: Legal Assistance).

44 Article 63a(4) LAR.
45 Article 63a(3) LAR.
46 See Court of Justice of the European Union (CJEU), Case C-348/16 *Sacko*, Judgment of 26 July 2017, para 35; Case C-249/13 *Boudjlida*, Judgment of 11 December 2014, para 37; Case C-166/13 *Mukarubega*, Judgment of 5 November 2014, para 47.
47 Article 92 LAR.

1.4. Appeal

Indicators: Regular Procedure: Appeal		
1. Does the law provide for an appeal against the first instance decision in the regular procedure?	☒ Yes	☐ No
❖ If yes, is it	☒ Judicial	☐ Administrative
❖ If yes, is it suspensive	☒ Yes	☐ No
2. Average processing time for the appeal body to make a decision:	15 months	

A negative decision taken in the regular procedure on the merits of the asylum application can be appealed within 14 days from its notification. In general, this time limit has proved sufficient for rejected asylum seekers to get legal advice, prepare and submit the appeal within the deadline. The SAR is obligated to, and actually does, provide information to rejected asylum seekers as to where and how they can receive legal aid when serving a negative decision, in the form of a list. Presently, however, such legal assistance is provided solely by NGOs sponsored by donors other than the government and the Asylum, Migration and Integration Fund (AMIF). It is expected that AMIF-funded legal aid will be provided by the National Legal Aid Bureau in 2018 onwards,[48] but only to vulnerable categories of asylum applicants for the time being (see Regular Procedure: Legal Assistance).

The law establishes two appeal instances in the regular procedure, in contrast to appeal procedures for contesting decisions taken in Dublin: Appeal, Accelerated Procedure: Appeal and inadmissibility of Subsequent Applications procedures, where first instance decisions are reviewed in only one court appeal instance.[49]

Appeal procedures are only judicial; the law does not envisage an administrative review of asylum determination decisions. Since a 2014 reform, competence for appeals in the regular procedure is distributed among all Regional Administrative Courts, designated as per the residence of the asylum seeker who has submitted the appeal.[50] Four years later, however, the reform has not succeeded in significantly redistributing the caseloads among the national courts, as the majority of asylum seekers reside predominantly in reception centres or at external addresses in **Sofia** and **Harmanli**. Therefore the **Sofia** and **Haskovo** Regional Administrative Courts continue to be the busiest ones, dealing with the appeals against negative first-instance decisions.

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

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

If the first instance appeal decision is negative, the asylum seekers can bring their case to the second (final) appeal court, the Supreme Administrative Court (3rd Department) but only with regard to points of law.

Both appeal courts have to issue their decisions within one month. However, this deadline is indicative and therefore regularly not respected. The average duration of an appeal procedure before the court at both judicial instances is 15 months, although in more complex cases it can last up to 18 months. If the court finally reverts the first instance decision back, the determining authority SAR has 10 to 14 days to issue a new decision, complying with the court's instructions on the application of the law. As in previous years however, SAR continues to disregard these deadlines, and in many cases refuses again the asylum

48 National Legal Aid Bureau, 'Обява за конкурс за адвокати за работа по проект', 29 January 2018, available in Bulgarian at: http://bit.ly/2DP376C.
49 Article 90(3) LAR; Article 85(4) LAR.
50 Article 133 Administrative Procedure Code.

application despite the court's instructions. Repeated appeal procedures against the second negative decision can cause some asylum procedures to extend for over 2-3 years.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

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

The legal aid system was introduced in Bulgaria in 2005, extending it to court representation beyond the criminal, child protection and tort disputes. Since 2013, the Law on Legal Aid provides mandatory legal aid for asylum seekers at all stages of the status determination procedure, sponsored under the state budget.[51] In the law, the provision of legal aid to asylum seekers is subject to the condition that legal aid is not already provided on another basis. This "means" test is fulfilled on the basis of an applicant's declaration that he or she does not work and does not have sufficient resources.

Legal assistance at first instance

Asylum seekers have the right to ask for the appointment of a legal aid lawyer from the moment of the registration of their asylum application. However, legal aid in first-instance procedures had still not been implemented as of 2017.

At the end of 2017, the National Legal Aid Bureau, the national body assigned to provide state sponsored legal aid, received funding under the AMIF national programme to commence for the first time ever in Bulgaria the provision of legal aid to asylum seekers during the administrative phase of the asylum procedure.[52] Legal aid under this 80,000 € pilot project will be implemented until 31 January 2019 and will limited to the vulnerable categories among applicants for international protection, however.[53]

The National Legal Aid Bureau and the SAR agreed and adopted formal rules and conditions for the provision of legal aid in practice, including individual and third-party complaint mechanisms, anti-discrimination and anti-corruption measures, which took effect on 31 December 2017. The provision of legal aid for vulnerable asylum applicants is expected to commence during February or March 2018.

Legal assistance in appeals

On appeal, national legal aid arrangements only provide for state-funded legal assistance and representation after a court case has been initiated, i.e. after the appeal has been drafted and lodged. As a result, asylum seekers rely entirely on NGOs for their access to the court, namely for drafting and lodging the appeal. Presently, only one NGO, the Bulgarian Helsinki Committee, provides this type of assistance independently of EU funding.[54] However, the AMIF-funded pilot project on legal aid will also cover assistance in the preparation of appeals before the court.

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51 Article 22(8) Law on Legal Aid.

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

53 *Ibid*.

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

2. Dublin

2.1. General

Dublin statistics: 2017

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	**162**	**86**	**Total**	**7,934**	**446**
Germany	91	72	Germany	2,164	100
United Kingdom	17	2	France	1,707	26
Sweden	8	4	Austria	1,359	75

Source: SAR. Note also 3 outgoing transfers to Italy, 3 outgoing transfers to Malta, and 90 incoming transfers from Hungary.

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

Application of the Dublin criteria

Family unity criteria are applied fully, though in practice the prevailing type of cases relate to joining family members outside Bulgaria, not the opposite. If the family link cannot be established or substantiated with relevant documents, some EU Member States (**Germany**, **Austria**) require DNA tests in cases of unaccompanied children in order to prove their origin. In such cases the parent or parents are usually advised to travel to Bulgaria and provide blood samples to be matched, tested and compared with the unaccompanied child or children's DNA. It has to be noted that the vast majority of asylum seekers arrive in Bulgaria via Turkey, therefore cases when the responsibility of another EU Member State can be engaged under any other of the Dublin criteria, except the family provisions, are scarce.

The most common criteria that continue to be applied in both "take charge" and "take back" cases are previously issued documents and first Member State of entry. Bulgaria accepts responsibility for the examination of asylum applications based on the humanitarian clause, and mostly vis-à-vis document and entry reasons. In 2017, Bulgaria received 7,842 Dublin incoming requests and made 162 outgoing requests.

The dependent persons and discretionary clauses

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

During that year, Bulgaria issued 21 "take charge" requests based on the humanitarian clause of Article 17(2), of which 7 were granted, 12 were refused and 4 were pending as of 31 January 2018. Conversely, it received 6 requests based on the humanitarian clause, of which 4 were granted and 2 refused.

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

The LAR establishes the Dublin procedure as a non-mandatory stage, which is applied only by a decision of the respective caseworker, if and when there is information or indications to either engage the

responsibility of another Member State to determine the asylum application in question.[55] The Dublin procedure is not applicable to subsequent applications.[56]

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

Individualised guarantees

Bulgaria does not seek individualised guarantees that the asylum seekers will have adequate reception conditions upon transfer in practice. Outgoing transfers relating to vulnerable groups were only carried out with respect to unaccompanied children in the course of 2016 and 2017. Since all transfers were based on family reunification and consent from the children and family members, the Dublin Unit did not request guarantees from receiving countries.

It is also a general understanding within the national stakeholders that the reception conditions in the countries of transfer, e.g. such as Germany, Denmark, Sweden, UK in 2017, are better in most aspects than those in Bulgaria.

Transfers

In cases where another Member State accepts the responsibility to examine the application of an asylum seeker who is in Bulgaria, the outgoing transfer is implemented within 2 months on average. If incoming transfer is being organised, however, the duration of actual implementation vary between 2 to 4 months.

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

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

In 2017, 86 outgoing transfers were carried out compared to 162 requests, indicating a 53% outgoing transfer rate.

55 Article 67a(2)(1) LAR.
56 Article 67a(3) LAR.

2.3. Personal interview

Indicators: Dublin: Personal Interview
☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No

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

The law does not require the conduct of a personal interview in the Dublin procedure, rather it gives an opportunity to the interviewer to decide whether an interview is necessary or not in light of all other relevant circumstances and evidence.[57] If an interview is conducted, it is not different from any other eligibility interviews in the Regular Procedure: Personal Interview, except relating to the type of questions asked in order to verify and apply the Dublin criteria. Similar to the regular procedure, an audio or audio-video recording is now mandatory and applied in the majority of the caseload.[58]

Following recommendations from European Asylum Support Office (EASO) information, relevant to Dublin procedures is gathered during the initial registration interviews with asylum seekers in a separate checklist, which mainly focuses on eventual family members in other Member States. Many problems are still created by the fact that the decision-making process remains multi-staged and centralised as far as the Dublin decisions are concerned, as such decisions can be issued only by the SAR's Dublin Unit, which is in the headquarters of the SAR in **Sofia**.[59] This creates problems with respect to observation of the 3-month deadline under the Dublin Regulation for issuing a request, as sometimes the congested communication between the Dublin Unit and the local reception centre where applicants are accommodated can consume time before all relevant documentation is prepared in order to make a proper Dublin request.

2.4. Appeal

Indicators: Dublin: Appeal
☐ Same as regular procedure

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

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

The time limit for lodging the appeal is 7 calendar days, which is equal to the time limit for appeal in the Accelerated Procedure: Appeal. Appeal procedures are held in an open hearing, and legal aid can also be awarded. The court accepts in practice all kind of evidence in support of the appeal, including on the level of reception conditions and procedural guarantees to substantiate its decision, which was the case for all Dublin transfers to Greece until they were discontinued under the sovereignty clause in 2011. The court practice however is quite poor as very few Dublin decisions on transfers to other Member States are challenged. For this reason, no clear conclusions can be made as to whether national courts take into account the reception conditions, procedural guarantees and recognition rates in the responsible Member State when reviewing the Dublin decision.

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57 Article 67b(2) LAR.
58 Article 63a(3) LAR.
59 EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance
☒ Same as regular procedure

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

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

The Law on Legal Aid provides for state-funded representation at first instance and appeal. As a result, legal aid financed by the state budget should have become available to asylum seekers during the Dublin procedure since 2013, in addition to the already available legal aid during an appeal procedure before the court. However, in practice, due to financial constraints and deficiencies, legal aid during the Dublin procedure has not been provided in 2017 (see section Regular Procedure: Legal Assistance).

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No
   - ❖ If yes, to which country or countries?

Bulgaria had suspended all Dublin transfers to **Greece** in 2011, thereby assuming responsibility for examining the asylum applications of the asylum seekers concerned. On 8 December 2016, the European Commission issued a Fourth Recommendation in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.[60] Persons belonging to vulnerable groups such as unaccompanied minors are to be excluded from Dublin transfers for the moment, according to the Recommendation. However, until the end of 2017 Bulgaria has not ruled out or implemented any Dublin transfers to Greece in practice.

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

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

2.7. The situation of Dublin returnees

In 2017, Bulgaria received 7,934 incoming requests under the Dublin Regulation and 446 incoming transfers.[61] The number of Dublin returns actually implemented to Bulgaria decreased by 28% compared to 2016. Overall, the percentage of actual transfers remains quite low (6%) compared to the number of incoming requests:

Incoming Dublin requests and transfers: 2014-2017				
	2014	2015	2016	2017
Requests	6,884	8,131	10,377	7,934
Transfers	174	262	624	446

Source: Eurostat, migr_dubro and migr_dubto; SAR.

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

- If the returnee has a pending asylum application in Bulgaria, he or she is transferred to a SAR reception centre because SAR usually suspends an asylum procedure when an asylum seeker leaves Bulgaria before the procedure was completed;[62]

- If the returnee's asylum application was rejected *in absentia*, but not served to the asylum seeker before he or she left Bulgaria,[63] the returnee is transferred to an asylum reception centre;

- If, however, the returnee's asylum application was rejected with a final decision before he or she left Bulgaria, or the decision was served *in absentia* and therefore became final,[64] the returnee is transferred to one of the immigration detention facilities, usually to the **Busmantsi** detention centre in Sofia, or to the **Lyubimets** detention centre near the Turkish border. Parents are usually detained with their children. In exceptional cases children may be placed in child care social institutions while their parents are detained in immigration facilities, in cases when an expulsion order on account of threat to national security is issued to any of the parents.

Even when a Dublin returnee is formally admitted into Bulgaria under Article 13 of the Dublin III Regulation, indicating no prior asylum application in Bulgaria, it could be the case that this person most probably has already been given an "application number" by the SAR in Bulgaria but the application had not been formally lodged. This occurred during the "emergency period" of late 2013 to early 2014, when registration of individuals who entered Bulgaria during said period was usually delayed for a period longer than 6 months. At that time, the LAR allowed for a gap of an unspecified period of time between the making of an asylum application and the personal registration of the applicant by the SAR, contrary to Article 6 of the recast Asylum Procedures Directive.

Since 2015, the LAR explicitly provides for the mandatory reopening of an asylum procedure with respect to an applicant who is returned to Bulgaria under the Dublin Regulation.[65] The SAR practice following this particular amendment is in line with the law so far and returnees do not face obstacles in principle to have their determination procedures reopened.

61 Information provided by the SAR, January 2018.
62 Articles 18(1)(c) and (2) Dublin III Regulation.
63 Articles 18(1)(d) and (2) Dublin III Regulation.
64 Articles 18(1)(d) and (2) Dublin III Regulation.
65 Article 18(2) Dublin III Regulation.

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

In 2016, the courts in some Dublin States ruled suspension of Dublin transfers to Bulgaria with respect to certain categories of asylum seekers due to poor material conditions and lack of proper safeguards for the rights of the individuals concerned.[66] Similar practice has followed in 2017, *inter alia* in the following cases:

Suspensions of Dublin transfers to Bulgaria in 2017			
Country	Judicial authority	Case	Date of decision
Austria	Administrative High Court	Ra 2017/18/0036	30 August 2017
		Ra 2017/19/0100	13 December 2017
	Constitutional Court	E484/2017	9 June 2017
		E86/2017	24 November 2017
Belgium	Council of Alien Law Litigation	No 184 126	21 March 2017
		No 186 492	6 May 2017
Germany	Administrative Court Hannover	15 B 2468/17	8 April 2017
	Federal Constitutional Court	2 BvR 863/17	29 August 2017
Czech Rep.	Regional Court Usti nad Labem	41A 10/2016-31	23 January 2017
	Regional Court Brno	32A 15/2017-22	11 April 2017
Italy	Council of State	5085/2017	3 November 2017
Netherlands	Council of State	201704656/1/V3	20 November 2017
Romania	Regional Court Bucharest	4865/2017	12 April 2017
		11681/2017	27 September 2017
	Regional Court Galaţi	5362/2017	30 June 2017
	Regional Court Baia Mare	9685/2017	4 December 2017
Slovenia	Administrative Court Slovenia	IU 166/2017	6 February 2017
Switzerland	Federal Administrative Court	E-305/2017	5 September 2017

On 1 February 2017, the Human Rights Committee also granted interim measures to prevent the transfer of an Afghan family with three young children from Austria to Bulgaria.[67] Notwithstanding the family was returned to Bulgaria by the Austrian authorities shortly after it.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The admissibility assessment is no longer part of the Accelerated Procedure but a separate procedure that could be applied during the status determination.[68]

66 See e.g. **Belgium**: Council of Alien Law Litigation, Decisions No 162 937 of 26 February; No 165 273 of 5 April 2016; No 167 234 of 9 May 2016; No 169 772 of 14 June 2016; No 176 377 of 14 October 2016; No 178 481 of 28 November 2016; **Germany**: Administrative Court of Oldenburg, Decision 12 A 223/15 of 1 February 2016; Administrative Court of Aachen, Decision 8 L 991/16.A of 5 December 2016; **Netherlands**: Council of State, Decision 201603752/1/V3 of 15 July 2016; **Italy**: Council of State, Decision No 3999/2016 of 27 September 2016; **France**: Administrative Tribunal of Versailles, Decision No 1608652 of 26 December 2016; **Switzerland**: Federal Administrative Court, Decision E-1191/2016 of 25 April 2016.

67 Human Rights Committee, Communication No 2942/2017.

68 Article 13(2) LAR.

The examination can result in finding the asylum application inadmissible, where the applicant:[69]

1. Has been granted international protection in another EU Member State;
2. Has been granted and can still enjoy refugee status or other effective protection in a third country, including protection from *refoulement*, provided that he or she can be returned to that country;
3. Comes from a safe third country, provided that he or she can be returned to that country;
4. Has submitted a subsequent application with no new elements;
5. Has already an open asylum application or been granted asylum in Bulgaria.

In addition to the ground in Article 13(2)(4) LAR, different admissibility rules exist with respect to subsequent applications which provide the opportunity to consider them based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.[70] The admissibility assessment of subsequent applications differs in many aspect from the rules, deadlines and guarantees applicable when an inadmissibility decision is taken on the basis of the other admissibility grounds (see section on Subsequent Applications).

3.2. Personal interview

The same rules and guarantees apply as in the Regular Procedure: Personal Interview.

3.3. Appeal

The same rules and guarantees apply as in the Regular Procedure: Appeal.

3.4. Legal assistance

The same rules and guarantees apply as in the Regular Procedure: Legal Assistance.

4. Border procedure (border and transit zones)

There is no border procedure in Bulgaria.

5. Accelerated procedure

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

The accelerated procedure is designed to examine the credibility of the asylum application, but also the likelihood of the application being fraudulent or manifestly unfounded.[71] The asylum application can also be found manifestly unfounded if the applicant did not state any reasons for applying for asylum related to grounds of persecution at all, or, if his or her statements were unspecified, implausible or highly unlikely.

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

1. The applicant raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection;[72]
2. The applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict country-of-origin information, thus making his or her claim clearly unconvincing;[73]
3. The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents or destroying documents with respect to his or her identity and/or nationality;[74]

69 Article 13(2)(1)-(5) LAR.
70 Articles 75a to 76c-76d LAR.
71 Article 13(1)(1)-(4) and 13(1)(6)-(14) LAR.
72 Article 13(1)(1)-(2) LAR.
73 Article 13(1)(3)-(4) LAR.
74 Article 13(1)(6)-(9) LAR.

4. The applicant refuses to comply with an obligation to have his or her fingerprints taken;[75]
5. The applicant entered or resides the territory or stays lawfully and, without good reason, has not presented himself or herself within a reasonable time to the authorities to submit an application for international protection;[76]
6. The applicant entered the territory or stays unlawfully and, without good reason, has not presented himself or herself immediately to the authorities to submit an application for international protection as soon as possible;[77]
7. The applicant arrives from a safe country of origin;[78] or
8. The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal.[79]

The authority responsible for taking decisions at first instance on asylum applications in the accelerated procedure is the SAR, through caseworkers specially appointed for taking decisions in this procedure. The accelerated procedure is a non-mandatory phase of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to consider the asylum application as manifestly unfounded.[80]

This decision should be taken within 10 working days from applicants' formal registration by the SAR. If the decision is not taken within this deadline the application has to be examined fully following the rules and criteria of the Regular Procedure, with all respective safeguards and deadlines applied.

Contrary to the situation prior to the 2015 reform, the law provides that, upon receiving the asylum application, caseworkers are obliged to request a written opinion from the SANS which, however, is to be taken into consideration if and when a decision on the substance of the claim is taken within the regular ("general") procedure.[81] The law explicitly provides that such an opinion should not be requested in the accelerated procedure.

All grounds are applied in practice. In 2017, 604 asylum applicants have been rejected under the accelerated procedure. More notably, 85 of them were processed in conditions of detention, of which 13 concerned asylum seekers in closed reception facilities, but 72 related to asylum seekers in pre-removal detention centres, in violation of the law (see Detention of Asylum Seekers).

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview
☒ Same as regular procedure

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

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

75 Article 13(1)(10) LAR.
76 Article 13(1)(11) LAR.
77 Article 13(1)(12) LAR.
78 Article 13(1)(13) LAR.
79 Article 13(1)(14) LAR.
80 Article 70(1) LAR.
81 Article 58(9) LAR.

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

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

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

In general, asylum seekers do not face significant obstacles to lodging an appeal in the accelerated asylum procedure within the 7-day deadline. The obstacles referred to under the regular procedure appeal apply.

5.4. Legal assistance

The same rules and guarantees apply as in the Regular Procedure: Legal Assistance.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☐ For certain categories ☒ No
   - ❖ If for certain categories, specify which:

2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

Applicants who are children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence are considered as individuals belonging to a vulnerable group.[82]

1.1. Screening of vulnerability

The law does not envisage any specific identification mechanisms for vulnerable categories of asylum seekers, except for children. The identification of vulnerability is stated to be mainstreamed in the training of caseworkers, but special trainings are rarely provided.

In 2008, the SAR and UNHCR agreed on standard operating procedures (SOPs) to be followed with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).[83] These SOPs were never applied in practice, however. A process for the revision of the SOPs has been pending since the end of 2013, which also aims to include new categories or vulnerable groups. However, as of 31 December 2017, the SOPs revision is not even close to being finalised and adopted by the SAR.[84] Vulnerability assessment is conducted by means of group inquiries prior the applicants' registration, which could not meet the legal standards and criteria for such assessment. The monitoring of asylum procedures in 2017 noted a decrease in the share of the vulnerable individuals who were actually referred from registration or interviewing staff to the social experts for additional screening and assessment. In 2016 this percentage was 41% in 179 cases, whereas in 2017 it decreased to 36% in 132 monitored cases.[85]

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

The European Asylum Support Office (EASO) Special Support Plan to Bulgaria was originally in place from December 2014 until June 2016, but was extended by 12 months until 30 June 2017.[86] Given that the screening of persons with special needs in Bulgaria was carried out in a fragmented and non-systematic way and lacked timely intra-institutional exchange of information, identification and referral, EASO cooperated with Bulgaria in an attempt to improve the capacity to identify and refer vulnerable applicants and to improve exchange between relevant institutions. The identification and referral mechanism was set to build on the Quality tool for the Identification of Persons with Special Needs (IPSN).

However, no national identification and referral system has been set up to date, nor has there been specific training to national caseworkers on its implementation. The lack of identification mechanisms

82 Additional Provision 1(17) LAR.
83 Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.
84 UNHCR Representation in Sofia, SGBV Task Force, established on 15 February 2014.
85 Bulgarian Helsinki Committee, *2017 Annual RSD Monitoring Report*, 31 January 2018.
86 EASO, *Special support plan to Bulgaria – Amendment No 1*, 10 June 2016, available at: http://bit.ly/2udwSZM.

was also mentioned as a matter of concern by the Committee on Elimination of Racial Discrimination (CERD) in its 2017 Report on Bulgaria.[87]

The SAR collects statistics on the number of asylum seekers identified as vulnerable at the end of any given month rather than cumulative data on the number of vulnerable persons applying for asylum in a given year. At the end of December 2017, the following groups were identified among asylum seekers:

Asylum seekers identified as vulnerable in Bulgaria: 2016-2017		
Category of vulnerable group	at end 2016	at end 2017
Unaccompanied children	552	60
Single parents	59	21
Pregnant women	16	4
Elderly persons	24	1
Disabled persons	20	11
Victims of physical, psychological or sexual violence	2	5
Persons with chronic or serious illnesses	51	20
Total	**724**	**122**

Source: SAR.

1.2. Age assessment of unaccompanied children

Presently, neither the law nor practice provide any mechanisms for identification of unaccompanied children. The caseworker is not obligated to request an age assessment unless there are doubts as to whether the person is a child.[88] In practice, age assessment is used only to rebut the statements of asylum seekers that they are under the age of 18.

The law does not state the method of the age assessment which should be applied. In principle, the wrist X-rays method is applied systematically in all cases, based on the assumption that this method is more accurate than a psycho-social inquiry. The Supreme Administrative Court, however, considers this test as non-binding and applies the benefit of the doubt principle,[89] which is also explicitly laid down in the LAR.[90]

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

Statistics on age assessments conducted by SAR are not available. However, at the end of 2017, the monitoring of the status determination procedures by the Bulgarian Helsinki Committee proved at least 9 cases – 8 in **Harmanli** and 1 in **Sofia** – of age assessment expertise appointed to adolescent unaccompanied asylum seekers by the means of X-ray of the wrist bone structure and without any evidence of prior consent by their statutory municipality representatives.[91] Reports from medical organisations consider the X-ray as invasive but, more importantly, inaccurate with an approximate margin

87 CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: http://bit.ly/2wSzIpq, para 21(d).
88 Article 61(3) LAR.
89 Supreme Administrative Court, Decision No 13298, 9 November 2009.
90 Article 75(2) LAR.
91 Bulgarian Helsinki Committee, *2017 Annual RSD Monitoring Report*, 31 January 2018.

of error of 2 years.[92] All children were considered by the appointed X-ray assessment to be of age and as a consequence they were not appointed statutory municipality representatives to assist them to contest the refusal of their applications, and the age assessment conclusion along with it.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?
   ☐ Yes ☒ For certain categories ☐ No
   - ❖ If for certain categories, specify which: Unaccompanied children

Neither guidelines nor practice exist to accommodate the specific needs of vulnerable groups. The SAR has no dedicated units or specialised caseworkers dealing with vulnerable groups. NGOs are very concerned by the lack of procedural guarantees for vulnerable asylum seekers in the Bulgarian asylum procedure.

The law excludes the application of the Accelerated Procedure with regard to unaccompanied asylum-seeking children, but not to torture victims.[93]

Despite the 2015 reform of the law which stripped the statutory social workers from the responsibility to represent unaccompanied children in asylum procedures (see Legal Representation of Unaccompanied Children), their obligation to provide a social report with an opinion on the best interests of the child concerned in every individual case remains nonetheless under the provisions of general child care legislation.[94]

The only positive development with respect to special procedural guarantees for vulnerable groups is the pilot legal aid project, announced the end of 2017 by the National Legal Aid Bureau and the SAR to provide sponsored legal aid and representation at all stages of the status determination procedure to vulnerable asylum seekers (see Regular Procedure: Legal Assistance). The actual delivery of the legal aid in practice is expected to begin in February to March 2018.

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

The LAR includes a provision,[95] according which the caseworker, with the consent of the asylum seeker, can order a medical examination to establish evidentiary statements of past persecution or serious harm. If such consent is refused by the asylum seeker, this should not be an impediment to issue the first instance decision. The law also envisages that the medical examination can be initiated by the asylum seeker, but in this case he or she should bear the medical expert's cost.

However, such reports are only exceptionally commissioned by caseworkers of the SAR. In most, if not all, of the cases where medical reports were provided, this was at the initiative of the asylum seeker or his or her legal representative. The costs of such medical reports are covered by legal aid, which is

92 Doctors of the World, *Age assessment for unaccompanied minors*, 28 August 2015. See also UNHCR, UNICEF and International Rescue Committee, *The way forward to strengthened policies and practices for unaccompanied and separated children in Europe*, July 2017, available at: http://bit.ly/2BHGxLo.
93 Article 71(1) LAR.
94 Article 15(4) and (6) Law on Child Protection.
95 Article 61(6) LAR.

awarded in the majority of cases. If no legal aid is awarded, the costs of the medical report are borne by the asylum seeker.

The law only requires the caseworker to order a medical examination in one particular case, which is when there are indications that the asylum seeker might be mentally ill.[96] In this case, if the result of the medical examination report shows that the asylum seeker suffers from disease or mental illness, the caseworker approaches the decision-maker, the SAR's Chairperson, who refers the case to the court for appointment of a legal guardian to the asylum seeker which is required in order to be able to continue with the examination of the asylum application.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

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

Status determination of unaccompanied children remains illegal. In 100% of monitored procedures in 2017, unaccompanied asylum-seeking children are not appointed a legal guardian.

Prior to 2015, the right, but also the obligation to represent unaccompanied children during their status determination procedure, lied with legal guardians who had the responsibility to actively support the establishment of facts and circumstances, ask questions, appeal negative decisions, and – most importantly – to ensure the appointment of a legal aid lawyer when deemed necessary. However, if a guardian was not appointed, for whatever the reason, the law allowed instead a statutory social worker from respective Child Protection Departments to assist unaccompanied children during the examination of their claim.[97] Thus, the law provided the right of the SAR to disregard the standard for the protection of the child and to determine the child's asylum application without a guardian if the interviews were conducted in the presence of a statutory social worker. This arrangement is considered unlawful according to the jurisprudence of the Administrative Court of Sofia.[98]

The 2015 reform mandated the local municipalities to act as legal representatives of unaccompanied children.[99] Under the law, the municipality representative has a responsibility to safeguard the child's interests during the procedure, to represent the child before administration with respect to his or her best interests, to represent the child in all types of administrative or courts proceedings, as well as to take actions to ensure appointment of legal aid.[100] Representation of unaccompanied children by statutory social workers during the asylum procedure was abolished.

Highly criticised when adopted, since then this approach of the law proved to be indeed even more inadequate than previous arrangements. The municipalities lack not only qualified staff, but also any basic experience and expertise in child protection. In addition to that, the number of legal representatives appointed – one or two per reception facility – is clearly insufficient to meet the need of the population of unaccompanied children who, albeit significantly decreased in 2017, remain considerable in number.

In 2016 an expert group of representatives of the SAR, UNICEF, UNHCR, the Bulgarian Helsinki Committee and many other refugee-assisting NGOs re-introduced a draft proposal to the government to amend the Family Code in relation to the appointment of guardians.[101]

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96 Article 61(4) LAR.
97 Article 25(5) LAR.
98 See e.g. Administrative Court of Sofia, Case N7294/2012, Section 42, Decision N5882 of 5 November 2012; Case N8251/2012, Section 42, Decision N6063 of 12 November 2012; Case N7342/2012, Section 3, Decision N6297 of 23 November 2012; Case N9090/2012, Section 16, Decision N6737 of 10 December 2012.
99 Article 25(1) LAR.
100 Article 25(3) LAR.
101 Draft Law amending the Family Code, Public Consultations, 29 August 2016, available in Bulgarian at: http://bit.ly/2bUdOKp.

In April 2017, the national expert working group, headed by the State Agency for Child Protection developed a set of SOPs addressing the protection needs of all categories of unaccompanied migrant children in Bulgaria. In May 2017, UNICEF communicated an overall analysis of the gaps in the national legislation, followed by draft amendment proposals to address them, in effort to establish adequate national child care system for unaccompanied children. Both documents as well as the concept for the establishment of interim care facility for unaccompanied children were endorsed during the July 2017 meeting of the national Child Protection Council, a consultative body reporting to the government. However, as of 31 January 2018 the final approval due by the government had not yet been given, meaning that the SOPs cannot be implemented in practice.

440 unaccompanied children applied for asylum in 2017, compared to 2,772 in 2016:

Unaccompanied asylum-seeking children: 2017	
Country of origin	Number
Afghanistan	282
Iraq	91
Syria	32
Pakistan	24
Somalia	4
Others	7
Total	**440**

Source: SAR.

The absence of guardians, proper legal representation and care for the best interests of unaccompanied children in asylum procedures has resulted in high rates of absconding and related protection and safety risks.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

2. Is a removal order suspended during the examination of a first subsequent application?
   - ❖ At first instance ☐ Yes ☒ No
   - ❖ At the appeal stage ☐ Yes ☒ No

3. Is a removal order suspended during the examination of a second, third, subsequent application?
   - ❖ At first instance ☐ Yes ☒ No
   - ❖ At the appeal stage ☐ Yes ☒ No

The law provides the opportunity given by the recast Asylum Procedures Directive to consider subsequent applications as inadmissible based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his or her personal situation or country of origin.[102] The inadmissibility assessment can be conducted on the sole basis of written submissions without a personal interview. The national arrangements, however, do not envisage the related exceptions of this rule as provided in the recast Asylum Procedures Directive.[103]

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

102 Articles 75a to 76c LAR; Article 76d in conjunction with Article 13 (2)(4) LAR.
103 Article 42(2)(b) recast Asylum Procedures Directive.

another subsequent application, following a final inadmissibility / unfounded decision considering a first subsequent application.

If the subsequent application is ruled out as inadmissible, this decision can be appealed within a deadline of 7 days. The appeal has no suspensive effect.[104] The competent court is only the Administrative Court of Sofia, which hears the appeal case in one instance. If the court rules out the admission of the subsequent application, the SAR has to register the applicant within 3 working days from the date the admission has taken place (entered into force).

The SAR does not collect statistics on subsequent applications. However, throughout 2017 the Bulgarian Helsinki Committee assisted 63 asylum seekers in appealing inadmissibility decisions on subsequent applications before the court. 55 appeals were dismissed and only 8 led to a revocation of the inadmissibility decision and referral to the SAR for fresh examination.

F. The safe country concepts

Indicators: Safe Country Concepts

1.	Does national legislation allow for the use of "safe country of origin" concept?	☒ Yes ☐ No
	❖ Is there a national list of safe countries of origin?	☐ Yes ☒ No
	❖ Is the safe country of origin concept used in practice?	☐ Yes ☒ No
2.	Does national legislation allow for the use of "safe third country" concept?	☒ Yes ☐ No
	❖ Is the safe third country concept used in practice?	☐ Yes ☒ No
3.	Does national legislation allow for the use of "first country of asylum" concept?	☒ Yes ☐ No

1. Safe country of origin

The LAR defines "safe country of origin" as a "state where the established rule of law and compliance therewith within the framework of a democratic system of public order do not allow any persecution or acts of persecution, and there is no danger of violence in a situation of domestic or international armed conflict."[105] This concept is a ground for rejecting an application as manifestly unfounded in the Accelerated Procedure.[106]

National legislation allows for the use of a safe country of origin and safe third country concept in the asylum procedure.[107]

Prior to EU accession, national lists of safe countries of origin and third safe countries were adopted annually by the SAR and applied extensively to substantiate negative first instance decisions. The national courts adopted a practice that the concepts can only be applied as a rebuttable presumption that could be contested by the asylum seeker in every individual case.[108] In 2007, the national law was amended to regulate the adoption of national lists on the basis of EU common lists under Article 29 of the 2005 Asylum Procedures Directive. As a result, ever since the adoption of this amendment, the safe country of origin concept became inapplicable in practice insofar as such a common EU list has never been adopted.

Since 2015, the law allows the SAR to propose to the government national lists of safe countries of origin and third safe countries, which are considered to establish a rebuttable presumption.[109] When approving the lists, the government has to consider information sources from other Member States, EASO, UNHCR,

104 Article 84(4) LAR.
105 Additional Provision 1(8) LAR.
106 Article 13(1)(13) LAR.
107 Article 13(1)(13) LAR.
108 See e.g. Supreme Administrative Court, Decision No 4854, 21 May 2002.
109 Articles 98-99 LAR.

the Council of Europe and other international organisations in order to take into account the degree of protection against persecution and ill-treatment ensured by the relevant state by means of:

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

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

2. Safe third country

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

(a) There are no grounds for the alien to fear for his/her life or freedom due to race, religion, nationality, belonging to a particular social group or political opinions or belief;
(b) The alien is protected against the refoulement to the territory of a country where there are prerequisites for persecution and risk to his/her rights;
(c) The alien is not at risk persecution or serious harm, such as torture, inhuman or degrading treatment or punishment;
(d) The alien has the opportunity to request refugee status and, when such status is granted, to benefit from protection as a refugee.
(e) There are sufficient reasons to believe that aliens will be allowed access to the territory of such state."[110]

The "safe third country" concept is a ground for inadmissibility (see Admissibility Procedure). As detailed in the section on Safe Country of Origin, Article 98 LAR provides for the possibility of safe third country lists as well as safe country of origin lists.

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

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

3. First country of asylum

According to Article 13(2)(2) LAR, an application can be dismissed as inadmissible where the asylum seeker has been granted and can still enjoy refugee status or other effective protection in a third country, including protection from *refoulement*, provided that he or she can be returned to that country.

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

[110] Additional Provision 1(9) LAR.

G. Relocation

Indicators: Relocation		
1.	Number of persons effectively relocated since the start of the scheme	60
2.	Are applications by relocated persons subject to a fast-track procedure?	☐ Yes ☒ No

Relocation statistics: 22 September 2015 – 31 December 2017

Relocation from Italy			Relocation from Greece		
	Requests	Relocations		Requests	Relocations
Total	20	10	**Total**	271	50
Eritrea	20	10	Syria	271	50

Source: SAR

Bulgaria has pledged 1,302 relocations, but so far only 60 relocations have been implemented in practice, including 30 in 2016 and 30 in 2017. The relocated nationalities are mainly from Syrian, Iraq as well as Stateless Palestinians.

1. Relocation procedure

There is no official list of criteria applied in relocation procedures in Bulgaria, but families with children are prioritised in relocation in practice.

The SAR does not conduct security interviews with relocation candidates on site in Italy or Greece. The SAR liaison officer examines the relevant files together with the Italian and Greek authorities. A document check is performed by the State Agency for National Security (SANS) in Bulgaria, after which clearance is given for relocation to be carried out.

Out of 271 relocation requests made by the Greek Asylum Service until 14 January 2018, Bulgaria had accepted 187 and rejected 47.[111]

2. Post-arrival treatment

Initially, all relocated individuals are accommodated in the Refugee Reception Centre (RRC) in Sofia, **Vrazhdebna** shelter, which is considered to be a model reception centre with material conditions above the minimum standards. Food, health care, initial orientation and social mediation is provided on site. However, no one receives monthly payment or other financial allowance or pocket money, which is the treatment of all asylum seekers in Bulgaria since the abolition of the social financial assistance in February 2015 (see section on Forms and Levels of Material Reception Conditions).

All relocated persons are being admitted directly to a regular procedure. From the 31 persons relocated in 2017, 21 individuals have been recognised as refugees, 0 individuals have been granted subsidiary protection (“humanitarian status”) and 10 individuals were awaiting a decision at the end of the year.

111 Greek Asylum Service, *Relocation statistics*, 14 January 2018.

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

The law explicitly mentions the obligation of the SAR to provide information to asylum seekers within 15 days from the submission of the application.[112] The SAR must provide the information orally, if necessary, in cases where the applicant is illiterate.

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

In practice, the information is always provided to asylum seekers in writing, in the form of a leaflet translated in the languages spoken by the main nationalities seeking asylum in Bulgaria, such as Arabic, Farsi, Dari, Urdu, Pashto, Kurdish, English and French. Information by leaflets or, where needed, in other ways (UNHCR or NGO info boards) is usually provided from the initial application (e.g. at the border) until the registration process is finished.[113] Since end of 2017 information boards are placed in all reception centres, indicating the respective movement zones applicable for the asylum seekers accommodated in to reflect the needs following the 2015 reform of the LAR (see Freedom of Movement).[114]

The written information, however, is complicated and not easy to understand. This opinion is shared by all NGO legal aid providers active in the field.[115] The common leaflet and the specific leaflet for unaccompanied children drafted by the Commission as part of the Dublin Implementing Regulation are not being used in Bulgaria or being provided to asylum seekers.[116]

Additionally, the monitoring of status determination procedures by the Bulgarian Helsinki Committee in 2017 established that the obligation to provide information in writing or, in the case of illiterate applicants, orally has been met in 72% of the 265 monitored cases. The SAR has failed to deliver on this obligation in the remaining 100 cases (28%), the explanation and the argument being the need to save resources for translation and printing of the information materials, and the fact that many of the applicants abandon their procedures in Bulgaria, which results in suspending and subsequently terminating them.[117]

NGOs, in particular UNHCR's implementing partners, develop and distribute other leaflets and information boards that are simpler and easier to read and some do operate reception desks where this kind of information is also provided orally to the asylum seekers by BHC or the Red Cross. In addition, in 2014 UNHCR funded the development of online accessible tool (asylum.bg) with information about the key institutions, procedures and rights before, during and after the status determination in several most spoken languages (Arabic, Farsi, Dari, Urdu, English and French). As far as the tool functions online, it aims to providing correct and comprehensive legal information to asylum seekers in a sustainable manner

112 Article 58(6) LAR.
113 EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.
114 Article 29(1)(1) LAR.
115 Information provided by the Protection Working Group, 29 November 2016.
116 Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.
117 Bulgarian Helsinki Committee, *2017 Annual RSD Monitoring Report*, 31 January 2018.

wherever they are present and accommodated, including outside the reception centres, at the borders, in detention centres and other remote locations. The information on asylum.bg is in a process of revision to reflect amendments of the law from 2015 as well as to provide audio version for illiterate users. The revised asylum.bg will be ready in March 2018.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No

2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

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

NGOs, lawyers and UNHCR staff have unhindered access to all border and inland detention centres and try to provide as much information as possible related to detention grounds and conditions.[118] Despite that, the subject of detention remains hard to explain as an extremely high percentage of asylum seekers claim that they do not understand the reasons why they are kept in detention.[119]

The LAR provides that where there are indications that the individuals in detention facilities or at border crossing points may wish to make an asylum application the government shall provide them with information on the possibility to do so.[120] The information should at least include how one can apply for asylum and procedures to be followed, including in immigration detention centres and interpreted in the respective language to assist asylum seekers' access to procedure. This obligation is not fulfilled in practice as none of the SAR staff is visiting or consulting potential asylum seekers who are apprehended at the border or in immigration detention centres, where the provision of information depends entirely on legal aid NGOs' efforts and activity.

In those detention facilities and crossing points, Bulgaria is also legally bound to make arrangements for interpretation to the extent necessary to facilitate individual access to the asylum procedure. Such interpretation, however, is not secured and the only services in this respect are provided by the Bulgarian Helsinki Committee under UNHCR funding. Although Article 8(2) of the recast Asylum Procedures Directive, allowing organisations and persons providing advice and counselling to asylum applicants to have effective access to applicants present at border crossing points, including transit zones at external borders, is transposed in the national law,[121] in practice there are no other NGOs besides the Bulgarian Helsinki Committee which provide regular legal assistance in these areas. Other NGOs such as Center for Legal Aid – Voice in Bulgaria and Bulgarian Lawyers for Human Rights provide project-based and targeted legal assistance in the **Busmantsi** pre-removal detention centre. At the end of 2016 the International Organisation for Migration (IOM) Bulgaria received AMIF funding among many others to also provide legal counselling to asylum seekers in reception centres and to irregular migrants in detention centres with regard to voluntary return procedures. This assistance, however, is not conditioned by requirements about the qualification of assistance providers and is ensured randomly by shifting mobile teams.

As regards urban asylum seekers and refugees living in the **Sofia** region, UNHCR has funded an Information Centre, located in Sofia, which will be maintained until the end of 2018.

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

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

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

121 Article 23(3) LAR.

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:

2. Are applications from specific nationalities considered manifestly unfounded?[122] ☒ Yes ☐ No
   - ❖ If yes, specify which: Afghanistan, Algeria, Bangladesh, Pakistan, Sri Lanka, Turkey Ukraine

Overall recognition rates decreased to 35.8% in 2017 out of a total 4,752 decisions taken on the merits. Subsidiary protection in 2017 remained 18.9% of the cases decided on substance,[123] while refugee status recognition decreased to 16.9%.[124] The decrease was mainly attributed to the main country of origin of the asylum seekers, who in 2017 still were predominantly Afghan nationals.

1. Afghanistan

As of the end of 2016, Afghan nationals started to be arbitrarily considered as manifestly unfounded cases. They were issued negative decisions in the regular procedure, except for cases where they were – unlawfully – determined in pre-removal detention centres where the accelerated procedure is the only one applied.

The recognition rate for Afghan asylum seekers dropped even further, from 2.5% in 2016 to 1.5% in 2017. In the majority of cases protection was granted following court decisions overturning refusals. The "striking discrepancy between the Bulgarian and the EU average recognition rate for Afghans" has been raised by the European Commission,[125] as well as jurisdictions in other Member States, as a matter of concern.[126]

2. Syria

Between 2014 to mid-2015, the SAR applied the so-called *prima facie* approach to assessing Syrian applications for protection as "manifestly well-founded". This approach is no longer applied.

3. Other nationalities

Nationalities from certain countries such as **Algeria**, **Bangladesh**, **Pakistan**, **Sri Lanka**, **Turkey** and **Ukraine** are discriminatorily treated as manifestly unfounded applications with zero recognition rates. To many of these nationalities, the status determination is mostly conducted under an Accelerated Procedure in pre-removal detention facilities, in violation of the law.[127]

122 Whether under the "safe country of origin" concept or otherwise.
123 Compared to a rate of 19% in 2016, 14% in 2015 and 25% in 2014.
124 Compared to a rate of 25% in 2016, 76% in 2015 and 69% in 2014.
125 European Commission, *Measures for improvement of the Bulgarian asylum system*, 6 July 2017, available at: http://bit.ly/2EudWMH, 7.
126 See e.g. Belgian Council of Alien Law Litigation, Decision No 185 279, 11 April 2017.
127 Article 45b LAR.

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 available 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
❖ 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 are entitled to material reception conditions according to national legislation during all types of asylum procedures.[128] Although there is no explicit provision in the law, asylum seekers without resources are accommodated with priority in the reception centres in case of restricted capacity to accommodate all new arrivals. Among all, circumstances such as specific needs and risk of destitution are assessed in each case. The destitution risk assessment criteria are set to take into account the individual situation of the asylum seeker of concern, such as resources and means of self-support, profession and employment opportunities if work is formally permitted, and the number and vulnerabilities of dependent family members. Nevertheless, asylum seekers have the right to withdraw from these benefits if their application is pending in the regular procedure and they declare that they are in possession of means and resources to support themselves and chose to live outside reception centres.

The law provides that every applicant shall be entitled to receive a registration card in the course of the procedure.[129] In addition, the law implies a legal fiction, according to which the registration card does not certify the foreigner's identity due to its temporary nature and the specific characteristics of establishing the facts and circumstances during the refugee status determination (RSD) procedures which are based, for the most part, on circumstantial evidence.[130] Hence, the registration card serves the sole purpose of certifying the identity declared by the asylum seeker.

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

Dublin procedure: Certain asylum seekers to whom an outgoing Dublin procedure is undertaken cannot necessarily enjoy any of the material reception conditions, as the only rights reserved for them are to stay in the territory of the country, to interpretation and to be issued a registration card. The LAR distinguishes between persons applying for asylum in Bulgaria, who have access to full reception conditions,[131] and persons found irregularly on the territory in Bulgaria and who have not claimed asylum, but to whom the Dublin procedure might be applied following a request by the arresting police department or security

128 Article 29(1)(2)-(3) LAR.
129 Article 29(1)(6) LAR.
130 Article 40(3) LAR.
131 Article 67a(2)(1) LAR.

services.[132] These persons are stripped from the rights and entitlements prescribed in the law to asylum seekers during their Eurodac check or Dublin procedure, if such has followed.

Subsequent application: Subsequent applicants are also excluded not only from all material conditions, but also from the rights to receive a registration card, and only have a right to interpretation pending the fast-track processing of the admissibility assessment prior to their registration, documentation and determination on the substance.[133] In cases where the first subsequent application is considered to be submitted merely in order to delay or frustrate the enforcement of a removal decision, or where it concerns another subsequent application following a final inadmissibility / unfounded decision considering a first subsequent application, the applicants are also stripped from the right to remain in the territory. The law has set a 14-day time limit for this admissibility determination. If the subsequent application is considered inadmissible the asylum administration should not open a determination procedure and the applicant is not registered and documented (see section on Subsequent Applications).

In 2017 the Committee against Torture raised concerns around substandard material conditions in reception centres, the absence of an adequate identification mechanism for persons in vulnerable situations, the removal of their monthly financial allowance, and insufficient procedural safeguards regarding the assessment of claims and the granting of international protection.[134]

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions	
1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2017 (in original currency and in €):	0 BGN / 0 €

According to the law, reception conditions provided include accommodation, food, social assistance in cash, health insurance and health care and psychological assistance. These rights, however, can be enjoyed only by asylum seekers accommodated in the reception centres. Asylum seekers who have either opted on their own will to live outside reception centres (see Criteria and Restrictions to Access Reception Conditions), or to whom the accommodation is refused (see Reduction or Withdrawal of Reception Conditions) do not have access to food or psychological assistance. Access to the basic health care is otherwise ensured as health insurance is in principle covered by the budget to all asylum seekers regardless of their place of residence.

As of February 2015, the SAR ceased has the provision of the monthly financial allowance to asylum seekers accommodated in reception centres, under the pretext that food was to be provided in reception centres three times a day.[135] In 2017, food for three meals was distributed twice a day, at 12:00 and 16:00, except to unaccompanied children, to whom after the intervention of civil society organisations the distribution of food was gradually re-organised to be three times daily, eventually covering all reception centres in the autumn of 2017.

Additionally, the cessation of the monthly financial allowance is in contradiction with the law, as the LAR does not condition its provision depending on whether food is provided or not; to the contrary, both material rights are regulated separately and without any correlation. The cessation of the monthly financial allowance was appealed by several refugee-assisting NGOs before the court.[136] However, the court struck out the appeal for lack of legitimate interest in the case and suggested that appeals on an individual basis could be admissible. These can no longer be validly submitted, since the 14-day time limit for appealing the decision has long lapsed.

132 Article 67a(2)(2) LAR.
133 Article 76b LAR.
134 Committee against Torture, *Concluding observations on the sixth periodic report of Bulgaria*, CAT/C/BGR/CO/6, 15 December 2017, available at: http://bit.ly/2rV4mzR.
135 SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.
136 Bulgarian Helsinki Committee, Bulgarian Council on Refugees and Migrants, and Council of Refugee Women.

Prior to February 2015, the amount of the cash assistance was delivered as regulated in the law and equal to the minimum social aid granted to nationals on the basis of monthly minimum wages, which as of 31 March 2014 was 65 BGN (33.23 €) per month, for both adults and children. This amount, when still provided, was unanimously criticised by UNHCR and refugee-assisting NGOs as fully insufficient to meet even the most basic needs for nutrition.[137] The situation was particularly serious for unaccompanied children who are not accommodated in specialised children facilities, but in common asylum reception centres, where they have to manage on their own and take care of shopping, cooking, cleaning etc. Very few unaccompanied children managed to cover their expenses with the cash provided and many reported that they were undernourished. It also has to be noted that this assistance was provided under the law only to asylum seekers who were accommodated in reception centres. In order to be able to live outside those, asylum seekers needed to declare in writing that they had enough resources to support themselves, which automatically stripped them from the right to monthly financial assistance.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

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

The reduction of material reception conditions is not possible under the law. Withdrawal is admissible under the law in cases of disappearance of the asylum seeker when the procedure is suspended.[138]

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

Under the law, the directors of transit / reception centres are competent to decide on accommodation.[139] These decisions should be issued in writing as all other acts of administration.[140] However, in practice asylum seekers are informed orally. Nonetheless, the refusal to provide accommodation still can be appealed before the relevant Regional Administrative Court within 7 days from its communication to the respective asylum seeker. Legal aid is available with respect to representation before the court once the appeal is submitted. In this case, however, asylum seekers face difficulties proving before the court when they have been informed about the accommodation refusal, which may result in cessation of the court proceedings.

Bulgaria does not apply sanctions for serious breaches of the rules of accommodation centres and violent behaviour, except for destruction of a reception centre's property, which is sanctioned with a fine between 50 to 200 BGN (25.50-102 €) plus the value of the destroyed property.[141] The grounds laid down in Article 20(2) and (3) of the Recast Reception Conditions Directive are not transposed into national legislation.

Relating to subsequent applicants, see Criteria and Restrictions to Access Reception Conditions.

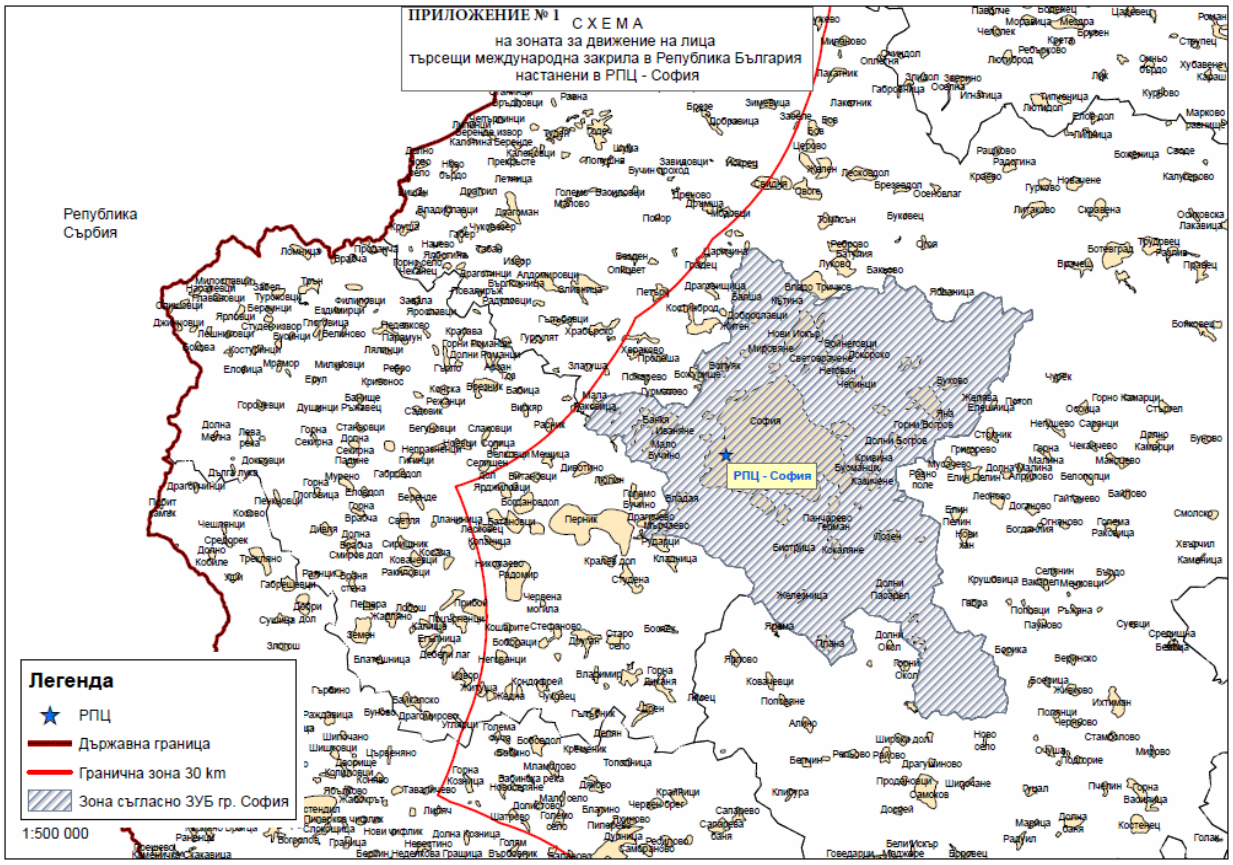
137 Bulgarian Council on Refugees and Migrants, *Advocacy Paper: Reception of Asylum Seekers in Bulgaria*, September 2011, Chapter 5: Social Assistance.
138 Article 29(8) LAR.
139 Article 51(2) LAR.
140 Article 59(2) Administrative Procedure Code.
141 Article 93 LAR.

4. Freedom of movement

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

Asylum seekers' freedom of movement can be restricted to a particular area or administrative zone within Bulgaria, if such limitations are deemed necessary by the asylum administration, without any other conditions or legal prerequisites.[142] The asylum seeker can apply for a permission to leave the allocated zone and if the request is refused, it must to be motivated. Such a permission is not required when the asylum seeker has to leave the allocated zone in order to appear before a court, a public body or administration or if he is need of emergency medical assistance. The permitted zones of free movement should be indicated in each individual asylum identification card.[143]

Consecutive failure to observe the zone limitation can result in placement in a closed centre until the asylum procedure ends with a final decision.[144] It was not before September 2017 when the government formally designated the movement zones.[145] These consist of zones covering designated geographical areas around the respective reception centres. The following map illustrates the zone around **Sofia**:



However, since then, the SAR has not applied this as a ground for detention in a closed centre. At the end of 2017 information boards were placed in all reception centres indicating the respective movement zones applicable for the asylum seekers accommodated therein.

142 Article 30(2) and (3) LAR.
143 Article 44 (1)(11) LAR.
144 Article 95a LAR.
145 Council of Ministers, Decision No 550 of 27 September 2017.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres:[146] 4
2. Total number of places in the reception centres: 5,130
3. Total number of places in private accommodation: 323

4. Type of accommodation most frequently used in a regular procedure:
   ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

5. Type of accommodation most frequently used in an accelerated procedure:
   ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Reception centres are managed by the SAR. Alternative accommodation outside the reception centres is allowed under the law, but only if it is paid for by the asylum seekers themselves and if they have consented to waive their right to the monthly social allowance.[147]

As of the end of 2017, there are 4 reception centres in Bulgaria. The total capacity as of 31 December 2017 is as follows:

Reception centre	Location	Capacity	Occupancy end 2017
Sofia	Sofia	2,030	568
Ovcha Kupel shelter		860	241
Vrazhdebna shelter		370	178
Voenna Rampa shelter		800	149
Banya	Central Bulgaria	70	88
Pastrogor	South-Eastern Bulgaria	320	11
Harmanli	South-Eastern Bulgaria	2,710	272
Total		**5,130**	**939**

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

939 asylum seekers resided in reception centres as of the end of 2017.

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

Asylum seekers are allowed to reside outside the reception centres at so called "external addresses". This could be done if asylum seekers submit a formal waiver from their right to accommodation and social assistance, as warranted by law, and declare to cover rent and other related costs at their own expenses.[148] Except those few whose financial condition allows residence outside the reception centres, the other group of people who live at external addresses are usually Dublin returnees, to whom the SAR

146 Both permanent and for first arrivals. Note that the Refugee Reception Centre Sofia has 3 reception shelters, namely Ovcha Kupel, Vrazhdebna and Voenna Rampa.
147 Article 29(6) LAR.
148 Article 29(9) LAR; Article 29(1)(2) LAR.

applies the exclusion from social benefits, including accommodation, as a measure of sanction within the jurisdiction for such decision as provided by the law (see Withdrawal of Reception Conditions).[149] As of 31 December 2017 only 323 asylum seekers lived outside the reception centres under the conditions as described above.[150]

2. Conditions in reception facilities

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

2.1. State of the facilities

Living conditions in national reception centres except for **Vrazhdebna** shelter in Sofia remain poor and below or at the level of minimum standard threshold in spite of partial renovations periodically conducted by the SAR. Regular and hot water supply and timely repair of utilities and equipment in bathrooms, rooms and common areas remain problematic.

2.2. Food and health

As of 2017 two meals per day are provided in all centres, except to unaccompanied children to whom three meals are served a day. Quality but also quantity of the food is largely contested by the asylum-seeking population in general.

The individual monthly allowance provided for in the law is not provided. The only other assistance provided by the government are sanitary packages. The costs of prescribed medicines, lab tests or other medical interventions which are not covered in the health care package, as well as for purchase of baby formula, diapers and personal hygiene products, are still not covered, thereby raising concerns despite the efforts of the SAR to address them through different approaches.[151]

2.3. Activities in the centres

Places for religious worship are now available in all of the reception centres, but not properly maintained. Activities for children are organised in the reception centres, but not regularly and entirely on volunteer and NGO initiatives and projects. Thus, in 2017 Caritas with the support of UNICEF organised unprofessional language training and leisure activities for the children in the reception centres in **Sofia** and **Harmanli**.

2.4. Physical security

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

However, measures to prevent sexual and gender-based violence (SGBV) are not sufficient to properly guarantee the safety and security of the population in the centres. Except for **Vrazhdebna** shelter in Sofia, the security of asylum seekers accommodated in reception centres is not fully guaranteed, but least in the case of those accommodated in **Voenna Rampa** shelter. Asylum seekers from this centre report that during night hours outsiders have access to dormitories without any major obstacles, leading to alcohol

149 Article 29(4) LAR.
150 Ministry of Interior, *Migration statistics*, 31 December 2017.
151 Bulgarian Red Cross, *Refugee and Migrant Service: Annual Report*, February 2018.

consumption, gambling, drug distribution and other illicit trades or disturbances.[152] Verbal and physical abuse, attacks and robbery committed against asylum seekers in the surroundings of Voenna Rampa shelter, usually not investigated or punished, escalated in 2017 to an extent to provoke a joint letter by numerous non-governmental organisations, requesting the Sofia Police Directorate to step in and take effective preventive and investigative measures as prescribed by the law.[153] Yet no response or measures have been engaged by the police in this respect as of 31 January 2018.

The law does not limit the length of asylum seekers' stay in a reception centre. Asylum seekers can remain in the centre pending the appeal procedure against a negative decision issued in any of the existing status determination procedures.[154] As of 25 January 2018, the SAR reported to have its reception capacity at 18%, with 944 occupants in 5,190 places,[155] compared to 977 occupants at the end of 2017.

C. Employment and education

1. Access to the labour market

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

Currently, the LAR allows for access to the labour market for asylum seekers, if the determination procedure takes longer than 3 months from the submission of the asylum application.[156] The permit is issued by the SAR itself in a simple procedure that verifies only the duration of the status determination procedure and whether it is still pending.

Once issued, the permit allows access to all types of employment and social benefits, including assistance when unemployed. Under the law, asylum seekers also have access to vocational training.[157]

In practice, however, it is difficult for asylum seekers to find a job, due to the general difficulties resulting from language barriers, the recession and high national rates of unemployment. No national agency collects statistics on the number of asylum seekers in employment.

152 Information provided by the Bulgarian Red Cross and the Refugee and Migrant Service, Protection Working Group, 18 January 2018.
153 Caritas, Bulgarian Helsinki Committee, Council of Refugee Women, Nadja Centre, Cooperation for Voluntary Service and Lumos Foundation, *Letter to the Ministry of Interior, Sofia Regional Police Directorate*, 22 December 2017.
154 Article 29(4)-(9) LAR.
155 Information provided by the SAR, 75th Coordination Meeting, 25 January 2018. Note that the figure includes the "3rd Block" closed centre, which operates as a detention centre.
156 Article 29(3) LAR.
157 Article 39(1)(2) LAR.

2. Access to education

Indicators: Access to Education		
1.	Does the law provide for access to education for asylum-seeking children?	☒ Yes ☐ No
2.	Are children able to access education in practice?	☒ Yes ☐ No

Access to education for asylum-seeking children is provided explicitly in national legislation without an age limit.[158] The provision not only guarantees full access to free of charge education in regular schools, but also for vocational training under the rules and conditions applicable to Bulgarian children.

In practice there are some obstacles related to the methodology used to identify the particular school grade that the child should be directed to, but this problem should be solved by appointment of special commissions by the Educational Inspectorate with the Ministry of Education and Science. Presently, however, asylum seeking children accommodated in **Pastrogor** transit centre are deprived in practice from this right, as the SAR does not provide the necessary school arrangements in this remote area. In 2017, however, children have not been accommodated in this centre in principle, with exception of several unaccompanied adolescents.

No preparatory classes are offered to facilitate access to the national education system. In 2017 the Red Cross organised licensed trainings in Bulgarian language to 40 adults and 10 children in their Information Centre in Sofia, as well as to 30 children in **Harmanli** reception centre. Similar language trainings were provided by Caritas to approximately 350 asylum seekers and recognised refugees and subsidiary protection holders in their Integration Centre in Sofia, tailored in groups for adults, children, mothers with children, employed individuals, etc.

Asylum-seeking children with special needs do not enjoy alternative arrangements other than those provided for Bulgarian children.[159]

Moreover, asylum-seeking children may be detained in closed reception centres or facilities following the detention of their parents.[160] This could deprive children of their right to education as accommodation in closed centres would effectively prevent them from accessing education, unless arrangements are not put in place to secure their transportation to the public schools. No practice is yet applied in this respect.

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

D. Health care

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

158 Article 26(1) LAR.
159 National Integration Plan for Children with Special Needs and/or Chronic Illness, adopted with Council of Ministers Ordinance No 6, 19 August 2002.
160 Article 45e LAR.

Asylum seekers are entitled to the same health care as nationals.[161] Under the law, the SAR has the obligation to cover the health insurance of asylum seekers.

In practice, asylum seekers have access to available health care services, but do face the same difficulties as the nationals due to the general state of deterioration in a national health care system that suffers from great material and financial deficiencies.[162] In this situation, special conditions for treatment of torture victims and persons suffering mental health problems are not available. According to the law, the medical assistance cannot be accessed if the reception conditions are reduced or withdrawn.

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

Basic medical care in reception centres is provided either through own medical staff or by referral to emergency care units in local hospitals. As the management of the SAR failed to secure the necessary financing for the services provide to asylum seekers during the period May-September 2015 medical staff, doctor and a nurse were functioning only in **Ovcha Kupel** shelter in Sofia.

After the riot in November 2016 in **Harmanli** reception centre, the SAR and the Ministry of Health Care organised mass medical checks and consultation to approximately 3,000 asylum seekers accommodated.[163] As a result many health problems were established and referred for treatment, including 300 individuals with scabies.[164]

E. Special reception needs of vulnerable persons

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
   ☐ Yes ☒ No

The law provides a definition of vulnerability. According to the provision "applicant in need of special procedural guarantees" means an applicant from a vulnerable group who needs special guarantees to be able to benefit from the rights and comply with the obligations provided for in the law.[165] Applicants who are children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence are considered as individuals belonging to a vulnerable group.[166]

There are no specific measures either in law or in practice to address the specific needs of these vulnerable categories except some additional arrangements in practice to ensure medication or nutrition necessary for certain serious chronic illnesses, e.g. diabetes, epilepsy, etc. The law only requires that vulnerability be taken into account when deciding on accommodation, but this is applied discretionary and without any written criteria.

An applicant's belonging to a vulnerable group has to be taken into account by the authorities when deciding on accommodation.[167] In practice, separate facilities for families, single women, unaccompanied children or traumatised asylum seekers do not exist in the reception centres.

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161 Article 29(5) LAR.
162 Open Society Institute, *Legal Standards and Arrangements for the Protection of Individual Health Rights and Entitlements*, Sofia, October 2011.
163 Liberties.eu, 'Riot in Bulgarian Refugee Camp Caused by Political and Media Manipulation', 8 December 2016, available at: http://bit.ly/2kHRdFH.
164 Information provided by the SAR, 66th Coordination meeting.
165 Additional Provision 1(16) LAR.
166 Additional Provision 1(17) LAR.
167 Article 29(4) LAR.

1. Reception of unaccompanied children

In July 2017 the State Agency for Child Protection and national stakeholders developed SOPs to safeguard unaccompanied migrant and refugee children identified to be present in Bulgaria. Although the SOPs for unaccompanied children were endorsed by the National Child Protection Council,[168] the final formal endorsement by the government has not been formally given yet, which makes the developed SOPs for unaccompanied children inapplicable in practice. As of 31 December 2017 no progress has been achieved (see section on Identification).

The LAR provides that unaccompanied children are accommodated in families of relatives, foster families, child shelters of residential type, specialised orphanages or other facilities with special conditions for unaccompanied children.[169] In practice, none of these opportunities are used or applied.

Unaccompanied children are accommodated in reception centres along with other asylum seekers. They receive neither 24-hour care by an assigned caretaker, nor due care for their overall well-being. They are basically left on their own and without supervision after the end of the working hours of the SAR staff. IOM Bulgaria received national AMIF funding to build safety zones for unaccompanied children in **Ovcha Kupel** and **Voenna Rampa** shelters in Sofia, which have to be ready in June 2018. However, reconstruction has not yet started as of 31 January 2018.

2. Reception of victims of violence

Back in 2008, the SAR and UNHCR adopted standard operating procedures (SOPs) with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).[170] In 2014 both agencies agrees that the SOPs need to be updated[171] as they have never been applied in practice, but also to include other categories applicants with special needs. The SOPs revision process however is still ongoing.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

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

The SAR has an obligation to provide information in a language comprehensible to the asylum seekers within 15 days from filing their application, which has to include information on the terms and procedures and rights and obligations of asylum seekers during procedures, as well as the organisations providing legal and social assistance.[172] However, in reality this was not provided within the 15-day time period laid down in Article 5 of the recast Reception Conditions Directive. In practice, prior to the increased number of asylum seekers, this information was given upon the registration of the asylum seeker in SAR territorial units by way of a brochure. However, monitoring from the Bulgarian Helsinki Committee in 2017 shows that oral guidance on determination procedures is not being provided by caseworkers in the majority, if not all of the cases, although information brochures have been delivered in 72% of the cases.[173] The law

168 State Agency for Child Protection, 'Тридесет и шестото редовно заседание на Националния съвет за закрила на детето се проведе в зала „Гранитна" на Министерски съвет', 11 July 2017, available in Bulgarian at: http://bit.ly/2FzwLxk.
169 Article 29(9) LAR.
170 Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.
171 UNHCR Representation in Sofia, SGBV Task Force, established on 15 February 2014.
172 Article 58(6) LAR.
173 Bulgarian Helsinki Committee, *2017 Annual RSD Monitoring Report*, January 2018.

also envisages that additional information relating the internal regulations applied in the closed centres have to be provided to asylum seekers detained therein, but this has not been delivered in practice.[174]

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

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

The law does not expressly provide for access to reception centres for family members, legal advisers, UNHCR and NGOs. Otherwise the law envisages that asylum seekers have the right to seek the assistance of UNHCR and other government or non-governmental organisations.[175] Until the beginning of 2015, no limitations were applied in practice.

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

G. Differential treatment of specific nationalities in reception

For the time being there are no nationalities discriminated against in the area of reception. However, some of the reception centres are used for accommodation predominantly of a certain nationality or nationalities. For example, **Vrazhdebna** shelter in Sofia accommodates predominantly Syrians, **Voenna Rampa** shelter in Sofia accommodates almost exclusively Afghan and Pakistani asylum seekers, while the other reception centres accommodate mixed nationalities, such as in **Harmanli** reception centre, **Banya** reception centre and **Ovcha Kupel** shelter in Sofia.

The government has also assigned **Vrazhdebna** shelter in Sofia to host applicants coming through the Relocation scheme. As of 31 December 2017, the number of relocated persons had only reached 60 individuals transferred from Greece and Italy.

174 Article 45e(1)(5) LAR.
175 Article 23(1) LAR.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention	
1. Total number of asylum seekers detained in 2017:[176]	2,194
2. Number of asylum seekers in detention at the end of 2017:	30
3. Number of detention centres:	3
❖ Pre-removal detention centres	2
❖ Asylum detention centres	1
4. Total capacity of detention centres:	760

Not all asylum seekers who apply at national borders are sent directly to a reception centre. When applied, the exception is usually related to cases where family members of the border applicants are already living either in reception centres or outside them, persons who enter with valid documentation, or cases with specific needs such as individuals with disabilities and families with infants.

The main reasons for this situation are the State Agency for National Security (SANS)'s concerns about transferring people to open reception centres before being screened by the security services, as well as the lack of a proper coordination mechanism between the police and the SAR to enable registration and accommodation of asylum seekers after 17:00 or during the weekends. Since September 2015, the SAR operates with shift schemes and on-call duty during the weekends in order to assist the reception of asylum seekers referred by the police. In practice, however, these arrangements are not sufficient, therefore the police have no other options but to refer and detain asylum seekers in the pre-removal detention centres.

Out of a total 3,700 applicants registered in 2017, 2,292 individuals applied for asylum at border and immigration detention facilities.[177]

Therefore, detention of first-time applicants is systematically applied in Bulgaria and the majority of asylum seekers apply from pre-removal detention centres for irregular migrants.[178] In 2017 there has been a significant decrease in the number of detentions ordered:

Immigration detention in Bulgaria: 2015-2017			
Year	2015	2016	2017
Total detentions ordered	11,902	11,314	2,989

Out of the total number of persons detained in pre-removal centres in 2017, 2,194 were asylum seekers. A total 30 asylum seekers were in detention at the end of the year, out of a total 284 persons in detention at that time.[179]

There are two pre-removal detention centres in operation: **Busmantsi** and **Lyubimets**. The **Elhovo** allocation centre ceased its regular operation in 2017.

Asylum seekers can also be placed in closed reception centres i.e. detained under the jurisdiction of the SAR for the purposes of the asylum procedure. In 2017, 13 asylum seekers have been detained in the asylum closed facility, situated in the premises of the **3rd Block** in the Busmantsi pre-removal centre, the only closed centre for that purpose. 5 asylum seekers were held there at the end of the year.

176 Including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention.
177 Bulgarian Helsinki Committee, *Monthly Monitoring Report: December 2017*, 10 January 2018.
178 CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: http://bit.ly/2wSzIpq, para 21(e).
179 Bulgarian Helsinki Committee, *2017 Performance Report*, 31 January 2018.

B. Legal framework for detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - ❖ on the territory: ☒ Yes ☐ No
   - ❖ at the border: ☒ Yes ☐ No
2. Are asylum seekers detained in practice during the Dublin procedure?
   ☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a regular procedure in practice?
   ☐ Frequently ☒ Rarely ☐ Never

1.1. Pre-removal detention upon arrival

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

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

The different grounds are often used in combination to substantiate detention orders in practice. According to an analysis of jurisprudence of the Administrative Court of Sofia and the Administrative Court of Haskovo in the period 2012-2015, the Centre for Legal Aid – Voice in Bulgaria found that the majority of detention orders were based on grounds of identity, often combined with a risk of absconding.[180] The ground of safeguarding the implementation of a return order was found to be rarely, if ever, applied.[181] In the Bulgarian Helsinki Committee's experience, however, detention orders are issued based on a combination of all three grounds for detention.

In practice, detention of third-country nationals is ordered by the border or immigration police on account of their unauthorised entry, irregular residence or lack of valid identity documents. After the amendments of the LARB in the end of 2016,[182] these authorities can initially order a detention of 30 calendar days within which period the immigration police should decide on following detention grounds and period or on referral of the individual to an open reception centre, if he or she has applied for asylum.

In 2017, the number of persons issued a detention order for reasons of removal was 2,989. This included 2,194 asylum seekers.

The law does not allow the SAR to conduct any determination procedures in the pre-removal detention centres.[183] However, as of 31 December 2017 and presently, the SAR continues to register, fingerprint, and in some cases interview asylum seekers in pre-removal detention centres and to keep them there after issuing them asylum registration cards. Their release and access to asylum procedure is usually secured only by an appeal against detention and a court order for their release.

The most negative development in 2017 concerned the SAR's practice of also conducting the status determination procedure in the pre-removal detention centre. The approach was applied specifically to certain nationalities as a method of deterrence. In principle, this affected nationalities from certain countries such as Afghanistan, Algeria, Bangladesh, Pakistan, Sri Lanka, Turkey and Ukraine which are

180 Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, available at: http://bit.ly/2jui7fo, September 2016, 21.
181 *Ibid*.
182 Law amending the Law on Aliens in the republic of Bulgaria, No 97/2016, 2 December 2016, available in Bulgarian at: http://bit.ly/2kJoYpi.
183 Additional Provision 5 LAR; Article 45b LAR.

treated as manifestly unfounded. Since the beginning of 2017 a total 77 applicants - 3.6% of all new applicants – had their cases determined by the SAR in the detention centres of **Busmantsi** and **Lyubimets**.

For the time being, this malpractice is unanimously supported by the courts, which find that the asylum procedure in pre-removal centres is a violation of procedural standards but an insignificant one as the rights of the asylum seekers during the status determination are not severely affected.[184] All asylum seekers processed in pre-removal detention centres are being determined by the SAR in an Accelerated Procedure, which strips them of the right to an onward appeal and thereby prevents them from challenging the practice further before the Supreme Administrative Court.

1.2. Asylum detention

Asylum seekers can also be placed in closed reception facilities i.e. detention centres under the jurisdiction of the SAR during the determination of their claim. The national grounds transpose Article 8(3)(a), (b), (d) and (f) of the recast Reception Conditions Directive, according to which an applicant may be detained:[185]

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

In 2017, 13 asylum seekers were placed in asylum detention, exclusively for reasons of national security or public order. The main ground for such detention at the end of 2016 concerned asylum seekers involved in riots in the **Harmanli** reception centre in November 2016. Other reasons applied in practice in 2017 are excessive violence, systematic disorder or theft committed in the reception centre. However, the Administrative Court of Sofia ruled out excessive violence as a valid reason for placing an applicant in a closed centre, unless corroborated with evidence of ongoing criminal investigation, prosecution or conviction judgment.[186]

2. Alternatives to detention

Indicators: Alternatives to Detention

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

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

1. Surrendering documents;[187]
2. Financial guarantee;[188]

184 Bulgarian Helsinki Committee, *2017 Annual Strategic Litigation Report*, January 2017. See e.g. Administrative Court of Sofia, Decision No 5378, 17 September 2017; Decision No 4740, 14 July 2017; Decision No 5105, 2 August 2017, Decision No 193, 14 March 2017; Administrative Court of Haskovo, Decision No 187, 16 March 2017.
185 Article 45b(1) LAR.
186 Administrative Court of Sofia, Decision No 7173, 29 November 2017.
187 Article 44(5)(3) LARB.
188 Article 44(5)(2) LARB.

3. Weekly reporting, already existing prior to the reform.[189]

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

In practice, in the overwhelming majority of cases, alternatives to detention are not considered prior to imposing detention.[190] The situation has not changed in 2017.

The LAR, for its part, envisages bi-weekly reporting to the SAR as a measure to ensure "the timely examination of the application" or to ensure "the participation" of the asylum seeker.[191] The LAR also envisages a limitation of freedom of movement in certain areas in the territory of the state by a decision of the SAR chairperson, where asylum seekers can be obligated not to leave and reside in other administrative regions (district or municipality) than the prescribed one (see Freedom of Movement).

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

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

The LARB prohibits the detention of unaccompanied children in general and imposes a maximum period of 3 months for the detention of accompanied children who are detained with their parents.[192] An exemption had been introduced in the beginning of 2017 to exclude from the detention prohibition unaccompanied children upon condition that it was applied as a last resort and after best interests determination.[193] Never applied in practice and widely criticised, including by UNHCR and UNICEF, the provision was abolished at the end of 2017.[194]

The law does not contain sufficient guarantees to ensure that detention of children is a measure of last resort, for the shortest possible period and subject to best interests assessment.

Additionally, the LAR provides for the possibility to detain accompanied children for asylum purposes as a last resort, in view of ensuring family unity or ensuring their protection and safety, for the shortest period of time.[195] The position of UNHCR is that the respective provisions do not explicitly refer to the primacy of the best interests of the child when ordering detention. They also do not incorporate sufficient guarantees to ensure speedy judicial review of the initial decision to detain and a regular review thereafter. Although presently expanded with additional alternative arrangements,[196] the law still does not envisage specific alternatives to detention appropriate for children such as alternative reception / care arrangements for unaccompanied children and families with children.

In practice, both asylum-seeking and other migrant unaccompanied children continue to be detained in pre-removal detention centres. Unaccompanied children arrested by the Border Police upon entry or, if arrested during their attempt to exit Bulgaria irregularly, are assigned ("attached") to any of the adults present in the group with which the children travelled, which has been a steady practice ongoing for last

189 Article 44(5)(1) LARB.
190 Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, available at: http://bit.ly/2jluOxS, 21.
191 Article 45a LAR.
192 Article 44(9) LARB.
193 Article 44(13) *in fine* LARB.
194 Law amending the LARB, State Gazette No 97, 5 December 2017.
195 Article 45f(1) LAR.
196 Article 44(5) LAR.

couple of years. Thus, the arrested unaccompanied children are not served with a separate detention order, but instead described as an "accompanying child" in the detention order of the adult to whom they have been assigned. The same treatment is applied by the regular police services to those unaccompanied children who are captured inside the Bulgarian territory and considered to be irregular due to the lack of identity documents. All of them without exception are transferred to the pre-removal detention centres in **Busmantsi** or **Lyubimets**. In order to do this, identical to the approach of the Border Police, the regular police authorities assigned ("attached") the children to adults without collecting any evidence or statements for a family link or relation between them.

The so-called "attachment" is implemented on the basis of a legal definition on extended relatives' circle, who could be considered as "accompanying adults"; this definition is applicable solely in asylum procedures, however.[197] Therefore the application of this definition in immigration procedures in order to substantiate unaccompanied children's inclusion in the detention orders of adults other than their parents is identified as yet another infringement of the law, additional to the principal violation of the detention prohibition.[198] National jurisprudence has proved controversial and inconsistent in this regard, however.[199] Accordingly, at the end of 2017 the Ombudsperson requested the Supreme Administrative Court to deliver mandatory interpretation of the law in this respect.[200] The interpretation is expected to be delivered in the course of 2018.

In 2017, 712 children were detained in the pre-removal detention centres. Among them, the Bulgarian Helsinki Committee identified 195 unaccompanied children, including children detained as "attached" to an adult or wrongly recorded as adults.[201]

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 asylum seekers detained?	19 days

4.1. Duration of pre-removal detention

The maximum immigration detention period is 18 months, including extensions. Initial detention order is in principle issued for a period of 6 months. Following an amendment to the LARB in 2017, extensions can be now ordered by the Immigration Police instead of the court after the expiry of the initial or consecutive detention order.[202] Each consecutive extension is also issued for a minimum of 6 months until the 18-month limit is reached.

The LAR safeguards the registration of asylum applications and the release of the asylum applicants from pre-removal detention centres within 6 working days, in line with the recast Asylum Procedures Directive.[203] As a result, in 2016 the overall detention duration of first asylum applicants prior to their registration decreased to 9 days on average, thereby observing the abovementioned registration deadline.

However, in 2017 this practice was reverted as the average duration of detention rose to 19 days:

Average period of pre-removal detention pending registration (days)				
Year	2014	2015	2016	2017

197 Article 1(4) LAR.
198 Article 44(9) LARB.
199 See e.g. Supreme Administrative Court, 7th Department, Decision No 12271, 14 November 2016; Decision No 2842, 8 March 2017; Decision No 10789, 4 September 2017; Decision No 12116, 11 October 2017.
200 Ombudsperson, Request No 11-78, 8 December 2017, available in Bulgarian at: http://bit.ly/2DSflva.
201 Bulgarian Helsinki Committee, *2017 Project performance report*, 8 February 2018.
202 Article 46a(3) and (4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.
203 Article 58(4) LAR.

Average detention period	11	10	9	19

Source: SAR, Bulgarian Helsinki Committee.

The increase was marked contrary to the significant decrease of the new arrivals and asylum seekers in 2017. This contradiction cannot but imply a measure of deterrence for those who might be willing to apply for asylum after their arrest and detention, despite the acknowledgment of the illegality of pre-removal detention after the submission of an asylum application in national jurisprudence.[204]

Out of the 2,992 persons applying from pre-removal detention, 47 (2%) were detained for more than 3 months and 38 (1.7%) for more than 6 months.

4.2. Duration of asylum detention

Detention during the status determination procedure in closed reception facilities is limited by the law to the shortest period possible.[205] However, in practice the SAR kept asylum seekers in closed centres until the decision on their asylum applications became final, which for some of the detained asylum seekers extended to 6-7 months, and nearly 13 months in 8 cases. The regular review of necessity as per the law[206] is so far applied formally, resulting in detained asylum seekers being released only following the engagement of legal assistance and representation.[207]

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

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

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

1.1. Pre-removal detention centres

There are 2 detention centres for irregular migrants in the country, totalling a capacity of 700 places:

Pre-removal detention centres in Bulgaria			
Detention centre	Location	Capacity	Occupancy end 2017
Busmantsi	Sofia	400	:
Lyubimets	South-Eastern Bulgaria	300	:
Total		**700**	**284**

Source: Ministry of Interior, Migration Statistics, December 2017: http://bit.ly/2ntEXaR.

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

205 Article 45e LAR.

206 Article 45d(2) LAR.

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

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

Initially designated for the pre-registration of asylum seekers,[208] **Elhovo** was thereupon used as an "allocation centre" to detain asylum seekers apprehended at the land borders outside the official border checkpoint until its closure in February 2017. Although initially temporarily closed for refurbishment in February 2017, it was later pronounced by the Ministry of Interior to be closed indefinitely, with an option to be reopened in case of increased influx.

At the end of 2016, amendments to the LARB introduced "short-term detention units" as separate detention facilities to be used for security checks, profiling and identification and allowed a duration for these purposes up to 30 calendar days.[209] The law adjourned the application of such short-term detention not prior to 6 June 2018.

1.2. Asylum detention centres ("closed reception centres")

The 2015 reform of the LAR introduced asylum detention under the responsibility of the SAR (see Grounds for Detention). The only operational centre at the moment is **3rd Block** in Busmantsi, with 60 places.

At the end of August 2016, following a mass fight between Afghan and Iraqi asylum seekers in the biggest reception centre in Harmanli, the first national closed reception facility was opened on 10 September 2016 within the premises of the Busmantsi pre-removal centre. The facility is called "**3rd Block**" and has a capacity of 60 places.

In the autumn of 2016, a coalition of three minor far-right parties exhilarated their xenophobic rhetoric against asylum seekers in Harmanli reception centres by exaggerating the risks of spreading of infectious diseases. Following an ultimatum to the government to fully close the centre on 23 November 2016 without any information or early warning to asylum seekers the centre was put in quarantine with the police blocking all exits. The riot which followed the next day, organised predominantly by Afghan asylum seekers, demanding the camp's opening and a free passage to the Serbian border, was smothered by the police with excessive use of force.[210] In order to be able to detain nearly 400 Afghan asylum seekers, arrested after the riot, the SAR opened in heist another closed reception centre on 26 November 2016, although many were also detained in Busmantsi pre-removal centre in violation of the law. The centre is the **Gymnasium of Elhovo Regional Border Police Directorate** and can host up to 150 individuals, but was only opened until December 2016. That centre has now been closed.

At the beginning of 2017 the SAR announced its plans to transform the **Pastrogor** transit centre into a closed centre for asylum detention no later than 1 September 2017, with a view to giving back the **3rd Block** in Busmantsi to the Ministry of Interior. Neither action has happened until the end of 2017, however.

208 EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.
209 Article 44(13) LARB.
210 Liberties.eu, 'Riot in Bulgarian Refugee Camp Caused by Political and Media Manipulation', 8 December 2016, available at: http://bit.ly/2kHRdFH.

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

2.1. Overall living conditions

In recent years, the detention centres were frequently overcrowded due to the increase of the number of asylum applications on the one hand and, on the other hand, the delayed release for registration of detained asylum seekers. In 2017, however, the capacity of pre-removal detention centres was not exceeded, while the overall number of persons in detention gradually reduced from 1,200 persons at the end of January 2017, to 668 at the end of June 2017, to 284 at the end of the year.[211]

Overall conditions with respect to means to maintain personal hygiene as well as general level of cleanliness nevertheless remain unsatisfactory. Shower and toilets available are not sufficient to meet the needs of the detention population, especially when premises are overcrowded.[212] Detainees are allowed to clean the premises themselves. However, they are not provided with means or detergents therefore they have to buy them at their own cost. Clothing is provided only if supplied by NGOs. Bed linen is not washed on a regular basis, but usually once a month.

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

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

In two reports in 2016, findings demonstrated that in **Busmantsi** facilities are often limited more than the purpose of detention requires, with detainees unable to leave their room to use the bathroom facilities at night since bedrooms are locked at 10pm.[213]

In February 2015, the Council of Europe Commissioner on Human Rights visited Bulgaria and corroborated NGOs' concerns by stating that during his visit he found seriously substandard material conditions in administrative detention centres and of numerous instances of ill-treatment.[214] In his report the Commissioner stated that detainees in both **Busmantsi** and **Lyubimets** detention centres reportedly complained of abusive, sometimes violent, treatment by guards, overcrowding and noise, tension among various nationality groups, the mixing of unaccompanied children with adults, dirty and insufficient toilets, inadequate ventilation, and the poor quality of the food. They also indicated that they had limited means to communicate with the outside world, as well as a lack of communication with guards and other authorities. This resulted in a lack of awareness about procedures relating to release or asylum procedures.

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211 Ministry of Interior, *Migration statistics*, 2017.

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

213 Cordelia Foundation et al., *From Torture to Detention: Access of Torture Survivor and Traumatised Asylum-Seekers to Rights and Care in Detention*, January 2016, available at: http://bit.ly/1mrWopA, 28; Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.

214 Council of Europe Commissioner for Human Rights, *Report by Nils Muižnieks following his visit to Bulgaria, from 9 to 11 February 2015*, 22 June 2015, available at: http://bit.ly/1GHj8EN, para 119.

Staff interpreters are neither required by law, not provided in practice. Verbal abuse, both by staff and other detainees, is reported often by the detainees. Still in 2017, as in previous years, detainees have complained about the lack of tailored and translated information and uncertainty on their situation.[215] This has led to risks of re-traumatisation for persons with vulnerabilities.[216]

Worrying conditions are also reported in police stations where newly arrived asylum seekers may be held upon entry. The European Court of Human Rights (ECtHR) condemned Bulgaria of a violation of Article 3 ECHR due to poor living conditions and insufficient and delayed food provision to children detained in the police station of **Vidin**.[217]

2.2. Vulnerable groups in detention

There are no mechanisms established to identify vulnerable persons in detention centres. According to the last research on the topic made by the Assistance Centre for Torture Survivors (ACET), mental health professionals in **Busmantsi** have observed that persons who are socially inhibited or depressed are not being identified by the police as persons in need of assistance insofar as they do not cause problems.[218] If identified, there are no provisions in the law for vulnerable persons' release on that account, unless before the court.

Article 45e(3) LAR envisages that vulnerable groups shall be provided with appropriate assistance depending on their special situation. Separate wings are provided for families, single women and unaccompanied children, in line with the law.[219] Single men are separated from single women. Other vulnerable persons are detained together with all other detainees. The LAR provides for access to education and leisure activities for children in closed asylum facilities,[220] but there is no relevant practice yet as children have not been placed in closed reception centres in 2017.

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

Lawyers as well as representatives of NGOs and UNHCR have access under the law and in practice to the detention centres during visiting hours but also *ad hoc* without prior permission when necessary or requested by asylum seekers.[221] Some NGOs have signed official agreements with the Migration Directorate and do visit detention centres for monitoring and assistance once a week.[222] Media and politicians also have access to detention centres, which is authorised upon written request.

NGOs' and legal aid providers' right to access to asylum seekers is explicitly regulated and expanded to also include border-crossing points and transit zones.[223]

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215 Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.
216 Cordelia Foundation et al., *From Torture to Detention*, January 2016, 19.
217 ECtHR, *S.F. v. Bulgaria*, Application No 8138/16, Judgment of 7 December 2017, paras 84-93.
218 Cordelia Foundation et al., *From Torture to Detention*, January 2016, 18.
219 Article 45f(4) LAR.
220 Article 45f(2) LAR.
221 This has been a systematic concern. See JRS Europe, *Becoming Vulnerable in Detention* (*Detention of Vulnerable Asylum Seekers - DEVAS Project)*, 2010, National Chapter on Bulgaria, 147 - points. 3.1 and 3.2.
222 Bulgarian Helsinki Committee, Bulgarian Red Cross, Nadja Centre, Center for Legal Aid-Voice in Bulgaria, Foundation for Access to Rights, etc.
223 Article 23(3) LAR.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention? ☐ Yes ☒ No
2. If yes, at what interval is the detention order reviewed?

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

Detention is also not subject to a prompt judicial review of the initial decision to detain and to a regular review thereafter. The law no longer provides for automatic judicial review of detention orders, following the abolition of judicial review upon prolongation of detention.[224] This reform took place against a backdrop of lack of legal aid ensured to detainees to challenge their detention.

As a result, judicial review may only be triggered at the initiative of the applicant. Detention orders can be appealed within 14 calendar days of the actual detention before the Administrative Court in the area of the headquarters of the authority which has issued the contested administrative act.[225] The appeal does not suspend the execution of the detention order.[226] The submission of the appeal is additionally hindered by the fact that the detention orders are not interpreted. The short deadline for lodging an appeal has proved to be highly disproportionate and usually not complied with by detained individuals, including asylum seekers.[227]

In October 2016, the Bulgarian Helsinki Committee's detention mapping report reported that 99% of the research respondents did not have a lawyer appointed *ex officio* upon detention, 13% appealed the detention order within the 14-day deadline, of whom 84% did so with the help of a non-governmental organisation providing legal aid and 16% by hiring a lawyer at their expense.[228]

Among those making the appeal with the assistance of NGOs, 92% were exempt from the court fee, while the fee was paid by the remaining 8%. In the cases conducted by NGOs, bringing to the court was ensured for 50% of the persons; the reason why the remaining 50% were not brought to the court is that either the relevant persons had been released from detention centre before the court hearing or the court had not requested that they be brought to the court. According to the data processed, the appeals were dismissed in 54% of the cases.[229]

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

224 Article 46a(3)-(4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.
225 Article 46 LARB.
226 Article 46a LARB.
227 Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, para 23.
228 *Ibid*, para 24.
229 *Ibid*.

Detained applicants have the right to legal aid.[230] However, legal aid has not been provided to detainees as of the end of 2017 due to National Legal Aid Bureau's budget constraints, although a pilot project financed by AMIF will launch legal aid to asylum seekers for the first time in Bulgaria, covering vulnerable applicants (see Regular Procedure: Legal Assistance).

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

For example, the November 2016 events in **Harmanli** reception centre were followed by the detention in closed reception facilities of approximately 400 Afghan asylum seekers (see Grounds for Detention). None of them was provided with access to legal aid and had to rely entirely on the UNHCR / NGO services. In 2017, another 4 Afghan asylum seekers were detained in **3rd Block** closed centre for petty misdemeanours. In light of the consistent deficiencies identified in status determination proceedings, such a curtailment of procedural rights is particularly dramatic for the persons detained, given the extremely low recognition rates for these nationalities.

There is also a lack of state-funded legal assistance for children detained in closed facilities to challenge the detention order, despite the general child protection legislation which envisaging the right of all children to such an assistance.[231] As the LARB does not envisage the appointment of guardians to unaccompanied or separated children, and since according to Bulgarian law children can only undertake legal actions through or with the consent of their guardians, they cannot challenge their detention order unless provided tailored legal support to submit an appeal without it.

E. Differential treatment of specific nationalities in detention

In 2017, discrimination against certain nationalities has continued to be applied in practice, as asylum seekers from some countries are not released and their status determination is unlawfully conducted in the pre-removal detention centres.[232]

The overall average duration of detention increased to 19 days. However, out of the 2,992 people applying for asylum from detention, 47 applicants were detained for more than 3 months and 38 for more than 6 months. This violation was particularly serious, as it was based on clear discrimination on account of the nationality of asylum seekers, leading to protracted detention.

The discriminated nationalities are constantly changing. In 2014 it was applied vis-à-vis **Algeria**, **Tunisia** and **Morocco**, then to applicants from the **Ivory Coast** and **Mali** in the first half of 2015.

Later in 2015 and 2016, discrimination was applied towards applicants from **India**, **Sri Lanka**, **Pakistan** and **Bangladesh**, while in 2017 it also affected applicants from **Turkey**, **Algeria**, **Indonesia** and **China**. For example, a group of asylum seekers from Sri Lanka who applied in mid-2016 were held in the pre-removal detention centre until their status determination ended with a final refusal in July 2017.

Since the events in Harmanli reception centre in November 2016, single young adults from **Afghanistan** are also targeted by this practice.

The average detention duration applied to discriminated nationalities in 2017 was 116 days or 3.8 months.

230 Article 22(9) Law on Legal Aid.
231 Article 15(8) Law on Child Protection.
232 Article 45b LAR.

Content of International Protection

Recognised **refugees** are explicitly entitled to equal treatment in rights to Bulgarian nationals with just a few exclusions, such as: participation in general and municipal elections, in national and regional referenda; participation in the establishment of political parties and membership of such parties; holding positions for which Bulgarian citizenship is required by law; serving in the army and, other restrictions explicitly provided for by law.[233] Individuals granted **subsidiary protection** ("humanitarian status") have the same rights as third-country nationals with permanent residence.[234]

2017 as the fourth "zero integration year"

2017, as 2016, 2015 and 2014 before it, was a "zero integration year". The first National Programme for the Integration of Refugees (NPIR) was adopted and applied until the end of 2013, and since then all beneficiaries of international protection have been left without any integration support. This resulted in extremely limited access or ability by these individuals to enjoy even the most basic social, labour and health rights, while their willingness to permanently settle in Bulgaria was reported to have decreased to a minimum.[235] In 2017, 77% of those who applied for asylum abandoned their status determination procedures in Bulgaria, which as a consequence were terminated shortly after the end of the legal 3-month time limit since the disappearance was duly established. In comparison, this percentage was 88% in 2016, 83% in 2015 and 46% in 2014.

The necessary integration legal framework, the Integration Decree, was finally adopted in 2016,[236] but it remained futile and out of use throughout 2016 and 2017, as none of 265 local municipalities has so far applied for funding in order to commence an integration process with any of the individuals granted international protection in Bulgaria.

On 31 March 2017, on the last day of its mandate, the caretaker Cabinet fulfilled the election promise of the newly elected Bulgarian President and repealed the Decree without any reasonable justification.[237] A new Decree was adopted on 19 July 2017, which in its essence repeated the provisions of its predecessor.[238] Nevertheless, the situation remained the same without any actual integration activities planned, funded or available to recognised refugees or subsidiary protection holders. The national "zero integration" situation thus now continues over 4 consecutive years.

Courts and human rights monitoring bodies have taken into account the treatment of beneficiaries of international protection in Bulgaria when assessing the legality of readmissions. In a case of 15 December 2016, the United Nations Human Rights Committee ruled against the return of a Syrian family from Denmark to Bulgaria, on the ground that their residence permit would not protect them against obstacles to accessing healthcare, or risks of destitution and hardship.[239] Similar arguments are found in the Human Rights Committee interim measures granted on 1 February 2017 to prevent the transfer of an Afghan family with three young children from Austria to Bulgaria.[240] Notwithstanding the family was returned to

233 Article 32(1) LAR.
234 Article 32(2) LAR.
235 CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria*, CERD/C/BGR/CO/20-22, 31 May 2017, available at: http://bit.ly/2wSzIpq, para 21(f); Bulgarian Council on Refugees and Migrants, *Annual Monitoring Report on Integration of Beneficiaries of international protection in Bulgaria,* Sofia, December 2014.
236 Ordinance No 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection (hereafter "Integration Decree"), State Gazette No 65/19.08.2016, available in Bulgarian at: http://bit.ly/2jJwnEi.
237 Liberties.eu, 'Bulgarian caretaker government repealed regulation on refugee integration', 13 April 2017, available at: http://bit.ly/2BLqhsS.
238 Ordinance No 144 of 19 July 2017 State Gazette No 60/25.08.2017, available in Bulgarian at: http://bit.ly/2Ec2uHL.
239 Human Rights Committee, *R.A.A. v. Denmark*, Communication No 2608/2015, 15 December 2016.
240 Human Rights Committee, Communication No 2942/2017.

Bulgaria by the Austrian authorities shortly after it. National courts in some European countries have also halted transfers of beneficiaries of protection to Bulgaria on account of substandard conditions.[241]

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 5 years
   - ❖ Subsidiary protection 3 years

Both refugee and subsidiary protection ("humanitarian") statuses granted are indefinitely and are not limited in duration, but differ in the duration of validity of identity documents issued to holders. The duration of validity is 5 years for **refugee status** holders,[242] and 3 years for **subsidiary protection** holders.[243] The different validity of the documents derives from the different scope of rights attributed to each of them.

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

2. Civil registration

No identity documents can be issued unless the individual is registered in the civil national database (ЕСГРОН) with the exception of certain categories, including asylum seekers.[244] Identification on the basis of a valid document is a pre-condition for exercising almost any personal right envisaged, especially relating to housing, social support or assistance, health insurance and care, access to employment etc.

The registration in ЕСГРАОН is mandatory to the beneficiaries of international protection.[245] Based on it they are given a unique identification number (*единен граждански номер*, ЕГН). Only after this registration can beneficiaries apply to be issued identity documents.

In order to be registered in the national database, any individual has to have *inter alia* a domicile.[246] However, newly recognised beneficiaries who have lived in reception centres are no longer permitted by the SAR to state the address of the respective reception centre as domicile. Therefore since the end of 2016 beneficiaries cannot provide a valid address or domicile, as they cannot rent a place of residence without a valid identity document. This legal 'catch 22' has led to continuous malpractice, including false renting and address registrations for the sake of enabling beneficiaries to obtain identity documents insofar as the valid identity document is a pre-condition to exercising their rights.

2.1. Child birth registration

The same rules as for nationals apply to the civil registration of birth of a descendent of an asylum seeker or beneficiary of international protection. Residency requirements do not apply with respect to birth registration. The registration of a new-born child is made within 7 days following the day of the delivery.[247]

241 See e.g. German High Administrative Court of Lüneburg, Decision 10 LB 82/17, 29 January 2018.
242 Article 59(1)(2) Law on Bulgarian Identity Documents.
243 Article 59(1)(3) Law on Bulgarian Identity Documents.
244 Article 29 (1)(7) LAR
245 Articles 100 -115 Law on Civil Registration.
246 Article 92(2) Law on Civil Registration.
247 Article 42(1) Law on Civil Registration.

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

The registration of birth is free of charge.

2.2. Marriage registration

Marriages in Bulgaria are subject to a residency requirement.[248] Therefore at least one of the spouses must be either a Bulgarian citizen or a long-term or temporary resident of Bulgaria.

Foreigners need to prove that they do not have another marriage registered in their country of origin. Only beneficiaries of international protection are exempted from this requirement, which is substituted by a civil status certificate issued by the SAR based on prior notarised statement by the beneficiary. This means that marriages cannot be registered by asylum seekers due to the lack of identity documents necessary to make notarized statements.[249]

According to general legislation relating to family arrangements, only civil marriages are legally valid in Bulgaria.[250] The religious ceremony is optional and can be performed only after a civil ceremony has taken place. The religious ceremony itself has no legal effect.

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

3. Long-term residence

Long-term residence is not applicable for refugees and subsidiary protection holders at all, as they get their identity cards issued automatically by the police on the basis of the SAR's decision granting status. Therefore, refugees and subsidiary protection holders are not issued additional residence permits at all. Recognised **refugees** are *ex lege* considered equal in rights with Bulgarian nationals,[251] subject to a few exceptions,[252] whereas individuals granted **subsidiary protection** enjoy the same rights as the permanent residents.

Refugees and subsidiary protection holders can apply and receive long-term residence in 5 years after their recognition.[253] However, in practice, this opportunity is useful only for **subsidiary protection** holders to whom the long-term residence card guarantees visa-free travel within the EU.

248 Article 76(2) Code on Private International Law.
249 Article 40 (3) LAR, since the asylum registration card does not certify the identity of the applicant. This follows Article 6(3) recast Reception Conditions Directive.
250 Article 4 Family Code.
251 Article 32 LAR.
252 To vote and be elected in local and/or general elections, to serve in the military or as a government official, if citizenship is required to occupy the position of the latter, as well as other exceptions if such have been explicitly promulgated.
253 Article 24r(4) LARB.

4. Naturalisation

Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?
   - ❖ Refugee status: 3 years
   - ❖ Subsidiary protection: 5 years
2. Number of citizenship grants in 2017: Not available

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

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

The application is examined within 18 months.[254] Citizenship is granted by the president, who issues a decree following a proposal in this respect of the Minister of Justice, the latter based on a positive opinion by the Citizenship Committee at the Ministry of Justice.

5. Cessation and review of protection status

Indicators: Cessation

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

According to Article 15(1) LAR, international protection may be ceased if the protection holder:

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

The interviewer makes the proposal for the cessation of the international protection in case relevant data has been gathered to indicate the legal grounds for it. Both procedures ought to be initiated by a decision of the SAR Chairperson. The protection holder is to be notified by a letter with recorded delivery that such a procedure has been initiated, the reasons thereof and the date and place for an interview in which he or she will have the opportunity to raise any objections against the cessation of the respective type of

[254] Article 35(1)(1) Law on Bulgarian Citizenship.

protection granted. Within 3 months of initiating the procedure, the SAR shall issue a decision. Such decision can be also taken and in the absence of opinion or objections by the protection holder if they have not been made on his own failure. When the SAR has not established the grounds for cessation, the initiated procedure should be discontinued.

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

There is no systematic review of protection status in practice. In 2017 a total 4 cessation decisions were taken with respect to 1 recognised refugee and 3 subsidiary protection holders. The affected individuals were from Syria, Iraq and stateless.

6. Withdrawal of protection status

Refugee status ought to be withdrawn where:[255]

(a) There are serious grounds to assume to have committed an act defined as a war crime or a crime against peace and humanity under the national legislation and under the international treaties;
(b) There are serious grounds to assume that he or she has committed a serious non-political crime outside the territory of Bulgaria;
(c) There are serious grounds to assume that he or she commits or incites towards acts contrary to the goals and principles of the United Nations;
(d) There refugee benefits from the protection or assistance provided by bodies or organisations of the United Nations other than the United Nations High Commissioner for Refugees;
(e) The competent authorities of his or her state of permanent residence have recognized the rights and obligations resulting from the citizenship in that country;
(f) There is serious proof for regarding him or her as a danger to national security, or, having been convicted by an enforceable sentence of a serious crime, as a danger to the society.

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

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

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

The procedure for withdrawing status in the law is the same as for Cessation of status. In 2017 a total 19 withdrawals were made with respect to 2 recognised refugees and 17 subsidiary protection holders. The affected individuals were from Syria, Iraq and Zimbabwe.

255 Article 12(1) LAR.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

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

The law does not request any waiting period before a beneficiary can apply for a family reunification, nor sets a maximum time limit for submitting a family reunification application.[256] Both recognised **refugees** and **subsidiary protection** holders are entitled to ask to be reunited with their families in Bulgaria without any distinction in the scope of their rights or procedures applicable. The family reunification permit is issued by the SAR.

1.1. Eligible family members

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

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

Unaccompanied children who have been granted international protection also have the right to reunite with their parents, but also with another adult member of their family or with a person who is in charge of him/her by law or custom when the parents are deceased or missing.[257]

Family reunification can be refused on the basis of an exclusion clause or with respect to a spouse in cases of polygamy when the status holder already has a spouse in Bulgaria.[258]

If the status holder is unable to provide official documents or papers certifying marriage or kinship, the latter can be established by a declaration on his behalf.[259]

1.2. Issuance of documents for family reunification

The family members issued a family reunification permit can obtain visas by the diplomatic or consular representations. The SAR has an obligation to facilitate the reunification of separated families by assisting the issuance of travel documents, visas as well as for their admission into the territory of the country.[260] However, in practice the Bulgarian consular departments have stopped issuing travel documents to minor

256 Article 34(1) LAR.
257 Article 34(4) LAR.
258 Article 34(3) LAR.
259 Article 34(5) LAR.
260 Article 34(7)-(8) LAR.

children who have not been issued national documents after their birth, under the pretext of avoiding eventual child smuggling or trafficking. As a result, two families of recognised Syrian refugees remained separated between Bulgaria and Turkey throughout 2016, as their minor children have been born after the flight or in Syria but in the areas where the civil registry authorities were not functioning. It was not before the autumn of 2017 when the families were able to reunify in Bulgaria as the result of IOM intervention.

In 2017, a total 33 family reunification applications were submitted to the SAR, of which 23 were approved and 10 rejected.

2. Status and rights of family members

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

C. Movement and mobility

1. Freedom of movement

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

Beneficiaries are not dispersed according to a distribution scheme. If applied, the integration scheme foreseen under the 2016 Integration Decree would disperse those who opt to be enrolled according to the area of the municipality which provides the integration support and which was chosen by the beneficiary. The 2016 Integration Decree however has not been put into operation so far.

2. Travel documents

Based on the two types of international protection in Bulgaria, refugee status and subsidiary protection ("humanitarian status"), the travel documents issued are also two types: (a) travel document for refugees and (b) travel document of foreigners granted humanitarian status.[261]

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

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

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

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

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

The Ministry of Interior does not disaggregate the number of new travel documents issued to beneficiaries from re-issued travel documents during the same period.

D. Housing

Indicators: Housing	
1. For how long are beneficiaries entitled to stay in reception centres?	6 months
2. Number of beneficiaries staying in reception centres as of 31 December 2017	62

Under the law, status holders may be provided with financial support for housing for a period of up to 6 months as from the date of entry into force of the decision for granting international protection under the terms and procedure established by the chairperson of the SAR in coordination with the Minister of Finance.[262] In practice due to lack of any integration support (see General Remark on Integration) the beneficiaries of international protection are allowed to remain in the reception centres up to 6 months, unless in situations of mass influx or increased new arrivals. At the end of 2017, the number of beneficiaries staying in reception centres was 62.

Beneficiaries face acute difficulties in securing accommodation due to the legal 'catch 22' surrounding Civil Registration. Holding valid identification documents is necessary in order to enter into a rental contract, yet identification documents cannot be issued if the person does not state a domicile. The situation has been exacerbated since the SAR has prohibited beneficiaries from stating the address of the reception centre where they resided during the asylum procedure as domicile for that purpose.

E. Employment and education

1. Access to the labour market

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

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

2. Access to education

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

[262] Article 31(3) LAR.

F. Social welfare

Beneficiaries of international protection have access to all types of social assistance envisaged by the law.[263] The law foresees the same conditions for nationals, recognised refugees or subsidiary protection holders.

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

The Agency for Social Assistance (ASA) of the Ministry of Labour and Social Policy is the authority responsible for the provision of all types of social assistance available nationally.[264] The ASA has territorial units in every district and municipality in Bulgaria.

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

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

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

G. Health care

With respect to health care, the same rules that apply for asylum seekers are also applicable for beneficiaries of international protection (see Reception Conditions: Health Care). In general, from the first day after recognition, health insurance paid until then by the SAR ceases with respect to beneficiaries of international protection and they have to cover on their own the monthly health insurance payment. This minimum fee is 18.40 BGN / 9.40 € for unemployed persons.

263 Article 2(1) Law on Social Assistance.
264 Article 5 Law on Social Assistance.

ANNEX I - Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	16 October 2015	Law on Asylum and Refugees	http://bit.ly/1RklHor (BG)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015	27 December 2015	Law on Asylum and Refugees	http://bit.ly/1RklHor (BG)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	(Articles 8 to 11) 16 October 2015	Law on Asylum and Refugees	http://bit.ly/1RklHor (BG)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	16 October 2015	Law on Asylum and Refugees	http://bit.ly/1RklHor (BG)