

Country Report: Bulgaria



2016
Update



БЪЛГАРСКИ
ХЕЛЗИНСКИ
КОМИТЕТ

Acknowledgements & Methodology

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

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

The information in this report is up-to-date as of 31 December 2016.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 20 countries. This includes 17 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

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

Statistics

Overview of statistical practice

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

Applications and granting of protection status at first instance: 2016

	Applicants in 2016	Pending applications in 2016	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	19,418	Not available	754	587	1,732	25%	19%	56%

Breakdown by countries of origin of the total numbers

Afghanistan	8,827	:	2	9	430	0.5%	2%	97.5%
Iraq	5,348	:	36	38	278	10.2%	10.8%	79%
Syria	2,639	:	688	520	67	53.9%%	40.8%	5.3%
Pakistan	1,790	:	2	0	61	3.2%	0%	96.8%
Iran	451	:	3	2	38	7%	4.6%	88.4%
Stateless	69	:	13	8	6	48.2%	29.6%	22.2%
Sri Lanka	44	:	0	0	6	0%	0%	100%
Algeria	24 / 24	:	0	0	6	0%	0%	100%
Ukraine	24	:	0	0	34	0%	0%	100%
Bangladesh	23	:	0	1	3	0%	25%	75%

Source: State Agency for Refugees: <http://bit.ly/2ky0AE2>.

¹ SAR, *Statistics and reports*, available at: <http://bit.ly/2ky0AE2>. Only the latest available statistics are published at any given time.

² Ministry of Interior, *Migration statistics*, available at: <http://bit.ly/2kaveXk>.

Gender/age breakdown of the total number of applicants: 2016

	Number	Percentage
Total number of applicants	19,418	100%
Men	7,717	40%
Women	2,357	12%
Children	6,572	34%
Unaccompanied children	2,772	14%

Source: State Agency for Refugees: <http://bit.ly/2ky0AE2>.

Comparison between first instance and appeal decision rates: 2016

Statistics on second-instance decisions are not available at the time of writing.

Overview of the legal framework

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

Title in English	Original Title (BG)	Abbreviation	Web Link
Law on Asylum and Refugees <i>Amended by:</i> Law amending the Law on Asylum and Refugees, № 101/2015 of 11 December 2015	Закон за убежището и бежанците Закон за изменение и допълнение на Закона за убежището и бежанците	LAR	http://bit.ly/1RkIHOr (EN) http://bit.ly/2k8slq7 (BG)
Law on Aliens in the Republic of Bulgaria <i>Amended by:</i> Law amending the Law on Aliens in the republic of Bulgaria, № 97/2016 of 2 December 2016	Закон за чужденците в Република България Закон за изменение и допълнение на Закона за чужденците в Република България	LARB	http://bit.ly/2jpEaqx (BG) http://bit.ly/2kJoYpi (BG)

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

Title in English	Original Title (BG)	Abbreviation	Web Link
Ordinance № 332 of 28 December 2008 for the responsibilities and coordination among the state agencies, implementing Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, Council Regulation No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention and Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000	Наредба приета с ПМС №332 от 28.12.2008 за отговорността и координацията на държавните органи, осъществяващи действия по прилагането на Регламент (ЕО) № 343/2003 на Съвета от 18 февруари 2003 г. за установяване на критерии и механизми за определяне на държава членка, компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна, Регламент (ЕО) № 1560/2003 на Комисията от 2 септември 2003г. за определяне условията за прилагане на Регламент (ЕО) № 343/2003 на Съвета за установяване на критерии и механизми за определяне на държавата членка, която е компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна,	ORD332/08	http://bit.ly/1IJ1Cl5 (BG)

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

Overview of the main changes since the previous report update

The report was previously updated in **October 2015**.

Asylum procedure

- ❖ **Single procedure:** Several major changes were introduced into the national asylum system in the end of 2015 as a result of the still ongoing transposition of recast EU Directives, mainly with respect to the recast Asylum Procedures Directive and the recast Qualification Directive as well as the detention provisions of the recast Reception Conditions Directive.³ The most important change relates to the unification of asylum procedure stages in one, single regular procedure. Dublin and accelerated procedures are now considered as non-mandatory phases of the status determination, applied only by a decision of the respective case worker. The 2015 amendments took the admissibility criteria out of the accelerated procedure thus introducing the admissibility assessment as a separate procedure that could be applied.⁴
- ❖ **Dublin returnees:** Possibility to reopen the asylum procedure is being limited to just one reopening and within a time-limit of 6 months since the procedure has been discontinued. This time limit however is below the 9 months standard set in the recast Asylum Procedures Directive. Additionally, the national law now explicitly addresses the mandatory reopening of an asylum procedure with respect to an applicant who is returned to Bulgaria under the Dublin III Regulation. Prior the amendments of the law in end 2015 this approach as well as the right of the asylum applicant to have his application for international protection examined, or completed the examination, have not been secured.⁵ The national decision maker, State Agency for Refugees (SAR) used to accept all take back requests from other Member States, but once the Dublin returnees are returned to Bulgaria - to refuse reopening of their discontinued asylum procedures by merely serving them the discontinuation decisions issued *in absentia*. The SAR practice following this particular amendments is not yet established as the number of the asylum seekers who are actually returned to Bulgaria under the Dublin Regulation remains relatively low.⁶
- ❖ **Subsequent applications:** The law now provides the opportunity given by the recast Asylum Procedures Directive to consider the subsequent applications as inadmissible based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.⁷ The inadmissibility assessment can be conducted on the sole basis of written submissions without a personal interview. The national arrangement however do not envisage the related exceptions of this rule as provided in the recast Asylum Procedures Directive, as the right to remain is not guaranteed during even the first examination.
- ❖ **Access to territory:** Regarding asylum seekers' access to territory and procedure the national situation remained unchanged. Even after opening of the so-called West Balkans Route in mid-2015 and in distinction with the authorities of the countries along the route, which facilitated arrivals' transit and exit, the Bulgarian police continue to apprehend irregular arrivals, to fingerprint and detain them for deportation. Those who formally apply for asylum are released and transferred to reception centres. However, a survey conducted by BHC established that 99.8% of interviewed detention population stated that Bulgaria was not their destination.⁸ While the number

³ Law amending the Law on Asylum and Refugees, adopted on 2 October 2015, enforced on the date of the publication (State Gazette №80 of 16 October 2015), except for the provisions establishing closed asylum centres which entered into force on 1 January 2016, available in Bulgarian at: <http://bit.ly/1Lfkedb>; Law amending the Law on Asylum and Refugees, adopted on 11 December 2015 (State Gazette №101 from 22 December 2015), enforced on 25 December 2015, available in Bulgarian at: <http://bit.ly/1j3XqXI>.

⁴ Article 13(2) LAR.

⁵ Article 18(2) of Dublin III Regulation.

⁶ 624 incoming transfers 2016.

⁷ Article 75a to 76c LAR and Article 76d in conjunction with Article 13 (2), item 4 LAR.

⁸ BHC, *Detention Mapping report Bulgaria*, October 2016, available at: <http://bit.ly/2jluOxS>.

of first arrivals and asylum applications in 2016 remained high, the percentage of already registered asylum seekers who abandoned their asylum procedures in Bulgaria rose immensely to reach 84% at the end of 2016 with 44% of asylum procedures being terminated (discontinued) and 41% suspended *in absentia*. Just 15% of asylum seekers remained in the country long enough to be delivered decisions on the substance.

Reception conditions

- ❖ **Accommodation:** Until mid-2016 the national reception centres' population gradually increased to reach from 12% of occupancy as of 31 January 2016 a 35% occupancy as of 31 July 2016. This situation remained until the beginning of August 2016 when the Serbian border authorities fully closed their border with Bulgaria as a reaction to the previous closure of their own exit borders by Hungary and Croatia. This resulted in a gradual increase of the reception centres population, reaching by the end of September 2016 an occupation to and beyond their maximum, with the occupancy rate going up to 110%. It resulted in overcrowded facilities and additional deterioration of already poor sanitary and living conditions in the majority of the centres (**Voenna Rampa, Ovcha Kupel** and **Harmanli**). Besides accommodation, nutrition and basic medical services, asylum seekers do not receive any other social support having the effective cancellation of monthly financial allowances from 1 February 2015 onwards.⁹
- ❖ **Unaccompanied children:** Safe and appropriate accommodation for unaccompanied asylum seeking children is not secured in practice. Although the law provides for availability of special conditions unaccompanied children are accommodated at reception centres mixed with other adult population and without guarantees for their safety.¹⁰ Since the 2015 amendments to the LAR, the statutory social workers are replaced by a legal representative for unaccompanied children appointed from the respective municipality and with explicitly enumerated responsibilities. However, in practice the municipalities proved even less equipped than statutory social workers to deal with unaccompanied asylum seeking and refugee children. Alongside municipalities' constant lack of financial and administrative capacity to recruit and appoint additional staff this new national legal arrangement is generally recognised as a failure to provide the required representation of unaccompanied asylum seeking and refugee children. Only in December 2016 did the relevant municipalities appoint one guardian per reception centre.

Detention of asylum seekers

- ❖ **Population:** The closure of the Serbian border in mid-2016 and increase in occupancy of reception centres had a domino effect on the Ministry of Interior's ability to release detainees on account of submitted asylum applications, which increased the detention duration from 3-6 days in mid-2016 to more than 9 days on average, and still growing as of the end of December 2016.
- ❖ **Asylum detention:** As of 1 January 2016, the law allows for detention of asylum seekers in accordance with the recast Reception Conditions Directive. At the end of August 2016 a mass fight between Afghan and Iraqi asylum seekers in the biggest reception centre in Harmanli led to the opening of the first ever national closed reception centre. Following an ultimatum to the outgoing government to fully close Harmanli reception centre for exaggerated health concerns on 23 November 2016 without any information or early warning to the asylum seekers accommodated therein, the Harmanli centre was put in quarantine with the police blocking any exit of it. A riot on the next day was contained by the police with excessive use of force. In order to be able to detain nearly 400 Afghan asylum seekers, who were arrested after the riot, the SAR opened in heist yet another closed reception centre, although many asylum seekers were also detained in Busmantsi pre-removal detention centre in violation of domestic law.

⁹ SAR, Order №31-310 of 31 March 2015.

¹⁰ Article 29(10) LAR.

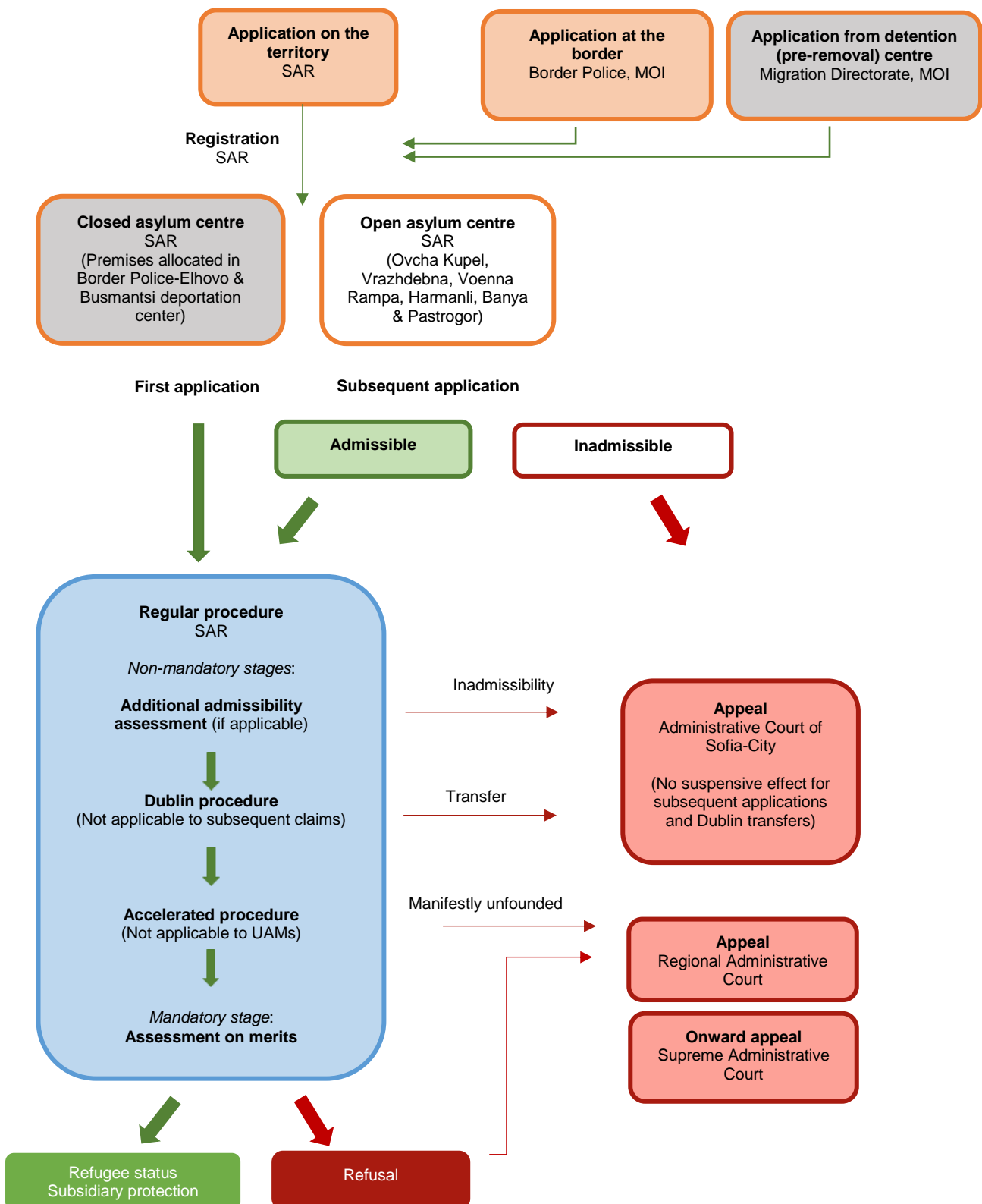
- ❖ **Integration support:** Following a third “zero integration” year since the end of 2013, in December 2016 the government finally introduced a long-expected Integration Decree,¹¹ with respect to integration of recognised individuals. It envisage funding for municipalities to which the integration of refugees and subsidiary protection holders is entrusted. However, these legal provisions remain futile and out of use as none of 265 local municipalities nationwide has so far applied for such funding in order to commence the integration process with any of those granted in Bulgaria either of the two international protection types.

¹¹ Ordinance on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection, COM №208 of 12 August 2016, State Gazette №65/19.08.2016, available in Bulgarian at: <http://bit.ly/2jtVsTE>.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|--|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ¹² | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ▪ Fast-track processing: ¹³ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: ¹⁴ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

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

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

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

4. Number of staff and nature of the first instance authority

Name in English	Number of staff ¹⁵	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
State Agency for Refugees (SAR)	357	Council of Ministers	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

5. Short overview of the asylum procedure

The submission of asylum applications may be done either before the specialised asylum administration, the State Agency for Refugees (SAR), or before any other government institution or state authority. Therefore, asylum can be claimed on the territory, at borders before the Border Police staff, or in detention centres before the Migration Directorate staff, either of which are obligated to refer it immediately to the

¹² For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

¹³ Accelerating the processing of specific caseloads as part of the regular procedure.

¹⁴ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

¹⁵ Pending another 46 appointments of social assistance staff.

SAR.¹⁶ Since 25 December 2015, the SAR is required to formally register the referred applications no later than 6 working days from their initial submission before another authority. The asylum application should be made within a reasonable time after entering the country, except in the case of irregular entry / residence when it ought to be made immediately,¹⁷ otherwise it could be ruled out as manifestly unfounded.¹⁸ If the asylum application is made before a state authority other than the SAR, status determination procedures cannot legally start until the asylum seeker is physically transferred from the border or detention centre to any of the SAR's reception centres for the so-called registration to lodge the claim 'in person'.¹⁹

The SAR is a single central administrative authority, which has the rank of a ministry. Until January 2016 its budget was assigned through the Ministry of Interior, since then the SAR is allocated its annual budget directly. SAR is competent to decide on all individual asylum applications and to grant or reject either of the two types of international protection; refugee status or subsidiary protection ("humanitarian status"). In case of mass influx where individual asylum applications cannot be processed, a temporary protection status is granted by the government following a collective decision made by the EU Council.²⁰ These forms of individual or collective protection can be applied without prejudice to the authority of the Bulgarian President to grant asylum to any foreigner based on the national constitution, if he or she is persecuted for convictions or activities undertaken in order to protect internationally recognised rights or freedoms.²¹

As of 16 October 2015, the asylum procedure stages are unified in one, single regular procedure.²² Dublin and accelerated procedures are now considered as non-mandatory phases of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to either engage the responsibility of another Member State to determine the asylum application in question,²³ or to consider the asylum application as manifestly unfounded respectively.²⁴

Admissibility procedure: The 2015 amendments to the LAR took the admissibility criteria out of the accelerated procedure's assessment thus introducing the admissibility assessment as a separate admissibility procedure that could be applied during the status determination.²⁵ An application can be deemed inadmissible if the applicant has been granted protection or a permanent residence permit in another EU Member State or "safe third country". A new admissibility assessment has also been introduced with respect to subsequent applications which provides the opportunity to consider their admissibility based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.²⁶

Accelerated procedure: The accelerated procedure presently is applied by a decision of the respective caseworker, if and when there is information or indications to consider the application as manifestly unfounded based on a number of different grounds.²⁷ A should be taken within 10 working days from lodging, otherwise the application has to be examined under the regular procedure. The accelerated procedure is not applicable to unaccompanied children.

¹⁶ Article 58(4) Law on Asylum and Refugees (LAR).

¹⁷ Article 4(5) LAR.

¹⁸ Article 13(1)(11)-(12) LAR.

¹⁹ Article 61(2) LAR.

²⁰ Article 2(2) LAR.

²¹ Article 27(1) LAR in conjunction with Article 98(10) Bulgarian Constitution.

²² Before the amendments of the law in the end of 2015 asylum applications in Bulgaria could be examined in 3 stages, respectively: 1) Dublin procedure (whether the asylum application will be examined by Bulgaria or another EU member state); 2) accelerated procedure (combined examination of both admissibility and manifestly unfounded grounds); and, 3) regular procedure (status determination on the merits of the application). If the asylum application was rejected at a former phase, the latter was inapplicable unless the rejection has been revoked by a court.

²³ Article 67b(2) LAR.

²⁴ Article 70(1) LAR.

²⁵ Article 13(2) LAR.

²⁶ Articles 75a to 76c LAR; Article 76d in conjunction with Article 13(2)(4) LAR.

²⁷ Article 70(1) LAR. The 14 applicable grounds are set out in Article 13(1) LAR.

Regular procedure: The regular procedure (titled under the law as a “general procedure”) requires detailed examination of the asylum application on its merits. A decision should be taken within 4 months from the lodging of the asylum application but this deadline is indicative, not mandatory. After the 2015 reform, the deadline can be extended by 9 more months with an explicit decision in this respect by the Head of the SAR,²⁸ but in any case the SAR is obligated to conclude the examination procedure within a maximum time limit of 21 months from the lodging of the application.²⁹

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

- ❖ Dublin / Subsequent application: A non-suspensive appeal must be submitted within 7 days to the Administrative Court of Sofia, which has exclusive competence, in one instance;³⁰
- ❖ Accelerated procedure: A suspensive appeal must be submitted within 7 days to the territorially competent Regional Administrative Court, in one instance.
- ❖ Inadmissibility / Regular procedure: A suspensive appeal must be submitted within 14 days to the territorially competent Regional Administrative Court.

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

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

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No

Access of asylum seekers to the territory remains difficult. In the period of 2015-2016, the national policy continued to fail to make a difference between asylum seekers and irregular migrants. No institutional or practical arrangements or measures exist to ensure a differentiated approach that gives access to the territory and protection for those who flee from war or persecution.

The most serious concerns raised by UNHCR and many national and international human rights and refugee-assisting organisations are with regard to the often-used practice of indiscriminate push backs by authorities.³¹ Various groups of asylum seekers reported throughout these two years that the Bulgarian border police, together with the mixed patrols deployed along the land border with Turkey, pushed them back into the Turkish territory not only from the border line, but also from inland border areas and in numerous cases, with Frontex guards witnessing the event. Many incidents, including deaths, were reported throughout 2015-2016, including by the press and media.

²⁸ The State Agency for Refugees is managed by a Chairperson: Article 46 et seq. LAR.

²⁹ Article 75(4) and (5) LAR.

³⁰ Article 84(4) LAR.

³¹ See e.g. UNHCR, ‘UNHCR alarmed at the plight of refugees and migrants at Bulgaria borders’, 28 January 2016, available at: <http://bit.ly/1PEm75w>; Human Rights Watch, ‘Bulgaria: Pushbacks, Abuse at Borders’, 20 January 2016, available at: <http://bit.ly/1PgqxWg>.

On 15 October 2015, the 19-year-old Afghan national Ziahullah Vafa was shot to death near the Bulgarian-Turkish border when the group he travelled with was intercepted by a border police patrol.³² The circumstances of the incident established in a parallel field assessment by the Bulgarian Helsinki Committee (BHC) appeared radically different from those publicly stated by the government and prosecutor offices.³³ Nevertheless, in June 2016 the Burgas Regional Prosecutor discontinued the criminal investigation against the border policeman who shot the fatal bullet ruling out the death as “an accidental act”.

On 28 January 2016, UNHCR reported to be seeking further details after being alerted about the deaths of two Afghan nationals, who apparently have died of cold while trying to cross into Serbia from Western Bulgaria.³⁴

On 7 February 2016 a girl aged 15 and a woman aged 30, both Iraqi nationals of Kurdish origin, deceased of hypothermia near the Bulgarian-Turkish border in the area of **Malko Tarnovo**, allegedly caused by the push back to Turkey the night before by the border police patrol who made the group they have travelled with to cross a local stream at temperatures below zero degrees Celsius.³⁵ On 25 March 2016 a family couple from Iraq who were intercepted while hiding in a truck at **Lessovo** border checkpoint complained before the BHC field staff that one of the border policemen used a taser against them, despite the fact the use of such devices is not allowed during regular border checks.³⁶

On 18 November 2016, the BHC reported to have received another 33 reports of robbery, physical violence and degrading treatment of asylum seekers by policemen for the period between May and September 2016.³⁷ According to the reports, at least 600 people are affected but the actual numbers are probably higher. The data is based on BHC’s systematic border monitoring, including interviews with asylum seekers, which the organisation performs as part of its official agreement with authorities. The majority of received reports (80%) concerned the seizing of cash, valuables or even food the asylum seekers carried without a proper protocol being prepared by the police authorities. There were individual reports about inappropriate treatment by the police such as rude language, setting personal belongings on fire and strip searches. A significant share of the reports by asylum seekers (45%) concern physical violence including knocking to the ground, kicking, beating people with batons and, in one case, a handgun grip. In 6 cases, police dogs were used during the arrest for intimidation, which resulted in one case of a dog bite. In several other cases the policemen used warning shots; shooting in the air.

On 13 January 2017, UNHCR voiced concern regarding an incident of two Iraqi men found dead near the Bulgarian-Turkish border, reportedly succumbing to cold and exhaustion. Earlier in the year, the body of a Somali woman was also found by the authorities.³⁸

As a consequence of these practices, compared to 2015, a sharp 45% decrease in apprehended irregular third-country nationals can be witnessed. Out of those, 17,549 individuals applied for asylum at border and immigration detention facilities.³⁹ In total, the SAR registered 19418 asylum applications in 2016.⁴⁰

³² Euronews, ‘Suspected Afghan immigrant dies after being shot by border police’, 16 October 2015, available at: <http://bit.ly/2kyEJAp>.

³³ Liberties.eu, ‘Conflicting Stories after Refugee Shot Dead by Bulgarian Police’, 26 November 2015, available at: <http://bit.ly/2jWCm72>.

³⁴ UNHCR, ‘UNHCR alarmed at the plight of refugees and migrants at Bulgaria borders’, 28 January 2016, available at: <http://bit.ly/1PEm75w>.

³⁵ Fakti, ‘Дете и жена мигранти са починали от студ край Малко Търново’, fakti.bg, 7 February 2016, available in Bulgarian at: <http://bit.ly/2kyuB6j>.

³⁶ BHC, *Monthly monitoring report: March 2016*.

³⁷ BHC, ‘BHC calls on authorities to investigate reports of systemic human rights violations regarding refugee access to territory and international protection’, 18 November 2016, available at: <http://bit.ly/2k95s5J>.

³⁸ UNHCR, ‘Refugees and migrants face high risks in winter weather in Europe’, 13 January 2017, available at: <http://bit.ly/2jqKTP4>.

³⁹ BHC, *Monthly monitoring report: December 2016*, 10 January 2017.

⁴⁰ Source: State Agency for Refugees.

Apprehension of irregular entry or presence: 2015-2016			
	2015	2016	Decrease
National entry border	10,709	4,600	57%
National exit border	11,710	4,977	57%
Territory	11,637	9,267	20%
Total	34,056	18,844	45%

Source: Ministry of Interior, Migration Statistics December 2015: <http://bit.ly/2kyMTc3>; Migration Statistics December 2016: <http://bit.ly/2jCQ4Lm>.

2. Registration of the asylum application

Indicators: Registration

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

An asylum application may be lodged either before the specialised asylum administration, the SAR, or before any other state authority, which will be obligated to refer it immediately to the SAR.⁴¹ Thus, asylum can be requested on the territory, at the borders before the Border Police staff, or in detention centres (before the Migration Directorate staff of the Ministry of Interior. The asylum application should be made within a reasonable time after entering the country, except in cases of irregular entry or residence when it ought to be made immediately.⁴² Failure to make an application within a reasonable time or immediately in those cases can be a ground for rejecting it as manifestly unfounded under the [Accelerated Procedure](#).⁴³

If the asylum application is made before an authority different than the SAR, then status determination procedures could not legally start until the asylum seeker is transferred from the border / detention centre and accommodated in any of the SAR's premises for registration to lodge the claim in person.⁴⁴ Under the law, this personal registration is to be implemented in any of the territorial units (see [Types of Accommodation](#)) of the SAR and within 3 working days after the making of the asylum application. Exceptions to this deadline are allowed only in cases where the asylum application is lodged before a different government authority or institution, in which case the deadline is set at 6 working days.

As a result of Serbian borders closure in mid-2016, the population of the national reception centres gradually increased reaching by end of September 2016 occupation to, and beyond, their maximum. This had a domino effect on the immigration police's ability to release detainees on account of submitted asylum applications. It reflected in gradual increase of reception centres' population reaching by the end of August 2016 occupation to, and beyond, their maximum.⁴⁵ It had a domino effect on the SAR's ability to release detainees on account of submitted asylum applications and register them, which increased the detention duration from 3-6 days in mid-2016 to more than 11 days on average, and still growing as of the end December 2016.⁴⁶ In a few cases, the personal registration was delayed with several months. As a result, in 2016 the SAR resumed in November its previous malpractice to register asylum seekers in Ministry of Interior deportation centres in violation of the law.⁴⁷

⁴¹ Article 58(4) LAR.

⁴² Article 4(5) LAR.

⁴³ Article 13(1)(11)-(12) LAR.

⁴⁴ Article 61 (2) LAR.

⁴⁵ In total 5,130 places in open reception centres (see [Types of Accommodation](#)) and another 210 places in closed asylum centres (see [Place of Detention](#)).

⁴⁶ BHC, *2016 RSD monitoring report*, January 2017.

⁴⁷ Article 61(2) LAR in conjunction with Article 45b LAR.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| ❖ Time-limit including extensions | 21 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases as of 31 December 2016: | Not available |

SAR is competent for deciding on all individual asylum applications and for granting or rejecting either of the two types of international protection; refugee status or subsidiary protection (“humanitarian status”). In case of mass influx where individual asylum applications cannot be processed, a temporary protection status is granted by the government following a collective decision made by the EU Council.⁴⁸ SAR has an advisory role to the government in this respect when it decides whether to communicate to EU Council a request for temporary protection decision to be taken on a group basis in cases of a mass influx of asylum seekers who flee from a war-like situation, gross abuse of human rights or indiscriminate violence. These forms of individual or collective protection can be applied without prejudice to the authority of the Bulgarian President to grant asylum to any foreigner based on the national constitution if he or she is persecuted for convictions or activities undertaken in order to protect internationally recognised rights or freedoms.⁴⁹

The LAR sets a 6 month time-limit for deciding on an asylum application admitted to the regular procedure.⁵⁰ The LAR requires that, within 4 months of the beginning of the procedure,⁵¹ caseworkers draft a proposal for a decision on the asylum application concerned. The asylum application should firstly be assessed on its eligibility for refugee status. If the answer is negative, the need for subsidiary protection on account of a general risk to the applicant's human rights should be also considered and decided upon. The interviewer's position is reported to the decision-maker, who has another 2 months for consideration and decision.

If evidence is insufficient for taking a decision within 6 months, the law allows for the deadline to be extended for another 9 months, but it requires the whole procedure to be limited to a maximum duration of 21 months. The non-governmental organisations have criticised the transposition of this particular provision of the recast Asylum Procedures Directive, stating that, if adopted, the proposed extension of determination time-limits will lower the present national procedural standards as it will prolong without any objective necessity the period of legal insecurity for asylum seekers, thus creating susceptibility to extortion and conditions for corruption practices.⁵²

Determination deadlines are not mandatory, but only indicative. Therefore if these deadlines are exceeded, this does not affect the validity of the decision. While the number of first arrivals and asylum applications decreased in 2016,⁵³ the percentage of already registered asylum seekers who abandoned their asylum procedures in Bulgaria rose immensely to reach 85% at the end of 2016, with 44% of asylum procedures being terminated (discontinued) and 41% suspended *in absentia*. Just 15% of asylum seekers

⁴⁸ Article 2(2) LAR.

⁴⁹ Article 27(1) in conjunction with Article 98(10) Bulgarian Constitution.

⁵⁰ Article 75(1) LAR.

⁵¹ Article 74 LAR.

⁵² BHC, *Comments on LAR draft proposal to transpose recast Asylum Procedures Directive*, Exh. №E-21/22 May 2015, insert link.

⁵³ In 2014, 11,080 irregular arrivals and 11,081 applications. In 2015, 31,281 irregular arrivals and 20,391 applications. In 2016, 18,802 irregular arrivals and 19,418 applications.

remained in the country long enough to be delivered decisions on the substance:

First instance SAR decisions on asylum applications: 2016		
In-merit decisions		
Refugee status	764	3,083 (15%)
Subsidiary protection	587	
Unfounded	1,027	
Manifestly unfounded	705	
Abandoned applications		
Terminated	8,932	17,199 (85%)
Suspended	8,267	
Total		20,282

Source: SAR, Statistics December 2016.

1.2. Prioritised examination and fast-track processing

Prioritised examination is applied neither in law nor in practice in Bulgaria. After the amendments to the LAR introduced in the end of 2015, a fast-track processing is applied with respect to subsequent applications (see [Subsequent Applications](#))

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
 ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

After registration has been completed, a date for an interview shall be set. The law requires that asylum seekers whose applications were admitted to the regular procedure be interviewed at least once with regard to the facts and circumstances of their applications.⁵⁴ The law requires that the applicant be notified in due time of the date of any subsequent interviews. Decisions cannot be considered in accordance with the law if the interview is omitted, unless it concerns a medically established case of insanity or other mental disorder.⁵⁵ In practice, all asylum seekers are interviewed at least once in order to determine their eligibility for refugee or subsidiary protection ("humanitarian status"). In practice, further interviews are usually only conducted if there are contradictions in the statements or if some facts need to be clarified.

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

Interpretation in determination procedures remains one of the most serious, persistent and unsolved problems for a number of years. After the failure of the SAR in 2015 to cover the costs for interpretation

⁵⁴ Article 63a(3) LAR.

⁵⁵ Article 63a(6) LAR in conjunction with Article 61(3) LAR.

for a period longer than 11 months and the subsequent decrease of hourly rates, many interpreters from key languages have withdrawn from asylum procedures in 2016. Interpretation is secured only from English, French and Arabic languages, and mainly in the reception centres in the capital **Sofia**. Interpreters from other key languages such as Pashto, Farsi, Dari, Kurdish (Sorani), Urdu, Tamil, Ethiopian and Swahili are largely unavailable.

Both at administrative and court stages, interpretation continued to be difficult, and its quality poor and entirely unsatisfactory. In 5% of the cases monitored by BHC, the determination was conducted in a language which was not spoken by the applicant or conducted with the assistance of another asylum seeker, who was the only one to speak the language in question.⁵⁶ This malpractice could result in gross miscommunication, inaccurate personal data registration and overall failure to understand the implemented procedures. 74% of the monitored court hearings were assisted by interpreters. However, in 11% of the cases before the court the interpreters demonstrated insufficient Bulgarian language knowledge. In principle, the court continued not to verify the qualifications of appointed interpreters, which created serious problems with respect to the level of understanding and communication between the court and the appellants, thus seriously undermining this legal safeguard.

Training of interpreters and monitoring on application of Interpreters' Code of Conduct rules are not applied in practice.⁵⁷ As a result, quite often the statements of asylum seekers are summarised or the interpreters provide comments on their authenticity or likelihood. There are no guidelines or a code of conduct for asylum officers, elaborating on the manner interviews should be conducted. There are currently no gender sensitive mechanisms in place in relation to the conduct of interviews, except the asylum seekers' right to ask for an interpreter of the same gender.⁵⁸

After long lobbying, the law introduced a mandatory audio or audio-video tape-recording of all eligibility interviews as the best safeguard against corruption and for unbiased claim assessment.⁵⁹ The practice in this respect improved quite significantly in 2016, as 89% of all monitored interviews were tape-recorded. Videoconference interpretation is also used, usually in reception centres outside the capital Sofia,⁶⁰ where interpreters are harder to find and employ, in which case interviews are conducted with the assistance of the interpreters who work in the reception centres and shelters in Sofia.⁶¹

All interviews are conducted by staff members of the SAR, whose competences include interviewing, case assessment and preparing a draft decision on the claim. A protocol of the interview is prepared and it shall be read to, and then signed by the applicants, the interpreter and by the case worker. In practice almost all interviews continue to be recorded also in writing by interviewers by summarising and typing questions / answers in the official protocol.

It has to be noted that in practice most of the transcripts, even if properly recorded, are not read and interpreted to the asylum seeker, but simply presented for signing. Hence an interview report is created, printed immediately after the end of the interview and served to asylum seekers for signing without reading and opportunity to make corrections, if necessary. Concerns remain also with regard to the oral reading of the protocols from the eligibility interviews, where in 84 monitored cases (38% of the total) they were either not read or not interpreted for verification to interviewed asylum seekers before being served for signing. Despite the tape-recording, it could still enable manipulation of the information in the protocol and it would require a phonetic expertise requested in eventual appeal proceedings in order to validly contest

⁵⁶ For the following statistics: BHC, *2016 RSD monitoring report*, January 2017.

⁵⁷ Adopted in 2009.

⁵⁸ Article 63a(4) LAR.

⁵⁹ Article 63a(3) LAR.

⁶⁰ Pastrogor transit centre (near Bulgarian-Turkish border), Harmanli reception centre (South-Eastern Bulgaria) and Banya reception centre (Central Bulgaria).

⁶¹ In fact, in Sofia there is just one asylum reception administration, Sofia Reception Centre, which however manages three shelters, where asylum seekers are accommodated, namely Ovcha Kupel, Vrazhdebna and Voenna Rampa.

their content, if inaccurate. Court expertise expenses in asylum cases have to be met by the appellants, however.⁶²

Notwithstanding the small number of asylum seekers who presented any evidence to support their claims, the caseworkers continued to omit their obligation to collect these pieces of evidence with a separate protocol, a copy of which should be served to the applicant. In 20% of the monitored cases in 2016, the evidence submission was not properly protocolled as one of the safeguards for proper credibility assessment.

Legal aid is not provided in general. In none of the BHC monitored cases in 2016 did asylum seekers have an appointed legal aid lawyer (see section on [Regular Procedure: Legal Assistance](#)).

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

<ul style="list-style-type: none">❖ If yes, is it❖ If yes, is it suspensive	<table border="0"><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr><tr><td><input checked="" type="checkbox"/> Judicial</td><td><input type="checkbox"/> Administrative</td></tr><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr></table>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative						
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
2. Average processing time for the appeal body to make a decision: 6 months

The negative decision taken in the regular procedure on the merits of the asylum application can be appealed within 14 days from its notification. In general, this time-limit has proved sufficient for rejected asylum seekers to get legal advice, prepare and submit the appeal within the deadline. The SAR is obligated to, and actually does, provide information to rejected asylum seekers as to where and how they can receive legal aid (see [Regular Procedure: Legal Assistance](#)) when serving a negative decision, in the form of a list. Presently, however, such legal aid and assistance is provided solely by non-governmental organisations sponsored by donors other than the government and the EU / Asylum, Migration and Integration Fund (AMIF).

The law establishes two appeal instances in the regular procedure, in contrast to appeal procedures for contesting decisions taken in [Dublin: Appeal](#), [Accelerated Procedure: Appeal](#) and inadmissibility of [Subsequent Applications](#) procedures, where first instance decisions are reviewed in only one court appeal instance.⁶³

Appeal procedures are only judicial; the law does not envisage an administrative review of asylum determination decisions. In an attempt to reduce the workload of the Administrative Court of Sofia, previously responsible for handling all Dublin appeals as well as all appeals in the regular procedure as the first instance of appeal, in 2014 the law was changed to distribute the competence for the latter among all regional administrative courts, designated as per the residence of the asylum seeker who has submitted the appeal.⁶⁴ Two years after its adoption, however, the amendment did not succeed in significantly redistributing the caseloads among the national courts, as the majority of asylum seekers reside predominantly in reception centres or at external addresses in **Sofia** and **Harmanli**. Therefore the **Sofia** and **Haskovo** Regional Administrative Courts continue to be the busiest ones, dealing with the appeals against negative first instance determination decisions.

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

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

⁶² Article 92 LAR.

⁶³ Article 90(3) LAR; Article 85(4) LAR.

⁶⁴ Article 133 Administrative Procedure Code, State Gazette №104 of 2013, in force on 1 January 2014.

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

Both appeal courts have to issue their decisions within one month. However, this deadline is indicative, not mandatory and therefore regularly not respected. The average duration of an appeal procedure before the court at both judicial instances is 15 months, although in more complex cases it can last up to 18 months. If the court finally reverts the first instance decision back, the determining authority SAR has 10 to 14 days to issue a new decision, complying with the court's instructions on the application of the law. In 2016, however, SAR continues to disregard these deadlines, and in many cases refuses again the asylum application despite the court's instructions. Repeated appeal procedures against the second negative decision can cause some asylum procedures to extend for over 2-3 years.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

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

In 2013, Law on Legal Aid was amended to introduce mandatory legal aid for asylum seekers at all stages of the status determination procedure, sponsored under the state budget.⁶⁵ In the law, the provision of legal aid to asylum seekers is subject to the condition that legal aid is not already provided on another basis. According to the amendment, asylum seekers have the right to ask for the appointment of a legal aid lawyer from the moment of the registration of their asylum application. Before 2013, state funded legal aid was only available to asylum seekers at the appeal stage before the Administrative Court or Supreme Court, according to the Law on Legal Aid.

However, the National Legal Aid Bureau (NLAB), an institution within the Ministry of Justice designated to manage legal aid funding, does not have any resources planned for legal aid to asylum seekers during status determination at first instance. The Bureau had applied for funding for these activities from European Refugee Fund (ERF), but the application was rejected by SAR in its capacity as ERF responsible authority on account of other private legal aid providers.⁶⁶ ERF funding for legal aid ended on 30 June 2015, but the new AMIF funding was made available just for a short period and limited services, only for 6 months in 2016.

Hence, as of 1 July 2015 and until the end of 2016, asylum seekers were generally left without regular state-provided legal aid (advice and representation) at first instance status determination procedures. At the end of 2016, the government re-introduced legal aid to asylum seekers both under the AMIF 2017 annual programme and the AMIF Emergency Assistance programme.⁶⁷ The plan envisages the assistance to be provided starting from January 2017 by the National Legal Aid Bureau, but it remains to be seen whether it will be applied in practice.

⁶⁵ Article 22(8) Law on Legal Aid, State Gazette №28/13, in force on 23 March 2013.

⁶⁶ See SAR, *Information Notes*, 1 July 2013, available in Bulgarian at: <http://bit.ly/1IJrVHG>; *Information Notes*, 5 July 2014, available in Bulgarian at: <http://bit.ly/1jMnyGY>.

⁶⁷ See European Commission, 'European Commission announces up to €108 million in emergency funding to Bulgaria to improve border and migration management', IP/16/3088, 16 September 2016, available at: <http://bit.ly/2cfhJ5D>.

On appeal, national legal aid arrangements only provide for state-funded legal assistance and representation after a court case has been initiated, i.e. after the appeal has been drafted and lodged. As a result, asylum seekers rely entirely on NGOs for their access to the court, i.e. for drafting and lodging the appeal. Presently, only one NGO, BHC, provides this type of assistance independently of EU funding.⁶⁸

2. Dublin

2.1. General

Dublin statistics: 2016

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	134	16	Total	10,377	624
Germany	57	8	Germany	3,551	147
United Kingdom	22	6	Austria	2,094	102
Austria/Sweden	10	0	Hungary	1,808	98

Source: State Agency for Refugees.

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

Application of the Dublin criteria

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

The most common criteria that continue to be applied in both "take charge" and "take back" cases are previously issued documents and first Member State of entry. Bulgaria accepts responsibility for the examination of asylum applications based on the humanitarian clause, and mostly vis-à-vis document and entry reasons.⁶⁹ In 2016, Bulgaria received 10,377 Dublin incoming requests and implemented 624 incoming and 16 outgoing transfers.

The dependent persons and discretionary clauses

In the past the sovereignty clause has been used in few cases in combination with the humanitarian clause, mainly for family or health condition reasons. The sovereignty clause has never been applied for reasons different from humanitarian ones. In 2016 Bulgaria has applied neither clause.

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility?⁷⁰ 2 months

⁶⁸ Since 1994, UNHCR supported and partnered with BHC with regard to protection and legal assistance to asylum seekers in Bulgaria.

⁶⁹ SAR, *2015 National Eurostat Report*, Dublin Chapter, Annex 1 and 2.

⁷⁰ Information provided by the SAR Dublin Unit, 12 January 2017.

The amended LAR now arranges the Dublin procedure as a non-mandatory stage, which is applied only by a decision of the respective caseworker, if and when there is information or indications to either engage the responsibility of another Member State to determine the asylum application in question.⁷¹ The Dublin procedure is not applicable to subsequent applications.⁷²

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

Since 2014 smuggling via Bulgaria has thrived, thus leading to a situation where at the end of July 2016 a relatively small number of individuals were residing at one time on the national territory, with 35% occupancy rate of reception centres.⁷³ During this period it took between 15 to 30 days for irregular migrants smuggled into Bulgaria to submit formally an asylum application, if apprehended, in order to be released from deportation centres and transferred to open reception centres just to abandon their asylum procedures shortly after, if not immediately. People's aim is to leave the country, again in an irregular mode, across the land border with Serbia in order to move onward to any of the main countries of final destination. In the beginning of August 2016, however, the Serbian border authorities fully closed the border with Bulgaria as a reaction to their exit borders closure by Hungary and Croatia.⁷⁴ This resulted in a gradual increase of the population in reception centres (5190 places in total), reaching occupancy beyond their maximum capacity at the end of September 2016.⁷⁵ As of end of December 2016, the SAR reported to have 79% occupancy in its reception centres.⁷⁶

Individualised guarantees

Bulgaria does not seek individualised guarantees that the asylum seekers will have adequate reception conditions upon transfer in practice. It is a general understanding within the national stakeholders that the reception conditions in the countries of transfer, e.g. such as Germany, Denmark, Sweden, UK in 2016, are better in most aspects than the local ones.

Transfers

In cases where another Member State accepts the responsibility to examine the application of an asylum seeker who is in Bulgaria, the transfer is implemented within 2 months on average.

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

Asylum seekers to be transferred under the Dublin Regulation to another Member State are given a written decision stating the grounds for applying the Dublin Regulation and the right to appeal the transfer to the

⁷¹ Article 67a(2)(1) LAR.

⁷² Article 67a(3) LAR.

⁷³ SAR, Information provided at the 60th Coordination Meeting, 28 July 2016; Ministry of Interior, *Migration Statistics July 2016*, available in Bulgarian at: <http://bit.ly/2jY4ZR0>, 5.

⁷⁴ As of 31 December 2016 altogether 19418 individuals filed asylum applications in Bulgaria; out of them the asylum procedure was ceased with respect to 8267 individuals and terminated with respect to 8932 individuals on account of their absence from the country; Source: State Agency for Refugees, 12 January 2016.

⁷⁵ Ministry of Interior, *Migration Statistics September 2016*, available in Bulgarian at: <http://bit.ly/2jYIZqQ>, 5. An occupancy of 106% i.e. 5,519 residents was reported.

⁷⁶ Out of a total 5,490 places, 4,335 were filled: Ministry of Interior, *Migration Statistics December 2016*, available in Bulgarian at: <http://bit.ly/2jCQ4Lm>, 5.

other Member State before the court. However, asylum seekers are not informed of the fact that requests have been made for “take back” or “take charge” requests to the Member State deemed responsible, nor of any progress made with regard to such requests, unless the applicant him or herself requested the transfer and/or provided due evidence in this respect.

In 2016, 16 outgoing transfers were carried out, compared to 134 requests, indicating an 11.9% transfer rate.

2.3. Personal interview

Indicators: Dublin: Personal Interview

☒ Same as regular procedure

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

The law does not require the conduct of a personal interview in the Dublin procedure, rather it gives an opportunity to the interviewer to decide whether an interview is necessary or not in light of all other relevant circumstances and evidence.⁷⁷ If an interview is conducted, it is not different from any other eligibility interviews in the [Regular Procedure: Personal Interview](#), except relating to the type of questions asked in order to verify and apply the Dublin criteria. Similar to the regular procedure, an audio or audio-video recording is now mandatory and applied in the majority of the caseload.⁷⁸

Following recommendations from European Asylum Support Office (EASO) information, relevant to Dublin procedures is gathered during the initial registration interviews with asylum seekers in a separate checklist, which mainly focuses on eventual family members in other Member States. Many problems are still created by the fact that the decision-making process remains multi-staged and centralised as far as the Dublin decisions are concerned, as such decisions can be issued only by the SAR's Dublin Unit, which is in the headquarters of the SAR in **Sofia**.⁷⁹ This creates problems with respect to observation of the 3-month deadline under the Dublin Regulation for issuing a request, as sometimes the congested communication between the Dublin Unit and the local reception centre where applicants are accommodated can consume time before all relevant documentation is prepared in order to make a proper Dublin request.

2.4. Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
❖ If yes, is it suspensive	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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

⁷⁷ Article 67b(2) LAR.

⁷⁸ Article 63a(3) LAR, in force on 1 January 2016.

⁷⁹ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

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

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

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

<input type="checkbox"/> Yes	<input type="checkbox"/> With difficulty	<input checked="" type="checkbox"/> No
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 - ❖ Does free legal assistance cover:

<input type="checkbox"/> Representation in interview
<input type="checkbox"/> Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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 - ❖ Does free legal assistance cover

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

As of 2013, the Law on Legal Aid provides for state-funded representation in procedures before the administration. As a result, legal aid financed by the state budget became available to asylum seekers during the Dublin procedure in 2013, in addition to the already available legal aid during an appeal procedure before the court. However, in practice, due to financial constraints and deficiencies, legal aid during the Dublin procedure has not been provided in 2015 and 2016 (see section [Regular Procedure: Legal Assistance](#)).

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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 - ❖ If yes, to which country or countries?

Greece

Bulgaria suspended all Dublin transfers to **Greece** in 2011, thereby assuming responsibility for examining the asylum applications of the asylum seekers concerned.

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

2.7. The situation of Dublin returnees

In 2016, Bulgaria received 10,377 incoming requests under the Dublin Regulation and implemented 624 incoming transfers.⁸⁰ The number of Dublin returns actually implemented to Bulgaria, albeit increased exponentially in comparison with 2015 (138%), remains still quite low compared to the number of incoming requests in 2016:

⁸⁰ Information provided by SAR, March 2017.

Incoming Dublin requests and transfers: 2014-2016			
	2014	2015	Jan-Nov 2016
Incoming requests	6,884	8,131	10,377
Incoming transfers	174	262	624

Source: Eurostat, migr_dubro and migr_dubto; State Agency for Refugees.

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

- ❖ If the returnee has a pending asylum application in Bulgaria, he or she is transferred to a SAR reception centre because SAR usually suspends an asylum procedure when an asylum seeker leaves Bulgaria before the procedure was completed;⁸¹
- ❖ If the returnee's asylum application was rejected *in absentia*, but not served to the asylum seeker before he or she left Bulgaria,⁸² the returnee is transferred to an asylum reception centre;
- ❖ If, however, the returnee's asylum application was rejected with a final decision before he or she left Bulgaria, or the decision was served *in absentia* and therefore became final,⁸³ the returnee is transferred to one of the immigration detention facilities, usually to the **Busmantsi** detention centre in Sofia, or to the **Lyubimets** detention centre near the Turkish border. Parents are usually detained with their children. In exceptional cases children may be placed in child care social institutions while their parents are detained in immigration facilities, in cases when an expulsion order on account of threat to national security is issued to any of the parents.

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

Prior to the 2015 amendments to the LAR, the reopening of asylum procedures for Dublin returnees, as well as the right of the asylum applicant to have his application for international protection examined or complete the examination, was not secured. The SAR used to accept all "take back" requests from other Member States, but once the Dublin returnees were returned to Bulgaria, it refused to reopen of their discontinued asylum procedures by merely serving them the discontinuation decisions issued *in absentia*.

The 2015 reform of the LAR explicitly provided for the mandatory reopening of an asylum procedure with respect to an applicant who is returned to Bulgaria under the Dublin Regulation.⁸⁴ The SAR practice following this particular amendment has not yet been established.

In 2016, the courts in some Dublin States ruled suspension of Dublin transfers to Bulgaria with respect to certain categories of asylum seekers due to poor material conditions and lack of proper safeguards for the rights of the individuals concerned:

⁸¹ Articles 18(1)(c) and (2) Dublin III Regulation.

⁸² Articles 18(1)(d) and (2) Dublin III Regulation.

⁸³ Articles 18(1)(d) and (2) Dublin III Regulation.

⁸⁴ Article 18(2) Dublin III Regulation.

Suspensions of Dublin transfers to Bulgaria in 2016			
Country	Judicial authority	Case	Date of decision
Belgium	Council of Alien Law Litigation	No 162 937	26 February 2016
		No 165 273	5 April 2016
		No 165 304	6 April 2016
		No 166 586	27 April 2016
		No 167 234	9 May 2016
		No 168 891	1 June 2016
		No 169 772	14 June 2016
		No 170 767	28 June 2016
		No 172 025	18 July 2016
		No 175 351	26 September 2016
		No 176 377	14 October 2016
		No 177 517	10 November 2016
		No 177 872	17 November 2016
		No 178 481	28 November 2016
Germany	Administrative Court of Ansbach	11 K 15.50220	20 January 2016
	Administrative Court of Oldenburg	12 A 223/15	1 February 2016
	Administrative Court of Freiburg	A 6 K 1356/14	4 February 2016
	Administrative Court of Genselkirchen	2a K 2466/15.A	19 February 2016
	Administrative Court of Aachen	8 L 991/16.A	5 December 2016
Netherlands	Council of State	201603752/1/V3	15 July 2016
	Hague District Court	AWB 16/7663	13 May 2016
		AWB 16/7747	5 December 2016
Italy	Council of State	No 3999/2016	27 September 2016
France	Administrative Tribunal of Versailles	No 1608652	26 December 2016
Switzerland	Federal Administrative Court	E-8188/2015	11 February 2016
		E-1191/2016	25 April 2016

On 1 February 2017, the Human Rights Committee granted interim measures to prevent the transfer of an Afghan family with three young children from Austria to Bulgaria.⁸⁵

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The 2015 amendments to the LAR took the admissibility criteria out of the [Accelerated Procedure](#), thus introducing the admissibility assessment as a separate admissibility procedure that could be applied during the status determination.⁸⁶

The examination can result in finding the asylum application inadmissible, where the applicant:⁸⁷

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

⁸⁵ Human Rights Committee, Communication No 2942/2017.

⁸⁶ Article 13(2) LAR, as amended by Law 101/2015 of 11 December 2015, available in Bulgarian at: <http://bit.ly/2k8slq7>.

⁸⁷ Article 13(2)(1)-(5) LAR, as amended by Law 101/2015 of 11 December 2015.

In addition to the ground in Article 13(2)(4) LAR, new admissibility assessment rules are introduced with respect to subsequent applications which provide the opportunity to consider them based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.⁸⁸ The admissibility assessment of subsequent applications differs in many aspect from the rules, deadlines and guarantees applicable when an inadmissibility decision is taken on the basis of the other admissibility grounds (see section on [Subsequent Applications](#)).

3.2. Personal interview

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

3.3. Appeal

The same rules and guarantees apply as in the [Regular Procedure: Appeal](#).

3.4. Legal assistance

The same rules and guarantees apply as in the [Regular Procedure: Legal Assistance](#).

4. Border procedure (border and transit zones)

There is no border procedure in Bulgaria.

5. Accelerated procedure

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

The accelerated procedure is designed to examine the credibility of the asylum application, but also the likelihood of the application being fraudulent or manifestly unfounded.⁸⁹ The asylum application can also be found manifestly unfounded if the applicant did not state any reasons for applying for asylum related to grounds of persecution at all, or, if their statements were unspecified, implausible or highly unlikely. All grounds are applied in practice.

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

1. The applicant raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection;⁹⁰
2. The applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict country-of-origin information, thus making his or her claim clearly unconvincing;⁹¹
3. The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents or destroying documents with respect to his or her identity and/or nationality;⁹²
4. The applicant refuses to comply with an obligation to have his or her fingerprints taken;⁹³
5. The applicant entered or resides the territory or stays lawfully and, without good reason, has not presented himself or herself within a reasonable time to the authorities to submit an application for international protection;⁹⁴

⁸⁸ Articles 75a to 76c-76d LAR.

⁸⁹ Article 13(1)(1)-(4) and 13(1)(6)-(14) LAR.

⁹⁰ Article 13(1)(1)-(2) LAR.

⁹¹ Article 13(1)(3)-(4) LAR.

⁹² Article 13(1)(6)-(9) LAR.

⁹³ Article 13(1)(10) LAR.

⁹⁴ Article 13(1)(11) LAR.

6. The applicant entered the territory or stays unlawfully and, without good reason, has not presented himself or herself immediately to the authorities to submit an application for international protection as soon as possible;⁹⁵
7. The applicant arrives from a safe country of origin;⁹⁶ or
8. The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal.⁹⁷

The authority responsible for taking decisions at first instance on asylum applications in the accelerated procedure is the SAR, through caseworkers specially appointed for taking decisions in this procedure. Before 2015, all asylum applications were channelled first through the accelerated procedure as a mandatory phase of the status determination, except the explicitly exempted claims of unaccompanied children.⁹⁸ After the 2015 reforms of the LAR, the accelerated procedure is now considered as a non-mandatory phase of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to consider the asylum application as manifestly unfounded.⁹⁹

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

Before the amendments of 2015, the law required the State Agency for National Security (SANS) to provide an opinion as to whether the person concerned constitutes a threat to national security in every asylum application. If an opinion had not been provided, a decision could not be issued in the accelerated or in the regular procedure. Therefore, in practice the – previous – 3 days deadline of the accelerated procedure was rarely observed and the majority of the asylum applications were automatically transferred for determination in the regular procedure. Hence, in practice the accelerated procedure was applied only with regard to subsequent applications, where the opinion of the SANS has already been collected during the first examination of the claim.

Following communications from 2010 to 2014 by the BHC and similar recommendation in the EASO's 2014 mission report on Bulgaria in the end of 2015,¹⁰⁰ the law was finally amended in a way allowing to remove this procedural obstacle. The law now provides that, upon receiving the asylum application, caseworkers are obliged to request a written opinion from the SANS which, however, is to be taken into consideration if and when a decision on the substance of the claim is taken within the regular ("general") procedure.¹⁰¹ The law explicitly provides that such an opinion should not be requested in accelerated procedures.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

⁹⁵ Article 13(1)(12) LAR.

⁹⁶ Article 13(1)(13) LAR.

⁹⁷ Article 13(1)(14) LAR.

⁹⁸ Article 71(1) LAR.

⁹⁹ Article 70(1) LAR.

¹⁰⁰ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

¹⁰¹ Article 58(9) LAR.

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

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☒ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☐ No

☒ Judicial

☐ Administrative

☒ Yes

☐ No

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

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

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

5.4. Legal assistance

The same rules and guarantees apply as in the [Regular Procedure: Legal Assistance](#).

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☐ For certain categories ☒ No

❖ If for certain categories, specify which:

2. Does the law provide for an identification mechanism for unaccompanied children?

☒ Yes

☐ No

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

In 2008, the SAR and UNHCR agreed on standard operating procedures (SOPs) to be followed with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).¹⁰² These SOPs however were never applied in practice. A process for the revision of the SOPs has been pending since the end of 2013, which also aims to include new categories or vulnerable groups. However, as of 31 December 2016, the SOPs revision is not even close to being finalised and adopted by the SAR.¹⁰³ Vulnerability assessment is conducted by means of group inquiries prior the applicants' registration, which could not meet the legal standards and criteria for such assessment.

Age assessment of unaccompanied children

Presently, neither the law nor practice provide any mechanisms for identification of unaccompanied children. The caseworker is not obligated to request an age assessment unless there are doubts as to whether the person is a child.¹⁰⁴ In practice, age assessment is used only to rebut the statements of asylum seekers that they are under the age of 18.

The law does not state the method of the age assessment which should be applied. In principle, the wrist X-rays method is applied systematically in all cases based on the assumption that this method is more accurate than a psycho-social inquiry. The Supreme Administrative Court, however, considers this test as non-binding and applies the benefit of the doubt principle,¹⁰⁵ which is also explicitly laid down in the LAR.¹⁰⁶

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

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

Neither guidelines, nor practice exist to accommodate the specific needs of these groups. NGOs are very concerned by the lack of procedural guarantees for vulnerable asylum seekers in the Bulgarian asylum procedure.

The legal provisions exclude the application of accelerated procedure with regard to unaccompanied asylum seeking children, but not to torture victims.¹⁰⁷

Despite the 2015 amendments of the law which stripped the statutory social workers from the responsibility to represent unaccompanied children in asylum procedures (see [Legal Representation of Unaccompanied Children](#)), their obligation to provide a social report with an opinion on the best interests of the child concerned in every individual case remains nonetheless under the provisions of the general child care legislation.¹⁰⁸

3. Use of medical reports

Indicators: Use of medical reports

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

¹⁰² SGBV SOPs, Exh.№630 of 27 February 2008.

¹⁰³ UNHCR Representation in Sofia, SGBV Task Force, established on 15 February 2014.

¹⁰⁴ Article 61(3) LAR.

¹⁰⁵ Supreme Administrative Court, Case №7749/2009, 3rd Department, Decision №13298 of 9 November 2009.

¹⁰⁶ Article 75(2) LAR.

¹⁰⁷ Article 71(1) LAR.

¹⁰⁸ Article 15(4) and (6) Law on Child Protection.

The amendments of 2015 introduced a new provision to the LAR,¹⁰⁹ according which the caseworker, with the consent of the asylum seeker, can order a medical examination to establish evidentiary statements of past persecution or serious harm. If such consent is refused by the asylum seeker, this should not be an impediment to issue the first instance decision. The law also envisages that the medical examination can be initiated by the asylum seeker, but in this case he or she should bear the medical expert's cost.

However, such reports are only exceptionally commissioned by caseworkers of the SAR. In most, if not all, of the cases where medical reports were provided, this was at the initiative of the asylum seeker or his or her legal representative. The costs of such medical reports are covered by legal aid, which is awarded in the majority of cases. If no legal aid is awarded, the costs of the medical report are borne by the asylum seeker.

The law only requires the caseworker to order a medical examination in one particular case, which is when there are indications that the asylum seeker might be mentally ill.¹¹⁰ In this case, if the result of the medical examination report shows that the asylum seeker suffers from disease or mental illness, the caseworker approaches the decision-maker, the SAR's Chairperson, who refers the case to the court for appointment of a legal guardian to the asylum seeker which is required in order to be able to continue with the examination of the asylum application.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

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

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

Prior to the 2015 amendments of the LAR, the right, but also the obligation to represent unaccompanied children during their status determination procedure, lied with legal guardians who had the responsibility to actively support the establishment of facts and circumstances, ask questions, appeal negative decisions, and – most importantly – to ensure the appointment of a legal aid lawyer when deemed necessary. As per the Family Code, legal guardians needed to be appointed immediately.¹¹¹ In addition, the general child protection legislation requires the assistance of a social worker during any administrative or court hearing as a mandatory standard.¹¹² Thus, the law itself explicitly distinguished the functions of guardians and statutory social workers, who cannot replace one another.¹¹³ However, if a guardian was not appointed, for whatever the reason, the law allowed instead a statutory social worker from respective Child Protection Departments to assist unaccompanied children during the examination of their claim.¹¹⁴ Thus, the law provided the right of the SAR to disregard the standard for the protection of the child and to determine the child's asylum application without a guardian if the interviews were conducted in the presence of a statutory social worker.

Therefore, until 16 October 2015, in practice this legal opportunity was applied extensively by the asylum administration and in all cases status determination was carried out with the assistance of statutory social workers instead of legal guardians. This practice was unequivocally criticised as the law did not provide for any mandatory training of the social workers relating to the special situation of unaccompanied asylum-seeking children or even relating to the aim and modalities of the asylum procedure in general. Lack of basic skills and knowledge has prevented statutory social workers from properly assisting or advising unaccompanied asylum-seeking children, especially in a situation where legal aid was, and still is, not secured (as described in the section on [Regular Procedure: Legal Assistance](#)). Additionally, the statutory

¹⁰⁹ Article 61(6) LAR.

¹¹⁰ Article 61(4) LAR.

¹¹¹ Article 153(3) Family Code.

¹¹² Article 15(5) Law on Child Protection.

¹¹³ Article 3(3) Law on Child Protection.

¹¹⁴ Article 25(5) LAR.

social workers were not legally authorised to represent unaccompanied children in matters of daily life including school enrolment, medical and legal assistance, or the issuing of documents.¹¹⁵ UNHCR and NGO reports have raised concerns related to cases where the lack of training of the social workers assisting unaccompanied children impacted negatively on the outcome of their asylum procedures.¹¹⁶ More importantly, jurisprudence of the Administrative Court of Sofia has ruled that status determinations in the absence of an appointed guardian are unlawful.¹¹⁷

Following amendments of the law of 16 October 2015, the situation has even worsened insofar as the government disregarded a proposal for the arrangement of guardianship to unaccompanied children in the Family Code and opted to instead mandate the local municipalities to act as legal representatives of unaccompanied children.¹¹⁸ Under the law, the municipality representative has a responsibility to safeguard the child's interests during the procedure, to represent the child before administration with respect to his or her best interests, to represent the child in all types of administrative or courts proceedings, as well as to take actions to ensure appointment of legal aid.¹¹⁹ Representation of unaccompanied children by statutory social workers during the asylum procedure was abolished.

Highly criticised when adopted, this approach of the law proved in 2016 to be indeed even more inadequate than previous arrangements. The municipalities lacked not only qualified staff, but also any basic experience and expertise in child protection. Finally, the respective municipalities responsible for unaccompanied children accommodated in reception centres situated on their territory not only failed to appoint any representative(s), but indeed refused explicitly to implement this obligation at all until the very end of 2016.

It was not before December 2016 that this practice was reverted in all reception centres with the appointment of one legal representative for each reception centre by the respective municipalities. The representatives, however, are selected among the present municipality staff and lack any training, knowledge or skills to deal with unaccompanied asylum-seeking and refugee children.¹²⁰ In addition to that, the number of legal representatives appointed – one per reception facility – is clearly insufficient to meet the need of the population of unaccompanied children who continue to arrive in Bulgaria. In 2016, a total 2,772 unaccompanied children applied for asylum in Bulgaria.

Absence of guardians, proper legal representation and care for the best interests of unaccompanied children in asylum procedures has resulted in high rates of absconding and related protection and safety risks. Therefore, an expert group from SAR, UNICEF, UNHCR, BHC and many other refugee assisting NGOs re-introduced in mid-2016 a draft proposal to the government to amend the Family Code in relation to the appointment of guardians.¹²¹

¹¹⁵ Under the Law on Persons and Family of 1949, as amended, only the parents or guardians are legally authorised to represent a child.

¹¹⁶ BHC, *Annual Status Determination Procedure Monitoring Report*, January 2015, para 3.5.

¹¹⁷ See e.g. Administrative Court of Sofia, Case N7294/2012, Section 42, Decision N5882 of 5 November 2012; Case N8251/2012, Section 42, Decision N6063 of 12 November 2012; Case N7342/2012, Section 3, Decision N6297 of 23 November 2012; Case N9090/2012, Section 16, Decision N6737 of 10 December 2012.

¹¹⁸ Article 25(1) LAR.

¹¹⁹ Article 25(3) LAR.

¹²⁰ As of November 2016, out of 1,816 unaccompanied asylum-seeking children, representatives were appointed to only 90 children (4%): UNHCR/UNICEF, *Child Protection Gaps analysis*, November 2016.

¹²¹ Draft Law amending the Family Code, Public Consultations, 29 August 2016, available in Bulgarian at: <http://bit.ly/2bUdOKp>.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ At the appeal stage ☐ Yes ☒ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ At the appeal stage ☐ Yes ☒ No

The 2015 reform of the LAR has brought about significant changes to the treatment of subsequent applications. The law now provides the opportunity given by the recast Asylum Procedures Directive to consider subsequent applications as inadmissible based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of origin.¹²² The inadmissibility assessment can be conducted on the sole basis of written submissions without a personal interview. The national arrangements, however, do not envisage the related exceptions of this rule as provided in the recast Asylum Procedures Directive.¹²³ Within the hypotheses adopted in national legislation, subsequent applications are not examined and the applicants are stripped from the right to remain when the first subsequent application is considered to be submitted merely in order to delay or frustrate the enforcement of a removal decision; or, where it concerns another subsequent application, following a final inadmissibility / unfounded decision considering a first subsequent application.

If the subsequent application is ruled out as inadmissible, this decision can be appealed within a deadline of 7 days. The appeal has no suspensive effect.¹²⁴ The competent court is only the Administrative Court of Sofia, which hears the appeal case in one instance. If the court rules out the admission of the subsequent application, the SAR has to register the applicant within 3 working days from the date the admission has taken place (entered into force).

F. The safe country concepts

Indicators: Safe Country Concepts

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

1. Safe country of origin

The LAR defines “safe country of origin” as a “state where the established rule of law and compliance therewith within the framework of a democratic system of public order do not allow any persecution or acts of persecution, and there is no danger of violence in a situation of domestic or international armed

¹²² Articles 75a to 76c LAR; Article 76d in conjunction with Article 13 (2)(4) LAR.

¹²³ Article 42(2)(b) recast Asylum Procedures Directive.

¹²⁴ Article 84(4) LAR.

conflict.”¹²⁵ This concept is a ground for rejecting an application as manifestly unfounded in the [Accelerated Procedure](#).¹²⁶

National legislation allows for the use of a safe country of origin and safe third country concept in the asylum procedure.¹²⁷

Prior to EU accession, national lists of safe countries of origin and third safe countries were adopted annually by the SAR and applied extensively to substantiate negative first instance decisions. The national courts adopted a practice that the concepts can only be applied as a rebuttable presumption that could be contested by the asylum seeker in every individual case.¹²⁸ In 2007, the national law was amended to regulate the adoption of national lists on the basis of EU common lists under Article 29 of the 2005 Asylum Procedures Directive. As a result, ever since the adoption of this amendment, the safe country of origin concept became inapplicable in practice insofar as such a common EU list has never been adopted.

Therefore, in 2015 the law was amended to allow the SAR to propose to the government national lists of safe countries of origin and third safe countries, which are considered to establish a rebuttable presumption.¹²⁹ When approving the lists, the government has to consider information sources from other Member States, EASO, UNHCR, the Council of Europe and other international organisations in order to take into account the degree of protection against persecution and ill-treatment ensured by the relevant state by means of:

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

2. Safe third country

A “safe third country” is defined in the LAR, as amended in October and December 2015, as “a country other than the country of origin where the alien who has applied for international protection has resided and:

- (a) There are no grounds for the alien to fear for his/her life or freedom due to race, religion, nationality, belonging to a particular social group or political opinions or belief;
- (b) The alien is protected against the *refoulement* to the territory of a country where there are prerequisites for persecution and risk to his/her rights;
- (c) The alien is not at risk persecution or serious harm, such as torture, inhuman or degrading treatment or punishment;
- (d) The alien has the opportunity to request refugee status and, when such status is granted, to benefit from protection as a refugee.
- (e) There are sufficient reasons to believe that aliens will be allowed access to the territory of such state.”¹³⁰

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

Since the concept has not been applied in recent years in practice, implementation setting standards in this respect, both administrative and judicial, are limited to non-existent. In principle, refusals based on the “safe third country” concept relate to countries where the applicant lived or resided for prolonged

¹²⁵ Additional Provision 1(8) LAR.

¹²⁶ Article 13(1)(13) LAR.

¹²⁷ Article 13(1)(13) LAR.

¹²⁸ Supreme Administrative Court, Case N646/2002, Decision № 4854 of 21 May 2002, and others.

¹²⁹ Article 98 LAR; Article 99 LAR.

¹³⁰ Additional Provision 1(9) LAR, as amended by Law 101/2015 of 11 December 2015.

period of time before departure. Transit or short stay in countries are not considered as sufficient for safe third countries.

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

3. First country of asylum

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

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

G. Relocation

Indicators: Relocation

1. Number of persons effectively relocated since the start of the scheme 30

Relocation statistics: 2016

Relocation from Italy			Relocation from Greece		
	Received requests	Relocations		Received requests	Relocations
Total	0	0	Total	220	30
-	-	-	Syria	-	19
-	-	-	Iraq	-	3
-	-	-	Palestine	-	8

Source: State Agency for Refugees; Greek Asylum Service: <http://bit.ly/2jskcs2>.

Bulgaria has pledged 1,302 relocations, but so far only 30 relocations have been implemented in practice. The relocated nationalities are mainly from Syrian, Iraq as well as Stateless Palestinians. There is no official list of criteria applied in relocation procedures in Bulgaria, however families with children are prioritised in relocation in practice. Out of 220 relocation requests made by the Greek Asylum Service until 15 January 2017, Bulgaria has so far accepted 137 and rejected 47.¹³¹

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

All relocated persons are being admitted directly to a regular procedure. As of the end of 2016, 17 relocated individuals have been recognised as refugees, 4 individuals have been granted subsidiary protection (“humanitarian status”), 8 individuals pending status determination and 1 individual from Iraq has returned voluntarily to his country of origin.

¹³¹ Greek Asylum Service, *Relocation statistics*, 15 January 2017, available at: <http://bit.ly/2jskcs2>.

H. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No
- ❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No

The law explicitly mentions the obligation of the SAR to provide information to asylum seekers within 15 days from the submission of the application.¹³² In the end of 2015, this provision was amended to add the obligation of the decision-maker to provide the information orally, if necessary, in cases where the applicant is illiterate.

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

In practice the information is always provided to asylum seekers in writing in the form of a leaflet translated in the languages spoken by the main nationalities seeking asylum in Bulgaria, such as Arabic, Farsi, Dari, Urdu, Pashto, Kurdish, English and French. Information by leaflets, or where needed, in other ways (UNHCR or NGO info boards), is usually provided by the SAR from the initial application (e.g. at the border) until the registration process is finished.¹³³

The written information, however, is complicated and not easy to understand. This opinion is shared by all NGO legal aid providers active in the field.¹³⁴ The common leaflet and the specific leaflet for unaccompanied minors drafted by the Commission as part of the Dublin Implementing Regulation are not being used in Bulgaria or being provided to asylum seekers.¹³⁵

NGOs, in particular UNHCR's implementing partners develop and distribute other leaflets and information boards that are simpler and easier to read and some do operate reception desks where this kind of information is also provided orally to the asylum seekers by BHC or the Red Cross. In addition, in 2014 UNHCR funded the development of online accessible tool (asylum.bg) with information about the key institutions, procedures and rights before, during and after the status determination in several most spoken languages (Arabic, Farsi, Dari, Urdu, English and French). As far as the tool functions online, it aims to providing correct and comprehensive legal information to asylum seekers in a sustainable manner wherever they are present and accommodated, including outside the reception centres, at the borders, in detention centres and other remote locations. The information on asylum.bg however is not revised to reflect both amendments of the law from 2015. Such revision is being scheduled to take place in 2017.

Among all types of different status determination procedures, the Dublin procedure has proved to be the most difficult for asylum seekers to comprehend despite the considerable amount of written materials produced to inform them about it. Another difficult issue has been detention and the reasons why a person who applied for asylum can remain detained without a transparent and fixed maximum period of detention.

¹³² Article 58(6) LAR.

¹³³ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

¹³⁴ Information provided by the Protection Working Group, 29 November 2016.

¹³⁵ Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

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

NGOs, lawyers and UNHCR staff have unhindered access to all border and inland detention centres and try to provide as much information as possible related to detention grounds and conditions.¹³⁶ Despite that, the subject of detention remains hard to explain as an extremely high percentage of asylum seekers claim that they do not understand the reasons why they are kept in detention.¹³⁷

Following the amendments of 2015, the LAR now provides that where there are indications that the individuals in detention facilities or at border crossing points may wish to make an asylum application the government shall provide them with information on the possibility to do so.¹³⁸ The information should at least include how one can apply for asylum and procedures to be followed, including in immigration detention centres and interpreted in the respective language to assist asylum seekers' access to procedure. This obligation is not fulfilled in practice as none of the SAR staff is visiting or consulting potential asylum seekers who are apprehended at the border or in immigration detention centres, where the provision of information depends entirely on legal aid NGOs' efforts and activity.

In those detention facilities and crossing points, Bulgaria is now also legally bound to make arrangements for interpretation to the extent necessary to facilitate individual access to the asylum procedure. Such interpretation, however, is not secured and the only services in this respect are provided by BHC under UNHCR funding. Although the recast Asylum Procedures Directive provision, allowing organisations and persons providing advice and counselling to asylum applicants to have effective access to applicants present at border crossing points, including transit zones at external borders, is transposed in the national law,¹³⁹ in practice there are no other NGOs besides BHC which provide legal assistance in these areas.

I. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?¹⁴⁰ ☒ Yes ☐ No
❖ If yes, specify which: Afghanistan

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

¹³⁶ For more information, see General Directorate Border Police, UNHCR and BHC, *2015 Annual Border Monitoring Report: Access to territory and international protection*, July 2016, available at: <http://bit.ly/2jsyglh>, para 1.1.3.

¹³⁷ This has been a systematic concern. See JRS Europe, *Becoming Vulnerable in Detention (Detention of Vulnerable Asylum Seekers - DEVAS Project)*, 2010, National Chapter on Bulgaria, 147 - points. 3.1 and 3.2.

¹³⁸ Article 58(6) LAR; Art.8 (1) recast Asylum Procedures Directive.

¹³⁹ Article 8(2) recast Asylum Procedures Directive and Article 23(3) LAR.

¹⁴⁰ Whether under the "safe country of origin" concept or otherwise.

As of the end of 2016, **Afghan** nationals started to be considered as manifestly unfounded cases although they were not refused in an accelerated procedure, but in a general one. The recognition rate for Afghanistan dropped to 2.5% in 2016.

Overall recognition rates decreased to 43% in 2016 out of a total 3,083 decisions taken on the merits.¹⁴¹ Subsidiary protection in 2016 increased to 19% of the cases decided on substance,¹⁴² while refugee status recognition decreased to 25%.¹⁴³ The decrease was mainly attributed to the main country of origin of the asylum seekers, who in 2016 were predominantly Afghan nationals and who were discriminatorily considered by the government as manifestly unfounded applicants.

Refugee status granted to non-Syrian nationals remained to similar levels as in 2015. Namely, they represented 9% of all refugee recognitions compared to 4% in 2015, while 11% of applicants were granted subsidiary protection compared to 10% in 2015, and 96% of them were rejected compared to 86% in 2015.¹⁴⁴

¹⁴¹ 1,732 refusals and 1,321 recognitions, of which 764 refugee and 587 humanitarian statuses granted in 2016. The recognition rate was 90% in 2015 and 69% in 2014.

¹⁴² 587 humanitarian statuses granted, compared to a rate of 14% in 2015 and 25% in 2014.

¹⁴³ 764 refugee statuses recognised. The rate was 76% in 2015 and 69% in 2014.

¹⁴⁴ Non-Syrian nationals were given 76 refugee statuses; 67 humanitarian statuses; 1,660 refusals.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions available to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Asylum seekers are entitled to material reception conditions according to national legislation during all types of asylum procedures.¹⁴⁵ Although there is no explicit provision in the law, asylum seekers without resources are accommodated with priority in the reception centres in case of lack of capacity to accommodate all new arrivals. Among all, circumstances such as specific needs and risk of destitution are assessed in each case. A destitution risk assessment criteria are set to take into account the individual situation of the asylum seeker of concern, such as – but not exhaustively – resources and means for self-support, profession and employment opportunities if work is formally permitted, and the number and vulnerabilities of dependent family members. Notwithstanding this, asylum seekers have the right to withdraw from these benefits, if their application is pending in the regular procedure and they declare that they are in possession of means and resources to support themselves and chose to live outside reception centres.

The law provides that every applicant shall be entitled to receive a registration card in the course of the procedure.¹⁴⁶ In addition, the law implies a legal fiction, according to which the registration card does not certify the foreigner's identity due to its temporary nature and the specific characteristics of establishing the facts and circumstances during the refugee status determination (RSD) procedures which are based, for the most part, on circumstantial evidence.¹⁴⁷ Hence, the registration card serves the sole purpose of certifying the identity declared by the asylum seeker.

Nevertheless, this document is an absolute prerequisite for access to the rights enjoyed by asylum seekers during the RSD procedure, namely remaining on the territory, receiving shelter and subsistence, social assistance (under the same conditions as Bulgarian nationals and receiving the same amount), health insurance, access to health care, psychological support and education.

After the 2015 reform, certain asylum seekers to whom a Dublin procedure is undertaken cannot enjoy any of the material reception conditions, as the only rights reserved for them are to stay in the territory of the country, to interpretation and to be issued a registration card.¹⁴⁸

Prior the amendments of the law in 2015, if the subsequent applicants fell under one of the categories of vulnerable asylum seekers they could nonetheless enjoy these entitlements without restrictions. However, after the reform, subsequent applicants are also excluded not only from all material conditions, but also

¹⁴⁵ Article 29(1)(2)-(3) LAR.

¹⁴⁶ Article 29(1)(6) LAR.

¹⁴⁷ Article 40(3) LAR.

¹⁴⁸ Article 29(2) LAR, as applicable on 16 October 2015. The provision distinguishes between persons applying for asylum in Bulgaria, who have access to full reception conditions (Article 67a(2)(1) LAR), and persons found irregularly on the territory to whom the Dublin Regulation applies (Article 67a(2)(2) LAR).

from the rights to receive a registration card, and only have a right to interpretation pending the fast-track processing of the admissibility assessment prior to their registration, documentation and determination on the substance.¹⁴⁹ In cases where the first subsequent application is considered to be submitted merely in order to delay or frustrate the enforcement of a removal decision, or where it concerns another subsequent application following a final inadmissibility / unfounded decision considering a first subsequent application, the applicants are also stripped from the right to remain in the territory. The law has set a 14-day time limit for this admissibility determination. If the subsequent application is considered inadmissible the asylum administration should not open a determination procedure and the applicant is not registered and documented (see section on [Subsequent Applications](#)).

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2016 (in original currency and in €): 0 BGN / €0

Reception conditions provided include food, accommodation, social assistance in cash, health care and psychological assistance.

In the spring of 2015, the SAR ceased retroactively as of 1 February 2015 the provision of the monthly financial allowance to asylum seekers accommodated in reception centres, under the pretext that food was to be provided in reception centres three times a day.¹⁵⁰ The latter proved untrue as until 30 September 2015 the food in the reception centres was provided three times a day only to children under 18 years of age. Even this is done irregularly, not in all centres and with gaps in services for couple of months. On account of managerial irregularities relating food supply arrangements, the SAR depended, as in autumn of 2013, entirely on donations in order to secure the nutrition of asylum seekers (see section [Conditions in Reception Facilities](#)). In 2016, food was prepared three times a day in the centres, with the exception of the **Ovcha Kupel** shelter, Sofia, where food is distributed twice day, at noon and 4 pm.

Additionally, the cessation of the monthly financial allowance is in contradiction with the law, as it does not condition its provision depending on whether food is provided or not; to the contrary, both material rights are regulated separately and without any correlation. The cessation of the monthly financial allowance was appealed by several refugee-assisting NGOs before the court.¹⁵¹ However, the court struck out the appeal for lack of legitimate interest in the case and suggested that appeals on an individual basis could be admissible. These can no longer be validly submitted, since the 14-day time limit for appealing the decision has long lapsed.

Previously, the amount of the cash assistance was delivered as regulated in the law and equal to the minimum social aid granted to nationals on the basis of monthly minimum wages, which as of 31 March 2014 was BGN 65 (€33.23) per month, for both adults and children. This amount, when still provided, was unanimously criticised by UNHCR and refugee-assisting NGOs as fully insufficient to meet even the most basic needs for nutrition.¹⁵² The situation was particularly serious for unaccompanied children who are not accommodated in specialised children facilities, but in common asylum reception centres, where they have to manage on their own and take care of shopping, cooking, cleaning etc. Very few unaccompanied children managed to cover their expenses with the cash provided and many reported that they were undernourished. It also has to be noted that this assistance was provided under the law only to asylum seekers who were accommodated in reception centres. In order to be able to live outside those, asylum seekers needed to declare in writing that they had enough resources to support themselves, which automatically stripped them from the right to monthly financial assistance.

¹⁴⁹ Article 76b LAR.

¹⁵⁰ SAR, Order №31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

¹⁵¹ BHC, Bulgarian Council on Refugees and Migrants, and Council of Refugee Women.

¹⁵² Bulgarian Council on Refugees and Migrants, *Advocacy Paper: Reception of Asylum Seekers in Bulgaria*, September 2011, Chapter 5: Social Assistance.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

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

The reduction of material reception conditions is not possible under the law. Withdrawal is admissible under the law in cases of disappearance of the asylum seeker when the procedure is suspended.¹⁵³ The SAR applies this in practice to persons returned under the Dublin Regulation.

Bulgaria does not apply sanctions for serious breaches of the rules of accommodation centres and violent behaviour, except for destruction of a reception centre's property, which is sanctioned with a fine between BGN 50 to 200 (€25.50-102) plus the value of the destroyed property.¹⁵⁴ The grounds laid down in Article 20(2) and (3) of the Recast Reception Conditions Directive are not transposed into national legislation.

Under the law, the directors of transit / reception centres are competent to decide on accommodation.¹⁵⁵ These decisions should be issued in writing as all other acts of administration.¹⁵⁶ However, in practice asylum seekers are informed orally. Nonetheless, the refusal to provide accommodation still can be appealed before the relevant Regional Administrative Court within 7 days from its communication to the respective asylum seeker. Legal aid is available with respect to representation before the court once the appeal is submitted. In this case, however, asylum seekers face difficulties proving before the court when they have been informed about the accommodation refusal, which may result in cessation of the court proceedings.

Relating to subsequent applicants, see [Criteria and Restrictions to Access Reception Conditions](#).

4. Freedom of movement

Indicators: Freedom of Movement

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

As of 16 October 2015, asylum seekers' freedom of movement can be restricted to a particular area or administrative zone within Bulgaria, if such limitations are deemed necessary by the asylum administration, without any other conditions or legal prerequisites.¹⁵⁷ The asylum seeker can apply for a permission to leave the allocated zone and, if the request is refused, it needs to be motivated. Such a permission is not required when the asylum seeker has to leave the allocated zone in order to appear before a court, a public body or administration or if he is in need of emergency medical assistance.

As of 1 January 2016, asylum seekers can also be placed during determination in closed reception facilities under the jurisdiction of the SAR. This placement amounts to deprivation of liberty (see [Grounds for Detention](#)).

In the end of August 2016, a mass fight between Afghan and Iraqi asylum seekers in the biggest reception centre in **Harmanli** led to the opening of the first national closed reception facility on 10 September 2016 (see [Place of Detention](#)).¹⁵⁸ In the autumn, a coalition of three minor far-right parties exhilarated their xenophobic rhetoric against asylum seekers in the **Harmanli** reception centre by exaggerating the risks

¹⁵³ Article 29(8) LAR.

¹⁵⁴ Article 93 LAR.

¹⁵⁵ Article 51(2) LAR.

¹⁵⁶ Article 59(2) Administrative Procedure Code.

¹⁵⁷ Article 30(2) and (3) LAR.

¹⁵⁸ The centre, "3rd Block", is within the premises of the Busmantsi pre-removal detention centre.

of spreading of infectious diseases. Following an ultimatum to the government to fully close the centre on 23 November 2016, without any information or early warning to asylum seekers, the centre was put in quarantine with the police blocking all exits. The riot which followed the next day, organised predominantly by Afghan asylum seekers, demanding the camp's opening and a free passage to the Serbian border, was smothered by the police with excessive use of force.¹⁵⁹ In order to be able to detain nearly 400 Afghan asylum seekers, arrested after the riot, the SAR opened in heist another closed reception centre on 26 November 2016, although many were also detained in **Busmantsi** deportation centre in violation of the law.¹⁶⁰ Asylum seekers placed in suffered delays in serving of detention warrants, lack of secured legal aid and were subjected to a duress to consent for a "voluntary" return to their country of origin.¹⁶¹

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres:¹⁶² 4
2. Total number of places in the reception centres: 5,130
3. Total number of places in private accommodation: N/A
4. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Reception centres are managed by the SAR. Alternative accommodation outside the reception centres is allowed under the law, but only if it is paid for by the asylum seekers themselves and if they have consented to waive their right to the monthly social allowance.¹⁶³

As of the end of 2016, there are 4 reception centres in Bulgaria. The total capacity as of 31 December 2016 is as follows:

Open reception centre	Location	Capacity
Sofia	Sofia	2,030
Ovcha Kupel shelter		860
Vrazhdebna shelter		370
Voenna Rampa shelter		800
Banya	Central Bulgaria	70
Pastrogor	South-Eastern Bulgaria	320
Harmanli	South-Eastern Bulgaria	2,710
Total		5,130

At the end of August 2016, following a mass fight between Afghan and Iraqi asylum seekers in **Harmanli** led to the opening of the first national closed reception facility, while another one was opened after a riot in the same centre in November 2016. These are officially described as "closed reception facilities", although asylum seekers residing there are not free to exit the premises (see [Place of Detention](#)).

¹⁵⁹ Liberties.eu, 'Riot in Bulgarian Refugee Camp Caused by Political and Media Manipulation', 8 December 2016, available at: <http://bit.ly/2kHRdFH>.

¹⁶⁰ The gymnasium of Elhovo Regional Border Police Directorate.

¹⁶¹ Source: Bulgarian Helsinki Committee, Monthly Monitoring Report, December 2016.

¹⁶² Both permanent and for first arrivals. Note that the Sofia reception centre has 3 reception shelters, namely Ovcha Kupel, Vrazhdebna and Voenna Rampa.

¹⁶³ Article 29(6) LAR.

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

Asylum seekers are allowed to reside outside the reception centres at so called “external addresses”. This could be done if asylum seekers submit a formal waiver from their right to accommodation and social assistance, as warranted by law, and declare to cover rent and other related costs at their own expenses.¹⁶⁴ Except those few whose financial condition allows residence outside the reception centres, the other group of people who live at external addresses are usually Dublin returnees, to whom the SAR applies the exclusion from social benefits, including accommodation as a measure of sanction within the jurisdiction for such decision as provided by the law (see [Withdrawal of Reception Conditions](#)).¹⁶⁵ As of 31 December 2016 only a few asylum seekers lived outside the reception centres under the conditions as described above.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

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

In 2016 three meals per day are provided in all centres but **Ovcha Kupel** shelter, **Sofia**, where two meals are served a day.

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

From September 2015 and throughout 2016, different forms and levels of medical services are again provided in all reception centres, but their scope and duration vary depending on the availability of funding for these services, but also of medical service providers in the particular centre or location.

Places for religious worship are now available in all of the centres, but not properly maintained. Activities to organise language training and leisure activities for children are presently not undertaken in any of the reception centres. UNHCR funded an Information Centre, located in the capital city, for urban asylum seekers and refugees living in the **Sofia** region, which will be maintained until the end of 2017.

Some level of standardisation has taken place in the intake procedure and registration procedure. There is a basic database of residents in place, which is updated regularly on a weekly basis. However, due to ongoing refurbishment and open access to the centres of all kinds of service providers, measures to prevent sexual and gender-based violence (SGBV) are still not sufficient to properly guarantee the safety and security of the population in the centres.

The law does not limit the length of stay in a reception centre. Asylum seekers can remain in the centre pending the appeal procedure against a negative decision issued in any of the existing status determination procedures. In mid-2016, a relatively small number of individuals were residing at any given

¹⁶⁴ Article 29(9) LAR; Article 29(1)(2) LAR.

¹⁶⁵ Article 29(4) LAR.

time on the national territory, with a 35% occupancy rate of reception centres.¹⁶⁶ During this period it took between 15 to 30 days for irregular third-country nationals to be smuggled into Bulgaria, to submit formally an asylum application, if apprehended, in order to be released from deportation centres and transferred to open refugee camps only to abandon their asylum procedures shortly after, if not immediately. This was done with the aim of leaving the country, again in an irregular mode, across the land border with Serbia in order to move onward to any of the main countries of final destination. In the beginning of August 2016 the Serbian border authorities fully closed their border with Bulgaria. This resulted in a gradual increase of the population in reception centres (5190 places in total), reaching occupancy beyond their maximum capacity at the end of September 2016.¹⁶⁷ As of end of December 2016, the SAR reported to have 79% occupancy in its reception centres.¹⁶⁸ As of 10 January 2017, the SAR reported to have its reception capacity at 76%, with 4,153 occupants in 5,490 places.¹⁶⁹

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- | | |
|--|---|
| 1. Does the law allow for access to the labour market for asylum seekers?
❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3 months |
| 2. Does the law allow access to employment only following a labour market test? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Currently, the LAR allows for access to the labour market for asylum seekers, if the determination procedure takes longer than 3 months from the submission of the asylum application.¹⁷⁰ The permit is issued by the SAR itself in a simple procedure that verifies only the duration of the status determination procedure and whether it is still pending.

Once issued, the permit allows access to all types of employment and social benefits, including assistance when unemployed. Under the law, asylum seekers also have access to vocational training.¹⁷¹

In practice, however it is difficult for asylum seekers to find a job, due to the general difficulties resulting from language barriers, the recession and high national rates of unemployment.

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

¹⁶⁶ SAR, Information provided at the 60th Coordination Meeting, 28 July 2016; Ministry of Interior, *Migration Statistics July 2016*, available in Bulgarian at: <http://bit.ly/2jY4ZRo>, 5.

¹⁶⁷ Ministry of Interior, *Migration Statistics September 2016*, available in Bulgarian at: <http://bit.ly/2jYIZqQ>, 5. An occupancy of 106% i.e. 5,519 residents was reported.

¹⁶⁸ Out of a total 5,490 places, 4,335 were filled: Ministry of Interior, *Migration Statistics December 2016*, available in Bulgarian at: <http://bit.ly/2jCQ4Lm>, 5.

¹⁶⁹ This number includes the SAR closed reception centres, where asylum seekers are detained.

¹⁷⁰ Article 29(3) LAR.

¹⁷¹ Article 39(1)(2) LAR.

Access to education for asylum-seeking children is provided explicitly in national legislation without an age limit.¹⁷² The provision not only guarantees full access to free of charge education in regular schools, but also for vocational training under the rules and conditions applicable to Bulgarian children. In practice there are some obstacles related to the methodology used to identify the particular school grade that the child should be directed to, but this problem should be solved by appointment of special commissions by the Educational Inspectorate with the Ministry of Education and Science. Presently, however, asylum seeking children accommodated in **Pastrogor** transit centre are deprived in practice from this right as the SAR does not provide the necessary school arrangements in this remote area.

No preparatory classes are offered to facilitate access to the national education system. Asylum seeking children with special needs do not enjoy alternative arrangements, other than those provided for Bulgarian children.¹⁷³

Moreover, the 2015 amendments to the LAR introduced a new provision, according to which asylum seeking children may be detained in closed reception centres or facilities.¹⁷⁴ This could deprive children of their right to education as accommodation in closed centres would effectively prevent them from accessing education, unless arrangements are not put in place to secure their transportation to the public schools. No practice is yet applied in this respect.

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

D. Health care

Indicators: Health Care

- | | | |
|---|---|---|
| 1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Do asylum seekers have adequate access to health care in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? | <input type="checkbox"/> Yes | <input type="checkbox"/> Limited <input checked="" type="checkbox"/> No |
| 4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? | <input type="checkbox"/> Yes | <input type="checkbox"/> Limited <input checked="" type="checkbox"/> No |

Asylum seekers are entitled to the same health care as nationals.¹⁷⁵ Under the law, the SAR has the obligation to cover the health insurance of asylum seekers.

In practice, asylum seekers have access to available health care services, but do face the same difficulties as the nationals due to the general state of deterioration in a national health care system that suffers from great material and financial deficiencies.¹⁷⁶ In this situation, special conditions for treatment of torture victims and persons suffering mental health problems are not available. According to the law, the medical assistance cannot be accessed if the reception conditions are reduced or withdrawn.

All centres have been equipped with consulting rooms where different medical staff provide health care and assistance. Cases in need of more serious treatment are referred to local hospitals. After the riot in November 2016 in **Harmanli** reception centre, the SAR and the Ministry of Health Care organised mass

¹⁷² Article 26(1) LAR.

¹⁷³ National Integration Plan for Children with Special Needs and/or Chronic Illness, adopted with Ordinance №6 from 19 August 2002 of the Council of Ministers.

¹⁷⁴ Article 45e LAR.

¹⁷⁵ Article 29(5) LAR.

¹⁷⁶ Open Society Institute, *Legal Standards and Arrangements for the Protection of Individual Health Rights and Entitlements*, Sofia, October 2011.

medical checks and consultation to approximately 3,000 asylum seekers accommodated.¹⁷⁷ As a result many health problems were established and referred for treatment, including 300 individuals with scabies.¹⁷⁸

E. Special reception needs of vulnerable persons

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?

☐ Yes

☒ No

The law provides a definition of vulnerability. According to the provision, the following categories of asylum seekers are considered as vulnerable: unaccompanied children; pregnant women; elderly people; single parents, if accompanied by their underage children; individuals with disabilities; and those who have been subjected to severe forms of psychological, physical or sexual abuse.¹⁷⁹ The definition of vulnerable categories in Article 21 of the recast Reception Conditions Directive is not yet transposed into national legislation.

There are no specific measures either in law or in practice to address the specific needs of these vulnerable categories except some additional arrangements in practice to ensure medication or nutrition necessary for certain serious chronic illnesses, e.g. diabetes, epilepsy, etc. The law only requires that vulnerability be taken into account when deciding on accommodation, but due to restricted reception capacity and poor material conditions, this is applied rarely, if at all. In 2008, the SAR and UNHCR agreed on standard operating procedures (SOPs) to be followed with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).¹⁸⁰ However, these were never applied in practice and therefore a process for revision of the SOPs is currently ongoing which also aims to include new categories or vulnerable groups.¹⁸¹ As of 31 December 2016 no progress has been achieved (see section on [Special Procedural Guarantees](#)).

Separate facilities for families, single women, unaccompanied children or traumatised asylum seekers do not exist in the reception centres. The 2015 amendments of the LAR provide that unaccompanied children be accommodated in families of relatives, foster families, child shelters of residential type, specialised orphanages or other facilities with special conditions for unaccompanied children.¹⁸² The law also envisages accommodation of unaccompanied asylum seeking children in closed facilities, although under exceptional circumstances and in separate premises within the closed centre.¹⁸³

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

There are no specific rules for information provided on rights and obligations relating to reception conditions. Asylum seekers obtain the necessary information on their legal status and access to the labour market through the information sources with regard to their rights and obligations in general (see section on [Information on the Procedure](#)). The SAR has an obligation to provide information in a language comprehensible to the asylum seekers within 15 days from filing their application, which has to include information on the terms and procedures and rights and obligations of asylum seekers during procedures, as well as the organisations providing legal and social assistance.¹⁸⁴ However, in reality this was not

¹⁷⁷ Liberties.eu, 'Riot in Bulgarian Refugee Camp Caused by Political and Media Manipulation', 8 December 2016, available at: <http://bit.ly/2kHRdFH>.

¹⁷⁸ SAR, Information provided at the 66th Coordination meeting.

¹⁷⁹ Article 30a LAR.

¹⁸⁰ SGBV SOPs, Exh. №630 of 27 February 2008.

¹⁸¹ UNHCR Representation in Sofia, SGBV Task Force, established on 15 February 2014.

¹⁸² Article 29(9) LAR.

¹⁸³ Articles 45e LAR.

¹⁸⁴ Article 58(6) LAR.

provided within the 15-day time period laid down in Article 5 of the recast Reception Conditions Directive. In practice, prior to the increased number of asylum seekers, this information was given upon the registration of the asylum seeker in SAR territorial units by way of a brochure. However, NGO monitoring shows that oral guidance on determination procedures is not being provided by case-workers in the majority, if not all of the cases.¹⁸⁵ The situation seems to be getting worse every year.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?

☐ Yes

☒ With limitations

☐ No

The law does not provide explicitly for access to reception centres for family members, legal advisers, UNHCR and NGOs. Until the beginning of 2015, no limitations were applied in practice. Presently, NGOs and social mediators from refugee community organisations, who have signed cooperation agreements with the asylum administration are allowed to operate within the reception premises in all national reception centres. Access to reception centres of other organisations and individuals is conditioned upon authorisation and formally limited to everybody during the night. Notwithstanding this, asylum seekers report regularly that traffickers and smugglers as well as drug dealers and prostitutes have almost unlimited access to reception centres, except for **Vrazhdebna** shelter in **Sofia** and **Harmanli** reception centre, to which the outsiders' access was significantly limited after November 2016 riot (see section on [Freedom of Movement](#)).

After the amendments of 2015, NGOs' and legal aid providers' right to access to asylum seekers is explicitly regulated and expanded to also include border-crossing points and transit zones.¹⁸⁶

G. Differential treatment of specific nationalities in reception

For the time being there are no nationalities discriminated against in the area of reception. However, some of the reception centres are used for accommodation predominantly of a certain nationality or nationalities. For example, **Vrazhdebna** shelter in Sofia accommodates Afghan asylum seekers, **Voenna Rampa** shelter in Sofia accommodates Syrians, while some of the reception centres accommodate mixed nationalities, such as in **Harmanli** reception centre, **Ovcha Kupel** shelter in Sofia etc. Unaccompanied children are usually accommodated in all centres; separate wings are not permanently available.

At the end of September 2015, the government announced that **Vrazhdebna** shelter in **Sofia** had been assigned to host the first arrivals of a total of 1,302 asylum seekers for whom the Bulgarian government will take responsibility under the agreed EU Council Decision to establish provisional measures in the area of international protection for the benefit of Italy and Greece.¹⁸⁷ Until 31 December 2016, the number of relocated persons however reached only 30 individuals transferred from Greece, mainly due to lack of interest among the asylum seekers to move to Bulgaria (see section on [Relocation](#)).

¹⁸⁵ BHC, 2016 RSD Monitoring Report, January 2017.

¹⁸⁶ Article 23(3) LAR.

¹⁸⁷ European Union Council Decision 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, 22 September 2015, available at: <http://bit.ly/1WWAubi>.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2016: ¹⁸⁸	11,314
2. Number of asylum seekers in detention at the end of 2016: ¹⁸⁹	636
3. Number of detention centres: ¹⁹⁰	4
4. Total capacity of detention centres:	1,090

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

The main reasons for this situation are the State Agency for National Security (SANS)'s concerns about transferring people to open reception centres before being screened by the security services, as well as the lack of a proper coordination mechanism between the police and the SAR to enable registration and accommodation of asylum seekers after 5pm or during the weekends. In September 2015, the SAR introduced new working times, shift schemes and on-call duty during the weekends in order to assist the reception of asylum seekers referred by the police. In practice, however, these new arrangements are not sufficient, therefore the police have no other options but to refer and detain asylum seekers in the pre-removal detention centres.

In 2016, out of 2,256 asylum seekers who submitted their claims at the borders on entry (62% of the total) had a direct access to asylum procedures without detention.¹⁹¹ The other 38% who applied at the borders were sent firstly to the **Elhovo** allocation centre or Ministry of Interior detention centres for deportation of irregular migrants.¹⁹²

Therefore, detention of first time applicants is systematically applied in Bulgaria and the majority of asylum seekers apply from pre-removal detention centres for irregular migrants. In 2016, a total 11,314 detentions were ordered. This represents a slight decrease compared to 2015, when a total 11,902 persons were detained in **Busmantsi** and **Lyubimets**.¹⁹³ A total 636 asylum seekers were in detention at the end of the year.

As of 1 January 2016, asylum seekers can be placed during determination in closed reception facilities i.e. detained under the jurisdiction of the SAR, in accordance with the recast Reception Conditions Directive.

In 2016, 400 individuals of Afghan origin were detained in closed reception facilities of the SAR, among whom were also many unaccompanied children, in violation of the law. All unaccompanied children have been released and transferred to open reception facilities as of the end of 2016. One of the two detention facilities for asylum seekers was closed in December 2016.

¹⁸⁸ As of 31 December 2016, including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention.

¹⁸⁹ The number is an estimation based on average numbers of new asylum applications and released individuals, transferred to reception centres on a monthly basis.

¹⁹⁰ This includes 3 pre-removal detention centres and 2 asylum closed centres.

¹⁹¹ 1,371 individuals intercepted in the area of BPS-Svilengrad, predominantly having national documents or with severe health condition.

¹⁹² 885 applicants for international protection.

¹⁹³ Voice in Bulgaria, *Who Gets Detained?*, September 2016, available at: <http://bit.ly/2jui7fo>.

B. Legal framework for detention

1. Grounds for detention

Indicators: Grounds for Detention

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

1.1. Pre-removal detention upon arrival

Under Article 44(6) of the Law on Aliens in the Republic of Bulgaria (LARB), as amended in 2013, a third-country national may be detained where:

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

The different grounds are often used in combination to substantiate detention orders in practice. According to an analysis of jurisprudence of the Administrative Court of Sofia and the Administrative Court of Haskovo in the period 2012-2015, the Centre for Legal Aid – Voice in Bulgaria found that the majority of detention orders were based on grounds of identity, often combined with a risk of absconding.¹⁹⁴ The ground of preventing the execution of a return order seems to be rarely, if ever, applied.¹⁹⁵

In 2016, the number of persons issued a detention order for reasons of removal was as follows:

Ground for pre-removal detention	Detentions in 2016
His or her identity is uncertain	10,914
Preventing the execution of a removal order	
There is a possibility of his or her hiding	
Total applicants detained	10,914

In practice, detention of third-country nationals is ordered by the border or immigration police on account of their unauthorised entry, irregular residence or lack of valid identity documents. After the amendments of the LARB in the end of 2016,¹⁹⁶ these authorities can initially order a detention of 30 calendar days within which period the immigration police should decide on following detention grounds and period or on referral of the individual to an open reception centre, if he or she has applied for asylum.

The law does not allow the SAR to conduct any determination procedures in the pre-removal detention centres.¹⁹⁷ However, as of 31 December 2016 and presently, the SAR continues to register, fingerprint, and in some cases interview asylum seekers in immigration detention centres and to keep them there

¹⁹⁴ Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, available at: <http://bit.ly/2jui7fo>, September 2016, 21.

¹⁹⁵ *Ibid.*

¹⁹⁶ Law amending the Law on Aliens in the republic of Bulgaria, № 97/2016 of 2 December 2016, available in Bulgarian at: <http://bit.ly/2kJoYpi>.

¹⁹⁷ Transitional Clause 5 LAR.

after issuing them asylum registration cards. This malpractice is applied with respect to certain nationalities who are deemed either a security risk (Afghan and Pakistani nationals) or deportable (Bangladesh, Sri Lanka, India, etc.) Their release and access to asylum procedure is usually secured only by an appeal against the detention and a court order for their release.

1.2. Asylum detention

As of 1 January 2016, asylum seekers can be placed during the determination of their claim in closed reception facilities under the jurisdiction of the SAR. The national grounds transpose Article 8(3)(a), (b), (d) and (f) of the recast Reception Conditions Directive, hence an applicant may be detained:¹⁹⁸

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

Ground for asylum detention	Detentions in 2016
Protection of national security or public order	400
Determination of identity or nationality	0
Determination of elements for application of international protection	0
Determination of responsible Member State	0
Total	400

Detention in a closed reception facility should be implemented for the shortest possible period.¹⁹⁹

2. Alternatives to detention

Indicators: Alternatives to Detention

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

As an alternative to pre-removal detention, the law envisages daily reporting to the police, but it is not specifically targeting asylum seekers, rather all irregular third-country nationals.²⁰⁰ However, in the overwhelming majority of cases, an alternative to detention is not considered prior to imposing detention.²⁰¹

The amendments of 2015 to the LAR also envisage bi-weekly reporting to the SAR as a measure to ensure “the timely examination of the application” or to ensure “the participation” of the asylum seeker.²⁰² The LAR also envisages a limitation of freedom of movement in certain areas in the territory of the state by a decision of the SAR chairperson, where asylum seekers can be obligated not to leave and reside in other administrative regions (district or municipality) than the prescribed one (see section on [Freedom of Movement](#)).

¹⁹⁸ Article 45b(1) LAR.

¹⁹⁹ Article 45b LAR.

²⁰⁰ Article 44(5) LARB.

²⁰¹ See BHC, *Detention Mapping report Bulgaria*, October 2016, available at: <http://bit.ly/2jluOxS>, 21.

²⁰² Article 45a LAR.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
☒ Frequently
☐ Rarely
☐ Never

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

In March 2013, the LARB was amended to prohibit the detention of unaccompanied children in general and to introduce a maximum period of 3 months for the detention of accompanied children who are detained with their parents.²⁰³

In practice, however, unaccompanied children continue to be detained, both asylum-seeking and migrant children. Unaccompanied children arrested by the Border Police upon entry, or, if arrested during their attempt to exit Bulgaria irregularly, are assigned (“attached”) to any of the adults present in the group with which the children travelled, which has been a steady practice ongoing for last couple of years. Thus, the arrested unaccompanied children are not served with a separate detention order, but instead described as an “accompanying child” in the detention order of the adult to whom they have been assigned.

The same treatment is applied by the regular police services to those unaccompanied children, who were captured inside the Bulgarian territory and considered to be irregular due to the lack of identity documents. All of them without exception were transferred to the detention centres for irregular migrants in **Elhovo** (a triage centre), **Busmantsi** or **Lyubimets** (pre-removal detention centres). In order to do this, the regular police authorities, identical to the approach of the Border Police, assigned (“attached”) the children to adults without collecting any evidence or statements for a family link or relation between them. The so-called “attachment” is implemented on the basis of a legal definition on extended relatives’ circle, who could be considered as “accompanying adults”; this definition however is applicable solely in asylum procedures.²⁰⁴ Therefore, the application of this definition in immigration procedures in order to substantiate unaccompanied children’s inclusion in the detention orders of adults other than their parents, is identified as yet another infringement of the law, additional to the principal violation of the detention prohibition.²⁰⁵

In 2016, BHC identified 1,821 unaccompanied children detained in the national immigration detention centres.²⁰⁶

Otherwise, under the general immigration legislation, the detention of accompanied children is allowed, as a matter of exception for up to 3 months.²⁰⁷ The law currently envisages only one alternative to detention – weekly reporting duties to the police office in the area where the individual is residing, which may not be appropriate for new arrivals who do not have a place of residence. UNHCR and UNICEF both stand behind the position that there is no requirement to consider the principles of necessity, proportionality and reasonableness as well as to examine alternatives to detention prior to issuing the decision.²⁰⁸ The law does not contain sufficient guarantees to ensure the detention of children is a measure of last resort, for the shortest possible period and subject to best interests’ assessment.

²⁰³ Article 44(9) LARB.

²⁰⁴ Article 1(4) LAR.

²⁰⁵ Article 44(9) LARB.

²⁰⁶ BHC, *2016 Project performance report*, 15 January 2017.

²⁰⁷ Article 44(9) LARB.

²⁰⁸ UNHCR, *Protection of Refugee and Migrant Children in Bulgaria: Gaps analysis*, November 2016, available at: XXX; UNICEF, *Strengthening of the Protection of Migrant Children in Bulgaria*, May 2016, available at: <http://bit.ly/2kJtrZZ>.

Detention is also not subject to a prompt judicial review of the initial decision to detain and a regular review thereafter. There is also a lack of legal aid ensured to challenge the detention order despite the provisions in this respect in general child protection legislation.²⁰⁹

Additionally, the LAR provides for the possibility to detain accompanied children for asylum purposes as a last resort, in view of ensuring family unity or ensuring their protection and safety, for the shortest period of time.²¹⁰ The position of UNHCR is that the respective provisions do not explicitly refer to the primacy of the best interests of the child when ordering detention. They also do not incorporate sufficient guarantees to ensure speedy judicial review of the initial decision to detain and a regular review thereafter. Apart from bi-weekly reporting to the authorities,²¹¹ the law does not envisage specific alternatives to detention appropriate for children such as alternative reception / care arrangements for unaccompanied children and families with children.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|-----------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 18 months |
| 2. In practice, how long in average are asylum seekers detained? | 9 days |

The maximum immigration detention period is 18 months, including extensions. Extensions after 6 months can only be ordered by the Administrative Court.

The amendments of the LAR in 2015 in practice have indeed safeguarded the registration of asylum applications and the release of the asylum applicants from the detention centres within 6 working days, in line with the adopted EU legal standards.²¹² As a result, in 2016 the overall detention duration of first asylum applicants prior to their registration decreased to 9 days on average, thereby observing the abovementioned registration deadline.

Average period of detention pending registration (days)				
Year	2013	2014	2015	2016
Average detention period	45	11	10	9

Source: State Agency for Refugees.

As of the end of 2015, detention during the status determination procedure in closed reception facilities is limited by the law to the shortest period possible.²¹³ There is not enough practice yet to conclude on its application by the authorities and the average detention duration within the asylum procedure, if ordered.

²⁰⁹ Article 15(8) Law on Child Protection.

²¹⁰ Article 45f(1) LAR.

²¹¹ Article 45a LAR.

²¹² Article 58(4) LAR, in force as of 25 December 2015.

²¹³ Article 45e LAR.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

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

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

1.1. Immigration detention centres

There are 3 detention centres for irregular migrants in the country, totalling a capacity of 940 places:

Detention centre	Location	Capacity
Busmantsi	Sofia	400
Lyubimets	South-Eastern Bulgaria	300
Elhovo “allocation” centre	South-Eastern Bulgaria	240
Total		940

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

Presently, almost 98% of asylum seekers who applied at national borders are transferred to **Elhovo** Allocation centre (see section [Detention: General](#)) or, if the latter is overcrowded, to any of the two other detention centres in **Busmantsi** or **Lyubimets** to satisfy the requirements of the State Agency for National Security (SANS) to avoid any release of third-country nationals, including families with children, before being screened and questioned on account of possible threats to the national security.

At the end of 2016, amendments to the LARB introduced “allocation centres” as separate detention facilities to be used for security checks, profiling and identification and allowed a duration for these purposes up to 30 calendar days.²¹⁴ Initially designated for the pre-registration of asylum seekers,²¹⁵ **Elhovo** is thereupon being used to detain asylum seekers apprehended at the land borders outside the official border checkpoint. Prior to the amendments, this period in 2016 was approximately 12 to 16 days before asylum seekers’ further transfer to any of the SAR reception centres.

1.2. Asylum detention centres

The 2015 amendments to the LAR have introduced asylum detention under the responsibility of the SAR (see [Grounds for Detention](#)).

At the end of August 2016, following a mass fight between Afghan and Iraqi asylum seekers in the biggest reception centre in **Harmanli**, the first national closed reception facility was opened on 10 September

²¹⁴ Article 44(13) LARB, as amended by Law 97/2016.

²¹⁵ EASO, *Stock taking report on the asylum situation in Bulgaria*, March 2014, 3.2. Asylum Determination Procedure.

2016 within the premises of the Busmantsi pre-removal centre. The facility is called “3rd Block” and has a capacity of 60 places.

In the autumn of 2016, a coalition of three minor far-right parties exhilarated their xenophobic rhetoric against asylum seekers in **Harmanli** reception centres by exaggerating the risks of spreading of infectious diseases. Following an ultimatum to the government to fully close the centre on 23 November 2016 without any information or early warning to asylum seekers the centre was put in quarantine with the police blocking all exits. The riot which followed the next day, organised predominantly by Afghan asylum seekers, demanding the camp’s opening and a free passage to the Serbian border, was smothered by the police with excessive use of force.²¹⁶ In order to be able to detain nearly 400 Afghan asylum seekers, arrested after the riot, the SAR opened in heist another closed reception centre on 26 November 2016, although many were also detained in **Busmantsi** deportation centre in violation of the law. The centre is the **Gymnasium of Elhovo Regional Border Police Directorate** and can host up to 150 individuals, but was only opened until December 2016. Asylum seekers placed in suffered delays in serving of detention warrants, lack of secured legal aid and were subjected to a duress to consent for a “voluntary” return to their country of origin.²¹⁷

Accordingly, the detention capacity of the two asylum closed centres was 210 places. The only operational centre at the moment has 60 places.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|-----------------------------|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Overall living conditions

In recent years, the detention centres are frequently overcrowded due to the gradual increase of the number of asylum applications on the one hand and, on the other hand, the delayed release for registration of detained asylum seekers.

Overall conditions with respect to means to maintain personal hygiene as well as general level of cleanliness are not satisfactory. Shower and toilets available are not sufficient to meet the needs of the detention population, especially when premises are overcrowded.²¹⁸ Detainees are allowed to clean the premises themselves, however they are not provided with means or detergents therefore they have to buy them at their own cost. Clothing is provided only if supplied by NGOs. Bed linen is not washed on a regular basis, but usually once a month.

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

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

²¹⁶ Liberties.eu, ‘Riot in Bulgarian Refugee Camp Caused by Political and Media Manipulation’, 8 December 2016, available at: <http://bit.ly/2kHRdFH>.

²¹⁷ BHC, *Monthly Monitoring Report*, December 2016.

²¹⁸ Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.

In two reports in 2016, findings demonstrated that in **Busmantsi** facilities are often limited more than the purpose of detention requires, with detainees unable to leave their room to use the bathroom facilities at night since bedrooms are locked at 10pm.²¹⁹

In February 2015, the Council of Europe Commissioner on Human Rights visited Bulgaria and corroborated NGOs' concerns by stating that during his visit he found seriously substandard material conditions in administrative detention centres and of numerous instances of ill-treatment.²²⁰ In his report the Commissioner stated that detainees in both **Busmantsi** and **Lyubimets** detention centres reportedly complained of abusive, sometimes violent, treatment by guards, overcrowding and noise, tension among various nationality groups, the mixing of unaccompanied children with adults, dirty and insufficient toilets, inadequate ventilation, and the poor quality of the food. They also indicated that they had limited means to communicate with the outside world, as well as a lack of communication with guards and other authorities. This resulted in a lack of awareness about procedures relating to release or asylum procedures.

Staff interpreters are neither required by law, nor provided in practice. Verbal abuse, both by staff and other detainees, is reported often by the detainees. Still in 2015 and 2016, detainees have complained about the lack of information and uncertainty on their situation.²²¹ This has led to risks of re-traumatisation for persons with vulnerabilities.²²²

In a 2016 research note, ECRE alerted again that detention conditions in Bulgaria, amounting to ill-treatment, have been widely and consistently documented through credible international channels.²²³ The Council of Europe Commissioner for Human Rights have all asserted poor hygiene conditions, abusive and violent treatment by guards, overcrowding, poor nutrition, no provision of education for children, substandard and insalubrious material conditions, as well as a lack of medical care, interpreters and information on asylum procedures.²²⁴ The latest jurisprudence also confirms that detention conditions give rise to inhumane and degrading treatment, of which the Bulgarian Government has done nothing to remedy.²²⁵

Vulnerable groups in detention

There are no mechanisms established to identify vulnerable persons in detention centres. According to recent research by the Assistance Centre for Torture Survivors (ACET), mental health professionals in **Busmantsi** have observed that persons who are socially inhibited or depressed are not being identified by the police as persons in need of assistance insofar as they do not cause problems.²²⁶ If identified, there are no provisions in the law for vulnerable persons' release on that account, unless before the court when the length of detention is reviewed after the initial 6 months period.

Article 45e(3) LAR provides that vulnerable groups shall be provided with appropriate assistance depending on their special situation. Separate wings are provided for families, single women and unaccompanied children, in line with the law.²²⁷ Single men are separated from single women. Other

²¹⁹ Cordelia Foundation et al., *From Torture to Detention: Access of Torture Survivor and Traumatized Asylum-Seekers to Rights and Care in Detention*, January 2016, available at: <http://bit.ly/1mrWopA>, 28; Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.

²²⁰ Council of Europe Commissioner for Human Rights, *Report by Nils Muižnieks following his visit to Bulgaria, from 9 to 11 February 2015*, 22 June 2015, available at: <http://bit.ly/1GHj8EN>, para 119.

²²¹ Centre for Legal Aid – Voice in Bulgaria, *Who Gets Detained?*, September 2016, 25.

²²² Cordelia Foundation et al., *From Torture to Detention*, January 2016, 19.

²²³ ECRE/ELENA, *Research Note: Reception conditions, detention and procedural safeguards for asylum seekers and content of international protection status in Bulgaria*, February 2016, available at: <http://bit.ly/1RYPDW>.

²²⁴ Council of Europe Commissioner for Human Rights, *Report by Nils Muižnieks following his visit to Bulgaria, from 9 to 11 February 2015*, 22 June 2015, para 119.

²²⁵ See e.g. German Administrative Court of Oldenburg, Decision 12 B 2278/15, 24 June 2015; Administrative Court of Cologne, Decision 20 K 4052 / 14.A, 18 June 2015.

²²⁶ Cordelia Foundation et al., *From Torture to Detention*, January 2016, 18.

²²⁷ Article 45f(4) LAR.

vulnerable persons are detained together with all other detainees. As of 1 January 2016, national legislation provides for access to education and leisure activities for children in detention centres.²²⁸

3. Access of third parties to detention facilities

Indicators: Access to Detention Facilities

- | | | | |
|--|---|----------------------------------|-----------------------------|
| 1. Is access to detention centres allowed to | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

Lawyers as well as representatives of NGOs and UNHCR have access under the law and in practice to the detention centres during visiting hours but also *ad hoc* without prior permission when necessary or requested by asylum seekers.²²⁹ Some NGOs signed official agreements with the Migration Directorate and do visit detention centres for monitoring and assistance once a week.²³⁰ Media and politicians also have access to detention centres, which is authorised upon written request.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | 6 months | |

Asylum seekers, if detained, are treated in the same manner as the rest of the detention population, hence they are informed orally by the detention staff for the reasons of their detention and the possibility to challenge it in court, but not about the possibility and the methods of applying for legal aid. However, asylum seekers as a principle are not informed in a language they understand as none of the existing detention centres has interpreters among its staff. A copy of the detention order is usually provided to the individual. Bulgaria was one of the few EU member states not providing the legal safeguard of an automatic judicial review of the detention order. After the amendment of the law in 2009 the automatic judicial review was introduced, but not before 6 months of detention. This safeguard was available in national criminal proceedings for all individuals, irrespective of their nationality or origin, if accused of committing a crime, but until 2009 it was not guaranteed for those immigrants who were subjected to administrative detention for violation of the national immigration regime for the purpose of securing their deportation.

Presently, the law does not provide for automatic judicial review of detention orders before 6 months of detention. However, detention orders can be appealed within 14 calendar days of the actual detention before the administrative court in the area of the headquarters of the authority which has issued the contested administrative act.²³¹ The appeal does not suspend the execution of the order.²³² The submission of the appeal is additionally hindered by the fact that the detention orders are not interpreted implementation, the short deadline for lodging an appeal proved to be highly disproportionate and usually not respected by detained individuals, including asylum seekers.

²²⁸ Article 45f(2) LAR.

²²⁹ This has been a systematic concern. See JRS Europe, *Becoming Vulnerable in Detention (Detention of Vulnerable Asylum Seekers - DEVAS Project)*, 2010, National Chapter on Bulgaria, 147 - points. 3.1 and 3.2.

²³⁰ Bulgarian Helsinki Committee, Bulgarian Red Cross, ACET Centre for Torture Victims, Center for Legal Aid-Voice in Bulgaria, Foundation for Access to Rights, etc.

²³¹ Article 46 LARB, as amended in March 2013.

²³² Article 46a LARB.

Under the law, an automatic judicial revision is provided only after 6 months from the beginning of the detention. The management of the detention centre has the obligation to submit to the court a list of the individuals who have remained in detention for a period longer than 6 months. The administrative court decides for extension, termination or substitution of detention with an alternative measure in a session behind closed doors.

In October 2016, BHC's Detention Mapping report reported that 99% of the research respondents did not have a lawyer appointed *ex officio* upon detention, 13% appealed the detention order within the 14-day deadline, of whom 84% did so with the help of a non-governmental organisation providing legal aid and 16% by hiring a lawyer at their expense.²³³

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

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
☐ Yes ☒ No

As of 19 March 2013, detained migrants have the right to legal aid.²³⁴ Notwithstanding the amendments, legal aid is not yet provided to detainees due to National Legal Aid Bureau (NLAB)'s budget constraints (for more information see the section on [Regular Procedure: Legal Assistance](#)).

In addition, since 1 July 2015, there is no state-- funded legal aid for the first instance of status determination for any asylum applicant and, whilst legal aid is provided for appeals under the budget, access to the courts to lodge such an appeal turns heavily on the provision of legal assistance and representation during the eligibility interview and upon receipt of a negative first decision. This reflects most negatively on asylum seekers who have been detained in closed reception facilities. Consequently, effective access to legal assistance during the procedure for these applicants is completely negated.²³⁵

For example, after the November 2016 events in **Harmanli** reception centre (see section on [Grounds for Detention](#)) followed the detention in closed reception facilities of approximately 400 asylum seekers. None of them was provided access to legal aid and had to rely entirely on the UNHCR / NGO services. In light of the consistent failings identified in status determination proceedings, such curtailment of procedural rights is particularly dramatic for those nationalities detained, given the extremely low recognition rates for these individuals in principle.

There is also a lack of state-funded legal assistance for children detained in closed facilities to challenge the detention order despite the general child protection legislation which envisaging the right of all children to such an assistance.²³⁶ As the immigration law does not envisage the appointment of guardians to unaccompanied or separated children, and since according to Bulgarian law children can only undertake legal actions through or with the consent of their guardians, they cannot challenge their detention order unless provided tailored legal support to submit appeal without it.

²³³ Bulgarian Helsinki Committee, *Detention Mapping report Bulgaria*, October 2016, 23-24.

²³⁴ Article 22(9) Law on Legal Aid.

²³⁵ ECRE/ELENA *Research Note: Reception conditions, detention and procedural safeguards for asylum seekers and content of international protection status in Bulgaria*, February 2016.

²³⁶ Article 15(8) Law on Child Protection.

E. Differential treatment of specific nationalities in detention

In 2016, discrimination against certain nationalities continued to be applied in practice, as asylum applicants from some countries are not released and their status determination is conducted in the detention centres. The overall detention duration decreased to 9 days on average. Just 0.6% of the first applicants, 75 persons, were detained for more than 3 months and only 0.3% of them, 43 persons, for more than 6 months.

However, despite the insignificant percentage of such detentions against the average duration, this violation was particularly serious, as it was based on clear discrimination on account of the nationality of asylum seekers, who suffered from protracted detention. Instead of being released, the status determination procedures of asylum applicants from discriminated nationalities were conducted in the detention centres, in violation of current national asylum legislation.²³⁷

In June 2015, the government deported to their country of origin a group of rejected asylum seekers from the **Ivory Coast**, whose procedures against the status determination, held in 2014 in conditions of detention, were still pending before the court. In January 2016, another group of **Pakistani** nationals was also deported back to their country of origin despite their ongoing asylum procedures.

The countries of origin of discriminated nationalities, however, kept changing constantly, as in 2014 this discriminatory approach was applied towards applicants from Maghreb region (**Algeria, Tunisia, Morocco**), in the first half of 2015 towards applicants from the **Ivory Coast** and **Mali**, during the second half of 2015 and throughout 2016 it was applied towards applicants from **India, Sri Lanka, Pakistan** and **Bangladesh**. A group of asylum seekers from Sri Lanka who applied in mid-2016 are still detained as of 20 January 2017. All of them have been registered and issued asylum identity card while still in detention in violation of the law. Starting from November 2016 after the events in Harmanli reception centre (see section on [Grounds for Detention](#)), this discriminatory approach was extended and presently is applied towards some, not all asylum seekers from **Afghanistan** who fit the profile of being young at age and single.

The average detention duration applied to discriminated nationalities in 2016 was 173 days or 5.7 months.

²³⁷ Article 45b LAR.

2014, 2015 and 2016 as “zero integration years”

2016, as were 2015 and 2014 before it, was also a “zero integration year”. The first National Programme for the Integration of Refugees (NPIR) was adopted and applied until the end of 2013, and since then all beneficiaries of international protection have been left without any integration support. This resulted in extremely limited access or ability by these individuals to enjoy even the most basic social, labour and health rights, while their willingness to permanently settle in Bulgaria was reported to have decreased to a minimum.²³⁸ In 2016, 88% of those who applied for asylum abandoned their status determination procedures in Bulgaria, which as a consequence were terminated shortly after the end of the legal 3-month time-limit since the disappearance was duly established. In comparison, this percentage was 83% in 2015 and 46% in 2014.²³⁹

In the same period, the SAR had received 10,377 incoming requests from other EU member states under the Dublin Regulation, which referred not only to Dublin transfers of asylum seekers, but also to the verification of granted statuses relating to possible readmission of recognised individuals (see section on [Dublin](#)).²⁴⁰

In 2016, the necessary integration legal framework, the Integration Decree, was finally adopted,²⁴¹ but it remained futile and out of use as none of 265 local municipalities has so far applied for funding in order to commence an integration process with any of the individuals granted either of the form of international protection in Bulgaria. This failure was mainly attributed to the refusal of the Ministry of Finance to approve the distribution of EU funding through the National Municipal Association, which blocked the implementation of the integration ordinance. The national “zero integration” situation thus now continues over 3 consecutive years.

Courts and human rights monitoring bodies have taken into account the treatment of beneficiaries of international protection in Bulgaria when assessing the legality of readmissions. In a recent case of 15 December 2016, the United Nations Human Rights Committee ruled against the return of a Syrian family from Denmark to Bulgaria, on the ground that their residence permit would not protect them against obstacles to accessing healthcare, or risks of destitution and hardship.²⁴²

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
 - ❖ Refugee status 5 years
 - ❖ Subsidiary protection 3 years

Both refugee and subsidiary protection (“humanitarian”) statuses granted are indefinitely and are not limited in duration, but differ in the duration of validity of identity documents issued to holders. The duration

²³⁸ Bulgarian Council on Refugees and Migrants, *Annual Monitoring Report on Integration of Beneficiaries of international protection in Bulgaria*, Sofia, December 2014.

²³⁹ In total, 19,418 applicants in 2016, 46% or 8,932 procedures terminated; 42% or 8,267 procedures suspended.

²⁴⁰ SAR, *Monthly Statistical Report*, December 2016.

²⁴¹ Ordinance on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection (hereafter “Integration Decree”), COM №208 of 12 August 2016, State Gazette №65/19.08.2016, available in Bulgarian at: <http://bit.ly/2jJwnEi>.

²⁴² Human Rights Committee, *R.A.A. v. Denmark*, Communication No 2608/2015, 15 December 2016.

of validity is 5 years for **refugee status** holders,²⁴³ and 3 years for **subsidiary protection** holders.²⁴⁴ The different validity of the documents derives from the different scope of rights attributed to each of them.

Recognised **refugees** are explicitly entitled to equal treatment in rights to Bulgarian nationals with just a few exclusions, such as: participation in general and municipal elections, in national and regional referenda; participation in the establishment of political parties and membership of such parties; holding positions for which Bulgarian citizenship is required by law; serving in the army and, other restrictions explicitly provided for by law.²⁴⁵ Individuals granted **subsidiary protection** (humanitarian status) have the same rights as third-country nationals with permanent residence.²⁴⁶

The relevant identity documents are issued by the police on the basis of decisions of the asylum authority to grant either of the international protection types.

2. Long-term residence

Indicators: Long-Term Residence

- | | |
|---|----------------|
| 1. Number of long-term residence permits issued to beneficiaries in 2016: | Not applicable |
|---|----------------|

Long-term residence not applicable for refugees and subsidiary protection holders at all, as they get their residence cards issued automatically by the police on the basis of the SAR's decision granting status. Therefore refugees and humanitarian status holders are not issued residence permits at all.

3. Naturalisation

Indicators: Naturalisation

- | | |
|---|---------------|
| 1. What is the waiting period for obtaining citizenship? | |
| ❖ Refugee status | 3 years |
| ❖ Subsidiary protection | 5 years |
| 2. Number of citizenship grants to beneficiaries in 2016: | Not available |

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

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

The application is examined within 18 months.²⁴⁷ Citizenship is granted by the president, who issues a decree following a proposal in this respect of the Minister of Justice, the latter based on a positive opinion by the Citizenship Committee at the Ministry of Justice.

²⁴³ Article 59(1)(2) Law on Bulgarian Identity Documents.

²⁴⁴ Article 59(1)(3) Law on Bulgarian Identity Documents.

²⁴⁵ Article 32(1) LAR.

²⁴⁶ Article 32(2) LAR.

²⁴⁷ Article 35(1)(1) Law on Bulgarian Citizenship.

4. Cessation and review of protection status

Indicators: Cessation

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

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

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

The interviewer makes the proposal for the cessation of the international protection in case relevant data has been gathered to indicate the legal grounds for it. Both procedures ought to be initiated by a decision of the SAR Chairperson. The protection holder is to be notified by a letter with recorded delivery that such a procedure has been initiated, the reasons thereof and the date and place for an interview in which he or she will have the opportunity to raise any objections against the cessation of the respective type of protection granted. Within 3 months of initiating the procedure, the SAR shall issue a decision. Such decision can be also taken and in the absence of opinion or objections by the protection holder if they have not been made on his own failure. When the SAR has not established the grounds for cessation, the initiated procedure should be discontinued.

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

Cessation was not applied in practice in 2016. There is no systematic review of protection status in practice.

5. Withdrawal of protection status

Indicators: Withdrawal

Same as cessation of protection status ☒

Refugee status ought to be withdrawn where:²⁴⁸

- (a) There are serious grounds to assume to have committed an act defined as a war crime or a crime against peace and humanity under the national legislation and under the international treaties;
- (b) There are serious grounds to assume that he or she has committed a serious non-political crime outside the territory of Bulgaria;

²⁴⁸ Article 12(1) LAR.

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

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

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

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

The procedure for withdrawing status in the law is the same as for [Cessation](#) of status, but no withdrawal decisions were issued in 2016.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

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

The law does not request any waiting period before a beneficiary can apply for a family reunification, nor sets a maximum time limit for submitting a family reunification application.²⁴⁹ Both recognised **refugees** and **subsidiary protection** holders are entitled to ask to be reunited with their families in Bulgaria without any distinction in the scope of their rights or procedures applicable. The family reunification permit is issued by the SAR.

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

- Spouses;
- Children under the age of 18;

²⁴⁹

Article 34(1) LAR.

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

Unaccompanied children who have been granted international protection also have the right to reunite with their parents, but also with another adult member of their family or with a person who is in charge of him/her by law or custom when the parents are deceased or missing.²⁵⁰

Family reunification can be refused on the basis of an exclusion clause or with respect to a spouse in cases of polygamy when the status holder already has a spouse in Bulgaria.²⁵¹

If the status holder is unable to provide official documents or papers certifying marriage or kinship, the latter can be established by a declaration on his behalf.²⁵²

The family members issued a family reunification permit can obtain visas by the diplomatic or consular representations. The SAR has an obligation to facilitate the reunification of separated families by assisting the issuance of travel documents, visas as well as for their admission into the territory of the country.²⁵³ However, in practice the Bulgarian consular departments have stopped issuing travel documents to minor children who have not been issued national documents after their birth, under the pretext of avoiding eventual child smuggling or trafficking. As a result, two families of recognised Syrian refugees remained separated between Bulgaria and Turkey in 2016, as their minor children have been born after the flight or in Syria but in the areas where the civil registry authorities were not functioning.

2. Status and rights of family members

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

C. Movement and mobility

1. Freedom of movement

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

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

²⁵⁰ Article 34(4) LAR.
²⁵¹ Article 34(3) LAR.
²⁵² Article 34(5) LAR.
²⁵³ Article 34(7)-(8) LAR.

2. Travel documents

Based on the two types of international protection in Bulgaria, refugee status and subsidiary protection (“humanitarian status”), the travel documents issued are also two types: travel document for refugees and travel document of foreigners granted humanitarian status.²⁵⁴

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

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

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

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

D. Housing

Indicators: Housing

- | | |
|--|----------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 6 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2016 | 229 |

Under the law, status holders may be provided with financial support for housing for a period of up to 6 months as from the date of entry into force of the decision for granting international protection under the terms and procedure established by the chairperson of the SAR in coordination with the Minister of Finance.²⁵⁵ In practice due to lack of any integration support (see [General Remark](#) on Integration) the beneficiaries of international protection are allowed to remain in the reception centres up to 6 months, unless in situations of mass influx or increased new arrivals.

At the end of 2016, the number of beneficiaries staying in reception centres was 229.

E. Employment and education

1. Access to the labour market

Access to the labour market is automatic and unconditional. There is no difference between refugees and subsidiary protection beneficiaries in this respect. No labour market test is applied and access is not limited to certain sectors. Beneficiaries of international protection face the usual obstacles related to lack

²⁵⁴ Article 59(1)(5) and (7) Law on Bulgarian Identity Documents.

²⁵⁵ Article 31(3) LAR.

of language knowledge and related lack of adequate in that respect state support for vocational training, if necessary or offered.

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

2. Access to education

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

F. Health care

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

ANNEX I - Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

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