

# **Housing out of reach?**

The reception of refugees and asylum seekers in Europe



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The information contained in this report is up-to-date as at 30 April 2019, unless otherwise stated.

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## Glossary

<b>Acquis</b>	Accumulated legislation and jurisprudence constituting the body of European Union law.
<b>Asylum seeker(s) or applicant(s)</b>	Person(s) seeking international protection, whether recognition as a refugee, subsidiary protection beneficiary or other protection status on humanitarian grounds.
<b>Beneficiary of international protection</b>	Person granted refugee status or subsidiary protection in accordance with <a href="#">Directive 2011/95/EU</a> .
<b>Dublin system</b>	System establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application, set out in <a href="#">Regulation (EU) No 604/2013</a> .
<b>(recast) Reception Conditions Directive</b>	<a href="#">Directive 2013/33/EU</a> laying down standards for the reception of asylum seekers.
<b>(recast) Reception Conditions Directive Proposal</b>	European Commission <a href="#">proposal</a> for a recast of the Directive laying down standards for the reception of asylum seekers, tabled on 13 July 2016.
<b>Recognition rate</b>	Rate of positive asylum decisions, including refugee status, subsidiary protection status or other protection status under national law.
<b>(recast) Qualification Directive</b>	<a href="#">Directive 2011/95/EU</a> on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and the content of the protection granted

## List of abbreviations

<b>AIDA</b>	Asylum Information Database
<b>AMF</b>	Asylum and Migration Fund
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>ASGI</b>	Association for Legal Studies on Immigration   Associazione per gli Studi Giuridici sull'Immigrazione (Italy)
<b>AT-SA</b>	Temporary Reception – Asylum Office   Accueil temporaire – service de l'asile (France)
<b>BMSZKI</b>	Budapest Methodological Centre of Social Policy and its Institutions   Budapesti Módszertani Szociális Központ és Intézményei (Hungary)
<b>CADA</b>	Reception Centre for Asylum Seekers   Centre d'accueil pour demandeurs d'asile (France)
<b>CAES</b>	Reception and Administrative Situation Examination Centre   Centre d'accueil et d'examen de situation administrative (France)
<b>CAO</b>	Reception and Orientation Centre   Centre d'accueil et d'orientation (France)
<b>CAR</b>	Refugee Reception Centre   Centro de Acolhimento para Refugiados (Portugal)
<b>CAS</b>	Emergency Reception Centre   Centro di accoglienza straordinaria (Italy)
<b>CCTE</b>	Conditional Cash Transfer for Education (Turkey)
<b>CEAR</b>	Spanish Commission of Aid to Refugees   Comisión Española de Ayuda al Refugiado
<b>CEAS</b>	Common European Asylum System
<b>CFDA</b>	French Asylum Coordination   Coordination française du droit d'asile (France)
<b>CJEU</b>	Court of Justice of the European Union
<b>COA</b>	Central Agency for the Reception of Asylum Seekers   Centraal orgaan opvang asielzoekers (the Netherlands)
<b>CPH</b>	Temporary Accommodation Centre   Centre provisoire d'hébergement (France)
<b>DGMM</b>	Directorate-General for Migration Management   Göç İdaresi Genel Müdürlüğü (Turkey)
<b>DIHAL</b>	Inter-Ministerial Delegation for Accommodation and Access to Housing   Délégation interministérielle à l'hébergement et à l'accès au logement (France)
<b>EASO</b>	European Asylum Support Office
<b>ECRE</b>	European Council on Refugees and Exiles
<b>EKKA</b>	National Centre for Social Solidarity   Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης (Greece)
<b>EMN</b>	European Migration Network
<b>EPIM</b>	European Programme for Integration and Migration
<b>ESSN</b>	Emergency Social Safety Net (Turkey)
<b>ESTIA</b>	Emergency Support to Integration and Accommodation (Greece)
<b>EU</b>	European Union
<b>FARR</b>	Swedish Network of Refugee Support Groups   Flyktinggruppernas Riksråd (Sweden)

<b>FRA</b>	European Union Agency for Fundamental Rights
<b>HUDA</b>	Emergency Accommodation for Asylum Seekers   Hébergement d'urgence dédié aux demandeurs d'asile (France)
<b>ICMPD</b>	International Centre for Migration Policy Development
<b>IGI-DAI</b>	General Inspectorate for Immigration – Directorate for Asylum and Integration   Inspectoratul General pentru Imigrari – Directia Azil si Integrare (Romania)
<b>IND</b>	Immigration and Naturalisation Service   Immigratie en Naturalisatiedienst (the Netherlands)
<b>JRS</b>	Jesuit Refugee Service
<b>NGO(s)</b>	Non-governmental organisation(s)
<b>OFII</b>	French Office for Immigration and Integration   Office français de l'immigration et de l'intégration (France)
<b>PRAHDA</b>	Programme for Reception and Accommodation of Asylum Seekers   d'accueil et d'hébergement des demandeurs d'asile (France)
<b>PIC</b>	Legal-Informational Centre for non-governmental organisations   Pravno-informacijski center nevladnih organizacij (Slovenia)
<b>RIA</b>	Reception and Integration Agency (Ireland)
<b>SAR</b>	State Agency for Refugees   Държавната агенция за бежанците (Bulgaria)
<b>SEF</b>	Immigration and Borders Service   Serviço de Estrangeiros e Fronteiras (Portugal)
<b>SIPROIMI</b>	System of protection for Beneficiaries of International Protection and Unaccompanied Minors   Sistema di protezione per titolari di protezione internazionale e minori stranieri non accompagnati (Italy)
<b>SPRAR</b>	System of Protection for Asylum Seekers and Refugees   Sistema di protezione per richiedenti asilo e rifugiati (Italy)
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UOIM</b>	Office for Support and Integration of Migrants   Urad vlade za oskrbo in integracijo migrantov (Slovenia)

## Introduction

Access to adequate accommodation for people seeking and granted international protection is part and parcel of any functioning asylum system. Within the context of the Common European Asylum System (CEAS) the recast Reception Conditions Directive,<sup>1</sup> and the recast Qualification Directive set the standards to be observed by EU Member States in this regard. Applicants for international protection are entitled to “material reception conditions” which include housing, food and clothing.<sup>2</sup> The right to material reception conditions starts from the moment the asylum claim is made,<sup>3</sup> and entails conditions that “provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health”.<sup>4</sup> Under the recast Qualification Directive,<sup>5</sup> beneficiaries of international protection are entitled to accommodation under equivalent conditions as other legally residing third country nationals.<sup>6</sup> The 1951 Refugee Convention also requires states to “accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.”<sup>7</sup> The right to housing is also enshrined in different instruments of human rights law.<sup>8</sup>

In recent years, and despite standards under EU and international law, accessing adequate accommodation has been problematic for considerable numbers of people in need of protection in many European countries, both in times of high and low pressure on their asylum systems. Following three consecutive years of substantial decreases in the total number of asylum applications registered in the continent, the EU Member States and Schengen Associated States have received 664,480 applicants for international protection in 2018.<sup>9</sup> As a result, the number of applications lodged in these countries together is back at the level of 2014, i.e. before the steep increase recorded in 2015 and 2016.<sup>10</sup>

Despite the general decreasing trend, several countries have experienced an increase in asylum applications and demonstrated low levels of preparedness to deal with fluctuations in arrivals. At the same time, chronic lack of investment in reception capacity in some countries has resulted in permanent gaps in reception capacity, regardless of fluctuations in arrivals. As a result, many asylum seekers continue to be confronted with deficient reception systems or to face outright destitution in Europe.

Obtaining international protection does not necessarily guarantee them better accommodation conditions. Beneficiaries of protection face an array of legal and practical obstacles which prevent them from effectively exercising the right to accommodation within a reasonable time and from moving out of facilities for asylum seekers. Notwithstanding the severe consequences for the individuals concerned, including destitution and delays in their integration into the host society as well as implications for the country’s reception capacity for newly arriving applicants, the transition out of asylum seeker accommodation post-recognition is not widely researched and remains under the radar of policymakers. The transition from applicant to beneficiary of international protection should provide

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<sup>1</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), *OJ* 2013 L180/96.

<sup>2</sup> See Article 2(g) recast Reception Conditions Directive.

<sup>3</sup> See Article 17(1) recast Reception Conditions Directive.

<sup>4</sup> See Article 17(2) recast Reception Conditions Directive.

<sup>5</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), *OJ* 2011 L337/9.

<sup>6</sup> Article 32(1) recast Qualification Directive.

<sup>7</sup> Article 21 Refugee Convention.

<sup>8</sup> For an overview, see ECRE, *The right to housing for beneficiaries of international protection*, December 2016, available at: <https://bit.ly/2YxYE21>.

<sup>9</sup> Eurostat, *migr\_asyappctza*.

<sup>10</sup> EASO, *EU+ Asylum Trends 2018 overview*, February 2019, available at: <https://bit.ly/2X1pwHK>.

more legal certainty and a perspective of stable residence and integration in the host state, while access to private accommodation should make reception capacity available for new arrivals. Unfortunately, however, in many cases it proves a critical moment for the individuals concerned as well as the reception system as a whole.

This comparative report provides an update to ECRE's analysis of reception capacity for asylum seekers in Europe,<sup>11</sup> through an assessment of major developments in the reception systems of the 23 countries covered by the Asylum Information Database (AIDA) with a particular focus on management of reception capacity in light of varying pressure on the asylum systems, as well as the implications of the continued residence of beneficiaries of international protection in facilities for asylum seekers. The report is divided into two chapters:

- ❖ **Chapter I** provides an analysis of the responses of countries to changing capacity needs of reception systems stemming from fluctuations in arrivals of asylum seekers. This chapter looks at the evolution of reception capacity in European countries, including systematic capacity shortages in some, the adaptability of reception systems to changing circumstances, and contingency planning as a possible response to rapidly changing reception demand.
- ❖ **Chapter II** deals with the obstacles faced by beneficiaries of international protection with regard to accessing accommodation in the private housing market and the measures put in place by states to support beneficiaries in the process of moving out of reception facilities for asylum seekers. Furthermore, it analyses the scale and repercussions of continued presence of beneficiaries of international protection in accommodation for asylum seekers, as well as the challenges surrounding effective monitoring and enforcement of EU law obligations with regard to access to accommodation for beneficiaries of international protection.

A final part formulates recommendations to EU institutions and states.

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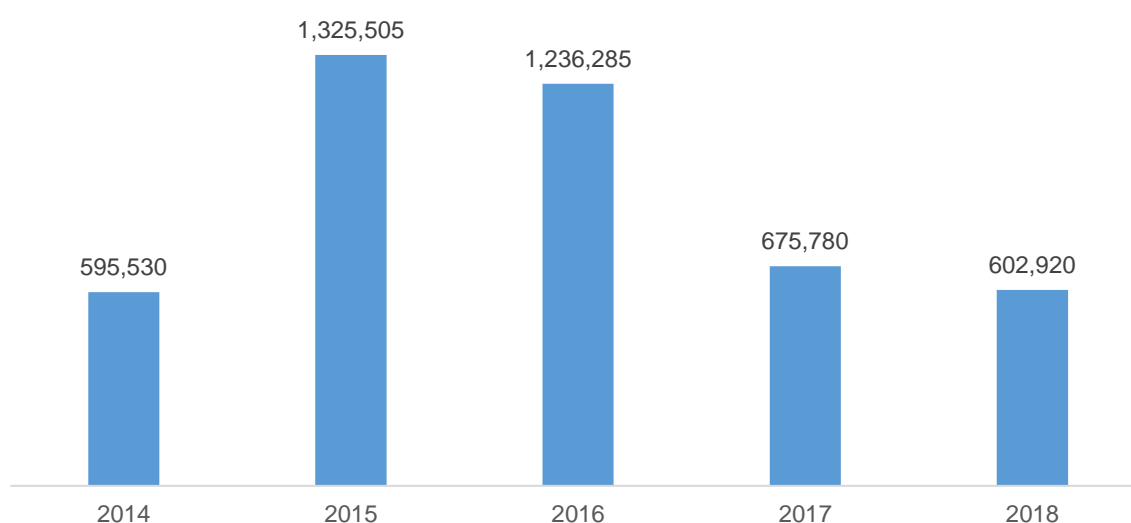
<sup>11</sup> AIDA, *Wrong counts and closing doors: The reception of refugees and asylum seekers in Europe*, March 2016, available at: <https://bit.ly/1UFSKaP>.



### 1. Asylum applications and their impact on reception

#### *Key asylum trends*

In recent years, the EU as a whole has experienced a substantial increase and a subsequent steady decrease in the number of people arriving on the territory of Member States and Schengen Associated States and seeking international protection. According to Eurostat statistics for the period 2014 to 2018,<sup>12</sup> the total number of persons lodging a first asylum application in the EU evolved as follows:



Source: Eurostat.

The decreasing trend in the EU in the last two years should be read against the background of persisting forced displacement levels at global scale, resulting in a total of 23.4 million refugees and asylum seekers worldwide, the vast majority hosted in countries outside Europe.<sup>13</sup> Of those, over 4 million are hosted by **Turkey**, where the Directorate General of Migration Management (DGMM) counted 3,628,180 temporary protection beneficiaries by early 2019, while the number of people lodging an application for international protection rose from 112,415 in 2017 to 114,537 in 2018.<sup>14</sup>

Two nuances to the overall decrease in asylum seekers arriving in the EU should be highlighted. First, the long-standing phenomenon of uneven distribution of applicants across Member States and Schengen Associated States persists.<sup>15</sup> In 2018, this is illustrated by 444,445 asylum seekers, nearly 75% of the total, concentrated in 5 out of 32 countries: **Germany, France, Greece, Italy** and **Spain**

<sup>12</sup> These figures are subject to double-counting. See e.g. Le Monde, 'Les pays de l'UE se déchirent sur le sort des migrants « dublinés »', 6 May 2019, available in French at: <https://lemde.fr/2vKQZB8>.

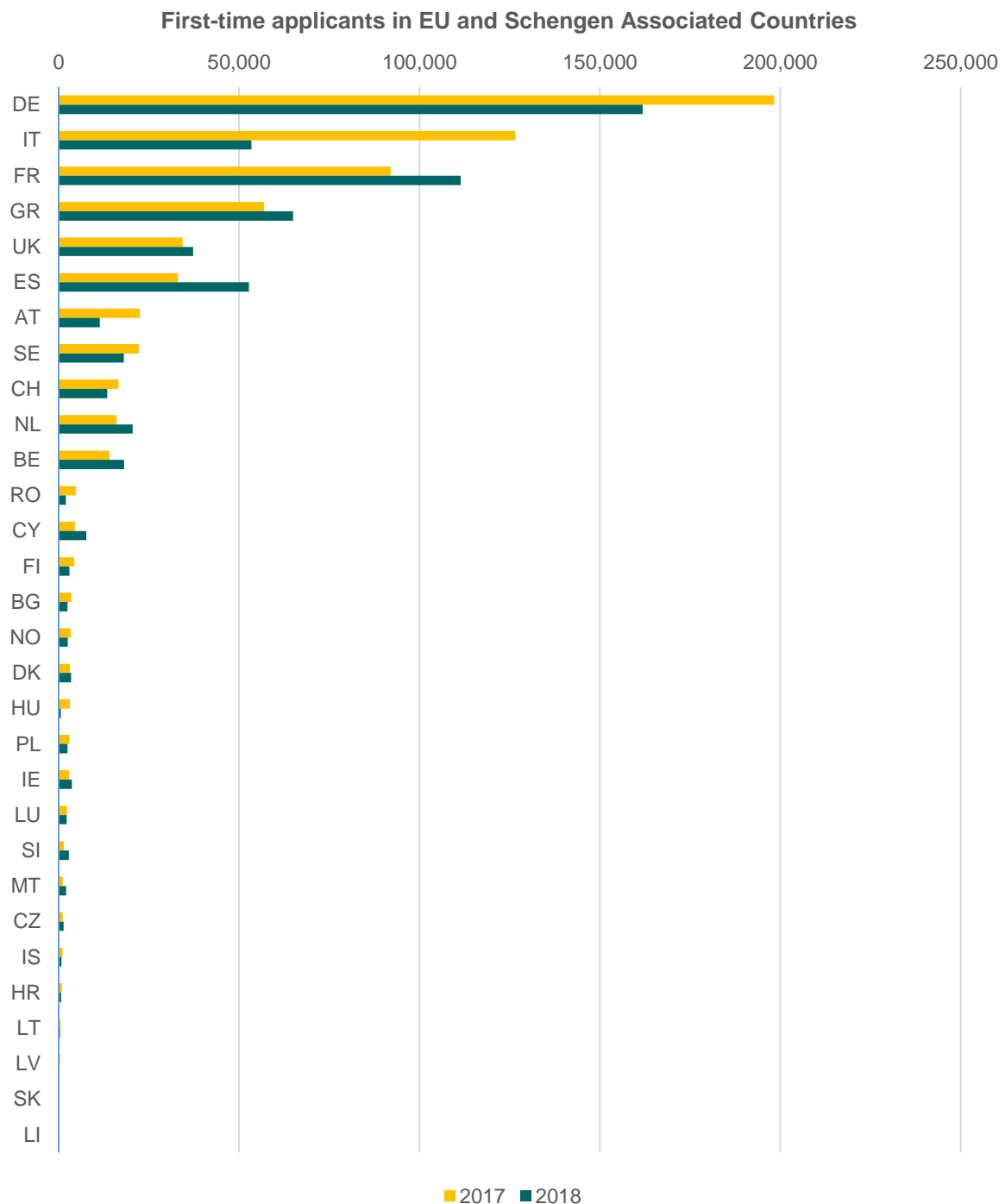
<sup>13</sup> UNHCR, *Mid-Year Trends 2018*, 21 February 2019, available at: <http://bit.ly/2H61UKW>.

<sup>14</sup> AIDA, *Country Report Turkey, 2018 Update*, March 2019, available at: <https://bit.ly/2WomBrt>, 9.

<sup>15</sup> For a discussion of distribution in previous years, see AIDA, *Wrong counts and closing doors*, March 2016, 14-15; *Refugee rights subsiding?*, March 2017, 8-9. See also ICMPD, 'Negotiating the Common European Asylum System's third generation – stubborn on vision, flexible on details', 30 May 2018, available at: <https://bit.ly/2Wp3vIA>.

(see [Annex I, Table 1.1](#)). Variations in the distribution of asylum seekers have been the subject of heated debates at EU and national level for many years and have dominated discussions on the reform of the CEAS, which remain blocked on the issues of responsibility-sharing and secondary movements between EU countries.

Second, not all countries have witnessed a decrease in asylum applications. 14 out of the 32 EU Member States and Schengen Associated States recorded an increase in asylum seekers in 2018 compared to 2017:



Annex I: Table 1.1.

In relative numbers, fluctuations in terms of increase from 2017 to 2018 were most significant in **Slovenia** (95%), followed by **Cyprus** (70%) and **Spain** (59%). Conversely, the most substantial decreases in applications were noted in **Hungary** (79%), **Romania** (58%) and **Italy** (58%).

The increase in asylum applications in Cyprus and Spain has attracted particular attention from EU institutions and agencies in recent years. The European Asylum Support Office (EASO) has stepped up its operations in Cyprus through the establishment of an Operational and Technical Assistance Plan for 2019, which includes actions to improve reception conditions and to set up a first reception centre in Kokkinotrimithia.<sup>16</sup> The Agency also visited Spain and held meetings with the authorities in early 2019.<sup>17</sup> At the same time, EASO continues to provide support to the reception system in Italy,<sup>18</sup> as well as Greece.<sup>19</sup> The increasing engagement of the Agency in the area of reception mirrors the persistence of significant challenges to offering adequate reception conditions to asylum seekers under often rapidly changing circumstances.

The arrival of new asylum seekers is not the only factor affecting the capacity of reception systems. The length of asylum procedures has an impact on the prolonged duration of applicants' stay in state-provided accommodation and thereby on the availability of places for new arrivals. Whereas EU law foresees as a general rule that asylum applications should be processed at first instance within 6 months,<sup>20</sup> many countries do not respect this time limit in practice. First instance decisions take on average 16 months in **Spain**, 17 months in **Sweden** and two to three years in **Cyprus**.<sup>21</sup> New asylum seekers in the **Netherlands** currently wait up to one year for the start of their procedure, while in **Ireland** they face an average waiting time of 18-20 for an interview.<sup>22</sup> In other countries, the duration of the procedure can be significantly above average for certain groups of asylum seekers. In **Greece**, for example, the overall average processing time in 2018 was 8.5 months but several applicants have had their interviews scheduled between 2022 and 2025.<sup>23</sup>

Lengthy procedures create or exacerbate existing backlogs of cases pending before asylum authorities and appeal bodies. Between the end of 2017 and the end of 2018, backlogs of cases pending at first instance or appeal increased in at least 16 out of the 32 EU Member States and Schengen Associated States, as seen in the chart below. Particularly sharp increases in backlogs were noted in the **Netherlands** (116%), **Spain** (102%), **Cyprus** (99%) and **Greece** (60%), all of which also reported an increase in asylum applications lodged in 2018 compared to 2017. In the case of **Poland**, however, the backlog rose by 55% despite a decrease in the number of applications lodged in 2018 compared to 2017.

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<sup>16</sup> EASO, *Operating Plan to Cyprus 2019*, December 2018, available at: <https://bit.ly/2CHCOAJ>.

<sup>17</sup> EASO, 'EASO meets with Spanish authorities to discuss asylum situation in the country', 25 January 2019, available at: <https://bit.ly/2sJpwhV>.

<sup>18</sup> EASO, *Operating Plan to Italy 2019*, December 2018, available at: <https://bit.ly/2GmqdW3>, 21.

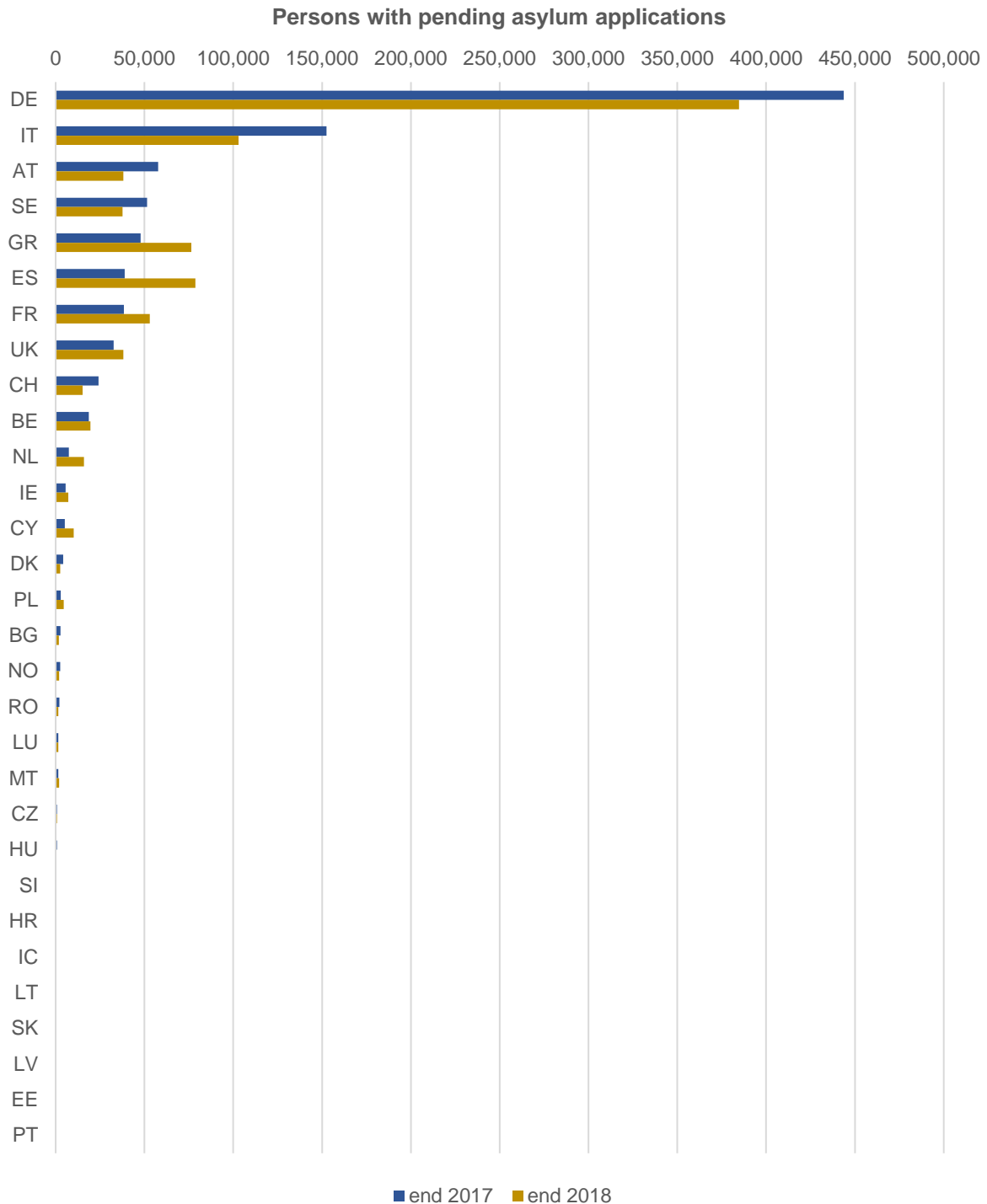
<sup>19</sup> EASO, *Operating Plan to Greece 2019*, December 2018, available at: <https://bit.ly/2Y24nwO>, 18.

<sup>20</sup> Article 31(3) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) ("recast Asylum Procedures Directive"), OJ 2013 L180/60.

<sup>21</sup> AIDA, Country Report Spain, 2018 Update, March 2019, available at: <https://bit.ly/2HxxInx>, 26; Country Report Sweden, 2018 Update, April 2019, available at: <https://bit.ly/2FMK8Mp>, 20; Country Report Cyprus, 2018 Update, March 2019, available at: <https://bit.ly/2FxnRIA>, 23.

<sup>22</sup> AIDA, Country Report Netherlands, 2018 Update, March 2019, available at: <https://bit.ly/2VWHgn0>, 11; Country Report Ireland, 2018 Update, February 2019, available at: <http://bit.ly/2Wv1eFy>, 12.

<sup>23</sup> AIDA, Country Report Greece, 2018 Update, March 2019, available at: <http://bit.ly/2H7GXRn>, 43.



Annex I: Table 1.2.

The above figures indicate that, regardless of overall EU trends, asylum caseloads in individual countries can fluctuate significantly within a relatively short period of time and that backlogs of pending cases can increase or drop exponentially from one year to another. These elements have a direct impact on states' reception systems, as detailed in [Section 2](#).

### *Capacity of reception systems*

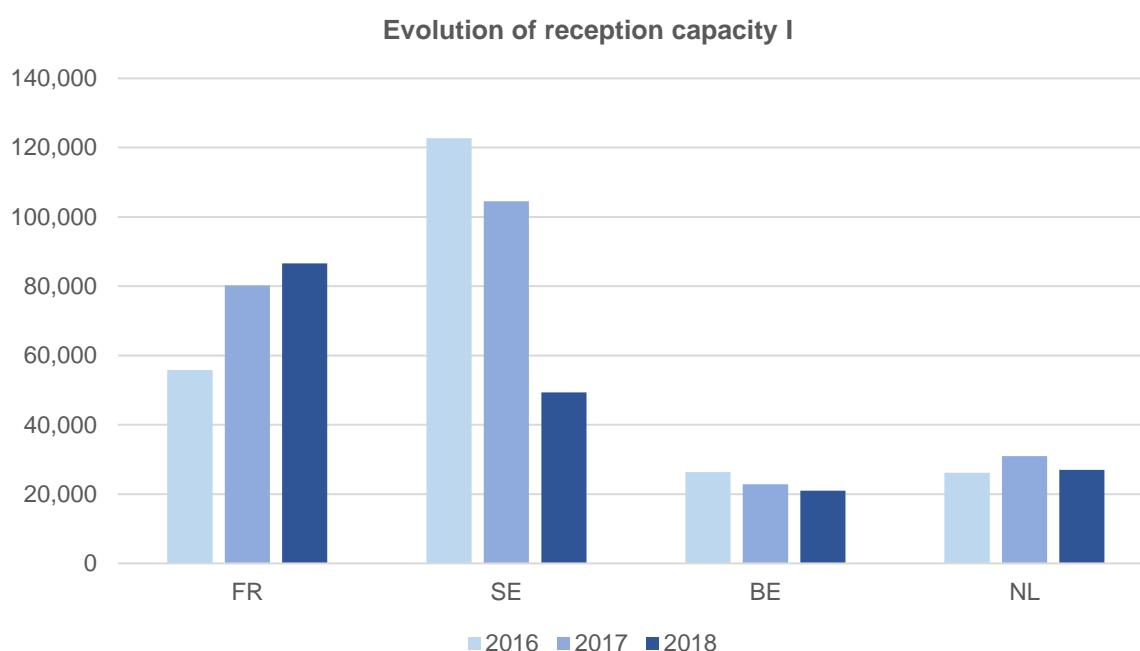
In 2016, ECRE stated that: the "diversity of reception systems, whether in conceptual differences... or in the practical implementation of states' obligations, renders any meaningful comparison between

European countries a highly challenging endeavour. Very often, data on reception is difficult to collect or peculiar to a specific country's system, and thereby non-transferable."<sup>24</sup> This observation remains valid three years later.

EU-wide statistics on reception systems are not available as reception of asylum seekers is not included in the categories of data collected by Eurostat pursuant to the Migration Statistics Regulation.<sup>25</sup> That said, the reform<sup>26</sup> of the Regulation proposed by the European Commission in 2018 could lead to the introduction of EU-wide data on applicants receiving reception conditions, according to the current positions of co-legislators.<sup>27</sup>

At national level, countries such as **Germany**, **Spain** and **Italy** do not publish statistics on countrywide reception capacity, while in others like **Greece** statistics are only available for some but not all types of accommodation, not least due to the fact that the majority of camps in the country still lack legal basis.<sup>28</sup>

The following charts provide a general overview of the evolution of reception capacity in selected countries in the last three years, based on figures made available through AIDA and set out in [Annex I, Table 2.1](#):



Annex I: Table 2.1.

<sup>24</sup> AIDA, *Wrong counts and closing doors*, March 2016, 16. See also European Migration Network (EMN), *The organisation of reception facilities for asylum seekers in different Member States*, 2014, available at: <https://bit.ly/2vTTzFj>, 22

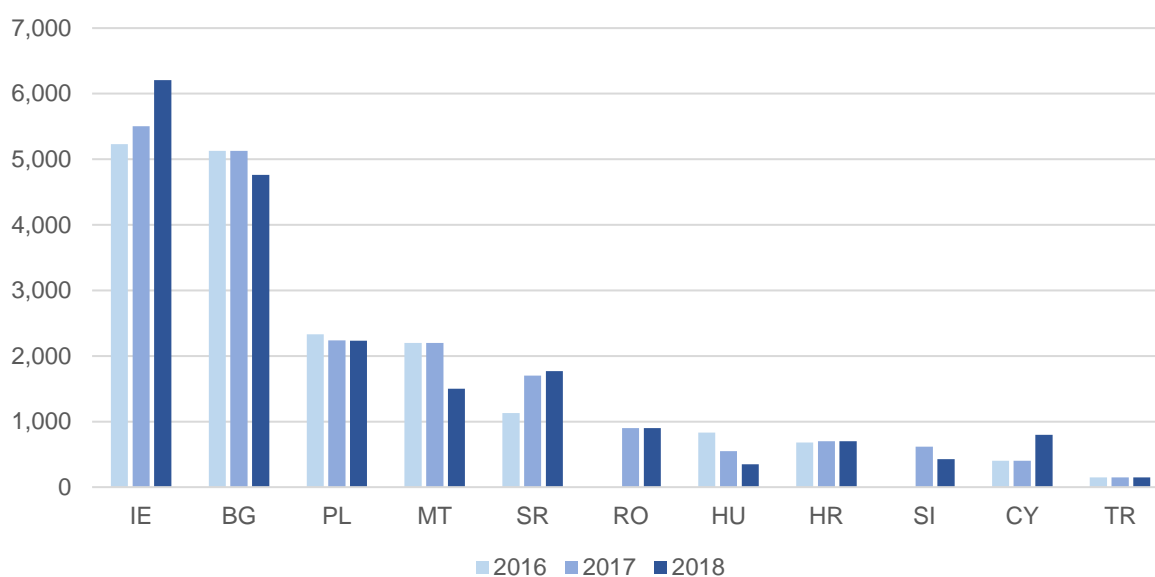
<sup>25</sup> Regulation (EC) No 862/2007 of 11 July 2007 on Community statistics on migration and international protection, OJ 2007 L199/23.

<sup>26</sup> European Commission, *Proposal for a Regulation amending the Migration Statistics Regulation*, COM(2018) 307, 16 May 2018.

<sup>27</sup> European Parliament, *Legislative resolution of 16 April 2019 on the proposal for a Regulation amending the Migration Statistics Regulation – First reading*, P8\_TA-PROV(2019)0359, available at: <https://bit.ly/2H6uNI4>, Article 4(1)(do); Council of the European Union, *Draft Regulation amending the Migration Statistics Regulation – Revised Presidency compromise proposal*, 7935/19, 1 April 2019, available at: <https://bit.ly/301Rk0m>, Article 4(1)(j).

<sup>28</sup> AIDA, *Country Report Greece, 2018 Update*, March 2019, 123.

## Evolution of reception capacity II



Annex I: Table 2.1.

Comparing the capacity of different countries illustrates that no singular conclusion can be drawn from the evolution of reception systems across Europe, given that reception capacity has increased in some countries, decreased in others, and remained stable in others. More importantly, several countries have systematically failed to secure sufficient reception capacity for their asylum-seeking population, regardless of sudden or substantial changes in caseloads, as will be discussed below.

### *Chronic shortages and “reception crisis”*

Insufficient reception capacity is a chronic problem in different European countries, which predates the general increase in arrivals in the EU in 2015 and 2016. Already in 2007, as part of its monitoring of the implementation of the 2003 Reception Conditions Directive, the European Commission had noted that **Cyprus, Italy** and **France** had “shortages of available places for their asylum seekers”.<sup>29</sup> The Commission has not yet produced an evaluation of the implementation of the recast Directive, which it was required to present by 20 July 2017.<sup>30</sup>

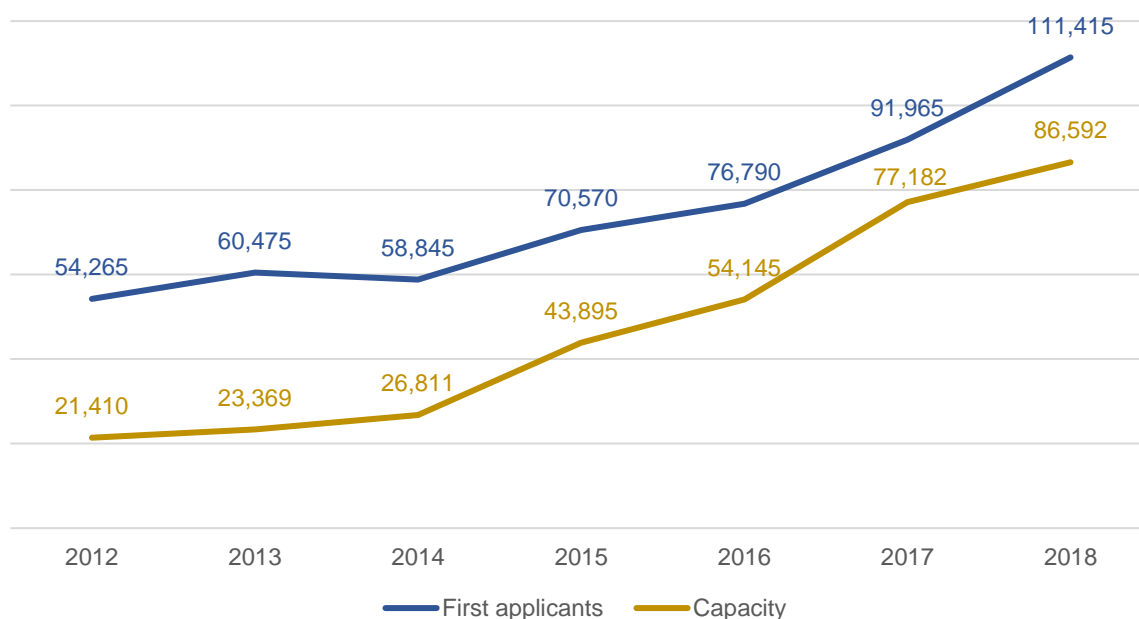
**France** has consistently fallen short of its obligations to provide accommodation to all asylum seekers on its territory, despite a considerable expansion of its reception infrastructure and a proliferation of types of accommodation. Already in 2012, France started enlisting emergency forms of accommodation to respond to capacity shortages in its Reception Centres for Asylum Seekers (*Centres d'accueil de demandeurs d'asile, CADA*).<sup>31</sup> As will be discussed below, France gradually entrenched various forms of emergency accommodation in its national reception system, but has still not been able to secure accommodation for all people seeking protection on its territory.

<sup>29</sup> European Commission, *Report on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers*, COM(2007) 745, 26 November 2007, 6.

<sup>30</sup> Article 31 recast Reception Conditions Directive. A letter was sent to the Commissioner for Migration and Home Affairs by the Chair of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) on 3 December 2018. In his reply, Ares(2019)358450 of 22 January 2019, the Commissioner noted that the Commission “felt that it would have been confusing and distracting to the ongoing negotiations to, in addition and subsequent to the adoption of legislative proposals that include a detailed explanatory memorandum, the Commission adopts distinct reports on the implementation of the various instruments.”

<sup>31</sup> AIDA, Country Report France, June 2013, available at: <https://bit.ly/2LuEcNS>, 43-44.

### Asylum applicants and reception capacity in France



Source: Eurostat; OFII: <https://bit.ly/2VoCW3C>; AIDA.

This means that a substantial number of applicants were left out of accommodation every year. In 2018, only 44% of asylum seekers registered by Prefectures were given access to a reception place.<sup>32</sup> Therefore, France has an established track record of non-compliance with Articles 17(2) and 18(1) of the recast Reception Conditions Directive, requiring reception conditions which ensure an adequate standard of living for applicants.

**Spain** has also faced important difficulties in establishing sufficient reception capacity for asylum seekers. In addition to four Refugee Reception Centres (*Centros de acogida de refugiados*) run by the Ministry of Labour, Migration and Social Security with a total of about 420 places, accommodation is provided through a network of non-governmental organisations (NGOs) subcontracted by the Ministry. The network expanded from three organisations, the Spanish Commission for Aid to Refugees (CEAR), Accem and the Spanish Red Cross, to six at the end of 2015, to ten at the end of 2016, to sixteen at the end of 2018.<sup>33</sup> The capacity of the NGO network rose from 1,230 places in 2015 to 3,684 in 2016 and to about 8,000 in 2017 and 2018.<sup>34</sup>

Available figures from the Ministry of Labour, Migration and Social Security refer to persons who received accommodation (*personas atendidas*) in the course of 2017 and 2018, therefore not the actual occupancy of reception places at the end of each year. During those two years, Spain provided accommodation to more asylum seekers across every phase of its reception system:<sup>35</sup>

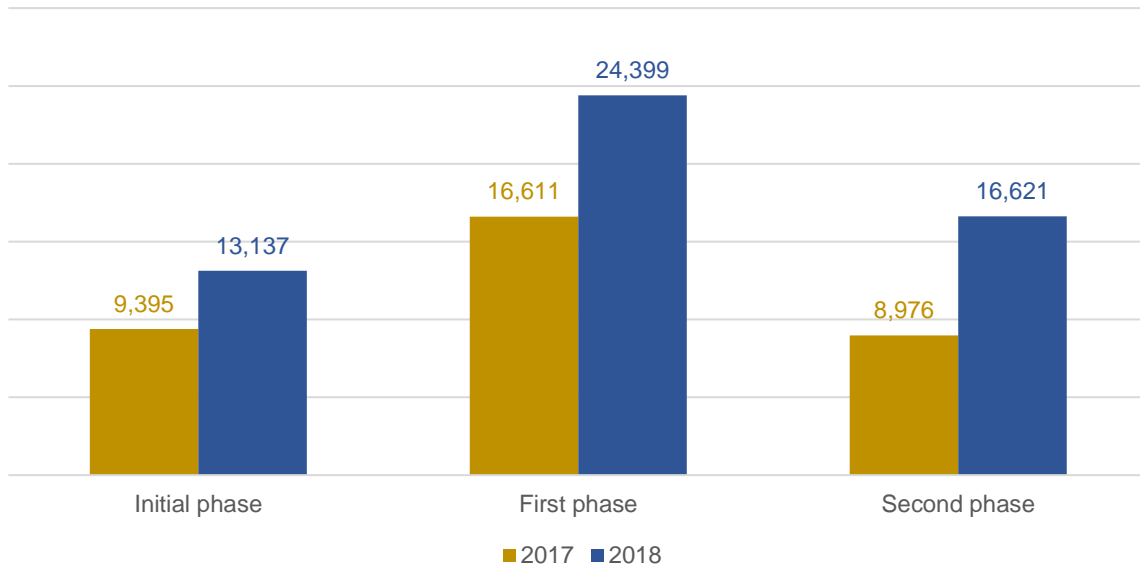
<sup>32</sup> AIDA, Country Report France, 2018 Update, March 2019, available at: <http://bit.ly/2V8Dg1y>, 83.

<sup>33</sup> AIDA, Country Report Spain, April 2016, available at: <https://bit.ly/2H5rZtL>, 38; Country Report Spain, 2016 Update, February 2017, available at: <https://bit.ly/2n1vvNV>, 44; 2018 Update, March 2019, 60.

<sup>34</sup> *Ibid.* See also CEAR, *Informe 2018: Las personas refugiadas en España y Europa*, June 2018, available in Spanish at: <https://bit.ly/2yYzF05>, 106.

<sup>35</sup> Accommodation is offered in three phases of the reception system: the initial phase, the first phase (first reception) and the second phase (preparation for autonomy): Spanish Ministry of Labour, Migration and Social Security, *Sistema de acogida de protección internacional – Manual de gestión*, November 2018, available in Spanish at: <https://bit.ly/2VxIXXO>, 16.

### Asylum seekers receiving accommodation in Spain



Source: Spanish Ministry of Labour, Migration and Social Security, 13 May 2019.

These figures show an overall increase in the number of persons placed in accommodation from 34,982 in 2017 to 54,157 in 2018. Despite this, however, the number of applicants receiving accommodation remains lower than that of persons with a pending asylum claim; at the end of 2018, 78,705 applicants were awaiting a decision on their application.

**Cyprus** had only one reception centre until recently, despite a gradual increase in asylum applications over the past years. The centre consistently operates at full or close to full capacity, while most asylum seekers are expected to secure their own accommodation with very limited allowances provided by the Social Welfare Services. In 2018, securing private accommodation became even more difficult. The combination of a highly restrictive policy relating to the level of allowance, the sharp increase in rent prices as well as the reluctance on behalf of landlords to rent properties to refugees has resulted in an alarming homelessness problem.<sup>36</sup> Although capacity in reception centres is to expand in 2019 to approximately 800 places, mainly due to the transformation of the Emergency Reception Centre in Kokkinotrimithia (Pournara) to a First Reception Centre, this facility will only serve as a temporary form of accommodation for periods up to 72 hours.<sup>37</sup>

**Greece** also raises longstanding concerns. UNHCR described the country's reception capacity to accommodate asylum seekers as "grossly insufficient" in 2009,<sup>38</sup> and has consistently repeated concern about the lack of reception places in addition to a range of flaws in the country's asylum system.<sup>39</sup> However, an important increase in reception places has been achieved in the past three years through the development of parallel reception schemes:<sup>40</sup>

1. The accommodation scheme run by UNHCR under the Emergency Support To Integration and Accommodation (ESTIA) programme mainly for vulnerable groups, previously supported by DG ECHO funding and now funded by the Asylum, Migration and Integration Fund (AMIF);

<sup>36</sup> AIDA, Country Report Cyprus, 2018 Update, March 2019, 59, 63, 67.

<sup>37</sup> *Ibid*, 67.

<sup>38</sup> UNHCR, *Observations on Greece as a country of asylum*, December 2009, available at: <https://bit.ly/2WxTkeF>, 10.

<sup>39</sup> UNHCR, *Greece as a country of asylum*, December 2014, available at: <https://bit.ly/2HPyHaR>, 20-21. See also AIDA, Country Report Greece, June 2013, available at: <https://bit.ly/307kifd>, 42.

<sup>40</sup> AIDA, Country Report Greece, 2018 Update, March 2019, 115, 122-126.



2. Temporary accommodation centres, i.e. camps set up in different locations across the mainland, which are further discussed in [Section 2](#);
3. Reception and Identification Centres on the islands which are mainly used as open reception centres; and
4. The network of accommodation places run by the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, ΕΚΚΑ), which following a 2018 reform is solely dedicated to unaccompanied children.

Capacity has increased in particular through the expansion of the UNHCR accommodation scheme, which had a capacity of 23,156 places at the end of 2018, of which 1,510 on the islands.<sup>41</sup> Another 16,110 persons resided in camps according to the latest available estimates in September 2018.<sup>42</sup> Despite these efforts, however, homelessness and destitution are persisting problems. First, on several occasions in 2018, newly arrived asylum seekers were homeless and had to resort to makeshift solutions in urban areas of Athens, Thessaloniki and Patra.<sup>43</sup> Second, available accommodation places in Greece often fail to protect asylum seekers from destitution, while conditions in camps on the mainland and Reception and Identification Centres on the islands are consistently criticised by various bodies as overcrowded, squalid, unsafe and degrading for residents.<sup>44</sup>

The case of **Turkey** merits specific consideration. The law does not set out an obligation on the state to provide accommodation to international protection applicants and provides that, as a rule, asylum seekers secure accommodation by their own means.<sup>45</sup> Nevertheless, DGMM can establish Reception and Accommodation Centres. Presently only two such centres are operational with a total capacity of 150 places.<sup>46</sup> They are thus wholly insufficient to cover the accommodation needs of the registered non-Syrian asylum-seeking and refugee population in Turkey, estimated at 368,230 people.<sup>47</sup> It should be noted that another six Reception and Accommodation Centres with a 750-place capacity each were built, with EU co-financing. However, following the 2015 EU-Turkey Migration Action Plan and the 2016 EU-Turkey Statement, these centres have been transformed into pre-removal detention centres.<sup>48</sup> Similarly, the overwhelming majority of Syrian temporary protection beneficiaries secure their own accommodation. Only 143,558 people reside in camps spread across south-eastern provinces of the country.<sup>49</sup>

International protection applicants and temporary protection holders are eligible for cash assistance under EU-funded programmes such as the Emergency Social Safety Net (ESSN) and the Conditional Cash Transfer for Education (CCTE), which could be a source of funding for covering accommodation needs. As of February 2019, however, the ESSN was disbursed to 1,545,674 persons, most of whom (1,361,402) Syrians. The CCTE was disbursed to 487,089 persons, most of whom (416,347) Syrians.<sup>50</sup> Accordingly, more than half of the estimated 4 million refugee and asylum-seeking population in Turkey receive no accommodation and no financial support to that end. Persisting problems of destitution, squalid conditions of accommodation in tents or overcrowded apartments, and exploitation from landlords are reported in various provinces of the country.<sup>51</sup>

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<sup>41</sup> *Ibid*, 125.

<sup>42</sup> *Ibid*, 125.

<sup>43</sup> *Ibid*, 131.

<sup>44</sup> *Ibid*, 126-131.

<sup>45</sup> Article 95(1) Turkish Law on Foreigners and International Protection.

<sup>46</sup> AIDA, Country Report Turkey, 2018 Update, March 2019, 65.

<sup>47</sup> IOM, *Migrant Monitoring Presence: Turkey*, Q1 2019, available at: <https://bit.ly/30eapwu>.

<sup>48</sup> AIDA, Country Report Turkey, 2018 Update, March 2019, 65.

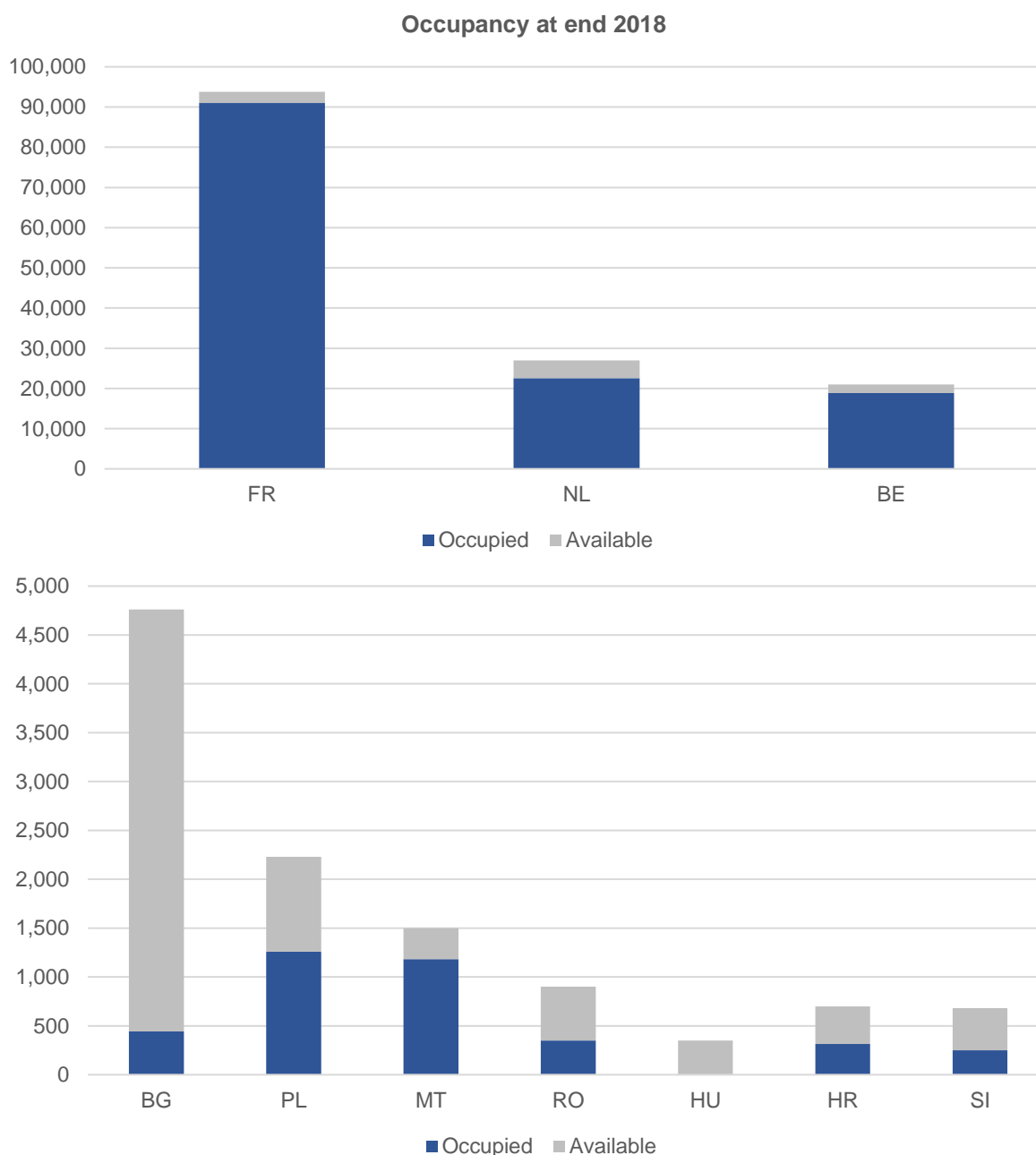
<sup>49</sup> *Ibid*, 130-131.

<sup>50</sup> *Ibid*, 60, 142-143.

<sup>51</sup> *Ibid*, 66-67, 131-132.

## 2. Adaptability of reception systems to changing circumstances

The occupancy rate of reception systems in 2018, i.e. the number of occupied accommodation places out of the total number of places, differs considerably from one country to another. According to available figures for the end of 2018, the occupancy of reception systems was as follows:



Annex I: Table 2.2.

Occupancy at the end of 2018 was particularly low in **Bulgaria, Slovenia, Croatia** and **Romania**, all of which have maintained similar capacity levels in the past few years. This does not necessarily stem from a drop in asylum applications and does not mean that fluctuations have not happened in the course of the year, since in 2018 **Slovenia** received almost double the number of asylum seekers it registered in 2017. In fact, the higher number of arrivals in the first half of 2018 led to situations of overcrowding in the reception area of the Asylum Home in Ljubljana, where people are *de facto* held

pending the lodging of their application. Hygienic conditions were problematic and raised health risks for residents and staff during this period.<sup>52</sup>

At the same time, the above figures show that reception systems operated at near-full capacity in **France, Belgium, the Netherlands and Malta** at the end of 2018. This was also the case for **Ireland**, where the Direct Provision system reached full capacity in September 2018 and no accommodation was available for newly arrived asylum seekers.<sup>53</sup> **Portugal** was also impacted by persisting overcrowding in the Refugee Reception Centre (*centro de acolhimento para refugiados*, CAR) where applicants are accommodated during the admissibility and accelerated procedures, due to an increasing number of referrals of asylum seekers from the Immigration and Borders Service (*Serviço de Estrangeiros e Fronteiras*, SEF) and delays in accessing private accommodation following referral to the regular procedure or the appeal procedure.<sup>54</sup>

### *Reduction of reception capacity*

A recurring trend in many European countries is the scaling down of capacity to adapt reception systems to a drop in asylum applications and to avoid excessive numbers of empty places. In **Germany**, for instance, an estimated 100,000 reception places were vacant in reception centres and other accommodation facilities in North-Rhine Westphalia at the end of 2017.<sup>55</sup>

In practice, many countries have gradually phased out accommodation places in light of the dramatic decrease in new arrivals after 2016. In **Sweden**, for example, the Migration Agency has reduced accommodation places from 122,708 to 49,316 in the last three years.<sup>56</sup> **Austria** has taken similar steps, with the Federal Ministry of Interior gradually reducing its federal reception centres from 32 to 20 and announcing the closure of another 7 centres by the end of 2019, while federal provinces have also reduced their reception capacity to a significant extent.<sup>57</sup>

The scaling down of reception capacity in **Hungary** merits particular consideration. Open reception centres have been gradually and systematically dismantled in recent years. Following the closure of Nagyfa in August 2016 and of Bicske in December 2016, the introduction of a policy of automatic *de facto* detention in the transit zones of Röszke and Tompa in March 2017 resulted in reception centres operating at almost zero occupancy. Körmend was closed in May 2017 and Kiskunhalas in July 2018, leaving only two reception centres, Vámoszabadi and Balassagyarmat.<sup>58</sup> At the end of 2018, the reception system had minimal occupancy, with only three people residing in reception facilities.

As discussed in [Section 1](#), fluctuations in asylum caseloads and factors leading to backlogs are not always easy for states to foresee. Reducing accommodation places where reception demand is lower may be a matter of efficient use of financial and human resources, but may at the same time create difficulties if a surge in demand occurs again. That is because, as Kegels points out, “‘places’ are not always an adequate measure of what’s gained or lost.” Reducing capacity means phasing out fixed assets such as buildings, but also human capital and services by local support actors which may be costly to regain.<sup>59</sup>

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<sup>52</sup> AIDA, Country Report Slovenia, 2018 Update, March 2019, available at: <https://bit.ly/2JGstv0>, 52.

<sup>53</sup> AIDA, Country Report Ireland, 2018 Update, February 2019, 61.

<sup>54</sup> AIDA, Country Report Portugal, 2018 Update, April 2019, available at: <https://bit.ly/2W0PDxl>, 16,

<sup>55</sup> AIDA, Country Report Germany, 2017 Update, March 2018, available at: <https://bit.ly/2ZSX5x6>, 68.

<sup>56</sup> AIDA, Country Report Sweden, 2018 Update, April 2019, 61.

<sup>57</sup> AIDA, Country Report Austria, 2018 Update, March 2019, available at: <https://bit.ly/2ID5uzH>, 77.

<sup>58</sup> AIDA, Country Report Hungary, 2018 Update, March 2019, available at: <https://bit.ly/2OrO6xG>, 69-70.

<sup>59</sup> Michael Kegels, *Getting the balance right. Strengthening asylum reception capacity at national and EU levels*, Migration Policy Institute Europe, February 2016, available at: <https://bit.ly/2PQFJwm>, 6.

In some countries, the reduction of accommodation places has proved to be premature, as reception systems ended up being unprepared in 2018 to respond to subsequent increases in arrivals of asylum seekers in a timely manner. The Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan Opvang Asielzoekers*, COA) announced the reduction of capacity in the **Netherlands** from 31,000 places in 2017 to 27,000 by the end of 2018.<sup>60</sup> Yet, the dramatic rise in the backlog of pending cases in the course of 2018, reportedly owed to insufficient planning and staff shortages at the Immigration Naturalisation Service (*Immigratie en Naturalisatiedienst*, IND), has put the reception system under significant pressure.<sup>61</sup> The COA estimates that reception capacity must be increased to 30,300 places by the end of 2019 to cope with current demand.<sup>62</sup>

Similarly, in **Belgium**, the government continued its policy of reducing capacity, from 26,362 places in 2016 to 21,343 at the end of 2018 and to 21,014 as of 15 January 2019. By summer 2018 it became clear that due to these closures and a growing number of asylum applications there would be a lack of reception capacity. Therefore, the government decided to keep 7 collective centres open at the end of September 2018. By the end of the year, the capacity of the reception system was still too limited. The State Secretary for Asylum and Migration instructed the Aliens Office to introduce a 50-person cap per day for access to the asylum procedure.<sup>63</sup> The cap was subsequently suspended by the Council of State as incompatible with the recast Asylum Procedures Directive.<sup>64</sup> By early April 2019, capacity had risen to 22,542 places.<sup>65</sup>

In **Ireland**, reception capacity has been decreasing since 2016, not as a response to reduced demand but due to factors such as the expiry of contracts between the Reception and Integration Agency (RIA) and accommodation providers, and the ongoing housing crisis in the country. This resulted in a lack of available places for new arrivals in September 2018, with more than 20 asylum seekers being left homeless upon arrival.<sup>66</sup> Overcrowding was also witnessed, although this has been a recurrent issue in Direct Provision.<sup>67</sup>

Without any buffer capacity which can be swiftly mobilised when numbers increase again, the injudicious reduction of reception places may cause chaos and trigger improvised solutions which are often counterproductive in the long run.

### *Use of emergency accommodation*

The recast Reception Conditions Directive provides that “[i]n duly justified cases, Member States may exceptionally set modalities for material reception conditions different from those provided for in this Article, for a reasonable period which shall be as short as possible”, namely when “housing capacities normally available are temporarily exhausted”.<sup>68</sup>

The Directive acknowledges the existence of situations where different modalities for accommodation may be set, so long as these arrangements “in any event cover basic needs”, but stresses that their

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<sup>60</sup> COA, ‘Opvangcapaciteit asielzoekers voor eind 2018 naar 27.000 plaatsen’, 29 March 2018, available in Dutch at: <https://bit.ly/2SbafFQ>.

<sup>61</sup> Dutch Council for Refugees, ‘Wachttijden asielpcedure bij IND pas in 2021 opgelost’, 18 April 2019, available in Dutch at: <https://bit.ly/2WtpO9H>.

<sup>62</sup> COA, ‘COA: iets meer opvangcapaciteit nodig in 2019’, 4 April 2019, available in Dutch at: <https://bit.ly/2J4uno1>.

<sup>63</sup> AIDA, Country Report Belgium, 2018 Update, March 2019, available at: <https://bit.ly/2PsRvgk>, 79.

<sup>64</sup> Belgian Council of State, Decision No 243.306, 20 December 2018, available in French at: <http://bit.ly/2Q286aQ>.

<sup>65</sup> Fedasil, *Chiffres*, 1 April 2019, available in French at: <https://bit.ly/2Yi3vVf>.

<sup>66</sup> AIDA, Country Report Ireland, 2018 Update, February 2019, 59, 61.

<sup>67</sup> *Ibid.*, 63.

<sup>68</sup> Article 18(9) recast Reception Conditions Directive.

use must be exceptional.<sup>69</sup> It can thus be inferred from this provision that long-term use of emergency accommodation beyond exceptional cases stemming from temporary unavailability of places is not permitted by the EU asylum *acquis*. Although the Directive does not establish concrete timeframes, it should be understood that the exceptional exhaustion of normally available housing capacity, as a result of maximum occupancy or shortages in the private housing market for instance, can only justify derogations from regular accommodation arrangements for a limited period of time.

“Emergency accommodation” is not a legal concept and does not follow a clear and commonly agreed definition. Following the increase in arrivals in the EU in 2015 and 2016, many countries resorted to emergency accommodation as their reception systems were unable to cope with the sudden increase in demand, but often made prolonged use of such solutions.<sup>70</sup> **Germany**, which made wide use of emergency shelters in 2015 and 2016, closed down these facilities in 2017 with the exception of the arrival centre (*Ankunftszentrum*) at the former Berlin Tempelhof Airport. At the end of December 2018, 1,000 asylum seekers were reportedly still accommodated in emergency shelters at the Berlin airport and in army barracks, while more than 1,000 places in newly built facilities for asylum seekers remained unused due to organisational problems.<sup>71</sup> The closure of the emergency facility at the former Tempelhof Airport was announced by the authorities by the end of 2018.<sup>72</sup>

In **Greece**, several camps, named temporary accommodation centres, were set up mainly by the Hellenic Army in the course of 2016 to cater for the reception needs of asylum seekers following the closure of the “Western Balkan route”. These remain in use three years later. Out of a total of 27 camps in operation, all but three (Elaionas, Schisto and Diavata) operate without legal basis as no Joint Ministerial Decision has been adopted regarding to their establishment. The number of people accommodated in camps was 14,350 in February 2017, 14,281 in August 2017, and 16,110 in September 2018.<sup>73</sup>

Other countries have resorted to or made wider use of emergency accommodation more recently to cope with reception shortages. In **Ireland**, following the aforementioned shortage in capacity of Direct Provision centres in 2018, the RIA contracted Emergency Accommodation Beds, also known as “satellite centres”, in hotels and holiday homes to house asylum seekers on a temporary basis pending placement in a reception centre.<sup>74</sup> In **Spain**, temporary accommodation in hotels during the “initial phase” of reception in 2018 exceeded the 30-day period foreseen by law and reached up to four months due to longer waiting times for accessing a reception place.<sup>75</sup>

Some countries have institutionalised the use of emergency accommodation beyond situations of temporary unavailability of places, even without having witnessed sudden or dramatic increases in arrivals. What is unclear from a legal point of view is the exact point at which emergency accommodation stops being an emergency solution. For certain countries, such as those facing chronic reception shortages as discussed in [Section 1](#), emergency schemes may have originally been devised as temporary solutions to cater for urgent accommodation needs but have gradually become entrenched within the general reception system to increase its capacity. Relevant examples of long-term use of emergency accommodation can be found in France, Greece and Italy.

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<sup>69</sup> *Ibid.*

<sup>70</sup> AIDA, *Wrong counts and closed doors*, March 2016, 31-32.

<sup>71</sup> AIDA, Country Report Germany, 2018 Update, April 2019, available at: <https://bit.ly/2XlvJla>, 74-75.

<sup>72</sup> Berlin.de, ‘Senat beginnt Schließung des Flüchtlingszentrums Tempelhof’, 20 December 2018, available in German at: <https://bit.ly/2uGkGCM>.

<sup>73</sup> AIDA, Country Report Greece, 2016 Update, March 2017, available at: <https://bit.ly/2nwd9nA>, 98; 2017 Update, March 2018, available at: <https://bit.ly/2G5vKP2>, 125; 2018 Update, March 2019, 123.

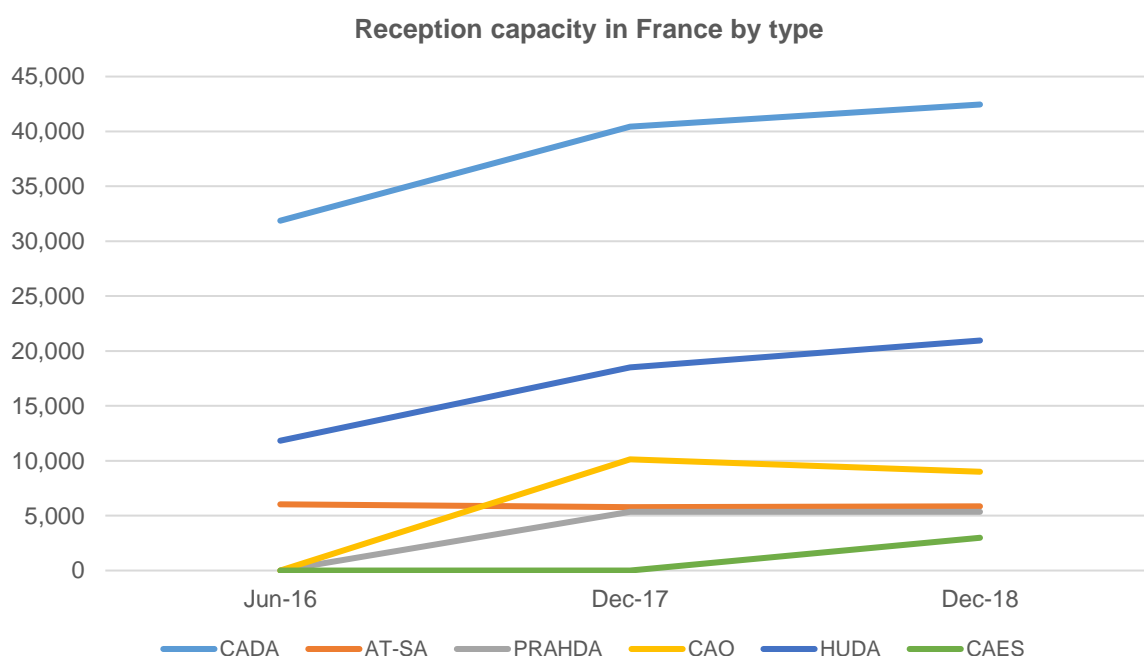
<sup>74</sup> AIDA, Country Report Ireland, 2018 Update, February 2019, 61.

<sup>75</sup> AIDA, Country Report Spain, 2018 Update, March 2019, 55.

In **France**, for example, the consistent lack of reception places in CADA led the authorities to establish a range of emergency accommodation schemes in the past years. These include the following:<sup>76</sup>

1. Temporary Reception – Asylum Office (*accueil temporaire – service de l’asile*, AT-SA), managed at national level;
2. Reception and Accommodation Programme for Asylum Seekers (*programme regional d’accueil et d’hébergement des demandeurs d’asile*, PRAHDA), managed at national level;
3. Reception and Orientation Centres (*centres d’accueil et d’orientation*, CAO), initially created to accommodate asylum seekers evacuated from Calais;
4. Emergency Accommodation for Asylum Seekers (*hébergement d’urgence dédié aux demandeurs d’asile*, HUDA), managed at regional level.

In addition, Reception and Administrative Situation Examination Centres (*centres d’accueil et d’examen de situation administrative*, CAES) have emerged as an additional form of accommodation in 2017. The capacity of the different types of accommodation have evolved as follows in the last three years:



Annex I: Table 2.3.

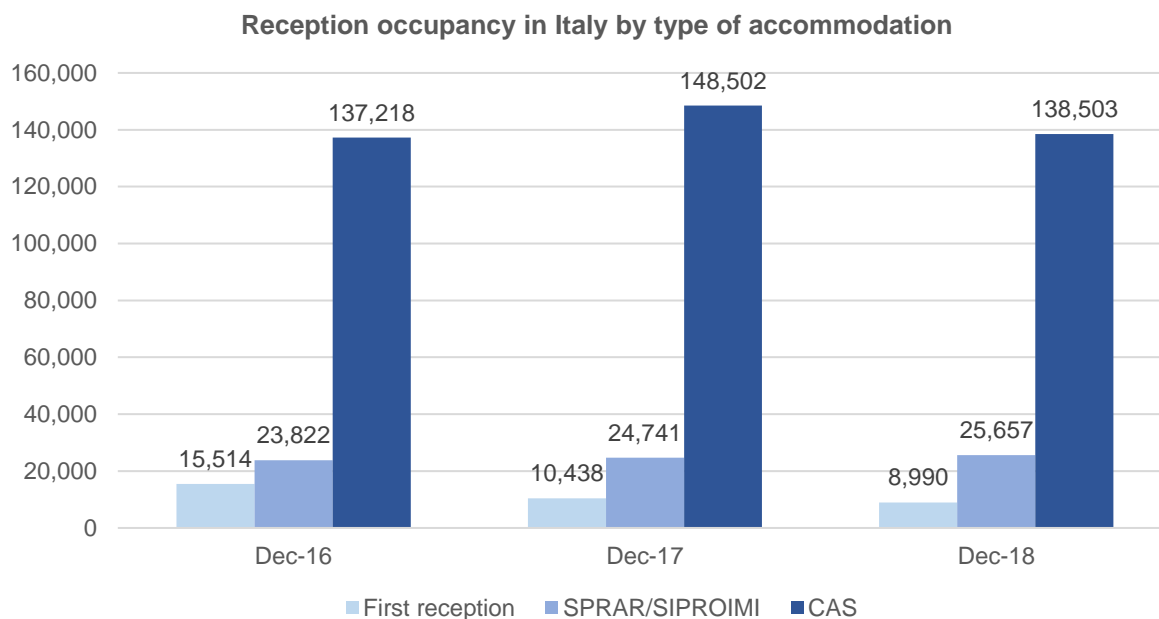
While France has continued to steadily develop the capacity of CADA, the main form of reception for asylum seekers, it has exponentially increased the capacity of emergency accommodation through the creation of PRAHDA and the expansion of HUDA from 11,829 places in mid-2016 to 20,953 at the end of 2018. Currently, the emergency accommodation network (AT-SA, PRAHDA, CAO, HUDA) is nearly as large in size as the CADA and formally forms part of the national reception system.

It appears therefore that “emergency accommodation” in France no longer serves the purpose of temporarily covering shortages in the normal reception system. In fact, it is the default form of accommodation for certain categories of asylum seekers such as those under a Dublin procedure, since they are excluded altogether from CADA.<sup>77</sup>

<sup>76</sup> AIDA, Country Report France, 2018 Update, March 2019, 84.

<sup>77</sup> *Ibid.*

The situation in **Italy** is more striking. In addition to the existing web of reception facilities, the government set up Emergency Reception Centres (*centri di accoglienza straordinaria*, CAS) in 2015 to address shortages in the capacity of its first reception centres and second-line reception provided under the System of Protection for Asylum Seekers and Refugees (*sistema di protezione per richiedenti asilo e rifugiati*, SPRAR), which recently became the System of Protection for Beneficiaries of International Protection and Unaccompanied Minors (*sistema di protezione per titolari di protezione internazionale e minori stranieri non accompagnati*, SIPROIMI).<sup>78</sup> Since then, the network of CAS, officially referred to as “temporary facilities” (*strutture temporanee*) in the law, has grown exponentially to the point of becoming the dominant form of accommodation in Italy:



Annex I: Table 2.4.

Is the entrenchment of emergency accommodation as a standard form of reception problematic *per se*? Compliance with legal standards depends on the quality of services offered in such emergency facilities. If they offer an adequate standard of living in line with Article 18(1)(b) of the recast Reception Conditions Directive, these places should be suitable for stable accommodation, regardless of their official designation in the national context.

Yet, practice reveals that many such facilities are not suitable for long-term accommodation of asylum seekers. Conditions in various camps in **Greece** remain poor due to persisting overcrowding, lack of or insufficient provision of services, violence, and lack of security.<sup>79</sup> Most camps operate without official site management and without clear referral pathway or mechanism coordinating accommodation placement.<sup>80</sup> In **Italy**, critiques have been levelled against several CAS such as Enea, Casotto and Roggiano Gravina for reasons including unsuitable infrastructure, lack of hot water and poor hygienic conditions, as well as lack of sufficient staff.<sup>81</sup>

In addition, the permanent use of emergency facilities as a rule – as is the case for applicants in Dublin procedures in **France** – entails a systematic derogation from normally provided modalities of

<sup>78</sup> AIDA, Country Report Italy, 2018 Update, April 2019, 80-81.

<sup>79</sup> AIDA, Country Report Greece, 2018 Update, March 2019, 127-128.

<sup>80</sup> *Ibid*, 123. See also Refugee Support Aegean, *Reception crisis in Northern Greece: Three years of emergency solutions*, May 2019, available at: <https://bit.ly/30Fjo9X>.

<sup>81</sup> AIDA, Country Report Italy, 2018 Update, April 2019, 99-100.

material reception conditions, contrary to the Article 18(9) of the recast Reception Conditions Directive.

### *Contingency planning and stable investment*

The last four years in Europe have undoubtedly exposed a low level of preparedness for large numbers of arrivals of refugees and migrants in most countries. Observations from reception practice in 2018 confirm that fluctuations in the numbers of asylum seekers arriving at and departing from reception facilities create important challenges for administrations such as inability to offer accommodation to new arrivals, and resort to improvised emergency accommodation. UNHCR currently warns that, despite post-2015 experiences, Member States are still unprepared to deal with a potential increase in arrivals.<sup>82</sup>

Flexibility and adaptability are therefore indispensable features of well-managed reception systems.<sup>83</sup> EU law currently contains no provision on contingency planning, the process of preparing and equipping authorities to cope with changing circumstances which may create specific pressure on their asylum and reception systems. Nevertheless, contingency planning forms part of many countries' policy. According to a European Migration Network (EMN) query, several European countries have engaged in some form of contingency planning, in particular after 2015.<sup>84</sup> Planning can take different forms. For example, the Migration Agency of **Sweden** engages in regular forecasts of the number of asylum applications expected every year,<sup>85</sup> whereas the Government of **Slovenia** updated its contingency plan in 2018 to foresee different levels of additional staff, material and infrastructure depending on the scale of increase in arrivals.<sup>86</sup>

Inspired by the increase of arrivals in the EU in 2015 and 2016,<sup>87</sup> the European Commission proposal to recast the Reception Conditions Directive introduces an obligation on each Member State to set up a contingency plan for cases where it would be confronted with a disproportionate number of asylum seekers.<sup>88</sup> The process of contingency planning is predominantly a national responsibility but is streamlined at EU level through the involvement of the future EU Asylum Agency, which is entrusted with the development of a template and with monitoring the adequacy of measures taken according to the respective contingency plans once activated.

Whereas the initial Commission proposal limits the obligation on Member States to draw up a contingency plan to situations of disproportionate numbers of applicants, 'trilogue' negotiations between the Council and the European Parliament in 2018 have further expanded the scope of the provision. First, contingency planning is conceived of as a collective effort of various actors including local and regional authorities, civil society and international organisations as appropriate and therefore not exclusively as a state process. Second, the Member State contingency plan must not only include measures to anticipate and address disproportionate pressure on the reception infrastructure but also measures to address already mentioned situations of normally available housing capacities being temporarily exhausted, referred to in Article 18(9)(b) of the current recast

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<sup>82</sup> EU Observer, 'UN: Europe is badly prepared for new refugee crisis', 25 April 2019, available at: <https://bit.ly/2DWOErr>.

<sup>83</sup> Michael Kegels, *Getting the balance right. Strengthening asylum reception capacity at national and EU levels*, Migration Policy Institute Europe, February 2016, 4-5.

<sup>84</sup> EMN, *Ad-Hoc Query on reception and civil protection of large inflows of asylum seekers*, 14 September 2016, available at: <http://bit.ly/2H5cDXr>.

<sup>85</sup> Swedish Migration Agency, 'Forecast for the number of asylum seekers unchanged', 17 May 2018, available at: <https://bit.ly/2Ygkmrs>.

<sup>86</sup> Slovenian Migration Office, *Poročilo o delu Urada za migracije za leto 2018*, February 2019, available in Slovenian at: <https://bit.ly/2V6JsXO>, 44-46.

<sup>87</sup> European Commission, *Proposal for a recast Reception Conditions Directive*, COM(2016) 465, 13 July 2016, Explanatory Memorandum, 3.

<sup>88</sup> Article 28 proposed recast Reception Conditions Directive.



Reception Conditions Directive. Unfortunately, co-legislators so far maintained the Commission proposal's restriction of the personal scope of contingency planning to the number of asylum seekers a Member State is responsible for in accordance with the Dublin Regulation. This restriction largely ignores actual reception demand on the reception system, which may in reality exceed by far the number of applicants a Member State may be formally responsible for under the Dublin system.<sup>89</sup>

Although no final agreement has been reached so far between the co-legislators and the fate of the entire CEAS reform package remains uncertain, if adopted, Article 28 of the proposal would introduce for the first time an EU law obligation on Member States to set up a mechanism in order to anticipate and address not only shortages in reception capacity resulting from a sudden increase in arrivals of asylum seekers but also from factors unrelated to disproportionate pressure. One key factor relates to the range of obstacles faced in many countries by protection status holders when it comes to moving out of reception facilities, as discussed in [Chapter II](#).

EASO has not awaited the outcome of legislative negotiations on the reform of the Reception Conditions Directive and has already published guidance to Member States on contingency planning in the area of reception.<sup>90</sup> The guidance identifies the moment of scaling down reception capacity when a sudden extra need for capacity is no longer needed as “the ideal moment to create some sort of extra capacity and to select the facilities of better quality, to be better prepared for the next high-influx situation”.<sup>91</sup> EASO also stresses that accurate registration of reception capacity and occupancy, “preferably in a centralised and/or decentralised accessible system”, is essential not only for efficient use of existing capacity but also for planning extra capacity and addressing the situation of persons with special reception needs.<sup>92</sup>

While sound contingency planning can help states to better prepare their reception systems for fluctuations in demand, serious investment in building adequate reception capacity is a necessary pre-requisite for any functional asylum system. The analysis of reception practice regrettably reveals chronic gaps in reception capacity in several European countries, pointing to systematic non-compliance with legal obligations. Remedying these gaps requires strong financial investments in reception as a matter of priority.<sup>93</sup> Such investments have not necessarily been made. On the contrary, countries marred by reception shortages have heavily invested in detention infrastructure.<sup>94</sup> **Turkey**, for example, made no arrangements for additional reception capacity but almost doubled its detention capacity from 8,276 places to 16,116 places in 24 pre-removal detention centres in 2018, and is planning the construction of another 11 centres to bring its total detention capacity to 21,466 places.<sup>95</sup>

The need for proper investment in reception capacity to enhance preparedness and for adequate monitoring of evolutions therein will be part of ‘trilogue’ negotiations between co-legislators on the proposal for an Asylum and Migration Fund (AMF) Regulation, as well as the planning of national programmes implementing the future AMF. ECRE has recommended the inclusion of minimum allocation and spending requirements of 50% on asylum and 30% on integration objectives in national programmes to ensure that sufficient resources are dedicated to the further development of national

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<sup>89</sup> ECRE, *Comments on the Commission proposal to recast the Reception Conditions Directive*, October 2016, available at: <https://bit.ly/2sJZ32k>, 15.

<sup>90</sup> EASO, *Guidance on contingency planning in the context of reception*, March 2018, available at: <https://bit.ly/2UVspwv>.

<sup>91</sup> *Ibid*, 40.

<sup>92</sup> *Ibid*, 36-37.

<sup>93</sup> ECRE, *Principles for fair and sustainable refugee protection in Europe*, February 2017, available at: <https://bit.ly/2LQhuwp>, 6-7.

<sup>94</sup> ECRE, *The detention of asylum seekers in Europe: Constructed on shaky ground?*, June 2017, available at: <https://bit.ly/2G5MR2V>, 6-7.

<sup>95</sup> AIDA, Country Report Turkey, 2018 Update, March 2019, 84-85.

asylum systems, including reception capacity.<sup>96</sup> While the principle of earmarking of minimum allocation levels to various areas covered by the AMF is endorsed in the European Parliament's negotiating mandate on the Commission proposal, the latter proposes 20% of allocated funding to be dedicated to the asylum objective and 10% to achieving integration objectives.<sup>97</sup>

Moreover, ongoing preparation of national programming of the resources allocated to each Member State under the future AMF presents an opportunity for the Commission to ensure that available EU funding is effectively used to address gaps in national reception capacity. This should be based on an accurate analysis of the reception system and available places, as well as types of accommodation used for asylum seekers. In light of the crucial role of local authorities and NGOs in the provision of accommodation to asylum seekers, their input in the national programming cycle should be secured in line with the partnership principle.

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<sup>96</sup> ECRE, *Comments on the European Commission Proposal on the Asylum and Migration Fund (AMF)*, September 2018, available at: <http://bit.ly/2WHQSCq>.

<sup>97</sup> European Parliament, *Report on the proposal for a Regulation establishing the Asylum and Migration Fund*, A8-0106/2019, 27 February 2019, available at: <http://bit.ly/2Hh1Cm3>, Article 13(1).

The EU asylum *acquis* applies a rather rigorous distinction between asylum seekers and beneficiaries of international protection as regards access to accommodation. Those falling within the scope of the recast Reception Conditions Directive are entitled to reception conditions as long as they are allowed to stay on the territory of a Member State as applicants for international protection, i.e. third country nationals or stateless persons who have made an application for international protection in respect of which a final decision has not yet been taken.<sup>98</sup> The recast Qualification Directive on the other hand, establishes an obligation for Member States to ensure access of beneficiaries of international protection to accommodation under equivalent conditions as other legally residing third country nationals.<sup>99</sup> In addition, Member States must ensure access to integration programmes, Member States consider appropriate “so as to take into account specific needs of beneficiaries of refugee status or of subsidiary protection status, or create pre-conditions which guarantee access to such programmes”.<sup>100</sup>

Whereas the recast Reception Conditions Directive includes specific provisions regulating the withdrawal or reduction of reception conditions as a sanction for applicants’ non-appearance at asylum interviews or failure to provide information to the determining authority, leaving the accommodation facility without permission or prior warning or where the applicant has lodged a subsequent application under certain conditions, it remains silent as to the transition from accommodation provided to asylum seekers to the right to accommodation and housing once they have obtained an international protection status. The recast Qualification Directive equally lacks any provision dealing with the transition between the two legal regimes.

In practice, the transition from reception facilities for asylum seekers to housing as beneficiaries of international protection is all but a smooth process in most cases. Beneficiaries of international protection may face a range of legal and practical obstacles in securing housing in the private market. These barriers delay their self-sufficiency and integration into the host society. At the same time, their continued presence in reception facilities for asylum seekers may put additional pressure on the reception system, in particular at times of increasing numbers of arrivals. Moreover, continued residence in poorly resourced facilities for asylum seekers may prolong exposure to substandard living conditions, contrary to obligations under EU and international human rights law. In practice, European countries have developed various approaches to address this critical moment in the transition from one accommodation regime to the other.

### 1. Obstacles to accessing accommodation post recognition

Obstacles undermining effective access of beneficiaries of international protection to accommodation post recognition are both practical and legal in nature. First, high rent prices and reluctance of landlords to rent their property to beneficiaries of international protection in the private housing market are reported across the continent as one of the main factors impeding the process of transition into stable accommodation. This is despite an express obligation on Member States to “endeavour to implement policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation.”<sup>101</sup>

Second, administrative and legal restrictions may impede quick transition to private accommodation as well. Frequently, these obstacles may push beneficiaries of international protection into destitution

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<sup>98</sup> Article 2(b) recast Reception Conditions Directive.

<sup>99</sup> Article 32(1) recast Qualification Directive.

<sup>100</sup> Article 34 recast Qualification Directive.

<sup>101</sup> Article 32(2) recast Qualification Directive.

and even homelessness contrary to states' obligations under EU and international law to ensure access to accommodation. However, the practical and legal impediments and tools to remove them are largely outside of the realm the asylum *acquis*, rendering enforcement of states' obligations difficult.

### *Financial constraints and discrimination*

Beneficiaries of international protection in most countries face difficulties in accessing the private housing market due to high rental prices, in addition to discrimination in some countries.

In **Germany**, finding suitable housing is difficult for persons who have obtained international protection, in particular in big cities, due to varying availability of affordable accommodation. Local social welfare services as well as local job centres may cover rent where beneficiaries have not sufficient resources but only up to an "adequate level", the amount of which depends on the local housing market conditions.<sup>102</sup>

High rents in the private housing market and distrust of landlords are also key obstacles in **Slovenia**<sup>103</sup> and **Malta**, where the sharp increase of rental prices over recent years has been quoted by asylum seekers and beneficiaries of international protection as a key problem,<sup>104</sup> often forcing them to stay for longer periods of time in reception centres or rent places of substandard quality. This is an issue raised by the Council of Europe Commissioner for Human Rights as well.<sup>105</sup>

High rents and general discriminatory practices are also reported as an important obstacle in most other countries including **Romania**,<sup>106</sup> where landlords are reported to be reluctant to accept non-Romanian speakers, and **Spain** where many beneficiaries of international protection face discrimination in the housing market resulting in some cases in destitution.<sup>107</sup> This is also the case in **Cyprus**,<sup>108</sup> **Ireland**,<sup>109</sup> **Belgium**,<sup>110</sup> **Croatia**,<sup>111</sup> **Hungary**<sup>112</sup> and **Poland**,<sup>113</sup> where owners are not willing to rent flats to beneficiaries of international protection and often demand higher fees.

Similar concerns are reported in **Turkey**, where beneficiaries of international and temporary protection have the same level of rights as asylum seekers. Landlords set high rental prices and onerous advance payment requirements on asylum seekers and status holders, and marginalisation from local communities often drives people to live in isolated areas.<sup>114</sup>

Racial discrimination in the housing market is a broader social problem, affecting not only third-country nationals but also EU citizens with a migration background. Under EU law, the Race Equality Directive<sup>115</sup> ensures equality of treatment from public or private landlords and estate agents in deciding whether to let or sell properties to particular individuals, but remains difficult to enforce. A

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<sup>102</sup> AIDA, Country Report Germany, 2018 Update, April 2019, 120-121.

<sup>103</sup> AIDA, Country Report Slovenia, 2018 Update, March 2019, 73.

<sup>104</sup> Aitus foundation and JRS Malta, *Struggling to survive, an investigation into the risk of poverty among asylum seekers in Malta*, January 2017, available at: <https://bit.ly/2kVtuRz>.

<sup>105</sup> Council of Europe Commissioner for Human Rights, Letter to the Minister for Home Affairs and National Security of Malta, Strasbourg, 14 December 2017, available at: <https://bit.ly/2o5Bwr6>.

<sup>106</sup> AIDA, Country Report Romania, 2018 Update, March 2019, available at: <http://bit.ly/2Yc4aYi>, 130.

<sup>107</sup> AIDA, Country Report Spain, 2018 Update, March 2019, 87.

<sup>108</sup> AIDA, Country Report Cyprus, 2018 Update, March 2019, 109.

<sup>109</sup> AIDA, Country Report Ireland, 2018 Update, February 2019, 87-88.

<sup>110</sup> AIDA, Country Report Belgium, 2018 Update, March 2019, 122.

<sup>111</sup> AIDA, Country Report Croatia, 2018 Update, March 2019, available at: <http://bit.ly/308B91o>, 110.

<sup>112</sup> AIDA Country Report Hungary, 2018 Update, March 2019, 114.

<sup>113</sup> AIDA, Country Report Poland, 2018 Update, March 2019, available at: <https://bit.ly/2U80lVw>, 94.

<sup>114</sup> AIDA, Country Report Turkey, 2018 Update, March 2019, 66-67, 131-133.

<sup>115</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ 2000 L180/22.

recent survey carried out by the European Union Agency for Fundamental Rights (FRA) among people from African descent in 12 EU Member States revealed that this group remains particularly affected by discrimination in the housing market, as well as spatial segregation in low-income areas with low-quality housing.<sup>116</sup> While the survey was not targeting asylum seekers and beneficiaries of international protection in particular, it is indicative of the scale of the problem for these groups as seeking protection was the main reason for coming to the EU for respondents in 7 out of 12 countries covered by the survey.<sup>117</sup> A recent European Parliament resolution subsequently called on Member States to develop comprehensive anti-racism strategies which *inter alia* address such discriminatory practices in the housing market.<sup>118</sup>

### *Legal and administrative barriers*

In a number of countries, legal constraints and administrative requirements hamper the process of moving out of reception centres and accessing private accommodation after obtaining international protection. In some countries, beneficiaries of international protection are confronted with a “catch-22” situation due to administrative requirements they cannot possibly fulfil.

A striking example is **Bulgaria**. A valid identification document is required to access a range of social rights, including housing. Beneficiaries of international protection therefore have to present valid identification documents in order to sign a rental contract. Yet, identification documents cannot be issued if the person does not state a domicile. The situation has been exacerbated since 2016 as the State Agency for Refugees (*Държавната агенция за бежанците*, SAR) prohibits beneficiaries of international protection from stating the address of the reception centre where they resided during the asylum procedure as domicile for that purpose. This has triggered malpractice with fictitious rental contracts and domiciles stated by the beneficiaries of international protection to enable them to obtain their status holders’ identification documents.<sup>119</sup>

A typical ‘catch 22’ case can be seen in **Hungary**, where landlords require potential tenants to present an address card, not taking into account the fact that this is not possible until the person signs a lease agreement and obtains the approval of the landlord to register the property’s address as his or her permanent address. However, landlords are frequently unwilling to allow tenants to register the leased property as their permanent address.<sup>120</sup>

Also in **Serbia**, beneficiaries face difficulties resulting from conditions that are almost impossible to fulfil in practice. In order to apply for cash allowances for renting private housing, accessible up to one year after status is granted, beneficiaries of international protection must present a photocopy of an identity card proving that they live at a private address and not in one of the facilities for asylum seekers. However, as most of them have no income, this condition is impossible to fulfil in practice as landlords request an advance payment of the rent covering several months.<sup>121</sup> Moreover, verification of a statement on absence of regular income out of paid employment, a private enterprise, property or other sources, a prerequisite to receive accommodation support post recognition, is also very difficult to obtain. Notaries in Serbia require such statement to be verified in the presence of an interpreter

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<sup>116</sup> One in five respondents of African descent (21%) felt racially discriminated against in access to housing with the highest rates observed in **Italy** and **Austria** (39 % each), **Luxembourg** (36%) and **Germany** (33%): FRA, *Second European Union Minorities and Discrimination Survey. Being Black in the EU*, 2018, available at: <https://bit.ly/2WEsotL>, 59.

<sup>117</sup> *Ibid*, 69.

<sup>118</sup> European Parliament, *Resolution of 29 March 2018 on fundamental rights of people of African descent in Europe*, P8\_TA-PROV(2019)0239, available at: <https://bit.ly/2JASmdO>.

<sup>119</sup> AIDA, Country Report Bulgaria, 2018 Update, January 2019, available at: <http://bit.ly/2vOCv3v>, 76.

<sup>120</sup> AIDA, Country Report Hungary, 2018 Update, March 2019, 114.

<sup>121</sup> AIDA, Country Report Serbia, 2018 Update, March 2019, available at : <http://bit.ly/2vImR9q>, 78-79.

accredited to the court in case such statement is not made in a language the client understands, whereas there is a shortage of court-accredited interpreters.<sup>122</sup>

Beneficiaries of international protection face the reverse problem in **Romania**, where in Timișoara in order to obtain a residence permit, issued free of charge, beneficiaries of international protection must submit a document to the General Inspectorate for Immigration – Directorate for Asylum and Integration (*Inspectoratul General pentru Imigrari – Directia Azil si Integrare*, IGI-DAI) containing proof of legal residence, such as a rent contract. However, it is required to have a rent contract registered at the tax authority and many landlords refuse to have contracts registered for the purpose of tax evasion, making it subsequently impossible to obtain the residence permit.<sup>123</sup>

A complicating factor in **Germany** is the obligation on beneficiaries to take up residence within the Federal State where their asylum procedure was conducted and the possibility for the authorities under Section 12a of the Residence Act to impose an obligation on beneficiaries of international protection still residing in a reception centre to take up their place of residence in a specific place in order to provide themselves with “suitable accommodation”.<sup>124</sup> In **Slovenia**, beneficiaries of international protection are barred from access to apartments sublet at reduced prices by municipalities, the State, public housing funds or non-profit housing organisations, as Slovenian citizenship is required for that by the Housing Act.<sup>125</sup> However, this is partly compensated by the creation of three “Integration Houses”, as discussed in [Section 3](#).

Finally, the introduction in **Austria** of a residence permit valid for 3 years for refugees, the minimum required under the Qualification Directive, has been criticised by NGOs as a factor further undermining refugees’ chances of renting private accommodation, as the uncertainty regarding their right to remain after 3 years renders them unattractive for landlords.

## 2. Implications for the accommodation of beneficiaries

### *Overstay in reception facilities*

As mentioned above, the right to material reception conditions under the recast Reception Conditions Directive is valid so long as the person is an asylum seeker. EU law does not regulate the process of moving to individual housing after receiving a positive decision and sets out no maximum time period during which beneficiaries of international protection may remain in accommodation for asylum seekers. This has resulted in highly diverging practice across European countries. While seven countries (**Germany, Netherlands, Switzerland, Ireland, Cyprus, Croatia, Portugal**) have not introduced a deadline after which beneficiaries have to vacate their place in a reception centre, others have done so at national level. In some cases, given the complexity of reception systems, such a deadline may exist only for certain types of asylum seeker accommodation within a country. This is the case in **Greece**, where a time limit is in place only for the ESTIA accommodation scheme.<sup>126</sup> In other cases, the deadline refers strictly to the time during which the positive decision on an asylum application becomes enforceable. This is the case in **Slovenia**, where a person who is notified of a positive decision is allowed to stay for a maximum period of 15 days in a reception centre until the decision becomes final and enforceable.<sup>127</sup>

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<sup>122</sup> Belgrade Centre for Human Rights, *Right to Asylum in the Republic of Serbia 2018*, available at: <http://bit.ly/2vGLoMc>, 90-91.

<sup>123</sup> AIDA, Country Report Romania, 2018 Update, March 2019, 130.

<sup>124</sup> AIDA, Country Report Germany, 2018 Update, April 2019, 121.

<sup>125</sup> AIDA, Country Report Slovenia, 2018 Update, March 2019, 73.

<sup>126</sup> AIDA, Country Report Greece, 2018 Update, March 2019, 186.

<sup>127</sup> Information provided by PIC, May 2019.

The permitted duration of stay of status holders in accommodation for asylum seekers varies as follows:

Maximum stay of beneficiaries of protection in accommodation for asylum seekers	
Maximum duration of stay	Countries
15 days	SI
28 days	UK
30 days	HU
2 months	PL
4 months	AT
5 months	BE
6 months	BG, ES, FR, GR
12 months	MT, RO, SR

Source: AIDA. **AT** figure only concerns refugee status, as no limitation exists for subsidiary protection. **GR** figure only concerns ESTIA accommodation. **ES** figure refers to the “first phase” of reception, after which persons have to find their own accommodation with state-provided financial support.

The aforementioned maximum periods are laid down in domestic legislation in **France, Bulgaria, Hungary, Romania, Slovenia, Serbia, Greece, Poland** and the **United Kingdom**.<sup>128</sup> **Belgium, Malta** and **Spain** have established maximum time periods as a matter of administrative practice.

In **Italy**, prior to the 2018 legislative reform, asylum seekers were eligible for accommodation in the SPRAR system for 6 months after obtaining international protection. Currently, status holders may be accommodated in the SIPROMI system for a general maximum period of 6 months, according to a recent Circular of the Ministry of Interior. As this can include unaccompanied children who have been accommodated in the SIPROIMI as asylum seekers, this is the only category of persons for which a maximum period for continued residence is set after the grant of protection.<sup>129</sup>

The stay of beneficiaries of international protection in facilities for asylum seekers such as first reception centres and CAS is not regulated and varies according to Prefecture. This has led to diverging and often problematic practices, where Prefectures instruct CAS operators to request beneficiaries to leave shortly after receiving protection: upon receipt of the residence permit in Macerata, Trieste and Salerno, within 5 days of notification of the positive decision in Milan, or even 24 hours from notification of the decision in the Veneto region.<sup>130</sup>

In **Austria** the maximum time period during which beneficiaries of international protection may receive material reception conditions post-recognition depends on the beneficiaries’ status. Continued access to reception conditions for refugees is limited to four months, whereas holders of the more precarious subsidiary protection status are not subject to any time limitation.<sup>131</sup> This is due to the fact that Austria only allows refugees to access social welfare through the needs-based minimum benefit (*bedarfsorientierte Mindestsicherung*), while only providing “core benefits” through material reception

<sup>128</sup> Article R.744-12(1)(1) French Code on Entry and Residence of Foreigners and on the Right to Asylum; Article 31(3) Bulgarian Law on Asylum and Refugees; Section 41(1) Hungarian Asylum Decree; Article 21(2) Romanian Integration Ordinance; [SI provision]; Article 3(1) Serbian Decree on Criteria for Temporary Accommodation of Persons Granted Asylum or Subsidiary Protection and Conditions for Use of Temporary Housing; Article 6(1) Greek Ministerial Decision 6382/2019; Swedish; Article 74(1)(2) Polish Law on Protection; Regulation 2(2) UK Asylum Support Regulations 2000, as amended by Section 3 Asylum Support (Amendment) Regulations 2002.

<sup>129</sup> AIDA, Country Report Italy, 2018 Update, April 2019, 146.

<sup>130</sup> *Ibid*, 144.

<sup>131</sup> AIDA, Country Report Austria, 2018 Update, March 2019, 116.

conditions to holders of subsidiary protection.<sup>132</sup> In addition, whereas in practice refugees have access to accommodation provided by municipalities, where available, beneficiaries of subsidiary protection are excluded from such accommodation.

Finally, the enforcement of the above time limits may be more or less strict in practice. In **Romania**, beneficiaries are allowed to reside in reception centres for up to two months without paying rent, and this is applied in practice in Timișoara, Șomcuta Mare, Rădăuți, Galați and Giurgiu, while in Bucharest status holders are not allowed to stay in the reception centre for free.<sup>133</sup> Conversely, **Serbia** does not strictly enforce the one-year time limit and many beneficiaries have resided in asylum centres for several years.<sup>134</sup>

Beneficiaries of international protection represent an important share of residents in accommodation for asylum seekers in some countries but not in others:

Beneficiaries of international protection in accommodation for asylum seekers: end of 2018			
Country	Beneficiaries of international protection	Total population	Share (%)
AT	12,753	43,140	30%
BG	29	444	7%
HU	0	3	0%
IE	700	6,355	11%
NL	4,600	22,500	20%
RO	121	350	35%
SE	3,311	52,565	6%
SI	1	178	0.5%

Source: AIDA; Dutch Ministry of Justice and Security: <https://bit.ly/2Jq0vmi>. Figures for IE as of January 2019.

In **Greece**, statistics are only available for accommodation under the ESTIA programme. Out of 22,686 persons receiving accommodation at the end of 2018, 5,649 (25%) were status holders.<sup>135</sup>

Particularly in the case of **Austria, Romania and Greece**, the number of beneficiaries of protection staying in accommodation for asylum seekers is significant, although it should be recalled from **Chapter I, Section 2** that the occupancy of reception facilities in **Romania** was well below capacity at the end of 2018.

Both absence of time limits on the continued presence of status holders in reception facilities and inclusion of time limits in the domestic legal framework or administrative practice carry risks. Confronted with increased arrivals, states may be tempted to strictly enforce national legislation and resort to evictions of beneficiaries of international protection. Where no time limits are laid down, reception and integration authorities may lack incentives to assist beneficiaries in moving out of the reception system where numbers of arrivals are low. However, the EU legislator's choice not to regulate the time period beneficiaries are allowed to stay in reception facilities for asylum seekers post recognition provides the flexibility needed to take into account the particular circumstances of each individual case, as well as contextual factors which complicate the transition to private accommodation.

<sup>132</sup> *Ibid*, 120. See also European Commission, *Evaluation of the application of the recast Qualification Directive (2011/95/EU)*, February 2019, available at: <https://bit.ly/2Gz3lmo>, 249.

<sup>133</sup> AIDA, Country Report Romania, 2018 Update, March 2019, 129.

<sup>134</sup> AIDA, Country Report Serbia, 2018 Update, March 2019, 78.

<sup>135</sup> AIDA, Country Report Greece, 2018 Update, March 2019, 125, 186.



Continued presence of beneficiaries of international protection in accommodation designed for asylum seekers creates both organisational and integration challenges.

First, the longer beneficiaries of international protection stay in reception facilities post-recognition, the more reception capacity for new arrivals is affected. Statistics on the number of decisions taken in 2018 reveal that in countries such as **Cyprus**, **Switzerland**, **Ireland**, **Portugal** and **Slovenia** the number of positive first instance decisions was significantly higher or slightly lower than the number of negative decisions. In other countries the number of persons who obtained international protection status and therefore a right of residence on the territory is lower than the number of rejection decisions but is nevertheless high in absolute numbers. This is the case for **Germany** (75,940), **Greece** (15,201), **France** (32,725), **Italy** (30,670), **Sweden** (10,640) and **Austria** (15,020) for instance.

There may be a direct correlation between the delay in moving out of accommodation for asylum seekers and additional pressure on overall reception capacity. In the case of **Greece**, this has recently triggered the eviction from ESTIA accommodation of a first group of 160 persons who were granted international protection status before August 2017, while another round of evictions has been announced for May and June. The move was justified by the Greek Minister for Migration Policy by the need to “free up spaces for those in Lesbos and Samos who live in difficult conditions”.<sup>136</sup>

Second, the correlation between an increased number of positive decisions and pressure on reception capacity is less straightforward for other countries. Not all newly arriving asylum seekers enter the reception system, for instance because they have their own resources or prefer to stay with families or friends, while countries such as **France**, **Italy** and **Slovenia** can accommodate beneficiaries post recognition in dedicated reception facilities for a transitional period of time, as discussed in [Section 3](#). Nevertheless, as these facilities only aim to accommodate beneficiaries of international protection for a transitional period, any delays in moving out of such facilities may eventually impact on the overall reception capacity of the countries concerned depending on the number of new arrivals.

Conversely, there is not necessarily a direct correlation between low or modest numbers of positive decisions and smooth access to the private housing market for beneficiaries. Countries such as **Bulgaria** (740), **Croatia** (135), **Hungary** (365), **Poland** (375) and **Spain** (2,895) granted protection to much lower numbers of applicants in 2018 than other European countries, yet are among the countries facing persisting obstacles for beneficiaries in moving out of asylum reception facilities as discussed above. At the same time, with the exception of **Spain**, all of these countries have experienced a significant drop in the number of newly arriving asylum seekers in [Chapter I, Section 1](#).

Third, the extended presence of beneficiaries of international protection in reception accommodation hampers and delays their integration. In particular, where accommodation is provided to beneficiaries in collective, remotely located centres, prolonged presence in such facilities may undermine their effective access to social-economic rights such as employment and education. This is also the case for dedicated accommodation for beneficiaries of international protection discussed above. While the latter solution obviously protects the status holders concerned from immediate homelessness and destitution, it only does so for a limited period of time and if not accompanied with assistance from local authorities or NGOs to facilitate the transition to private accommodation, may merely postpone this critical moment for the individuals concerned. The lack of proactive measures to effectively address the obstacles beneficiaries are facing identified in [Section 3](#) suggests at least that integration of protection holders into society is not a policy priority for those countries, or in the case of **Hungary**

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<sup>136</sup> France 24, ‘Refugees face eviction in Greece as thousands more wait for homes’, 22 April 2019, available at: <http://bit.ly/2PQH5Y3>.

and **Bulgaria** even part of a deliberate policy to discourage rather than promote inclusion of protection beneficiaries into the host society.

Finally, the lack of effective measures to actively facilitate access to accommodation for beneficiaries also has wider consequences for housing policy in European countries. The inability to secure accommodation may force them to resort to the “informal housing” market or shelters for homeless persons in some countries. In **Austria**, for instance, the lack of access to the private housing market has resulted in sleeping places being offered instead of rooms at prices ranging between 200 to 350 € per month. Occasionally, shelters for homeless persons are the last resort for refugees to find accommodation.<sup>137</sup>

The emergence of a “black market” for accommodation due to shortages on the private housing market for beneficiaries of international protection post recognition has also been reported in **Germany**, while at the same time conditions in private apartments are not generally better than conditions in collective accommodation as flats are often shared by many persons, resulting in lack of privacy.<sup>138</sup>

### *Risks of destitution*

Lack of affordable housing for beneficiaries of international protection and administrative “catch 22”-situations, in combination with strict policies on the maximum time limit of stay in accommodation for asylum seekers creates risks of destitution in a number of countries.

In **France**, despite several measures taken to enable beneficiaries to access accommodation, high numbers of status holders leave reception centres with nowhere to go. In 2017, as many as 12,098 beneficiaries of international protection exited the reception system without having secured an accommodation place.<sup>139</sup>

In **Greece**, those in need of shelter who lack the financial resources to rent a house remain homeless or reside in abandoned houses or overcrowded apartments. Moreover, the number of accommodation places for homeless people in general is limited and no shelters are dedicated to beneficiaries of international protection, nor is financial support provided for living costs. In Athens, for example, there are only four shelters for homeless people, including Greek citizens and third-country nationals lawfully on the territory. At these shelters, beneficiaries of international protection can apply for accommodation, but it is extremely difficult to be admitted given that they are always overcrowded and constantly receiving new applications for housing.<sup>140</sup> PRO ASYL and Refugee Support Aegean have also documented cases of beneficiaries of international protection living under deplorable conditions, including persons returned from other EU countries.<sup>141</sup> Destitution is also a high risk for 204 beneficiaries of international protection who were ordered to move out of ESTIA accommodation in March 2019.<sup>142</sup>

In **Croatia**, approximately 70 beneficiaries of international protection, among whom four single mothers, were almost rendered homeless in the beginning of 2018 upon expiry of the maximum time

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<sup>137</sup> AIDA, Country Report Austria, 2018 Update, March 2019, 118.

<sup>138</sup> AIDA, Country Report Germany, 2018 Update, April 2019, 121.

<sup>139</sup> CFDA, *Exilé.e.s : Quels accueils face à la crise des politiques publiques ?*, May 2019, available in French at: <https://bit.ly/2W0ztsf>, 60.

<sup>140</sup> AIDA, Country Report Greece, 2018 Update, March 2019, 185-187.

<sup>141</sup> PRO ASYL and Refugee Support Aegean, Returned recognized refugees face a dead-end in Greece – a case study, 4 January 2019, available at: <https://bit.ly/2QrdIKw>.

<sup>142</sup> AIDA, Country Report Greece, 2018 Update, March 2019, 186.

period of 2 years post-recognition during which they are entitled to an accommodation allowance and their inability to pay the rent.<sup>143</sup>

In **Ireland**, the combination of the housing crisis with oversubscribed homelessness centres and pressure from the authorities on beneficiaries of international protection to leave Direct Provision accommodation within a month without any transitional support by the authorities, has increased risks of long-term homelessness and destitution, according to NGOs.<sup>144</sup>

In **Italy**, on the other hand, cases have been reported of beneficiaries of international protection facing destitution and homelessness due to them being evicted by the police from squatted buildings in Bari, Rome and Rome by the police.<sup>145</sup> Moreover, the risk of destitution is exacerbated by the strict enforcement of termination of stay in accommodation for asylum seekers by some Prefectures, as mentioned above.

Destitution is also a matter of serious concern in **Turkey**. Due to the difficulties mentioned in [Section 1](#), the only accessible form of accommodation for the better part of the refugee and asylum-seeking population entails unhealthy living conditions in small, overcrowded apartments in urban areas across the country. At the same time, considerable numbers of refugees reportedly live in squalid conditions in tents set up in agricultural areas in Adana and Mersin, while others live in nylon tents in Ankara and Hatay.<sup>146</sup>

The abovementioned examples illustrate once more that obtaining international protection status in the EU does not necessarily protect beneficiaries from poverty and homelessness. Where access to basic services and accommodation is not guaranteed, the protection granted cannot be considered effective under EU and international refugee law. The failure of states to prevent destitution of beneficiaries of international protection is not only indicative of the poor level of implementation of the recast Qualification Directive but may also trigger *non-refoulement* obligations, which would warrant suspension of transfers of status holders to certain European countries. The Court of Justice of the European Union (CJEU) recently confirmed that, albeit subject to a high threshold, it cannot be excluded that a person may find him or herself in a situation of extreme poverty, amounting to a violation of Article 4 of the EU Charter after having been granted international protection in a Member State, and that this would impose an obligation not to transfer him or her to that Member State.<sup>147</sup>

### 3. Support measures for accessing accommodation post recognition

As mentioned above, while the EU asylum *acquis* does not include specific rules governing the transition from asylum reception facilities to exercising the right to accommodation as beneficiaries of international protection, Member States are nevertheless required to endeavour to prevent discrimination and ensuring equal opportunities regarding access to accommodation. Research in AIDA countries reveals diverging practice in European countries as regards the level of support and guidance provided to beneficiaries of international protection in accessing private accommodation.

#### *Pro-active support in finding accommodation*

In light of the legal and practical obstacles described in the previous section, pro-active ‘in kind’ support to beneficiaries of international protection in finding accommodation and moving out of

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<sup>143</sup> AIDA, Country Report Croatia, 2018 Update, March 2019, 109.

<sup>144</sup> AIDA, Country Report Ireland, 2018 Update, February 2019, 88.

<sup>145</sup> AIDA, Country Report Italy, 2018 Update, April 2019, 144.

<sup>146</sup> AIDA, Country Report Turkey, 2018 Update, March 2019, 131-132.

<sup>147</sup> CJEU, Case C-163/17 *Abubacar Jawo v Bundesrepublik Deutschland*, Judgment of 19 March 2019, EDAL, available at: <https://bit.ly/2FxFsQa>, para 95.

reception facilities for asylum seekers has been implemented in a number of European countries, in some cases complemented with NGO initiatives providing individual counselling to beneficiaries.

In the **Netherlands**, assistance in moving out of reception facilities is provided in a joint effort between the COA and the municipalities, which are under an obligation to arrange adequate housing for beneficiaries of international protection. Whether housing is adequate is assessed by the COA, which takes into account several key criteria, including education and labour opportunities, subject to certain conditions; medical and/or psycho-social indicators, including the fact that medical treatment can only be provided by the current care provider; and the presence of first degree family members in the Netherlands. The COA attempts to find accommodation within a 50km distance of a municipality matching one of the criteria. Where such adequate housing is offered by the COA, the beneficiary's right to accommodation in the reception facility ceases, unless none of the criteria are met by the accommodation offered, in which case the beneficiary can refuse and a new offer will be made. Furthermore, in the wake of the peak of arrivals in 2015, a system was set up allowing beneficiaries to temporarily stay with family and friends immediately after recognition of the protection status, mainly to create additional spaces in the reception infrastructure as quickly as possible. Recently, the Dutch authorities tested a new scheme (*logeerregeling vergunninghouders*) aiming at assessing effects of accommodation of persons who obtained protection status with friends and family on integration and participation in Dutch society. The scheme, which is still accessible while being evaluated, entails cooperation with "Takecarebnb" with which beneficiaries can register after being informed by the COA of the possibility of being accommodated by a host family. Takecarebnb screens host families in order to match beneficiaries and host families, with a focus on learning Dutch and integration. Host families receive 25 euros per week.<sup>148</sup>

Persons obtaining international protection status in **Belgium** while being in a reception facility have two options. Either they move to a Local Reception Initiative for a maximum of two months, extendable up to 3 months in exceptional cases, where they receive assistance in finding housing or they can opt to move in with family or friends. Under the latter option, the beneficiaries receive food vouchers for one month, the time within which the Public Centre for Social Welfare has to decide on granting financial assistance.<sup>149</sup>

Good practice has been developed in **France**, where Forum réfugiés – Cosi runs a programme ("Accelair") which is dedicated to refugees living in Lyon area and who have been granted asylum less than one year ago. On the basis of this programme, places are saved for refugees within the real estates managed by providers of social housing. Refugees registered in this programme are supported for a time period of 6 up to 18 months. The duration of the support may depend on the individualised project of each beneficiary. This assistance aims to make refugees autonomous and to ensure their integration. Similar programmes have been developed in 9 other departments in 2017 and 2018. In its National Strategy for Integration published in June 2018, the government has announced the development of similar programmes throughout the country.<sup>150</sup>

Another example of proactive support in France is the national platform for the housing of refugees, introduced as a pilot project by the Inter-Ministerial Delegation for Accommodation and Access to Housing (*Délégation interministérielle à l'hébergement et à l'accès au logement*, DIHAL).<sup>151</sup> The platform maps available accommodation spaces outside large cities and matches beneficiaries of international protection with a place. If matching is successful, the person also benefits from one-year

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<sup>148</sup> AIDA, Country Report Netherlands, 2018 Update, March 2019, 94.

<sup>149</sup> AIDA, Country Report Belgium, 2018 Update, March 2019, 122.

<sup>150</sup> AIDA, Country Report France, 2018 Update, March 2019, 125-126.

<sup>151</sup> DIHAL, *Plateforme nationale pour le logement des réfugiés*, May 2018, available in French at: <https://bit.ly/2VLkDRp>.

social support and 1,500 € in financial assistance.<sup>152</sup> In 2018, the platform identified 8,700 accommodation places for 19,000 beneficiaries, a substantial increase compared to previous years.<sup>153</sup>

Finally, in **Sweden**, persons obtaining positive decisions can be placed in municipalities by the Migration Agency based on a quota system, known as “settlement” (*Bosättning*). According to a law adopted in 2016, 89 municipalities have been entrusted with the task to receive persons granted a residence permit as an outcome of the asylum procedure. Housing must be offered by the municipality within two months from being designated by the Migration Agency as a reception municipality. After that period the responsibility for providing support and housing falls on the municipality, for a 2 year-period while the so-called establishment process is going through. However, after that period many municipalities revoke the housing contract and individuals are obliged to find their own accommodation. If they fail they can request social housing as a temporary solution.<sup>154</sup>

### *Financial support*

Assistance in other countries may be provided either through financial support or housing specifically provided to beneficiaries of international protection to bridge the period between obtaining international protection status and accessing individual accommodation as a status holder.

This is the case in **Slovenia**, where beneficiaries without financial means and for whom accommodation is not provided in another way are entitled to financial assistance with accommodation for a period of 18 months after being granted status. Financial assistance, covering rent and related utility costs, is granted for a further 18 months, provided that the beneficiary of international protection has attended at least 80% of Slovenian language and culture courses, organised by the authority responsible for accommodation, care and integration of asylum applicants and beneficiaries of international protection (*Urad vlade za oskrbo in integracijo migrantov*, UOIM).<sup>155</sup>

In **Greece**, where the situation remains precarious for the increasing number of persons who obtained international protection in the country, a new programme, HELIOS 2, is to be launched on 1 June 2019. This programme provides for a number of measures aiming to support integration of status holders, including a rental allowance covering a 6-month period for 5,000 refugees who recently obtained status. Upon leaving the ESTIA accommodation, they receive a financial allowance for 3 months and have priority access to vocational training programmes yet to be implemented by the Ministry of Labour.

In **Poland**, the general lack of social housing affects nationals as well beneficiaries of international protection. While no housing is provided by the State to beneficiaries some municipalities provide singular flats annually; 5 in Warsaw, maximum 2 in Gdansk. Within the 12-month long Individual Integration Programme (IPI) there is a financial benefit to pay for a flat, but as mentioned above landlords in have been reported to be reluctant to rent flats to refugees and often demand higher fees.<sup>156</sup>

In some countries, however, support for accessing housing has been abandoned or made practically impossible in 2018, including through termination of funding under AMIF, as a deliberate policy change. This was the case in **Hungary**, for instance, were through an amendment to the Asylum Act in July 2013, integration support used to be provided on the basis of a 2-year contract between the asylum authority and the beneficiary of international protection, which included support by a social worker to find accommodation post recognition. As legislative reforms in 2016 abolished all state

<sup>152</sup> CFDA, *Exilé.e.s : Quels accueils face à la crise des politiques publiques ?*, May 2019, 59-60.

<sup>153</sup> *Ibid*, 60.

<sup>154</sup> AIDA, Country Report Sweden, 2018 Update, April 2019, 89.

<sup>155</sup> AIDA, Country Report Slovenia, 2018 Update, March 2019, 73.

<sup>156</sup> AIDA, Country Report Poland, 2018 Update, March 2019, 94.

support for beneficiaries of international protection on housing and financial assistance (i.e. the aforementioned integration support), free of charge accommodation for beneficiaries is only provided by civil society organisations and churches. However, since the withdrawal of a call for tenders under the Asylum Migration and Integration Fund by the Ministry of Interior early 2018, the provision of accommodation to beneficiaries of international protection has become even more difficult for the organisations concerned. Termination of AMIF funding in 2018 forced for instance the main service provider for homeless people in Budapest, the Budapest Methodological Centre of Social Policy and its Institutions (BMSZKI), to stop a specific programme aiming at facilitating access to housing for beneficiaries of international protection through individual counselling and contacting landlords, which successfully supported 96 persons over a 1.5 year period in finding an apartment and paying the rent.<sup>157</sup> They are now referred to temporary shelters for homeless persons. According to BMSZKI, their shelters are unsuitable to accommodate refugees and subsidiary protection holders, in particular those who suffer from trauma. The institution cannot provide much needed interpretation services and family unity cannot be guaranteed upon placement of beneficiaries.

In **Austria**, in order to address a growing need for affordable housing for refugees when they are no longer entitled to accommodation for asylum seekers, Caritas Styria offers interest-free loans to beneficiaries of international protection and persons granted humanitarian protection.<sup>158</sup>

In **Romania**, given that rent is required for stay in the reception facility for asylum seekers after two months, or even immediately in Bucharest, a JRS project funded under AMIF covered rent and/or utility costs but was terminated in June 2018.<sup>159</sup>

### *Specific accommodation schemes for beneficiaries of international protection*

As an alternative to the abovementioned systems of financial and other support to beneficiaries of international protection in accessing private accommodation, a number of countries have set up specific facilities providing housing to beneficiaries of international protection for a limited period of time after having obtained protection status. This is done in **Italy**, **France**, and **Slovenia**.

The SIPROIMI network, replacing the former SPRAR system in **Italy** at the end of 2018, is established to accommodate beneficiaries of international protection and unaccompanied children and therefore presents a mix of reception for a specific category of asylum seekers and accommodation of protection holders. Consisting of small-scale decentralised reception structures, the project-based network has a total capacity of 35,650 places, of which 3,730 places for unaccompanied children.<sup>160</sup> As discussed in [Chapter I, Section 2](#), the capacity of the (then SPRAR) network has gradually increased in recent years, though it remains insufficient to cover accommodation demand.

**France**, on the other hand applies a dual system of accommodation of beneficiaries of international protection for a certain period in reception centres for asylum seekers or in dedicated temporary accommodation centres (*Centres provisoires d'hébergement*, CPH) for beneficiaries of international protection. By the end of 2018, there were a total 5,207 places in CPH established in 12 regions in France. The main difference with accommodation of beneficiaries in CPH and in reception centres relates to the maximum period of stay, which is 9 months for CPH as opposed to 3 months in reception centres. In either case, a further 3-month extension is possible at the discretion of the French Office for Immigration and Integration (*Office français de l'immigration et de l'intégration*, OFII). In addition to providing housing, organisations managing the CPH must also provide integration

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<sup>157</sup> AIDA, Country Report Hungary, 2018 Update, March 2019, 114.

<sup>158</sup> AIDA, Country Report Austria, 2018 Update, March 2019, 118.

<sup>159</sup> AIDA, Country Report Romania, 2018 Update, March 2019, 129.

<sup>160</sup> AIDA, Country Report Italy, 2018 Update, April 2019, 146.

support such as professional orientation and access to French language classes. Hugely divergent between regions, such integration support is in some cases considered insufficient by NGOs.<sup>161</sup>

A dual system of financial support for beneficiaries of international protection to find private accommodation and housing in dedicated apartments during a transitional period is applied in **Slovenia**. In light of the abovementioned difficulties in finding accommodation in the private housing market, free accommodation may be provided in Integration Houses as a substitute for financial assistance during the first year after having obtained international protection status, which can be extended with 6 months on medical or other grounds. There are 3 Integration Houses exclusively run by the Ministry of Interior with a total capacity of 90 places.<sup>162</sup> Family members reunited with refugees and beneficiaries of subsidiary protection are entitled to accommodation with the sponsor in the Integration Houses but only family members of persons with refugee status are entitled to the financial allowance for accommodation purposes.

The maximum duration of permitted stay in dedicated accommodation for beneficiaries of international protection, including extensions, is 12 months in **France** and 18 months in **Slovenia**, while in **Italy** beneficiaries can stay for 6 months in the SIPROIMI network as a rule, subject to extensions only where the person concerned has special needs.

Creating specific accommodation places to beneficiaries of international protection outside the reception structure for asylum seekers obviously presents a far better option than forcing them into destitution or maintaining them for years in asylum seeker accommodation. At the same time, it avoids additional pressure on the reception system for asylum seekers. However, as it is a temporary solution for the individuals concerned, such a system can only be successful insofar as it sufficiently prepares the status holder for his or her integration, including by providing support in accessing private accommodation, where necessary. Otherwise, it merely results in postponing rather than solving the problems identified above.

### *Absence of support measures*

Finally, some countries offer no assistance to beneficiaries to facilitate access to accommodation and/or to speed up the process of moving out of asylum seeker accommodation, leaving them no other option than to find private accommodation on their own. This is the case in **Cyprus**, where no schemes are in place for providing housing to beneficiaries.<sup>163</sup>

In **Turkey**, the law does not include an obligation on the State to provide housing to asylum seekers or beneficiaries of international or temporary protection. As set out in [Chapter I, Section 1](#), with the exception of persons benefitting from cash assistance schemes such as ESSN and CCTE, beneficiaries generally have to secure accommodation through their own means. Syrian refugees, benefitting from temporary protection status, may be accommodated in temporary accommodation centres, the available capacity can only offer a solution to a tiny fraction of the more than 3 million Syrian refugees in Turkey. Hence there is no policy in place to assist beneficiaries of international protection in accessing accommodation.

Support provided to beneficiaries of international protection in order to exercise their right to accommodation varies considerably in AIDA countries as regards the type of support offered. The examples highlighted in this section reveal an acknowledgment by some countries of the problems status holders are facing in accessing accommodation and of the responsibility of state authorities to facilitate such access in some countries. However, even in such cases, support provided is often

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<sup>161</sup> AIDA, Country Report France, 2018 Update, March 2019, 125.

<sup>162</sup> AIDA, Country Report Slovenia, 2018 Update, March 2019, 73.

<sup>163</sup> AIDA, Country Report Cyprus, 2018 Update, March 2019, 108-109.

limited in time and scope and does not suffice to effectively address the obstacles identified in [section 2](#) of this chapter.

#### 4. Monitoring and enforcement of the right to accommodation

The recast Qualification Directive presents a considerable lack of detail on beneficiaries' access to accommodation. In particular, Member States' obligation under Article 32(2) to "endeavour to implement policies aimed at preventing discrimination of beneficiaries and at ensuring equal opportunities regarding access to accommodation" remains unclear, and has not been defined through further guidance at the EU level yet.

As the overview of state practice has shown, the enforcement of the right to accommodation appears to be extremely difficult in practice. Compliance therewith has also been identified as a protection gap in the European Commission's evaluation of the implementation of the recast Qualification Directive, which was published in February 2019 but covers implementation only until early 2016.<sup>164</sup> Further strengthening of legal obligations on Member States with regard to access of status holders to accommodation under the EU asylum *acquis* is not envisaged as part of the reform of the CEAS. It is also highly questionable whether the amendment of the current standard laid down in Article 32 of the Directive alone, if at all feasible, would result in tangible improvements of the situation on the ground, in particular as some of the obstacles to successful transition to private accommodation identified in this report are related to a range of factors which are outside the scope of EU asylum law.

That said, the Commission should continue to engage in thorough monitoring of compliance of EU Member States with their obligations under Article 32 of the recast Qualification Directive to ensure beneficiaries' access to accommodation as well as under Article 34 to ensure access to integration programmes in order to facilitate their integration into the host society. While monitoring and enforcement of Article 32 may be less straightforward than other parts of the EU asylum *acquis* because of its general nature and wording, the efforts – or lack thereof – made by states to proactively support beneficiaries of international protection in accessing accommodation are measurable. The existence of specific national programmes facilitating such access through financial or other support post-recognition is an important indicator of compliance and should be systematically monitored, whether they are funded by national financing instruments, under AMIF or its successor, or other EU funding sources. Given the discriminatory practices and other obstacles beneficiaries of international protection are confronted with when accessing the private housing market in many countries, the provision of targeted support to beneficiaries to access accommodation should be an inherent part of the integration programmes Member States must develop in accordance with Article 34 of the recast Qualification Directive.

The existence of legal and administrative barriers obstructing beneficiaries' effective access to accommodation, such as those identified in [Section 1](#), should be systematically monitored by the Commission and infringement procedures should be launched where necessary. Removal of these obstacles would in many cases require amending national legislation and/or administrative instructions which may be outside the scope of asylum and immigration law and may engage the responsibility of various levels of governance. This is no doubt a complicating factor but can by no means justify inaction by the Commission. In this regard, it should be noted that, according to settled CJEU case law, obstacles stemming from a state's federal organisations cannot provide justification for non-compliance with obligations under EU law.<sup>165</sup>

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<sup>164</sup> European Commission, *Evaluation of the application of the recast Qualification Directive (2011/95/EU)*, 2019, available at: <https://bit.ly/2Gz3lmo>, 253.

<sup>165</sup> CJEU, Case C-236/99 *Commission v Belgium*, Judgment of 6 July 2000, para 23.



Obstacles to the right to accommodation stemming from violations of the principle of equal treatment may also be challenged on the basis of EU law instruments beyond the recast Qualification Directive. According to Article 34 of the EU Charter, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources. The Long-Term Residence Directive,<sup>166</sup> the scope of which has been extended to include beneficiaries of international protection, ensures equal treatment with nationals with regard to “access to goods and services and the supply of goods and services made available to the public and to procedures for obtaining housing”. Whereas Article 11(4) of the Directive allows Member States to limit such equal treatment in respect of social protection and social assistance, this is according to the CJEU “with the exception of social assistance or social protection benefits granted by the public authorities, at national, regional or local level, which enable individuals to meet their basic needs such as food, accommodation and health”.<sup>167</sup> Finally, to the extent that states take insufficient measures to address discrimination of beneficiaries of international protection in the housing market, the principle of equal treatment between persons irrespective of racial or ethnic origin guaranteed in the Race Equality Directive,<sup>168</sup> may be violated.

Beyond sanctioning failure by Member States to comply with their obligations under EU law as regards access to accommodation of persons granted international protection, the Commission could consider providing guidance on measures ensuring effective access. Such guidance could be provided by way of a Communication, a technique which has been used with some success with regard to other instruments in the *acquis*,<sup>169</sup> or could be developed more informally on the basis of information exchanged in the framework of the Contact Committee on the recast Qualification Directive.

Finally, as is the case for reception capacity for asylum seekers, eradicating the obstacles to effective access to accommodation related to gaps in states’ integration policies requires not only effective enforcement of existing obligations, but also sufficient investment and resources to support their integration in host societies. As highlighted in [Chapter I, Section 3](#), the negotiations on the Commission proposal for a Regulation establishing the AMF provide an opportunity to secure minimum allocation and spending requirements for Member States on integration objectives in the future legal instrument establishing the fund. Moreover, a national programming exercise on the use of the future AMF is currently underway between the Commission and Member States at bilateral level. This should be used to ensure sufficient resources for the financing of projects aiming at facilitating access to accommodation for beneficiaries of international protection and addressing integration related obstacles such as discriminatory practices in the private housing market plan as part of a comprehensive strategy for their effective integration. Here too, the role of local authorities and NGOs providing tailor-made support to beneficiaries in the transition process to private accommodation should be acknowledged and be factored in.

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<sup>166</sup> Article 11(1)(f) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ 2004 L16/44, as amended by Directive 2011/51/EU of the European Parliament and of the Council 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection, OJ 2011 L132/1.

<sup>167</sup> CJEU, Case 57/10, *Servet Kamberaj v. IPES*, Judgment of 24 April 2012, par. 91. However, in view of the fact that the Long-Term Residence Directive remains underused and the 5 year legal residence requirement before obtaining long term residence status, the relevance of equal treatment rights for beneficiaries of international protection under this instrument may be limited.

<sup>168</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ 2000 L 180/22.

<sup>169</sup> See e.g. European Commission, *Staff Working Document on Implementation of the Eurodac Regulation as regards the obligation to take fingerprints*, SWD(2015) 150, 27 May 2015; *Communication on guidance for application of Directive 2003/86/EC on the right to family reunification*, COM(2014) 210 final, Brussels, 3 April 2014.

## Recommendations

This report has provided an update of ECRE's analysis of reception capacity in Europe and the continued use of emergency reception accommodation after 2016, as well as an analysis of obstacles faced by beneficiaries of international protection as regards access to accommodation after obtaining status.

Based on the above findings, ECRE makes the following recommendations:

### Transparency of reception systems

1. **Council and European Parliament:** As part of the negotiations on the reform of the Migration Statistics Regulation, co-legislators should insist on the introduction of mandatory provision to Eurostat of statistics on the number of persons receiving material reception conditions, to pave the way for the establishment of EU-wide statistical practice in the area of reception.
2. **National reception authorities:** Authorities responsible for the reception of asylum seekers and/or accommodation of beneficiaries of international protection should keep detailed and accurate statistical records of the capacity and occupancy of facilities they directly or indirectly manage, as highlighted by EASO guidance. These statistics should be made publicly available on a regular basis, in line with good practice adopted by a number of countries (e.g. France, Ireland, Belgium, Bulgaria, Slovenia, Netherlands).
3. **National parliaments:** In the absence of obligations on Member States to supply statistics on the capacity and occupancy of their reception systems under current EU law, members of national parliaments should make use of accountability mechanisms at their disposal to promote transparency in reception systems.

### Monitoring and enforcement of reception standards

4. **European Commission:** The Commission should promptly finalise and publish the evaluation of the implementation of the recast Reception Conditions Directive, due by 20 July 2017, to comply with the Commission's legal obligations.
5. **European Commission:** In light of the challenging experience of most EU Member States in ensuring preparedness of their reception systems to respond to evolving levels of arrivals, and the systematic failure on the part of several countries to ensure access to accommodation for asylum seekers, the evaluation of the implementation of the recast Reception Conditions Directive should place particular emphasis on compliance with Articles 17 and 18 of the Directive as regards: (a) an assessment of the use of emergency accommodation facilities pursuant to Article 18(9); and (b) a thorough evaluation of reception capacity. Where systematic concerns have been identified, appropriate enforcement actions should be taken against the Member States concerned.

### Monitoring and enforcement of accommodation standards for status holders

6. **European Commission:** In light of obstacles to access to the right to accommodation identified in AIDA reports and the evaluation of the implementation of the recast Qualification Directive, the Commission should undertake infringement proceedings against Member States falling short of their obligations under Article 32 and 34 of the recast Qualification Directive. Member States' performance should be assessed *inter alia* against the existence,

accessibility and effectiveness of measures facilitating access to accommodation such as integration programmes, as well as action undertaken to remove obstacles stemming from legal and administrative obstacles in domestic legislation and administrative practice, including where this relates to areas other than asylum and immigration law. In addition, compliance with obligations to ensure access to housing under the EU Charter of Fundamental Rights, the Long-Term Residence Directive as well as the Racial Equality Directive must be monitored and enforced where possible.

7. **European Commission:** In line with its legal obligations, the European Commission should prepare the next evaluation of the implementation of the recast Qualification Directive, due by 21 June 2020 at the latest. The assessment of implementation of Article 32 should focus particularly on the process of transition of beneficiaries of international protection from asylum seeker accommodation to private housing, and on the proactive support measures made available by states to that effect.

#### Investment in reception systems

8. **Council and European Parliament:** Co-legislators should ensure minimum allocation and spending requirements for Member States with regard to asylum and integration objectives under the future AMF. Building on the results of the abovementioned evaluation by the Commission on the implementation of the relevant EU law instruments, national programming of the future use of the Fund should prioritise building sufficient reception capacity and/or programmes assisting beneficiaries in accessing accommodation post recognition as appropriate and necessary. The indispensable role of local authorities and NGOs as actors managing reception places and implementing integration programmes should be acknowledged through their active involvement in the planning and implementation of national programmes, duly implementing the partnership principle

## Annex I: Statistical tables

**Table 1.1.** First-time applicants in EU and Schengen Associated countries: 2017-2018

Country	First-time applicants: 2017	First-time applicants: 2018	Change in %
AT	22,455	11,390	-49%
BE	14,035	18,130	+29%
BG	3,470	2,465	-29%
CY	4,475	7,610	+70%
CZ	1,140	1,350	+18%
DE	198,255	161,885	-18%
DK	3,125	3,465	+11%
EE	180	90	-50%
ES	33,035	52,730	+59%
FI	4,325	2,945	-32%
FR	91,965	111,415	+21%
GR	56,940	64,975	+14%
HR	880	675	-23%
HU	3,115	635	-79%
IE	2,910	3,655	+25%
IT	126,550	53,440	-58%
LT	520	385	-26%
LV	355	175	-51%
LU	2,320	2,225	-4%
MT	1,610	2,035	+26%
NL	16,090	20,465	+27%
PL	3,005	2,405	-20%
PT	1,015	1,240	+22%
RO	4,700	1,945	-58%
SE	22,910	18,075	-18%
SK	150	155	+3%
SI	1,435	2,800	+95%
UK	34,355	37,290	+8%
<b>EU28</b>	<b>654,610</b>	<b>586,050</b>	<b>-10%</b>
CH	16,615	13,465	-19%
IC	1,065	730	-31%
LI	145	145	0%
NO	3,350	2,530	-25%
<b>Total</b>	<b>666,785</b>	<b>602,920</b>	<b>-10%</b>

Source: Eurostat.

**Table 1.2.** Persons with pending asylum applications in EU and Schengen Associated countries

Country	Pending at end 2017	Pending at end 2018	Change in %
AT	57,655	38,045	-34%
BE	18,715	19,530	+4%
BG	2,725	1,820	-33%
CY	5,120	10,180	99%
CZ	810	795	-2%
DE	443,640	384,815	-13%
DK	4,205	2,600	-38%
EE	70	80	+14%
ES	38,880	78,705	+102%
FI	:	:	:
FR	38,405	52,925	+38%
GR	47,815	76,330	+60%
HR	415	250	-40%
HU	675	125	-81%
IE	5,670	7,060	+23%
IT	152,420	102,995	-32%
LT	255	380	+49%
LV	90	125	+39%
LU	1,525	1,500	-2%
MT	1,500	2,020	+35%
NL	7,385	15,965	+116%
PL	2,885	4,460	+55%
PT	55	90	+64%
RO	2,085	1,520	-27%
SE	51,480	37,615	-27%
SK	110	155	+41%
SI	475	410	-14%
UK	32,575	38,120	+17%
<b>EU28</b>	:	:	:
CH	24,155	15,130	-37%
IC	345	450	+30%
LI	:	80	:
NO	2,525	1,985	-21%
<b>Total</b>	:	:	:

Source: Eurostat. Pending applications cover all instances.

**Table 1.3.** First instance and final decisions on asylum applications: 2018

Country	First instance decisions		Final decisions	
	Positive	Negative	Positive	Negative
AT	15,020	19,500	5,680	4,810
BE	9,675	9,340	570	5,670
BG	740	1,370	20	15
CY	1,215	1,265	15	465
CZ	155	1,230	10	395
DE	75,940	103,175	63,165	82,850
DK	1,315	1,315	335	1,625
EE	20	55	0	30
ES	2,895	8,980	70	905
FI	2,405	2,035	1,420	645
FR	32,725	82,325	8,715	37,700
GR	15,210	17,130	595	6,605
HR	135	300	20	65
HU	365	590	0	0
IE	1,005	170	270	380
IT	30,670	64,540	17,215	25,755
LT	135	120	5	20
LV	30	25	0	40
LU	1,000	940	5	250
MT	645	855	15	670
NL	3,620	6,665	1,175	780
PL	375	2,360	60	1,435
PT	625	415	0	465
RO	595	700	70	175
SE	10,645	20,680	8,940	15,885
SK	45	40	5	20
SI	100	135	0	85
UK	10,100	18,765	7,105	5,160
<b>EU28</b>	<b>217,405</b>	<b>364,560</b>	<b>115,925</b>	<b>192,905</b>
CH	15,255	1,775	320	2,965
IC	105	275	90	285
LI	10	30	0	50
NO	1,460	655	295	1,930
<b>Total</b>	<b>234,220</b>	<b>367,310</b>	<b>116,645</b>	<b>198,265</b>

Source: Eurostat. Positive decisions include refugee status, subsidiary protection and humanitarian protection where relevant. Negative decisions include inadmissibility.

**Table 2.1.** Evolution of reception capacity: 2016-2018

Country	end 2016	end 2017	end 2018
BE	26,362	22,840	21,014
BG	5,130	5,130	4,760
CY	400	400	800
HR	682	700	700
HU	830	550	350
IE	5,230	5,503	6,209
MT	2,200	2,200	1,500
NL	26,185	31,000	27,000
PL	2,331	2,236	2,231
RO	:	900	900
SE	122,708	104,551	49,316
SI	:	618	429
SR	1,130	1,700	1,770
TR	150	150	150

Source: AIDA. 2018 figures for BE as of 15 January 2019.

**Table 2.2.** Reception capacity and occupancy: 2018

Country	Capacity	Occupancy at end 2018	Occupancy rate
BE	21,014	18,833	90%
BG	4,760	444	9%
HR	700	316	45%
HU	350	3	0.8%
NL	27,000	22,576	84%
PL	2,231	1,260	57%
RO	900	350	39%
SI	429	251	59%

Source: AIDA. Figures for BE as of 15 January 2019.

**Table 2.3.** Evolution of reception capacity by type of accommodation in France: 2016-2018

Type	30 Jun 2016	31 Dec 2017	31 Dec 2018
CADA	31,869	40,450	42,452
AT-SA	6,033	5,776	5,855
PRAHDA	0	5,351	5,351
CAO	0	10,130	8,995
HUDA	11,829	18,514	20,953
CAES	0	0	2,986

Source: AIDA.

**Table 2.4.** Evolution of reception occupancy by type of accommodation in Italy: 2016-2018

Type	31 Dec 2016	31 Dec 2017	31 Dec 2018
First reception centres	15,514	10,438	8,990
SPRAR / SIPROIMI	23,822	24,741	25,657
CAS	137,218	148,502	138,503

Source: Openpolis: <https://bit.ly/2Jr3BFy>; AIDA.



## THE ASYLUM INFORMATION DATABASE (AIDA)

The [Asylum Information Database](#) is a database managed by ECRE, containing information on asylum procedures, reception conditions, detention and content of international protection across 23 European countries. This includes 20 European Union (EU) Member States (Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, United Kingdom) and 3 non-EU countries (Switzerland, Serbia, Turkey).

The overall goal of the database is to contribute to the improvement of asylum policies and practices in Europe and the situation of asylum seekers by providing all relevant actors with appropriate tools and information to support their advocacy and litigation efforts, both at the national and European level. These objectives are carried out by AIDA through the following activities:

- ❖ **Country reports**  
AIDA contains national reports documenting asylum procedures, reception conditions, detention and content of international protection in 23 countries.
- ❖ **Comparative reports**  
Comparative reports provide a thorough comparative analysis of practice relating to the implementation of asylum standards across the countries covered by the database, in addition to an overview of statistical asylum trends and a discussion of key developments in asylum and migration policies in Europe. AIDA comparative reports are published in the form of thematic updates, focusing on the individual themes covered by the database. Thematic reports published so far have explored topics including reception, admissibility procedures, content of protection, vulnerability, detention, entry into the territory, and registration.
- ❖ **Comparator**  
The Comparator allows users to compare legal frameworks and practice between the countries covered by the database in relation to the core themes covered: asylum procedure, reception, detention, and content of protection. The different sections of the Comparator define key concepts of the EU asylum *acquis* and outline their implementation in practice.
- ❖ **Fact-finding visits**  
AIDA includes the development of fact-finding visits to further investigate important protection gaps established through the country reports, and a methodological framework for such missions. Fact-finding visits have been conducted in Greece, Hungary, Austria, Croatia, France, Belgium and Germany.
- ❖ **Legal briefings**  
Legal briefings aim to bridge AIDA research with evidence-based legal reasoning and advocacy. Legal briefings so far cover: Dublin detention; asylum statistics; safe countries of origin; procedural rights in detention; age assessment of unaccompanied children; residence permits for beneficiaries of international protection; the length of asylum procedures; travel documents for beneficiaries of international protection; accelerated procedures; the expansion of detention; relocation; and withdrawal of reception conditions.
- ❖ **Statistical updates**  
AIDA releases short publications with key figures and analysis on the operation of the Dublin system across selected European countries. Updates have been published for 2016, the first half of 2017, 2017, the first half of 2018, and 2018.

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