

Country Report: Romania



**2021
update**

Acknowledgements & Methodology

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

The information in this report draws upon statistics provided by the General Immigration Inspectorate (IGI), interviews throughout 2021 and at the beginning of 2022, with relevant stakeholders at IGI and civil society organisations. This includes legal counsellors providing services in the different Regional Centres for Accommodation and Procedures for Asylum Seekers of the country (Timișoara, Șomcuta Mare, Rădăuți, Galați, Bucharest and Giurgiu), as well as visits to the Public Custody Centre of Otopeni on 31 January 2022 and the Public Custody Centre of Arad on 4 February 2022. Requests for permission to visit Timișoara, Bucharest and Giurgiu Regional Reception Centres were refused by IGI-DAI due to the pandemic. However, interviews were held with the directors of Bucharest, Timisoara and Giurgiu.

The information in this report is up-to-date as of 31 December 2021, unless otherwise stated.

The Asylum Information Database (AIDA)

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



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



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Glossary & List of Abbreviations

Public custody centre	Detention centre for persons facing removal or transfer under the Dublin Regulation. There are two such centres, located in Otopeni and Arad.
Regional centre	Regional Centre for Accommodation and Procedures for Asylum Seekers ("reception centre"). There are six such centres, located in: Timișoara, Șomcuta Mare, Rădăuți, Galați, Bucharest and Giurgiu.
AIDRom	Ecumenical Association of Churches from Romania Asociația Ecumenică a Bisericilor din România
AJO FM	County Employment Agency Agenția Județeană pentru Ocuparea Forței de Muncă
AJPIS	County Agency for Payments and Social Inspection Agenția Județeană pentru Plăți și Inspecție Socială
AMIF	Asylum, Migration and Integration Fund
ANO FM	National Employment Agency Agenția Națională pentru Ocuparea Forței de Muncă
CAS	Health Insurance House Casa de Asigurări de Sănătate
CJAS	County Health Insurance House Casa Județeană de Asigurări de Sănătate
CNRED	National Centre for Recognition and Validation of Diplomas Centrul Național pentru Recunoașterea și Echivalarea Diplomelor
CNRR	Romanian National Council for Refugees Consiliul Național Român pentru Refugiați
DGASPC	Directorate-General for Social Assistance and Child Protection Direcția Generală de Asistență Socială și Protecția Copilului
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
IGPF	General Inspectorate of the Romanian Border Police Inspectoratul General Politiă de Frontieră
IGI	General Inspectorate for Immigration Inspectoratul General pentru Migrări
IGI-DAI	General Inspectorate for Immigration – Directorate for Asylum and Integration Inspectoratul General pentru Migrări – Direcția Azil și Integrare
IML	Institute of Legal Medicine Institutul de Medicină Legală

IOM ROMANIA	International Organisation for Migration
IPJ	County Police Inspectorate Inspectoratul de Politie Județean
ISJ	County School Inspectorate Inspectoratul Școlar Județean
ISR	Social Reference Indicator Indicator Social de Referință
ITPF	Territorial Inspectorate of the Border Police/ Inspectoratul Teritorial al Poliției de Frontieră
ITM	Inspekția Muncii/ Inspectia Muncii
JRS	Jesuit Refugee Service Romania
LADO	Liga Apărării Drepturilor Omului
LOGS	Grupul de Inițiative Sociale
NAC	National Authority for Citizenship
NIML	National Institute of Legal Medicine Institutului Național de Medicină Legală
ROI	Regulation of Internal Order Regulamentul de Ordine Interioară

Statistics

Overview of statistical practice

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

Applications and granting of protection status at first instance: 2021

	Applicants in year	Pending at end of year	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	9,591	1,515	500	626	3,190	11.58%	14.50%	73.91%

Breakdown by countries of origin of the total numbers

Afghanistan	4,259	734	165	17	1,205	12%	1.2%	87.6%
Syria	1,243	179	91	449	72	15%	74.2%	11.9%
Bangladesh	876	72	4	0	445	1.3%	0%	98.7%
India	557	122	1	0	292	0.3%	0%	99.6%
Iraq	481	71	48	33	107	25.5%	17.5%	56.9%
Pakistan	413	45	0	0	335	0%	0%	100%
Turkey	336	59	5	1	32	13.2%	2.6%	84.2%
Somalia	242	48	117	28	45	61.6%	14.7%	23.7%
Morocco	185	9	1	0	164	0.6%	0%	99.4%
Tunisia	162	20	1	0	96	1%	0%	99%

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

Gender/age breakdown of the total number of applicants*: 2021

	Number	Percentage
Total number of applicants	9,591	
Men	8,673	90.42%
Women	917	9.56%
Children	2,756	28.73%
Unaccompanied children	1,551	16.17%

Source: IGI-DAI.

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

Comparison between first instance and appeal decision rates: 2021

Full statistics are not available. In 2021, in the first instance 4,316 decisions were issued by IGI-DAI, almost double last year when 2,480 decisions were issued.¹

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	4,316		1,278	
Positive decisions	1,126	26.08%	-	-
Refugee status	500	11.58%	-	-
Subsidiary protection	626	14.50%	-	-
Negative decisions	3,190	73.91%	-	-

Source: IGI-DAI.

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

Overview of the legal framework

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

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

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

Title (EN)	Original Title (RO)	Abbreviation	Web Link
Government Decree No. 1251 of 13 September 2006 regarding the Methodological Norms for Applying Act 122/2006 <i>Last updated: 25 January 2016</i>	Hotărârea Guvernului nr. 1251 din 13 septembrie 2006 privind Normele Metodologice de aplicare a Legii 122/2006 Formă actualizată: 25 ianuarie 2016	Asylum Decree	http://bit.ly/2fJRil0 (RO)
Government Emergency Ordinance No. 194 of 12 December 2002 regarding the regime for foreigners in Romania <i>Last updated: 9 November 2018</i>	Ordonanță de urgență nr. 194 din 12 decembrie 2002 privind regimul străinilor în România Formă actualizată: 9 noiembrie 2018	Aliens Ordinance	http://bit.ly/2x9zGrL (RO)
Government Ordinance No. 44 of 29 January 2004 regarding the social integration of foreigners granted international protection or a right of residence in Romania, as well as the citizens of the Member States of the European Union, the European Economic Area and the citizens of the Swiss Confederation <i>Last updated: 10 October 2019</i>	Ordonanța Guvernului nr. 44 din 29 ianuarie 2004 privind integrarea socială a străinilor care au dobândit protecție internațională sau un drept de ședere în România, precum și a cetățenilor statelor membre ale Uniunii Europene, Spațiului Economic European și a cetățenilor Confederației Elvețiene Formă actualizată: 10 Octombrie 2019	Integration Ordinance	https://bit.ly/2pp5lHW (RO)
Decision No. 945 of November 5, 2020 for the approval of the Methodological Norms for the application of the Government Ordinance no. 44/2004 regarding the social integration of	Hotărâre nr. 945 din 5 noiembrie 2020 pentru aprobarea Normelor metodologice de aplicare a Ordonanței Guvernului nr. 44/2004 privind integrarea socială a străinilor care au dobândit protecție internațională sau un drept de	Integration Decree	https://bit.ly/3sXCMNQ (RO)

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

Overview of the main changes since the previous report update

The previous update was published in **April 2021**.

Asylum procedure

- ❖ **Access to the territory:** UNHCR Romania reported that **69,589** persons were prevented from entering the country from January to the end of November 2021, based on statistics received from IGI-DAI, correlated with statistics received from the Border Police. In 2020 UNHCR Serbia reported that 13,409 persons were collectively expelled from Romania to Serbia from 1 January to 31 December,² the highest number of pushbacks registered since UNHCR Serbia began monitoring pushbacks in spring 2016. Higher numbers were registered in the second half of the year. According to the Border Police, interpretation at the border for asylum information is still lacking. Asylum seekers complained about ill treatment by Border Police /Gendarmerie officers at the border.
- ❖ **Asylum seekers:** the number of asylum seekers increased by 64.2% in 2021 with 9,591 new asylum applications registered, compared to 6,158 in 2020. 1,551 unaccompanied children were registered in 2021, compared to 980 registered in 2020.
- ❖ **Interpretation:** The availability and quality of interpretation has remained an issue.
- ❖ **Videoconferencing:** interviews and court hearings were held through videoconference.
- ❖ **Accelerated procedure:** the number of asylum applications assessed in accelerated procedures in 2021 increased to 1,968 compared to 885 in 2020, and 315 in 2019. Asylum applications of Afghan nationals were also assessed in an accelerated procedure until August 2021.
- ❖ **Integration programme:** In 2021, 986 beneficiaries of international protection were enrolled in the integration programme.
- ❖ **Family reunification:** A total of 405 applications for family reunification were made in 2021, of which 180 were admitted and 7 were dismissed, compared to 212 applications made in 2020.
- ❖ **Cessation and review of protection status:** In 2021, IGI-DAI issued 34 cessation decisions and 15 withdrawal decisions were issued.

Reception conditions

- ❖ **Reception conditions:** In 2021 the hygienic conditions continued to deteriorate in all centres, except Giurgiu, in part due to the high number of asylum seekers accommodated. Conditions were described by several stakeholders as dirty with worn equipment, furniture and bedding. However, renovation work was started in Bucharest, in the Vasile Stolnicu regional centre and in Timisoara. Due to the renovation work in Timisoara and the Vasile Stolnicu centre (Bucharest) the total capacity of the centres was reduced from 1,100 places to 751 places. In order to increase the number of accommodation places in the regional centres, IGI aims to extend the accommodation capacity by 500 places in 3 centres, using AMIF funds, as follows: Timișoara and Rădăuți would have an additional 100 places and Galați another 300 places. In addition, IGI-DAI, took over a public building, administered by the Ministry of Foreign Affairs to

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

convert it to an accommodation centre for asylum seekers. The building is located in Crevedia, Dâmbovița County and will have a capacity of 500 places.

- ❖ **Reception conditions in detention:** The capacity of the Arad detention centre is to be increased: in May 2021, the authorities started the construction of another facility, with a capacity of 240 places of accommodation, a sports field and leisure spaces. The construction of the facility is being funded by AMIF. The director stated that the construction works will be finalised in June-August 2022.

Return

- ❖ **Return to Serbia:** In 2021, Romania continued to return persons to Serbia based on the readmission agreement. 475 persons (mainly Afghan, Pakistani and Indian nationals) were returned to Serbia from the Arad detention centre and around 200 from the Otopeni detention centre.

The War in Ukraine

- ❖ **War in Ukraine:** From the beginning of the crisis to 19 April 2022, **751,951** Ukrainian citizens had entered Romania.³ According to UNHCR Romania 85,000 remained in the country. Due to the pressure under which the asylum system of the country came due to the conflict in Ukraine, the Romanian Ministry of Internal Affairs signed an operational plan with the European Union Agency for Asylum (EUAA) at the end of March 2022. The plan foresees the gradual deployment of up to 120 EUAA personnel and interpreters to country.⁴
- ❖ **Legislative provisions:** On 27 February 2022, the Romanian Government adopted Emergency Ordinance 15/2022⁵ on the provision of humanitarian support and assistance by the Romanian state to foreign nationals or stateless persons in special situations, coming from the area of the armed conflict in Ukraine, later modified by Emergency Ordinance 22/2022.⁶ On 18 March 2022 Government Decision no. 367⁷ on the establishment of conditions for ensuring temporary protection, entered into force.
- ❖ **Access to the territory:** Ukrainian nationals who are able to present a valid passport at the border crossing can enter Romania and can stay up to 90 days. Temporary protection is granted for a period of one year and will be able to be automatically extended for periods of 6 months, for a maximum of one additional year, if the conflict situation persists. Visa-free entry with a biometric passport remains possible. If individuals apply for asylum in Romania, Ukrainian nationals can also enter the country on the basis of another type of identity document (national identity document, birth certificate etc.), or on the basis of their declared identity, without an identity document, for humanitarian reasons.⁸
- ❖ **Information provision:** In respect of COVID-related restrictions, UA nationals are not required to quarantine upon arrival, regardless of whether they arrive from Ukraine or through the Republic of Moldova. Information provision and legal counselling is provided at the main border crossing points from Ukraine and the Republic of Moldova (Halmeu, Sighetu Marmatiei, Siret,

³ Border Police, Information regarding border traffic on 19 april 2022, 20 April 2022, available in English at: <https://bit.ly/3vEfz6y>.

⁴ EUAA, Operational Plan 2022 - Agreed by the European Union Agency for Asylum and Romania, 28 March 2022, available at: <https://bit.ly/3N8v78X>.

⁵ Ordinance 15/2022, available in Romanian at: <https://bit.ly/3seZhyQ>.

⁶ Emergency Ordinance 22/2022, available in Romanian at: <https://bit.ly/3MPRCio>.

⁷ Government Decision No. 367, available in Romanian at: <https://bit.ly/3l2f54h>.

⁸ The Romanian Government, Romania's Response to the Humanitarian Refugees' Crisis – Summary Country Report, 14 April 2022, available in English at: <https://bit.ly/380JcWV>.

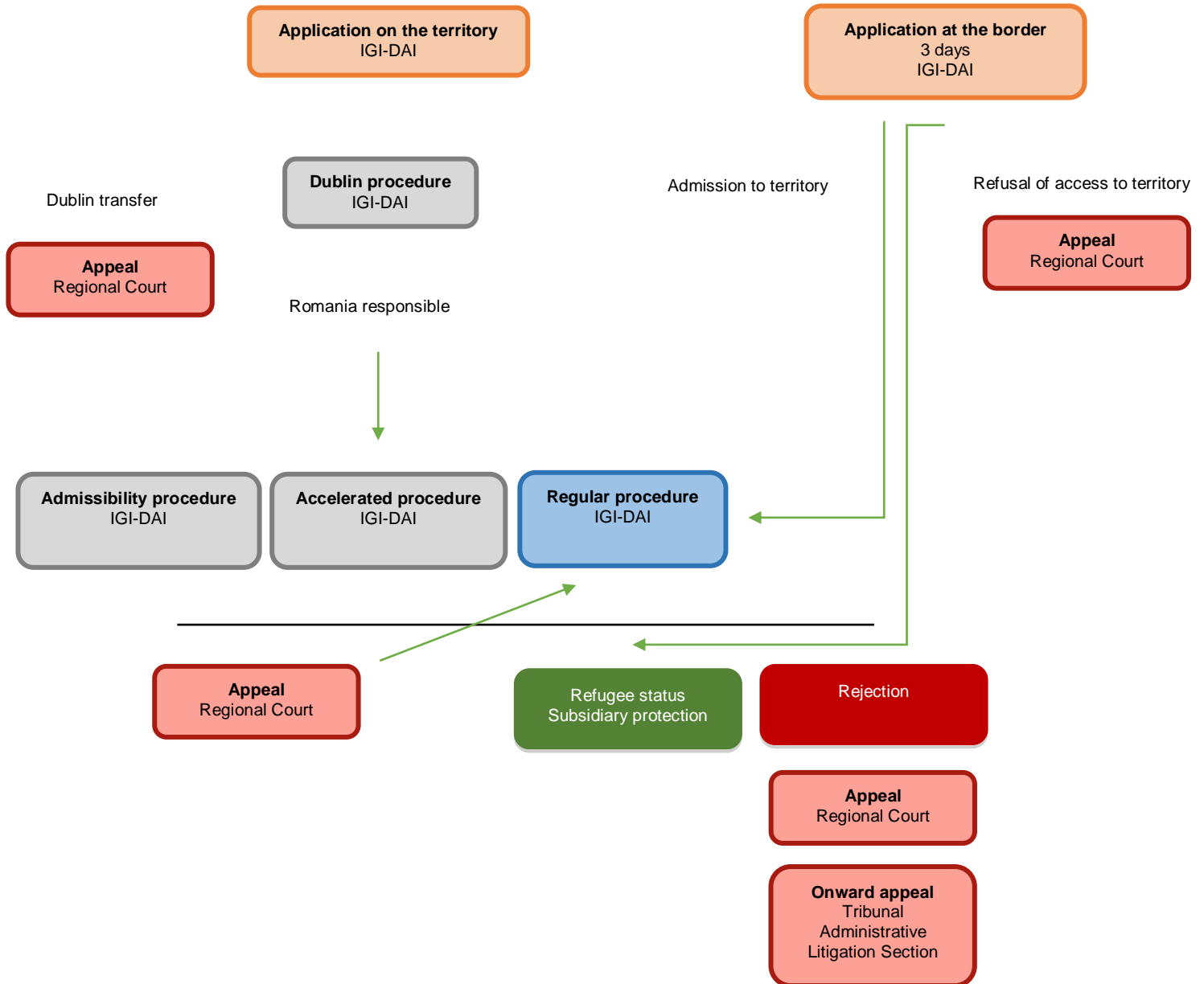
Stanca, and Isaccea). Information provision is also provided in reception centres, as well as through two hotlines (+40 730 073 170 / +40 721 206 926) and an online platform.⁹

⁹ See Dopomoha.ro, the official platform for Ukrainians seeking protection in Romania, available in English, Romanian, Russian and Ukrainian at: <https://bit.ly/3kW7h3V>.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

Regular procedure: ☒ Yes ☐ No
 Prioritised examination:¹⁰ ☒ Yes ☐ No
 Fast-track processing:¹¹ ☐ Yes ☒ No
 Dublin procedure: ☒ Yes ☐ No
 Admissibility procedure: ☒ Yes ☐ No
 Border procedure: ☒ Yes ☐ No
 Accelerated procedure:¹² ☒ Yes ☐ No
 Other: ☐ Yes ☒ No

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

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

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

4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	316	Ministry of Internal Affairs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

¹⁰ For applications likely to be well-founded or made by vulnerable applicants.

¹¹ Accelerating the processing of specific caseloads as part of the regular procedure.

¹² Labelled as “accelerated procedure” in national law.

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

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

IGI-DAI may request public institutions, agencies or organisations operating on the territory of Romania, the necessary documentation to analyse the applicant's situation and take a decision, respecting the confidentiality rules. In these cases, the consent of the applicant is not required.¹³

The Head of IGI, the general inspector, is appointed by an order of the Minister of Internal Affairs.¹⁴ The head is assisted by 2 deputy general inspectors, who are selected after an examination/competition organised by IGI. The examination is organised in compliance with the provisions of Law no. 360/2002 on the Status of the Police Officer, the Order of the Ministry of Internal Affairs no. 140/2016 on the human resources management activity in the Ministry, the General Manager's Order of the General Directorate of Human Resources Management no. II / 1620 / 15.09.2015 on procedures and forms used in human resource management activity by the Ministry of Internal Affairs.

IGI-DAI includes a director and a deputy director. These positions are filled through an exam, the reassignment from a different location or by direct designation, according to Law 360/2002 on the Status of the Police Officer.¹⁵

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

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

In 2021 IGI-DAI had 29 case officers¹⁶, in comparison with 2020 when there were 23 case officers¹⁷ and 16 officers responsible for the preliminary interviews.¹⁸ In 2021, 9 new case officers were hired and there was no shortage of case officers.¹⁹

According to IGI-DAI, the case officers receive internal and external training. Internal training includes the following activities:

IGI-DAI develops internal guidelines distributed among the specialised staff at the regional centres;

The case officers at the regional centres attend common activities and trainings provided by officers from the International Protection Service within DAI;

The International Protection Service issues recommendations on the interpretation and application of the asylum law;

¹³ Article 49(2) Asylum Act.

¹⁴ Art.2(1) DECISION no. 639 of 20 June 2007 (amended) on the organizational structure and attributions of the General Inspectorate for Immigration.

¹⁵ Information provided by IGI-DAI, 22 July 2019.

¹⁶ Information provided by IGI-DAI, 11 March 2022.

¹⁷ Information provided by IGI-DAI, 16 February 2021.

¹⁸ Information provided by IGI-DAI, 22 July 2019.

¹⁹ Information provided by IGI-DAI, 11 March 2022.

Relevant information gathered through different internal and external activities is disseminated among the case officers of the regional centres;
Dissemination of EASO's common practical tools and guidance.

External trainings include:

Attendance at seminars organised by UNHCR, JRS, CNRR, AIDRom, Save the Children, etc.;

Participation in EASO's Training Curriculum;

Participation in EASO's working groups;²⁰

In 2021, 10 training sessions for case officers were organised online and in-person.²¹

Case officers are provided information regularly through the Country of Origin Information Office (BITO) within IGI-DAI and through the materials developed by UNHCR and EUAA.²²

Specialised training on vulnerable groups is provided to all officers through the organization of seminars, the processing of guidelines, ad-hoc meetings, monitoring visits and quality assessment. Any officer may assess applications made by vulnerable asylum seekers.²³

In 2019 IGI-DAI reported that it monitored the quality of the decisions issued at the regional level. IGI-DAI and UNHCR have a collaboration protocol regarding quality control of the decisions. Based on this collaboration, UNHCR assesses 10 interview transcripts and 10 decisions from all the regional centres every month. UNHCR and the International Protection Service of DAI carry out the assessment in parallel.²⁴ The quality decision is assessed after the decision has been taken.²⁵

In 2021, IGI-DAI mentioned that the quality of the asylum procedure is monitored through an internal procedure and through monitoring visits conducted jointly with UNHCR and the quality of decisions is monitored monthly in collaboration with UNHCR.²⁶

To ensure uniform interpretation of the asylum law IGI-DAI has internal guidelines regulating different procedures. These internal working procedures are intended only for internal use and for IGI staff members.²⁷

Short overview of the asylum procedure

Application

Access to the asylum procedure is ensured to any foreign national or stateless person who is on Romanian territory or at the border, from the time the person manifests his or her intention to request protection from the Romanian state, in writing or orally.²⁸ An asylum application may be made at the border or on the territory.

Apart from IGI-DAI, there are also other authorities competent to receive asylum applications such as the Border Police operating offices, police units including pre-trial detention and detention centres, structures of the National Administration of Penitentiaries within the Ministry of Justice.²⁹ IGI-DAI has to register the asylum application within a maximum of 3 working days if the application was made with the IGI,³⁰ or within a maximum of 6 working days if the application was made with another competent authority. In case of a mass influx of applications for international protection filed with any of the latter

²⁰ Information provided by IGI-DAI, 22 July 2019.

²¹ Information provided by IGI-DAI, 11 march 2022.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Information provided by IGI-DAI, 22 July 2019.

²⁶ Information provided by IGI-DAI, 11 march 2022.

²⁷ Ibid.

²⁸ Article 4 Asylum Act.

²⁹ Article 36^1(2) Asylum Act, citing Article 35 Asylum Act.

³⁰ Article 36^1(1) Asylum Act.

competent authorities, the registration can be made within 10 working days from the date when the application was filed.³¹

First instance procedure

The first instance is an administrative procedure carried out by IGI-DAI. Asylum seekers are photographed, fingerprinted and issued with a temporary identity document,³² which includes a personal numeric code.³³ The temporary identity document is extended periodically. After the asylum application is registered, a preliminary interview takes place for the purposes of determining the applicant's personal data, information on family members, relatives or any other persons of interest, the route from the country of origin to Romania, possible previous asylum procedures in another Member State or in a third country, as well as identity or travel documents in his or her possession.³⁴ If there are indications of another Member State's responsibility for assessing the asylum claim, the Dublin procedure is triggered, while the asylum procedure in Romania is suspended.

After the preliminary interview, a case officer of IGI-DAI conducts the personal interview. The law foresees a 30-day deadline to issue a decision, starting from the moment when the file is handed over to the case officer.³⁵ In the event of a negative decision, the applicant may appeal with suspensive effect to the Regional Court within 10 days since the communication of the decision.³⁶

Accelerated procedure

The Asylum Act provides for an accelerated procedure for manifestly unfounded applications, asylum applications of persons who, through their activity or membership of a particular group, pose a threat to national security or public order in Romania and asylum applications of persons coming from a safe country of origin.³⁷ The accelerated procedure may be triggered during the regular procedure if the case officer determines the existence of one of the grounds for applying an accelerated procedure.³⁸ A decision is issued within 3 days from the start of the accelerated procedure.³⁹ A negative decision in the accelerated procedure may be appealed within 7 days from the notification of the decision. If the appeal is filed within the deadline, it has automatic suspensive effect.⁴⁰ The decision of the court is irrevocable.⁴¹

Border procedure

The border procedure concerns asylum and subsequent applications submitted at a border-crossing point. The law provides a 3-day deadline to issue a decision in case of the border procedure.⁴² As in the accelerated procedure, a negative decision may be appealed within 7 days from the notification. The decision of the court is irrevocable.⁴³

Appeal

³¹ Article 36¹(3) Asylum Act, citing Article 35 Asylum Act.

³² Article 17(1)(h) Asylum Act. Such a document is not issued to applicants: (i) who have applied for asylum at a border crossing point, as long as they have not been granted access to the territory by a decision of IGI-DAI; (ii) detained in public custody for reasons of national security and public order requesting asylum, as long as this measure is maintained; and (iii) who are taken into public custody due to a "significant risk of absconding" in a Dublin procedure.

³³ Article 17(1¹) Asylum Act.

³⁴ Article 43(1) Asylum Act.

³⁵ Article 52(1) Asylum Act.

³⁶ Article 55(1) Asylum Act.

³⁷ Article 75(1) Asylum Act.

³⁸ Article 78 Asylum Act.

³⁹ Article 79 Asylum Act.

⁴⁰ Article 80(1) Asylum Act.

⁴¹ Article 81(2) Asylum Act.

⁴² Article 82 Asylum Act.

⁴³ Article 86(2) Asylum Act.

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

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

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

Is there a border monitoring system in place? ☒ Yes ☐ No

Who is responsible for border monitoring? ☐ National authorities ☒ NGOs ☒ Other (UNHCR)

How often is border monitoring carried out? ☒ Frequently ☐ Rarely ☐ Never

According to Romanian Border Police reports, asylum seekers arrive in Romania mainly by land through the southwestern border with Serbia,⁴⁴ through the southern border with Bulgaria,⁴⁵ and through the

⁴⁴ Border Police, 'Afgani și pakistanezi depistați ascunși în TIR la Moravița, 5 February 2021, available in Romanian at: <https://bit.ly/3AhNLpo>; 'Patru cetățeni din Bangladesh depistați de polițiștii de frontieră timișeni', 2 March 2021, available in Romanian at: <https://bit.ly/3KtKmlK>; 'Șase indieni și pakistanezi, sprijiniți de un cetățean român, depistați la granița cu Serbia', 11 June 2021, available in Romanian at: <https://bit.ly/33LZ25j>; 'Cinci afgani, sprijiniți de un cetățean român, depistați la granița cu Serbia', 12 June 2021, available in Romanian at: <https://bit.ly/3FYq6vg>; 'Două călăuze și zece cetățeni afgani, opriți la frontiera cu Serbia', 13 July 2021, available in Romanian at: <https://bit.ly/3KBdZHV>; 'Familie de cetățeni irakieni, aflată în stare de deshidratare, sprijinită de polițiștii de frontieră, 24 July 2021', available in Romanian at: <https://bit.ly/3lrlbna>; 'Opt cetățeni străini au încercat să intre ilegal în țară, ascunși într-un autoturaj', 30 July 2021, available in Romanian at: <https://bit.ly/3KBgtPV>; 'Două călăuze și opt cetățeni străini, opriți la frontiera cu Serbia', 2 August 2021, available in Romanian at: <https://bit.ly/3lzJCQj>; 'Un grup format din șaptesprezece migranți care erau călăuziți de un român, depistat la frontiera cu Serbia', 30 August 2021, available in Romanian at: <https://bit.ly/3FOMlUs>; 'Zece persoane depistate la frontiera cu Serbia', 25 September 2021, available in Romanian at: <https://bit.ly/3ArEriK>; 'Prim ajutor oferit de polițiștii de frontieră unei femei însărcinate, în cadrul unor acțiuni de combatere a migrației ilegale, 12 October 2021, available in Romanian at: <https://bit.ly/3fSRABa>; 'Patru indieni, sprijiniți de un cetățean român, depistați la granița cu Serbia, 22 October 2021, available in Romanian at: <https://bit.ly/3lt8NnO>; 'Ajutor acordat unui grup de migranți, la granița cu Serbia', 2 November 2021, available in Romanian at: <https://bit.ly/3r538yB>; 'Cetățeni din Nepal, depistați în timp ce doreau să treacă ilegal frontiera înspre Serbia', 3 November 2021, available in Romanian at: <https://bit.ly/3AaquT0>; 'Patru cetățeni străini depistați când intenționau să intre ilegal în România', 07 November 2021, available in Romanian at: <https://bit.ly/3rHvvSt>; 'Șase afgani, sprijiniți de un cetățean român, depistați la granița cu Serbia', 6 December 2021, available in Romanian at: <https://bit.ly/3rN2lf3>; 'Cinci migranți turci și o călăuză, depistați de polițiștii de frontieră constănțeni', 8 December 2021, available in Romanian at: <https://bit.ly/32sY0uz>; '19 indieni care au trecut ilegal frontiera sprijiniți de un cetățean român, depistați la granița cu Serbia, 17 December 2021, available in Romanian at: <https://bit.ly/3KGBQ98>; 'Cetățeni străini opriți la frontiera cu Serbia', 24 December 2021, available in Romanian at: <https://bit.ly/3G1256O>; 'Treizeci și doi de cetățeni indieni, depistați la frontiera cu Serbia, 29 December 2021, available in Romanian at: <https://bit.ly/33P6pZL>;

⁴⁵ Border Police, 'Șase cetățeni din Siria, descoperiți ascunși într-un autocamion încărcat cu frigider, la P.T.F. Giurgiu, 30 ianuarie 2021, available in Romanian at: <https://bit.ly/3nJoRK0>; 'Cinci cetățeni străini, depistați ascunși într-un camion cu portocale', 15 March 2021, available in Romanian at: <https://bit.ly/3fPkfO4>; 'Un alt grup de cetățeni turci, oprit de polițiștii de frontieră la granița cu Bulgaria', 8 March 2021, available in Romanian at: <https://bit.ly/3FMxLi>; '21 de cetățeni străini, depistați ascunși într-un autocamion încărcat cu pepeni la P.T.F. Giurgiu', 27 May 2021, available in Romanian at: <https://bit.ly/32islGv>; 'Trei tineri afgani, ascunși într-un autocamion încărcat cu pepeni, depistați la P.T.F. Bechet', 11 June 2021, available in Romanian at: <https://bit.ly/3GXc2U3>; 'Cinci migranți depistați de polițiștii de frontieră din cadrul I.T.P.F. Giurgiu', 19 June 2021, available in Romanian at: <https://bit.ly/3AoLb0N>; 'Tânăr afgan, salvat după ce a fost descoperit fără cunoștință în remorca unui TIR ce venea din Turcia', 25 June 2021, available in Romanian at: <https://bit.ly/343hUg8>; '20 de migranți depistați de polițiștii de frontieră constănțeni', 29 June 2021, available in Romanian at: <https://bit.ly/3qSLaiv>; 'Doi cetățeni români prinși în flagrant de polițiștii de frontieră

northern border with Ukraine⁴⁶. In 2021, the number of asylum seekers who tried to enter Romania by crossing the Danube River or Timiș River by boats, dinghies or swimming coils increased dramatically,⁴⁷ compared to 2020,⁴⁸ when only a few incidents were reported by the Border Police. Nevertheless, even though more incidents were reported in 2021, these did not result in casualties.

- constanțeni, în timp ce transportau migranți ilegali', 4 July 2021, available in Romanian at: <https://bit.ly/3FUSPAY>; 'Cinci migranți descoperiți în compartimentul de bagaje al unui microbuz. Doi cetățeni moldoveni, care i-au ascuns, arestați preventiv', 19 July 2021, available in Romanian at: <https://bit.ly/3AnTKJc>; 'Sirian depistat ascuns în portbagajul suplimentar de pe plafonul unui autoturism, 6 August 2021 available in Romanian at: <https://bit.ly/3AtCu5b>; 'Doi sirieni ascunși în saci de plastic, în remorca unui TIR. Unul dintre ei a fost salvat de polițiștii de frontieră giurgiuveni, după ce și-a pierdut cunoștința', 10 August 2021, available in Romanian at: <https://bit.ly/3nRJap0>; 'Metodă inedită de a trece ilegal frontiera de stat. Ascunderea în saci de plastic, în autocamion', 12 August 2021, available in Romanian at: <https://bit.ly/3AnIBs1>; 'Opt cetățeni străini, depistați în timp ce încercau să intre ilegal în țară, folosind cărți de identitate și pașapoarte false', 4 October 2021, available in Romanian at: <https://bit.ly/3Kc1mfM>; 'Doi cetățeni sirieni, ascunși într-un ansamblu rutier, depistați la P.T.F. Giurgiu', 24 October 2021, available in Romanian at: <https://bit.ly/3ltG8iv>; 'Din Turcia până la Giurgiu, ascuns pe osia unei semiremorci', 26 October 2021, available in Romanian at: <https://bit.ly/3tUdmDr>; Doi cetățeni străini opriți din drumul ilegal către Norvegia, 29 October 2021, available in Romanian at: <https://bit.ly/3H0M7La>; Patru cetățeni străini au călătorit din Turcia până în România, ascunși pe osiile unor semiremorci, 7 November 2021, available in Romanian at: <https://bit.ly/33Ms84D>; 'Patru cetățeni sirieni care intenționau să intre ilegal în România și șoferul camionului care i-a ajutat, depistați la P.T.F. Calafat', 8 November 2021, available in Romanian at: <https://bit.ly/3fUyxgs>; 'Doi bărbați din Turcia s-au ascuns sub bagajele dintr-un microbuz, pentru a trece ilegal frontiera', 8 November 2021, available in Romanian at: <https://bit.ly/3IB9ZFx>; Doi cetățeni sirieni care intenționau să ajungă ilegal în Germania, depistați în proximitatea P.T.F. Calafat, 10 November 2021, available in Romanian at: <https://bit.ly/33QuXBA>; 'Doi cetățeni străini ascunși în remorca unui TIR, descoperiți în P.T.F. Giurgiu', 13 December 2021, available in Romanian at: <https://bit.ly/3fPT6e4>;
- ⁴⁶ Border Police, 'Trei algerieni opriți din drumul ilegal spre vestul Europei, 17 June 2021, available in Romanian at: <https://bit.ly/3qRF5CS>; 'Patru algerieni depistați la frontiera de nord a țării', 15 August 2021, available in Romanian at: <https://bit.ly/3fVpSu8>; 'Cetățeni indieni depistați la frontiera cu Ucraina', 28 August 2021 available in Romanian at: <https://bit.ly/3lzk7d9>; 'Patru algerieni opriți la frontiera de nord a țării', 3 October 2021, available in Romanian at: <https://bit.ly/35mDQ6F>; 'Cinci cetățeni din Eritreea și Afganistan opriți la frontiera cu Ucraina', 21 October 2021, available in Romanian at: <https://bit.ly/3rMK334>; 'Patru algerieni și trei afgani opriți din drumul ilegal spre vestul Europei', 24 October 2021, available in Romanian at: <https://bit.ly/33L4HZt>;
- ⁴⁷ Border Police, '18 cetățeni străini, depistați la malul Dunării de polițiștii de frontieră mehedinteni', 22 february 2021, available in Romanian at: <https://bit.ly/3FSmScG>; 'Cetățeni din Yemen salvați de polițiștii de frontieră din apele fluviului Dunărea, 11 February 2021, available in Romanian at : <https://bit.ly/3AjrxDi>; 30 cetățeni străini, depistați de polițiștii de frontieră mehedinteni, 11 April 2021, available in Romanian at : <https://bit.ly/3Kw75Ur>; Polițiștii de frontieră au intervenit pentru salvarea a doi cetățeni afgani, din apele râului Timiș, 9 April 2021, available in Romanian at: <https://bit.ly/32p0A4M>; Cetățeni străini, depistați de polițiștii de frontieră mehedinteni, 22 April 2021, available in Romanian at: <https://bit.ly/3rFsXnl>; 10 cetățeni străini, depistați de polițiștii de frontieră, 6 May 2021, available in Romanian at: <https://bit.ly/3fHG0zs>; Cetățeni străini, salvați de polițiștii de frontieră din apele fluviului Dunărea, 9 May 2021, available in Romanian at: <https://bit.ly/3tQmjh8>; Opt cetățeni afgani, depistați la malul Dunării de polițiștii de frontieră Mehedințeni, 20 May 2021, available in Romanian at: <https://bit.ly/3qNfOK1>; Cetățeni străini, printre care zece copii, depistați de polițiștii de frontieră la malul fluviului Dunărea, 25 May 2021, available in Romanian at: <https://bit.ly/3GNWMZC>; Cincisprezece cetățeni străini care au traversat Dunărea cu o ambarcațiune gonflabilă, depistați de polițiștii de frontieră, 30 May 2021, available in Romanian at : <https://bit.ly/33JA13Z>; Zece adulți și doisprezece copii au traversat Dunărea, din Serbia, cu o barcă gonflabilă, 6 June 2021, available in Romanian at : <https://bit.ly/3tO4lfn>; Opt cetățeni din Siria și Kuwait au traversat Dunărea cu o barcă gonflabilă, 10 June 2021, available in Romanian at : <https://bit.ly/3tM1Yts>; Șase adulți și cinci copii depistați la malul Dunării de polițiștii de frontieră mehedinteni, 12 June 2021, available in Romanian at : <https://bit.ly/3qVyXtz>; Opt migranți, din care trei minori, au traversat Dunărea cu o barcă gonflabilă, 22 June 2021, available in Romanian at : <https://bit.ly/3tLDxl>; 4 migranți salvați de polițiștii de frontieră din apele fluviului Dunărea, 27 June 2021, available in Romanian at : <https://bit.ly/340cCC6>; 11 migranți au traversat Dunărea cu o barcă pneumatică, 2 July 2021, available in Romanian at : <https://bit.ly/3nT1QVj>; 'Cetățean iranian salvat de la înec din apele fluviului Dunărea, de către polițiștii de frontieră giurgiuveni', 21 July 2021, available in Romanian at : <https://bit.ly/3GXf1Mb>; 'Treisprezece cetățeni străini depistați după ce au traversat fluviul Dunărea', 20 September 2021, available in Romanian at : <https://bit.ly/3IMVQWf>; 'Zece persoane au încercat să treacă ilegal fluviul Dunărea', 30 September 2021, available in Romanian at : <https://bit.ly/3FZEAuS>; 'Doisprezece cetățeni din Iran și Irak, depistați la malul Dunării de polițiștii de frontieră mehedinteni', 2 October 2021, available in Romanian at : <https://bit.ly/3lvg32C>; 'Două familii din Afganistan care au traversat Dunărea cu o barcă gonflabilă, depistate de polițiștii de frontieră de la Moldova Veche', 19 October 2021, available in Romanian at : <https://bit.ly/3tUjyLY>; 'Opt migranți scoși din apele fluviului Dunărea de polițiștii de frontieră, 20 October 2021, available in Romanian at : <https://bit.ly/3KzftCG>; 'Două familii din Siria și Afganistan, depistate la malul Dunării de polițiștii de frontieră de la Moldova Veche', 25 Octombrie 2021, available in Romanian at : <https://bit.ly/3Arfhkn>; Opt afgani, depistați la malul Dunării de polițiștii de frontieră de la Moldova Veche, 19 November 2021, available in Romanian at : <https://bit.ly/3fUbbay>.

According to a press release of the Romanian Border Police, all persons apprehended at the border with Bulgaria were “taken over by the Bulgarian Border Police, according to the Romanian-Bulgarian agreement, in order to continue the investigations and to arrange the legal measures that are required”.⁴⁹ The same was reported also for most of the foreigners apprehended at the border with Ukraine; they “were handed over to the Ukrainian border authorities for further investigations, based on the readmission agreement”.⁵⁰

The Border Police reported that 831 persons were returned to neighbouring countries, under the readmission agreements, in 2021.⁵¹

Returns under readmission agreements: 2021	
Border	Number
Serbia	291
Bulgaria	402
Ukraine	113
Moldova	14
Hungary	7
Maritime border	4
Total	831

Source: Border Police

However, the number of persons returned to Serbia in 2021 reported by the directors of the two detention centres is higher. According to the director of Arad public custody centre, 475 foreigners detained in Arad were returned to Serbia under the readmission agreement in 2021. From Otopeni custody centre around 200 detainees were returned to Serbia in 2021, according to the representatives of the centre.

The Border Police have reported that persons who are detected by border guards in connection with an unauthorized crossing of the state border and who do not make an asylum claim are returned to the neighbouring state, either on the basis of readmission agreements concluded by the European Union with third countries (Ukraine, Moldova, Serbia), or on the basis of bilateral treaties (Bulgaria, Hungary). They receive an entry ban for 5 years which is communicated and includes information on the reason and possibility to challenge the measure. This information is provided with the help of an [authorized interpreter](#).⁵²

A JRS representative reported that based on the joint border control (Romania-Bulgaria), the persons who illegally crossed the border are handed over to the other state in order to continue the investigation and establish the factual situation, and the return decision is communicated to them in writing (at the green border). As regards returns to Serbia, third-country nationals apprehended in Romania are handed over to Serbian authorities, if there are strong indications that they illegally crossed the border between Serbia and Romania, and the return decision is also communicated in writing.

According to the Border Police, a total of 9,053⁵³ persons were apprehended for irregular entry in 2021 compared to 6,658⁵⁴ in 2020 and 2,048 in 2019.⁵⁵

⁴⁸ Border Police, ‘Doi tineri din Siria și Yemen, salvați din fluviul Dunărea de polițiștii de frontieră’, 22 August 2020, available in Romanian at: <https://bit.ly/3a5ppSX>; ‘Zece cetățeni din Siria și Kuweit, depistați pe malul fluviului Dunărea’, 23 December 2020, available in Romanian at: <https://bit.ly/3a6iMzW>.

⁴⁹ Border Police press releases.

⁵⁰ Border Police press releases.

⁵¹ Information provided by Border Police, 2 March 2022.

⁵² Information provided by Border Police, 3 March 2021.

⁵³ Information provided by Border Police, 2 March 2022.

Breakdown by border region where the persons were apprehended:

Border regions where persons were apprehended for irregular entry: 2021	
Border	Number
Serbia	7,665
Bulgaria	1,077
Ukraine	192
Moldova	31
Hungary	49
Air border	37
Maritime border	2
Total	9,053

Source: Border Police.

In 2020, (as well as in 2019 and 2018), it was reported that unaccompanied children who were apprehended trying to irregularly cross the border from Serbia to Romania, were prosecuted for illegal border crossing and for migrant smuggling. A JRS representative reported eight cases of unaccompanied minors from Afghanistan who were under criminal investigation for illegal border crossing and migrant smuggling. The children were/ are held in pre-trial detention. In 2019 an unaccompanied minor from Afghanistan who admitted that he illegally crossed the state border, but declared no involvement in migrant smuggling criminal activities, was sentenced to 1 year and 2 months of confinement in a re-education centre.⁵⁶ The child was in pre-trial detention for 7 months, from 20 June 2018 to 31 January 2019, when he was transferred to the Buziaş Education Center. On 18 March 2019 he was released early. The early release was revoked in December 2019 due to non-compliance with the reporting obligations. According to IGI-DAI, he left the reception centre.⁵⁷ No cases were reported in 2021.

Two unaccompanied minors had been due before the Court of Appeal Timișoara after being in pre-trial detention since 23 October 2019. They were also indicted for illegally crossing the border and smuggling of migrants. Their attorneys' requests to revoke pre-trial detention to allow house arrest were dismissed by the Tribunal of Caras-Severin.⁵⁸ According to a JRS representative, they applied for asylum a month after their criminal proceedings started. The outcome of the case is not known.

Relocation and resettlement

Romania pledged to resettle 109 refugees in 2018-2019⁵⁹ from Turkey (69) and Jordan (40). According to JRS and IOM ROMANIA, 73 persons were resettled (42 from Jordan and 31 from Turkey).⁶⁰ In addition, 12 migrants rescued in the central Mediterranean were relocated to Romania.⁶¹ Nine migrants were relocated from Italy and three from Malta.

In 2020, Romania resettled 37 Syrian refugees from Turkey and 4 migrants rescued in the Mediterranean Sea were relocated from Malta.⁶²

⁵⁴ Information provided by Border Police, 3 March 2021.

⁵⁵ Information provided by Border Police, 12 February 2020.

⁵⁶ Court of Appeal Timișoara, 2270/115/2018, 28.01.2019.

⁵⁷ Tribunal of Caras Severin, Decision 80 of 12 December 2019.

⁵⁸ Tribunal of Caras-Severin, Case file 2277/115/2019

⁵⁹ Article 3[^]1 (1[^]3) Government Decision 1596/2008.

⁶⁰ IGI-DAI, Annual Activity Report of 2019, available in Romanian at: <https://bit.ly/3cUh1FU>.

⁶¹ Information provided by IGI-DAI, 20 February 2020.

⁶² Information provided by IGI-DAI, 16 February 2021.

According to Government Decision no. 1596/2008 on the resettlement of refugees in Romania, the resettlement quota set for the period 2020-2021 was 200 refugees in need of resettlement. During 2021, 75 people were resettled to Romania and the operations are to continue in 2022.⁶³

Special measures imposed during the pandemic.

During the pandemic, upon arrival in the country, any general legal measures of public health in force at the time were also imposed on resettled persons including quarantine on arrival from areas with a high epidemiological risk.⁶⁴

Pushbacks and border monitoring

In 2019, 2,048 persons were apprehended for crossing, or attempting to cross, the border.⁶⁵ The Border Police prevented the entry of 6,042 persons.⁶⁶ In 2020 this number increased significantly to 6,658 persons apprehended for crossing, or attempting to cross, the border and 12,684 persons were prevented from entering Romania.⁶⁷ In 2021, 9,053 persons were apprehended for attempting to cross the border and 11,232 persons were prevented from entering the country.⁶⁸

Persons apprehended for irregular entry: 2021	
Country	Number
Afghanistan	3,843
Syria	1,088
Bangladesh	887
India	570
Turkey	498
Total	9,053

Source: Border Police.

In 2021, UNHCR Serbia stopped publishing disaggregated statistics based on the country from which foreigners were pushed back.

UNHCR Serbia reported that 13,409 persons were collectively expelled from Romania to Serbia from 1 January to 31 December 2020,⁶⁹ which is the highest number of pushbacks registered since UNHCR Serbia began monitoring pushbacks in the spring of 2016. Higher numbers were registered in the second half of the year. The number has increased in comparison to 2018, when 746-persons were collectively expelled and 2019, when 1,561 persons were collectively expelled.

In 2021 JRS documented 34 incidents of pushback involving mainly single men.

III- treatment at the border

According to the JRS legal counselor in **Galați**, out of 130-150 interviews with asylum seekers only 5 asylum seekers declared that they were pushed back to Serbia and 4 of them said they had been beaten by the border police at Serbian- Romanian crossing points. One person stated that he was

⁶³ Information provided by IGI-DAI, 11 March 2022.

⁶⁴ Ibid.

⁶⁵ Information provided by Border Police, 12 February 2020.

⁶⁶ Ibid.

⁶⁷ Information provided by Border Police, 13 March 2021.

⁶⁸ Information provided by Border Police, 02 March 2022

⁶⁹ UNHCR, *UNHCR Serbia Update*, available at: <https://data2.unhcr.org/en/search>.

beaten by the gendarmerie present during the transfer from Timisoara. The latter, who was suffering from a medical condition, which gave the impression that he was groggy, was hit in the stomach by a gendarme because he was moving too slow. Even though only a few persons stated that they were ill-treated, the the JRS representative is of the opinion that many more were pushed back and ill-treated at the border, but they were reluctant to say anything due to fear of retaliation.

The JRS representative from **Somcuta Mare** stated that asylum seekers who had tried to enter the country many times had said that they had been beaten and their phones and money were stolen by the Border Police officers and they were sent back to Serbia. None of the persons who declared the above wanted to press charges against the perpetrators. Also, they had requested that their phones be returned and the Border Police had answered that they were part of criminal investigations.

According to the JRS representative in **Rădăuți**, many asylum seekers complained of being pushed-back at the Romanian-Serbian border. Single men, unaccompanied children and families who had tried to cross the border around 20 times. Some of them declared that their phones and money had been taken away without any written procedure. 4-5 persons also complained of violent behavior by the Border Police /Jandarmerie officers. The legal counsellor also stated that asylum seekers complained about pushbacks and one of the asylum seekers complained that his two phones had been broken by the Border Police. In addition, a family stated that when they went to the Timisoara Territorial Inspectorate of the Border Police, they were held by the officers for no reason.

According to the JRS representative in **Bucharest** many asylum seekers stated that they had been pushed back to Serbia several times, that they had been beaten and their phones, money and even clothes had been stolen. Families were also pushed-back, however there were no reports of violence being used against them. Some asylum seekers declared that they had tried to enter Romania 7-8 times. 2-3 asylum seekers refused to file a complaint against the Border Police's treatment, even though they had visible signs of ill-treatment on their faces (bruises), due to the fear of potential retaliation during the asylum procedure.

The JRS representative of **Timișoara** stated that there were asylum seekers who had mentioned that they had tried to cross the border into Romania many times but had been stopped by the Romanian Border Police. Asylum seekers declared many times that their money had been stolen and that they had been beaten by the police with batons. owever, no report of violence against women or families with children was made.

CNRR stated that isolated cases of violence were reported to them in 2021.⁷⁰

When reporting the pushbacks from neighbouring countries UNHCR Serbia noted that the pushed-back persons were mainly men, but there were also families, unaccompanied children and women and in the second half of the year persons originating from Afghanistan made up the majority of pushed-backs.⁷¹

Refugee Rights Europe published the testimony of an Afghan young person (20), on how he was apprehended and beaten by the Romanian Border Police.⁷² Aljazeera also published an article on illegal pushbacks from Romania, mentioning the Amsterdam-based investigative news organisation, Lighthouse Reports, which 'used remote, motion-activated cameras, to film uniformed border guards forcing men and women into neighbouring Serbia in three separate incidents.' Some of those people claimed to the investigative team 'to have been physically assaulted during the pushback'. 'Two border guards speaking anonymously to Lighthouse Reports said Romanian police routinely conduct pushbacks to Serbia'.⁷³

⁷⁰ Information provided by CNRR, 15 February 2022.

⁷¹ UNHCR, *UNHCR Serbia Update*, available at: <https://bit.ly/3b9OYmw>

⁷² Refugee Rights Europe, Romania: Another twist along the Balkan Route, 26 May 2021, available in English at: <https://bit.ly/35kNdDK>.

⁷³ Aljazeera, Croatia, Greece, Romania illegally pushing refugees back: Report, available in English at: <https://bit.ly/3tW5tgX>.

The Protecting Rights at Borders (PRAB) report of January-May 2021 also covered testimonies on the situation at the Romania border. The report mentioned that “Romanian patrols/border police tend to round them up immediately after being identified walking from the direction of the border belt. Interviewees further report slapping, kicking, beatings with police batons, being punched on their backs, hands and legs. The majority of refugees and migrants interviewed reported that they were ordered to sit on the ground, to kneel despite rain or snow, that they were searched, and that their mobile phones were smashed on the ground and not returned. When a person asked about asylum, the response was often that “it is not possible in Romania”, according to interviewees’ statements”.⁷⁴ Furthermore, it was reported that pushbacks “appear to be more violent, with almost every other interviewee reporting experiencing physical abuse (151 persons – 46%). At the same time, theft, extortion and destruction of property were reported by 14% of interviewees (46 persons), while access to asylum procedures was denied for 24% of interviewees (79 persons)”.⁷⁵

The Border Violence Monitoring Network (BVMN), which also collects testimonies from foreigners, published monthly reports highlighting not only pushbacks from Romania to Serbia, but also increased violence from the Romanian Border Police officers and gendarmerie towards migrants, adults and minors. They reported that police often take their jackets and even burn them; “pictures and videos taken by pushback victims show insults, beating, and transport in overcrowded vans”. “Extortion of money and personal belongings seems also very frequent, as well as destruction of cellphones. In most testimonies taken between the 24th and 31st of October, minors were involved and treated as violently as other victims. One young Syrian boy reported that a Romanian Police officer used a taser on him (1.1), which was also reported in August by Afghan minors.” It was also reported that foreigners were not detained but were rather taken back to Serbia shortly after their apprehension.⁷⁶

Information and interpretation at the border

According to the Asylum Act, if there are elements that indicate that a foreigner intends to apply for international protection in Romania in the context of pre-trial detention or detention facilities, penitentiaries, border crossing points or transit area, the competent authorities for the asylum application provide information on the possibility of submitting the request.⁷⁷

As regards the information about the possibility to make an asylum application, the Border Police stated that the territorial structures of the Border Police have leaflets in several international languages in circulation, including Arabic, Kurdish, Pashto, Farsi. The leaflets cover information on the rights and obligations of asylum seekers and information regarding the assistance provided by NGOs.⁷⁸

According to the JRS representative, JRS Romania, in partnership with UNHCR Romania, has developed information leaflets in English, French, Arabic, Farsi and Pashto for asylum-seekers at the border of Romania. The content of the leaflets has been agreed upon by the General Inspectorate of the Border Police. These information materials are available at the main border crossing points. During their monitoring visits JRS supplies the border crossing points with 80-100 leaflets. According to the JRS representative, since August 2021 no leaflets had been distributed at the border crossing points and she was not aware if information materials were still available at each crossing point.

According to the JRS representative everyone complained that there were no interpreters at the border or that they did not get there quickly. In Iasi, for example, the Border Police were soliciting interpretation services from students. At the border crossing point the interpretation is done through videoconferencing. Nevertheless, it was reported by the JRS representative that the **Drobeta Turnu Severin** Border Police does not use interpreters due to the high cost of these services and as an alternative they use Google translate to communicate with foreigner citizens.

⁷⁴ PRAB, Report January- May 2021, p.7, available in English at: <https://bit.ly/3trIGbV>

⁷⁵ Ibid.

⁷⁶ The Border Violence Monitoring Network, Monthly Reports, available at: <https://bit.ly/3dgzMGP>

⁷⁷ Article 35^1 Asylum Act.

⁷⁸ Information provided by Border Police, 2 March 2022.

The JRS representative from **Rădăuți** reported that many of the asylum seekers expressed their intention to make an asylum application and others mentioned that they had been informed about this possibility. Asylum seekers met the interpreter for the first time at the Territorial Inspectorate of the Border Police of Timisoara. She mentioned that there were several situations where unaccompanied minors had been registered as adults at the Border Police. However, this was rectified by IGI-DAI, when they presented a copy of their identity document or taskera. It was also reported that the Arabic and Farsi interpreters at the Border Police were mocking the asylum seekers and making comments about what they were declaring.

The JRS representative from Timisoara reported that interpretation at the border was provided in an inconsistent manner.

The JRS representative of **Galați** mentioned that there were no asylum seekers who had declared that they were not able to understand the Romanian Border Police officers.

The legal counselor of **Rădăuți** reported that many asylum applications are filled in in Romanian and the reasons given in the application are all socio-economic.

The JRS representative in **Bucharest** reported that asylum seekers are informed about the possibility to make an asylum application when they are at the Territorial Inspectorate of the Border Police of Timisoara, where they also have an interpreter. Some of the asylum seekers said that they did not understand the information received.

The same was reported also by the JRS representative from **Somcuta Mare**, interpretation is only provided at the Territorial Inspectorate of the Border Police of Timisoara. When asylum seekers were expressing their will to make an asylum application in Drobeta at the crossing point someone from the group was interpreting or there was an interpreter. However, the majority of asylum seekers said they were informed about the asylum procedure.

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

The bipartite agreement on border monitoring

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

Regular visits to designated border areas, including international airports, to monitor access to the territory and to the asylum procedure;

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

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

- Inspects the facilities in the transit zones designated for asylum seekers;

- Conducts interviews with the asylum seekers accommodated there;
- Has discussions with the authorities at the border crossing point, border sector or Territorial Inspectorate of Border Police. The discussions with the authorities usually cover trends, routes, number of entries and exits, particular cases and other relevant information.

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

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

In 2021, a total of 51 monitoring visits were conducted by JRS at the border, in detention and regional centers: Otopeni, Arad, Bucharest regional centre, Otopeni Airport, Timisoara Airport, Sibiu Airport, Satu-Mare Airport, Timisoara Border Police Territorial Inspectorate (ITPF- Timisoara), ITPF Iasi, ITPF Oradea, ITPF Sighetu Marmatiei, Service Territorial of the Giurgiu Border Police, STPF Drobeta Turnu Severin, STPF Galati, Giurgiu Border Crossing Point, Border Police Stamora Moravita, Border Police Jimbolia, Border Police Nadlac I and II, Coast Guard (Constanta), Border Police Ostrov, Border Police Varsand, Border Police Siret , Radauti regional centre, Border Police Portile de Fier I, Border Police Sannicolau Mare, Border Police Bors I and II, Border Police Carei, Border Police Sighet.

No cross-border monitoring visits were conducted in 2020 or 2021.

Refusal of entry

According to the Border Police 7,640 third country nationals were refused entry into Romania in 2019. In 2020, a noteworthy increase was registered of 12,684 of persons who were refused entry.⁷⁹ In 2021 the number slightly decreased to 11,232 persons.⁸⁰

Persons refused entry: 2021	
Country	Number
Moldova	5.161
Ukraine	2.933
Albania	627
Turkey	507
Serbia	303
Total	11,232

Source: Romanian Border Police

⁷⁹ Information provided by Border Police, 3 March 2021.

⁸⁰ Information provided by Border Police, 2 March 2022.

Breakdown of the total number of persons refused entry by border region (2021):

Persons refused entry by border region: 2021	
Border	Number
Moldova	4.778
Ukraine	2.852
Serbia	1.165
Air border	1.065
Bulgaria	832
Hungary	381
Maritime border	159
Total	11,232

Source: Romanian Border Police.

UNHCR Romania reported **69,589** persons were prevented from entering the country from January to the end of November 2021, based on statistics received from IGI-DAI, correlated with statistics received from the Border Police.⁸¹

In 2021, at the level of the General Inspectorate of Border Police (IGPF), 85 files were processed, of which there were 79 appeals challenging the entry ban, only 3 appeals against refusal of entry and 3 appeals against both measures. Of these, only 50 cases were registered during 2021.⁸²

Pursuant to the Aliens Act, refusal of entry is motivated by the Border Police authorities and it is immediately communicated to the person concerned, using the form provided in Part B of Annex V of the Schengen Borders Code and the National Visa Centre within the Ministry of Foreign Affairs.⁸³ This form is provided to the person concerned in Romanian and English.⁸⁴

As the Aliens Act does not foresee a special remedy against the decision of refusal of entry, general administrative law applies.⁸⁵ As a result, the person concerned may lodge an action against the decision before the Administrative Court with territorial jurisdiction over the area in which the issuing body of the contested administrative act is located.⁸⁶

Prior to lodging an appeal at the Administrative Court, the person, who considers that his or her rights have been breached by an administrative act issued by a public institution, shall appeal to the issuing public authority within 30 days. The complaint should be addressed to the hierarchically superior body if there still is one (for example when the act had already been taken by a superior there might no longer be a hierarchically superior body).⁸⁷ The appeal is assessed in 30 days.⁸⁸ An appeal lodged to the Administrative Court without fulfilling this prior procedural step will be declared inadmissible. The complaint and the appeal to the Administrative Court have no suspensive effect.

The applicant may request the suspension of the administrative act to the competent court, when lodging the prior appeal,⁸⁹ or when appealing to the court.⁹⁰

⁸¹ UNHCR Romania, Monthly Operational Update November 2021

⁸² Information provided by Border Police, 2 March 2022.

⁸³ Article 8(4) Aliens Act.

⁸⁴ Information provided by Border Police, 12 February 2020.

⁸⁵ Act 554/2004 on Administrative Litigation.

⁸⁶ Articles 6-18 Act on Administrative Litigation.

⁸⁷ Article 7(1) Act on Administrative Litigation.

⁸⁸ Article 7(4) in conjunction with Article 2(1)g) Act on Administrative Litigation.

⁸⁹ Article 14 Act on Administrative Litigation.

⁹⁰ Article 15 Act on Administrative Litigation.

The Aliens Act prescribes that the foreigner against whom the measure of non-entry to Romania has been taken has the possibility to voluntarily leave the border crossing point within 24 hours. The term is calculated from the time when the measure of non-entry to Romania was ordered.⁹¹

Upon the expiration of the 24-hour term, the decision of refusal of entry to Romania is enforced by the Border Police, taking into account the state of health of the person concerned. The person is sent to the country of origin or to another destination accepted both by the person and the third state concerned, except Romania.⁹² The consequence of this provision is that the foreigner against whom a decision of refusal of entry was taken has only 24 hours to lodge the appeal against the decision.

If the Border Police needs more than 12 hours to carry out the removal from the border-crossing point, the individual is accommodated in a space arranged for this purpose in the transit area, or, if this is not possible, to another location established outside the border-crossing point with transit area status.⁹³

The Aliens Act prescribes a special procedure when the foreigner declares to the Border Police authorities that, in case he or she was forced to leave the border crossing point, he or she would have to go to a state where he or she fears that his or her life is endangered or he or she will be subjected to torture, inhuman or degrading treatment and he or she does not submit an asylum application.⁹⁴ When this occurs the Border Police officers shall immediately inform IGI-DAI, which, within maximum of 10 days, shall analyse the situation of the foreigner and determine whether the declaration is well-founded.⁹⁵ If person's statement is unfounded, IGI-DAI communicates the decision to the border police authorities, which will inform the person concerned in this respect.⁹⁶

If the foreigner's declaration is well-founded, IGI-DAI will enforce the decision of refusal of entry to Romania by removal under the escort of the foreigner. The provisions of the Aliens Act on removal under the escort, public custody of foreigners and toleration status on the territory of Romania apply accordingly.⁹⁷

Apprehension for irregular exit to Hungary

While irregular entry or stay in Romania committed by persons who have been granted a form of protection is not punishable,⁹⁸ irregular exit from the country is punishable under the Criminal Code by imprisonment from 6 months to 3 years or a fine.⁹⁹

Up to 2018, asylum seekers or other migrants apprehended trying to irregularly cross the border into Hungary, were sanctioned only with a fine.¹⁰⁰ The situation changed in 2018 when the Regional Court of Chişineu-Criş delivered sentences of six months' imprisonment, coupled with a two-year entry ban from the territory of Romania and, in some cases, even legal expenses of 1,000 RON / €212.¹⁰¹ At least 19 persons have been convicted, including a family with minor children. The family was apprehended in November 2018 and held in prison, while their four children were taken into care by the Directorate-General for Social Protection and Child Protection (DGASPC). The parents were released on 21 December 2018, after their appeal was admitted.

⁹¹ Article 9(1) Aliens Act.

⁹² Article 9(2) Aliens Act.

⁹³ Article 9(3) Aliens Act.

⁹⁴ Article 9(5) Aliens Act.

⁹⁵ Article 9(6) Aliens Act.

⁹⁶ Article 9(7) Aliens Act.

⁹⁷ Article 9(8) Aliens Act.

⁹⁸ Article 11 Asylum Act.

⁹⁹ Article 262(1) Criminal Code.

¹⁰⁰ Only one case of imprisonment for attempt to irregularly cross the border from 2016 was reported by JRS representative.

¹⁰¹ Regional Court Chişineu-Criş: Decisions 47/2018, 48/2018, 49/2018 and 50/2018, 29 March 2018; Decision 81/2018, 17 May 2018; Decisions 133/2018 and 134/2018, 27 September 2018.

According to the Director of the Regional Centre Timișoara there were no such cases in 2021. The same was echoed by the stakeholders interviewed from **Șomcuta Mare, Galați, Rădăuți, Timișoara, Bucharest.**

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
 - If so, what is the time limit for making an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
 - If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☐ Yes ☒ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

Asylum applications are registered by the General Inspectorate for Immigration – Asylum and Integration Directorate (IGI-DAI) within a maximum of 3 working days if the application is made at the IGI¹⁰² and within a maximum of 6 days if the application is submitted to another competent authority such as the Border Police operating offices, the police units in which pre-trial detention and detention centres are established and functioning, or the structures of the National Administration of Penitentiaries within the Ministry of Justice.¹⁰³

In case of a mass influx of applications for international protection filed with any of the latter competent authorities, the registration of applications can be made within 10 working days from the date when the application was filed.¹⁰⁴

Asylum applications are recorded in special registers if they are submitted at a border-crossing point, at the units subordinated to the National Administration of Penitentiaries within the Ministry of Justice, and at the pre-trial detention and detention centres within the police units.¹⁰⁵

When a person expresses the intention to seek asylum at one of the structures of the Ministry of Internal Affairs of Romania, the asylum application is sent to the Regional Centres for Asylum Seekers, together with an outline of the asylum seeker's situation. In addition, authorities may also attach documents drawn up after the apprehension or the first submission to the competent authorities.¹⁰⁶

According to the Border Police, a person who expresses the intention to seek asylum at the Romanian border is given a form, which he or she fills in, in the language he or she knows. The form is registered in a special register of the Border Police structure. After registering the form, the person is informed, through an interpreter, about his or her rights and obligations. Subsequently, the form is submitted by fax to the territorially competent section of IGI-DAI.¹⁰⁷

Asylum applications made at border-crossing points or airports are transmitted to IGI-DAI together with an information note on the asylum seeker, which includes the hour of arrival, documents in his or her

¹⁰² Article 36^1(1) Asylum Act.

¹⁰³ Article 36^1(2) Asylum Act, citing Article 35 Asylum Act.

¹⁰⁴ Article 36^1(3) Asylum Act, citing Article 35 Asylum Act.

¹⁰⁵ Article 38(5) Asylum Act.

¹⁰⁶ Information provided by IGI-DAI, 21 August 2018.

¹⁰⁷ Information provided by Border Police, 27 August 2018.

possession, persons accompanying him or her and other elements which may contribute to resolve the case in due time.¹⁰⁸

In 2018, there were 2 cases of Pakistani nationals, who wanted to make an asylum claim respectively in Otopeni Airport and Cluj Airport, but the Border Police never registered their claim. JRS had no access to them, even though the foreigners had contacted them. In 2020, JRS documented at least 3 similar cases, 2 in Otopeni and 1 in Cluj-Napoca. No cases were reported by JRS in 2021.

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

There are no time limits set in law for making an application. According to Article 36(3) of the Asylum Act, competent authorities cannot refuse to register the asylum application on the grounds that it was filed at a later stage.¹⁰⁹ In addition, when assessing an asylum claim, IGI-DAI cannot reject it solely on the ground that it was filed late.¹¹⁰

According to IGI-DAI, asylum applications are registered in IGI-DAI database on the same day they are received, a registration number is automatically assigned. Simultaneously with the registration of the asylum application, the person is fingerprinted, photographed and issued a temporary identity document, which is extended periodically.¹¹¹ This practice is corroborated by the information provided by JRS representatives in the Regional Centres. As a consequence, there have been no delays in registering an asylum application in any of the Regional Centres.

If an unaccompanied minor expressed his or her intention to apply for asylum, in writing or orally, before the competent authorities, he or she will be registered as an asylum seeker in a special register, and the asylum application will be filed after a legal representative is appointed.¹¹² The identification data stated by unaccompanied minor are recorded in the special register.¹¹³

If an unaccompanied child has expressed his or her intention to seek asylum, in writing or orally, before the competent authorities other than IGI-DAI, the respective authority will immediately inform IGI-DAI, which ensures the applicant's transport to the competent Regional Centre to assess the asylum application.¹¹⁴

According to UNHCR Romania, in 2021, 67% of all new asylum applications were submitted with the Border Police and only 33% with IGI-DAI. And 89% of all new asylum requests were submitted by people who entered the country irregularly.¹¹⁵

According to the JRS representatives working in the Regional Centres, there were no obstacles to the registration of applications in 2021. The Romanian National Council for Refugees (CNRR) stated that they are not aware of problems with regard to the registration of asylum applications.¹¹⁶

However, according to the JRS representative in **Timișoara**, asylum seekers complained about the lack of interpreters at the stage of registration and lodging of the asylum application. The Director of the Regional Centre Timișoara said that 90% of asylum applications were made with the Border Police and in the rest of the cases there were no interpreters present. At the time of their arrival in the centre there

¹⁰⁸ Information provided by IGI-DAI, 21 August 2018.

¹⁰⁹ Article 36(3) Asylum Act.

¹¹⁰ Article 13(3) Asylum Act.

¹¹¹ Information provided by IGI-DAI, 21 August 2018.

¹¹² Article 39(3) Asylum Act.

¹¹³ Information provided by IGI-DAI, 21 August 2018.

¹¹⁴ Article 39(4) Asylum Act.

¹¹⁵ UNHCR Romania, Analysis of asylum trends November 2021.

¹¹⁶ Information provided by CNRR, 15 February 2022.

is no interpreter because the Border Police usually bring in the afternoon or evening. The other 10% of asylum seekers who made an asylum request directly at the centre knew Romanian or English or they were accompanied by friends who knew Romanian. It was also emphasised that the documents that they have to sign are in their language. According to the JRS representative there is no interpreter available when asylum seekers are filling in the various documents they need to sign when they are accommodated in the centre.

In **Bucharest**, according to the JRS representative, asylum seekers did not report problems at this stage, even though there are no interpreters when the asylum application is registered. Inaccuracies with regards to asylum seekers' names and age and unaccompanied minors registered as adults were reported, however. On the other hand, the director of Vasile Stolnicu centre said that in general there is an interpreter, who is either a person accommodated in the centre or an interpreter hired by IGI, in case there is no one in the centre.

In **Rădăuți**, asylum seekers still complain about the fact that the Border Police does not use interpreters who speak their native language. As a consequence, information such as the name, the date of birth and the grounds of the asylum application, are not correctly recorded. The names of the asylum seekers transferred from Timisoara were wrongly registered, even though they presented copies of their passports. Therefore, potential errors in the recording of personal information may arise during the assessment of their asylum application by IGI-DAI and contradictions may appear between the statements made at the border and those made during the personal interview. According to the legal counsellor of Rădăuți, asylum seekers who make an asylum application directly at the centre have no interpreter at this stage. The JRS representative in Rădăuți stated that while an interpreter was not always provided when an asylum application was made, there were cases where the interpreter signed the information note on the rights and obligations, that the asylum seekers receive upon arrival in the reception centre, when the asylum application is registered. She also mentioned that when transfers arrive from Timisoara, there was no interpreter present, except once.

On the other hand, in **Șomcuta Mare**, there is the cultural facilitator of AIDRom, an Arabic speaker, present when the asylum seekers are transferred from Timișoara.

In addition to this, the Romanian Ombudsman noticed during a visit made in 2019 to the Regional Centre Șomcuta Mare that several documents signed by the asylum seekers were drafted only in Romanian, such as: the request for accommodation, the statement regarding the money that he or she has on her when accommodated in the centre, the obligation to respect ROI, information regarding prohibitions and sanctions, etc.¹¹⁷ which, in general, are all signed when the asylum application is registered.

In **Galați**, it was reported that a few asylum applications were made directly at the centre in 2021, and the applicants were all knowledgeable in English language. The majority of asylum seekers were transferred from Timisoara.

In **Giurgiu** in general there is an interpreter at the registration of the asylum application. However, the number of asylum applications made directly in the centre was low in 2021, only 62, according to the director of the centre. The majority of these applications (44) were made by Syrian students from Craiova. Some of them call before they arrive in the centre and they speak Romanian. The majority of asylum seekers were transferred from Timisoara and at the transfer there is an interpreter.

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

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

¹¹⁷ Ombudsman, Report 44, 24 September 2019, available in Romanian at: <https://bit.ly/2Txk0gT>.

personal details and a registration number.¹¹⁸ The format of the temporary identity document was changed in 2021, and now it is a plastic card, similar to the residence permit.

Although the director of **Timisoara** centre reported that temporary identity documents were issued for all transferred asylum seekers in 2021, stakeholders from the other centres stated the contrary. In **Bucharest** the majority of asylum seekers arrived from Timisoara with certificates. In **Galati** not all transferred asylum seekers had temporary identity documents at arrival. The same was reported also in **Somcuta Mare**. In **Giurgiu**, the JRS representative said that asylum seekers transferred from Timisoara scarcely ever had identity documents. Conversely, the director of **Giurgiu** centre stated the opposite. The JRS representative from Giurgiu further mentioned that asylum seekers are not allowed to leave the centre until they are issued an identity document, after the preliminary interview, that takes place within 2-3 days of their arrival. In **Radauti** the majority of those transferred from Timisoara had temporary identity documents.

Special measures imposed during the pandemic

IGI-DAI took immediate action to prevent and limit the spread of COVID-19 as much as possible, among asylum seekers, beneficiaries of international protection and its staff. An action plan was designed and implemented, in accordance with the provisions issued at national level. The right to make an asylum application was not restricted in any way during the state of emergency or state of alert. The assessment of asylum applications in the administrative phase was not interrupted either. Additional protection measures were taken including primary and emergency medical care, medical assistance and free treatment in cases of acute or chronic disease, counseling and psychological assistance.

Some of the measures implemented by IGI-DAI included: distribution of protective items (masks, gloves) and disinfectants; installation of protection panels in the recording, fingerprinting and interviewing spaces; organizing training sessions with both accommodated persons and the staff of the centers on enhanced personal hygiene measures and limiting interaction with others; distribution and display of information materials translated into the main languages spoken by the accommodated persons, broadcasting videos; medical check-up several times a day; purchase of devices for the daily disinfection activity, in the rooms, the common spaces, and in the administrative spaces; installation of disinfectant dispensers and contracting of additional specialized services for disinfection. At the same time, disinfection operations and cleaning sessions were carried out, by the staff jointly with the asylum seekers. Visitor access was limited.

For the activities related to the registration of asylum applications and epidemiological control, designated spaces were allocated for this, and are still used, in the courtyard of the centres (except Vasile Stolnicu Bucharest) respecting social distance, and ensuring there is only the applicant present, unless the presence of other persons is required (lawyer, parent, legal representative, etc.).

As of April 2021, IGI developed and implemented an action plan aimed at vaccinating asylum seekers and beneficiaries of international protection against COVID-19. At present, more than 400 asylum seekers and around 170 beneficiaries have been vaccinated.¹¹⁹

¹¹⁸ A template can be found at: <https://bit.ly/2Q77KQ6>.

¹¹⁹ Information provided by IGI-DAI, 11 March 2022

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: 30 days
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☒ Yes ☐ No
3. Backlog of pending cases at first instance as of 31 December 2021: 1,515

The law foresees a 30-day deadline to issue a decision, starting from the moment when the file is handed over to the case officer.¹²⁰

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

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

When the reason for suspension no longer exists, the assessment period cannot be less than 20 days.¹²¹

The 30-day time limit shall be extended successively with further periods of no more than 30 days, and not exceeding 6 months from the lodging of the asylum application in total¹²²: if the assessment of the case requires additional documentation, which makes it impossible to carry out the activities necessary to decide on the asylum application or could lead to the non-observance of the guarantees recognised by the law due to causes not imputable to the applicant.

However, if the maximum timeframe of 6 months is exceeded, the applicant should be informed of the delay and shall receive, upon request, information on the reasons of the delay and the time limit for the decision to be taken on his or her application.¹²³

The term of 6 months may be extended successively for new cumulative periods, not exceeding 9 months, when:¹²⁴

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

Exceptionally, in duly justified cases, a further extension may be applied for a maximum of 3 months.¹²⁵

In practice, in the Regional Centres for Procedures and Accommodation for Asylum Seekers at **Rădăuți, Galați, Timișoara, Șomcuta Mare** (Maramureș) and **Giurgiu** the 30-day term is respected. In exceptional cases, the 30-day deadline to issue a decision was extended.

¹²⁰ Article 52(1) Asylum Act.

¹²¹ Article 52(4) Asylum Act.

¹²² Article 52(2) Asylum Act.

¹²³ Article 52(3) Asylum Act.

¹²⁴ Article 52(5) Asylum Act.

¹²⁵ Article 52(6) Asylum Act.

In 2021, the 30-day deadline was extended for asylum applications made by Afghan nationals after August, in all regional centres. Various reasons were given for the extension by different stakeholders such as: for a thorough analysis of the application (director of Timisoara centre), for taking an objective decision, until the EASO report was received (director of Vasile Stolnicu centre), waiting for COI (director of Giurgiu centre), official position in their case (JRS representative), international position (legal counsellor).

In **Galati** it was reported that a family from Turkey received the decision in 45 days and they were not informed about the reasons for the delay and the time for the decision to be taken.

In **Somcuta Mare**, the deadline was respected in 2021, with the exception of asylum applications made by Afghan nationals. The term was extended from August until December 2021. The JRS representative was not aware if asylum seekers were informed of the reasons and new deadline foreseen for the decision. However, the JRS representative explained to them why there was a delay in their case. It was also reported by the JRS representative that in the case of two asylum seekers from Syria the term was exceeded by 5 days, due to workload and the small number of case officers at that time.

In **Bucharest**, interviews and decisions of Afghan asylum applications had a delay of 2-3 months. According to the JRS representative they were not informed by IGI-DAI, neither orally nor in writing about the reasons or new deadline. It was noted that families with children and single women were granted refugee status before single man. The director of Vasile Stolnicu centre stated that the term was extended for 30- maximum 60 days and asylum seekers were informed.

In **Timisoara**, the average duration of the extension of the 30-day deadline was 60 days, according to the director of the centre. Some of the asylum seekers were orally informed that the deadline was extended and others were not informed because they had left the centre. Around 90% of Afghan asylum seekers left the centre, according to the director.

In **Giurgiu** the term was extended by 30-60 days in case of asylum applications made by Afghan nationals, according to the director of the centre. There was also a case where the communication of the decision was delayed due to the fact that the asylum seeker wanted to present documents.

In **Rădăuți**, the JRS representative reported that in the case of asylum seekers from Afghanistan the decision was communicated within 5-6 months of the date of the interview. The legal counsellor reported that the term was extended by 4 months and they were not informed of the reasons. An asylum seeker from Iran also received the decision in 5-6 months; he was not informed of the reasons for the extension.

CNRR reported that in 2021, most of the asylum applications made by Afghan asylum seekers were assessed within 30 days. However, there were also cases in which the interviews were postponed, or in which the assessment period was extended to 60 days. In general, the applicants were informed about the extension of the term. However, there were also situations in which asylum seekers did not receive information about the delay or the reasons behind this delay (Radauti, Regional Center for Procedures and Galati).¹²⁶

According to IGI-DAI statistics, in 2021 the average duration was 45 days¹²⁷ in the regular procedure compared to 30-60 days in 2020 and 50 days in 2018.¹²⁸ It was 10 days¹²⁹ in the case of an accelerated procedure compared to 3 days in 2020. It was 1 day¹³⁰ for the border procedure compared to 3 days reported for 2020¹³¹. In practice, the average length of the asylum procedure from the moment of

¹²⁶ Information provided by CNRR, 15 February 2022.

¹²⁷ Information provided by IGI-DAI, 11 March 2022.

¹²⁸ Information provided by IGI-DAI, 5 March 2019.

¹²⁹ Information provided by IGI-DAI, 11 March 2022.

¹³⁰ Ibid.

¹³¹ Information provided by IGI-DAI, 16 February 2021.

lodging the application until the first instance decision was taken, differed from one centre to another as follows:

Average duration of the asylum procedure by Regional Centre: 2021.	
Regional Centre for Procedures and Accommodation for Asylum Seekers	Average duration in days
Timișoara	45
Șomcuta Mare	30
Rădăuți	30
Galați	45-60
Bucharest	45
Giurgiu	15-20

Timișoara: According to the Director of the Regional Centre Timișoara, the average duration of the asylum procedure is 45 days. According to the JRS representative the asylum procedure in the administrative phase is very fast, the average duration is 30 days; and decisions were communicated in 15-21 days in case of asylum applications made by Syrian nationals.

Radauti: JRS reported that the average duration was 3 months and the legal counsellor stated that it was 1 month.

Giurgiu: the director reported that the average duration of the procedure was 15-20 days in case of all asylum applications directly made at the centre and those made by asylum seekers transferred from Timisoara. According to the JRS representative the transferred asylum seekers have the preliminary interview the day after their arrival. Some of them they even have the personal interview on the same day. In general, they receive the decision in 15 days and the date on which the decision is communicated is mentioned on the transcript.

According to CNRR the average duration was 30 days in Bucharest, Timsoara and Giurgiu, 45 days in Galati, between 7-30 days in Radauti, 3-7 days and in some cases even 30 days in Somcuta Mare.¹³²

1.2. Prioritised examination and fast-track processing

According to the law, priority is given to asylum applications lodged by unaccompanied children.¹³³ IGI takes all the necessary measures for the appointment of a legal representative, who will assist the unaccompanied asylum-seeking child in all stages of the asylum procedure, as soon as possible.¹³⁴ In practice, IGI-DAI instructs the Directorate-General for Social Assistance and Child Protection in writing to appoint a legal representative for the unaccompanied child, who will assist him or her during the asylum procedure. The notification is sent the next day or in a maximum of 3 days after the application is registered and the unaccompanied child has been accommodated in one of the Regional Centres.

In case of vulnerable asylum seekers who are placed in specially designated closed spaces in the Regional Centres (see [Detention of Asylum Seekers](#)), the identity check and the assessment of their applications should be done with priority.¹³⁵ There have been no reported cases of this situation in practice.

Șomcuta Mare, in 2021 it was observed by the JRS representative that unaccompanied children were interviewed before adults. It was noticed that the length of the procedure for unaccompanied children is the same as the procedure for adults (45 days).

Rădăuți: The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. The assessment of their application depends on the availability of a legal representative

¹³² Information provided by CNRR, 15 February 2022.

¹³³ Article 16(1) Asylum Act.

¹³⁴ Article 16(2) Asylum Act.

¹³⁵ Article 19^11 Asylum Act.

and there is only one legal representative for all asylum-seeking children. The JRS representative mentioned that since September 2021 asylum applications had been delayed not only in the case of unaccompanied children from Afghanistan but also from Somalia. Decisions were only communicated at the end of December 2021 for those who had left the centre. Asylum applications of single parent families are not assessed with priority.

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

Timișoara: Even though IGI-DAI takes all the necessary measures with priority – in a maximum of 3 days after the unaccompanied child has been accommodated in the centre – and the legal representative is assigned in 2-3 weeks. According to the director of the Regional Centre Timișoara, the asylum procedure of unaccompanied children may be delayed due to the bureaucratic procedures carried out by DGASPC. In 2021, according to the JRS representative only one interview was held, because asylum seeking children would leave the centre before the legal representative was assigned. In this case the decision was communicated in 30 days. According to the director of the centre in 2021 there were a few unaccompanied minors processed in Timisoara, only the ones accommodated at DGASPC. Around 40-50 children had the interview and left soon after.

Giurgiu: According to the JRS representative, the asylum applications of minors were not prioritised in 2021. The director of Giurgiu stated that they prioritise the applications of unaccompanied minors and vulnerable persons. The procedure in the case of asylum-seeking children lasted 30 days, according to the director.

Bucharest: According to the JRS representative, the asylum applications of unaccompanied minors were not assessed with priority; their interviews were not organised with priority and the length of the procedure was the same as for an adult. Vulnerable persons are not treated with priority. Nevertheless, according to the director of Stolnicu applications made by vulnerable, especially by unaccompanied minors were assessed with priority. The procedure lasted 21 days in their case. In addition, he also stated that asylum applications made by asylum seekers coming from countries where there is no armed conflict or concerns linked to persecution, such as: Algeria, Tunisia, Morocco, Pakistan, Bangladesh and India, were analysed with priority, meaning in the accelerated procedure.

The same was also reported by the director of **Timisoara** centre. Asylum applications made by asylum seekers from the same countries as mentioned above were assessed with priority, in an accelerated procedure.

CNRR stated they have no information on any specific priority given to the asylum applications submitted by accompanied minors. However, their application was assessed in 30 days, without postponements or extensions.¹³⁶

According to IGI-DAI, in comparison with the previous years when no asylum claim was prioritised under Article 31(7) of the recast Asylum Procedures Directive, in 2019, 189 asylum requests made by unaccompanied minors were prioritised.¹³⁷

In 2021, IGI-DAI reported that 1,551 asylum applications were prioritised.¹³⁸

¹³⁶ Information provided by CNRR, 15 February 2022.

¹³⁷ Information provided by IGI-DAI, 20 February 2020.

¹³⁸ Information provided by IGI-DAI, 11 March 2022.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?
☒ Yes ☐ No
❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?
☒ Yes ☐ No
❖ If so, is this applied in practice, for interviews? ☒ Yes ☐ No

According to the law, an interview is conducted in order to assess the elements of an application for international protection.¹³⁹ Although the general rule is that an interview should be held in order to correctly assess the asylum claim, there are two situations where the interview is not mandatory:¹⁴⁰

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

All personal interviews, assessments of the reasons invoked by the asylum seeker and decisions are conducted by a designated case officer of IGI-DAI.¹⁴¹

In 2021, 4311 interviews were conducted, of which 315 were through videoconference. IGI-DAI reported that they had no statistics on the number of asylum applications assessed without an interview.¹⁴²

Special measures imposed during the pandemic

In 2021, plexiglass on the desk of the case officers, masks for all participants and disinfectant were the main measures taken in all centres in the context of the pandemic. Social distancing was not possible in all offices, due to the office space (in Galati).

In **Bucharest**, during the state of alert, until June 2021, the majority of asylum seekers were transported by IGI-DAI from Stolnicu centre to Tudor Gociu centre, where the interviews are conducted, according to the JRS representative.

According to the director of Timișoara centre, asylum seekers received masks from IGI-DAI and from NGOs.

1.3.1. Interpretation

Article 45(2) of the Asylum Act sets out the rules regarding the right to have an interpreter during the personal interview. At the request of the applicant and when deemed necessary for presenting all the reasons for the asylum application, the interview shall be carried out by the case officer, with the support of an interpreter, in the language indicated by the applicant or in a language he or she understands and can communicate clearly. As far as possible, if the applicant requests it, both the case officer and the interpreter will be of the same gender as the interviewee.¹⁴³

¹³⁹ Article 19^6(2) Asylum Act.

¹⁴⁰ Article 45(3) Asylum Act.

¹⁴¹ Article 48 Asylum Act.

¹⁴² Information provided by IGI-DAI, 11 March 2022.

¹⁴³ Article 45(2) Asylum Act.

Availability of interpreters and double interpretation

The remuneration for interpreters was increased from 23 RON/ €4.6/hour to 50 RON/€10, according to the director of Timisoara centre.

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

Galați: In 2021 the lack of interpreters was solved. Interpreters of Dhari and Farsi were contracted by IGI-DAI from other cities and participated at interviews in person. Double interpretation (from one language to another and then into Romanian) was not used in 2021. For an asylum seeker with hearing and speech impairments a family member translated the gestures and the interpreter what the relative was translating.

Rădăuți: IGI-DAI frequently uses the same three interpreters – one for Arabic, one for Farsi / Dari / Urdu and Kurdish. In 2021 IGI-DAI also contracted a female Arabic interpreter. The JRS representative reported that the number of interpreters in Rădăuți is very low for such a high number of asylum seekers. The Farsi interpreter is also used in Galați by IGI-DAI and the courts. It was also reported that for a Kurdish speaking asylum seeker, IGI-DAI used an Arabic interpreter, informing the asylum seeker that they had no Kurdish interpreters. Nevertheless, IGI-DAI used a Kurdish interpreter soon after for a family.

Timișoara: The director of the Regional Centre Timișoara mentioned that they have interpreters for all languages, except for Somali language, and when they have no interpreter they conduct the interview through videoconference. However, there are not too many and they are not always available. They were trying to recruit students from the Faculty of Medicine, but they were not interested. Double interpretation was not used in 2021.

Giurgiu: There is still a lack of interpreters, especially for Farsi, Dhari and Pashto, according to the director of the centre. However, for these languages they were using the interpreters from Bucharest. The director further stated that when interpreters were called from Bucharest 3-4 interviews were organised per day, for example, in the cases of asylum seekers from India, Bangladesh, Pakistan, Tunisia, Algeria, where the asylum application was clearly unfounded. As for the other asylum seekers 1 or 2 interviews were conducted in a day. According to the director double interpretation was used in 2021 for an asylum seeker from Eritrea from Tigrinya to English and English to Romanian.

Bucharest: According to the director of Stolnicu there are interpreters for all the languages and they are also trying to recruit beneficiaries of international protection as interpreters. Double interpretation was not used in 2021. According to the JRS representative there are not enough interpreters for the main languages spoken in Eritrea.

In **Rădăuți**, in 2021 IGI-DAI still used double interpretation from Somali to Arabic and from Arabic to Romanian. It was also reported that the beneficiary of international protection who was used as an interpreter in the case of asylum-seeking Somali women was not paid by IGI-DAI for the interpretation services provided. According to the JRS representative, however, double interpretation was not used in 2021.

Șomcuta Mare: The Regional Centre collaborates with the same interpreters as last year, in the following languages: Farsi, Dari, Arabic, English and French. There is no Somali interpreter. Double interpretation was not used during 2021. The JRS representative noted that it was difficult to identify a Lingala speaking interpreter.

Stakeholders interviewed also reported that there is a limited number of female interpreters in the asylum procedure. For example, in the Regional Centre of **Galați**, there is a female interpreter for Arabic, English, French, Russian and Ukrainian and Turkish. In **Giurgiu**, there are female interpreters

for Arabic, French, English and Russian, according to the director of the centre. However, the JRS representative stated the contrary, that there are no female interpreters. In **Rădăuți** there are female interpreters for English/French, Russian and Arabic. In **Șomcuta Mare** there is a female English and French interpreter and in **Timișoara** there are female interpreters for Arabic (2-3), French, English, Russian. In **Bucharest** there are 2-3 female interpreters for Arabic and one for English, Tigrinya, French and Russian.

In 2021 the number of female case officers increased in all centres, except in **Șomcuta Mare** and **Rădăuți** where all the case officers are male. In **Timișoara** there are 5 case officers of whom 3 are female case officers. During 2021, Timisoara centre received support for the assessment of asylum application - two additional case officers' positions were filled through rotation by case officers from the other centres. In **Bucharest**, there are 4 female case officers out of 7, according to the director of Stolnicu centre. In **Giurgiu** there are 4 case officers of whom 1 is a woman and in **Galați** there is one female case officer and 4 men.

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

Quality and conduct

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

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

In **Timișoara**, the JRS representative stated the asylum seekers had not reported any issues regarding the quality and conduct of interpreters, only that they did not have the chance to say a certain thing because they were not asked about it. An attorney interviewed also mentioned that there were no complaints in regard to the quality of interpretation. However, the lawyer reported that an Arabic interpreter used by the court was not knowledgeable in Romanian language and the hearing took place in English.

In **Șomcuta Mare**, it was reported that interpreters are not professionally trained on asylum issues. An asylum seeker complained that the interpreter interfered with the interview and he was striking the table with his fist. The JRS representative reported that she attended an interview through video conference and she observed that the interpreter was relaying less than the asylum seeker was saying. In this case the transcription was sent via email. It was noted that the majority of asylum seekers complain that essential facts that they stated during the interview are not mentioned in the transcript.

Rădăuți: that their declarations were not relayed exactly or coherently. It was also reported that the Arabic translator is not relaying the exact message. It was reported that 2 asylum seekers, Somali nationals, had their interviews during the weekend, through videoconference and had no possibility to be assisted by the legal counsellor, who works only during the weekdays. They stated that their transcript was not read out to them by the interpreter.

Bucharest: There are problems with interpretations for rare languages, for Bengali language, for example, there are only two interpreters and one of them does not have a good command of Romanian language and sometimes he only translates “yes” or “no” when there has been an obviously longer answer by the asylum seeker. Asylum seekers often declare that the interpreters were not relaying everything or changing the answers. In 2021, according to the JRS representative there was only one asylum seeker from Bangladesh.

Giurgiu: the JRS representative reported that all the asylum seekers have something to add after the interview. Few of them stated that the interpreter did not relay his message or changed the asylum seekers’ declarations.

Galati: Asylum seekers did not complain about the interviews conducted, quality of the interview or conduct of interpreters. An asylum seeker from Palestine complained after his asylum claim was rejected that the interpreter did not relay his exact statements and that he was not knowledgeable in Romanian language

The directors of Timisoara, Vasile Stolnicu and Giurgiu said there were no issues reported with the quality and conduct of interpreters.

In relation to problems with the quality of interpretation and conduct of interpreters, CNRR stated that in 2021, there were cases in which asylum seekers expressed concern about the interpretation. They claimed that the interpreters did not translate their answers exactly, or gave a different meaning to the statements in the interview.¹⁴⁴

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

All the stakeholders interviewed by the author declared that they have never heard about a Code of Conduct for interpreters in the asylum procedure, except one legal counsellor who stated that when JRS signs a contract with an interpreter they also have to sign a Code of Conduct.

According to the director of Vasile Stolnicu there is no Code of Conduct for interpreters. After signing a contract with IGI-DAI a meeting is organised with the interpreters where they are explained the rules of collaboration with the institution and how to behave.

1.3.2. Recording and report

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

Court sessions are recorded according to the Civil Procedure Code.¹⁴⁵ The rules concerning the recording of court hearings are set out in Article 13 of Act 304/2004 on Judicial Organisation, which provides that:

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

¹⁴⁴ Information provided by CNRR, 15 February 2022.

¹⁴⁵ Article 231(4) Civil Procedure Code: The court will record the court hearings. If the parties are challenging the content of the clerk’s notes, it will be verified and, if necessary, supplemented or rectified based on the records of the court hearing.

In 2021, 315 interviews were conducted through videoconferencing in total in all the regional centres.¹⁴⁶

Somcuta Mare: According to the JRS representative interviews were held through videoconference due to a lack of interpreters.

Timișoara: all interviews with asylum seekers who made an application in detention were conducted through videoconference. Also, several interviews were conducted through videoconferencing due to the lack of interpreters. They conducted interviews through this method with Pashto, Somali, and Bengali interpreters from Galati, Rădăuți and Giurgiu.

Galati: According to the JRS representative, IGI-DAI conducted interviews through videoconferencing with interpreters from other regional centres, in cases of asylum seekers who spoke Somali and Bengali.

Rădăuți: In 2021 interviews were conducted through videoconferencing for Somali asylum seekers. No complaints were made by asylum seekers with regards to interviews conducted in this manner.

Giurgiu: Videoconferencing was also used to conduct interviews with a Somali interpreter from Bucharest.

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

Transcript

The case officer conducting the interview transcribes the questions and the answers/statements *verbatim*. The transcript includes at least the following data: identification data of the applicant, the name of the case officer who performs the interview, the name of the interpreter and, as the case may be, of the legal representative, the counsellor and/or the lawyer assisting the applicant, the language of the interview, the reasons for the request for international protection, as well as the applicant's statement that all the data and information presented at the interview are correct. Where appropriate, the interview note shall also include the applicant's explanations of the failure to present elements to be considered when examining the asylum application and/or clarification of inconsistencies or contradictions in his or her statements.¹⁴⁷

At the end of the interview, the transcript of the interview is orally translated by the interpreter to the applicant.¹⁴⁸ The applicant has the possibility to formulate observations and/or to offer clarifications relating to any errors of translation or misunderstanding, which will be recorded in the interview transcript.¹⁴⁹ After this, the transcript is signed on every page by all the persons present at the interview.¹⁵⁰ A copy of the transcript is given to the asylum seeker or legal representative, his or her lawyer or counsellor, as the case may be, which assisted him or her at the interview, after the document was signed.¹⁵¹ If the applicant refuses to sign the transcript, the reasons for his or her refusal will be mentioned on the transcript. The applicant's refusal to sign the transcript does not prevent IGI-DAI from taking a decision on the asylum application.¹⁵²

In **Timișoara**, asylum seekers complained that they are not notified in advance of the date of the interview. According to the JRS representative, officers wake them up on the day of the interview or

¹⁴⁶ Information provided by IGI-DAI, 11 March 2022.

¹⁴⁷ Article 45(5) Asylum Act.

¹⁴⁸ Article 45(7) Asylum Act.

¹⁴⁹ Article 45(6) Asylum Act.

¹⁵⁰ Article 45(8) Asylum Act.

¹⁵¹ Article 45(9) Asylum Act.

¹⁵² Article 45(10) Asylum Act.

they are not allowed to leave the accommodation centre in the morning, or they are informed about the interview the day before. The latter is not applied often because IGI-DAI is afraid that the asylum seekers might leave. Furthermore, information on this practice was corroborated by an attorney who stated that some asylum seekers mentioned that they are woken up at 7 AM and taken to the interview. It was also reported by one of the attorneys that at the end of the interview, the transcript is not fully translated by the interpreter; the interpreter only informs the asylum seekers that they have to sign the transcript as it includes all of their statements. According to the director of Regional Centre Timișoara, asylum seekers are notified about the date of the interview in writing in their language or in English or at the preliminary interview when the interpreter is available. According to the JRS representative, in 2021 there were no cases of asylum seekers complaining about the translation of the transcripts. Nevertheless, she believes that the transcript is not read to them because there are too many interviews conducted in one day.

The same practice was reported in **Somcuta Mare**, where asylum seekers are not informed beforehand about the date of their interview. They are not allowed to exit the centre and the officers at the access point check for the asylum seekers in the centre when it is time for their interview.

In **Galati**, the same was reported by the JRS representative, who stated that the schedule of the interview is in the case file but asylum seekers are not aware of the date of their interview. In order to find out the date of the interview, the NGO representatives have to ask the case officers, which can be burdensome because there are 5 case officers.

In **Bucharest** this was also the practice. The JRS representative stated that asylum seekers were not informed beforehand of the date of their interview. They were woken up in the morning and told to get in the car. This practice limited their right to be assisted by an NGO representative at the interview. According to the director of Vasile Stolnicu centre asylum seekers receive the date of their preliminary interview in writing in their language and at the preliminary interview they receive the schedule of the personal interview. It was also noted that in case of vulnerable persons both interviews may be conducted in the same day.

In **Giurgiu**, the director of the centre said that the date of the interview is established together with the asylum seekers in the case of the students from Craiova, as for the rest of the asylum seekers accommodated in the centre they are informed in writing of the date of their interview.

In **Galați**, there have been cases of asylum seekers complaining about the quality of the interpretation and the transcript. Asylum seekers also complain about the fact that the interpreter did not relay everything, aspects that they mentioned were omitted by the interpreter and that the transcript was not translated at the end of the interview. There was also the case of an asylum seeker who complained that the transcript did not fully include his statements and another interview was conducted.

In **Giurgiu**, it was reported that in practice the transcript is read at the end of the interview. Asylum seekers may formulate objections and make additional notes, which would be subsequently inserted in the transcript.

In **Șomcuta Mare**, the JRS representative reported that at the interviews she attended the transcript was read. Although, the manner in which the interview was conducted gave her the impression that she was attending a criminal interrogation rather than an asylum interview. The questions were formulated in such a way as to discredit the asylum seeker. The case officer was clearly biased. Asylum seekers complain about the content of the transcript when this is read to them afterwards but also before the decision is communicated to them. Essential information has been reported as omitted and statements reportedly distorted. It was also noted that half of the interview focuses on the travel route. An asylum seeker who complained that the transcript did not contain vital information requested another interview and this was granted. The JRS representative stated that several Afghans mentioned that the interview lasted 10 minutes and the transcript was copy pasted. Furthermore, she also mentioned that the male case officer at the second interview with a woman had little patience and he did not know how to ask her questions.

In **Rădăuți**, it was reported by the JRS representative that for a period of time, at the end of the interview, the case officer read the transcript from his computer, but the interpreter only translated it after the transcript was printed out and signed by the asylum seeker. This was the practice only when NGO representatives did not attend the interviews. This was still the case in 2021. It was also reported that the case officer read so fast that it was impossible for the interpreter to translate. If the interpreter requested that the case officer repeated the sentence, he was mocked. The legal counsellor noticed discrepancies between the statements made during the interview and statements made during the counselling session or that information was omitted. In general, however, a summary of the transcript is presented to the asylum seeker.

In **Bucharest**, it was reported by the JRS representative that the interpreter reads the transcript and the asylum seeker is asked if he has any objections. Objections are subsequently added to the transcript. According to the directors of Timisoara, Giurgiu and Vasile Stolicu centres the transcript is read in full. If necessary, the case officer may conduct another interview with the asylum seeker.¹⁵³

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision: 1-3 months (see a detailed overview per Regional Court below)

The decision taken (admission or rejection) by IGI-DAI is communicated, immediately, to the asylum seeker in writing, through direct communication by the representatives of the IGI-DAI if the asylum seeker lives in the Centre, or by post at the last declared residence of the applicant.¹⁵⁴ The decision may be communicated to the lawyer or NGO representative representing the asylum seeker, if the asylum seeker has expressly requested this.¹⁵⁵

The decision is accompanied by written information, in Romanian and in a language that the applicant understands or is reasonably supposed to understand, related to the admission or rejection of the asylum application and the conditions under which the decision may be appealed, as the case may be.¹⁵⁶ In practice, the justification of the decision is written in Romanian and is translated by NGO representatives.

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

1.4.1. Appeal before the Regional Court

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

The appeals, as well as the other procedural acts regarding the resolution of the appeal, are exempt from legal taxes and legal expenses cannot be demanded.¹⁵⁷

¹⁵³ Article 45(11) Asylum Act.

¹⁵⁴ Article 54(1) Asylum Act.

¹⁵⁵ Article 54(1[^]1) Asylum Act.

¹⁵⁶ Article 54(1) Asylum Act.

¹⁵⁷ Article 65 Asylum Act.

In 2021, a total of 1,438 appeals against IGI-DAI decisions were filed before the Regional Courts.¹⁵⁸ According to the information provided by the Regional Courts the number of appeals in 2021 was 1,489.

Appeals registered by Regional Courts: 2021	
Regional Court	Number of appeals
Bucharest (District 4)	459*
Galați	130
Baia-Mare	154**
Giurgiu	245
Rădăuți	84***
Timișoara	417
Total	1,489

Source: Regional Courts

*of which 176 appeals were in an accelerated procedure and 234 in a regular procedure.

**of which 61 appeals were in an accelerated procedure, 30 appeals in a subsequent procedure and 60 appeals in refugee cases, of which 21 were in a regular procedure.

***of which 43 appeals were in an accelerated procedure and 41 in a regular procedure

Time limits

The deadline for lodging an appeal is 10 days from the day the decision was communicated.¹⁵⁹ The appeal has automatic suspensive effect, if it was lodged within the term prescribed by law.¹⁶⁰

The law contains a procedural safeguard in case of appeals lodged after the time limit set out by law.¹⁶¹ Therefore, in case of filing the appeal or onward appeal after the deadline, the applicant may request the suspension of the execution of the return decision. The request for suspension shall be settled within 7 days from its registration, by the competent court, which shall pronounce the decision in the council chamber, without the parties being summoned, by an irrevocable decision.¹⁶² While this review is pending, the foreigner cannot be removed from the country.¹⁶³

If the court admits the request to suspend the execution of the removal decision, the foreigner has the right to remain in the country pending the outcome of the request for reinstatement of the legal term to appeal.¹⁶⁴ The foreigner will benefit from all the rights provided by Articles 17 and 18 of the Asylum Act from the moment the court admits the request for reinstatement of the legal term to appeal.¹⁶⁵

The appeal has to be motivated in fact and in law.¹⁶⁶ It may be lodged at IGI-DAI, which has issued the decision or directly to the competent court.¹⁶⁷ The appeal has to be accompanied by a copy of the IGI-DAI decision and other documents or elements on which the appeal is based.¹⁶⁸ The court carries out an assessment of both points of facts and law. The decision of the first instance court incorporates the reasons in fact and law on which it is based.¹⁶⁹

In general, there are no problems in appealing a decision, if asylum seekers consult the legal counsellor of an NGO.¹⁷⁰ In **Bucharest**, when communicating the decision, IGI-DAI also provides the asylum seeker with the postal address of the Romanian National Council for Refugees (CNRR) in English.

¹⁵⁸ Information provided by IGI-DAI, 11 March 2022.

¹⁵⁹ Article 55(1) Asylum Act.

¹⁶⁰ Article 55(2) Asylum Act.

¹⁶¹ Article 69 Asylum Act.

¹⁶² Article 69(1) Asylum Act.

¹⁶³ Article 69(2) Asylum Act.

¹⁶⁴ Article 69(3) Asylum Act.

¹⁶⁵ Article 69(4) Asylum Act.

¹⁶⁶ Article 57(1)(c) Asylum Act.

¹⁶⁷ Article 56 Asylum Act.

¹⁶⁸ Articles 56(1) and 57 Asylum Act.

¹⁶⁹ Article 425(b) Civil Code.

¹⁷⁰ Information provided by CNRR, 9 January 2018.

Asylum seekers are told by the representative of IGI-DAI who communicates the decision, that they have to go to CNRR for legal counselling and assistance for lodging an appeal. This practice has been in place since 2017. The JRS representative reported that sometimes this information is communicated to the asylum seeker, taking into account that CNRR has an office in Tudor Gociu Centre. Nevertheless, there were cases in which the rejected asylum seekers did not know who to turn to for the appeal against the decision of IGI-DAI to be drafted. Since Vasile Stolnicu centre was renovated in the summer of 2021 it is easier for the asylum seekers to find information about NGOs, as they are all in the same building.

It was reported by the director of the centre, that in **Timisoara**, 95% of the appeals are lodged at IGI and the rest directly at the court. According to the JRS representative CNRR's legal counsellor submitted the appeals to the court via email.

In **Somcuta Mare**, in many cases asylum seekers received the subpoena the night before the court hearing. Moreover, one asylum seeker missed his court hearing because IGI-DAI did not hand him the subpoena. His appeal was rejected *in absentia*.

Article 62 of the Asylum Act provides that asylum cases should be dealt with priority before other civil matters.¹⁷¹ The court should take a decision on the appeal within 30 days.¹⁷² The court has to motivate its decision within 5 days of it being pronounced.¹⁷³

Special measures imposed during the pandemic

In 2021, court hearings at the Regional Courts were usually carried out in person, as before the pandemic. At the same time, in order to prevent the spread of coronavirus the courts took all necessary measures such as: mandatory masks, hand sanitizers, social distancing, scheduling the hour of the hearing.

In 2020, IGI-DAI statistics refer to 1 to 2 months average duration of the appeal procedure.¹⁷⁴ For 2021, IGI-DAI reported that there are no statistics on the duration of the procedure.¹⁷⁵ In practice, the average processing time for the first instance judicial court differs from county to county, as follows:

Average duration of the appeal procedure by Regional Court: 2021	
Regional Court	Number of days
Bucharest (District 4)	71.37
Galați	30
Baia-Mare	30-45
Giurgiu	30
Rădăuți	30
Timișoara	40.3

Source: Regional Courts.

Șomcuta Mare: The JRS representative reported that the appeal procedure did not last long in 2021. The Regional Court Baia Mare reported that the decision was reasoned in 1-5 days.¹⁷⁶

Galați: According to the legal counsellor the average duration of the appeal procedure is usually around 90 days. However, if there is an interpreter the procedure may be finalised at the first hearing. In general, the appeal procedure has 2 court hearings at 2 weeks or 1 month apart. Court hearings were

¹⁷¹ Article 62(1) Asylum Act.

¹⁷² Article 64(2) Asylum Act.

¹⁷³ Article 64(3) Asylum Act.

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

¹⁷⁵ Information provided by IGI-DAI, 11 March 2022.

¹⁷⁶ Information provided by Regional Court Baia Mare, 17 January 2022.

held through videoconference with interpreters from Dari or Pasto from other cities (Bucharest, Suceava).

Rădăuți: the legal counsellor noted that the appeal procedure lasted 30-60 days. According to the legal counsellor, the length of the procedure depends on the judge; there are some judges who do not postpone the hearing for any reason. According to the JRS representative's experience the average duration of the appeal procedure is around 3-4 months, in some cases shorter. It was reported that IGI-DAI requested the postponement of the appeal procedure of Afghan asylum seekers for one month because they were waiting for the official position of EASO. The court granted them the request. At the second hearing IGI-DAI requested the postponement of the hearing again, but the court refused the request and granted a form of protection to all Afghan asylum seekers.

Timișoara: According to a lawyer, the average duration of the appeal procedure in 2021 was 2-3 months, which also included 2-3 weeks for drafting the decision. Judges generally grant short terms of up to 2 weeks. Postponements are often due to the absence of interpreters. On average there are about 2-3 court hearings for a case.

As in 2020 in 2021 in Timișoara the majority of cases examined by the court were in accelerated procedures. The Regional Court in **Timișoara** reported that out of the 382 cases in an accelerated procedure (compared to 138 from last year), 364 were assessed in 1 court hearing. The length of the appeal procedure was 31.5 days and 9.6 days for drafting the reasoned decision. Under the regular procedure, 54 files were examined by the court; for which the duration of the appeal procedure was 53.8 days, shorter than last year when the average duration was 65 days (40.3 until the decision was given and a further 13.6 to receive the reasoned decision). Out of the total appeals in the regular procedure 22 were examined in only 1 court hearing. Subsequent applications (8 in total) were assessed by the court in 60.9 days.¹⁷⁷

Bucharest: the average duration of the appeal procedure is around 3-4 months, according to the director of Stolnicu centre. According to the JRS representative the average duration is around 3 months. An attorney reported that in 2021 the duration of the appeal proceedings lasted around 3 months. The reasoned decision was issued in 2-3 months, according to the lawyer. The director of Stolnicu centre stated that there are no more delays in reasoning the decision of the first court (1-2 months for communicating the reasoned decision); they also requested the court ensured the communication of the motivated decision was carried out in a timely fashion.

Regional Court District 4 reported that in case of appeals in accelerated procedures the average duration was 57.02 days, in case of subsequent applications 67.76 days and in the assessment of permission to remain on Romanian territory 40.38 days.¹⁷⁸

Giurgiu: according to the director of the centre the appeal procedure lasts around 60 days. the JRS representative stated that the average duration of the appeal was 3 months. According to the Regional Court Giurgiu the decisions are reasoned in 15 days.¹⁷⁹

CNRR reported that the average duration of the appeal in Timisoara was 60-90 days for the ordinary procedure and 15-20 days for accelerated procedures; in Somcuta Mare it was 30 days for the ordinary procedure; it was 60 days in Galati; and 30 days in Radauti, District 4 Bucharest and Giurgiu.¹⁸⁰

Hearing

The law establishes that the court may order the hearing of the asylum seeker when it considers that it is useful to settle the case.¹⁸¹

¹⁷⁷ Information provided by Regional Court Timișoara, 10 February 2022.

¹⁷⁸ Information provided by Regional Court District 4 Bucharest, 7 February 2022

¹⁷⁹ Information provided by Regional Court Giurgiu, 25 January 2022.

¹⁸⁰ Information provided by CNRR, 15 February 2022.

¹⁸¹ Article 63 Asylum Act.

The Regional Court in **Galați** hears the majority of asylum seeker *ex officio*. In some cases the judge asks the applicant if he or she has something to add; in others the judge may ask questions.

In the Regional Court of **Baia Mare**, asylum seekers are not always heard, according to the JRS representative. Moreover, there are judges who refuse to hear the applicant even if he/she has requested it.

In **Giurgiu** it was reported that attorneys request the hearing but judges do not always grant the request. As regards the actual hearing of the applicant, some of the judges ask the applicants if they have anything else to add, others allow the applicants to recount their stories again in a few minutes.

In the Regional Court of **Timișoara**, the hearing of the asylum seeker is requested by the lawyer. A lawyer reported that there is a judge who always hears the asylum seekers *ex officio*. A lawyer interviewed by the author always requests a hearing for her client.

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

In the Regional Court of **Bucharest District 4**, the practice witnessed in 2017 of the asylum seekers not been heard in most of the cases, changed in 2018 when some of the judges started hearing the asylum seekers *ex officio*. However, the hearing consists in asking the asylum seeker if he has something else to add or to clarify contradictory aspects. A lawyer reported that in 2018 some of the judges started to exercise an active role, asking questions to the asylum seeker. This was still the case in 2020. In 2021, according to a lawyer there was one judge who was only prepared to hear the appellant if he/she has something new to add, the other judges ask them questions or let them speak freely.

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

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

Hearings in asylum cases are not public.¹⁸² This is respected in practice in all the courts.

Another improvement noticed by a lawyer in the Regional Court of **Bucharest District 4** is that, since October/November 2018, the list of hearings displayed outside the courtroom is anonymised and no longer contains the name of the asylum-seeking appellants. However, during the pandemic, due to the fact that access to the court building was restricted, the gendarmerie, which ensures the compliance of this measure, has a list with the names of all parties, including asylum seekers. This was still practice in 2021.

Decision

The Regional Courts took 1088 decisions in 2021, according to IGI-DAI.¹⁸³ According to data provided by the Regional Courts a total number of 1,390 decisions were issued in 2021.

¹⁸² Article 58 Asylum Act.

¹⁸³ Information provided by IGI-DAI, 16 February 2021.

Decisions by Regional Court: 2021				
Regional Court	Total	Refugee status	Subsidiary protection	Rejection
Bucharest (District 4)	410	4	6	361
Galați	130	0	4	126
Baia-Mare	128	1	3	125
Giurgiu*	242	0	0	234
Rădăuți	74	1	7	43
Timișoara	405	3	3	389
TOTAL	1,389	9	23	1,278

Source: Regional Courts.

At the national level, there is a court portal available online,¹⁸⁴ but only the asylum cases registered at the Regional Court of Giurgiu are published on it.

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

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

On the other hand, practice has not change at the Regional Court and the Administrative Country Court of **Giurgiu**, where all the appeals are published and include full names, file number and a summary of the decision. The director of the centre reported that decisions are communicated to asylum seekers by their lawyers, stating that all asylum seekers who are following the procedure have a lawyer appointed by the court through the state legal aid system. This was also confirmed by the legal counsellor of IGI-DAI. The decisions are reasoned in 2-3 weeks, according to the director.

In addition, some of the decisions of the Regional Courts of Rădăuți and Giurgiu are published on a website funded by the Supreme Council of Judges and the National Union of Public Notaries of Romania. Some of the names of the applicants are anonymised while others are not.¹⁸⁵

Since 2019 asylum seekers could no longer consult the progress and outcome of their cases reviewed by the Regional Court of **Baia Mare** and the Tribunal of Maramureș because the files are no longer scanned on the portal of the Court of Appeal, even though the court still communicates a password for the portal. Even if the password is provided the file cannot be accessed because the procedure is confidential, according to the JRS representative. As a consequence, it is now difficult for asylum seekers and NGO representatives to follow their cases. It was reported that asylum seekers are not informed about the decision on their case. In 2021, in a maximum of 10 cases the court registrar sent the decision by fax to IGI-DAI and IGI-DAI informed the asylum seeker. In order to learn about the court proceedings and decisions, the JRS representative asks IGI-DAI, only when she is aware that the respective asylum seeker has had a court hearing or she asks the lawyers with whom they collaborate. Onward appeals were not lodged in some cases because she was not aware of the court hearings. JRS drafted the onward appeals and sent them via email to the tribunal. The decisions of the first instance court are communicated in 10-30 days, depending on the judge.

In **Timișoara**, though the court communicates the password, the case files of asylum seekers were not recorded on the Court of Appeal portal until 2021. As of 2021 the system works, all the documents in the file are uploaded to the e-file, where the decision of the court is also published. The communication

¹⁸⁴ Ministry of Justice, *Portalul instanțelor de judecată*, available in Romanian at: <http://bit.ly/2hGMVhM>.

¹⁸⁵ Romanian Legal Information Institute (Rolii), available in Romanian at: <https://bit.ly/2PKL4Yw>.

of different procedural acts is also carried out through this electronic file; a notification is sent to the lawyer's email. As for the appellants, they have to submit a request in order to have access to the e-file. The director of Timișoara centre stated that they receive the decision via email or fax from the court and that asylum seekers learn about the decision from NGOs or their lawyers. He was not aware how or if the legal counsellor from CNRR learnt about the decisions. He also stated that the decision of the Regional Court is communicated in 3-4 weeks.

The decisions of the Regional Court and Administrative County Court of **Galați** are not published on the national portal. In order to obtain the decisions or to receive other documents from the case file, the interested parties may file a request at the court's registry and the documents are sent to them via email. The asylum seeker is informed about the decision of the court by the NGO representatives, who are in contact with the legal department of IGI-DAI or who may call the Registry of the Court. Asylum seekers receive a summons with the time of the court hearing. They are also informed that they can access the electronic file. They must inform the court through a standard template that they want to access the e-file. Generally, asylum seekers do not use this system, because it is in Romanian and complicated. For example, the deadlines run from the date the documents are accessed on the system and an asylum seeker accessed a document without realising, the deadline for onward appeal could pass.

The decisions of the Regional Court of **Bucharest District 4** are neither published on any portal nor written in the registers. The decisions may only be accessed through the court's archive. The JRS representative mentioned that the decision of the court is communicated by the attorney. According to an attorney, if the asylum seeker is assisted by a paid lawyer, the respective lawyer informs the asylum seeker about the decision of the regional court; the lawyers paid by state legal aid do not keep in touch with them. If the asylum seeker is accommodated in Stolnicu centre he may receive information from NGOs about how to find out about his decision. In order to find out the decision of the court, the attorney has to call the court archive phone line which is always busy. It was noted by a lawyer, that asylum seekers also receive guidance from the community or cultural mediators who work in the centre. However, it was emphasised that they are only aware of the decision in their case if they are being assisted by an NGO.

According to CNRR, in 2021 the average time for drafting the first instance decision was 30 days, but there were also cases when the drafting was delayed, both in the country and at the District 4 Court. The delay in drafting the first instance decision reached up to 60 days.¹⁸⁶

1.4.2 Onward appeal

Special measures imposed during the pandemic

In 2021 the court hearings at all the Administrative County Courts took place as previously. As in 2020, in 2021 the administrative county courts took all necessary measures to prevent the spread of coronavirus (COVID-19) such as: mandatory masks, hand sanitizers, ventilation of court rooms at short intervals, social distancing, measuring the temperature of all visitors and equipping all premises with sanitizers.

IGI-DAI reported that, in 2021, there were 380 onward appeals before the Administrative County Courts.¹⁸⁷ According to the information provided by the Administrative County Courts the number of onward appeals was 249, lower than in 2020 when 257 onward appeals were lodged.

¹⁸⁶ Information provided by CNRR, 15 February 2022.

¹⁸⁷ Information provided by IGI-DAI, 16 February 2021.

Onward appeals by Administrative County Court: 2021	
Regional Court	Total
Bucharest	69
Galați	53
Maramures	38
Giurgiu	148*
Suceava	31
Timișoara	17
TOTAL	249

Source: Administrative County Courts.

*of which 129 were new onward appeals formulated during 2021.

The law prescribes the possibility to appeal the decision of the Regional Court.¹⁸⁸ The competent court is the County Tribunal, Administrative Litigation Section (Administrative County Court), which has jurisdiction over the area of the Regional Court whose decision is appealed.¹⁸⁹ The Administrative County Court is made up of three judges.

The onward appeal has to be lodged within 5 days from the day the Regional Court decision was pronounced and has automatic suspensive effect, if it is lodged in due time.¹⁹⁰

In 2021 IGI-DAI reported that there were no statistics on the average duration of the onward appeal.¹⁹¹ In 2020 they reported that the procedure was 2-3 months.¹⁹² In practice, this varies from one court to another:

Average duration of the onward appeal procedure by Administrative County Court: 2021	
Administrative County Court	Number of days
Bucharest	0-180
Galați	90
Maramureș	90-120
Giurgiu	128
Suceava	85
Timișoara	75

Source: Administrative County Courts.

The onward appeal does not look at facts but examines if the appealed decision is compliant with the applicable rules.¹⁹³ As a consequence, the onward appeal has to include the grounds for illegality on which the appeal is based.¹⁹⁴ The decision has to be motivated within 10 days from the day it is communicated by the Regional Court.

Timișoara: The Administrative County Court added that the duration of the onward appeal varies from one month (four files) to four months (two files). According to the director of the Regional Centre of Timișoara, the average duration of the onward appeal is two months. A lawyer reported that the average duration of the onward appeal was three months, calculated from the date when the onward appeal was formulated until the decision was drafted.

Galați: According to a JRS representative the average duration of the onward appeal is a maximum of 90 days.

¹⁸⁸ Article 66 Asylum Act.

¹⁸⁹ Article 67 Asylum Act.

¹⁹⁰ Article 66(2) and (4) Asylum Act.

¹⁹¹ Information provided by IGI-DAI, 11 March 2022.

¹⁹² Information provided by IGI-DAI, 16 February 2021.

¹⁹³ Article 483(3) Civil Procedure Code.

¹⁹⁴ Article 486(1)(d) Civil Procedure Code.

Giurgiu: The Administrative County Court of Giurgiu reported an average of 128 days for the onward appeal.¹⁹⁵ according to the JRS representative the average duration of the onward appeal was around six months. The director of the Giurgiu centre stated that the maximum duration was 120 days.

Șomcuta Mare: The JRS representative reported that the onward appeal lasts several months. In 2021 many cases were postponed due to the lack of interpreters. 1 onward appeal that had been pending since 2018 was finally finalised in February 2021. In this case, the court hearings were postponed several times due to the lack of an interpreter. It was emphasized that asylum seekers are not informed about the courts' decisions.

It was reported by the JRS representative that in one case the appellant requested a Lingala interpreter, the court postponed the case without providing a date for the hearing and afterwards the asylum seeker was rejected without any court hearing. There were also onwards appeals lodged in the summer of 2021 and the date of the court hearing was only set for January 22.

Rădăuți: The JRS representative stated that the average duration of the onward appeal is around 3-4 months. The legal counsellor mentioned that at the first or second hearing the case was finalised and the average duration of the onward proceedings was 3 months.

Bucharest: According to the JRS representative, the average duration of the onward appeal in 2021 was 180 days; this was echoed by an attorney; the director of Stolnicu mentioned 2-3 months.

CNRR reported that the duration of the onward appeal was 90 days in Galati, 30 days in Radauti, Giurgiu, Bucharest and Somcuta Mare, and 4 months in Timisoara.¹⁹⁶

The practice observed in **Bucharest** in 2017 that, in most of the cases lawyers paid by the legal aid scheme did not appeal against the decision of the Regional Court, changed in 2018 and 2019. According to a lawyer who is also the head of the Judicial Assistance Service of the Bucharest Bar Association, lawyers are starting to lodge onward appeals, but they are not aware if they have the mandate to also draft the reasoned appeal in these cases. In 2021, the situation was the same, according to a lawyer.

On the other hand, CNRR stated that in general, CNRR lodges onward appeals if the asylum seeker presents the decision.¹⁹⁷

According to the Civil Procedure Code, the attorney who has represented or assisted the party during the hearing may, even without a mandate, take any action for the preservation of rights subject to a term and appeal against the judgment, that may be lost by failing to do so on time. In these cases, only the party will handle all the procedural documents. The supporting of the appeal can only be based on a new power of attorney.¹⁹⁸

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

¹⁹⁵ Information provided by the Administrative County Court of Giurgiu, 16 March 2022.

¹⁹⁶ Information provided by CNRR, 15 February 2022.

¹⁹⁷ Information provided by CNRR, 9 December 2019.

¹⁹⁸ Article 87(2)(3) Civil Procedure Code.

Decisions

According to IGI-DAI, in 2021 357 onwards appeals were finalised.¹⁹⁹

However, the Administrative County Courts reported a total of 298 decisions issued.

Decisions by Administrative County Court: 2021								
Regional Court	Total	Refugee status	Subsidiary Protection	Admission appeal filed by IGI	Dismissed appeal filed by IGI	Dismisses as unfounded	Appeal annulled	Rehearing cases by the first court
Bucharest	92	6	4	8	8	45+4 statutory limitation+1 inadmissible	13	0
Galați	48	1	0	0	3	37	-	0
Maramureș	21	0	2	-	0	19	0	-
Giurgiu	97	0	0	1	-	86	-	10
Suceava	27	-	11	0	6	5	5	0
Timișoara	13	0	0	1	2	5	0	-
TOTAL	298	7	17	10	19	197	18	10

Source: Administrative County Courts.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

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

According to Article 17(1)(e) of the Asylum Act, the asylum seeker has the right to counselling and assistance from a representative of a Romanian or foreign NGO, in any phase of the asylum procedure. The asylum seeker has the right to be given, upon request, legal and procedural information, including information on the first instance procedure, in line with the provisions on public judicial assistance in civil matters, taking into account his or her personal situation.²⁰⁰

The law sets out the right of the asylum seeker to be provided, upon request, according to the legislation on public judicial assistance in civil matters and taking into account the personal situation of the foreigner, information on the motivation of the rejection of the asylum application, the procedure for challenging the ordinance through which the measure of placement in a specially closed spaces was taken, as well as the possibility to challenge the decision which granted, reduced or withdraw the material reception conditions.²⁰¹

¹⁹⁹ Information provided by IGI-DAI, 11 March 2022.

²⁰⁰ Article 17(1)(s) Asylum Act.

²⁰¹ Ibid.

Legal assistance at first instance

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

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

The Ecumenical Association of Churches from Romania (AIDRom), one of the implementing NGOs, provides legal counselling to asylum seekers accommodated in their two Accommodation Centres, one in **Timișoara**, operating since August 2012 with a capacity of 15 places and one in **Bucharest**, working since 2015 with 18 places. They accommodate vulnerable persons, especially single mothers with children. The AIDRom centres in these cities are funded both by AMIF and by external donors. In addition, the legal counsellor of AIDRom also provides legal counselling and assistance in the IGI-DAI of **Bucharest (Tudor Gociu)**.

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

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

Under the project funded by UNHCR, JRS may appoint a lawyer if the asylum seeker is a vulnerable or a person of interest for UNHCR or if it is a case that might lead to a practice altering-decision. According to JRS representative from Timișoara, the conditions for receiving funding for lawyers are even tighter. Legal representation by a lawyer under the Legal Aid Act includes representation in the administrative phase of the procedure.²⁰² According to Article 35 of the Legal Aid Act, legal aid may also be extra-judicial and consist in consultations, filing of applications, petitions, referrals, initiation of other related legal steps, as well as representation before public authorities or institutions other than judicial or with jurisdictional powers, with a view to achieving the individual's legitimate rights or interests. This was confirmed by the National Union of Romanian Bar Associations.²⁰³ However, according to the head of the Judicial Assistance Service at the Bucharest Bar Association no legal aid applications for representation in the administrative phase of the procedure had been lodged until now in any of the regional centres.

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

²⁰² Government Emergency Ordinance 51/2008.

²⁰³ Information provided by the National Union of Romanian Bar Associations, 8 January 2018.

Legal assistance in appeals

In court proceedings, legal aid may be provided by NGOs such as CNRR and JRS, who have limited funds for legal representation. In 2021, CNRR covered 100 attorneys' fees, from AMIF funds.²⁰⁴ In addition, if the case of the asylum seeker is not eligible for a lawyer contracted through NGOs, legal counsellors may draft a request for state legal aid.

According to information provided by the Regional Court of **Giurgiu**, out of 245 appeals received by the court in 2021, 98 cases made an application for legal aid, (of which 76 were submitted by CNRR)²⁰⁵ and 31 legal aid applications were rejected.²⁰⁶ As for the reasons for dismissal of these requests, the court reported that they were unfounded.²⁰⁷ No reviews of the applications for legal aid were lodged in these rejected cases.²⁰⁸ According to the JRS representative the reason for the dismissal of the requests was that the asylum seeker had already benefited from specialized legal assistance from an NGO and it was not considered justified to grant an *ex officio* lawyer. In addition, the law does not provide that asylum seekers are beneficiaries of state legal aid as a special category. Therefore, there is no obligation to grant them lawyers paid through state legal aid. According to the director and legal counsellor of the Giurgiu centre all asylum seekers who follow the steps of the procedure do have an appointed lawyer. The Legal counsellor of IGI-DAI also emphasised that since she has been working at the centre no application for state legal aid had been rejected by the court.

The Regional Court of **Timișoara** reported that out of 102 applications for state legal aid, none of them was rejected.²⁰⁹ CNRR reported 69 applications submitted.²¹⁰

The Regional Court **Baia Mare** stated that in all asylum cases a lawyer paid through the state legal aid was appointed *ex officio*.²¹¹ The legal counsellor of CNRR submitted only 1 application in 2021.²¹²

The Regional court Radauti reported that in the 84 appeals registered in 2021, 25 applications for state legal aid were made and all were admitted.²¹³ CNRR reported only 14 applications made in Radauti in 2021.²¹⁴

The Regional Court District 4 Bucharest stated that the general rule is to appoint a lawyer paid through the state legal aid for asylum seekers who submit such a request.²¹⁵ CNRR reported only 39 applications made in Bucharest during 2021,²¹⁶ even though there were 410 appeals registered. On the other hand, in the Regional Court Galați as in 2020, in 2021 no such applications were submitted, even though there were 130 appeals lodged throughout the year.²¹⁷ In contrast, CNRR reported that 145 applications were made by their legal counsellor in Galați.²¹⁸

As regards the applications for state legal aid at the level of the Administrative Country Courts, the number is even lower. The Administrative County Court **Maramures** reported 10 cases, the

²⁰⁴ Information provided by CNRR, 15 February 2022.

²⁰⁵ Information provided by CNRR, 15 February 2022.

²⁰⁶ Information provided by the Regional Court Giurgiu, 25 January 2022.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ Information provided by the Regional Court Timișoara, 10 February 2022.

²¹⁰ Information provided by CNRR, 15 February 2022.

²¹¹ Information provided by the Regional Court Baia Mare, 17 February 2022.

²¹² Information provided by CNRR, 15 February 2022.

²¹³ Information provided by the Regional Court Radauti, 19 January 2022

²¹⁴ Information provided by CNRR, 15 February 2022.

²¹⁵ Information provided by the Regional Court District 4 Bucharest, 7 February 2022.

²¹⁶ Information provided by CNRR, 15 February 2022.

²¹⁷ Information provided by the Regional Court Galați, 27 January 2022.

²¹⁸ Information provided by CNRR, 15 February 2022.

Administrative County Court **Suceava** reported 2, the Administrative County Court **Timis** 1 and at the the Administrative County Court **Bucharest** no applications were made, according to information provided by the courts. At the same time, the Administrative County Court **Galati** reported that a lawyer paid through state legal aid had been appointed *ex officio*.

According to CNRR, in 2021, there were no cases of rejected legal aid applications.²¹⁹

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

Bucharest: According to a lawyer, who is the head of the Judicial Assistance Service of the Bucharest Bar Association, lawyers paid through the state legal aid scheme are becoming more involved, with some of them requesting guidance from the head of the Judicial Assistance Service. The situation of lawyers paid through state legal aid was the same in 2021. Asylum cases, as with all cases, are electronically distributed to lawyers. There are always new lawyers appointed in asylum cases; some lawyers request advice from others with expertise. However, only a few lawyers have requested an adjournment of the hearing in order to prepare the case. The asylum seeker only meets the state legal aid lawyer at the court hearing and, as a consequence, they cannot prepare and discuss the details of the case.

In 2021, the Bar Associations in Romania did not organise any training on asylum law for the lawyers included in the legal aid register or other interested lawyers.

CNRR reported that they organised one training for lawyers in 2021.²²⁰

In the Regional Centre of **Galati**, legal representation through the state legal aid scheme is ensured, in general, by lawyers who have participated in seminars and conferences organised by NGOs and also new lawyers. The lawyers with more expertise in the field are involved, but the new ones are not. They contact the NGO representatives (CNRR and JRS) to discuss the case with the asylum seekers and to obtain all the documents from their file, but just in a few cases. The rest of the attorneys paid by the state legal aid do not show an interest in asylum cases and they only meet with their clients at the court hearing. The onward appeal is filed by legal counsellors from NGOs, when the asylum seeker was represented by a lawyer paid through the state legal aid scheme.

In **Șomcuta Mare**, the JRS representative mentioned that she collaborates with the lawyers appointed in the cases. The asylum seeker meets with the lawyer appointed through the state legal aid scheme 10 minutes before the court hearing. Asylum seekers who spoke English with the lawyers' consent were given phone numbers from the JRS representative and could contact them. The appeals were lodged by the lawyers or the JRS representative.

In **Timișoara**, the director of the Regional Centre of Timișoara believed that lawyers paid through the state legal aid scheme did not prepare for the hearing; but were present because they had to be.

In **Rădăuți**, the lawyers paid through the state legal aid scheme are not knowledgeable about asylum law. According to the JRS representative the attorneys paid through the state legal aid scheme do not contact or discuss the case with the asylum seekers. It was also reported that attorneys paid through

²¹⁹ Information provided by CNRR, 15 February 2022.

²²⁰ Information provided by CNRR, 15 February 2022.

state legal aid do not make any oral arguments during the court hearing, discuss with their clients or lodge onward appeals. This was still the case in 2021.

CNRR reported that in 2021, there were cases in which asylum seekers stated that the legal assistance provided by *ex officio* lawyers was superficial. Asylum seekers claimed that lawyers had not discussed their case with them, or had not shown willingness to know thoroughly his/her situation.²²¹

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

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

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

At the same time, CNRR has reported that there were situations where the *ex officio* lawyer did not file the appeal and the applicant requested CNRR's assistance for drafting the appeal, but the legal deadline for submission was missed.²²²

The information provided by the domestic courts shows that in a high number of cases an onward appeal was not lodged. The Administrative County Courts of **Bucharest** reported that in 2021 only 63 onward appeals were formulated and 389 decisions were not appealed against.²²³ In **Giurgiu** 127 decisions were not appealed against.²²⁴ In **Galati** out of 130 decisions issued only 45 onward appeals were lodged and 85 decisions were not appealed against.²²⁵ The legal counsellor of JRS stated that they do not lodge appeals or onward appeals *in absentia*. In **Timisoara** 34 decisions were not appealed.²²⁶ In **Somcuta Mare** 13 decisions were not appealed²²⁷ and in **Suceava** 6.²²⁸

²²¹ Ibid.

²²² Information provided by CNRR, 15 February 2022.

²²³ Information provided by the Regional Court District 4 Bucharest, 7 February 2022.

²²⁴ Information provided by the Regional Court Giurgiu, 25 January 2022.

²²⁵ Information provided by the Regional Court Galati, 27 January 2022.

²²⁶ Information provided by the Regional Court Timisoara, 10 February 2022.

²²⁷ Information provided by the Administrative County Court Maramures, 7 February 2022.

²²⁸ Information provided by the Administrative County Court Suceava, 13 January 2022.

While in 2019²²⁹ IGI-DAI provided statistics with regards to cases in which an onward appeal was not lodged, in 2020 and 2021 IGI-DAI reported that they have no statistics on this matter.²³⁰

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

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

2. Dublin

2.1 General

Measures imposed during the pandemic

In 2021 the Dublin procedure was not affected by the pandemic as in the previous year. Incoming and outgoing requests were processed normally. In case of positive answers for the Incoming requests, the Romanian authorities inserted provisions regarding how to organise the future transfers, referring to the national health rules that must be taken into account by the Member States organising the transfers.²³¹

Dublin transfers had to respect the national measures imposed by the respective Member States for all citizens, so there was no differential treatment for the asylum seekers transferred.²³²

As for transfers from Romania to other Member States, the rules and measures imposed by each Member States are followed.²³³

Dublin statistics: 2021

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	815	13	Total	9,493	600
Bulgaria	695	2	Germany	2,842	73
Greece	60	0	France	2,563	36
Germany	21	4	Austria	1,814	100
Croatia	16	1	Belgium	692	2
France	5	1	Czechia	327	70
Belgium	5	0	Slovakia	307	57

Source: IGI-DAI, 11 March 2022.

²²⁹ Information provided by IGI-DAI, 20 February 2019- in 58 cases the asylum seekers did not lodge an onward appeal against the decision of the Regional Courts.

²³⁰ Information provided by IGI-DAI, 16 February 2021.

²³¹ Information provided by IGI-DAI, 11 March 2022.

²³² *Ibid.*

²³³ *Ibid.*

In 2021, Romania issued 815²³⁴ requests compared to 168 in 2020 and received 9,493 requests compared to 3,221 in 2020 under the Dublin Regulation. The following criteria were used:

Outgoing and incoming Dublin requests by criterion: 2021		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	29	50
Regular entry: Articles 12 and 14	4	167
Irregular entry: Article 13	16	177
Dependent persons and humanitarian clause: Articles 16 and 17(2)	0	7
"Take back": Articles 18 and 20(5)	766	9,092
Total outgoing and incoming requests	815	9,493

Source: IGI-DAI, 11 March 2022 (information requests under article 34 of the Dublin-regulation are not included).

2.1.1. Application of the Dublin criteria

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

In **Timișoara** the family criterion was applied in 2021 in the cases of 3-4 unaccompanied children with relatives in other State Members, according to the director of the centre.

Șomcuta Mare: The JRS representative reported that in 2021 there were not so many outgoing Dublin cases. She mentioned the case of a Syrian asylum seeker who had to be transferred to Croatia under the Dublin Regulation. His appeal was rejected by the court. He decided to go back to his country of origin rather than going back to Croatia where he was beaten. Another Syrian asylum seeker who was supposed to be transferred to Croatia because his appeal was dismissed, stated the same, that he was detained and beaten and threatened. The Regional Court Baia Mare reported 3 appeals in the Dublin procedure; all of them were rejected as inadmissible.²³⁵

Giurgiu: according to the director of the centre, there were outgoing and incoming Dublin requests in 2021, but none of them was finalized because asylum seekers left the centre after the preliminary interview. Therefore, no transfers were carried out.

Galați: No transfers were carried out to other Member States. It was reported that there were cases of a hit for Bulgaria, but the asylum seekers left the centre before the decision was communicated.

Rădăuți: there were cases of Dublin 'hits' for Bulgaria but they were granted access to the asylum procedure in Romania. family criterion was also applied; asylum seekers had relatives in Germany and Belgium.

Bucharest: in 2021 there were a few outgoing requests, according to the director of Vasile Stolicu centre. According to the JRS representative there were also 4-5 cases of unaccompanied minors who were all transferred to Germany.

The most frequent criteria for outgoing requests were "take back", mainly addressed to Bulgaria as it was in 2019. Similarly, the majority of incoming requests to Romania concern "take back" cases.²³⁶

²³⁴ Information provided by IGI-DAI, 11 March 2022.

²³⁵ Information provided by the Regional Court Baia Mare, 17 February 2022.

²³⁶ Information provided by IGI-DAI, 16 February 2021.

2.1.2 The dependent persons and discretionary clauses

In 2021, Romania issued no outgoing requests and received 7 incoming requests based on the humanitarian clause. No outgoing nor incoming requests based on the dependent persons clause were issued or received in 2021. The sovereignty clause was not applied in 2021.²³⁷

2.1 Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?
☒ Yes ☐ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?
3 months

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

All asylum seekers are fingerprinted, photographed and checked against the Eurodac database. In practice, there were cases where asylum seekers refused to be fingerprinted but, after they were explained that this was necessary for the asylum procedure and, in case of refusal, they would have been detained, they agreed to it. In case the applicant does not comply with the obligation to be photographed and fingerprinted,²³⁸ measures of constraint may be applied. The use of these measures must be non-punitive, proportionate and applied only for the necessary period, if there is no other way of determining the asylum seeker to cooperate with the staff of IGI-DAI.²³⁹

2.2.1 Individualised guarantees

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

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

2.2.2 Transfers

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

Nevertheless, IGI-DAI may reduce or withdraw the material reception conditions of asylum seekers, including asylum seekers subject to the Dublin procedure. The motivated decision may be challenged in court.²⁴⁰

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

- The obligation to report at IGI;²⁴¹

²³⁷ Information provided by IGI-DAI, 16 February 2021.

²³⁸ In accordance with Article 19(a) Asylum Act.

²³⁹ Article 18(3) Asylum Decree.

²⁴⁰ Article 19¹(1)-(2) Asylum Act.

- Designation of his or her residence in a Regional Centre of Procedures for Asylum Seekers;²⁴²
- Placement or, as the case may be, remaining in public custody (detention).²⁴³

The only restrictive measure not applicable to asylum seekers subject to Dublin procedure is the placement in specially designated closed places, which are defined as alternatives to detention but in practice consist of detention rooms in the Regional Centres.²⁴⁴ Reporting duties and residence in a specific place may be imposed in order to ensure the transfer.²⁴⁵ Detention for the purpose of a transfer is discussed in [Grounds for Detention](#).

If after the asylum seeker is placed in detention, one of the deadlines provided by Article 28(3) of the Dublin Regulation expires, the measure ceases to have effect. IGI draws up a notice on the cessation of the measure, which is communicated to the applicant.²⁴⁶

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

According to IGI-DAI, the average duration of the Dublin procedure between the issuance of a request and the transfer is 2-3 months. The average duration of the process between acceptance of responsibility and transfer takes one month.²⁴⁷ In Bucharest, Giurgiu and Șomcuta Mare the stakeholders reported no transfers.

Timișoara: According to the director of the Regional Centre, the Dublin procedure lasted 3-4 months and transfers were conducted in 1-2 weeks. The JRS representative reported the case of three unaccompanied minors who were accommodated at DGASPC, two of them arrived in Romania in March 2021 and a third one in October 2021. For one of the asylum-seeking children, because she could not prove her family ties, she followed the asylum procedure in Romania. According to the JRS representative no transfers were done in 2021.

Rădăuți: the Dublin procedure lasted 2 months in 2021 and no transfers were performed.

Bucharest: in 2021 transfers were carried out to other Member States according to the JRS representative. The procedure lasted around 3 months from the suspension of the asylum procedure until the asylum seekers were transferred.

Giurgiu: No transfers reported in Giurgiu, by the director.

Șomcuta Mare: no transfers were reported.

Galați: No transfers reported by the JRS representative.

Romania issued 815 requests and implemented 13 transfers in 2021, thereby indicating a transfer rate of 1.59 %.²⁴⁸

²⁴¹ Article 19²(1)(a) Asylum Act.

²⁴² Article 19²(1)(b) Asylum Act.

²⁴³ Article 19²(1)(d) Asylum Act.

²⁴⁴ Article 19²(3) Asylum Act.

²⁴⁵ Articles 19³ and 19⁴ Asylum Act.

²⁴⁶ Article 19¹⁴(10) Asylum Act.

²⁴⁷ Information provided by IGI-DAI, 11 March 2022.

²⁴⁸ Information provided by IGI-DAI, 11 March 2022.

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
2. If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

According to the law, if during the preliminary interview the answers of the asylum seeker indicate the necessity to start the Dublin procedure, the preliminary interview is conducted pursuant to Article 5 of the Dublin Regulation.²⁴⁹

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

The interview in the Dublin procedure takes place faster than in the regular procedure, even on the same day as the preliminary interview. A copy of the transcript of the interview is not handed over to the asylum seeker after the interview. However, he or she may request it under the provisions of the Asylum Act.²⁵⁰ The modalities are the same as the regular procedure as regards the other aspects.

2.4 Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

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

In contrast with the regular procedure, lodging the appeal in the Dublin procedure does not have automatic suspensive effect. When appealing, the applicant may also request the suspension of the

²⁴⁹ Article 43(3) Asylum Act.

²⁵⁰ Article 17(1)(f¹) sets out the right to have access, personally or through a representative, to the information contained in the personal file, unless the disclosure of the information or sources, from which it was obtained would jeopardise the national security, the organisations or persons who provided that information, or if it would be prejudicial to the examination of the application for international protection. Access to the information in the personal file is based on a request addressed to the specialised asylum structure of IGI. At the request of the applicant for international protection, copies of documents from the personal file may be issued free of charge, in accordance with the provisions of the present law.

implementation of the transfer decision.²⁵¹ The request for suspension is decided urgently in the council chamber by final conclusion, and the parties are summoned.²⁵² The implementation of the transfer decision is suspended until the court decides on the request for suspension.²⁵³

In situations that could not have been taken into consideration at the moment of issuing the decision, the case officer may, ex officio, decide to suspend the transfer decision until the court has ruled on the appeal. The measure is communicated to the applicant, according to the provisions on communication of decisions in the regular procedure.²⁵⁴

The court shall settle the case within maximum 30 days.²⁵⁵ The competent court is the Regional Court (Judecatoria) with territorial jurisdiction over the area in which IGI has issued the decision.²⁵⁶ The decision of the court is final.²⁵⁷

If the court admits the appeal and decides that the application for international protection in Romania should be resumed and the applicant has already been transferred to the responsible Member State, IGI shall take the necessary steps to readmit him or her to the territory of Romania.²⁵⁸

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

In **Timisoara** only one appeal against a transfer to Austria was formulated and it was dismissed.²⁵⁹

In **Galati** three appeals were lodged against a transfer to Bulgaria and all were rejected.²⁶⁰

In **Bucharest** only one appeal was registered against a transfer to Croatia and it was rejected.²⁶¹

In **Giurgiu** 4 appeals were lodged against a transfer to Bulgaria. The asylum seekers left soon after, according to the director.

²⁵¹ Article 121(3) Asylum Act.

²⁵² Ibid.

²⁵³ Article 121(4) Asylum Act.

²⁵⁴ Article 121(5) Asylum Act.

²⁵⁵ Article 121(6) Asylum Act.

²⁵⁶ Article 121(2) Asylum Act.

²⁵⁷ Article 121(7) Asylum Act.

²⁵⁸ Article 121(8) Asylum Act.

²⁵⁹ Information provided by the Regional Court Timisoara, 10 february 2022

²⁶⁰ Information provided by the Regional Court Galati, 27 January 2022

²⁶¹ Information provided by the Regional Court District 4 Bucharest, 7 February 2022.

2.5 Legal assistance

Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

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

☒ Yes ☐ With difficulty ☐ No

❖ Does free legal assistance cover: ☒ Representation in interview
☒ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

☒ Yes ☐ With difficulty ☐ No

❖ Does free legal assistance cover ☐ Representation in courts
☒ Legal advice

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

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

2.6 Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No

If yes, to which country or countries?

Greece: Romania resumed Dublin procedures to Greece as of 1 October 2018.²⁶²

60 outgoing requests were made to Greece in 2021, according to the statistics provided by IGI-DAI and no transfers to Greece were carried out.²⁶³

The directors of **Timisoara** and **Vasile Stolnicu** stated that transfers to Greece are not carried out due to the reception conditions in the country.

Bulgaria: the highest number of “take back” requests (695) were issued to Bulgaria but only 2 transfers were carried out.²⁶⁴

2.7 The situation of Dublin returnees

The Asylum Act includes provisions concerning cases of express and tacit withdrawal of an asylum application.²⁶⁵ An implicit or tacit withdrawal of an asylum application occurs when the applicant is not present on the scheduled time for the preliminary interview or personal interview, without presenting good reasons for his or her absence.²⁶⁶ In case of tacit withdrawal, IGI-DAI writes a report regarding the

²⁶² Information provided by IGI-DAI, 5 March 2019.

²⁶³ Information provided by IGI-DAI, 11 March 2022.

²⁶⁴ *Ibid.*

²⁶⁵ Article 51 Asylum Act.

²⁶⁶ Article 51(1)(b) Asylum Act.

absence of the asylum seeker from the interview.²⁶⁷ In these cases, the decision to close the file shall be issued after the expiration of a period of 30 days from the date of the aforementioned report.²⁶⁸

When the asylum seeker expressly withdraws his or her asylum claim, this is considered an explicit withdrawal of the asylum application.²⁶⁹ The asylum seeker shall be informed of the consequences of his or her withdrawal in a language he or she understands or is reasonably supposed to understand.²⁷⁰

When an asylum application was tacitly withdrawn and the asylum procedure was discontinued (i.e. the case of a person who have left Romania and moved to another EU Member State), if the person makes an asylum claim within 9 months of the decision to close the file issued for implicit withdrawal, the asylum procedure may be continued.²⁷¹ If the timelimit has expired, the asylum claim is considered a [Subsequent Application](#).

The legal framework is different when a person has left the territory for at least 3 months or had been removed to a third country or to the country of origin under Articles 19(2) and (3) of the Dublin Regulation and, consequently, the asylum procedure was discontinued by a decision closing the file. In this case, a new claim lodged successively in Romania is not considered a subsequent application.²⁷²

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

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

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

Stakeholders interviewed in **Timișoara, Galați, Rădăuți, Somcuta Mare** reported that no asylum seekers were transferred in their centre based on incoming requests.

Bucharest: All the asylum seekers transferred to Romania according to incoming requests were accommodated in Vasile Stolnicu centre and afterwards in the Tudor Gociu centre. 20-30 transferred asylum seekers arrived in Bucharest per month. Around 200 asylum seekers transferred from another Member State to Romania based on the Dublin Regulation were accommodated in Vasile Stolnicu and Tudor Gociu centres, according to the director of Vasile Stolnicu centre. They were Syrian, Afghan Iranian and Iraqi nationals. The majority of them were transferred from Germany and France. According to the director of **Giurgiu** centre, asylum seekers were also accommodated in this centre after their transfer to Romania. However, she was not aware of the number of asylum seekers.

In 2021 Romania received 600²⁷³ incoming transfers, compared to 73²⁷⁴ incoming transfers in 2020.

²⁶⁷ Article 51(3) Asylum Act.

²⁶⁸ Article 51(5) Asylum Act.

²⁶⁹ Article 51(1)(a) Asylum Act.

²⁷⁰ Article 51(2) Asylum Act.

²⁷¹ Article 94¹ Asylum Act.

²⁷² Article 94¹(1)(a) Asylum Act.

²⁷³ Information provided by IGI-DAI, 11 March 2022.

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

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

An application is inadmissible where the applicant:

- Has been granted international protection by another Member State;²⁷⁵
- Comes from a **First Country of Asylum**;²⁷⁶
- Comes from a European safe third country which has agreed to his or her readmission;²⁷⁷
- Comes from a **Safe Third Country**;²⁷⁸
- Makes a subsequent application without new elements.²⁷⁹

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

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.²⁸⁰

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

According to the director of Timișoara centre 1 asylum application was dismissed as inadmissible because the asylum seeker had been granted international protection by another Member State. The same was reported in **Galati**. In **Somcuta Mare** 4 asylum applications were declared inadmissible because the applicants were granted a form of protection in another Member State (2 in Germany and 2 in Greece). In **Bucharest** there were also 1-2 cases. No cases were reported in **Radauti** or in **Giurgiu**.

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

According to IGI-DAI, in 2021 there were 17 applications dismissed as inadmissible because the applicant came from a First Country of Asylum. As for inadmissible criteria- European safe third country or safe third country, the IGI-DAI did not register any such cases because it has no list of safe countries.²⁸¹

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

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

²⁷⁵ Article 50¹ Asylum Act.

²⁷⁶ Article 95 Asylum Act.

²⁷⁷ Article 96 Asylum Act.

²⁷⁸ Article 97 Asylum Act.

²⁷⁹ Article 91(b) Asylum Act, in conjunction with Article 88(2)(a)-(b).

²⁸⁰ Information provided by IGI-DAI, 20 February 2020 and 11 March 2022.

²⁸¹ Information provided by IGI-DAI, 11 March 2022.

Pursuant to Article 97^1 of the Asylum Act, the applicant is given the opportunity to present, in an interview, his or her personal situation in order to determine whether the safe country concepts are applicable. The responsible authority is IGI-DAI. The law does not prescribe specific requirements for the interview as part of the admissibility assessment.

An inadmissibility decision on first country of asylum, European safe third country or safe third country is issued without a substantive examination of the applicant's request and shall be communicated under the general provisions of the law.²⁸² After communicating the decision, IGI-DAI informs the authorities of the European safe third country or, as the case may be, of the safe third country, in the language of that country, that the applicant's application has not been assessed on the merits.²⁸³

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

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

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

The appeal in case of the first country of asylum, European safe third country and safe third country is the same as in the Accelerated Procedure.²⁸⁴ The deadline for submitting the appeal is 7 days from the notification of the decision. The appeal has suspensive effect if it is filed within the deadline.

In 2021 2 appeals against first country of asylum were formaluated in Somcuta Mare. The appeals were rejected by the court, according to the JRS representative.

3.4. Legal assistance

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

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

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

²⁸² Article 97^1(2) Asylum Act.

²⁸³ Article 97^1(4) Asylum Act.

²⁸⁴ Article 97^1(3) Asylum Act.

According to the law, the border procedure applies to asylum applications and subsequent applications made at a border-crossing point. The asylum application made at the territorial border offices of the Romanian Border Police at a border crossing point is immediately submitted or forwarded to the competent structure of IGI-DAI, which examines it and issues a decision within 3 days.²⁸⁵ In addition, foreigners are also subject to the border procedure when after a first asylum procedure in Romania, they have made a subsequent application at a border crossing point.²⁸⁶

The substance of the application is assessed during the border procedure, if the case officer decides to do so, based on the statements of the asylum seeker during the interview. According to the law, after the interview and the assessment of the reasons invoked for granting international protection and country of origin information, IGI-DAI may: (a) grant a form of protection; (b) grant access to the territory and the regular procedure if the application is not manifestly unfounded or if there are indications that [Dublin](#) or [Admissibility](#) grounds apply; or (c) reject the application as manifestly unfounded and not grant access to the territory.²⁸⁷

According to Article 87 of the Asylum Act, an asylum seeker shall remain in the transit area of the border-crossing point until a decision granting access to the territory or a final decision rejecting the asylum application is issued. This period cannot exceed 20 days.²⁸⁸ However, if the asylum application is still pending after the 20-day deadline, the asylum seeker is granted access to the territory.²⁸⁹

The asylum seeker may be accommodated in special reception and accommodation centres near the border-crossing points, established by order of the Minister of Internal Affairs and having the legal status of a transit area.²⁹⁰ Asylum seekers accommodated in these centres receive 3 meals a day free of charge, under conditions established by a Government Decision.²⁹¹ The asylum seeker subject to border procedure is not entitled to receive the material reception conditions for meals.²⁹²

A new provision was included in 2015, which relates to the obligation to inform the asylum seeker. The asylum seeker shall be immediately informed in writing, in a language that he or she understands or is reasonably supposed to understand, on the border procedure, granting or not granting access to the territory, his or her rights and obligations during the procedure, the possibility to challenge the decision issued by the case officer, as well as the possibility to request legal aid according to the law.²⁹³ Leaflets have been updated as of 2019.

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

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

²⁸⁵ Article 82 Asylum Act.

²⁸⁶ Article 83(3) Asylum Act.

²⁸⁷ Article 83(1)(a), (b) and (c) Asylum Act.

²⁸⁸ Article 87(1) Asylum Act.

²⁸⁹ Article 87(5) Asylum Act.

²⁹⁰ Article 87(2) Asylum Act.

²⁹¹ Article 87(3) Asylum Act.

²⁹² Article 87(4) Asylum Act.

²⁹³ Article 87(7) Asylum Act.

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

According to the director of the Regional Centre of **Timișoara**, there were 8 asylum applications (Bangladesh) made in 2021 at the border-crossing point of Portile de Fier I, in Mehedinți County, in the south-western part of Romania. All of them lodged appeals against the decision of IGI-DAI to reject the applications as manifestly unfounded and not grant access to the territory. 6 appeals were rejected and 2 admitted. The director stated that the appeals were drafted by the asylum seekers. The JRS representative was conducting a monitoring visit at the crossing point when the asylum seekers were apprehended, and he discussed it with them. On the second day another JRS employee provided them with food and hygienic products. The JRS representative said that they had already had the interviews. She further mentioned, contrary to what the director of Timisoara reported, that the appeals were drafted by JRS. The asylum seekers invoked economic reasons; only one unaccompanied minor was granted access to the territory. While at the crossing point the asylum seekers were accommodated in a small room with mattresses and only one bathroom.

In addition, there was also an asylum application made at Moravita crossing point by a pregnant woman who was granted access to the territory and afterwards she was granted refugee status.

The director of Giurgiu centre reported the case of a single parent family (mother and child) who was granted access to the territory.

The director of Vasile Stolnicu centre reported 1-2 cases of applications assessed under the border procedure in Otopeni airport. According to the Border Police 3 asylum applications were made in Otopeni airport.

In 2021 there were 17 asylum applications processed under the border procedure, according to IGI-DAI.²⁹⁴ According to the Border Police 783,²⁹⁵ asylum applications were made at border crossing points, this does not mean that they were necessarily assessed under the border procedure.

4.2. Personal interview

Indicators: Border Procedure: Personal Interview

☐ Same as regular procedure

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

	<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

As a general rule, a decision is taken by the case officer of IGI-DAI after an interview and assessment of the reasons invoked by the asylum seeker against the country of origin information.²⁹⁶ However, the law also establishes the possibility to deliver a decision without conducting an interview, if it is possible to issue a decision to grant access to the regular procedure on the basis of the personal file.²⁹⁷ In case of subsequent applications, there is no interview. The decision is issued on the basis of a written application.

²⁹⁴ Information provided by IGI-DAI, 11 March 2022.

²⁹⁵ Information provided by Border Police, 2 March 2022.

²⁹⁶ Article 83(1) Asylum Act.

²⁹⁷ Article 83(4) Asylum Act.

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

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

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

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

The asylum seeker has the possibility to challenge the decision issued by IGI-DAI within 7 days from the day the decision was communicated.²⁹⁸ The competent court to decide on the appeal is the territorially competent Regional Court.²⁹⁹ The provisions on submission of the appeal in the regular procedure apply accordingly.³⁰⁰

The court shall take a decision on the appeal within 5 days.³⁰¹ The decision has to be motivated and it is irrevocable. The court may decide: (a) to grant access to the territory and the regular procedure; or (b) to uphold the decision of IGI-DAI.³⁰²

If the court rejects the appeal, the General Inspectorate of the Romanian Border Police (IGPF) will take the necessary measures to remove the foreigner from the territory,³⁰³ as the foreigner subject to the border procedure must leave Romania as soon as the asylum procedure has finished.³⁰⁴ The border procedure is considered completed on the date when the decision of the court is delivered.

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

4.4. Legal assistance

Indicators: Border Procedure: Legal Assistance

☐ Same as regular procedure

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

- | | | | |
|-------------------------------------|---|---|-----------------------------|
| | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| ❖ Does free legal assistance cover: | <input checked="" type="checkbox"/> Representation in interview | | |
| | <input checked="" type="checkbox"/> Legal advice | | |

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?

- | | | | |
|------------------------------------|---|---|-----------------------------|
| | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| ❖ Does free legal assistance cover | <input type="checkbox"/> Representation in courts | | |
| | <input checked="" type="checkbox"/> Legal advice | | |

²⁹⁸ Article 85(1) Asylum Act.

²⁹⁹ Article 85(2) Asylum Act.

³⁰⁰ Ibid.

³⁰¹ Article 86(1) Asylum Act.

³⁰² Ibid.

³⁰³ Article 86(3) Asylum Act.

³⁰⁴ Article 17(1)(a) Asylum Act.

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

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

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

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, timelimits)

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

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

An asylum application is considered manifestly unfounded if the applicant:³⁰⁵

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

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

³⁰⁵ Article 76 Asylum Act.

Șomcuta Mare: There were many cases assessed in accelerated procedures in 2021. Asylum seekers in these cases were from Pakistan, Algeria, Tunisia, India, Bangladesh, Sri Lanka, Iran, Eritrea, Guinea, Egypt, Libya, but also from Afghanistan. Around 16 claims made by Afghan nationals had been assessed in an accelerated procedure as of August 2021. The JRS representative reported also that an Afghan asylum seeker was assessed in an accelerated procedure in August 2021, however he was granted subsidiary protection by the court. The JRS representative reported that she lodged more appeals against decisions issued in the accelerated procedure than in the regular procedure.

Timișoara: According to the director of the Regional Centre of Timișoara, 1500 asylum applications made by nationals of Morocco, Algeria, Tunisia, Pakistan, India and Afghanistan were assessed in an accelerated procedure in 2021 (the Afghan applications were from the beginning of 2021). This is a considerable increase compared to last year when 260-270 applications were reported.

The director of Timișoara centre said that in general they retain cases that have a high chance to be processed in accelerated procedure, whilst others are transferred to other centres, in order to avoid overcrowding. All the appeals submitted by them were dismissed.

Rădăuți: asylum applications made by nationals of Iraq, Bangladesh, Pakistan and Afghanistan (up until August 2021), Somalia (only men) were assessed in accelerated procedures. They invoked economic reasons, but also the insecurity in their country of origin.

Galați: the legal counsellor reported a few cases in 2021 (from Bangladesh, Pakistan, Iraq, India).

Bucharest: According to the JRS representative, most of the asylum applications assessed in the accelerated procedure were made by Algerian and Moroccan nationals in the first months of 2021. Also the majority of applications made by Afghan nationals at the beginning of 2021 were processed in an accelerated procedure. The director of Vasile Stănilă also confirmed that Afghan nationals were assessed in an accelerated procedure.

Giurgiu: According to the director of the centre 136 asylum claims were assessed under the accelerated procedure due to economic reasons being invoked by applicants from Algeria, Tunisia, Bangladesh, Pakistan.

The responsible authority for taking decisions at first instance on asylum applications in the accelerated procedure is IGI-DAI.

The accelerated procedure may be triggered during the regular procedure at the date when the case officer determines the existence of one of the grounds for applying an accelerated procedure.³⁰⁶ Article 79 of the Asylum Act provides that after the interview and the assessment of the reasons invoked in support of the asylum application, a decision should be issued within 3 days from the start of the accelerated procedure. Therefore, the trigger for the accelerated procedure may not coincide with the date of the personal interview. However, cases where the accelerated procedure is triggered after the interview are very rare.

IGI-DAI reported 1968 applications were assessed under the accelerated procedure in 2021, more than double compared to 2020 when 885 were reported, up from 315 in 2019, 167 in 2018 and 382 in 2017.³⁰⁷

³⁰⁶ Article 78 Asylum Act.

³⁰⁷ Information provided by IGI-DAI, 14 February 2018, 5 March 2019, 20 February 2020, 16 February 2021, 11 March 2022.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

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

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

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

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

The law provides for the appeal against a negative decision in the accelerated procedure, which must be submitted within 7 days from the notification of the decision. If the appeal is filed within the deadline, it has automatic suspensive effect.³⁰⁸

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

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

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

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

³⁰⁸ Article 80(1) Asylum Act.

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

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☒ Yes ☐ For certain categories ☐ No
 ❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

The law defines an applicant in need of special procedural guarantees as an applicant whose ability to benefit from the rights and fulfil his or her obligations is limited as a result of individual circumstances that may be due, *inter alia*, to age, sex, sexual orientation, gender identity, disability, serious illness, mental illness or disorder, or torture, rape or other serious forms of psychological, physical or sexual violence etc.³⁰⁹ This clause may be interpreted as a non-exhaustive list of persons which may be considered in need of special procedural guarantees.

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

1.1. Screening of vulnerability

Romanian law provides that the assessment of who belongs to a category of vulnerable people is done after an asylum application has been lodged, as soon as possible, by specialists of IGI, based on an individual assessment. In order to carry out the individual assessment and take appropriate measures to ensure the rights and guarantees provided by this law, the competent authorities shall provide special support at the request of IGI.³¹⁰

The Asylum Decree completes this provision by stating that the specialised personnel of IGI cooperates with UNHCR and relevant NGOs to identify asylum seekers who may be included in the category of vulnerable persons referred to in Article 5¹(2) of the Act.³¹¹ In order to assess the vulnerability of asylum seekers, specialists within IGI, in cooperation, where appropriate, with experts from other institutions and authorities competent in the field, make an assessment of the special needs of foreigners.³¹²

Depending on the specific needs of each asylum seeker identified as a vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance.³¹³ IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.³¹⁴

³⁰⁹ Article 2(1)(b¹) Asylum Act.

³¹⁰ Article 5¹(3) Asylum Act.

³¹¹ Article 5(1) Asylum Decree.

³¹² Article 5(2) Asylum Decree.

³¹³ Article 5(3) Asylum Decree.

³¹⁴ Article 5(4) Asylum Decree.

There are no further explanations in the law on how the individual assessment is carried out in practice or who are the specialists conducting the assessments. The law also does not include guidelines on how the cooperation between the IGI-DAI and UNHCR, on the one hand, and IGI-DAI and NGOs on the other hand, should work in practice in order to adequately identify such persons.

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

The director of the Regional Centre of **Timișoara** stated that the identification mechanism in place to systematically identify vulnerable asylum seekers consists of six annexes, of which three are mandatory: one filled out when the asylum application is registered; one filled out at the preliminary interview; and one filled at the personal interview. The other three annexes may be filled out, if necessary, by the medical, integration or legal department. The director of the Regional Centre of **Timișoara** mentioned that in 2021 they identified single women as vulnerable, victims of traffic accidents (asylum seekers who tried to cross the Hungarian border). No victims of human trafficking nor asylum seekers with psychological problems were identified.

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

In **Timișoara**, the JRS representative was not aware of the identification mechanism; but said that the integration officer requests statistics from the ICAR Foundation on the number of vulnerable asylum seekers identified. NGO representatives bring up the issues or the existence of vulnerable persons accommodated in the centre during the monthly coordination meetings with IGI-DAI. According to the JRS representative, the ICAR Foundation has a mechanism in place to identify victims of torture, i.e. specialised personnel drafts medical reports which are attached to the applicant's case file. The ICAR Foundation also has an interpreter when the assessment is made. The Timișoara centre had a psychologist from January 2020 until November 2021. According to the director of Timișoara the psychologist conducted psychological assessment interviews but not with all the asylum seekers. The interviews were conducted only with the persons she considered more vulnerable. The interviews were conducted with an interpreter. It was reported by the director that if the psychologist identifies a person as vulnerable, the person is not identified as such by IGI-DAI. Still, this is mentioned in the file and special attention is afforded to the respective asylum seeker. It is up to the case officer to mention this fact in the decision. While the case officer does not contest the vulnerability of the asylum seeker, he/she makes his/her own assessment of the vulnerability, according to the director. If the psychologist of ICAR Foundation identified a vulnerable person, the report was presented to the psychologist of IGI-DAI. In case the IGI-DAI psychologist identified a vulnerable person the psychologist of ICAR Foundation was notified. In 2021 1 or 2 reports were lodged with IGI-DAI by the ICAR Foundation and according to the director of the centre they are mentioned in the decision.

In **Bucharest**, the doctor and psychologist (who has been on medical leave since November 2020 and retired in August 2021) identifies vulnerable persons. When new asylum seekers were accommodated in the centre the psychologist spoke to them in order to identify persons in need of counselling. The counselling was conducted with the help of an interpreter paid by IGI-DAI or with the help of the AIDRom cultural facilitator. The psychologist discussed complex cases with the medical doctor and the

person was referred to the ICAR Foundation or a specialised medical doctor. The NGOs are informed by IGI-DAI if vulnerable persons are identified during their monthly coordination meetings.

In 2021, according to the director of Vasile Stolnicu centre unaccompanied minors, single women, pregnant women, elderly were identified as vulnerable. He also mentioned that a social assistant will soon start to work in the centre.

The director of **Giurgiu** centre reported that after the asylum seekers are accommodated in the centre the medical assistant conducts the medical check-up. The nurse asks the asylum seekers if they take any medication with the help of an interpreter or cultural facilitator or in English. Vulnerability may also be identified during the following stages of the procedure. A person suffering from depression was identified as such during the preliminary interview.

The legal counsellor in **Șomcuta Mare** said that IGI-DAI identifies most of the vulnerable asylum seekers. The vulnerabilities of the asylum seekers identified as such by IGI-DAI were visible: pregnant women, single parent families and unaccompanied children. One asylum seeker with bipolar disorder was identified and one asylum seeker who was abused. NGOs may also identify vulnerable asylum seekers during their counselling sessions. IGI-DAI had no psychologist in the centre in 2021. The position is to be filled in 2022.

According to the legal counsellor in **Galați**, all asylum seekers are screened, as the annexes to which the legal counsellor and the director of the Regional Centre of Timișoara referred to are filled in for every person lodging an asylum application. According to the legal counsellor in Galați there were asylum seekers with psychological problems, with sleep disorders and depression or in need of medication in the centre in 2021. There were also several asylum seekers affected by FGM. The psychologist was subsequently informed about these cases.

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

The legal counsellor in **Rădăuți** said that theoretically asylum seekers are screened but has no knowledge as to whether this is done in practice. According to the JRS representative, the psychologist from the ICAR Foundation identifies vulnerable asylum seekers in collaboration with IGI-DAI. It is worth mentioning that since November-December 2019, IGI-DAI has signed a contract with a psychologist. In January 2020 the psychologist started to work in the centre. Nonetheless, there were several victims of FGM asylum seekers from Somalia, who reported this to the medical staff of the centre and they were all identified as vulnerable asylum seekers. Visible vulnerabilities are identified by IGI-DAI. However, vulnerabilities which are not so visible are mainly identified by NGOs. It was reported that in the case of an asylum seeker victim of torture, with visible signs of beatings on his head, the medical record at IGI-DAI did not mention these facts. At the request of the NGO representative the medical file was amended.

The JRS representative in **Giurgiu** stated that the screening for vulnerability is done by the medical doctor and nurse of IGI-DAI. As of January/ February 2021 the centre had no medical doctor. Furthermore, vulnerable asylum seekers are identified as such during the preliminary and personal interview.

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

Between 1 January 2019 and 31 September 2019, IGI-DAI identified 213 asylum seekers as vulnerable according to article 5¹(2) of the Asylum Act.³¹⁵ Out of the total number of vulnerable asylum seekers, 63 were minors, 96 unaccompanied minors, 5 persons with disabilities, 1 pregnant woman, 36 single

³¹⁵ Information provided by IGI-DAI, 20 February 2020.

parent families and 4 persons experienced torture, rape or other serious forms of psychological, physical or sexual violence.

In 2021, IGI-DAI reported that it had neither statistics on the total number of vulnerable persons, nor statistics on categories of vulnerability. IGI-DAI only reported the total number of children who had applied for asylum, 2756 compared to 1,566 in 2020, out of whom 1551 were unaccompanied children, compared to 980 in 2020.³¹⁶

1.2. Age assessment of unaccompanied children

The Asylum Act foresees that an age assessment can be carried out in case there are doubts as to the alleged age of the applicant or if the unaccompanied minor cannot prove his or her age.³¹⁷ In these cases, before a decision is delivered at first instance, IGI-DAI requests forensic expertise to assess the applicant's age, with the prior written consent of the minor and his or her legal representative.³¹⁸

If the asylum seeker and/or the legal representative refuse to carry out the age assessment examination and no conclusive evidence regarding age is provided, the applicant shall be considered adult.³¹⁹ The person shall be deemed to have reached the age of 18 at the time of lodging the asylum application.³²⁰ However, if a psychologist of IGI-DAI determines, after an evaluation, that the grounds for refusal to carry out the age assessments examination are well-founded, the asylum seeker will not be considered an adult.³²¹

The law provides that the interpretation of the examination results shall be carried out taking into account the principle of the best interests of the child.³²²

The asylum application cannot be refused on the sole ground that the person did not consent to the age assessment and cannot prevent IGI-DAI from granting international protection to the respective asylum seeker.³²³

According to the law, IGI-DAI informs the legal representative and the asylum seeker unaccompanied minor in writing, in a language that the latter understands or is reasonably supposed to understand, about the possibility of carrying out an age assessment. This information should also include details of the medical examination methods, the possible consequences of the outcome of the examination and the effects of any refusal to undergo medical examination.³²⁴ The law also prescribes that the medical examination shall be carried out in full respect of the minor's dignity, using the least invasive methods allowing, as far as possible, a reliable result.³²⁵

The Asylum Act does not, however, prescribe for a method on how the age assessment should be carried out. When an age assessment is ordered by IGI-DAI, this is carried out by the National Network of Legal Medicine, which comprises of the National Institute of Legal Medicine "Mina Minovici" in **Bucharest** (NIML), 5 Institutes of Legal Medicine (IML) in **Iași, Cluj-Napoca, Craiova, Târgu Mureș** and **Timișoara**, 36 County Legal Medicine Services and 11 Forensic Offices.³²⁶

According to the Procedural Rules on expert assessments and findings and other forensic work for establishing the age of a person, the forensic findings and forensic expertise related to living persons, at

³¹⁶ Information provided by IGI-DAI, 16 February 2021, 11 March 2022.

³¹⁷ Article 41(2) Asylum Act.

³¹⁸ Ibid.

³¹⁹ Article 41(3) Asylum Act.

³²⁰ Article 41(4) Asylum Act.

³²¹ Article 41(5) Asylum Act.

³²² Article 41(6) Asylum Act.

³²³ Article 41(7) Asylum Act.

³²⁴ Article 16(4)(c) Asylum Act, in conjunction with Article 22 Asylum Decree.

³²⁵ Article 16(4¹) Asylum Act.

³²⁶ National Network of Legal Medicine, *Tipuri de expertize medico-legale*, available in Romanian at: <http://bit.ly/2ETRT4A>.

the request of the judicial bodies, consist of clinical and complementary radiological, haematological, serological, bacteriological, anthropological, dermatological, genetic exams and other.³²⁷ The Procedural Rules also prescribe that minors are examined in the presence of one of the parents, or their legal representative or, in their absence, in the presence of an adult family member of the same sex.³²⁸

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

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

According to available information, no requests for age assessments were made in 2021 in **Timișoara, Galați, Șomcuta Mare, Bucharest Rădăuți and Giurgiu**.

In 2021, IGI-DAI reported that no age assessments were requested.³²⁹

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

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

2.1. Adequate support during the interview

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

Romanian law provides an important safeguard in respect of procedural guarantees for vulnerable persons: in the administrative phase of the asylum procedure, documents drafted before the identification of special needs will be amended and/or supplemented only where it is necessary to adequately examine the asylum application.³³⁰

The law also foresees a specific monitoring obligation throughout the entire asylum procedure in line with Article 22(1) of the recast Reception Conditions Directive.³³¹

The interview of vulnerable asylum seekers shall be carried out by case officers specialised in this respect, taking into account the special situation of these persons.³³²

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

The director of **Giurgiu** centre stated that case officers adapt the interview based on age.

³²⁷ Article 26(a) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

³²⁸ Article 14(2) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

³²⁹ Information provided by IGI-DAI, 11 March 2022.

³³⁰ Article 5¹(5) Asylum Act.

³³¹ Article 5¹(6) Asylum Act. IGI-DAI monitors the situation of applicants with special needs upon reception and, together with the competent authorities, will ensure that assistance is given throughout the entire asylum procedure.

³³² Article 46 Asylum Act.

In **Rădăuți** vulnerable asylum seekers, chiefly unaccompanied minors, are treated the same way as the adults, with no special attention given to these cases during the interviews. It was reported by the JRS representative that the legal representative asked guiding questions during the interview in only one case.

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

Bucharest: the JRS representative mentioned the case of an abused woman; the case officer was also a woman and special attention was given to her during the interview.

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

2.2. Exemption from special procedures

According to Article 75(2) of the Asylum Act, applicants in need of special procedural guarantees or with **Special Reception Needs** maybe subjected to the **Accelerated Procedure** or the **Border Procedure** only if they represent a threat to national security or public order, due to their activity or membership to a certain group.³³³ In practice, according to IGI-DAI, unaccompanied children or persons in need of special procedural guarantees are not channelled to the accelerated procedure or the border procedure.³³⁴

In one case, however, a mother and her 2-year-old daughter who arrived in Romania on 6 September 2017 by boat were detained in the detention centre of **Arad** for the purpose of return. While in detention, they made an asylum application on 18 September 2017 and received a negative decision under the accelerated procedure, rejecting their claim as manifestly unfounded even though they are considered vulnerable persons under Romanian law. During the personal interview the mother stated that she wanted to get to any European country because she had heard that women there have more rights. The case officer chose not to ask any question regarding this statement and as a consequence did not explore a lead, which could have indicated past persecution. Furthermore, when the applicant said she had claimed asylum due to the problems she had with her husband's creditors, the case officer did not go into details. The same situation was noted when the mother declared that her in-laws threatened to take her daughter away from her. The asylum application was wrongfully assessed in an accelerated procedure, as the applicants were vulnerable persons and according to the Asylum Act vulnerable persons may only be subjected to an accelerated procedure if they represent a threat to national security or public order, due to their activity or membership to a certain group. The decision of IGI-DAI does not mention the applicants as being vulnerable persons.³³⁵ The asylum seekers were represented by a specialised attorney and the Regional Court of **Timișoara** granted them access to the regular procedure. They were granted refugee status.

No such cases were reported by the stakeholders interviewed in 2020, except in **Șomcuta Mare**.

In 2020, IGI-DAI **Șomcuta Mare** processed the asylum application of a single parent, a mother and her 6-year-old daughter, under the accelerated procedure, even though they are considered vulnerable persons under the Asylum Act, rejecting the asylum application as manifestly ill-founded. During the interview she was not asked about the reasons why she fled her country of origin together with her daughter. They conclude that she is an economic migrant, even though the applicant did not mention anything related to this. The asylum application was wrongfully assessed in an accelerated procedure, as the applicants were vulnerable persons and according to the Asylum Act vulnerable persons may only be subjected to an accelerated procedure if they represent a threat to national security or public

³³³ Articles 75(2) and 84 Asylum Act.

³³⁴ Information provided by IGI-DAI, 14 February 2018.

³³⁵ IGI-DAI, Decision No 2768610/h/MA.

order, due to their activity or membership to a certain group. The decision of IGI-DAI does not mention the applicants as being vulnerable persons.³³⁶ Their appeal was rejected by the regional court.

In 2021, no such cases were reported in any of the regional centres.

3. Use of medical reports

Indicators: Use of medical reports

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

Romanian legislation explicitly refers to the use of medical reports in asylum procedures. Article 49¹ of the Asylum Act provides that, when IGI-DAI deems it relevant for the assessment of an asylum application, the asylum seeker will be subject with his consent to medical examination concerning signs that might indicate past persecution or serious harm.³³⁷ The applicant's refusal to undergo such a medical examination shall not prevent IGI-DAI from taking a decision on the application for international protection.³³⁸

Medical examinations shall be carried out by the legal medicine institutions and the result shall be transmitted immediately to IGI-DAI. The coverage of the expenses is ensured by the Ministry of Internal Affairs through the budget allocated to IGI in this respect.³³⁹ If the medical examination is requested by IGI-DAI, it is therefore paid by IGI-DAI.

When no medical examination is carried out, IGI-DAI informs applicants that they may, on their own initiative and at their own cost, arrange for a medical examination concerning signs that might indicate past persecution or serious harm.³⁴⁰ The results of the medical examination are assessed by IGI-DAI in corroboration with other elements of the application for international protection.³⁴¹

Moreover, as a general rule, an applicant is not expected to provide written evidence but he or she is obliged to hand over to the authorities all the documents at his/her disposal which are relevant to his or her personal situation.³⁴² The Asylum Decree provides that the examination of the asylum application must be carried out individually and taking into account, *inter alia*, the relevant documents submitted by the applicant, including information on whether he or she has been subjected to persecution or the possibility of being persecuted or of being exposed to a risk of serious harm.³⁴³ This means that the asylum seeker may submit relevant documents with regard to past persecution but also with a view to the possible future persecution and serious harm.

In addition, the Asylum Act foresees that when there are serious doubts regarding the adult's asylum seeker legal capacity, specialised staff at IGI-DAI request a medical examination in this regard.³⁴⁴ If the medical examination reveals lack of legal capacity of the asylum seeker, the case officer in charge of the case, requests the appointment of a counsellor, under the same conditions as for Romanian citizens.³⁴⁵ The asylum procedure is suspended until the appointment with the counsellor. During this period of suspension, the applicant benefits from the rights set out in the law.³⁴⁶ The asylum application

³³⁶ IGI-DAI, Decision no 419955/h/HIA.

³³⁷ Article 49¹(1) Asylum Act.

³³⁸ Article 49¹(2) Asylum Act.

³³⁹ Article 49¹(3) Asylum Act.

³⁴⁰ Article 49¹(4) Asylum Act.

³⁴¹ Ibid.

³⁴² Article 19(c) Asylum Act.

³⁴³ Article 16(1)(b) Asylum Decree.

³⁴⁴ Article 42(1) Asylum Act.

³⁴⁵ Article 42(2) Asylum Act.

³⁴⁶ Article 42(3) Asylum Act.

of an asylum seeker who has no capacity is filed by the counsellor after his or her appointment.³⁴⁷ When conducting the personal interview, the counsellor will inform the asylum seeker of the purpose and possible consequences of this interview and will take the necessary steps to prepare the applicant for the interview.³⁴⁸ The interview of an asylum seeker without capacity shall be carried out in the presence of the counsellor.³⁴⁹

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

According to NGO personnel, in **Galați, Rădăuți, Bucharest** and **Timișoara** there were no cases in which a medical examination under Article 49¹ was requested by IGI-DAI in 2021, **except in Șomcuta Mare**, where IGI-DAI requested a medical examination, a counsellor was appointed, but the asylum seeker left the centre.

Bucharest: the attorney requested a medical examination for an asylum seeker at the regional court and it was granted. The asylum seeker was diagnosed with schizophrenia. The case was finalised in 2021, the asylum seeker was rejected by the last instance court, according to the JRS representative.

IGI-DAI accepts medico-legal expert opinions issued by officially recognised experts enrolled on the lists drawn up by the Ministry of Health and the Ministry of Justice, with the approval of the Board of Forensics.³⁵⁰ ICAR Foundation is the NGO that currently provides psycho-social services to asylum seekers, through the project “Health services accessible to the asylum seekers needs –SANSa” in partnership with AIDRom, funded through the AMIF national programme. According to the project description, psycho-social specialists identify vulnerable asylum seekers such as families in need, the elderly, persons with chronic illnesses, unaccompanied minors, victims of physical or psychological violence, and their needs. “Consequently, tests will be conducted to evaluate the general state of health of newly arrived asylum seekers, and general practitioners will provide medical examinations weekly”.³⁵¹ Through this project additional tests and medical investigations will be provided, as well as drug and non-drug treatments, as recommended by collaborating doctors, in order to accurately respond to the medical needs of asylum seekers in Romania and also specialised medical consultations.

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

³⁴⁷ Article 42(4) Asylum Act.

³⁴⁸ Article 42(5) Asylum Act.

³⁴⁹ Article 42(6) Asylum Act.

³⁵⁰ According to Article 34 Regulation implementing Government Ordinance 1/2000 approved by Government Decree 774/2000 as last amended by Government Decree 1204/2002, a medico-legal expert: (a) is a Romanian citizen and is fluent in Romanian; (b) has full legal capacity; (c) is a graduate of a medical university; (d) has a postgraduate specialisation courses in forensics; (e) practices this specialisation; (f) has not been convicted of an offence committed in circumstances related to his or her profession; and (g) is certified as an medico-legal expert at the Board of Forensics, available in Romanian at: <http://bit.ly/2B34lah>.

³⁵¹ ICAR Foundation, Health services for the improvement of reception and residence conditions for asylum seekers in Romania, available at: <http://bit.ly/2jtR4Xw>.

AIDRom during the asylum procedure. The project provides for blood test for 600 asylum seekers and 600 treatments and medical investigations.

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

In general, asylum seekers submit medical reports from the country of origin either to IGI-DAI or the court. Practice in 2021 in relation to these reports is reported as follows:

Timișoara: According to the Director of the Regional Centre of Timișoara, medical reports are read by the case officers, but they have to be corroborated by further evidence. One lawyer from Timișoara reported that they had seen no cases where medical reports drafted by the ICAR Foundation had been submitted to IGI-DAI or the court. The JRS representative was not aware if any psychological reports prepared by ICAR had been lodged at IGI-DAI. The director stated that 1 or 2 reports had been submitted by ICAR.

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

Galați: According to the legal counsellor, in order to be identified as vulnerable groups and to benefit from the social assistance IGI-DAI required a medical certificate from victims of FGM. It was emphasised by the legal counsellor that this had not been requested by the case officers. Medical reports are taken into account when assessing the credibility of the asylum seeker but have to be corroborated by other evidence. In practice, the psychological reports of ICAR Foundation were never taken into consideration. IGI-DAI and the court have never ordered a medical examination. In 2021 ICAR Foundation drafted a medical report on the basis of which asylum seekers were referred to a specialist.

Rădăuți: According to the stakeholder interviewed in 2021 there were no medical reports submitted by the ICAR Foundation to IGI-DAI or domestic courts. Decisions that were issued did not refer to any reports submitted by ICAR.

Bucharest: the JRS representative was not aware if medical reports drafted by the ICAR Foundation had been submitted to IGI-DAI or the court. The medical reports represent a notification about the state of the asylum seeker. The JRS representative was not aware of any such reports being mentioned in the decisions. The director of Vasile Stolnicu centre reported that ICAR had not submitted any reports in 2021.

Giurgiu: No medical reports prepared by ICAR Foundation were lodged in 2021 according to the director of the centre.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

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

The law provides for the appointment of a legal representative to an unaccompanied child.³⁵² IGI-DAI shall take the necessary steps, as soon as possible, to appoint a legal representative to assist the

³⁵² Articles 16 and 40 Asylum Act.

unaccompanied minor applying for asylum during the procedure, including during the admissibility and Dublin procedure as the case may be.³⁵³

The law prescribes it is not necessary to appoint a legal representative for the unaccompanied minor asylum seeker if he or she is to reach the age of the majority within 15 days of the filing of the asylum application.³⁵⁴

The law also foresees that IGI shall:

- Ensure that the legal representative is given the opportunity to inform the unaccompanied child about the significance and possible consequences of the personal interview and, as the case may be, about the preparation for the personal interview;
- Provide procedural legal information, including information on the withdrawing of international protection, both to the child and to his or her legal representative;
- Inform the legal representative and the unaccompanied child, in a language that the latter understands or is reasonably supposed to understand, about the possibility of carrying out an age assessment. This information should also include details of the medical examination methods, the possible consequences of its outcome and the consequences of any refusal to undergo this examination.³⁵⁵

Timing of appointments

According to the modified Article 1(4)(4), the National Refugee Office informs the legal representative and the unaccompanied minor asylum seeker, in a language that the latter knows, regarding the possibility of performing a medical examination to determine age. This information must also include information on the methods of medical examination, the possible consequences of the result of this examination and the effects of any refusal to undergo medical examination.

Neither the Asylum Act nor the Child Protection Act prescribes an exact time limit for the appointment of the legal representative. However, the Asylum Act prescribes that after registering the asylum claim of the unaccompanied child, IGI-DAI shall immediately notify the competent authority, the Directorate General for Social Assistance and Child Protection (DGASPC) territorially competent for the area in which the Regional Centres located, in order to start the appointment procedure of a legal representative. The Asylum Decree complements these provisions, stating that the officer in charge with the registration of the asylum claim of the unaccompanied child shall immediately notify the relevant DGASPC branch office in order to initiate the procedure of appointment of a legal representative.³⁵⁶ Once established, the legal representation of the unaccompanied asylum-seeking child continues to operate for as long as the child benefits from international protection in Romania.³⁵⁷

In the case of an unaccompanied child who has expressed the intention to apply for asylum, in writing or orally, he or she shall be registered as an asylum seeker and the asylum application will be lodged at the moment of appointment of the legal representative.³⁵⁸ The asylum procedure is suspended until the appointment of a legal representative. During the period of suspension of the asylum procedure, the child benefits from the rights provided by law.³⁵⁹

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

Timișoara: The notification is sent as soon as possible to DGASPC and the legal representative is appointed within 30 days, according to the director of the centre. The appointment order is received by IGI-DAI within 30 days. Without this order they cannot schedule the interview. DGASPC appoints the

³⁵³ Article 16(2) Asylum Act.

³⁵⁴ Article 16(3) Asylum Act.

³⁵⁵ Article 16(4) Asylum Act.

³⁵⁶ Article 21(3) Asylum Decree.

³⁵⁷ Article 40(1) Asylum Act.

³⁵⁸ Article 39(3) Asylum Act.

³⁵⁹ Article 40(2) Asylum Act.

same person, who is a legal counsellor, as the legal representative for all the unaccompanied minors. According to the JRS representative discussions were held with the DGASPC representatives to appoint more legal representatives as the number of unaccompanied minors increased considerably in 2021. DGASPC stated that this was not possible due to organizational restrictions.

Șomcuta Mare: IGI-DAI sends out the notification to DGASPC the second day after the unaccompanied child is accommodated in the Regional Centre. In general, the legal representative is appointed as soon as possible; no delays in its appointment have been reported. In 2021, a single legal representative was appointed for all the unaccompanied children (around 50- 60 children at the beginning of the year; in the last few months of 2021 the numbers decreased). NGO representatives prepare the appeals against negative decisions. JRS

Galați: IGI-DAI sends a notification to DGASPC for the appointment of a legal representative within a maximum of 3 days or even on the day of registration of the asylum claim of the unaccompanied child, if possible. In 2020, DGASPC appointed a new legal representative for unaccompanied children. She works at the Day Centre for Children in Situations of Risk of Separation from Parents within DGASPC. There is only one legal representative appointed for all the unaccompanied children (JRS registered 118 unaccompanied minors in 2020 and even more in 2021), with no other person to fulfil her duties in case she is on medical leave or holidays. The legal representative is a social assistant. In case the unaccompanied children leave the centre, a decision of withdrawal of the legal representative is issued and if they return to the centre the legal representative is appointed again. Unaccompanied children do not receive the state financial allowance for children. The legal representative only signs the necessary papers. Unaccompanied minors cannot contact her.

Rădăuți: IGI-DAI sends a notification to DGASPC for the appointment of a legal representative. The procedure of appointment is burdensome and delayed. There is only 1 legal representative appointed for unaccompanied children. The legal counsellor was not aware of his profession. During his holidays the legal representatives is substituted by another legal representative. According to the stakeholders interviewed, the legal representatives do not meet or discuss with the unaccompanied children before the interview. They only attend the interviews and do not draft legal submissions.

Giurgiu: DGASPC appoints a legal counsellor to act as legal representatives. According to the director of the centre he/she is appointed in 1 - 2 days of the minor arriving. According to JRS, several representatives are appointed: some of them are social assistants and some legal counsellors, some of them attend the interviews and others the court hearings. The JRS representative reported that the legal representatives do not communicate with the minors, even at the interview, they have no knowledge of English language, they only come to the centre when they are requested and sometimes, not even then. There was a period when they did not even know who the legal representative of the minors was. This occurred when DGASPC transferred this responsibility to other employees, because the previous ones did not have the required training. Appeals are lodged by the legal representatives. The director of the centre stated that they discuss the interview with the unaccompanied children before it takes place with the help of an interpreter.

Bucharest: The notification for the appointment of the legal representative is made on the day of their arrival at the centre and the legal representative is appointed within 2 weeks. No delays in the appointment of the legal representative were reported by the JRS representative. There is only one legal representative for all unaccompanied children. The director of Vasile Stolnicu also reported that there are no longer delays in appointments. However, he mentioned that there 2 legal representatives. In February 2020, UNHCR notified the Romanian Ombudsman on the situation of a number of asylum-seeking children under 16 years accommodated in Stolnicu Regional Centre because DGASPC District 2 Bucharest has no available places to take them over. Representatives of the Romanian Ombudsman conducted an investigation at the regional centre Stolnicu and DGASPC. Among other things it was found that out of 15 unaccompanied children accommodated in the centre only 9 had a legal representative appointed, as for the other 6 children DGASPC did not respond to IGI-DAI notifications. The Ombudsman stated that although there is no time limit prescribed by the law for the appointment of the legal representative for unaccompanied minors, the time frame in which DGASPC Sector 2 achieves

this, sometimes up to almost 3 weeks, is far too long. It was also noticed by the Ombudsman that the delays are caused by bureaucratic rules.³⁶⁰

According to the JRS representative in 2021, unaccompanied minors generally left the centre before they were taken over by DGASPC. Usually, their care is taken over by DGASPC in one-two weeks. Around 12 unaccompanied children's care was taken over and the children were accommodated at Ciresarii centre of DGASPC in 2021.

Qualifications and duties of the legal representative

According to the Child Protection Act the legal representative is either the parent or person designated, according to the law, to exercise the rights and to fulfil the parental obligations towards the child.³⁶¹ This means that the legal representative substitutes the absent parents.

According to the Asylum Act, the interests of a child are defended by his or her legal representative.³⁶² The unaccompanied child is immediately informed of the appointment of the legal representative. The legal representative performs his or her duties in accordance with the principle of the best interests of the child and has the necessary expertise for this purpose.³⁶³

The Child Protection Act provides that, in order to adequately support the interests of the child, DGASPC designates a person with legal or social assistance background from its staff or an authorised private body, to support the rights of the child and to participate, together with the child to the entire refugee status determination procedure.³⁶⁴

The legal representative has to be present at the interview with the unaccompanied child,³⁶⁵ and may intervene at the end of the interview.³⁶⁶ The legal representative informs the unaccompanied child asylum seeker of the purpose and possible consequences of the personal interview and takes the necessary steps to prepare the child for it.³⁶⁷ In the case of a child, the appeal is filed by his or her legal representative. A child who has reached the age of 16 may file the complaint in his or her own name.³⁶⁸

The legal representative also has to submit the request of enrolment of the unaccompanied child to preparatory courses.³⁶⁹

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

Galați: the legal representative considers that it is not her duty to draft requests for enrolment at school for unaccompanied children over 16 years of age. She does not speak with the children before the interview. Children do not know the legal representative; they cannot contact her directly; in order to contact his or her legal representative the child has to submit a written request at IGI-DAI and IGI-DAI notifies DGASPC. Appeals are drafted by NGOs. The legal representative only signs them and she needs to be notified a day before. Her tasks are limited to signing papers and being physically present at interviews.

³⁶⁰ Ombudsman, Recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/380EvZR>.

³⁶¹ Article 4(g) Child Protection Act.

³⁶² Article 39(1) Asylum Act.

³⁶³ Article 16(2^1) Asylum Act.

³⁶⁴ Article 77(3) Child Protection Act.

³⁶⁵ Article 47(1) Asylum Act.

³⁶⁶ Article 23(1) Asylum Decree.

³⁶⁷ Article 47(2) Asylum Act.

³⁶⁸ Articles 56(2) and 66(2) Asylum Act.

³⁶⁹ Article 6(4) Asylum Decree.

In **Somcuta Mare**, one legal representative was appointed. It was reported that he was not knowledgeable in Asylum Law. The legal representative did not hold discussions with the children before the interview but was in contact with the children through JRS. The state financial allowance for children is drafted by the NGO representatives and DGASPC. For new asylum-seeking unaccompanied minors no request for state financial allowance is made, because they leave the centre. In any case they receive the allowance retroactively.

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

In **Bucharest**, it was reported by the JRS representative that the unaccompanied minors, accommodated in Stolnicu Regional Centre, do not receive the state financial allowance for children because the legal representative does not apply for it as they do not consider it to be his/her duty. However, for the children accommodated in Gavroche Centre the legal representatives do apply for the financial allowance, but even here not for all the children. The JRS representative mentioned an unaccompanied child who was not receiving the state financial allowance. This is a persistent issue, which affects the social rights of unaccompanied children. In most of the cases, the unaccompanied children meet their legal representative at the preliminary interview. They do not discuss anything with them before the interviews. However, it was reported by the JRS representative that they have started to cooperate with NGOs. On the other hand, the director of Vasile Stolnicu centre said he was certain that they discussed issues with the minors and in general the appeals are drafted by the legal representatives.

In **Timișoara**, the legal representative only assists the unaccompanied child during the interviews; According to the director of Timișoara Regional Centre he does not have discussions with the children accommodated in the centre before the interviews, but he does with those accommodated at DGASPC. Further, the director mentioned that he appeals the negative decision of IGI-DAI and assists the child in the court proceedings but does not fulfil any other tasks. Conversely the JRS representative reported that the legal submissions and other requests are drafted by the legal counsellor of CNRR. She also took any necessary steps to identify the relatives of the minors. As in Somcuta Mare, for the new asylum-seeking unaccompanied minors no request for state financial allowance is made, because they leave the centre. The JRS representative said that she is not aware of any application submitted by an unaccompanied minor that reached the court.

According to Save the Children Romania, the legal representation of minors raises many issues. Although legal representatives are appointed shortly after the arrival of unaccompanied minors, most minors are not aware who their legal representatives are; they cannot contact them directly and they are not assisted in accessing the various social benefits and rights. The activities of legal representatives are limited to assisting the children at interviews and signing documents related to the procedure. There are also communication impairments between legal representatives and unaccompanied children caused not only by the language barriers but also by the lack of involvement of legal representatives. Given that there are no clear provision regarding the role and duties of legal representatives, there have been cases in which legal representatives are managing the cases differently.

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

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

appointment, duties and especially the scope of the duties of the legal representative of unaccompanied minors.³⁷⁰

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

The issue of the inefficient collaboration with DGASPC in the protection of unaccompanied children was discussed during a meeting between the Ombudsman's representatives and IGI. IGI stated that they are drafting a Protocol that will establish different points regarding the collaboration of the Regional Centres with DGASPC in order to remedy this situation.³⁷¹

E. Subsequent applications

Indicators: Subsequent Applications

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

A subsequent application is considered as an application following a final termination or rejection decision on the former application, subsequent application or in case of a decision on cessation or withdrawal of the international protection granted.³⁷² New elements or circumstances have to be submitted in order for a subsequent application to be admissible.³⁷³

Therefore, the Asylum Act prescribes that access to a new asylum procedure shall be granted if one of the following conditions is met:³⁷⁴

- The applicant relies on new elements which could not be presented for reasons beyond his or her control and which occurred during or after the completion of the previous procedure. The applicant is obliged to prove the existence of new elements invoked and impossibility of their submission until the date of application for access to a new asylum procedure. The new elements invoked cannot be the result of actions brought by the applicant in order to obtain a form of international protection from the Romanian State;
- From the date of completion of the previous asylum procedure, there have been political, social, military or legislative changes in the country of origin, likely to have serious consequences for the applicant.

For persons whose applications are considered to have been tacitly withdrawn, i.e. persons who have left Romania and moved on to another EU Member State, and the asylum procedure has been terminated, the asylum procedure may be continued if the person makes an asylum claim within 9 months of the decision to close the file, issued in case of implicit withdrawal.³⁷⁵ If the time limit has expired, the asylum claim is considered a subsequent application.

³⁷⁰ Ombudsman, Special Report on Respecting the Children's Rights in Romania, 2019, 198, available in Romanian at: <https://bit.ly/362ZDef>.

³⁷¹ Ombudsman, *Annual Report 2018*, 601-602.

³⁷² Article 88(1) b) Asylum Act.

³⁷³ Article 88(2)(a)-(b) Asylum Act.

³⁷⁴ Ibid.

³⁷⁵ Article 94¹(1)(b) Asylum Act.

If the persons have left the territory of the EU or have been removed to a third country or the country of origin, as set out in Articles 19(2) and (3) of the Dublin Regulation, and their asylum procedure has been terminated by a decision closing the file, a new claim lodged in Romania is not deemed a subsequent application.³⁷⁶

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

The subsequent application should be submitted personally, with the exception of cases where the foreigner is in detention, is in pre-trial detention or serving a sentence.³⁷⁷

When a subsequent application is registered, IGI-DAI shall inform the IGI-Migration Directorate regarding the granting to the applicant of the permission to remain on the Romanian territory.³⁷⁸ The law foresees that if the subsequent application is personally submitted by the foreigner and the previous asylum application is finalised, the foreigner is allowed to remain on the territory of Romania for a period of 5 days from the date of the registration of the application for granting access to a new asylum procedure.³⁷⁹ The law does not impose a time limit on submitting a subsequent application or explicit limitation on the number of asylum applications that may be lodged. However, the right to remain does not apply in the case of a second subsequent claim, thus the applicant is not granted access to territory.³⁸⁰ The same applies where the documents from the file show that the application is made abusively in order to prevent the removal of the foreigner from the territory of Romania.³⁸¹

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

In these cases, a decision is issued as soon as possible justifying the non-granting of the permission to remain on the Romanian territory. This decision shall be communicated directly to the applicant, who is previously informed of the date on which he or she must present him or herself at IGI-DAI or by post.³⁸² This decision may be appealed within 2 days from the day it is communicated.³⁸³ The competent court is the Regional Court territorially competent for the area in which IGI-DAI issued the decision.³⁸⁴

The assessment of the subsequent application is done solely on the basis of a written submission. The law does not provide for a preliminary interview. IGI-DAI delivers a decision within 5 days from the date when the application was registered, on the basis of the reasoned application, the documentation submitted by the foreigner and the elements existing in his or her personal file.³⁸⁵ The case officer may issue a decision by which: (a) grants access to a new asylum procedure; or (b) dismisses the application as inadmissible.

The decision is communicated to the foreigner immediately, in writing, by a direct communication of the IGI-DAI's representatives or by post, to the last declared residence thereof. The decision communicated shall be accompanied by written information in Romanian language and in a language that the applicant understands or is reasonably supposed to understand, of the admission or rejection solution of his or

³⁷⁶ Article 94¹(1)(a) Asylum Act.

³⁷⁷ Article 88(1)(a) and (3) Asylum Act.

³⁷⁸ Article 40(1) Asylum Decree.

³⁷⁹ Article 89(1) Asylum Act.

³⁸⁰ Article 89(2)(b) Asylum Act. A foreigner submits a subsequent application after a previous application of this type has been rejected as inadmissible or if, after granting access to a new asylum procedure, his or her application has been rejected as manifestly unfounded.

³⁸¹ Article 89(2)(a) Asylum Act.

³⁸² Article 89(3) Asylum Act.

³⁸³ Article 89(4) Asylum Act.

³⁸⁴ Article 89(5) Asylum Act.

³⁸⁵ Article 91(1) Asylum Act.

her application and the conditions under which the decision can be challenged.³⁸⁶ The decision may also be communicated to the lawyer or representative of the NGO who legally represents the applicant, to the extent that the applicant has expressly stated this.³⁸⁷

Rejected subsequent applications may be appealed before the territorially competent Regional Court within 10 days of communication.³⁸⁸ Judicial review of rejected subsequent applications has no automatic suspensive effect.³⁸⁹ The foreigner may ask for permission to stay on the territory of Romania. The application for permission to remain on the territory of Romania is solved as a matter of urgency by the competent court, which shall pronounce a final decision, in the council chamber, with the parties being summoned.³⁹⁰ In this case the foreigner has the right to remain on the territory of Romania until the court has ruled on this request.³⁹¹ The permission to remain on the territory of Romania shall be granted until the moment of the court's pronouncement on the appeal.³⁹²

Under Article 94(1) of the Asylum Act the court assesses the appeal without hearing the foreigner, within 30 days, and delivers a reasoned decision, by which it either (a) rejects the complaint, or (b) admits the complaint, granting access to a new asylum procedure and ordering IGI-DAI to examine the application in the regular procedure. The decision of the court is irrevocable.³⁹³

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

Timișoara: The director of the Regional Centre Timișoara stated that there were 66 applications, of which 27 were admitted. These were submitted by Afghan and Syrian nationals. The JRS representative also mentioned that all the subsequent applications made by Afghan nationals in Arad were admitted.

Giurgiu: the director of the regional centre stated that only seven subsequent applications were made in 2021, of which four were rejected and three admitted.

Șomcuta Mare: 6 applications, of which two were made by unaccompanied children, were lodged at Galați but were assessed in Șomcuta Mare and all dismissed. Appeals were still pending at the time of the interview.

Bucharest: According to the JRS representative all the applications made by Afghan nationals were admitted. The director of the centre stated that around 150 applications made from Otopeni detention centre were submitted in 2021. If the applicants were Dublin returnees and no interview was conducted before they left the country, they were granted access to a new asylum procedure. He also mentioned that there are many cases where no interview was carried out.

Galați: 2 subsequent applications were made by Afghan nationals and were admitted.

Rădăuți: 1 subsequent application was made in 2021 and it was dismissed.

³⁸⁶ Article 91(3) Asylum Act.
³⁸⁷ Article 91(4) Asylum Act.
³⁸⁸ Article 93(1) and (2) Asylum Act.
³⁸⁹ Article 93(3) Asylum Act.
³⁹⁰ Article 93(4) Asylum Act.
³⁹¹ Article 93(5) Asylum Act.
³⁹² Article 93(6) Asylum Act.
³⁹³ Article 94(2) Asylum Act.

A total of 105³⁹⁴ subsequent applications were lodged in 2020 down from 165 in 2019, down from 230 in 2018.

In 2021, 223 subsequent applications were made.³⁹⁵

Subsequent applications: 2021	
Country of origin	Number applications
Afghanistan	95
Syria	25
Iraq	18
Pakistan	18
Cameroon	13

Source : IGI-DAI.

F. The safe country concepts

Indicators: Safe Country Concepts

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

1. Safe country of origin

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

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

When designating safe countries of origin, the government has to consider information sources from other Member States, EASO, UNHCR, the Council of Europe and other international organisations.³⁹⁶ IGI shall periodically review the situation in third countries designated as safe countries of origin and, on the basis of the resulting information, update the list.³⁹⁷ The asylum application of a person who comes from a safe country of origin is rejected as manifestly unfounded, unless the factual situation or the evidence presented by the applicant shows the existence of a well-founded fear of

³⁹⁴ Information provided by IGI-DAI, 16 February 2021.

³⁹⁵ Information provided by IGI-DAI, 11 March 2022.

³⁹⁶ Article 77(2) Asylum Act.

³⁹⁷ Article 77(3) Asylum Act.

persecution or a risk of serious harm. In this case, the applicant shall be given access to the regular procedure.³⁹⁸

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.³⁹⁹

No applications were rejected on the basis of the safe country of origin concept in 2021.⁴⁰⁰

2. Safe third country

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

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

The concept of European safe third country may be applied only if the applicant has attempted to enter or has illegally entered Romania from the referring country and this country agreed to his or her readmission.⁴⁰¹

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

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

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

Although the law prescribes that a list of safe third countries shall be published in the Official Gazette,⁴⁰² there is no such list available therein. NGO practitioners are also unaware of the existence of such a list. The Director of the Regional Centre of Timișoara thought that a list is published by the Ministry of Foreign Affairs. UNHCR stated that there is no list of safe third countries and the concept has not been applied in practice according to information available to them.

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

³⁹⁸ Article 77(4) Asylum Act.

³⁹⁹ Information provided by IGI-DAI, 20 February 2020.

⁴⁰⁰ Information provided by IGI-DAI, 16 February 2021.

⁴⁰¹ Article 96(2) Asylum Act.

⁴⁰² Article 97² Asylum Act.

When claims are rejected as inadmissible on the ground of European safe third country, safe third country or first country of asylum, IGI-DAI must inform the authorities in the respective country in the language of the safe third country, stating that the claim of the applicant was not examined on the merits.⁴⁰³

One application was dismissed on the basis of the safe third country concept in 2018.⁴⁰⁴ In 2019, no applications were dismissed on the basis of the safe third country concept.⁴⁰⁵ The same was reported in 2020.⁴⁰⁶

3. First country of asylum

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

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

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

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

In 2019, 3 applications (2 coming from Germany and 1 from the Netherlands) were dismissed on the basis of the first country of asylum concept.⁴⁰⁷

In 2021, 17 applications were dismissed on the basis of the first country of asylum concept.⁴⁰⁸

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☒ Yes ☐ With difficulty ☐ No

❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No

1.1. General information on rights, obligations and the procedure

The Asylum Act provides that the asylum seeker has the right to be informed, at the time of submission of the asylum application or later, within 15 days from the filing of the application, in a language which

⁴⁰³ Article 97^1(4) Asylum Act.

⁴⁰⁴ Information provided by IGI-DAI, 5 March 2019.

⁴⁰⁵ Information provided by IGI-DAI, 20 February 2020.

⁴⁰⁶ Information provided by IGI-DAI, 16 February 2021.

⁴⁰⁷ Information provided by IGI-DAI, 20 February 2020.

⁴⁰⁸ Information provided by IGI-DAI, 11 March 2022.

he or she understands or is reasonably supposed to understand, regarding the procedure, his or her rights and obligations during the asylum procedure, the consequences of non-compliance with these obligations and the lack of cooperation with the competent authorities, as well as the consequences of an explicit or implicit withdrawal of the asylum application.⁴⁰⁹

Competent officials are also obliged to inform asylum seekers about how they can contact non-governmental organisations and UNHCR, and how to obtain legal assistance and representation.⁴¹⁰

The information has to be provided in writing by the official responsible for receiving the asylum application, according to a template established by order of the Director-General of IGI.⁴¹¹ Where necessary for the proper understanding of the information, this may also be communicated orally at the preliminary interview.⁴¹²

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

Timișoara: The director of the centre said that asylum seekers are informed about the house rules (ROI) upon their arrival in the centre by the officers at the access point of the regional centre. IGI-DAI has leaflets in 6-7 languages and posters with their rights and obligations are displayed in the building where they are accommodated, according to the director of the centre. However, the Ombudsman reported, no information on their rights and obligations or ROI were displayed in the accommodation rooms visited.⁴¹³ The director of the centre stated that the day after the asylum seekers' arrival in centre, they are gathered in groups and the integration officer provides them general information on their rights and obligations with the help of an interpreter. NGOs are also invited to participate at these meetings. In general, these group meetings were held everytime a new group arrived in the centre. As regards the information for the unaccompanied children this is done in the same way as for adults and there are no adapted leaflets. The JRS representative confirmed that in 2021 IGI-DAI used to organise group information sessions once a week with the psychologist, medical staff, integration officer, Urdu/Pashto interpreter and AIDRom cultural facilitator and all the NGOs. However, since September/November 2021 no information sessions have been organized. During the sessions asylum seekers were informed about their rights and obligations and ROI and no information was provided on the asylum procedure, according to the JRS representative.

With regard to children, the JRS representative reported that she has not seen any difference in interactions with IGI-DAI compared to adults. The director stated that children receive the same leaflets as the adult asylum seekers. This was still the same in 2020 and 2021.

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

Șomcuta Mare: information sessions are held by the director of the regional centre when asylum seekers are transferred from Timișoara, with the help of an interpreter or the cultural facilitator of AIDRom, according to the JRS representative. Subsequently, collective information meetings are held by the NGO representatives. 2020 was a challenging year due to the influx of asylum seekers and 2021 was more difficult due to the high number of arrivals. Unaccompanied children are counselled in the same manner as the adults, but more attention is afforded to them.

Rădăuți: no collective information sessions were held in 2020 or in 2021, according to a stakeholder. The JRS representative reported that in 2021 only one or two group sessions were held by IGI-DAI. In previous years, once asylum seekers had arrived at the centre, they received leaflets on their rights and obligations together with the house rules (ROI). This was the case for a period, but not anymore. The

⁴⁰⁹ Article 17(1)(f) Asylum Act.

⁴¹⁰ Article 2(2) Asylum Decree.

⁴¹¹ Article 2(1) Asylum Decree.

⁴¹² Ibid.

⁴¹³ Romanian Ombudsman, Report of the visit in the Regional Centre Timisoara, of 25 June 2021, p.6, available in Romanian at: <https://bit.ly/3L2ylcS>

rules of the centre and their rights and obligations are published in the hallways, in Arabic, Pashto and Somali languages. In their files there are signed papers, proving that the asylum seekers received written information on their rights and obligations. Subsequently, the information about asylum seekers' rights and obligations and the procedure is provided by the NGOs individually.

Galați: when asylum seekers are accommodated in the centre there is no information provision. Information is provided 24-48h after their arrival in the centre. Group information sessions with around 40 asylum seekers were held in 2021. IGI-DAI provided the information in Romanian and the NGO representatives or AIDRom cultural facilitators, when present, translated. General information on their rights, obligations, ROI, Dublin Procedure, services provided by each NGO and the possibility of anti-COVID vaccination was provided during these sessions. With the asylum seekers evacuated by Romania from Afghanistan information sessions were held in smaller groups.

Bucharest: in 2021 in general asylum seekers received information on ROI from the officers at the access point of the regional centre. Group information sessions were held before asylum seekers were moved from Vasile Stolnicu centre to Tudor Gociu centre or when Dublin returnees were accommodated in the centre. The information was provided in English or with the help of the cultural facilitators of AIDRom, who speak Arabic. For Dublin returnees, information on ROI was also provided by the access point of the regional centre. The JRS representative was unaware if the sessions were also held for the asylum seekers transferred from Timisoara. NGO representatives organised separate information sessions. The director of Vasile Stolnicu centre reported that upon their arrival, asylum seekers receive written information in their language or in a language that it is reasonably believed they know on their rights and obligations and the asylum procedure. Unaccompanied minors were informed in the same way as the adults.

JRS Romania developed a platform on the asylum procedure in Romania, with general and specific information on seeking asylum in Romania, the different procedures (e.g. Dublin, border procedure, etc.) and information for minors. The platform is available in several languages: English, French, Arabic, Pashtu and Kurdish. In 2020 information will be added in Turkish, Farsi and Somali.⁴¹⁴ Practitioners mainly use the platform, but it might also be helpful for literate asylum seekers during the interview and have free time.

NGOs provide information through counselling sessions, posters and sometimes leaflets. However, due to the fact that the asylum seekers in most of the cases are not reading the leaflets, NGOs are focusing on individual or group counselling.

Giurgiu: According to the director of the centre, upon their arrival in the centre, asylum seekers received written information with their rights and obligations and information on the asylum procedure. Afterwards they were counselled by the NGOs and medical nurse on the possibility of anti-COVID vaccinations. During the warmer seasons weekly group information sessions were held outside with the cultural facilitators from AIDRom, medical nurse and psychologist. Information on anti-COVID vaccinations, the asylum procedure and their rights and obligations were provided. During the winter information sessions were not held so often; asylum seekers were gathered in the hallway. Unaccompanied asylum-seeking children were informed in the same way as adults, but in more detail.

According to the JRS representative, in 2021, group and individual information was provided by IGI and NGOs, with the assistance of cultural facilitators. Asylum seekers were regularly informed about their obligation to comply with pandemic measures, as well as, on their rights and obligations and hygienic materials were distributed (antibacterial gels/soaps, masks, disinfectants). When asylum seekers arrived from Timisoara, the director, integration officer, logistician and cultural facilitators were present. She mentioned that great emphasis was given to vaccination and cleaning during these sessions.

The majority of respondents pointed out that the written information they receive from IGI-DAI or NGOs is not very effective as most asylum seekers are illiterate or have difficulty reading through information

⁴¹⁴ Asylum Procedure Platform, available at: <https://bit.ly/3d2dZQK>.

which is lengthy, complex and, consequently, difficult to comprehend. Thus, asylum seekers prefer face-to-face counseling with an NGO representative in order to understand the steps of the asylum procedure. The information leaflets are not adapted to the asylum seekers' level of education or knowledge. Usually, the leaflets reiterate the provisions of the Asylum Act. In Somcuta Mare, it was reported that the phone numbers mentioned on the leaflets are used.

In practice, respondents reported that there is no specifically tailored information provided to unaccompanied asylum-seeking children. In most of the cases they are informed in the same way as adults, while they are also informed that they will have a legal representative. In general, unaccompanied children do not understand what this means. UNHCR also stated that there is a lack of accessible and adequate information materials for asylum-seeking children. The JRS representative in Radauti reported that Save the Children representatives organised information sessions with visual materials for the children on their rights and obligations.

1.2 Information on the Dublin procedure

IGI-DAI has the obligation to inform the asylum seeker of the content of the common leaflet drawn up by the European Commission.⁴¹⁵ The competent officer of IGI-DAI communicates the information contained in the common leaflet, drawn up according to Article 4(3) of the Dublin Regulation.⁴¹⁶ If the applicant is an unaccompanied minor, the designated officer shall provide him or her, in a manner appropriate to his or her level of understanding, with the information contained in the special information leaflet drawn up by the European Commission, supplemented with additional specific information for Romania.

Bucharest: basic information is provided on the Dublin Procedure after the preliminary interview, if there are indications that the asylum seeker is subject to the Dublin Procedure. Afterwards they receive the general leaflet and written information on the country to which a Dublin request was addressed.

Giurgiu: asylum seekers are informed in writing when they make the asylum application, and when the procedure is suspended, according to the director of the centre. If the asylum procedure is suspended due to a hit, they are notified in writing that the case has been suspended, whilst the Dublin procedure is carried out.

Somcuta Mare: Asylum seekers are informed at the beginning of the asylum procedure about the Dublin procedure and what it entails, by NGOs. Generally, information is provided when a specific issue arises. Information is provided orally. Asylum seekers are informed about the Member State to which a request was sent.

Rădăuți: Asylum seekers receive the common leaflet and oral information that the Dublin procedure was triggered and the Member State to which a request was sent. According to the JRS representative information on the Dublin procedure is mainly provided by the NGOs.

Galați: The JRS representative reported that the majority of the asylum seekers are well informed about the Dublin procedure. General information is provided during the collective information sessions. When the asylum procedure is suspended they receive the common leaflet. Asylum seekers subject to the Dublin procedure are provided with the common brochure. In addition, information about the Dublin procedure is also provided by the NGOs. Where family unity criteria are applicable, asylum seekers are informed by IGI-DAI of the documents they have to present. If they require more information, they are referred to NGOs. Unaccompanied children are informed in the same manner as the adults.

In practice, asylum seekers in most of the Regional Centres are informed orally and in writing of the fact that the Dublin procedure has started, and they are handed the common leaflet. The information is provided with the help of an interpreter in all the centres. In **Bucharest** asylum seekers are informed about the country to which a Dublin request was addressed in this regard. The JRS representative in

⁴¹⁵ Article 118 Asylum Act.

⁴¹⁶ Article 118(1) Asylum Act.

Bucharest stated that for this kind of procedure IGI-DAI usually use an interpreter, as the cultural facilitators are present in the centre everyday.

In **Timișoara**, upon their arrival, when they are fingerprinted asylum seekers receive leaflets, according to the director of the centre. If after checking the fingerprints in Eurodac, IGI-DAI finds a match with the data introduced by another Member State, the asylum seeker is informed orally that he or she is subject to the Dublin procedure. IGI-DAI mentions which country has been contacted. They also receive leaflets, which according to the Director of the centre often end up in the bin. They are also informed by the NGOs and receive leaflets from CNRR. As regards the unaccompanied children IGI-DAI always takes the responsibility to assess their asylum claim, according to the director of the Regional Centre Timișoara. For minors there is no special information leaflet, the director said. In 2021, the majority of asylum seekers who were subject to the Dublin procedure left the country, according to the director of the centre. The JRS representative stated that leaflets on the Dublin procedure are provided by NGOs; she had not come across a Dublin leaflet provided by IGI-DAI. Asylum seekers turn to NGOs for more information on the procedure.

In **Șomcuta Mare**, asylum seekers are also informed orally of the beginning of the Dublin procedure and the State contacted. In **Rădăuți**, during the preliminary interview IGI-DAI informs asylum seekers in writing that they are subject to the Dublin procedure, provides them the common leaflet, and specifies the Member State which has been contacted, with the assistance of an interpreter. In **Giurgiu**, they are also informed orally of the fact that a Dublin procedure has been initiated, while the authorities also mention the country contacted. In **Galați**, however, asylum seekers are informed orally and in writing about the time frame of the procedure, the possibility to appeal the decision and about the country what has been contacted.

If the applicant is an unaccompanied child, the appointed official shall apprise him or her, in a manner appropriate to his or her level of understanding, of the information contained in the special information brochure drawn up by the European Commission according to Article 4(3) of the Dublin Regulation, supplemented with additional specific information for Romania. The legal representative of the unaccompanied child confirms by signature that the information has been provided.⁴¹⁷

Șomcuta Mare: The JRS representative reported that there were no unaccompanied minors under the Dublin procedure in 2021. The JRS representative was not aware if he was informed about the Dublin procedure or how was he informed.

Rădăuți: The information is provided in the presence of the legal representative, because he has to sign the notification. The legal representative does not explain to the child what the procedure entails. The case officer explains some of the aspects of the procedure with the help of an interpreter. The legal representative is only present when this information is provided, without giving any other information. Subsequently, the unaccompanied minor turns to the legal counsellor for further information. At the preliminary interview, the unaccompanied children are informed about the fact that they will be transferred to the responsible Member State.

⁴¹⁷ Article 118(2) Asylum Act.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

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

According to the Asylum Act, asylum seekers located at the border or in detention centres have the right to be counselled and assisted by a representative from non-governmental Romanian or foreign organisations and to contact and receive assistance from an official of UNHCR at any stage of the asylum procedure.

During the state of alert most of the NGO representatives were present in the centres every day. Some of the NGOs also adopted one or two days of teleworking days per week.

Some of the NGOs shortened their schedule in the regional centre, but they were present everyday.

In practice, asylum seekers located at the border have difficulties in accessing NGO services and assistance. Access depends on whether the Border Police or IGI-DAI inform the NGOs of the presence of asylum seekers at the border-crossing check points. In relation to asylum seekers detained in detention centres, access to such services is not systematically ensured as NGOs, namely CNRR, do not have regular office hours in these centres.

In cases of asylum seekers accommodated outside the reception centres, access to NGOs is determined by the information, which was provided to them by the authorities and NGOs, if they exchanged contact details.

UNHCR Romania is contacted by the asylum seekers accommodated in one of the Regional Centres through their implementing partner JRS or directly via email, phone or walk-in interviews at its office.

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
❖ If yes, specify which: Syria.
2. Are applications from specific nationalities considered manifestly unfounded?⁴¹⁸ ☐ Yes ☒ No
❖ If yes, specify which:

Romania mainly awards refugee status and subsidiary protection to applicants from countries such as **Syria** and **Iraq**, who made up for the majority of positive decisions in 2017. However, the trend with regard to Iraqi nationals changed during 2017 and IGI-DAI also started rejecting applicants from this country. The recognition rate for Iraqi nationals was 66.4% in 2017, dropped to 35% in 2018 and in 2019 dropped further to 10,9%. In **Timișoara** it was reported that all Syrian nationals are granted a form of protection. The legal counsellor from Șomcuta Mare echoed the same. In all of the regional centres, except Bucharest, Afghan nationals were processed under the accelerated procedure until August 2021.

⁴¹⁸ Whether under the “safe country of origin” concept or otherwise.

In 2021, 136 of the Afghan nationals evacuated by Romania from Afghanistan were accommodated in Galati. The JRS noticed that this group benefited from extra attention. All of them were granted refugee status within one month of their arrival.

Reception Conditions

Short overview of the reception system

Asylum seekers who do not have means of subsistence are entitled to reception conditions from the moment they have expressed their intention to apply for asylum until the completion of the asylum procedure and the expiry of their right to stay in Romania. Most asylum seekers are accommodated in Regional Centres for Accommodation and Procedures for Asylum Seekers, managed by IGI-DAI. The management of reception is decentralised to the level of counties. Asylum seekers may also request to stay in private accommodation, but at their own cost.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

Does the law make material reception conditions 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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
Border procedure	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input 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

Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

Asylum seekers who do not have means of subsistence are entitled to reception conditions from the moment they have expressed their intention to apply for asylum until the completion of the asylum procedure and the expiry of their right to stay in Romania.⁴¹⁹ Asylum seekers have the right to stay in Romania until the expiration of a period of 15 days after the end of the asylum procedure, except when the asylum application was rejected after being examined in the accelerated procedure or in the border procedure, in this case the person is ordered to leave Romania as soon as the asylum procedure has been completed. Accelerated and border procedures are concluded from the date of delivery of the court's decision if an appeal has been lodged, or from the expiration of the deadline for filing the appeal.⁴²⁰ In the Dublin procedure the right to remain on the territory of Romania ceases on the date of the transfer.⁴²¹

Subsequent applicants do not have the right to material reception conditions.⁴²²

At the time of submission of an application for material reception conditions and whenever necessary, IGI-DAI shall analyse the provision of material reception conditions on a case-by-case basis, taking into account the material and financial means possessed by the applicant.⁴²³ If IGI-DAI finds that the applicant has the means to ensure an adequate standard of living and can contribute to the costs of

⁴¹⁹ Article 56(6) Asylum Decree.

⁴²⁰ Article 17(7) Asylum Act.

⁴²¹ Article 17(1)(a) Asylum Act.

⁴²² Article 88[^]1 Asylum Act.

⁴²³ Article 55(8) Asylum Decree.

material reception conditions and health care, it may suspend the granting of material reception conditions and may require reimbursement and impose future contribution to those costs.⁴²⁴

Although, according to the law, applicants are entitled to reception conditions from the moment they express the intention to seek asylum, in practice they are not accommodated in the reception centres until the asylum claim is registered.

Measures imposed during the pandemic

In 2021, restrictions were imposed when the city where the regional centres are located was facing high rates of COVID-19 infections, more specifically 3 infections per 1000 inhabitants (called red scenario).

Timișoara: during the red scenario asylum seekers were allowed to exit the regional centre only 4h/day during 12-16, according to the JRS representative. Conversely, the director mentioned that exit was restricted between 10-18. During the rest of the year, when the number of COVID-19 infections was not high the entry and exit of asylum seekers was not restricted.

Asylum seekers and beneficiaries of international protection had the possibility to get vaccinated against COVID-19 in the regional centre. However, only 22 persons got vaccinated, according to the JRS representative.

Masks and disinfectant products were provided by UNHCR.

In 2021 asylum seekers continued to be quarantined at the dorm of 'Dimitrie Leonida' Technological High School. The dorm has 150 places for accommodation. Each room has a bathroom. The conditions in the dorm were reported to be good. However, the LOGS representative reported that there was no medical staff in the dorm and for any medical issue they were calling the ambulance.

As of April 2021, asylum seekers were also quarantined in a building administered by the Timis county council that has a capacity of 45 places of accommodation. The city hall of Timisoara provided one meal per day of 16 RON/3,2 EUR, for those placed in quarantine, according to LOGS representative. The second meal was provided by LOGS in the first half of 2021. LOGS also offered them hygienic products.

During the quarantine asylum seekers are not provided any information on the asylum procedure or their rights and obligations.

Asylum seekers and migrants were kept at the Territorial Inspectorate of the Timișoara Border Police for 24 hours, before they were quarantined at the dorm, according to the director of Timișoara Regional Centre. However, according to Logs representative there were persons who stayed for more than 24 hours, if there were no places available in the quarantine facilities.

In 2021 the Border Police had five shipping containers where asylum seekers were accommodated. According to the Logs representative there is no total number of designated places for the accommodation of migrants and asylum seekers at the Border Police. While housed at the Border Police foreigners have no access to showers or running water, they only have access to 2 mobile toilets. Between January-April 2022 Logs ensured 2 meals per day for each asylum seeker and migrant housed at the Border Police. Afterwards this task was taken over by a church. As for counseling and information provision, the Logs representative mentioned that this is not provided to them by the NGOs.

In the first half of 2021, asylum seekers were tested while in quarantine with rapid antigen tests, provided by the Border Police, according to the director of Timișoara Regional Centre. According to the director of the centre, upon their arrival in the regional centre, asylum seekers were visually screened by the medical staff, without an interpreter, as the medical doctor speaks Arabic.

⁴²⁴ Ibid.

Șomcuta Mare: No restrictive measures were imposed during 2021. Asylum seekers were monitored by the medical staff, according to the JRS representative. Approximately 60% of asylum seekers got vaccinated against COVID-19.

Galați: in 2021 when the city was in the red scenario asylum seekers were allowed to exit the centre only a few times per day. They were informed accordingly on the COVID-19 infection rate in the city by IGI-DAI staff and NGO representatives.

Rădăuți: in 2021 there were no entry and exit restrictions in the centre. Asylum seekers who entered Romania through Ukraine were quarantined for 14 days in another city located 50 km away from Radauti.

Bucharest: as in Radauti, in Bucharest the access and exist of the regional centre was not restricted. Newly arrived asylum seekers or the ones who were reaccommodated were isolated from the rest for 4-5 days. They were monitored by the medical staff. People's temperature was measured every morning. In the last part of the year asylum seekers were no longer isolated, according to the director of Vasile Stolnicu.

Giurgiu: for the prevention of Covid-19, people who are accommodated in the center were monitored daily by the medical nurse. The nurse also measured the temperature of those entering the centre, according to the director. She also mentioned that a COVID-19 form was filled in at the interview, both by the applicant and by the interpreter. Masks were provided by IGI-DAI, JRS and UNHCR. 11 Syrian asylum seekers apprehended by the Border Police were quarantined in Teleorman county before they were accommodated in the centre.

Around 80% of asylum seekers transferred from Timișoara received the financial allowance before they were transferred to other centres, according to the director of the centre. As for the rest, they did not receive the financial allowance because they were transferred soon after their arrival. The JRS representative mentioned that asylum seekers were provided financial allowance even though they were not issued the temporary identity card. The financial allowance is provided twice per month on the first and 15 of the month. Therefore, asylum seekers present in the centre at these dates received the financial allowance.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2021 (in original currency and in €): 480 RON/ €100

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

Allowance for food / clothing and pocket money

Asylum seekers are entitled to receive, upon request, the following allowances:⁴²⁵

Food daily allowance of 10 RON / €2.08 per person;

Clothing one-off allowance of 67 RON / €13.95 per person during summer and 100 RON / €20.83 per person during winter;

Pocket money of 6 RON / €1.25 per day per person for other expenses such as local transport expenses, cultural services, press, repair and maintenance services and personal hygiene products expenses.

Monthly amounts of financial allowances for different categories of applicants are as follows:

⁴²⁵ Article 55(1) Asylum Decree.

Monthly amount of financial allowances for asylum seekers	
Category	Amount of allowances
Single adults	480 RON / €104
Pregnant women in months 1-4 Ill persons upon admission to infirmary	570 RON / €123
Pregnant women in months 5-9 Women giving birth who do not breastfeed	600 RON / €130
Women giving birth who breastfeed Children aged 0-5 months	630 RON / €136
Children aged 6-12 months	690 RON / €150

Before the 2015 reform, asylum seekers were granted a financial allowance of 3.6 RON per day, amounting to a monthly total of 108 RON/€23. In general, the financial allowance is sufficient to ensure a decent living. In cases of families, all the members are entitled to receive the financial allowance. The only persons who have complained about the amount of the financial allowance are single men.

In comparison, Romanian nationals with low-income benefit from social assistance,⁴²⁶ heating assistance⁴²⁷ and a family allowance.⁴²⁸ Romanian nationals – families and single persons – are entitled to a minimum guaranteed income as a form of social assistance.⁴²⁹ The monthly minimum guaranteed income is determined based on the social reference indicator (*indicator social de referinta*, ISR) set by law at 500 RON / €100. The minimum guaranteed income level is as follows:

Monthly amount of minimum guaranteed income		
Category	Percentage ISR	Amount
Single adults	28.3%	142 RON / €30
Family of two	51%	255 RON / €55
Family of three	71.4%	357 RON / €77
Family of four	88.4%	442 RON / €96
Family of five	105.4%	527 RON / €114
Family of six or more, for each family member	7.3%	36.5 RON / €7

In addition, the State affords an allowance for all children, including nationals and non-nationals, up to the age of 18.⁴³⁰ This type of financial allowance is complementary to other forms of material support afforded by the State. The level of the state child allowance is determined by the ISR and amounts to:⁴³¹ 427 RON / €85 for children up to the age of 2, or 3 in case of a disabled child; 214 RON / €42 for children between the age 2 and 18;

Even though a comparison between financial assistance granted to nationals and asylum seekers is difficult to make due to the diversity of available allowances and the applicable calculation modes, asylum seekers are not treated less favourably than nationals as far as material support is concerned. They also benefit from other financial allowances than the ones provided by the Asylum Act, such as the allowance for children and they are also entitled to receive social assistance under the conditions provided by Act 292/2011 on Social Assistance, as amended.⁴³²

Accommodation allowance where reception capacity is exceeded

A new form of reception conditions was included by the 2015 reform. When the capacity in the reception centres for asylum seekers is exceeded, IGI-DAI may grant asylum seekers an accommodation

⁴²⁶ Act 416/2001 on Minimum Guaranteed Income, available at: <http://bit.ly/2AWyH00>.

⁴²⁷ Emergency Government Ordinance 70/2011 on social protection measures during the cold season, available at: <http://bit.ly/2mtUk2t>.

⁴²⁸ Act 277/2010 on Family Allowance, available at: <http://bit.ly/2FvzrN3>.

⁴²⁹ Article 1(1)-(2) Act 416/2001 on Minimum Guaranteed Income.

⁴³⁰ Article 1 Act 61/1993 on the State Child Allowance.

⁴³¹ Article 3 Act 61/1993 on the State Child Allowance.

⁴³² Article 17(1)(n¹) Asylum Act.

allowance for the purpose of renting a house or contracting specialised services for the reception and accommodation of asylum seekers in individual or collective locations, within the limits of the available funds.⁴³³ This form of reception conditions has never been applied to date.

In these situations, IGI-DAI may provide, upon request, material assistance amounting to the following monthly sums per person: rental assistance of 450 RON; and maintenance assistance of 120 RON during the summer season and 155 RON during the winter season. In the case of a two-member household, the monthly amount paid to a person for rental decreases by 30%. In the case of households consisting of three or more members, the amount granted monthly to a person for rental decreases by 40%.⁴³⁴

This material assistance shall be granted in the first month after the filing of the application, without the need for the submission of supporting documents for the rental. However, for the second month the submission of these documents is mandatory. If the requested documents are not submitted by the second month, the grant is suspended.

Reimbursement of expenses related to travel

Asylum seekers also have the right to reimbursement, upon request, of transport costs associated with their court proceedings, if the judicial process takes place in a different area than the one where they are residing, and if transport is carried out by road, rail or ferry.⁴³⁵

The reimbursement of transport expenses is made on the basis of a request filed by the asylum seeker, together with travel tickets, filed within 5 working days from the date of the court hearing at the Regional Centre where the asylum seeker is accommodated. The reimbursement is made after checks have been carried out in order to certify the presence of the asylum seeker in court.⁴³⁶

The Asylum Decree refers particularly to asylum seekers accommodated in **Șomcuta Mare** and **Rădăuți**, since the competent courts for onward appeals (see [Regular Procedure: Appeal](#)) are located in a different city than the one where the Regional Centres are located; respectively **Baia-Mare** and **Suceava**. The policy of reimbursement is applied in practice.

In Șomcuta Mare and Radauti, in 2021 asylum seekers were no longer taken by car by IGI-DAI to court hearings as it was the case in 2020. The JRS representative reported that no requests for reimbursement were lodged in 2021. On the contrary in Raduti, asylum seekers were reimbursed for their travel costs.

IGI-DAI may also involve asylum seekers in activities related to the maintenance or redevelopment of the interior and exterior spaces of Regional Centres, or support to the centre staff in information and counselling activities.⁴³⁷ Asylum seekers who perform this kind of activity benefit from an additional allowance for food of 5 RON / €1 per day.⁴³⁸

In Timișoara, Șomcuta Mare and Galați no cases were reported. In there were asylum seekers who provided their services, but the JRS representative was not aware if they received the financial allowance. In Rădăuți it was reported that only two asylum seekers received this additional allowance. In Bucharest, the director of Vasile Stolicu reported that in 2021 asylum seekers helped in different administrative activities, when the accommodated persons were relocated in Tudor Gociu and received the allowance. The director of the Giurgiu centre mentioned that as of August 2021 no additional allowance had been afforded.

⁴³³ Article 17(8) Asylum Act.

⁴³⁴ Article 55(4) Asylum Decree.

⁴³⁵ Article 17(1)(q) Asylum Act.

⁴³⁶ Article 56(2[^]1) Asylum Decree.

⁴³⁷ Article 55(9) Asylum Decree.

⁴³⁸ Article 55(10) Asylum Decree.

Material and financial assistance from NGOs

In addition to the material reception conditions afforded by IGI-DAI, asylum seekers also benefit from material assistance provided by AIDRom through the project “Assistance and services for asylum seekers in Romania” funded by the AMIF national programme implemented between 13 August 2019 and 12 August 2020.⁴³⁹ A new project started on 29 September 2020 “A.C.A.S.A. - Complex Social Assistance for Asylum Seekers”.⁴⁴⁰ The project is implemented over a period of 27 months. AIDRom provides material assistance to asylum seekers accommodated in all Regional Centres, in the 2 Accommodation and Counselling Centres run by AIDRom in **Bucharest** and **Timișoara**, and also for asylum seekers detained in public custody.

The number of social vouchers granted through the new project by AIDRom to asylum seekers continued to decrease compared to the previous implemented projects. Within the project, ‘A.C.A.S.A.- Complex Social Assistance for Asylum Seekers’, the assistance offered by AIDRom consists of:

Financial assistance for translation of civil status documents and/or diplomas, as well as legalisation / authentication / apostilles of approximately 45 (instead of 50 in 2019 and 60 in 2018) pages of documents

385 packages of food for asylum seekers transferred between Regional Centres or transferred from the place where the asylum application was made to the Regional Centre (instead of 600 prescribed in the previous project);

135 social vouchers for vulnerable asylum seekers (100 in the previous project ;

350 installation packages for persons accommodated in AIDRom Centres and in Regional Centres at the time of filing the asylum application.

Support for ensuring food in situations similar to that created by COVID 19, for people accommodated in regional centers, which are in isolation and / or quarantine, for a number of 50 beneficiaries;

Direct material assistance for asylum seekers accommodated in public custody centers: food, personal hygiene products, clothing / footwear, as well as goods for cultural and recreational activities.

Between August 2019 and August 2020, 1318 asylum seekers received food packages when they were transferred (600 packages indicated in the project) and 591 asylum seekers received installation packages (300 packages indicated in the project). These were supplemented from budgeted amounts and donations.⁴⁴¹ Between September and December 2020 216 asylum seekers benefited from installation packages, out of 350 provided by the project.⁴⁴² As for 2021, no information was received from AIDRom in regard to this project.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

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

IGI-DAI may limit or withdraw the material reception conditions granted to asylum seekers by a reasoned decision communicated to the applicant. The Asylum Act provides that the grounds for which material reception conditions may be limited or withdrawn are to be determined by a Government decision.⁴⁴³ Accordingly, these are laid down in the Asylum Decree.

⁴³⁹ The project, currently in its second phase, is implemented by AIDRom in partnership with CNRR, from 7 July 2017 to 6 July 2018. For more details, see: <http://www.aidrom.ro/proiecte/asistentia-solicitantii-de-azil/>.

⁴⁴⁰ Information provided by AIDRom, 4 March 2021.

⁴⁴¹ Information provided by AIDRom, 4 March 2021.

⁴⁴² Ibid.

⁴⁴³ Article 19⁴(1) Asylum Act.

IGI-DAI may limit or withdraw the material reception conditions where the applicant:⁴⁴⁴

- Leaves the place of residence established for 72 hours without having previously informed the Regional Centre;
- Does not comply with the obligation to present him or herself at the request of IGI-DAI in order to provide information or does not attend interviews notified to him or her;
- Repeatedly violates the house rules of the Regional Centres.

The law does not foresee any limitation on reception conditions due to large numbers of arrival. Where reception capacity is exhausted, IGI-DAI grants a specific allowance to asylum seekers to secure accommodation (see [Forms and Levels of Material Reception Conditions](#)).

More particularly as regards violations of house rules, Article 47 of the Regulation of Internal Order (ROI) prescribes the applicable sanctions in cases of disciplinary deviations, with the exception of applicants held in the specially designed closed spaces. The Director of the centre or his or her legal substitute shall apply individually, gradually and proportionally with the seriousness of the act, one of the following sanctions:

- Oral warning;
- Written warning;
- Suspension of the daily amount of 6 RON for local transport expenses, cultural services, press, repair and maintenance services and expenses for personal hygiene products, for a period of 1-3 months;
- Temporary suspension from the centre for 24 hours;
- Temporary suspension from the centre for 7 days;
- Final eviction from the centre.

Decisions reducing or withdrawing material reception conditions must be reasoned and taken on an individual basis, impartially and objectively.⁴⁴⁵ The decision is signed by the Director of the Regional Centre. However, potential risks of destitution following the withdrawal of reception conditions are not assessed.

Practice as regards the reduction or withdrawal of reception conditions in the different Regional Centres is as follows:

Main grounds and forms of reduction/ withdrawal of reception conditions by Regional Centre: 2020		
Regional Centre	Main applicable grounds	Main sanctions imposed
Galați	ROI	Oral and written warning
Rădăuți	ROI, departure from centre	Allowance suspension
Șomcuta Mare	ROI	Oral warning
Timișoara	ROI, departure from the centre	Allowance suspension
Giurgiu	ROI, departure from the centre	Allowance suspension
Bucharest	Departure from the centre	Allowance suspension

Timișoara: According to the director of the Regional Centre Timișoara, an asylum seeker that leaves the centre without a formal request, will be reaccommodated in the centre upon return and his or her allowance will be suspended for maximum of 2 weeks. In 2021, 330 persons received a decision to withdraw their reception conditions. 50 restrictive measures (the obligation to report at IGI) were imposed on those reaccommodated in the centre. The restrictive measures were lifted after the personal interview, according to the director of the centre.

⁴⁴⁴ Article 55^1 Asylum Decree.

⁴⁴⁵ Article 55^1(3) Asylum Decree.

Șomcuta Mare: The JRS representative reported that the daily pocket money was suspended for those who left the centre and were reaccommodated

Rădăuți: Asylum seekers received withdrawal of reception conditions decisions for leaving the centre without formal approval, for breaching the ROI. The pocket money was suspended for 1-3 months. Reaccommodated asylum seekers do not receive the pocket money for 1-2 months.

Giurgiu: according to the director of the regional centre 110 decisions to withdraw the financial allowance were issued for 94 asylum seekers, because the asylum seekers left the regional centre. The sanction applied by IGI-DAI was to withdraw the six RON/day for one month.

Galați: decisions to suspend, in general for one to three months, the daily financial allowance of 6RON were issued to asylum seekers who left the regional centre without prior approval or for repeated violations. It was also noted that when the decision is communicated asylum seekers do not receive any further information and are not aware why they do not receive the whole amount of financial allowance.

Bucharest: the director of Stolnicu Centre reported that they issued decisions suspending the 6RON pocket money for asylum seekers who left the centre without prior permission request. According to the director of the Regional Centre **Bucharest**, in case the asylum seeker is re-accommodated in the centre, the pocket money is suspended for 1-2 months. Also the restrictive measure to report to IGI was imposed on those reaccommodated. The JRS representative reported that pocket money had been suspended for 2-3 months.

According to IGI-DAI, 1099 withdrawals of reception conditions decisions were taken in 2021,⁴⁴⁶ compared to 803 in 2020⁴⁴⁷ and 639 in 2019.⁴⁴⁸

Bucharest	Timișoara	Galați	Rădăuți	Șomcuta Mare	Giurgiu	Total
496	299	134	32	44	94	1,099

* the director of Giurgiu indicated 110 decisions.

Source: IGI-DAI, 10 March 2022.

The decisions to withdraw reception conditions were taken either because the asylum seekers left the reception centre without prior notification or they failed to observe the ROI.⁴⁴⁹

The sanction imposed was suspension of the daily amount of 6 RON for local transport expenses, cultural services, press, repair and maintenance services and expenses for personal hygiene products, for a period of 1-3 months.⁴⁵⁰

The decision on reduction or withdrawal of reception conditions may be challenged, subject to the rules applicable in the Accelerated Procedure: Appeal.⁴⁵¹ In 2019, the first and only appeal was drafted, but the applicant did not lodge it. In 2021, no decision to withdraw or reduce the reception conditions was challenged.

⁴⁴⁶ Information provided by IGI-DAI, 10 March 2022.

⁴⁴⁷ Information provided by IGI-DAI, 16 February 2022.

⁴⁴⁸ Information provided by IGI-DAI, 20 February 2020.

⁴⁴⁹ Information provided by IGI-DAI, 10 March 2022.

⁴⁵⁰ Ibid.

⁴⁵¹ Article 19^1(1) Asylum Act.

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

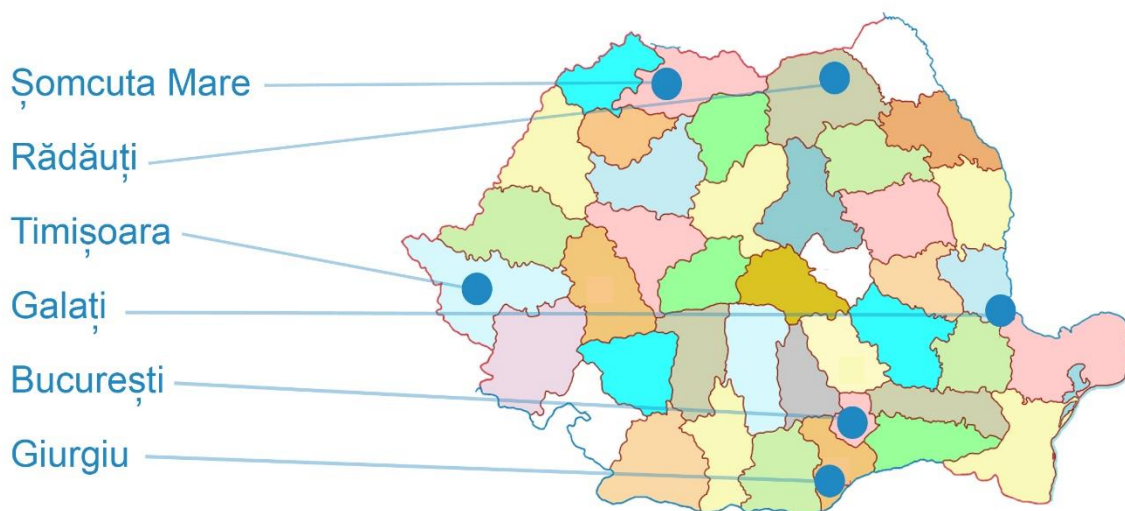
☐ No

Does the law provide for restrictions on freedom of movement?

☒ Yes

☐ No

Asylum seekers are allocated to a specific reception facility through a dispersal scheme operated by IGI-DAI. The Regional Centres for Accommodation and Procedures for Asylum Seekers are located in the following areas:



Source: AIDRom, Support for asylum seekers in Romania: <http://bit.ly/2mAeokN>.

According to the Asylum Act, asylum seekers are not allowed to leave their place of residence without authorisation from IGI-DAI.⁴⁵² The request to leave the residence has to include the address, the full name of the person with whom the applicant will be staying and the period of time and reasons for his or her request to leave.⁴⁵³ Authorisation is issued following an individual, objective and impartial assessment. In case IGI-DAI refuses to grant authorisation, its decision shall be motivated.⁴⁵⁴

The provision of material conditions is subject to the applicant's actual residence in the assigned centre. This is monitored by IGI-DAI through its database. If an applicant leaves the Regional Centre without permission and does not return in 72 hours, IGI-DAI may apply **Reduction or Withdrawal of Reception Conditions**.

Applicants may also be transferred to different reception facilities for reasons of capacity. In practice, asylum seekers are transferred most often from **Timișoara** to other Regional Centres. This occurs due to the fact that, most of the asylum seekers arrive from Serbia and the Regional Centre of Timișoara has a limited capacity. Asylum seekers cannot appeal against the transfer decision. According to the Director of the Regional Centre of Timișoara, in 2021, transfers were carried out once or twice per week. When transferred the integration officer informs them orally about the transfer, in addition to written communication in English. According to the JRS representative, asylum seekers are not informed beforehand about the transfers. IGI-DAI officers jointly with the special police forces/gendarms wake them up on the morning of the transfer. It was reported by the JRS representative that special police forces behaved aggressively towards asylum seekers, yelled at them; the transfer was described as violent. The JRS representative in Bucharest added that they were forced to get in the bus, pushed.

⁴⁵² Article 19(g) Asylum Act.

⁴⁵³ Article 7 Asylum Decree.

⁴⁵⁴ Article 19(g) Asylum Act.

The legal counselor in Radauti also stated that asylum seekers had complained that gendarms had been shouting at them.

According to the AIDRom representative, asylum seekers are informed on the spot by the integration officer and AIDRom representative. When the transfer is conducted, special police forces / riot police / rapid intervention police forces attend. According to AIDRom, they only attend to supervise the transfer process. An information note, written in Romanian and English, is given to the asylum seekers on the day of the transfer. In general, transfers are conducted once a week. AIDRom assists to the transfer procedure and provides them with packages.

As for the transfer packages it was reported by the JRS representatives that some asylum seekers were transferred who were not provided with food or water. According to the JRS representative in Timisoara, at the end of the first stage of the implementation of the A.C.A.S.A project, for almost a month, there were no more transfer packages. This was also confirmed by the JRS representative in Giurgiu, who stated that in the summer of 2021 asylum seekers transferred from Timisoara did not even have bottles of water and the weather was hot. The JRS representative in Bucharest also mentioned the lack of transfer packages, whilst the director of Timisoara centre mentioned that all the asylum seekers transferred to other centres received this package.

According to IGI-DAI, in 2021, 166 decisions assigning a specific residence,⁴⁵⁵ reception centres, for the asylum seekers, were taken, in line with article 19⁴ of the Asylum Act, compared to decisions 26 decisions taken in 2020.⁴⁵⁶

Permission to leave the regional centre were accepted in 2021 in all 6 centres.

Since last year, when the number of asylum seekers increased significantly, Timisoara became a hotspot for migrants and asylum seekers, who wanted to continue their journey towards Western Europe. Asylum seekers and migrants were sleeping in abandoned houses. Several times the local police was gathering them and if they had temporary identity documents they were sent back to the regional centres where they were assigned to, as for the other persons with no DTI they were handed over to the Border Police.⁴⁵⁷ Logs reported that around 8000 persons who are not accommodated in the regional centres benefitted from humanitarian assistance in 2021 from the organisation, 634 persons received medical assistance. The organisation also provided psychiatric support, outreach during the night, sleeping bags, clothes, hot showers and accommodation in a hostel for a month.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: 6
2. Total number of places in the reception system: 900
3. Total number of places in private accommodation: Not available
4. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

⁴⁵⁵ Information provided by IGI-DAI, 10 March 2022.

⁴⁵⁶ Information provided by IGI-DAI, 20 February 2020.

⁴⁵⁷ Tion Timisoara, available in Romanian at: <https://bit.ly/3LNNe2S> Adevarul, available in Romanian at: <https://bit.ly/3xld8Hg>, BalkanInsight: available in English at: <https://bit.ly/3xmrXJT>.

Most asylum seekers are accommodated in Regional Centres for Accommodation and Procedures for Asylum Seekers, managed by IGI-DAI. The management of reception is decentralised to the level of counties.

The capacity of the different Regional Centres operating across the country (see Freedom of Movement) is as follows:

Capacity and occupancy of the reception system: 2021		
Centre	Capacity	Occupancy at 01 Jan 2022
Timișoara	125*	19
Șomcuta Mare	100	125
Rădăuți	130	108
Galați	200	127
Bucharest	96**	65
Giurgiu	100	57
Total	751	501

*As of the second half of 2021 the capacity of the centre decreased from 250 to 125, due to renovation work.

**As of July 2021 the regional centre Vasile Stolnicu (320 places) was under renovation and all the asylum seekers were accommodated in Tudor Gociu centre (96 places).

Source: IGI-DAI, 10 March 2022.

The total capacity of the Regional Centres is 1,100 places, with the possibility to extend the capacity with 262 places and 166 specially designed closed spaces. Nevertheless, due to renovations in Timisoara and Vasile Stolnicu centre (Bucharest) the capacity of the centres was reduced to 751 places with the possibility to be extended by 210 places. There has not been a situation to date whereby asylum seekers were left without accommodation due to a shortage of places in the reception centres.

In order to increase the number of accommodation places in the regional centres, IGI, under AMIF funds aims to extend the accommodation capacity by 500 places in 3 centres, as follows: Timișoara and Rădăuți each with 100 places and Galați with 300 places.

As a result of the increase of asylum applications made in Romania, IGI, in accordance with the Emergency Ordinance no.38 of 10 May 2018, took over a public building, administered by the Ministry of Foreign Affairs, in order to convert it into an accommodation centre for asylum seekers. The building is located in Crevedia, Dâmbovița County and will have a capacity of 500 places.

In addition to the Regional Centres, AIDRom, one of the NGOs implementing the AMIF national programme, runs two Accommodation Centres for vulnerable groups (see [Special Reception Needs](#)).

Asylum seekers may also request to stay in private accommodation at their own cost. In this case, they have to present to IGI-DAI a lease agreement registered with the tax authorities or a commodity contract concluded in authentic form.

In **Somcuta Mare**, it was reported by the JRS representative that the capacity of the centre was increased by 50 places, by placing 50 beds in the gym. The highest number of residents was registered at the beginning of 2021 (around 200 asylum seekers).

In **Radauti**, 150 places are used officially, according to the JRS representative, including the specially designed closed spaces and 6 places arranged in the prayer room.

In **Giurgiu**, the director of the centre reported that the number of accommodation places had been increased by 70. Other rooms were changed into accommodation facilities; new beds and

mattresses were bought. The highest number of asylum seekers was 90, but this was only for a short period of time, because they were leaving the centre.

In **Galati**, according to the JRS representative, the capacity of the centre in 2021 was 210 places. 10 additional places were set out in the common room. The centre reached its capacity, but asylum seekers never slept on the floor.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

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

Conditions in Regional Centres are monitored, *inter alia*, by the Ombudsman, who visits the centres on a regular basis. However, in 2020 no visits were conducted by the Ombudsman, except the one in Stolnicu Regional Centre, in order to assess the situation of unaccompanied children.

2.1 State of the facilities

The Regional Centre Timișoara

The Regional Centre was located in the same premises as the Emergency Transit Centre (ETC) operated by UNHCR, where refugees evacuated from other countries stay before they are resettled to another country, until 1st December 2020.⁴⁵⁸ ETC moved to another facility as of 1st December 2020. The facility is located 20 minutes by bus from the city centre. The facility was repainted and the doors and windows were repaired in December 2017.

The entire facility is split into four buildings, of which two are designed for accommodation. Each of these two buildings contains 12 rooms with 12 beds per room. One building ("Building B") is separated into two parts through a built-in wall: six rooms are dedicated to asylum seekers and another six to ETC refugees. Until December 2020 ETC had a total capacity of 200 places, the Regional Centre has a capacity of 50 places. Each building where persons are accommodated has a kitchen. However, "Building B" dedicated to families only has 2 refrigerators. "Building B" has two bathrooms, each equipped with two squat toilets, two urinals, three sinks and three showers.

In the second half of 2021 renovation work commenced in the regional centre of Timișoara. The works consist of interior painting, replacement of tiles in hallways, kitchens, bathrooms, replacement of laminate flooring in accommodation rooms with tiles, replacement of all facilities in bathrooms and kitchens, replacement of radiators and modernization of the central heating system.⁴⁵⁹ The renovation work commenced with building C and in January 2022 was finalised, but the reception had not been completed, according to the director of the centre. Renovation of building B will start in March 2022. Metal bars were installed on all windows. She also mentioned that the construction work for the additional accommodation places were slowing moving forward. In 2021 the highest number of asylum seekers was 400 and they were accommodated in the centre for 3-4 days until they were transferred. The total number of asylum seekers accommodated in Timisoara regional centre in 2021 was 7200.

⁴⁵⁸ UNHCR, *ETC Timișoara*, 14 December 2016, available at: <http://bit.ly/2DuZqDN>; *Operations in Romania*, 16 December 2016, available at: <http://bit.ly/2D0Ojko>.

⁴⁵⁹ Information provided by IGI-DAI, 10 March 2022.

The Regional Centre Şomcuta Mare

The Regional Centre is located close to the city centre and 25 km away from Baia Mare. The centre consists of a three-storey building. Rooms are located on the second and third floor, each floor containing 22 rooms with 8-10 persons sleeping in a room. There are two bathrooms on each floor, separated by gender. On the hallway of the first floor, there are 6 refrigerators, while the ground floor has two isolation rooms for medical purposes. The basement has a kitchen with ten stoves, a dining room and a laundry room with four washing machines but only two are functional. The basement also contains a specially designed closed space (see Place of Detention).⁴⁶⁰

In 2021 small renovations were carried out, taps were changed and rooms and hallways were painted.

The Regional Centre Rădăuți

The Regional Centre is located not far from the city centre. There are rooms with eight and ten beds. There are two bathrooms, one for women and one for men, each with three toilets and showers. There is a common kitchen, which lacked refrigerators and dishes at the time of the Ombudsman's visit.⁴⁶¹ The gym and prayer room were converted into accommodation in 2020 in order to increase reception capacity.⁴⁶² Each room has a refrigerator, which serves 10 persons. Construction of new accommodation places started in October/November 2021. The JRS representative reported there is limited space for counselling for NGOs.

The Regional Centre Galați

The Regional Centre is located in the city, with easy access to public transport. The centre has three buildings: two for administrative purposes and one two-storey building for accommodation. On each floor of the accommodation building, there is one bathroom for men and one for women: each comprising of three showers and seven sinks. There is only one normal toilet for women per floor; the rest are 'squat toilets'.

In 2020, 2 tents were set up in the courtyard, as a preventive measure, in case the number of asylum seekers increased. However, they were not used in this scope, but for medical screening of asylum seekers who made an asylum application directly in the regional centre.

The rooms have a maximum capacity of 12 beds. Generally, if there are available places asylum seekers are accommodated depending on nationality. Families are accommodated in the same room, separately from single men. There are two kitchens on each floor with three stoves and three sinks each, as well as one refrigerator for 12 people. In 2020, the clubs and the gym were transformed into accommodation rooms. Specially designed closed spaces were also used as accommodation rooms. The prayer room still exists. The highest number of asylum seekers accommodated in the regional centre in 2021 was 240. And on 13 December 2021 there were 181 persons accommodated.

The Regional Centre Bucharest

The Regional Centre is located 20 minutes by bus from the city centre. The building accommodating asylum seekers has four floors. It contains a total of 80 rooms, each with four beds, a toilet and a shower. On each floor there are two kitchens, each with two refrigerators, two stoves and two sinks. When assigning asylum seekers to different rooms, IGI-DAI takes into consideration their religion, nationality and gender. Families are accommodated together.

⁴⁶⁰ Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Şomcuta Mare*, 36/2017, available in Romanian at: <http://bit.ly/2E7EANw>, 4-5.

⁴⁶¹ Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Rădăuți*, 34/2017, available in Romanian at: <http://bit.ly/2nEuqcO>, 5.

⁴⁶² *Ibid*, 3-4.

The renovation of the Vasile Stolnicu centre started in July 2021. All the asylum seekers were moved to the Tudor Gociu centre. Beneficiaries of international protection who had lived in the centre for a long period were rehoused by JRS. The director of Vasile Stolnicu reported that work will be finalised by the end of 2022.

The Tudor Gociu centre is located in the 4th District, 30 minutes by tram from the city centre. The building has four floors. Asylum seekers are accommodated on the third and fourth floors. There are around 20 rooms for accommodation. All windows have metal bars. According to the JRS representative the centre looks like a detention centre. One room may accommodate four persons. there are four batrooms with four toilets and one kitchen on each floor with one refrigerator in each kitchen. The director of the Vasile Stolnicu centre describe the rooms as a little bit too crowded. Bathrooms and toilets are separated according to gender. The JRS representative reported that privacy is lacking in the bathroom as the doors cannot be locked. There are no leisure/common rooms. There is no courtyard, so children and adults spend their time on the hallways or in their rooms. It was also mentioned that there are not enough office spaces for IGI-DAI. For a certain period of time, the logistics deptment was based at the Stolnicu centre.

The Regional Centre Giurgiu

The Regional Centre is a former barracks located in the outskirts of the city and repurposed in 2011, without any refurbishment beyond repaint. As a result, technical problems often occur. The capacity of the centre is 100 places arranged in seven rooms. At the time of the Ombudsman's visit in June 2017, the capacity of the centre had been increased by 70 places, as the gym and prayer room had been converted into bedrooms.⁴⁶³ Each room has 20 beds equipped with one refrigerator each, and there are two kitchens with stoves and sinks. There are two bathrooms, one for men and one for women, with five 'squat toilets' and five showers. The centre has a small courtyard but is not accessible as it is surrounded by a fence. In 2020 2 tents were set up in the courtyard for medical screening. According to the director of the centre in 2021 rooms were painted and small repairs were carried out. 70 new beds were purchased and the mattresses will be received in 2022.

2.2 Food and hygiene

The Asylum Decree prescribes the necessary daily amount of nutritional value based on which the daily allowance for food is calculated in the Regional Centres.⁴⁶⁴ Asylum seekers may cook for themselves, using the kitchens available in every centre.

In all regional centres asylum seekers are obliged to clean their rooms, kitchen and bathrooms on a rotation basis. The number of toilets and showers are sufficient in all facilities during regular occupancy.

In 2018, 2019, 2020 and 2021 AIDRom implemented a project providing asylum seekers with cleaning products and they were also encouraged to clean their rooms and common spaces every week.

Galați: Hygienic conditions were described until 2020 as relatively good. As of 2020, the JRS representative reported that the premises were filthy, beyond description; the toilets are clogged 3 times a week; bathrooms are rusty; asylum seekers do not clean their rooms and common spaces, even though it should be done once a week; all mattresses were changed, but soon after all were infested with bed bugs; disinfection has no results; beds, blankets and bed linen are old and worn down; the kitchens are open according to a schedule from 6 to 22 and the ones on the ground floor are closed due to gas leaks. In 2021 the hygienic conditions were continuously degrading, according to the JRS representative. The conditions were described as awful, beyond appalling, worse than last year. In November/December 2021 they repaired the water pipes and just started to repair the sewerage system. Shower tubs and some of the cookers were replaced. Asylum seekers complained about the

⁴⁶³ Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Giurgiu*, 29/2017, available in Romanian at: <http://bit.ly/2EvCLrn>, 2.

⁴⁶⁴ Article 55(1) Asylum Decree.

conditions in the bathrooms, the bedrooms and the state of the mattresses. The men's toilets were reported to be in a more degraded state. On the other hand, the conditions in the specially designed closed spaces were described as really good. All beds and mattresses were new. Some of the Afghan nationals evacuated by the Romanian authorities were accommodated in these spaces.

Șomcuta Mare: in 2021, the JRS representative reported that the hygienic conditions were awful for a while, and NGO representatives had no functional toilets. The roof of the building was damaged and it was raining inside and because of the damp, the wall and ceiling plaster was falling. They repaired the ceiling but there is still water coming in because they did not repair the roof. Maybe it will be repaired in 2022. Non-functional toilets and faucets were also reported. These were repaired only in December 2021. Bathrooms were flooded. The hygiene in the kitchens was not better; it was described by the JRS representative as filthy. Mattresses were not replaced. Asylum seekers complained about the bed bugs and that they do not receive pots, cutlery and plates.

In **Bucharest:** the Tudor Gociu centre was clean before asylum seekers were transferred from Vasile Stolnicu centre, according to the JRS representative. The hygienic conditions in Tudor Gociu centre have gradually deteriorated. Walls are dirty; mattresses are black due to filth. The JRS representative said that the third floor, where families are accommodated, is cleaner than on the fourth floor where single men live. Single men are reluctant to clean their rooms. The smell on the fourth floor was unbearable. Conversely, the director of the Vasile Stolnicu centre reported that the centre is clean. There are bedbugs in the rooms, even when disinfections were done twice a month; there is no TV in the rooms. It was mentioned by the director of Stolnicu that when asylum seekers transferred from Timisoara are screened by the medical staff they observe that all of them have bed bugs bites or scabies. The JRS representative also reported that the heating does not work properly and there was a period when it was very cold. Warm water is available only a few hours per day.

As for the Vasile Stolnicu centre, the JRS representative reported that it was indescribably filthy. The hygiene conditions were only better on one floor, where long term residents were living. The state of the plumbing system was really bad, causing leaks. The layout of the centre was better because each room had its own bathroom, there were more kitchens and it had a courtyard.

In **Giurgiu**, it was reported by the JRS representative that the hygiene conditions had improved. A steam vacuum was purchased in order to clean the mattresses and exterminate the bed bugs. It was also reported that asylum seekers arriving from Timisoara had bed bug bites. The common spaces are cleaned daily by the cleaning staff of the centre. Save the Children renovated and furnished a room for children, where a video explaining the rights and obligations of asylum seekers, is broadcast. According to the director this is not actually a room, but a corner in the common space. In 2020 repairs were carried out in the bathrooms and kitchens; the equipment, plumbing and paint were repaired. Multiple disinfections have been made to eradicate bedbugs.

In **Rădăuți** in 2020, the state of the regional centre was described as filthy, there was an unpleasant odour; the kitchen is filthy. Asylum seekers complain about bedbugs. The mattresses were worn out. In 2021 the centre was cleaner. The kitchen was painted. The shower curtains were worn and the toilets were clogged, but this was solved. It was also reported by the JRS representative that hot water was not available 24h/7, due to high bills. However, the asylum seekers were aware of the hot water schedule and never complained about it. It was still reported, however, that the smell in the centre is unpleasant; the kitchen is not clean; mattresses are worn-down. Asylum seekers clean their rooms but overall the centre is not kept clean.

In **Timișoara**, residents still complained about bed bugs, fleas, bugs, the poor condition of mattresses and plumbing in the showers and toilets. Mice were spotted in the building where NGOs have their offices and rats were seen near the accommodations buildings. It was also reported that residents threw their towels in the toilets clogging them. The toilets were repaired. The influx of new asylum seekers arriving in the centre is also a reason for the lack of cleanliness in the centre. The regional centre was described by the JRS representative as filthy; asylum seekers do not want to clean; there is garbage everywhere even in the kitchen; the smell was unbearable. It was impossible to enter the

building where they were accommodated. The conditions in the bathrooms and kitchens were a disaster. The common spaces are the dirtiest. It was reported by the Save the Children representative that the hygienic conditions in the centre got worse when the number of Afghan asylum seekers increased. They are careless when it comes to cleaning because they know that in one or two days they are leaving the centre; they were defecating in the hallways, they were not taking out the garbage. They received cleaning products from AIDRom and Save the Children. The JRS representative also stated that not all the asylum seekers receive bed linen, towels, cutlery and tableware, especially single men asylum seekers. Families and women receive all these products. This was also reported by the Ombudsman during their visit in June 2021.⁴⁶⁵ The JRS representative reported that the highest number of accommodated asylum seekers in 2021 was in January, when more than 400 asylum seekers were registered. At that time people were sleeping on mattresses placed in the kitchens.

The Ombudsman had also reported the lack of cleanliness in the hallways, all rooms, kitchen and bathrooms. The mattresses were worn-down, torn apart, bed linen was missing on some of the beds, and wardrobes were worn-down as well, tables and chairs were dirty and broken, walls were dirty; food was stored on the floor and on chairs. The Ombudsman concluded that the conditions for preparing food were not ensured; the kitchen appliances were filthy and worn-down and some of them were not even working; drains were clogged, pots and dishes were dirty and worn.⁴⁶⁶

Even though IGI-DAI carried out 3-4 disinfection operations in 2021 and they also received sprays from UNHCR, asylum seekers still complained about insects. The issue of bugs and insects is still a major problem in the Regional Centre of Timișoara. The Ombudsman also noticed this problem in 2018 and in 2021 reported the existence of cockroaches in the kitchen.⁴⁶⁷ The residents complain about the existence of the cockroaches.

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

2.3. Activities in the centres

Asylum seekers are allowed to go outside whenever they want, until 22:00. All Regional Centres except **Timișoara** have a prayer room where residents can practice their religion.⁴⁶⁸

AIDRom stated that the Romanian language classes were held mainly in physical format, respecting the protection measures and social distancing. They continued in this format due to the limited possibilities of asylum seekers to have access to a mobile phone for online courses. Where beneficiaries had access to an electronic device, the courses were held online.⁴⁶⁹

Social and community workers in the centres organise different activities for both adults and children. In 2020, these activities were held in smaller groups and outside, when possible.

Save the Children Romania offers as part of a project funded from the organisation own resources program, educational social services and material assistance addressing the specific needs of asylum-seeking children and refugees, including unaccompanied minors. The activities are running in 5 Regional Centres, with the exception of Giurgiu.

The project forsee the following activities:

- Daily educational-recreational program for children in accommodation centers
- Facilitating access to education and cultural accommodation
- Services to ensure their basic needs
- Facilitating access to social and medical services
- Social counseling for children and adults

⁴⁶⁵ Ombudsman Visit Report, page 5.

⁴⁶⁶ Ombudsman Visit Report, pages 6-7, available in Romanian at: <https://bit.ly/3DZGvA7>.

⁴⁶⁷ Ibid.

⁴⁶⁸ Although the Ombudsman states that there is a confession room in Timișoara where Romanian classes are held, this is a hallway leading to the NGO offices rather than an actual room.

⁴⁶⁹ Information provided by AIDRom, 4 March 2021.

- Material assistance.

Material assistance consist of hygienic products, food, clothes, shoes. All asylum seekers received food, irrespective of their age or vulnerability, according to the Save the Children representative. Donations were also made by private persons and companies.

In 2021 activities in the centres were gradually resumed, taking into account the preventive measures.

According to JRS representative in 2021, in **Timișoara**, activities with children were organised. Romanian classes were held once a week.

Rădăuți: activities with children took place.

Șomcuta Mare: it was reported that activities with children were organised. Romanian language classes were held, but not constantly until September 2021. The teacher from ISJ was not present when the school classes were held online.

In **Bucharest**, activities for asylum seeking children were held by Save the Children and Romanian classes were held twice a week, by AIDRom.

Galați: activities were held during 2021, when the weather allowed it these were organised in the open-air or in smaller groups. Inside activities were organised taking into account preventive measures. Romanian language classes were also held but in smaller groups.

In **Giurgiu**, AIDRom and the ICAR Foundation provide activities for adults and children, even though the centre has no interior or exterior recreational spaces where such activities may be organised. The lack of playgrounds for children and places for sports activities has been highlighted by JRS and by the Ombudsman.⁴⁷⁰ Activities outside the centre were organised by AIDRom and transport was ensured by IGI-DAI.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No
If yes, when do asylum seekers have access the labour market? 3 months

Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No

Does the law only allow asylum seekers to work in specific sectors? ☐ Yes ☒ No
If yes, specify which sectors:

Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No
If yes, specify the number of days per year

Are there restrictions to accessing employment in practice? ☐ Yes ☒ No

Asylum seekers have access to the labour market following 3 months from the lodging of the application, if no decision has been taken by IGI-DAI due to no fault of the applicant, or during the appeal stage.⁴⁷¹ This means that if a decision was made in the administrative phase of the procedure, the asylum seeker is allowed access to labour market even sooner than 3 months. Persons who, at the

⁴⁷⁰ Ombudsman, Report of the visit to the Regional Centre Giurgiu, 29/2017, 6.

⁴⁷¹ Article 17(1)(o) Asylum Act.

time of filing an application for asylum, have a right of residence on the territory of Romania and are working legally, may continue to work.⁴⁷²

Access to the labour market is granted under the same conditions set out by law for Romanian citizens.⁴⁷³ Accordingly, there is no labour market test, sectoral limitation or other restriction laid down in the law.

The Asylum Decree prescribes that asylum seekers may benefit, upon request, from mediation services, professional information and counselling services provided to persons seeking employment by the County Employment Agencies (AJOFM).⁴⁷⁴

In order to be registered as a job seeker by the AJOFM and to benefit from the aforementioned services, asylum seekers must present the documents requested by law, except for the civil status documents issued by the country of origin, together with their temporary identity document issued by IGI-DAI and a certificate which confirms their right to work. The same conditions apply for asylum seekers' participation in a vocational training programme or the evaluation of professional competences acquired through non-formal means.

Diplomas or certificates of education or graduation, as well as certificates of professional competence, qualification or other relevant documents, are accepted only if they are recognised on the territory of Romania according to the applicable legal provisions.

According to the law, asylum seekers who have access to the labour market have the right to benefit from measures promoting employment, as well as protection within the unemployment insurance system, under the conditions provided by the law for the Romanian citizens.⁴⁷⁵ Moreover, the provisions of the Asylum Decree on access to employment for asylum seekers also refer to the possibility to participate in vocational training programmes.⁴⁷⁶

From the discussions held with the stakeholders, it appears that in 2019, so like in 2018, asylum seekers have not faced obstacles in finding a job, as information about available jobs were provided to them. The jobs advertised by stakeholders were in the unskilled labour sector. As a result, asylum seekers did not encounter problems related to the lack of Romanian language knowledge, diplomas or other documents that would prove their qualifications. The majority of asylum seekers were reportedly unskilled workers in their country of origin.

Bucharest: According to the JRS representative, there are asylum seekers who do not seem to want to work. The director of Stolnicu mentioned that some asylum seekers had been hired at IKEA.

Rădăuți: There were 1-2 asylum seekers legally employed. They prefer to work on the black market. If they would like to stay for longer, they will find a job.

Șomcuta Mare: Asylum seekers are considered to not face many obstacles in finding a job as they are informed by IGI-DAI and NGOs about the available jobs in the area. The persons accommodated in the Regional Centre are also periodically informed of available jobs by AIDRom. They usually work in the unskilled sector. In 2021 many were working in a medical protection factory. IGI-DAI received an offer from this factory and ASSOC and AIDRom shared the openings with the asylum seekers.

Galați: it was reported that there were asylum seekers working in the unskilled sector. NGOs are constantly informing asylum seekers about the job advertisements provided monthly by AJOFM. Labour Inspectorate had also a meeting where the aim of the institution was described to the asylum

⁴⁷² Ibid.

⁴⁷³ Ibid.

⁴⁷⁴ Article 6[^]1(1)-(5) Asylum Decree.

⁴⁷⁵ Article 17(1)(o[^]1) Asylum Act.

⁴⁷⁶ Article 6[^]1(4) Asylum Decree.

seekers and how they can contact it when needed. JRS and IGI-DAI organised a meeting with a number of employers, that presented their vacancies.

Timișoara: according to the director of Timișoara Regional Centre no asylum seekers were employed. This was confirmed by the JRS representative reported that many asylum seekers are reluctant to work and they do not stay for 3 months in order to have the right to work.

Giurgiu: the director was not aware of how many asylum seekers were employed in 2021. JRS representative reported that there were asylum seekers hired legally in 2021. As barriers in finding a job she pointed out the language, low wages and also transport.

The number of applicants who were employed as of the end of 2019 was 26.⁴⁷⁷ IGI-DAI reported that the number of asylum seekers employed at the end of 2021 was 18.⁴⁷⁸ The number of asylum seekers with right to work was also provided – 276 compared to 970 in 2020.⁴⁷⁹

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 |

The Asylum Act prescribes for the right of minor asylum seekers to have access to before pre-school (0-3 years), pre-school (3-6 years) and compulsory education (6-18 years) under the same conditions as minor Romanian citizens, as long as no measure is taken to remove them or their parents from Romania.⁴⁸⁰ Access to education is therefore free and unconditional.⁴⁸¹

Compulsory general education consists of 10 grades and includes primary and lower secondary education. Compulsory education ends at the age of 18.⁴⁸²

Education is provided in regular schools. In general, children are enrolled at local schools whose territorial jurisdiction covers the respective Regional Centres. Asylum-seeking children are enrolled in normal classes together with Romanian children as observers for the first year. Being an observer means that the child is not listed in the class book and he or she does not receive grades.

In **Bucharest, Giurgiu** and **Somcuta Mare**, the NGO representatives together with IGI-DAI draft the enrolment request.

In **Galați**, enrolment requests are made by NGO representatives and lodged by IGI-DAI, in order for IGI-DAI to notify the County School Inspectorate (*Inspectoratul Școlar Județean*, ISJ) The enrolment procedure may take up to 2-3 weeks. In some cases, the answer was provided swiftly and in others not. By the time the inspectorate sends its answer, the asylum procedure is usually completed, or the persons have left the country, or the parents did not take the children to the school. In 2021, there were children who attended school classes and kindergarden. Several schools are appointed for asylum seekers. The case of two brothers, who were enrolled in different schools that were far apart, was reported as being difficult for the parents to take them to school in the morning. The JRS representative also mentioned that asylum seeking children are not enrolled in the Integrated Information System of Education in Romania (SIIR), which means that schools do not receive funds and other educational materials for these children.

⁴⁷⁷ Information provided by IGI-DAI, 20 February 2020.

⁴⁷⁸ Information provided by IGI-DAI, 10 March 2022.

⁴⁷⁹ Information provided by IGI-DAI, 16 February, 2021.

⁴⁸⁰ Article 17(1)(p) Asylum Act.

⁴⁸¹ Article 6(1) Asylum Decree.

⁴⁸² Article 16(1) and (2) Public Education Act.

In **Rădăuți**, no problems were reported with the enrolment procedure. This is ensured by the integration officer. Children attended the courses online, using tablets provided by Save the Children. In 2021 there were more asylum-seeking children enrolled at school, who also attended the classes. No problems were reported as regards their enrolment.

Șomcuta Mare: Compared to 2020 when no children were enrolled at school, in 2021 enrolment requests were lodged and children attended the classes. However, the JRS representative was not aware of how many asylum-seeking children were enrolled.

In **Giurgiu** according to the director of the centre, the legal representative of DGASPC Giurgiu drafts the enrolment requests for the asylum-seeking unaccompanied minors. It was also reported that at the time of enrollment children have already left the centre and have not returned. If their enrollment has been successful none of the asylum seekers attended the course.

Bucharest: the JRS representative reported that there were no requests for enrolment in 2021, because the children accommodated here were of young age. On the other hand, the director of the Vasile Stolnicu centre stated that soon after their arrival necessary steps are taken for their enrolment at school.

As of 2020 children are enrolled at a different school, the "25 School".

None of the children accommodated in the regional centre **Timisoara** were enrolled at school because they left the centre, according to the director of the centre. As for the children accommodated at the DGASPC centre of **Timișoara** the director was not aware of their situation.

Preparatory classes

Following the 2015 reform, the Asylum Act foresees a free intensive preparatory course for asylum-seeking children in view of easing their access to education before the enrolment at the national education system.⁴⁸³ The training course is organised by the Ministry of National Education and Scientific Research, in collaboration with IGI-DAI. Children should be enrolled at the preparatory course within 3 months from the date their asylum application was made. At the same time, the child may be enrolled as an observer in the relevant year of study.

At the end of the preparatory course, an Evaluation Commission, whose composition and functioning are established by order of the Minister of National Education and Scientific Research assesses the level of knowledge of the Romanian language and establishes the registration of asylum seekers in the corresponding year of study.

In 2021 preparatory courses were provided in most of the regional centres, except Timișoara.

Giurgiu: The director of the centre reported that the preparatory course for learning Romanian was held twice a week for two hours, at the Tudor Vianu Theoretical High School in Giurgiu. The staff of the Ministry of Education comes to the regional centre.

In **Galați**, according to JRS, an ISJ professor offers courses for child asylum seekers and beneficiaries of international protection. The course for asylum-seeking children takes place twice a week and lasts two hours. Children learn Romanian language but also mathematics. In 2021 these courses were held, which is an improvement compared to 2020 when they were neither face-to-face nor online. However, it was reported that there were situations where the course was not held because the teacher was absent.

In **Rădăuți**, as of October 2019, preparatory classes are held for asylum-seeking and beneficiaries of international protection children and adults, three times per week. The courses target adult beneficiaries of international protection, but the teacher also welcomes asylum seekers. Two age groups were formed, one for 6 to 10 years of age and the other from 10 to 18 years of age. The classes are held

⁴⁸³ Article 18(1)-(4) Asylum Act.

separately by a professor from ISJ twice a week for each group of children. Children learn Romanian language, colour and play.

In **Șomcuta Mare**, a representative of ISJ is teaching Romanian language to asylum seekers and beneficiaries of international protection, adults and children. According to a JRS representative, courses were held two or three times a week, with the teacher mostly teaching the beneficiaries of international protection. Before September 2021 there was no teacher, but since September classes have been held regularly.

In **Bucharest**, preparatory courses are held only for beneficiaries of international protection, according to the JRS representative. During the preparatory classes, children learn Romanian language. The director of the Stolnicu Regional Centre said he is not aware if these courses were held in 2021, because of the pandemic.

Asylum-seeking children with special needs enjoy the same alternative arrangements as those provided for Romanian children. Throughout 2021, there were no children with special needs in the Regional Centres of **Timișoara**, **Galați**, **Rădăuți**, **Giurgiu**, **Șomcuta Mare** and Bucharest.

D. Health care

Indicators: Health Care

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

Measures imposed during the pandemic

According to the vaccination strategy in Romania, asylum seekers and migrants detained in public custody centres are included in the third phase of vaccination, along with the wider public.⁴⁸⁴ The third phase of vaccination started on 10th of March 2021.⁴⁸⁵

Access to health care for asylum seekers covers the right to receive free primary care and appropriate treatment, emergency hospital care and free health care and treatment in cases of acute or chronic illnesses considered imminently life threatening, through the national emergency health care system and qualified first aid. These services shall be provided, as the case may be, through the medical service of the Regional Centres and/or other health care facilities accredited and authorised by law.⁴⁸⁶

In addition, asylum seekers have the right to be included in national public health programmes aimed at preventing, monitoring and controlling contagious diseases in epidemiological risk situations.⁴⁸⁷

Asylum seekers are assigned a personal identification number which figures on their temporary identity documents in order for them to enjoy all the rights provided by the law.⁴⁸⁸ After receiving the personal identification number, asylum seekers may register in the public health insurance system and, if they

⁴⁸⁴ Decision no. 1031 of 27 November 2020, Vaccination STRATEGY against COVID-19 in Romania of November 27 2020, available in Romanian at: <https://bit.ly/39XXHZ7>.

⁴⁸⁵ Romanian Government, Official Statements, available in Romanian at: <https://bit.ly/3wzHJhs>.

⁴⁸⁶ Article 17(1)(m) Asylum Act.

⁴⁸⁷ Article 17(1)(m¹) Asylum Act.

⁴⁸⁸ Article 17(1¹) Asylum Act.

pay healthcare contributions and register at a general practitioner's office, they have the status of an insured person with the same rights and benefits as nationals.

As of 2019, asylum seekers have access to a general practitioner within all Regional Centres.

In **Giurgiu**, according to the director of the centre, there has been a medical doctor, a nurse and a psychologist since August 2018. However, since August 2021, there has been no medical doctor in the centre. The director of the centre reported that the psychologist provided counselling to 703 asylum seekers during 2021, with the help of an interpreter.

In **Rădăuți**, two medical assistants were hired in 2020. A medical doctor was contracted as a service provider, and a medical doctor of the ICAR Foundation was hired. In 2021 IGI-DAI did not hire a medical doctor, so there was only the doctor from the ICAR Foundation. There are two tents in the courtyard, where transferred asylum seekers undergo medical screening, which is conducted swiftly. The medical screening includes the medical history of the asylum seeker. The interpreter is only called when there are exceptional issues. In 2021 there was also a psychologist at IGI-DAI.

In **Timișoara**, a medical doctor is present in the centre 3 hours per day and two nurses are provided by IGI-DAI. The nurses work on 8h shifts. The medical screening conducted by the medical doctor in Timișoara was done without an interpreter, however he is speaking Arabic. The JRS representative was not aware if this was conducted. Upon arrival or the following day asylum seekers are seen by the medical staff of the centre; it was emphasized by the director of the centre that the doctor speaks Arabic. A summary evaluation is made without an interpreter, after which the medical file is drafted. The psychologist works full time.

Bucharest The Ombudsman has stressed that the provision of a psychologist by IGI-DAI is "imperiously needed" and that psychological assistance and services provided by NGOs should be complementary thereto.⁴⁸⁹ According to the Ombudsman a psychologist resumed their activity in Bucharest in October 2018. During their visit, the Ombudsman observed a scarce amount of psychological counselling provided to vulnerable persons. Three nurse positions were also still vacant.⁴⁹⁰ In 2020, the centre had 2 medical assistants and 1 medical doctor and a psychologist. In 2021, according to JRS there was only one medical doctor and no medical nurses. However, the director of the centre stated that there was a full-time medical doctor and a nurse. As for the psychologist the position has been vacant since August 2021. The director noted that the medical screening is done with the help of an interpreter upon arrival.

Galați: There is a medical doctor, present in the centre twice a week or when a transfer arrives, one nurse and a full-time psychologist as of 15 October 2019. In addition, there is also a medical doctor hired by the ICAR Foundation present twice a week. The medical screening is done by the doctor and nurse, in general without an interpreter. The medical staff often relies on other asylum seekers. However, an interpreter was provided for the Afghan asylum seekers evacuated by Romania at the medical screening.

Șomcuta Mare: The medical screening is done by the medical doctor of IGI-DAI. It is basically a general consultation which includes the medical history, taking the pulse, heart rate and visual check-up to check scars. This is usually done with the help of the AIDRom cultural facilitator or in English. Șomcuta Mare is the only centre that has never had a psychologist. The position is still vacant.

In **Bucharest**, according to the medical doctor, the medical screening is conducted by her and the nurse when the asylum seekers are accommodated in the centre. They are visibly checked to see if they present any signs of eczema, rabies, lice and a medical record is drawn up. In case of medical issues, the asylum seekers are referred to the Ministry of Internal Affairs hospitals. The screening is

⁴⁸⁹ Ombudsman, *2017 Reports*, available in Romanian at: <http://bit.ly/2Expec>.

⁴⁹⁰ Ombudsman, Report 75/2019,7.

conducted without the assistance of an interpreter, or sometimes with the help of the cultural facilitator, who is present on weekdays.

From 26 September 2020 until December 2022 the ICAR Foundation is implementing the project “Health Insurance for Asylum Seekers in Romania (ASIG - RO)” in partnership with AIDRom. Under this project at least 432 asylum seekers will benefit from medical services and at least 216 asylum seekers will benefit from specialized psychological assistance and counselling.⁴⁹¹

Specialised treatment

The Asylum Act provides for the right of asylum seekers with special needs to receive adequate health care.⁴⁹² In practice, the ICAR Foundation is the only organisation with the necessary experience in providing psychological assistance to torture survivors and traumatised asylum seekers in all the reception centres.

In **Timișoara**, ICAR personnel conduct the medical screening. IGI-DAI is notified if there are asylum seekers suffering from mental health issues and they are referred to specialised hospitals, if necessary. The ICAR Foundation doctor is present in the centre once a week. According to the JRS representative, AIDRom representatives carry out a more detailed screening.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

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

☒ Yes

☐ No

An applicant with special reception needs is a vulnerable person according to Article 5⁴¹ of the Asylum Act, who needs special guarantees to enjoy his or her rights and fulfil his or her obligations under the law.⁴⁹³ Article 5⁴¹(2) lists the following categories of vulnerable persons: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses, people with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, or persons in other special circumstances.

The law does not prescribe actual mechanisms or methods for the identification of vulnerable persons. The Asylum Decree only states that specialised personnel of IGI-DAI cooperate with UNHCR and relevant NGOs to identify asylum seekers who may fall within in the category of vulnerable persons referred. In order to assess the vulnerability of asylum seekers, specialists within IGI-DAI, where appropriate together with experts from other institutions and authorities competent in the field, to make an assessment of the special needs of foreigners. Depending on the specific need of each asylum seeker identified as vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance. IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.⁴⁹⁴

Psycho-social specialists of the ICAR Foundation who carry out activities in the Regional Centres first seek to identify asylum seekers, especially those belonging to vulnerable groups (families in difficulty, elderly people, people with chronic illness, unaccompanied children, victims of physical and mental violence) and their needs. Subsequent tests are conducted to assess the general health status of newly

⁴⁹¹ AIDRom, News Release, available in Romanian at: <https://bit.ly/38pzGtl>.

⁴⁹² Article 17(1)(n) Asylum Act.

⁴⁹³ Article 2(1)(b⁴²) Asylum Act.

⁴⁹⁴ Article 5(1)-(4) Asylum Decree.

arrived asylum seekers, while general practitioners provide weekly medical consultations (see [Health Care](#)).⁴⁹⁵

According to the Asylum Act, asylum seekers with special needs have the right to benefit from adapted accommodation and assistance conditions in the Regional Centres.⁴⁹⁶ However, not all centres are adapted to such needs: **Bucharest** and **Timișoara**, for example, are not equipped with ramps for persons with disabilities, even though in Bucharest there is a person who uses a motorised wheelchair.⁴⁹⁷ What is more, during their visit in the regional centre of Timisoara, the Ombudsman noticed that an asylum seeker who had walking difficulties due to an accident, struggled to use the toilet and recommended that the management build a toilet for persons with special needs.⁴⁹⁸

The house rules of the Regional Centres stipulate that, in order to deal with situations of sexual or gender-based violence, the Director of the Centre shall:⁴⁹⁹

- a. Inform the persons accommodated in the centre about sexual or gender-based violence and the consequences of such acts;
- b. In case of such situations occurring during the period of accommodation in the centre, notify the competent public authorities and institutions and, depending on the seriousness of the deed, gradually apply one of the sanctions provided in Article 47 ROI (see [Reduction or Withdrawal of Reception Conditions](#));
- c. Cooperate with national and international NGOs, as well as with public authorities and institutions competent in this field to assist victims while they are accommodated in the Regional Centre.

1.Reception of unaccompanied children

1.1. Unaccompanied children below the age of 16

Unaccompanied children below the age of 16 are accommodated in a centre managed by DGASPC or an authorised private body.⁵⁰⁰ If they have relatives residing in a Regional Centre, DGASPC decides where they will be accommodated, taking into consideration their best interests. In case of unaccompanied children who have siblings under or above the age of 16, when taking a decision regarding their accommodation, IGI-DAI shall consult their legal representative, observe the principle of family unity and take into account the age and maturity of the older sibling.⁵⁰¹ The opinion of the unaccompanied child regarding the place where he or she will be accommodated is considered and given due importance, taking into account his or her age and degree of maturity.⁵⁰²

Based on information provided by Save the Children Romania, there have been cases where unaccompanied children below the age of 16 were left in the Regional Centres for months before being accommodated in a DGASPC centre. One of the reasons for this is likely the fact that DGASPC is facing a shortage of accommodation places. As regards the conditions in DGASPC facilities, Save the Children stated that the facilities are decent but there are no interpreters; thus, interaction with these children is limited until they learn Romanian. In most cases the staff is not trained to work with foreign children, the services provided are not adapted to their needs.

Timișoara: Unaccompanied children are accommodated in the DGASPC Emergency Accommodation Centre for Homeless Children and have described living conditions as good; they receive 3 meals per day. According to the director of Timisoara regional centre around 200 asylum seeking children under

⁴⁹⁵ AIDRom, *Adapted and accessible health services for asylum seekers in Romania*, available at: <http://bit.ly/2Dz3v9U>.

⁴⁹⁶ Article 17(1)(l) Asylum Act.

⁴⁹⁷ IGI-DAI takes into consideration any special needs of asylum seekers. Groups such as elderly persons are accommodated on the first floor of the building so as to avoid many flights of stairs. Moreover, in one case, a person suffering from epilepsy was accommodated alone.

⁴⁹⁸ Ombudsman, Report, 2021, p.7, available in Romanian at: <https://bit.ly/3DZGvA7>

⁴⁹⁹ Article 60 ROI.

⁵⁰⁰ Article 58(3) Asylum Decree, in conjunction with Article 78(1) Child Protection Act.

⁵⁰¹ Article 58(3^1) Asylum Decree.

⁵⁰² Article 58(4) Asylum Decree.

the age of 16 were taken over by DGASPC in general in the same day they arrived. Conversely the JRS representative pointed out that they were accommodated in the regional centre, but not for long because they were transferred or left the centre with the adults. During 2021, there were 3 unaccompanied minors (age 9, 12 and 15) who stayed for longer at DGASPC.

Șomcuta Mare: Unaccompanied children are accommodated in family houses in **Baia Mare**, managed by the NGO Somaschi Foundation. JRS has reported that conditions in the facilities are good. In 2020 there were 2 unaccompanied minors accommodated in this centre, but they were over 16 years of age and specially requested to be accommodated here. As for minors under 16 years of age, according to a JRS representative they were all accommodated in the regional centre. In 2021 the majority of unaccompanied minors were accommodated in the regional centre. Around eight children were accommodated at the family house managed by Somaschi. In the regional centre unaccompanied children are accommodated separately

Galați: In 2020, it was reported that no unaccompanied child's care was taken over by DGASPC in the day and night shelter for homeless children, under the authority of DGASPC. All children under the age of 16 were accommodated in the regional centre. No social examination was conducted by DGASPC in order to evaluate what was in his or her best interest, with regards to their housing. The reason for this is the lack of places in their accommodation centres so it is better for the unaccompanied children to stay in the regional centre. The same was reported in 2021 when unaccompanied children were also accommodated with adults.

The JRS representative mentioned that the care of only two unaccompanied minors under the age of 16 was taken over by DGASPC but only after they were granted a form of protection and were thrown out of their accommodation by the persons who were taking care of them. The unaccompanied minors arrived at the centre with a group of people. At first, they stayed in the centre, until a man and woman with whom they had arrived, took them to live with them outside the centre. They were taken by these two persons without a court order establishing parental authority.

Rădăuți: Unaccompanied children are no longer accommodated in the **Solca Placement Centres** as it was closed. As of 2019 children were accommodated in the Children's Univers from Rădăuți. The centre is a family house located 200 m from the Regional Centre. In 2021 asylum seeking children were also accommodated in Siret, located 20 km from Radauti. The living conditions are satisfactory and hygienic conditions are good. Some children complained about the food quality. The JRS representative reported that not all unaccompanied children's care was taken over by DGASPC. It was also reported by another stakeholder that the minors leave the centre before the necessary administrative steps are taken. Two minors specifically requested to be accommodated in the DGASPC centre, but they were refused because they needed the space for minors under the age of 16. There is no interpreter, but when necessary IGI-DAI's interpreters could be requested. The activities organised in the centre are not adapted to the needs of unaccompanied minors. Unaccompanied children under 16 years of age declared verbally that they are accompanied by relatives, with no further evidence being provided. Thus, they remained in the regional centre, where they were not accommodated separately from the adults.

Giurgiu: Out of the total of 58 unaccompanied minors under the age of 16, for whom steps were taken regarding the takeover of their care and transfer to the DGASPC centers, only three were actually taken, the others had already left the centre, according to the director of the centre.

Bucharest: As of 2020, unaccompanied children are no longer accommodated in the **Pinocchio Day Centre** within DGASPC District 1. Unaccompanied children are only accommodated in the **Gavroche Day Centre** within DGASPC District 2. In 2021 unaccompanied children were also accommodated in the Ciresarii Emergency Reception Center of DGASPC District 5, according to the JRS representative. According to the director of the Vasile Stolnicu centre 54 unaccompanied children under the age of 16 were accommodated in the regional centre and requests for DGAPSC to take over their care were made, but the majority left the regional centre before they were accommodated at DGASPC centres.

In February 2020, UNHCR notified the Romanian Ombudsman about the situation of a number of asylum-seeking children under 16 years of age accommodated in **Stolnicu Regional Centre** because DGASPC District 2 Bucharest had no available places to take them over. An inquiry was conducted by the representatives of the Romanian Ombudsman at the regional centre and DGASPC. It was found that the reception conditions in the regional centre were inadequate; the regional centre accommodates unaccompanied minors between the ages of 12 and 18, most of these minors are accommodated together with adults. There was only one room where only minors were accommodated. As for the living conditions in Stolnicu centre the Ombudsman reported that these were completely inadequate for a decent life and breach many hygiene rules: unbreathable air in the hall ways and rooms, poorly oxygenated and the smell is hard to bear; the mess in the rooms is beyond description; the bed linen was very dirty and for some beds this was lacking; the furniture was in an advanced stage of degradation (broken chairs, broken window frames, that could not be locked, broken and dirty linoleum, etc). The Ombudsman further reported that the even though each room has its own bathroom, the conditions were the same as in the rooms: infiltrations, rusty toilet tanks, chipped sinks, showers (which were connected directly to the sink) were broken. During the visit, the Ombudsman representatives were informed that the centre would be renovated in 2020.⁵⁰³ It has been under renovation since the summer of 2021.

The Ombudsman reported that Gavroche centre has a capacity of 24 places and at the time of the investigation 19 places were occupied. Thus, the centre was not overcrowded as stated by UNHCR in their notification.⁵⁰⁴

According to IGI-DAI, 98 unaccompanied children were accommodated in DGASPC centres in 2020:⁵⁰⁵ As for 2021, IGI-DAI reported that they have no statistics.⁵⁰⁶

Occupancy at the end of 2020	
Bucharest	7
Giurgiu	2
Galați	0
Rădăuți	2
Șomcuta Mare	2
Timișoara	4
Total	17

Source: IGI-DAI, 16 February 2021.

1.2. Unaccompanied children aged 16 or more

Unaccompanied children, who have reached the age of 16 and do not have the necessary material resources to ensure their subsistence, are accommodated in the Regional Centres. They are accommodated together with adults in all regional centres.

The director of **Stolnicu** Regional Centre reported that in 2021 there were around 238 unaccompanied minors registered in the centre. They are accommodated together or separated from adults, according to their preference. In **Somcuta Mare** the same situation was reported.

In **Giurgiu**, 232 unaccompanied children over the age of 16 were accommodated in the regional centre, according to the director. She further mentioned that if they are accompanied by adult relatives they are accommodated together.

⁵⁰³ Ombudsman, recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/3kHBwuA>.

⁵⁰⁴ Ombudsman, recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/3reuPIV>.

⁵⁰⁵ Information provided by IGI-DAI, 16 February 2021.

⁵⁰⁶ Information provided by IGI-DAI, 10 March 2022.

In 2019, a total of 230 unaccompanied children were accommodated in Regional Centres.⁵⁰⁷ At the end of 2020, 412 unaccompanied children were accommodated in Regional Centres.⁵⁰⁸ In 2021, IGI-DAI reported a total number of 2,630 of unaccompanied children accommodated in the regional centres.⁵⁰⁹

	Occupancy at the end of 2021
Bucharest	250
Giurgiu	360
Galați	373
Rădăuți	7
Șomcuta Mare	3
Timișoara	1225
Total	412

Source: IGI-DAI.

1.3. Reception of families

Efforts are made to ensure that nuclear families can stay together during the asylum procedure. Families are accommodated in separate rooms. Due to the high number of asylum seekers registered in 2021, families were accommodated together with women in **Bucharest**.

In **Galați**, if there were available places families were accommodated separately. In 2021 when the number of asylum seekers was high families were accommodated in the same room. Single women are accommodated with single mothers with children; single mothers with boys are accommodated with other families or women.

In **Somcuta Mare**, families are accommodated separately from the other residents.

Timișoara: families are accommodated separately if there are available places. In 2020 and 2021 due to the high number of asylum seekers, asylum seekers were also sleeping in the kitchen.

In **Rădăuți** families are in general accommodated separately. There were cases where a single mother together with her child had to share a room with single men. It was also reported that asylum seekers are no longer accommodated based on their nationalities.

Beyond the Regional Centres managed by IGI-DAI, AIDRom runs two Accommodation Centres: One Accommodation Centre in **Timișoara**, which has operated without interruption since August 2012 with a capacity of 15 places; and One Accommodation Centre in **Bucharest**, which has operated since 2015 with 18 places.

These centres accommodate vulnerable persons, especially single parents with children (mothers with children). The AIDRom centres are located within these cities, funded partially by AMIF and partially by external donors. Asylum seekers housed in these centres have access to social assistance, cultural activities and cultural orientation.

AIDRom reported that in 2020, approximately 25 asylum seekers were accommodated in the 2 AIDRom centers. In Bucharest they accommodated families who remained there for almost 1 year, until they finalised the asylum procedure.⁵¹⁰

In 2020, according to IGI-DAI a total of 41 persons were accommodated in both AIDRom centres and at the end of the year there were 11 asylum seekers in these centres.⁵¹¹ As for 2021, IGI-DAI reported that

⁵⁰⁷ Information provided by IGI-DAI, 5 March 2020.

⁵⁰⁸ Information provided by IGI-DAI, 16 February 2021.

⁵⁰⁹ Information provided by IGI-DAI, 10 March 2022.

⁵¹⁰ Information provided by AIDRom, 4 March 2021.

⁵¹¹ Information provided by IGI-DAI, 16 February 2021.

they have no statistics on the number of asylum seekers accommodated in these centres⁵¹² and AIDRom did not provide any information on this either.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

Asylum seekers are informed of their rights and obligations pursuant to Article 17(1)(f) of the Asylum Act. IGI-DAI shall provide written information to asylum seekers in a language they understand or are reasonably supposed to understand, within a maximum of 15 days from the submission of the asylum application.⁵¹³ The information shall be provided by the official responsible for receiving the asylum application, according to a template established by order of the General Director of IGI.⁵¹⁴ Where necessary to ensure an adequate understanding of the information by the applicant, it may also be presented orally during the preliminary interview.⁵¹⁵ Competent officers are also required to inform asylum seekers on how to contact NGOs and UNHCR and how to obtain legal assistance and representation.⁵¹⁶ The General Director of IGI appoints the official responsible for ensuring the conditions to carry out the above activities.⁵¹⁷

The house rules of the reception centres prescribe that, when accommodated in reception centres, asylum seekers also receive information on the rights, obligations, prohibitions and disciplinary sanctions applicable during their stay in the centre. In this regard information is handed to asylum seekers in the form of an information sheet in a language that he or she understands or is reasonably supposed to understand and in which he or she can clearly communicate. Where appropriate, for an adequate understanding of the applicant, information may also be provided orally using the services of an interpreter apt to ensure appropriate communication.⁵¹⁸ The applicant has to sign an acknowledgment of receipt of the information leaflets.

According to the JRS representative, the information prescribed by the law is in practice more a presentation of the rights and obligations. The asylum seekers do not receive detailed information about their rights and obligations. It was noted that only in very few interview transcripts the asylum seeker declared that he or she is not aware of the rights and obligations.

In practice, asylum seekers are expected to contact the NGOs in the Regional Centres in order to get more detailed information on reception conditions, house rules and their rights and obligations.

Bucharest: The Regulation of Internal Order (ROI) is explained by the integration officer or the officer at the checkpoint of the regional centre, when needed, without an interpreter or maybe with the help of AIDRom's cultural mediator, according to the JRS representative. The director of Stolnicu Regional Centre reported that asylum seekers are informed in writing (in English) by the officer at the checkpoint. It has been reported that leaflets regarding the ROI, rights and obligations were distributed in the past but are no longer distributed. JRS drafted leaflets with ROI, which are displayed in the Tudor Gociu centre. According to the director of the Regional Centre, the information is provided at the time of accommodation in the centre by the officers at the access control point, with the help of an IOM ROMANIA Arabic interpreter who is present in the centre from 08:00 to 14:00, or by a person from the community. Written information is provided.

⁵¹² Information provided by IGI-DAI, 10 March 2022.

⁵¹³ Article 17(1)(f) Asylum Act; Article 2(1) Asylum Decree.

⁵¹⁴ Article 2(1) Asylum Decree.

⁵¹⁵ Article 2(1[^]1) Asylum Decree.

⁵¹⁶ Article 2(2) Asylum Decree.

⁵¹⁷ Article 2(3) Asylum Decree.

⁵¹⁸ Article 5(1) and (2) ROI.

Giurgiu: Asylum seekers receive information about ROI upon arrival in the centre. NGOs organise information sessions with asylum seekers after their arrival at the centre and offer information during individual counselling sessions.

Galați: The ROI is explained in an easily comprehensible manner at the moment of accommodation in the centre, with the assistance of an interpreter, where possible, of a person from the community who speaks English or of the cultural facilitator, who speaks Arabic and Kurdish. JRS also has a cultural facilitator who speaks Somali. The information is provided every time it is requested. There is also written information in the rooms and in the hallway in English. Infographics were also displayed with ROI and information about COVID-19

Șomcuta Mare: Asylum seekers are provided general information on the ROI and the projects implemented by NGOs in the Regional Centre, upon transfer from Timisoara. In general, IGI-DAI, more specifically the director of the centre, provides general information to asylum seekers only upon arrival in the centre, while NGO representatives cover the details and additional information on the procedure, rights and obligations.

Timișoara: Information on the ROI is provided in writing at the registration of the asylum application. There are leaflets in several languages, according to the director of the centre. However, the JRS representative reported that she had not seen asylum seekers receiving leaflets when they arrive in the centre. ROI is explained by NGOs during information sessions, with the help of interpreters paid by AIDRom. However, information sessions were not held with all asylum seekers accommodated in the centre. During their visit of 25 June 2021, the Ombudsman noticed that information on the rights, obligations, prohibitions and disciplinary sanctions applicable during the stay in the Regional Centre were not displayed in any of the rooms.⁵¹⁹

Rădăuți: Asylum seekers do not receive leaflets from IGI-DAI, according to the JRS representative. NGO representatives inform them orally during counselling sessions. Posters with ROI are displayed in several languages on the doors where asylum seekers are accommodated

UNHCR developed information leaflets on COVID-19 in several languages, which were distributed in all regional centres.

Information on the rights, obligations, prohibitions and disciplinary sanctions applicable during the stay in the Regional Centre shall be displayed in each accommodation room in an international language.⁵²⁰ However, according to the stakeholders interviewed by the author, this is not respected in practice, in all centres. In **Șomcuta Mare** information leaflets were received in December 2021 and were to be displayed in 2022.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

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

☒ Yes ☐ With limitations ☐ No

Pursuant to Article 17(1)(r) of the Asylum Act, asylum seekers have the right to be visited by family members, representatives of national and international NGOs and bodies with duties in the field of asylum or human rights, authorised and accredited under the law.

During the pandemic, access for visitors and those who do not carry out activities in the regional centers was restricted.

⁵¹⁹ Ombudsman, Visit Report, 2021, pp 6-7.

⁵²⁰ Article 5(3) ROI.

The house rules prescribe that visitors shall have access to the centre premises, including closed spaces, only through the access control post, based on identity documents such as identity card, passport, diplomatic identity card or residence permit. Visitors' access to the centre premises, including closed spaces, shall be allowed only after they have been authorised by the service staff at the access control post and after registering the entry in the Visitor Record Register. Authorities are forbidden from retaining the documents at the access control post.

NGOs implementing projects funded by the AMIF national programme have access to reception centres for the duration of their projects, based on protocols with IGI-DAI.

G. Differential treatment of specific nationalities in reception

There is no difference in treatment based on nationality with respect to reception. All Regional Centres accommodate different nationalities.

In 2021, in Galati, it was reported that the Afghan nationals evacuated by the Romanian authorities, because of their status and special situation, were not accommodated with other asylum seekers. They were accommodated on the second and ground floor and the rest of the asylum seekers were accommodated on the first floor.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2021:	1327
2. Number of persons in detention at the end of 2021:	113
3. Number of detention centres:	2
4. Total capacity of detention centres:	274

Specific measures imposed during the pandemic in 2021

IGI-DAI reported the following measures: distribution of sanitary and protection materials, disinfection of premises, isolation of persons detected as testing positively for COVID and their direct contacts, rapid testing and PCR testing, carrying out Covid vaccinations.

Before being detained, foreigner nationals were quarantined in spaces specially designated for this purpose, by the DSP according to the National Emergency Committee CNSU Decision.⁵²¹

In **Arad**, the director of the Arad centre reported that as in 2020, in 2021 newly arrived detainees were placed in quarantine for 14 days in a separate building (building B). The building has 52 places. They were accommodated in rooms with 4 bunk beds, a shower and a toilet. This was confirmed by the JRS representative, who reported that detainees were still quarantined in building C and while in quarantine, everything was suspended, including information provision. If foreigners are apprehended together, they will be placed in the same room. They are not allowed to leave their rooms while in quarantine. The food is provided directly in the detainees' rooms. After the quarantine they are moved to building C, where the rest of the foreigners are detained. They are monitored by the medical staff of the centre; they check their temperature; special attention being provided to the ones who have had symptoms. For vaccinated persons the quarantine period was shorter, around 5 days. However, during the visit, the author noticed that newly arrived detainees were also quarantined in building C.

In **Otopeni**, the newly arrived detainees were separated from the other detainees for 14 days and placed in separate rooms. Vaccinated detainees were separated for only 2 days. According to the director they are allowed to leave their rooms at the recommendation of the medical doctor or when the rest of the foreigners were inside their rooms. Their meals were served in their rooms. However, the JRS representative reported that they were not allowed to leave their rooms. As for information provision on their rights and obligations, detainees received leaflets in English upon arrival. They also receive verbal information and if they have questions or requests, IGI answers them. In addition, CNRR also has leaflets in several languages.

In 2021 in Otopeni there were 20 COVID-19 cases, according to the director and at the time of the visit there were 2 confirmed cases and in Arad there were 10-20 cases. None of the cases required hospitalization.

As for Dublin returnees, according to the director they are placed in quarantine for 10-14 days in a guesthouse in Otopeni. However, if they have a PCR test they are placed in Otopeni detention centre. Vaccinated persons are under medical supervision for 2 days. In Arad, there were no Dublin returnees detained in 2021.

Communication, information provision and counselling during these 14 days is very limited in both centres. The director of Otopeni said that if they have enquiries they will answer them. The director of Arad stated that those in detention have the right to use the landline. The landline is in the common room. Access is not limited but they only have five euros credit per month.

⁵²¹ Information provided by IGI-DAI, 10 March 2022.

In 2021, the COVID-19 measures were loosened in Otopeni, access to detention centres was not restricted for visitors, except when the incidents rate in the city of Otopeni was over 3 per thousand, meals were served normally. However, masks were still distributed to the foreigners by IGI when they arrived in the centre, and the detainees' temperature was measured every 3 days by a medical assistant according to one detainee, interviewed by the author.

During the author's interview with the detainees in Arad centre neither of those interviewed, nor the rest of the detainees had masks. Those interviewed stated that they only receive masks when they have a meeting with the director of the centre. The interviews took place in the hallway next to the dining room. In contrast, in Otopeni all the interviewed detainees had masks and the interviews were held in the club room. There was a broken desk and 2 worn down chairs in the room and there was no plexiglass on the table.

Detainees in Arad and Otopeni receive masks from IGI and CNRR.

COVID-19 specific measures imposed on return procedures

In 2021, according to the director of Arad, 475 foreigners were returned to Serbia on the basis of the readmission agreement, compared to 612 foreigners in 2020. The majority of those returned to Serbia were Afghan, Pakistani and Indian nationals. They had to be tested for COVID-19 in order to be returned. 400 persons were tested in 2021. Tests were performed in the detention centre by specialised personnel from a laboratory.

While the JRS representative from Timisoara had no knowledge of the exact number of persons returned to Serbia, she reported that the number was high.

According to the directors of **Otopeni**, the detainees have to be tested for COVID-19 in order to return them. The PCR tests are performed in the detention centre and the samples sent to a laboratory. IGI has a project in place for the acquisition of PCR tests, which is also supplemented by tests covered by DSP. According to the director of Otopeni around 200 persons were returned to Serbia, of whom 180 were returned by land and 20 by air. According to representatives from Otopeni two thirds of the detainees were returned based on readmission agreements to Serbia, Bulgaria or Ukraine and only one third to their countries of origin.

Specially designed closed spaces

Before the recast Reception Conditions Directive, Romania only detained foreigners subject to removal. An asylum detention regime was established following the transposition of the Directive, taking the form of a specially designed closed place i.e. locked rooms in each Regional Centre, except **Giurgiu**.

Detention in a specially designed closed space is ordered in writing, for a period of 30 days, by an order motivated in fact and in law by the designated prosecutor within the Prosecutor's Office attached to the Court of Appeal territorially competent for the area where the Regional Centre is located, upon a motivated request by IGI.⁵²² Romania does not apply this form of detention in practice. Since the entry into force of the reform on 20 April 2016 and until today, only one applicant in **Bucharest** has been subject to asylum detention, as he was considered dangerous for public order. The reasons behind the lack of use of the specially designed closed spaces of the reception centres include lack of staff, as well as unsuitable facilities to meet the standard requirements for detention, especially concerning daily meals.

In both 2020 and 2021 due to the high number of arrivals in **Rădăuți, Șomcuta Mare, Galați** these specially designed closed spaces were used to accommodate asylum seekers.

⁵²² Article 19⁷(1) Asylum Act.

Capacity of specially designed closed spaces: 2021	
Centre	Capacity
Timișoara	15
Șomcuta Mare	15
Rădăuți	10
Galați	30
Bucharest	0
Giurgiu	0
Total	70

Source: IGI-DAI, 10 March 2022.

Public custody centres

The 2015 reform also amended the provisions of the Aliens Ordinance regarding the situation of foreigners who lodge an asylum application from detention. Whereas prior to 2015 the Aliens Ordinance required the release of foreigners from detention as soon as a first application for international protection was lodged, the Aliens Ordinance now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure in Romania.

The law defines the measure of taking a person into “public custody” as a temporary restriction of the freedom of movement on the territory of Romania, ordered against foreigners in order to accomplish all the necessary steps for removal or transfer under the Dublin Regulation under escort.⁵²³ In practice, however, it constitutes a measure of deprivation of liberty.

There are 2 detention centres, known as Centres for Accommodation of Foreigners Taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*), located in **Otopeni**, near Bucharest, and **Arad**, near Timișoara. The centres are managed by IGI and are specially designed for the temporary accommodation of foreigners taken into public custody.⁵²⁴

Detention (“public custody”) is ordered in writing by an order, justified in law and in fact by the designated prosecutor within the Prosecutor's Office attached to the Court of Appeal of Bucharest, upon a motivated request by IGI.⁵²⁵

In general asylum seekers are not detained. The main categories of asylum seekers detained are those who have applied for asylum from detention and whose application has been assessed in the accelerated procedure.

During 2021, 129 asylum applications were made from public custody centres.⁵²⁶

In 2021, a total of 1,327 foreigners were detained in the public custody centres, compared to 1,241 in 2020 and 377 in 2019, of whom 717 persons were detained in Otopeni and 997 in Arad.

Arad: During the author's visit to the Public Custody Centre of **Arad** on 4 February 2022, there were 121 foreigners in detention out of whom 1 was an asylum seeker from Afghanistan, who was granted access to the regular asylum procedure and he was to be transferred to the Timisoara centre. A total of 997 persons were detained in Arad in 2021, compared to 1,164 in 2020. Out of the total number of detainees, 238 were Afghan nationals and 123 were Syrian nationals. According to the director of Arad, a total number of 89 asylum applications were made in Arad, out of which 73 were granted access to the regular procedure. In addition, 40 subsequent applications were made, out of which only 6 were granted access to the regular procedure. However, the Director of Timișoara Centre reported that 84

⁵²³ Article 101(1) Aliens Ordinance.

⁵²⁴ Article 103(3) Aliens Ordinance.

⁵²⁵ Article 19^14(1) Asylum Act; Article 101(2) Aliens Ordinance.

⁵²⁶ Information provided by IGI-DAI, 20 February 2020.

asylum applications were made in 2021 in Arad, out of which only 62 were assessed in the regular procedure. The majority of the applications after August were made by Afghan nationals.

The JRS representative in Timisoara reported that none of the Syrian nationals wanted to make an asylum application, because they don't want to have Romanian identification documents, they want to reach Germany.

Otopeni: According to the director of the Otopeni Public Custody Centre 717 persons were detained in Otopeni in 2021, compared to 391 persons detained in 2020. No statistics on the number of asylum seekers or migrants who lodged a subsequent application were provided. However, it was reported that 68 first time asylum applications and subsequent applications were granted access to the ordinary procedure. It was also reported that the majority of applications were subsequent applications and were made by Afghan nationals.

The law prescribes a deadline of 3 days for IGI-DAI to assess the asylum application of an applicant who is in detention and to issue a motivated decision.⁵²⁷ Therefore, in these cases the procedure is rapidly conducted. Asylum seekers cannot prepare for the personal interview, as they have no time to contact an attorney or a legal counsellor in order to be counselled or assisted at the interview.

According to the JRS representative many of the asylum seekers in Arad detention centre were relying on information received from the other detainees, saying that the legal counsellor from Timisoara is not providing legal counselling anymore to asylum seekers in Arad. This was also confirmed by the detainees interviewed by the author. Conversely, the director stated that legal counselling is provided by the legal counsellor from Timisoara, however, he never saw her in the detention centre in 2021, but he stated that he saw her at an interview conducted through videoconference.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

- | | | |
|--|--|---|
| 1. In practice, are most asylum seekers detained | | |
| ❖ on the territory: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ at the border: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Are asylum seekers detained during a regular procedure in practice? | <input type="checkbox"/> Frequently | <input type="checkbox"/> Rarely <input checked="" type="checkbox"/> Never |
| 3. Are asylum seekers detained during a Dublin procedure in practice? | <input type="checkbox"/> Frequently <input checked="" type="checkbox"/> Rarely | <input type="checkbox"/> Never |

1.1 Detention of asylum seekers in specially designed closed spaces

Under Article 19⁵(1) of the Asylum Act, when [Alternatives to Detention](#) cannot be applied, IGI may place asylum seekers in specially designed closed places to carry out the necessary procedural steps and to limit abuse to the procedure, for the following reasons:

- To verify the applicant's identity
- To establish the elements on which the application is based, which could not be obtained in the absence of this measure, in particular where there is a risk of absconding by the applicant;
- At the request of one of the institutions with responsibilities in the field of national security, from which it follows that the applicant presents a danger for the national security.

⁵²⁷ Article 19⁵(1) Asylum Act.

The law provides that the “risk of absconding” within the meaning of Article 19^5(1)(b) of the Asylum Act is to be understood as the factual situation which justifies the assumption that the applicant absconds from performing the activity of determining the elements of the asylum application made with the occasion of the personal interview.⁵²⁸ The Asylum Act sets out the criteria for determining the existence of a “risk of absconding”.⁵²⁹

- a. The applicant crossed or was caught trying to illegally cross the state border of Romania after filing the asylum application;
- b. The applicant was caught trying to illegally cross the state border of Romania, and the asylum application was filed after the person was apprehended;
- c. There are reasons to believe that the applicant intends to leave Romania after filing the application.

The measure of placement in specially designed closed spaces cannot be ordered in relation to asylum seekers subject to the Dublin procedure or to a measure of removal or expulsion from the Romanian territory.⁵³⁰

1.2. Detention of asylum seekers in public custody centres

Under Article 19^13 of the Asylum Act an asylum seeker may be placed or maintained in detention (“public custody”) in the cases foreseen by the Aliens Ordinance,⁵³¹ as well as in the following cases:

- a. In order to carry out the transfer to the responsible Member State under the Dublin Regulation, where there is a significant risk of absconding;⁵³²
- b. Where the applicant was detained with a view to removal or expulsion from Romania and filed an application in order to delay or prevent enforcement of the removal or expulsion measure, having had the possibility to lodge an application before.

The Asylum Act sets out a different set of criteria for the determination of a “significant risk of absconding” in the Dublin procedure, referring to cases where the applicant:⁵³³

1. Has irregularly crossed the border and his or her fingerprints match with a Eurodac ‘hit’;
2. Has irregularly crossed the external border of the EU Member States or Schengen countries, or was caught trying to irregularly cross the Romanian border and applied for asylum after being apprehended;
3. Has irregularly crossed or attempted to cross the Romanian border after applying for asylum in Romania;
4. Has applied for asylum in Romania after having been transferred to the responsible Member State;
5. Has not complied with alternatives to detention;⁵³⁴
6. Opposes the transfer to the responsible Member State.

In practice, in most cases asylum seekers are detained on the territory. In relation to applicants subject to the Dublin procedure, who cannot be detained in specially designed closed spaces; most stakeholders reported that detention in public custody is generally not ordered. These asylum seekers are usually detained if they cross or attempt to cross into Hungary. According to the Director of the Regional Centre Stolnicu, applicants subject to the Dublin procedure were never placed in detention.

⁵²⁸ Article 19^6(3) and (2) Asylum Act.

⁵²⁹ Article 19^6(4) Asylum Act.

⁵³⁰ Article 19^2(3) Asylum Act.

⁵³¹ Article 101(2) Aliens Ordinance. The measure of public custody is ordered against a foreigner who cannot be removed under escort within 24 hours and who: (a) risks absconding from removal; (b) avoids or hampers the preparation of the return or removal under escort process; or (c) is subject to expulsion.

⁵³² Article 19^13 Asylum Act, in conjunction with Article 19^14(1) Asylum Act.

⁵³³ Article 19^14(2) Asylum Act.

⁵³⁴ Article 19^14(2)(e) Asylum Act, citing Article 19^2(1)(a)-(b).

Whereas prior to 2015 the Aliens Ordinance required the release of the foreigner from detention as soon as a first application for international protection was lodged, the law now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure. Therefore, if they are assessed in an [Accelerated Procedure](#), they will stay in detention until the asylum procedure is concluded. If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined. When the applicant makes a subsequent application, detention ceases on the date he or she is granted access to the new procedure.⁵³⁵ If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined.

2. Alternatives to detention

Indicators: Alternatives to Detention

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

Specially designed closed spaces

The Asylum Act provides for the possibility to impose alternatives to asylum detention, defined as “restrictive measures”, in order to fulfil the necessary formalities, to limit abuse of the asylum procedure, and in case the asylum seeker poses a threat to national security, on the basis of an individual assessment.⁵³⁶ These consist of:⁵³⁷

- ❖ Reporting duties;
- ❖ Designated place of stay in one of the Regional Centres.

Detention in specially designed closed spaces may be ordered if reporting duties and designated place of stay measures cannot effectively be applied to carry out the necessary procedural formalities and to limit abuse of the asylum procedure.⁵³⁸

No restrictive measures may be imposed against an asylum applicant for the sole reason that he or she has lodged an application for international protection in Romania.⁵³⁹

Detention (“public custody”) centres

The placement of an asylum seeker in detention centres (“public custody”) may be ordered if the prior assessment regarding the possibility to impose alternatives to detention demonstrates that these measures are not possible and sufficient to meet the procedure and the purpose sought,⁵⁴⁰ namely removal from Romania or transfer under the Dublin Regulation.

IGI-DAI reported 55 asylum seekers subject to a restrictive measure in 2021, without mentioning the alternatives imposed.⁵⁴¹

⁵³⁵ Article 101(8) Aliens Ordinance.

⁵³⁶ Article 19^2(1) Asylum Act.

⁵³⁷ Article 19^2(1) Asylum Act.

⁵³⁸ Article 19^5(1) Asylum Act.

⁵³⁹ Article 19^2(2) Asylum Act.

⁵⁴⁰ Article 19^13(2) Asylum Act.

⁵⁴¹ Information provided by IGI-DAI, 10 March 2022.

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

Specially designed closed spaces

Asylum detention, i.e. placement in specially designed closed spaces, cannot be ordered against unaccompanied asylum-seeking children, except for cases where the unaccompanied child cannot prove his or her age and, due to serious doubts thereon, IGI-DAI requests an age assessment.⁵⁴²

Detention (“public custody”) centres

The Public Custody Centres Regulation explicitly provides that children cannot be detained in these centres, unless they are accompanied by at least one of the parents or their legal representative, who are taken into public custody.⁵⁴³

According to the amended Aliens Act, in case the foreigner declares that he or she is a minor and cannot prove his or her age, if there are serious doubts about his minority, he or she will be considered an adult.⁵⁴⁴ In this situation, IGI requests an age assessment, with his or her prior consent.⁵⁴⁵ As a consequence the child will be treated as an adult and placed in detention pending the age assessment, until his or her age is confirmed.

CNRR reported that in 2021, there were no accompanied children detained in Arad or Otopeni.⁵⁴⁶

According to the Director of **Otopeni**, a pregnant woman and families without children were detained in 2021. Nevertheless, the medical doctor reported two single parent families (a father and his 17 year old son and another father with a daughter and son both under 14 years of age) being detained in 2021. According to the Ombudsman’s report, no prenatal tests were done since the woman was detained and she was not taken to a specialist consultant, since she was transferred from Arad, where pregnancy medical investigations had been performed.

In 2021, in **Arad**, 11 accompanied children were detained in general for a period of up to 30 days, with no minor being detained for more than 60 days, according to the director. The youngest children detained were 4-5 years old. The majority of these children were accompanied by both parents.

According to the Director of the Public Custody Centre of **Arad**, a total of 3 single parent families (mothers accompanied by their children) were detained in Arad in 2021. 40-50 single women were also detained in Arad during the year.

According to IGI-DAI, 12 minors accompanied by both or one of the parents were detained in 2021.⁵⁴⁷

Romanian law does not prohibit detention of other vulnerable asylum seekers. IGI-DAI noted that detention of persons with special needs such as victims of torture or trafficking has not been applied in public custody.⁵⁴⁸

⁵⁴² Article 19^5 Asylum Act, in conjunction with Article 42(2) Asylum Act.

⁵⁴³ Article 29 Public Custody Centres Regulation.

⁵⁴⁴ Article 131^1(1) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

⁵⁴⁵ Article 131^1(2) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

⁵⁴⁶ Information provided by CNRR, 15 February 2022.

⁵⁴⁷ Information provided by IGI-DAI, 10 March 2022.

⁵⁴⁸ Information provided by IGI-DAI, 14 February 2018.

The JRS representative in Bucharest reported that there were no vulnerable persons with medical and psychological issues detained in Otopeni centre in 2021. According to the medical doctor of Otopeni there were two migrants with psychological issues, who were also granted tolerated status due to their condition. Another two migrants suffering from diabetes were also released.

According to the JRS representative in Timisoara, there was an elderly man who was released from detention. She also reported several persons were suffering from depression. The director of Arad stated that 2 persons may have been released due to a medical condition.

4. Duration of detention

Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions):	
❖ Asylum detention	2 months
❖ Pre-removal detention	18 months
2. In practice, how long in average are persons detained? (see below for more details)	1-5 months

Specially designed closed spaces

According to Article 19⁷(1) of the Asylum Act, detention in specially designed closed spaces is ordered for a period of 30 days. IGI may request the territorially competent Court of Appeal to prolong detention for an additional 30-day period.⁵⁴⁹ Accordingly, the total period of detention in those spaces may never exceed 60 days.⁵⁵⁰

IGI-DAI has to carry out the examination of the applicant's identity and establishment of the elements of the asylum claim expeditiously in order to maintain the measure of detention as short as possible. Delays due to the administrative procedures that cannot be imputed to the applicant cannot justify a continuation of detention, except for situations where it is necessary to continue to apply the measure for reasons of national security, without exceeding the 60-day limit.⁵⁵¹

Detention ("public custody") centres

Detention in public custody centres is also ordered for an initial period of 30 days⁵⁵² and it may not exceed 6 months.⁵⁵³ However, this period may be extended exceptionally for an additional period no longer than 12 months, in cases where IGI-DAI is unable to transfer the asylum seeker to the responsible Member State due to delays in obtaining the necessary documentation for the transfer to the respective Member State.⁵⁵⁴ Therefore, detention in public custody can last up to 18 months.

Specifically, as regards detention in the Dublin procedure, the Asylum Act recalls that detention ceases if the time limit of six weeks set out in Article 28(3) of the Dublin Regulation is reached.⁵⁵⁵

When asylum seekers lodge an application in detention centres and are assessed under the accelerated procedure, they spend the whole asylum procedure in detention.

The duration of detention in **Arad** in 2021 was as follows:

⁵⁴⁹ Article 19⁷(3) Asylum Act.
⁵⁵⁰ Article 19⁷(5) Asylum Act.
⁵⁵¹ Article 19⁷(6) Asylum Act.
⁵⁵² Article 19¹⁴(1) Asylum Act.
⁵⁵³ Article 19¹⁴(6) Asylum Act.
⁵⁵⁴ Article 19¹⁴(7) Asylum Act.
⁵⁵⁵ Article 19¹⁴(10) Asylum Act.

Duration of detention – Public Custody Centre Arad: in 2021	
Duration	Number of persons
> 5 days	100
> 10 days	121
>20 days	193
>30 days	149
> 6 months	405
> 1 year	27
<1 year	2

Source: IGI, Director of Arad Public Custody Centre, 4 February 2022.

According to the JRS representative in **Arad** there was a Sri Lankan national detained for 1 year.

According to the directors of **Otopeni** the average duration of detention in 2021 was 3 months.

According to IGI-DAI, in 2019, the average duration of detention was 1-5 months.⁵⁵⁶ In 2020, IGI-DAI reported an average duration of detention of 264 days.⁵⁵⁷ In 2021 IGI-DAI reported an average duration of 29 days in Otopeni and 50 days in Arad.⁵⁵⁸

Detention in border and transit zones

Detention upon apprehension cannot exceed 24 hours under the Romanian Constitution and the Criminal Procedure Code.⁵⁵⁹ According to JRS, in 2021, in general, persons apprehended were not held for more than 24 hours in Border Police custody. However, it was reported by the JRS representative that at the Border Police Inspectorate of Sighetu Marmăției (northern part of Romania, at the border with Ukraine) persons apprehended were held up to 48 hours, due to the fact that the Ukrainian authorities took them back at the last moment.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

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

2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

According to the law, asylum seekers may be detained in specially designed closed spaces within the Regional Centres, as well as in public custody centres. Asylum seekers are only detained in prisons if they are convicted of a criminal act or if they are sentenced to imprisonment.

1.1. Specially designed closed spaces in Regional Centres

All Regional Centres except **Giurgiu** contain specially designed closed spaces. In **Bucharest**, in 2021 there were no such places at the IGI-DAI **Tudor Gociu**. **Rădăuți** has 10 places in closed spaces, **Galați** has 30, **Timișoara** has 15 and **Șomcuta Mare** has 15 places located in a closed space in the basement of the building.

⁵⁵⁶ Information provided by IGI-DAI, 20 February 2020.

⁵⁵⁷ Information provided by IGI-DAI, 16 February 2021.

⁵⁵⁸ Information provided by IGI-DAI, 10 March 2022.

⁵⁵⁹ Article 23 Romanian Constitution; Article 209 Criminal Procedure Code.

1.2. Detention (“public custody”) centres

There are two Accommodation Centres for Aliens Taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*) in Romania with the following capacity:

Capacity of detention centres: 2021	
Detention centre	Capacity
Otopeni	114
Arad	160
Total	274

Capacity in Arad may be extended to 206 places but only for limited periods.
Capacity in Otopeni can be extended to 132 places.

In 2021, **Arad** centre reached the maximum capacity of 206 places for 1, 2 days. According to an employee from Arad 220 persons were detained in the centre at one point. The occupancy rate of the center for the whole year was 73. Extra mattresses were placed in rooms on the floor

The JRS representative reported no problems of overcrowding in **Otopeni**.

Asylum seekers placed in public custody centres shall be detained, as far as possible, separately from other categories of foreigners.⁵⁶⁰ In practice, this not the case according to the directors of the **Arad** and **Otopeni** centres and the JRS representative in Otopeni. The director of Arad stated that they try to take this into account, however, in reality it really depends on the availability of places and in practical terms the separation of asylum seekers from the other migrants would be only for a few days, as the asylum procedure in their case is swift and practically it would be burdensome.

Persons who are convicted of crimes are also to be accommodated in separate rooms from other categories of foreigner nationals. Foreigner nationals considered ‘undesirable’⁵⁶¹ are accommodated separately from the others, according to the Directors of Otopeni and Arad. Those who are convicted of crimes are only accommodated separately in Otopeni.

According to the directors of public custody centres and JRS families are detained separately.

1.3. Transit zones

Romania has an airport transit zone in **Otopeni Airport** in Bucharest, with a capacity of 22 places. Three people were detained in Otopeni during 2017.⁵⁶² No information was available for 2018 and 2019.

According to a lawyer appointed as the representative of a foreigner detained at the airport transit zone in Otopeni airport, they had no access to the client. The lawyer declared that she sent a permission request to the Border Police in Otopeni airport and contacted Border Police officers, who afterwards did not answer her calls, she also tried to discuss with the officers in charge in the transit zone without success. In the 5 hours she spent in the airport she was not granted access to her client detained in the transit zone. The lawyer learned afterwards that it depends on the officer in charge of the shift whether access is granted. The foreigner was returned on the second day after midnight.

In 2021 there were 16 airport transit zones, with a total capacity of 101 places.⁵⁶³

⁵⁶⁰ Article 19^16(1) Asylum Act.

⁵⁶¹ Article 86(1) Aliens Act defines undesirable foreigner as a foreigner who has carried out, carries out or there are solid indications that he/she intends to carry out activities likely to endanger national security or public order.

⁵⁶² Information provided by IGI-DAI, 14 February 2018.

⁵⁶³ Information provided by the Border Police, 3 March 2021.

Capacity airport transit zones: 2020		
Airport	Refusal of entry	Asylum seekers
“Henri Coandă” Bucharest	4	4
Băneasa Bucharest	2	4
Baia Mare	0	0
Suceava	1	2
Iași	2	2
Bacău	3	3
Craiova	4	4
„Delta Dunării” Tulcea	1	1
Timișoara	2	12
Arad	2	4
Oradea	4	4
Cluj-Napoca	4	4
Satu Mare	4	4
Târgu Mureș	2	2
Sibiu	3	3
„Mihail Kogălniceanu” Constanța	4	6
TOTAL	42	59

Source: Border Police, 2 March 2022.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice? ☒ Yes ☐ No
 ❖ If yes, is it limited to emergency health care? ☐ Yes ☒ No

Given that detention of asylum seekers in the specially designed closed spaces of Regional Centres is not used in practice, the following section focuses on conditions in detention (“public custody”) centres.

Public custody centres are managed by the IGI Migration Directorate. According to the Aliens Ordinance, the centres are established, organised, sanitary authorised and equipped to provide adequate accommodation, food, medical care and personal hygiene.⁵⁶⁴

The director of **Arad** emphasised the lack of interpreters and lack of nurses as an issue. At the time of the author’s visit there were only 2 nurses, working 12 hours per day and a medical doctor contracted through a service provider contract. The doctor is present in the centre 3 hours per day on weekdays. The director further mentioned that they cannot communicate well with the detainees. Some of the interviewed detainees declared that some of the police officers have no English language skills. One of the interviewed detainees was often used as interpreter by the administration of the detention centre. The author noticed during the interviews that most of the foreign nationals detained in Arad had a basic grasp of the English language. Communication with some of them was very hard; it was hard for the foreigner nationals to understand basic questions. The director of Arad stated that there is a procedure in place which allows them to use interpreters for information sessions and counselling, however, he had no further information on this, as he had just learned about this procedure.

According to the JRS representative there was only one nurse working in the centre in 2021.

The director of **Otopeni** stated that they manage to communicate with foreign nationals in English or by using Google translate. Nevertheless, they need interpreters to communicate with detainees. According

⁵⁶⁴ Article 103(3) Aliens Ordinance.

to the JRS representative, the lack of interpretation is an issue, as many of the detainees do not speak English. Even she uses Google translate to communicate with them.

In 2021 no trainings for staff members working in Otopeni were held, including courses by the Ministry of Interior.

One of the foreigners detained in **Arad** interviewed by the author reported that, while he was on hunger strike, the police officers tried to beat him in order to convince him to eat. He stated that he was beaten three times. He was pushed and kicked. Another foreign national interviewed by the author stated that the police officers are violent towards some of the detainees. A foreign national interviewed by the author in Otopeni also declared that a police officer in Arad hit him in the back without a reason. The director of Arad stated that there were many issues linked to this: the majority of detainees in Arad are from Algeria and Morocco, they stay for longer periods in Arad, than in Bucharest and in Bucharest the food is of better quality. He also mentioned that he had discussed the allegations with the police officers who managed the shifts and they said that it had not happened on their shifts.

The JRS representative also reported that there were complaints against a police officer, who was violent towards the detainees; she reported the incidents to the director of Arad and there were no more complaints.

Foreigners interviewed by the author in Otopeni, who were also detained in Arad stated that the police officers in **Otopeni** treated them better than the officers in Arad.

When transferred from the facility to court for hearings, detained foreigners are handcuffed and escorted. According to the director of Arad, the foreigners are not always handcuffed, only if there is a risk of absconding or the number of foreigners is higher than the number of police officers accompanying them.

According to the directors of **Otopeni**, foreigners are handcuffed and escorted to the court. The handcuffs are taken off once they enter the court. According to the foreigners interviewed by the author during the visit in Otopeni the handcuffs are taken off when they enter the courtroom, where the court hearing is held. Women are not handcuffed when they are taken to court hearings, according to the representative of Otopeni.

Regarding detainees' right to information on their rights and obligations in detention, in **Arad** all detainees receive written information about their rights and obligations in English or French upon arrival, the director stated. The author noticed that the posters in different languages that were displayed on the dormitory doors and dining room in previous years, were either torn apart or missing. At the same time there were leaflets in several languages on public custody from CNRR in the room where fingerprints are taken.

In **Otopeni** information on ROI and rights and obligations is provided by IGI. The detainees receive A4 leaflets with their rights and obligations in English. According to the JRS there are posters in different languages on the walls.

According to the director of **Otopeni**, detainees are informed about their rights and obligations and the reasons for their detention upon arrival in the centre in writing in English and Romanian. Posters with the rights and obligations and ROI are displayed in the hallways of the centre in several languages. During the visit in Otopeni the author saw the posters with ROI and rights and obligations in different languages displayed on the hallways and in the room used for videoconferences with the court. Some of the foreigners interviewed by the author during the visit in Otopeni mentioned that they receive the decision in Romanian and short information in English.

2.1. Overall conditions

Otopeni centre operates in Otopeni, Ilfov County, near the largest airport in Romania, Henri Coanda Airport, which facilitates the operative return of foreigners to their countries of origin. The centre was established in 1999 and renovated in 2004-2005 with PHARE funds of €1,500,000, including Romania's own contribution.⁵⁶⁵ Otopeni centre has two buildings. In November 2020 renovation works started for one of the buildings of the detention centre, with AMIF funds. The building, which has around 60 places of accommodation, was renovated completely on the interior and exterior- the water pipes and tiles are changed, bathrooms are completely refurbished. Next to this building there is a small football field and a small park, which was also renovated. The renovations were finalized in August 2021. However, detainees were accommodated in building B starting from June 2021. The centre has a capacity of 114, with the possibility of extension to 132 places. The majority of the rooms have 4 beds each, but there are also rooms with 6 and 8 beds and one room with 12 beds. The representatives of Otopeni centre mentioned that a project to acquire bedding, mattresses, pillows, covers and others had been approved. Representatives of Otopeni centre stated that building A will also be renovated but they did not know the start date of the work.

Arad is located in Horia, a village in Arad County. It has a capacity of 160 places. There are two buildings: one (building B) hosting the administrative offices and 52 places of accommodation and another building (building C) designated for accommodation with 108 places, administration purposes and other activities, inaugurated in 2015.⁵⁶⁶ Each room is designed to accommodate 4 people and has 4.5 to 6m² per person.⁵⁶⁷

In **Arad**, in May 2021, the authorities started the construction of another facility, with a capacity of 240 places of accommodation, a sports field and leisure spaces. The construction of the facility is being funded by AMIF. The director stated that the construction works will be finalised in June-August 2022.

In 2021, in **Otopeni** the highest number of detainees was 91 at the beginning of August. At the time of the author's visit there were 57 foreigners detained.

During the visit carried out to Otopeni on 31 January 2022, the detention conditions in the building which was not under renovation were good. The hallways and other shared spaces were clean. In the renovated building, the walls were already dirty and the old tiles had been kept. The dining room which is in the other building was also clean. The outside space had not been improved, apart from a few new benches. The JRS representative declared that the centre is clean and warm during the winter.

During the visits carried out to Arad on 4 February 2022, the detention conditions in the public custody centre were decent, but not as satisfactory as two years ago. The walls in the rooms and hallways were scribbled on, the shower curtains were worn; the ping pong table from the common room that was broken last year, was no longer there; mattresses were stored in the common rooms; in one of the common spaces there was a broken TV, detainees stated that a police officer had broken it, detainees were smoking in the common room, but also in the hallways. In **Arad** only building C was visited. The hygienic conditions and overall cleanliness of the centre were good. The rooms which were visited had bunk beds, a shower separated by a wall and with a curtain, and a toilet near the shower, not separated from the rest of the room. The room for mothers and children was not visited. The windows of the building where people were accommodated were opaque, so it is not possible to look outside. Those interviewed by the author in 2018 also mentioned this as an issue. According to the director, building B was sanitized, painted and small repairs were done and in building C several disinfections were carried out. The JRS representative also reported that the centre was clean.

⁵⁶⁵ Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Otopeni*, 70/2016, available in Romanian at: <http://bit.ly/2BPRSSK>, 2.

⁵⁶⁶ Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Arad*, 30/2016, available in Romanian at: <http://bit.ly/2EbfM7g>, 3-4.

⁵⁶⁷ *Ibid*, 10.

In **Otopeni**, the rooms are equipped with their own bathroom, individual beds with mattresses in good condition, table, chairs, cupboards, and a television. However, the JRS representative mentioned that in a room that she had visited there was no TV, only four beds, a table and a chair. The author also visited the newly renovated children's room in Otopeni. The room had a few tables, shelves, coloured rugs and toys. The bed linen is changed every week and washed in the centre according to the director of Otopeni. At the time of the visit the industrial washing machine was under repair. Some of the interviewed detainees stated that they also wash the bed linen. In order to wash their clothes, the detainees have access to a washing machine, which is on the same floor as their rooms. The windows are not opaque, but they are covered with bars. Representatives from the Otopeni centre reported that they had issues with bed bugs in building A.

Each detainee has his or her own bed and there is generally sufficient space, except at times when the number of detainees was high and they had to place mattresses on the floor. Detainees are required to clean their own rooms and the common spaces in both centres. They receive cleaning products from IGI and CNRR, according to the directors of the centres.

Detainees are accommodated in separate rooms on the basis of gender, religion or nationality. Family members are accommodated in the same room, separately from other people, ensuring an appropriate level of privacy.

CNRR provides material assistance through the project "Counselling and Material Assistance in Public Custody Centres", funded by the AMIF national programme. The main objective of the project is to provide information and counselling to migrants about return operations and rules that must be respected during these operations; the rights, obligations and rules of the Public Custody Centres Arad and Otopeni; and to provide services and specific assistance (including material assistance) complementary to that granted by the Romanian government during their detention in the Public Custody Centres and during their return under escort to the country of origin or other country of destination.⁵⁶⁸ Detainees interviewed from the Otopeni centre declared that they had received some clothing from CNRR. Some of the interviewed detainees in both Arad and Otopeni declared that they received one shampoo every 3-4 months and some razor blades. Another person interviewed in Arad stated that in general the detainees who leave the centre give away their clothes. Others said that they received some clothes but some months after they arrived at the centre.

The Public Custody Centres Regulation prescribes that food is provided three times a day, in the form of a hot or cold meal, depending on the situation of the detainees during accommodation or transport. For sick people, pregnant women and other categories of persons, food provision follows the number of meals and the diet prescribed by the doctor at the centre. At the request of detainees, their religious diet is respected.⁵⁶⁹

In **Otopeni** the food (3 meals/day) is provided by the gendarmerie. According to the representatives of Otopeni the quality of the food is better than in the past as it is provided by a different kitchen of the gendarmerie. Some of the interviewed detainees stated that the food is good, some of them said that it is not that good, because it is not like the food they are used to in their country of origin or it is not sufficient. The interviewed detainees said that the food in Otopeni is better than in Arad. During the Ombudsman's visit on 20 August 2021, in Otopeni it was noted that detainees do not receive fruit, not even the pregnant women.⁵⁷⁰ Representatives from the Otopeni centre reported that they now also receive fruit. All the detainees interviewed by the author said that they never receive fruit in Otopeni. However, in Arad they receive apples three times per week, that sometimes are good and sometimes are too ripe or rotten. They also mentioned that they receive one juice every week and, once in a while, chocolate bars from CNRR.

⁵⁶⁸ Information provided by CNRR, 9 December 2019.

⁵⁶⁹ Article 30(1)-(4) Public Custody Centres Regulation.

⁵⁷⁰ Ombudsman, Visit Report, available in Romanian at: <https://bit.ly/3gzYe6E>, 12.

In **Arad** the food is provided by the Arad penitentiary facility. Detainees interviewed by the author in Arad complained about the food quality and that they had also complained about it to the administration of the camp, but no measures were taken. They also mentioned that they never received chocolate or juice from CNRR. The director of Arad reported that they have no special menus for children as meals are provided by the Arad penitentiary.

2.2. Activities

The Public Custody Centres Regulation provides that every foreigner is entitled to an hour of recreational outdoor activities per day, depending on the weather conditions and the possibilities of supervision. Recreational outdoor activities usually take place between 13:30 and 17:00. The director of the centre or his or her legal substitute may increase the duration of outdoor recreational activities.⁵⁷¹

Arad has two courtyards of 120m² each for walking, with lawns and concrete surfaces, each equipped with a goalpost and basketball hoop with backboard and tables with benches. According to the director of Arad, between meals, people are let outside in the courtyard for an hour, everyday, under the police officers' supervision. Conversely, the detainees interviewed by the author stated the contrary and complained about the lack of outdoor time. One of the foreigners reported that in the last two weeks he had had no outdoor time at all, and when he was outside, he only had 10-15 minutes there. The detainees mentioned that they had raised this issue as well, with no result. It was also reported that it depends on the police officers if they go outside. There is a workout room in Arad but only 3 fitness machines were functional at the time of the author's visit. However, the detainees and the JRS representative were not aware of its existence. There is no library in Arad; books are stored in the psychologist's office, and detainees may borrow them.

In **Otopeni** people are allowed outside or on the terrace after meals under supervision almost everyday, depending on the availability of the police officers. All the detainees interviewed said that they had no daily outdoors time. One of them said that he had had no outdoors time since he was transferred from Arad, three weeks ago; another detainee said that in the 4 months and 2 weeks since he had been detained he had been outside only once; another person detained for more than 3 months reported that in 3 months he had never seen the sun; another foreigner emphasized several times that all he wanted was to go outside in the sun. Moreover, all the detainees reported that their rooms were locked most of the time during the day. One of them reported that doors are opened at 8 AM until lunch and depending on the police officers on duty, doors are locked after lunch until dinner time at 5PM. This was also reported by the Ombudsman, who noted that detainees are only allowed to leave their rooms for eating.⁵⁷² Conversely, the JRS representative stated that they are allowed to exit their rooms; however, she had never seen them outside in the courtyard. The centre has a functional gym, but it only has a few pieces of equipment. One detainee reported that he had requested to go to the gym but he had not been allowed to go once, as it depended on the police officers on duty. The prayer room is in the building, which was being renovated and it is an ordinary room with 4 beds.

Televisions in **Otopeni** are functional and available in every room, while in **Arad**, during the author's visit, there were two televisions, one in each common room, one of which was broken, with channels provided by a Romanian cable company. During the visit, the author visited a room with a TV. The director of Arad mentioned that they will install a TV in each room in the near future.

According to JRS and the directors of the two centres, detainees have no internet access in detention.

As for social activities, in **Otopeni**, the representatives of the centre stated that CNRR had organised several competitions with the detainees, such as chess and ping pong. However, those interviewed complained about the lack of any kind of activities; and that they cannot play sports outside. The JRS representative mentioned that she was not aware of any activities being organised for detainees.

⁵⁷¹ Article 26(1)-(2) Public Custody Centres Regulation.

⁵⁷² Ombudsman, Visit Report, p.11

The need for social workers in detention centres has been emphasised by the Ombudsman since 2016.⁵⁷³ This was still relevant in 2022.

The director of **Arad** stated that there are no social, cultural or educational activities organised in the centre, neither for adults nor for children. He mentioned different activities, such as: the possibility to borrow books from the psychologist. In the past there was a ping pong table but that is no longer there. The persons interviewed by the author in **Arad** and **Otopeni** confirmed that there are no activities organised for them. The detainees in **Arad** appreciate that the doors of their rooms are open and they can socialise with the other detainees. The library in **Otopeni** only has books in English.

During the visit the author did not see any playground outside and the mother and child room was not visited in **Arad**.

Otopeni has a small playground which has been under renovation since November 2020. During the visit no evidence of the playground was seen.

The Aliens Ordinance provides for the right to access to education for children detained in public custody centres accompanied by at least one parent or by their legal representative; children have free access to the compulsory education system.⁵⁷⁴ Nevertheless, according to the directors of both **Arad** and **Otopeni**, none of the children detained in public custody centres were enrolled or attended school.

2.3. Health care and special needs in detention

Foreigners detained in public custody centres have the right to legal, medical and social assistance and the right to have their own opinion, religious, philosophical and cultural matters respected.⁵⁷⁵

Otopeni has a general practitioner, a full-time psychologist and 2 nurses. The doctor's schedule is 7 hours per day on weekdays, while the medical staff works in 24h shifts. In February 2022 they were prepaing to recruit an additional nurse's position.

Arad has a psychologist. In 2020 they managed to sign a service provider contract with a medical doctor. The doctor is present in the centre 3 hours a day, during weekdays. During the author's visit on 4 February 2022, there were only 2 nurses, working in 12h shifts. As a consequence, the shifts are not fully covered. During the night there is no medical staff. When new persons arrive in the centre, a visual medical screening is conducted by the medical staff, who also take their pulse, temperature and blood pressure. The screening is conducted without an interpreter. The doctor mentioned that he speaks English and German and he manages to communicate with the detainees; if they do not speak any of the languages he uses sign language. In comparison with 2019, when the medical office in **Arad** did perform medical tests for the diagnosis of infectious / contagious diseases such as HIV, hepatitis and drug tests, in 2020 they performed only hepatitis tests. In 2021 the project which provided for medical tests ended. As for the PCR tests, these are collected in the centre by specialised personel from a laboratory and the costs are covered by IGI. The director of **Arad** reported a total of 400 PCR test done in 2021, for detainees returned to Serbia. The medical office provides oral treatment and injections in the centre. If there is a need for specialist consultations and medical prescriptions from specialist doctors, detainees are taken to public health care institutions in **Arad** County. In 2019 IGI signed a contract with the **Arad** county hospital that now covers all the examinations.

⁵⁷³ Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Otopeni*, 70/2016, The Ombudsman had also observed in 2016 that there was no social worker in **Otopeni**, as the management of the centre stated that there was no need for such a position. The report details that: "Despite the language difficulties and the short period of detention in the centre, there were no socio-cultural-educational activities, Romanian language courses or other types of information-education sessions for the beneficiaries. There is no hired person to provide social counselling to residents or to provide other information of interest responding to the needs of cultural adaptation or other needs of detainees".

⁵⁷⁴ Article 104(6) Aliens Ordinance.

⁵⁷⁵ Article 104(2) Aliens Ordinance.

The detainees interviewed by the author in Arad as well as those detained in Otopeni, who were previously detained in Arad, reported that all the detainees in Arad are “scratching themselves”, they have skin problems. The skin condition mentioned was scabies. The detainees mentioned that they were placed in quarantine during the treatment. The director of Arad reported that the cause of this may be the mattresses which were placed in the rooms when the number of detainees was high. The mattresses may have been infested and this is how the scabies spread. The detainees stated that they got the scabies inside the centre, the director stated the opposite, that they arrived with this skin infestation.

In **Otopeni**, according to the medical doctor, after the body search the medical staff prepares a medical file, which contains the medical history and a clinical check-up of the foreigner. This procedure is done without an interpreter. The doctor stated that difficulties in communicating with foreigners may arise when the foreigner does not speak the languages the doctor knows (English, French, a little bit of Russian and Italian). When this occurs, he requests the help of other detainees. In case of specialist medical consultations they request assistance from CNRR. The medical office in Otopeni performs HIV, hepatitis B and C and drug tests on all of the detainees. In 2021 specimens for COVID-19 were collected in the centre by the medical staff and sent to laboratories. The costs were covered by IGI or DSP. In cases of long-term hospitalizations or serious medical issues a temporary personal identification number is issued by the National Health Insurance House. In 2019 and 2020 Otopeni had a collaboration contract with a private clinic for specialist consultations. In 2021 if there was a need for specialist consultations the detainees are taken to the Clinic or Hospital of MAI.

According to the directors, before they are returned to the country of origin detainees are required to have a negative COVID-19 test.

In 2021 there were no detainees released from **Arad** due to their medical conditions. In **Otopeni** 5 detainees (2 with diabetes, 1 with cardiac problems and 2 with psychiatric disorders) were released due to their medical conditions, according to the medical doctor. The decision to release them is taken when their stay in detention is aggravating their medical condition.

According to the law, the psychologist of the centre makes the psychological evaluation of persons detained in the centre, drafts psychological observation sheets and provides specialist assistance throughout their stay. According to the director of Arad, in 2021, due to the high number of detainees and their rapid movement the psychologist was not able to prepare medical record for everyone.

For foreigners with psychological or psychiatric problems, the psychologist of the centre informs the Director of the centre immediately or his or her legal substitute and, where appropriate, makes proposals for specialist consultations to hospital departments.⁵⁷⁶

The psychological assistance is provided without an interpreter. It was mentioned that many of them speak English or Romanian and if they do not speak these languages she solicits the assistance of another detainee, who may interpret for them but only if the foreigner agrees to it.

According to the director of Arad there was only one suicide attempt. Many detainees participated in hunger strikes.

In **Otopeni**, the psychologist stated that all the detainees are registered and counseled. If necessary, the counseling is provided with the help of another trustworthy detainee, if the patient agrees to it. However, he said that he manages to discuss directly with most of the foreigners, because the majority of them speak English or Romanian or through Google translate. Therefore, there is no need for an interpreter. He reported that all detainees have a brief psychological interview and after the isolation they go through psychological testing. One of the detainees interviewed by the author in Otopeni reported that he tried to talk to the psychologist, but was told that he was not in the centre.

⁵⁷⁶ Article 38 Public Custody Centres Regulation.

According to the doctor there were persons who had to be admitted to psychiatric hospital several times. There were no suicide attempts in 2021. As for hunger strikes, there were persons who stated their intention to go on hunger strike, but in 4-5 days they renounced it.

The Asylum Act provides that vulnerable asylum seekers detained in specially designed closed spaces within the Regional Centres are regularly monitored and benefit from adequate support, according to their individual situation, including their health situation.⁵⁷⁷ The Aliens Ordinance also provides for appropriate medical care and treatment for vulnerable persons in detention centres.⁵⁷⁸

According to UNHCR Romania, there is a lack of an established identification mechanism of vulnerable persons in public custody centres unlike the mechanisms used for reception centres, including specially arranged closed areas.

According to the directors of Otopeni there is no identification mechanism for vulnerable persons.

According to the director of Arad, vulnerable foreigners are identified by the psychologist, doctor or the officers with whom the person interacts. The director disseminated with the staff members a method of how the vulnerable persons should be identified. The director stated that this method consists of: medical screening, psychological evaluation. It was emphasized that the psychological evaluation is done without an interpreter.

The authorities try to ensure assistance for this category of persons, but if the needs in question cannot be satisfied, the person is released. In rare cases, groups such as families with children have been released from detention.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers: | <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 |

The Aliens Ordinance provides that national, international and non-governmental organisations and other bodies competent in the area of migration, authorised and accredited under the law, shall be provided with the possibility to visit detention centres on the basis of the Protocols concluded with IGI or prior authorisation. In exceptional and duly motivated situations, it is possible to visit the centres within 48 hours.⁵⁷⁹

Article 13 of the Public Custody Centres Regulation details visiting hours in detention centres for the following groups:⁵⁸⁰

- a. Representatives of diplomatic missions or foreign consular offices representing the detainees' interests: 09:00 – 20:00 every day;
- b. Representatives of national, international or non-governmental organisations competent in the area of migration, authorised and accredited under the law: 09:00 – 20:00 every day;
- c. Family members or other persons who need to state the reasons for visiting: 10:00 – 12:00 and 14:00 – 17:00 for a maximum of 30 minutes, three times a week, usually on Tuesday, Friday and Sunday;
- d. Legal representatives: 09:00 – 20:00 every day.

⁵⁷⁷ Article 19^11(3) Asylum Act.

⁵⁷⁸ Article 104(7) Aliens Ordinance.

⁵⁷⁹ Article 103(4) Aliens Ordinance.

⁵⁸⁰ Article 13(1)-(3) Public Custody Centres Regulation.

Lawyers have to hold a power of attorney from the foreigner held in detention. In some cases, lawyers have not been allowed access to detention centre on the ground that they had not had their lawyer's card validated by the Bar Association.

Visits are authorised by the Head of the Centre or his or her legal representative. In the absence of cooperation Protocols, visits by NGO representatives are authorised by the Director of the IGI Migration Directorate.

Media and politicians have access to detention centres if their request is approved. As far as JRS is aware, neither media nor politicians have visited the detention centres.

JRS is present once a month in both centres. JRS provides assistance to cases not covered by projects funded by the AMIF national programme such as assistance for subsequent applications, voluntary repatriation and Dublin returnees.

CNRR is present on daily basis. NGO representatives are contacted by IGI every time it is necessary. The Public Custody Centres Regulation prescribes the conditions under which detainees may use the phone in order to contact people outside the centre.⁵⁸¹ Foreigners may use the public telephone at their own expense from 09:00 to 22:00 every day. Every person is entitled to a card of 5 euro per month. The representatives of Otopeni reported that in some cases they allocated 2 cards. All interviewed persons stated that this is not sufficient, because international calls are very expensive. Some of them, who were in detention for 10 days in Arad, complained that they had not received the card yet. Another foreigner in Arad mentioned that he had received only one card in 3 months.

In **Arad** there is only one functional phone in each building. Phone wires were installed in each common room in building C and a phone is connected for 2 hours in each common room. Each foreigner has around 20 minutes access to the phone. The interviewed detainees in Arad stated that they often have arguments due to the short time they have to access the phone. In **Otopeni**, according to the people interviewed, there is one phone in each building. According to the representatives of Otopeni centre there are 2 phones, however at the time of the visit one was broken. There is a third phone which is placed in the area designated for asylum seekers in transit, which was never used.

Detainees may use their personal mobile phone upon request, provided that it is not equipped with a camera. They are forbidden from using their personal mobile phone as long as they are under escort.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

1. Is there an automatic judicial review of the lawfulness of detention? ☐ Yes ☒ No

2. If yes, at what interval is the detention order reviewed?

The Aliens Ordinance provides that foreigners detained in public custody centres have the right to be informed immediately after their arrival in these places, in their language or in a language they understand, of the main reasons for their detention and of the rights and obligations they have during their stay in these centres. These are communicated in writing by the persons designated to manage these centres.⁵⁸²

In practice, however, foreigners receive the detention order, in all cases written in Romanian. According to the director of Arad they receive a form with their rights and obligations, where it is also mentioned

⁵⁸¹ Article 12(1)-(4) Public Custody Centres Regulation.

⁵⁸² Article 104(3) Aliens Ordinance.

that they have the right to appeal against the detention order in English. Communication is done only in writing when they arrive in detention and there is no interpreter provided at this stage. According to a lawyer, detainees are not receiving their return decision. The lawyer has to request the decision from IGI Migration Directorate.

In **Otopeni**, detainees are informed in writing, in Romanian and English about the reasons for detention, according to the representatives of the centre. They also said that if detainees have questions, whoever is on duty explains more to them upon arrival.

According to CNRR, foreigners in public custody are informed about the reasons for their detention, available remedies and their rights (including the right to legal assistance) through the information materials in the centers (leaflets, posters), but also through the CNRR legal advisers who carry out activities in centres.⁵⁸³ The information materials are in the languages most spoken in the centres, and legal counselling is provided by CNRR with the help of an interpreter.⁵⁸⁴ Conversely, a detainee interviewed by the author stated that he did not appeal against the decision because he was not aware of this right and he did not know who to ask for more information on this.

All the interviewed detainees in both centres mentioned that they only received documents in Romanian. They also mentioned that they received several papers but they did not understand what they represented. Some of them also showed the author the documents received and they were all in Romanian. As for the information provision, all interviewed detainees in Arad mentioned that the legal counsellor from CNRR never talks to them.

The JRS representative also mentioned the case of a family from Sri Lanka, who reported that they did not understand anything; they signed several documents, without knowing what they were.

Under Romanian law, only a Prosecutor is competent to order detention. The maximum duration of the initial detention order is 30 days both for public custody and for specially designed closed spaces in Regional Centres.

Foreigners subject to detention can appeal before the territorially competent Court of Appeal within 5 days.⁵⁸⁵ The appeal formulated against detention is subject to lighter formalities, as it is exempt from the judicial stamp duty.⁵⁸⁶ If the applicant is detained during the Dublin procedure, it does not have suspensive effect on the detention order or on the determination of the responsible Member State.⁵⁸⁷ The Court of Appeal has to examine the appeal within 3 days from the date of receipt, and its decision is final.

Few appeals were lodged against detention orders in 2021. In 2021, the Court of Appeal of Timișoara had registered only one appeal against detention orders of the Prosecutor's Office attached to the Court of Appeal of Bucharest,⁵⁸⁸ although the director of Arad reported that three appeals were lodged in 2021. The Court of Appeal of Bucharest had registered only four appeals against detention as of 1 January 2021.⁵⁸⁹ According to representatives of the Otopeni centre the appeals were filed by the foreigners themselves, but a lawyer reported that s/he had filed at least two of the four appeals.

In regard to the small number of complaints, CNRR stated that it could be because most foreigners requested their assistance in order to return to Serbia based on the readmission agreement.⁵⁹⁰

⁵⁸³ Information provided by CNRR, 15 February 2022.

⁵⁸⁴ Ibid.

⁵⁸⁵ Articles 19⁷(7) and 19¹⁴(8) Asylum Act.

⁵⁸⁶ Article 19¹⁶(3) Asylum Act.

⁵⁸⁷ Article 19¹⁴(8) Asylum Act.

⁵⁸⁸ Information provided by the Court of Appeal Timișoara, 09 February 2022.

⁵⁸⁹ Information provided by the Court of Appeal Bucharest, 7 February 2022.

⁵⁹⁰ Information provided by CNRR, 15 February 2022.

According to the Courts of Appeal of Bucharest and Timișoara, in 2021, the court procedures in public custody cases were not affected due to the pandemic. Court hearings were all held through videoconferences.⁵⁹¹ This was confirmed by the detainees and directors of both centres, who stated that in 2021, the court hearings were held through videoconference as a general rule.

In regard to the reason for ordering the detention it was noted by a lawyer that IGI invokes the risk of absconding without even assessing the individual circumstances of each case. The simple fact that foreigners did not leave Romanian territory voluntarily means there is a risk of absconding. A rejected asylum-seeking unaccompanied minor, who lived for almost one year at DGASPC centre in Bucharest, went to school and even had a job, was placed in detention the day after his 18th birthday, due to the risk of absconding. The same reason was invoked also in the case of a woman accommodated at JRS Bucharest with medical problems. According to the lawyer who filed the appeals, the detention orders were challenged and the decision of the court was positive.

The prolongation of detention is ordered by the territorially competent Court of Appeal, upon a motivated request by IGI, filed at least 5 days before the expiry of the time limit of initial detention. The court must rule before the expiry of the period of prior detention, and its decision is final.⁵⁹²

In general, the IGI Migration Directorate requests the extension of detention for an additional period of 5 months to enforce return decisions under escort and the court may grant an extension of detention for this period.

Questions are raised with regard to the effectiveness of judicial review against detention measures, particularly in light of recent case law from the Court of Appeal of Bucharest. In a case concerning a family from Cuba including a child enrolled at kindergarten and a grandmother suffering from thalassemia and hypertension, whose asylum application had been rejected, detained on the basis of a risk of absconding from the voluntary return procedure, the Court briefly concluded on the legality of detention. It dismissed the appellants' argument on alternatives to detention, stating that these only apply to asylum seekers. The Court also failed to consider the best interests of the child.⁵⁹³

In the assessment of the IGI Migration Directorate's request for a two-month extension of detention, however, the Court of Appeal noted that even though detention was not ordered against the minor child, since the centre could not provide adequate conditions for raising and educating a child, it would be contrary to the best interests of the child to maintain the family in detention.⁵⁹⁴

In addition to judicial review upon request and judicial review in case of an extension of the duration of detention, the Aliens Ordinance requires IGI to examine the opportunity to maintain the measure of public custody at intervals of up to 3 months. In the case of families with children, the analysis must be carried out at intervals of up to one month.⁵⁹⁵ However, there is no information about this procedure in practice.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

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

⁵⁹¹ Information provided by the Court of Appeal Timișoara, 09 February 2022 and by the Court of Appeal Bucharest, 7 February 2022.

⁵⁹² Article 19^14(4) Asylum Act.

⁵⁹³ Court of Appeal of Bucharest, Decision 2472/2018, 29 May 2018.

⁵⁹⁴ Court of Appeal of Bucharest, Decision 2767/2018, 13 June 2018.

⁵⁹⁵ Article 101(13) Aliens Ordinance.

During detention in public custody centres, asylum seekers have all the rights set out in the Asylum Act, except for those concerning the right to access employment, right to accommodation in the Regional Centres and reimbursement for travel costs.⁵⁹⁶ As a consequence, detained asylum seekers have the same rights to legal assistance as those at liberty.

Legal assistance for asylum seekers in detention is provided by CNRR through the project “Specialized legal assistance for asylum seekers in Romania”, funded by the AMIF national programme. According to CNRR, if the detained asylum seekers express their wish to be counseled before the interview, a CNRR legal advisor will provide the necessary assistance. In this case, the interested asylum seeker refers to the management of the centre and the latter informs CNRR and the legal counsellor will go to the detention centre.⁵⁹⁷ CNRR also confirmed, that legal counselling is provided upon request at every stage of the procedure.⁵⁹⁸

In **Arad**, legal counselling is ensured by the legal counsellor of **Timișoara**, according to CNRR. However, the JRS representative from Timisoara stated that the legal counsellor from Timisoara does not provide legal counselling for the asylum seekers in Arad anymore and many of the asylum seekers were relying on the information received from other detainees. This was also confirmed by the interviewed detainees who reported that they were not counselled by any NGO on asylum applications or subsequent applications, and that they were relying on the information provided by other detainees or police officers. It was also reported by the director that the CNRR legal counsellor from Timisoara did not go to Arad centre in 2021.

According to the director of **Arad**, IGI informs via email CNRR Bucharest when an asylum application is made. This was also confirmed by CNRR.⁵⁹⁹ Nevertheless, it seems that the communication between IGI and CNRR was flawed in 2021 because, CNRR reported that no asylum seeker was counselled in Arad, because there were no asylum seekers detained in Arad in 2021,⁶⁰⁰ even though the director of Arad reported 89 asylum applications and the director of Timisoara reported 84. Therefore, no appeals were drafted by CNRR in 2021.⁶⁰¹ According to the director of Timisoara centre, appeals were lodged by the applicants and none of them was admitted by the court. Conversely, the director of Arad mentioned that appeals are lodged either by CNRR or applicants.

As regards asylum seekers in **Otopeni** centre, the representatives of the centre stated that they are not counselled before the interview by NGOs and the majority of appeals are lodged by the detainee.

The lack of proper counselling in Otopeni detention centre was also emphasized by a lawyer. The lawyer reported that clients of hers detained in Otopeni were not counselled in relation to their right to make an asylum claim, had no knowledge of the asylum procedure. One of her clients, detained in Otopeni, was not aware that he had the right to make an asylum application in Romania and that Romania is part of the EU. As a consequence, he made an asylum claim after a few months, when he learned more about it from other detainees. The detainee also reported to his lawyer that he was not counselled before the interview by anyone; the interview was very brief, so brief that he was of the opinion that a next interview would follow. He also stated that the officer focused on general information and his family's problems, he did not have the chance to talk about his problems from the country of origin. Another client of the lawyer interviewed by the author made 2 subsequent requests without any information on the conditions and grounds for admitting such a request. He received no assistance for filling in the form.

Asylum interviews were held through videoconference with case officers from Timișoara and Tudor Gociu centre. The court hearings were held in person in Bucharest and for detainees in Arad also through videoconferencing.

⁵⁹⁶ Article 19^16(2) Asylum Act.

⁵⁹⁷ Information provided by CNRR, 15 February 2022.

⁵⁹⁸ *Ibid.*

⁵⁹⁹ *Ibid.*

⁶⁰⁰ Information provided by CNRR, 15 February 2022.

⁶⁰¹ *Ibid.*

In **Otopeni**, according to the director, IGI does not inform NGOs about the asylum applications made. However, it was noted that the CNRR and JRS representatives were present weekly in the centre. In Otopeni, CNRR counselled only 2 asylum seekers. Their asylum application was assessed in the accelerated procedure.⁶⁰²

It is more difficult or even impossible for asylum seekers to contact the legal counsellors or attorneys in due time in order to prepare and/or assist them for the personal interview. They are made aware of their rights and obligation as asylum seekers only at the interview conducted by the IGI-DAI case officer. There is no legal counsellor providing legal counselling to asylum seekers in detention who works in the centre on a daily basis. Lawyers cannot contact their clients by phone, as the detainees are not allowed to have personal phones in detention and may only use their phone upon request if it has no camera. Lawyers may only access them if they visit them or if the clients have free minutes left to talk on the phone. Meetings are held in private rooms.

E. Differential treatment of specific nationalities in detention

No differential treatment has been reported.

⁶⁰² Information provided by CNRR, 15 February 2022.

Content of International Protection

Under Government Ordinance No. 44/2004 ("Integration Ordinance"), beneficiaries of international protection are included in an integration programme upon request and according to a protocol concluded individually by IGI-DAI.⁶⁰³ The application for participation in the integration programme has to be submitted to IGI-DAI within 3 months of the grant of protection, compared to 30 days provided by the previous form of the Integration Ordinance.⁶⁰⁴

After the registration of the application, the integration officer of IGI-DAI interviews the beneficiary. At the interview representatives of NGOs, local public authorities or other institutions with competences in the integration area may participate. An individual needs assessment sheet is drafted to determine the type of assistance or activities needed for the social integration of the applicant.⁶⁰⁵ Based on this evaluation form, an individual plan is established, which includes deadlines, necessary activities to achieve the objectives, responsible persons, responsible institutions and / or organizations, as well as the decision of the IGI-DAI regarding the local community in which the integration activities of the program will be carried out.⁶⁰⁶

Participation in the integration programme is relevant to the enjoyment of certain rights such as Housing and Social Welfare.

Activities which may be included in the plan mainly include, separately or cumulatively, the following:⁶⁰⁷

- Counselling and support activities to ensure access to the rights listed in the Integration Ordinance;
- Cultural accommodation sessions;
- Romanian language courses (see Access to Education).
- educational and recreational activities;
- non-reimbursable financial aid, granted under the conditions of Asylum Act;
- financial allowance in an amount equal to that granted to asylum seekers;
- accommodation in one of the regional centres, depending on the number of available accommodation places;
- other types of activities or benefits established according to the individual needs of the foreigner and granted by NGOs carrying out activities in the field of integration of foreigners or by local public administration authorities.

The implementation period of the integration program is 12 months from the date of signing the protocol or from the date provided in the protocol, compared to 6 months prescribed by the IGI-DAI. It may grant an extension of maximum 6 months based on a motivated request of the beneficiary and assessment of the situation.⁶⁰⁸

In addition to the integration programme offered by the state authorities, there are several projects concerning the integration of beneficiaries of international protection and third-country nationals funded through the national AMIF scheme. Since 2016 the implementation of these projects covers 5 regions throughout the country.⁶⁰⁹ Each region has at least one Regional Centre for asylum seekers.

1. After more than 2 years of no integration project implemented in Region 1⁶¹⁰, IOM ROMANIA Romania in partnership with AIDRom and the Schottener Social Services Foundation is implementing the project " InterAct + Active participation and integrated services for migrants

⁶⁰³ Article 15 Integration Ordinance.

⁶⁰⁴ Article 16 Integration Ordinance.

⁶⁰⁵ Article 17 Integration Ordinance.

⁶⁰⁶ Article 18(1) Integration Ordinance.

⁶⁰⁷ Article 18(2) Integration Ordinance.

⁶⁰⁸ Article 20 Integration Ordinance.

⁶⁰⁹ Romania is Home, *Integration programs*, available in Romanian at: <https://bit.ly/2RXBfZk>.

⁶¹⁰ Since 2 August 2019, no integration project was being implemented in Region 1.

from Romania.” The project is being implemented between 25 December 2020 – 24 December 2022, in two subsequent stages, each of 12 months (stage I – 25 December 2020 – 24 December 2021, stage II – 25 December 2021 – 24 December 2022). Region 1 includes **Bucharest** and the following counties: Ilfov, Prahova, Buzău, Dâmbovița, Argeș, Vâlcea, Gorj, Brașov și Covasna.⁶¹¹ Services offered include: Information and advice on the rights and obligations of legally resident migrants (both beneficiaries of some form of protection and third-country nationals); Romanian language courses; cultural orientation sessions; socio-cultural activities; medical support through the settlement of services / treatments / medicines / payment of health insurance for migrants in vulnerable situations; psychological counseling; material assistance to migrants in vulnerable situations; school supplies and reimbursement for food costs for children; facilitating access to the labour market, including organizing meetings with potential employers; financial education sessions; financial incentives to beneficiaries of a form of international protection that constantly participates in the activities organized by the project team.⁶¹²

2.JRS implements the project “My place to Integration”. Supporting the process of effective integration of beneficiaries of international protection (BPI) and foreigners (RTT - third country nationals) legally residing in Romania in the following counties of Galați, Constanța, Vrancea, Bacău, Vaslui, Brăila, Tulcea. The project includes activities such as: information, counselling, material, legal, medical, psychological assistance, employment counselling, as well as social, cultural, recreational, educational activities, Romanian language courses and cultural orientation, in 2 regional training centres: Galați and Constanta. The project is introducing means of distance counselling / assistance for certain categories of beneficiaries (online courses, etc.) and facilitating access to the labour market through an online tool. The project also aims to involve cultural mediators, interpreters and volunteers at the local level as well as the development of local support networks at the level of institutions and organizations that come into contact with foreigners or within their communities.⁶¹³ The project also covers the costs of meals in kindergarten and school, school supplies, rental fees in regional centres; offers social vouchers of 50RON/10EUR.

3.ICAR Foundation implements the project “Integration of foreigners with legal residence in Romania–INTEG-RO”, in partnership with AIDRom in Region 3 which includes **Rădăuți** and Suceva, Botoșani, Neamț and Iași counties.⁶¹⁴ The program provides information and social / legal counselling, vocational and professional guidance, psychological support to overcome difficulties and motivate participation in the integration program (in the case of beneficiaries of international protection).The services include both individual counselling sessions (social and psychological), information, assistance in contacting various public or private institutions and local community, as well as group activities (eg: Romanian language courses, cultural accommodation sessions, group counselling, development of life skills, socio-recreational activities).⁶¹⁵

4.In Region 4 LADO Cluj, in partnership with Asociația Profesională Neguvernamentală de Asistență Socială Baia Mare (ASSOC) and IOM ROMANIA is implementing the project “SIM - CIS - Integrated services for migrants - intercultural and solidary communities. The project covers **Maramureș**, Satu Mare, Sălaj, Cluj, Bistrița Năsăud, Mureș, Harghita, Sibiu și Alba counties. The project aims to support the integration into Romanian society of beneficiaries of international protection and third country nationals by creating a coalition of institutional and organizational actors operating as local support networks to increase the quality of integrated services for migrants. They offer the following services: Romanian language and cultural orientation courses; guidance on how to obtain Romanian citizenship; material assistance (food,

⁶¹¹ Romania e Acasa, Integration Programmes, available in Romanian at: <https://bit.ly/3H5z2zF>. According to IOM ROMANIA ROMANIA, 773 beneficiaries of international protection benefitted from its services in 2021.

⁶¹² Information provided by IOM ROMANIA ROMANIA, 19 February 2022.

⁶¹³ JRS Romania, available in Romanian at: <https://bit.ly/3l6oEOP>.

⁶¹⁴ AIDRom, available in Romanian at: <https://bit.ly/3BBJxJZ>.

⁶¹⁵ Ibid.

clothing, hygiene products, etc.); translation of documents (especially identity documents); legal / psychological / medical assistance; socio-cultural and recreational activities; Support for insertion in the labor market. For minors they offer material assistance (school supplements, teaching materials); cover the costs for food / nursery / kindergarten / boarding / after-school.⁶¹⁶

5. In Region 5, the Western part of Romania, AIDRom in partnership with Filantropia Oradea, is implementing the project "AIM 5 – Actions to integrate migrants in Region 5" between September 2020- September 2022. The aim of the project is to support the socio-economic and cultural integration of beneficiaries of international protection and third-country nationals in Romanian society in Region 5, through an integrated "one stop shop" approach - by providing all the necessary information and services in one place and by strengthening the collaboration and active involvement of local authorities and community in supporting migrants during the integration process.⁶¹⁷ Region 5 includes **Timișoara**, and Arad, Bihor, Hunedoara, Mehedinți și Caraș Severin counties.⁶¹⁸ Services provided through this project include: information on rights and obligations and activities or services provided under the project; individual social counseling and assistance services; individual legal advice, advice on accessing the labor market; Romanian language courses and cultural accommodation, social, cultural and recreational activities; health insurance for a maximum period of 6 months, reimbursement of medical services, equivalent value of medicines and / or medical objects / materials; financial incentives for beneficiaries who consistently participate in project activities; supplies and other materials needed in the educational process; reimbursement of meal expenses charged to nurseries, kindergartens and afterschool as well as costs incurred in participating in extracurricular activities undertaken by educational institutions; emergency Financial Packages; reimbursement of public transport costs; document translations and legalizations.⁶¹⁹

6. In Region 6, since December 2020 GlobalHelp Association, in partnership with IOM ROMANIA and AIDRom, has been implementing the project 'Regional network for the integration of migrants in Romania – MyRO' until December 2022. **Region 6 includes** Giurgiu, Călărași, Ialomița, Teleorman, Olt și Dolj.⁶²⁰

The integration prospects for beneficiaries of international protection in Romania are assessed in the context of appeals against returns of beneficiaries from other European countries. Different courts in Germany and the Netherlands have dismissed such appeals on the ground that conditions for international protection holders in Romania do not present deficiencies triggering Article 3 ECHR,⁶²¹ including the case of a person with PTSD.⁶²² In one case in the Netherlands, the court opposed the return of a family on the basis that beneficiaries of protection have no effective assistance after the expiry of their integration programme in Romania.⁶²³

⁶¹⁶ LADO, available in Romanian at: <https://bit.ly/3sWtjHc>. 134 beneficiaries on international protection were assisted by LADO and ASSOC in 2021.

⁶¹⁷ Information provided by AIDRom, 14 January 2022. 179 beneficiaries of international protection were assisted by AIDRom in 2021.

⁶¹⁸ AIDRom, available in Romanian at: <https://bit.ly/3BxZErM>.

⁶¹⁹ Information provided by AIDRom, 14 January 2022.

⁶²⁰ GlobalHelp Association, available in Romanian at: <https://bit.ly/3oYbfeQ>.

⁶²¹ (Germany) Administrative Court of Aachen, 6 L 202/18.A, 7 May 2018; Administrative Court of Düsseldorf, Decision 22 L 5230/17.A, 5 June 2018; Administrative Court of Hannover, Decision 12 B 3173/18, 3 July 2018; (Netherlands) Regional Court of The Hague, Decision NL.18.7700, 17 May 2018; Regional Court of Gravenhage, Decision NL.18.21071, 5 December 2018.

⁶²² (Germany) Administrative Court of Aachen, Decision 6 L 606/18.A, 6 July 2018.

⁶²³ (Netherlands) Administrative Court of Roermond, Decision NL.18.5246, 3 May 2018.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

What is the duration of residence permits granted to beneficiaries of protection?

❖ Refugee status	3 years
❖ Subsidiary protection	2 years

The duration of residence permits granted for refugee status is 3 years and for subsidiary protection 2 years.⁶²⁴

The conditions for issuing a residence permit – in the form of a card – are prescribed by the Asylum Decree.⁶²⁵ In order to obtain a residence permit, issued free of charge, the beneficiary of international protection has the obligation to submit a document to IGI-DAI which proves his or her legal residence. This can be a: title of ownership; lease agreement registered with the fiscal administration; commodity contract concluded in authentic form; or any other documents concluded under the conditions of validity provided by Romanian legislation in force regarding the housing title, which prove the acquisition of some housing rights.⁶²⁶

Responsibility for issuing the residence permits lies with IGI-DAI. In practice there are no difficulties in the issuance of the residence permit. However, the AIDRom representative in Timișoara stated that beneficiaries encounter difficulties in obtaining a rental contract fulfilling the conditions required by the authorities. Currently, the landlords do not want to declare to the authorities that they rented out their apartments.

The beneficiary of international protection has to fill in a standard form,⁶²⁷ which is usually filled in together with the officer in charge. The time of issuance of the residence permit card is issued differs from one Regional Centre to another: 1 week or even sooner in Bucharest, 3 weeks in Timișoara, according to the director of the regional centre of Timișoara, 3 weeks Rădăuți, 3 weeks in Galați, 3 weeks in Șomcuta Mare, 2-3 weeks in Giurgiu.

In 2021, AIDRom reported that a period of 1 to 2 months usually elapses between the form of protection being granted and the issuance of the residence permit. The issuance of a residence permit is subject to a rental contract. Many beneficiaries of international protection encounter difficulties in finding an apartment. In a very few cases, IGI-DAI accepts to accommodate them in the centre and to issue a rental agreement.⁶²⁸

According to IOM ROMANIA the residence permit is issued within 30 days of the date of submission of the necessary documents. The time may be exceeded if additional documents are required or due to a large volume of applications. Difficulties and delays may arise when the beneficiaries do not understand the procedure and do not bring all the required documents.⁶²⁹

As regards the renewal of residence permit, beneficiaries of international protection do not encounter any problems. Before the expiry of the residence permit, they fill in a request of renewal and a new card is issued in the same time frame as mentioned above.

In Timișoara, 193 residence permits were issued in 2021, according to the director of the centre.

⁶²⁴ Article 20(6) Asylum Act.

⁶²⁵ Article 51 Asylum Decree.

⁶²⁶ Article 50(3) Asylum Decree.

⁶²⁷ The form is available at: <http://bit.ly/2xaDCgJ>.

⁶²⁸ Information provided by AIDRom, 14 January 2022.

⁶²⁹ Information provided by IOM ROMANIA ROMANIA, 19 February 2022.

IGI-DAI delivered 514 residence permits to refugees and 678 to subsidiary protection beneficiaries in 2021. These were residence permits issued for the first time; beneficiaries had not held another residence permit in the previous 6 months⁶³⁰

2. Civil registration

The procedure of civil registration is set out in Act 119/1996.⁶³¹

2.1 Marriage and childbirth registration

With regard to marriage registration, the law provides the obligation for the future spouses to present identity documents, birth certificates, and medical certificates.⁶³² Beneficiaries of international protection have to present several documents, such as:

- Identity document, which in their case may be the travel document issued after granting a form of protection;⁶³³
- Birth certificate;
- Certificate/ evidence issued by diplomatic missions or consular offices;
- Declaration, authenticated by the notary, which proves that they fulfil the necessary conditions for getting married;
- Proof of divorce/ death certificate of the spouse as the case may be;
- Prenuptial medical certificate;
- Marriage convention.

In addition, foreign citizens who do not speak Romanian have to submit the marriage declaration in the presence of and through an authorised translator, which they have to pay for.

The ASSOC/LADO reported no such cases in 2021 and noted that interpretation for marriage registration or birth registrations is not ensured by their organisation.⁶³⁴

AIDRom reported some difficulties in registering a newborn. Even where the parents of the newborn child are married, many do not have the same surname. Therefore, both parents must go to the Population Registry - Newborn Service, to agree on the child's name. Another issue is that in many countries there is no difference between last name and first name. Therefore, when a Romanian document is issued (birth certificate), it is a little harder to identify which is the first name and which is the last name. Some problems start right from the maternity ward, as the birth certificate attesting the birth of the living child is issued incorrectly. The error is also related to the name / surname - they are often written in reverse, the surname instead of the given name and vice versa.

In **Galati** the JRS representative provided assistance for the issuance of birth certificate for a 4-year-old child. The cost of authorized interpretation was also covered by the project.

In **Radauti** the NGO representative provided support for the registration of 2 newborns. The families were accompanied by the NGO representative and interpretation was also ensured. It was reported that the authorities are not familiarized with the residence permits. The same issue was also pointed out by IOM Romania.⁶³⁵

⁶³⁰ Information provided by IGI-DAI, 10 March 2022.

⁶³¹ Act 119/1996 on civil registration acts, available in Romanian at: <http://bit.ly/2nFDcYr>.

⁶³² Article 25(3) Act 119/1996.

⁶³³ Local Council of Timișoara, *Marriage Registration*, available in Romanian at: <https://bit.ly/2CSb8si>.

⁶³⁴ Information provided by LADO/ASSOC, 5 February 2022.

⁶³⁵ Information provided by IOM ROMANIA ROMANIA, 19 February 2022.

2.2 Bank accounts

According to the legal counsellor in **Galați**, beneficiaries are unable to open bank accounts at some banks as it appears there are certain third countries whose nationals (Syrian, Iraqi, Iranian and Afghan nationals) are not offered services for security reasons. Only one small bank agrees to open bank accounts for beneficiaries of international protection. Nevertheless in 2021 it was observed that even the small banks were not opening bank accounts for beneficiaries of international protection and third country nationals. As a consequence they were unable to renew their residence permits.

In **Șomcuta Mare** there is not a single bank that opens bank accounts for beneficiaries, according to the JRS representative. According to ASSOC/LADO, in general there were no problems, except for people from countries such as Syria, Iran, etc. for whom only certain banks are opening accounts. There are very few cases of beneficiaries of international protection who open their accounts without having a job, because in order to benefit from the state allowance as well as the non-reimbursable aid a bank account is not necessary.⁶³⁶

In **Timișoara**, AIDRom reported that beneficiaries who would like to open a bank account for certain online services and receive money were often rejected, especially Syrian nationals. Although the Romanian National Bank has officially informed them that banks may open a bank account to anyone, it is up to each bank to decide after assessing these aspects prescribed by Law no. 129/2019 on preventing and sanctioning money laundering, as well as on the establishment of preventing measures and combating terrorist financing.⁶³⁷ The director of Timișoara centre said that this is not the case for all beneficiaries.

In **Rădăuți**: beneficiaries can only open a bank account when they have an employment contract. Nevertheless, it was also reported that even if the beneficiary has an employment contract the bank still refuses to open the account. A beneficiary, Syrian national was refused by 3 banks.

In **Giurgiu**, in general banks refuse to open accounts according to the JRS representative. The reason invoked by the banks was increased financial risks presented by the beneficiaries. The director of Giurgiu stated that only certain banks open bank accounts. However, this was reported by a single beneficiary of international protection.

Bucharest: According to IOM Romania beneficiaries from Syria, Iran, Iraq, and Afghanistan often face difficulties in dealing with banking institutions. For opening an account they must meet several conditions, namely: residence permit, passport from the country of origin, proof of a stable income, as well as knowledge of the Romanian language. There were situations in which, after opening a bank account, it was suspended without notice and without receiving any justification / explanation from the bank. Also, most of the bank representatives who refused to open bank accounts to beneficiaries were reluctant to provide a written answer in this regard.⁶³⁸ On the other hand, the director of Vasile Stolicu centre said there are no problems with opening a bank account.

3. Long-term residence

Indicators: Long-Term Residence

Number of long-term residence permits issued to beneficiaries in 2021: not available

During the state of emergency applications for long term residence permits were suspended. The long-term residence permits were valid during the state of emergency.⁶³⁹

Long-term residence or permanent residence status is regulated by Government Emergency Ordinance No. 194/2002 ("Aliens Ordinance"). The conditions for obtaining long-term or permanent residence

⁶³⁶ Information provided by LADO/ASSOC, 3 February 2022.

⁶³⁷ Information provided by AIDRom, 14 January 2022.

⁶³⁸ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁶³⁹ Information provided by IGI-DAI, 16 February 2021.

status are prescribed by Article 71 of the Aliens Ordinance and do not differ for refugees and people granted subsidiary protection.

- a. **Lawful residence:** Permanent residence status may be granted to refugees or beneficiaries of subsidiary protection who have lawfully resided on the territory of Romania continuously during the last 5 years preceding the filing of the application.⁶⁴⁰ Continuity implies that a person has not been absent from Romania for more than 6 consecutive months and shall not exceed 10 months of absence in total.⁶⁴¹

The 5 years residence term may be reduced to 4 years for beneficiaries of international protection in Romania who actively participate in the economic, social and cultural life of the Romanian society, including following the integration programmes provided by the Integration Ordinance,⁶⁴² or are married to a person holding Romanian citizenship for at least 5 years.⁶⁴³

According to the law, this period of residence starts from the moment when the asylum application was lodged.⁶⁴⁴

- b. **Knowledge of Romanian language:** In addition, the applicant has to know Romanian language at least at a satisfactory level. Usually this requirement is verified by the officer examining the request for a long-term residence card, by having a discussion in Romanian with the applicant.⁶⁴⁵
- c. **Public order / national security:** The applicant must not pose a threat to public order or national security.⁶⁴⁶
- d. **Health insurance.**⁶⁴⁷
- e. **Accommodation:** The applicant has to prove the legal possession of a living space.⁶⁴⁸
- f. **Means of subsistence:** The applicant has to prove he or she has at least the level of the gross average income in Romania.⁶⁴⁹

Article 72 of the Aliens Ordinance sets out the documents that the applicant has to submit personally, when requesting the permanent residence status:

- ❖ Travel document⁶⁵⁰ for which there is an exemption for beneficiaries of international protection;⁶⁵¹
- ❖ Proof of the legal possession of the living space, in accordance with the law;⁶⁵²
- ❖ Proof of the means of subsistence at the gross average earning in Romania;⁶⁵³
- ❖ Proof of health insurance;⁶⁵⁴
- ❖ Criminal record, issued by the Romanian authorities.⁶⁵⁵

⁶⁴⁰ Article 71(1)(a) Aliens Ordinance.

⁶⁴¹ Article 71(1)(a)(i) Aliens Ordinance.

⁶⁴² Article 71(1)(a)(v) Aliens Ordinance.

⁶⁴³ Article 71(1)(a)(vi) Aliens Ordinance.

⁶⁴⁴ Article 71(1)(a)(vii) Aliens Ordinance.

⁶⁴⁵ Ibid.

⁶⁴⁶ Article 71(1)(f) Aliens Ordinance.

⁶⁴⁷ Article 71(1)(c) Aliens Ordinance.

⁶⁴⁸ Article 71(1)(d) Aliens Ordinance.

⁶⁴⁹ Article 71(1)(b) Aliens Ordinance.

⁶⁵⁰ Article 72(1)(a) Aliens Ordinance.

⁶⁵¹ Article 146 Asylum Act.

⁶⁵² Article 72(1)(b) Aliens Ordinance.

⁶⁵³ Article 72(1)(c) Aliens Ordinance.

⁶⁵⁴ Article 72(1)(d) Aliens Ordinance.

⁶⁵⁵ Article 72(1)(e) Aliens Ordinance.

According to IOM Romania difficulties occur when the beneficiaries cannot prove their means of subsistence, for example, if they have no employment contract and do not have social health insurance.⁶⁵⁶

AIDRom reported there was only one case where the request for long-term residence was rejected due to his/her absence from Romania. The authorities erroneously established that the beneficiary was absent for 3 years, when in fact he/she was absent for 2 weeks. However, the issue was solved as AIDRom requested a reassessment of the request. It was also noted, that many times, the beneficiaries miscalculate the deadlines, submit the file and are rejected because their absence from Romanian exceeded the allowed period by only a few days.⁶⁵⁷

Applications for permanent residence status are examined by a special committee of IGI.⁶⁵⁸ The decision has to be taken no later than 6 months from the day the application was registered. For objective reasons, the Head of IGI may extend this deadline by another 3 months, duly notifying the applicant.⁶⁵⁹

The applicant is notified within 15 days of the request being granted. Within 30 days from the receipt of the communication, the person who has been granted the right of permanent residence in Romania has to present him or herself to the regional office of the IGI, where the application was registered, for the issuance of the permanent residence permit.⁶⁶⁰

In 2021 in **Timișoara** 26 applications for a permanent residence permit were made and the decision was issued in minimum 6 months, according to director of Timișoara Regional Centre. In **Bucharest** 150 applications were lodged and it was also reported that the decision is usually issued in 6 months. In **Giurgiu**, 7 requests were lodged according to the director and the legal deadlines were respected. The same was reported in Galați. In **Somcuta Mare** 4 applications were submitted and all were admitted.⁶⁶¹ One application was reported in **Rădăuți** and it was rejected.

Galați: According to the legal counsellor, the beneficiaries of international protection have to prove that they have 12 minimum net wages/ salaries and if they are not working, they have to prove that they have 5,500 EUR in their accounts. It was reported that the majority of applicants had working contracts.

In 2017, 890 long-term residence permits were issued to refugees and 467 to beneficiaries of subsidiary protection.⁶⁶² Statistics for 2018, 2019, 2020 and 2021 were not made available.

4. Naturalisation

Indicators: Naturalisation	
What is the minimum residence period for obtaining citizenship?	
❖ Refugee status	4 years
❖ Subsidiary protection	8 years
Number of citizenship grants to beneficiaries in 2021:	Not available

The main criteria for naturalisation are laid down in Article 8(1) of the Act on Romanian Citizenship.⁶⁶³ The applicant must:

- a. Have legally resided in Romania continuously for at least 8 years, or at least 5 years since the day of marriage to a Romanian national;

⁶⁵⁶ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁶⁵⁷ Information provided by LADO/ASSOC, 3 February 2022.

⁶⁵⁸ Article 73(1)-(2) Aliens Ordinance.

⁶⁵⁹ Article 73(3) Aliens Ordinance.

⁶⁶⁰ Article 73(4)-(5) Aliens Ordinance.

⁶⁶¹ Information provided by LADO/ASSOC ,

⁶⁶² Information provided by IGI-DAI, 14 February 2018.

⁶⁶³ Act 21/1991 of 1 March 1991, available in Romanian at: <http://bit.ly/2xafo6v>.

- b. Prove, through behaviour, actions and attitude, loyalty to the Romanian State, and not undertake or support actions against the rule of law or national security and declare that he or she has not taken such actions in the past;
- c. Have reached the age of 18;
- d. have legal means for a decent existence in Romania, under the conditions established by the legislation on the regime of foreigners;
- e. Be known for good behaviour and have not been convicted in the country or abroad for an offense that makes him or her unworthy of being a Romanian citizen;
- f. Know Romanian language and possess basic notions of Romanian culture and civilisation, sufficient to integrate into the social life.

The minimum period of residence prior to the naturalisation application is shorter for a number of categories of applicants treated preferentially.⁶⁶⁴ Recognised refugees are one of the categories required to have resided in Romania continuously for a period of at least 4 years prior to the submission of the application. Therefore, the aforementioned provision clarifies the distinction between refugee status and subsidiary protection, which means that preferential treatment is afforded only to those bearing refugee status, while persons with **subsidiary protection** need to fulfil the condition of living 8 years prior to submitting the application.

However, the Act on Romanian Citizenship has introduced two additional articles which extend the right to apply for nationality to stateless persons or foreigners who have “particularly contributed to the protection and promotion of Romanian culture, civilization and spirituality”⁶⁶⁵ or “who can significantly promote the image of Romania through outstanding performance in sports”.⁶⁶⁶ The Romanian Government considered these amendments “necessary” and found that “not adopting them urgently will significantly affect the nationality acquisition and reacquisition process”.⁶⁶⁷

The competent authority is the National Authority for Citizenship (NAC).⁶⁶⁸

CNRR mentioned several issues in regard to the citizenship acquisition process, such as the lack of a separate procedure for beneficiaries of international protection. Given the high volume of applications, there are long delays in scheduling the interview and there are situations in which officials of the NAC request civil status documents, which would involve contacting the authorities of the country of origin by beneficiaries. The request for documents from the authorities of the country of origin may be considered as voluntarily re-availing him or herself of the protection of the country of nationality, a ground for cessation of refugee status or subsidiary protection.⁶⁶⁹ Furthermore, it was acknowledged that there is a lack of an adequate procedure for vulnerable persons. All applicants (regardless of their status) must go through an interview to test their knowledge of the Romanian language, Romanian History, Romanian Geography, Romanian Culture and Constitution. Although the beneficiaries did not express their dissatisfaction with the difficulty of the test, there are people who for objective reasons (illness, the elderly, those with a disability, etc.) cannot pass the interview, although they meet all the substantive conditions. For example, a person with severe Down syndrome cannot pass the interview, and there is no exception or special procedure for such cases.⁶⁷⁰

AIDRom reported that they have no statistics on the total number of citizenship acquisitions. 5 persons were assisted in this process by them, out of whom only 1 received Romanian citizenship. As regards

⁶⁶⁴ Article 8(2) Act on Romanian Citizenship.

⁶⁶⁵ Article 8¹ Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁶⁶⁶ Article 8² Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁶⁶⁷ Government Emergency Ordinance No. 37/2015 of 15 September 2015.

⁶⁶⁸ For further details, see European Statelessness Network, *Ending Childhood Statelessness: A case study on Romania*, 2015, available at: <http://bit.ly/2DxDsiz>.

⁶⁶⁹ Information provided by CNRR, 15 February 2022.

⁶⁷⁰ Ibid.

issues encountered AIDRom mentioned the long waiting time. For example, a file was submitted in April 2018 and the decision was received after 4 years and it was negative.⁶⁷¹

In **Timișoara**, one refugee applied for citizenship and he acquired it, according to the director.

Galați: 1 application for naturalisation was made in 2021 and it was rejected because he/she could not prove his/her financial means in the last 3 years.

Rădăuți: the JRS representative reported that there was one request and it is still pending.

Șomcuta Mare: in 2021 no beneficiary requested assistance for obtaining the Romanian citizenship.⁶⁷²

Bucharest: IOM Romania assisted around 15 persons interested in obtaining Romanian citizenship. In general, these were new beneficiaries of international protection. 3 persons obtained citizenship in 2021. The main difficulty reported by IOM Romania was obtaining the required documents. Some of the beneficiaries are unemployed or cannot prove their financial means over the last 3 years.⁶⁷³

IGI-DAI does not keep statistics on citizenship granted to beneficiaries of international protection.⁶⁷⁴

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No

2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No

3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

Article 98(1) of the Asylum Act prescribes the grounds for cessation of refugee status as cases where the beneficiary:

- a. Has voluntarily re-availed him or herself of the protection of the country of nationality;
- b. Having lost his or her nationality, has voluntarily re-acquired it;
- c. Has acquired a new nationality and enjoys the protection of the country of his or her new nationality;
- d. Has voluntarily re-established him or herself in the country which he or she left or outside which he or she remained owing for the reasons on the basis of which he or she was granted refugee status;
- e. Can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail him or herself of the protection of the country of nationality or habitual residence and cannot invoke, in order to justify such refusal, imperious reasons of concern to previous persecutions; or
- f. Expressly renounces refugee status granted by Romania in writing.

Article 99(1) of the Asylum Act provides the following grounds for cessation of subsidiary protection:

- a. When the circumstances which led to its grant have ceased to exist or have changed to such an extent that this form of protection is no longer necessary; or
- b. When the beneficiary expressly renounces in writing, to the subsidiary protection granted by the Romanian State.

⁶⁷¹ Information provided by AIDRom, 14 January 2022.

⁶⁷² Information provided by LADO/ASSOC, 3 February 2022.

⁶⁷³ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁶⁷⁴ Information provided by IGI-DAI, 20 February 2020.

These provisions on changed circumstances do not apply to a person who has been granted refugee status or subsidiary protection and who can rely on compelling reasons resulting from previous persecution, in order to refuse the protection of the country of origin or habitual residence.⁶⁷⁵

Article 102 of the Asylum Act describes the cessation and withdrawal procedure. It shall be triggered *ex officio* by IGI-DAI or at the proposal of one of the institutions responsible for national security or public order, when new elements or data indicate the existence of reasons to reconsider the situation of the persons enjoying international protection within the meaning of the Asylum Act. Where the procedure for the cessation or cancellation of international protection is initiated at the proposal of one of the institutions responsible for national security or public order, IGI-DAI shall inform the respective institution of the decision of the procedure.

Article 103 of the Asylum Act requires the case officer in charge to inform the beneficiary of international protection in writing of:

- (a) the initiation of the cessation or, as the case may be, withdrawal of the international protection granted by the Romanian state, as well as the reasons for initiating the procedure;
- (b) rights and obligations during this procedure;
- (c) the possibility to present, in a personal interview or written statement, the reasons why international protection should be maintained.

In addition, the same article sets out the rights and obligations of the person subject to cessation or withdrawal procedure. During the cessation or withdrawal of the international protection granted by the Romanian state, the beneficiary has the right to:

- (a) be assisted by a lawyer;
- (b) have an interpreter free of charge;
- (c) contact and receive assistance by a UNHCR official;
- (d) receive counselling and assistance by an NGO representative;
- (e) receive, upon request, legal and procedural information, including information on the procedure in the administrative phase, under the legislation on legal aid in civil matters, taking into account his or her personal situation;
- (f) be provided, on request, with information to clarify the reasons for a cessation or withdrawal of international protection decision at the administrative phase and to explain how such a decision may be challenged, under the legal provision on legal aid in civil matters. The beneficiary has the obligation to:
- (g) provide the competent authorities with full and complete information about their personal situation; submit all the documents at his or her disposal and relevant to his or her personal situation;
- (h) follow the stage of the procedure and inform IGI-DAI within 5 days regarding any change of residence;
- (i) respond to the requests of IGI-DAI.

The beneficiary of international protection has the possibility to present, in a personal interview or written statement, the reasons why his or her international protection should be maintained.⁶⁷⁶ The interview is not conducted in case the beneficiary of international protection has acquired Romanian citizenship.⁶⁷⁷ If the beneficiary is not present at the interview, the case officer will assess the case on the basis of the documents in the personal file.⁶⁷⁸

The re-evaluation of the case may be carried out in the Regular Procedure or Accelerated Procedure. The case officer decides on the re-examination of the case in the accelerated procedure, pursuant to the conditions set out in Article 75 for applying it.⁶⁷⁹

Upon request, IGI-DAI grants UNHCR access to information on the procedure for reconsideration of the situation of beneficiaries of international protection and on the decisions issued, if the beneficiary has

⁶⁷⁵ Articles 98(2)-(3) and 99(2) Asylum Act.

⁶⁷⁶ Article 103(1)(c) Asylum Act.

⁶⁷⁷ Article 103(3) Asylum Act, citing Article 98(1)(c).

⁶⁷⁸ Article 103(4) Asylum Act.

⁶⁷⁹ Article 103(5) Asylum Act.

consented to this. In fulfilling its supervisory role under Article 35 of the Refugee Convention, UNHCR has the right to present its views to IGI-DAI on the procedure for reconsidering the situation of beneficiaries of international protection at any stage of this procedure.⁶⁸⁰

After analysing the existing elements from the case file and, as the case may be, the reasons invoked during the interview, the case officer issues a reasoned decision, which maintains, ceases or withdraws international protection.⁶⁸¹ The cessation or withdrawal of the form of protection shall not have effect on the person's family members.⁶⁸²

Depending on the reasons, which gave rise to the decision to cease or withdraw the form of protection, the case officer may mention, as the case may be, the obligation to leave the Romanian territory.⁶⁸³ If the decision states also the obligation to leave the Romanian territory, IGI shall issue and enforce the return decision.⁶⁸⁴

If the case officer decides to cease or to withdraw international protection, the beneficiary may appeal the decision, following the rules of the Regular Procedure or Accelerated Procedure.

The law does not prescribe a systematic review of the protection status and cessation has not occurred systematically in 2018, 2019, 2020 or 2021.

No cases were reported by AIDRom.

In **Timișoara**, in 2021, 5 cessation decisions were issued, according to the director of Timișoara Regional Centre. A lawyer reported 3 cases of cessation of subsidiary protection and 2 of refugee status, that were assisted by her in the court proceedings. In **Giurgiu** 1 or 2 cases of cessation of international protection were reported by the director of the centre. In **Șomcuta Mare** no cases of cessation were reported. In **Bucharest** there were some cases of cessation, however the director was not aware of the number.

IGI-DAI provided the information that they had issued 34 cessation decisions in 2021 (main countries Syria, Iraq, Egypt)⁶⁸⁵ down from 55 cessation decisions in 2020 (main countries Syria, Iraq and Ukraine)⁶⁸⁶ down from 57 in 2019 (31 cessation of refugee status and 26 of subsidiary protection), up from 3 decisions issued in 2018.⁶⁸⁷

6. Withdrawal of protection status

Indicators: Withdrawal

Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No

Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No

Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes
☐ With difficulty ☐ No

Refugee status is revoked where:

(a) the person who has been granted refugee status has made false statements, failed to provide certain data or used false documents that were decisive for granting refugee status, and there are no other grounds for maintaining the status of refugee; or

⁶⁸⁰ Article 103(6) Asylum Act.

⁶⁸¹ Article 104(1) Asylum Act.

⁶⁸² Article 104(2) Asylum Act.

⁶⁸³ Article 104(3) Asylum Act.

⁶⁸⁴ Article 104(4) Asylum Act.

⁶⁸⁵ Information provided by IGI-DAI, 10 March 2022.

⁶⁸⁶ Information provided by IGI-DAI, 16 March 2021.

⁶⁸⁷ Information provided by IGI-DAI, 5 March 2019, 20 February 2020.

(b) after granting the refugee status it was discovered that the person should have been excluded from being a refugee.⁶⁸⁸

Subsidiary protection is revoked under the same grounds as the refugee status,⁶⁸⁹ the only difference being the grounds of exclusion.

The withdrawal procedure is the same as the Cessation procedure. There were 2-3 revocation cases in Bucharest, 2 in Timișoara, 4 in Galați and 2 in Radauti and 1 in Giurgiu in 2021.

ASSOC and JRS representatives in **Șomcuta Mare** reported the case of an unaccompanied child from Syria whose international protection was withdrawn. In **Bucharest** a single case of withdrawal of protection status of unaccompanied minor child reported. The case is still pending before the domestic court.

IGI-DAI issued 15 decisions of withdrawal of protection status (Syria, Iraq) in 2021.⁶⁹⁰

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No

If yes, what is the waiting period?

2. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No

If yes, what is the time limit?

3. Does the law set a minimum income requirement? ☐ Yes ☒ No

There is no difference between refugees and subsidiary protection beneficiaries in relation to the criteria and conditions for family reunification.

1.1. Eligible family members

Article 2(j) of the Asylum Act defines family members of the beneficiary of refugee status or subsidiary protection, to the extent that the family is in the country of origin at the date of the asylum application made by the sponsor, as:

- Spouse;
- Minor unmarried children of the beneficiary or the spouse, with the condition that they are unmarried, regardless of whether they are born in the marriage or out of wedlock or adopted in accordance with the national law of the country of origin.

The law does not set out any waiting period before a beneficiary of international protection may apply for family reunification. The law does not prescribe any deadline for applying for family reunification. The beneficiary of international protection in Romania may apply for asylum for his or her family members as long as they are not on the territory of Romania.⁶⁹¹ Beneficiaries of international protection are also not required to prove the existence of income, accommodation or health insurance for family reunification.

⁶⁸⁸ Article 100 Asylum Act.

⁶⁸⁹ Article 101 Asylum Act.

⁶⁹⁰ Information provided by IGI-DAI, 10 March 2022.

⁶⁹¹ Article 71(1) Asylum Act.

They only need to prove the family relationship with the family member or the fact that the marriage was concluded before entering the territory of Romania.⁶⁹² In practice, if the beneficiary of international protection does not have the financial means to pay for the translation of necessary documents to prove family ties, NGOs might help him or her in covering the costs of translation. In this case, the beneficiary has to wait until he or she receives the Residence Permit, as the terms of the project funded by the national AMIF programme clearly state that costs of such translations may be covered only based on residence permit.

1.2. Family reunification procedure

Prior to 2017, the applications for family reunification were assessed by IGI-DAI Bucharest. Currently, family reunification applications are to be processed by every Regional Centre.

According to the law, once the application has been submitted, the beneficiary shall also present original documents (birth certificate, marriage certificate, identity card) to prove family ties with the family members or, in the absence of these documents, any other documents proving the status of family member.⁶⁹³

In order to obtain additional data and information on family ties and to clarify other relevant aspects of the asylum application lodged for family members, IGI-DAI must conduct an interview with the beneficiary of international protection.⁶⁹⁴

If the beneficiary of international protection does not present to IGI-DAI sufficient documents showing his or her family relationship with the family member in whose name the application is made, where originals are in the possession of the family member who is in a third country, IGI-DAI must communicate to the Directorate-General for Consular Affairs of the Ministry of Foreign Affairs the list of the necessary documents.⁶⁹⁵

The General Directorate for Consular Affairs requests the diplomatic mission or the consular office of Romania from the country where the family member of the beneficiary of international protection is, to establish the existence of the documents requested by IGI-DAI. The family member must present these documents, in original, to the diplomatic mission or consular office of Romania.⁶⁹⁶ The documents shall be sent in copy, with the mention "according to the original", through the General Directorate for Consular Affairs, to IGI-DAI by the diplomatic mission or consular office of Romania from the country where the family member is present.⁶⁹⁷

1.3. Cases of family reunification in 2021 per regional centre

In **Giurgiu**, according to the director of the centre 12 applications were made of which 11 were admitted and one was rejected.

Timișoara: According to the director of Regional Centre Timișoara, there were three cases of family reunification in 2021 and they were admitted. AIDRom was not aware of the total number of applications; however, they assisted five people within this procedure in 2021. Of the five, three were admitted and two are still pending.⁶⁹⁸

In **Galați** there were many applications for family reunification, which were admitted, except the cases where the form of protection was revoked.

⁶⁹² Article 71(3) Asylum Act.

⁶⁹³ Article 30(1) Asylum Decree.

⁶⁹⁴ Article 30(2) Asylum Decree.

⁶⁹⁵ Article 30(3) Asylum Decree.

⁶⁹⁶ Article 30(4) Asylum Decree.

⁶⁹⁷ Article 30(5) Asylum Decree.

⁶⁹⁸ Information provided by AIDRom, 14 January 2022.

Rădăuți: around 30 requests were lodged; all of them were admitted.

Bucharest: according to the director of Vasile Stolnicu centre, the number of family reunification increased in 2021. In general, all the applications are admitted and the average duration of the procedure was 3-4 months plus one more month until the family members had arrived at the centre.

IOM Romania reported that 42 persons received support from them in this procedure. At the end of 2021 some of these applications were still pending and 11 had been admitted.⁶⁹⁹

Șomcuta Mare: according to LADO/ASSOC, 11 requests for family reunification were submitted in 2021, of which 10 requests were submitted by the beneficiaries accommodated in the centre and one by a person who lives outside the centre. Of these, 6 were admitted in 2021. As for the translation fees of the documents these are covered by the NGO. It was also reported that there was one case, where the beneficiary of international protection, a Syrian national, was asked by the service within the Romanian Embassy in Syria, to provide a bank account with a certain amount of money.⁷⁰⁰

It was reported by some of the stakeholders interviewed that in general IGI-DAI requests original documents, but if the applicant cannot present the original documents, he or she is informed that the family members have to present them at the Romanian Embassy.

1.4. Specific procedure for unaccompanied children

The Asylum Act provides for a family reunification procedure for unaccompanied children, with specific requirements. The family reunification for unaccompanied minors, beneficiaries of international protection, shall be done with respect to his or her best interests.⁷⁰¹ The procedure may be triggered *ex officio* by IGI-DAI. In this case the consent of the legal representative and/or the unaccompanied child is also required.⁷⁰² In all cases, the unaccompanied child's views will be taken into account and given due weight.⁷⁰³

If the unaccompanied child's family has been traced, the case officer analyses the possibility and the conditions for carrying out family reunification and issues a reasoned decision in this respect.⁷⁰⁴ The decision provided may be challenged under the same conditions as a decision delivered by IGI-DAI in the Regular Procedure.⁷⁰⁵

IGI-DAI shall take, as soon as possible, the necessary measures to trace the unaccompanied child's family, while protecting his or her best interests.⁷⁰⁶ The unaccompanied child's opinion on the tracing of his or her family is taken into account and given the due importance, in relation to his or her age and maturity.⁷⁰⁷

The data and information collected for the purpose of family tracing are processed in accordance with the principle of confidentiality, especially when the life or physical integrity of a child or his or her close family who have remained in the country of origin is endangered.⁷⁰⁸

In **Galați**, it was reported that an unaccompanied child who applied for family reunification requested the assistance of the NGO representative, who was in contact with IGI-DAI and his legal representative. In 2021 there was one case reported.

⁶⁹⁹ Information provided by IOM ROMANIA ROMANIA Romania, 19 february 2022.

⁷⁰⁰ Information provided by LADO/ASSOC, 14 January 2022.

⁷⁰¹ Article 72(1) Asylum Act.

⁷⁰² Article 72(2) Asylum Act.

⁷⁰³ Article 72(2) Asylum Act.

⁷⁰⁴ Article 72(3) Asylum Act.

⁷⁰⁵ Article 72(4) Asylum Act.

⁷⁰⁶ Article 73(1) Asylum Act.

⁷⁰⁷ Article 73(2) Asylum Act.

⁷⁰⁸ Article 73(3) Asylum Act.

In **Rădăuți**, the reunification procedure is triggered by the NGOs. In 2021, there were three applications made by unaccompanied minors.

In **Șomcuta Mare** the procedure is initiated by the unaccompanied minors, with the assistance of the legal representative, according to LADO/ASSOC.⁷⁰⁹

In **Bucharest** the family reunification procedure in case of unaccompanied children is triggered by IGI-DAI, according to IOM Romania.⁷¹⁰ Conversely, the director of Vasile Stolnicu reported that the procedure is triggered by the legal representative and the application is drafted with the support of NGOs.

Timisoara: the director of the centre reported that in 2021 there may have been a single unaccompanied minor and the request was filled by the legal representative.

It was noted that IOM Romania and LADO/ ASSOC are of the opinion that an unaccompanied minor who attains the age of majority during the asylum procedure does not retain his/her right to family reunification,⁷¹¹ contrary to the judgment of the CJEU in Case C-550/16 A and S v Staatssecretaris van Veiligheid en Justitie of 2018.

1.5. Time limits and duration

The law prescribes that the family reunification procedure must be completed as soon as possible, not exceeding 9 months from the date the application was made. If further checks are required, the 9-month period may be extended by up to 6 months.⁷¹²

Timișoara: The average duration of the procedure was a maximum of six months and three more months until the family member arrives in Romania, according to the director of IGI-DAI. AIDRom also stated that the procedure takes 5-6 months until the decision is communicated and 9 months - from the date of submission until the family member's arrival in Romania.⁷¹³

Șomcuta Mare: According to LADO/ASSOC the average duration of the family reunification procedure is 90 days, the time frame prescribed by the law and family members arrive between 4 and 7 months later.⁷¹⁴

Rădăuți: at the beginning of the year the decision was communicated within one month, but when they had an influx of asylum seekers the decision was communicated within 6-7 months. The family members arrived in Romania in 4 weeks.

Bucharest: IOM Romania reported that the length of family reunification procedure varies depending on the complexity of the case and is between 6 and 9 months from the date of submission of the application. Regarding the arrival of the family member in Romania, the period is at least one month from the date of communication of the decision.⁷¹⁵

Giurgiu: The procedure takes between 1 week and 3 months. In exceptional cases, where the applicant has not submitted all the documents the procedure can be longer than 2-3 months, according to the director of the centre. The family members arrive in 45-90 days. According to the JRS representative the average duration of the procedure was 6-7 months.

⁷⁰⁹ Information provided by LADO/ASSOC, 3 February 2022.

⁷¹⁰ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁷¹¹ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022 and Information provided by LADO/ASSOC, 3 February 2022.

⁷¹² Article 31(4) Asylum Decree.

⁷¹³ Information provided by AIDRom, 14 January 2022.

⁷¹⁴ Information provided by ASSOC, 16 February 2021.

⁷¹⁵ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

Galați: In general, the procedure takes around 8-9 months and it depends on the case officers' workload. In the case of an unaccompanied minor the procedure lasts less than 3 months.

In 2019, 123 applications for family reunification were submitted, of which 46 were from nationals of Somalia, 45 from Syria, 10 from Iraq, 9 from Afghanistan, 4 from Turkey, 2 from Cameroon, 2 from Rwanda, 2 from Palestine, 1 from Comoros, 1 from Bangladesh and 1 from a stateless person. IGI-DAI took 95 decisions, of which 79 were admitted and 16 dismissed (12 Somalia and 4 Syria).⁷¹⁶

In 2021, IGI-DAI reported a total of 405 applications for family reunification (182 Syria, 124 Somalia, 27 Afghanistan, 22 stateless, 19 Iraq, 14 Yemen, 4 Nigeria, 4 Bangladesh, 4 Rwanda, 2 Eritrea, 1 Myanmar, 1 Ivory coast, 1 Palestine), of which 180 were admitted and 7 dismissed.⁷¹⁷

2. Status and rights of family members

If the case officer considers that the family relationship or, as the case may be, the conclusion of the marriage before entering Romania, has been proved by the beneficiary international protection, he or she will request the diplomatic missions or consular offices of Romania to grant the short stay visa for the family members holding valid travel documents.⁷¹⁸

For the family members who do not hold valid travel documents or are unable to obtain them and they are outside the country of origin, at the request of the case officer, the diplomatic missions or consular offices of Romania shall issue *laissez passer* and shall grant a short stay visa in order to enter the country. The validity of the travel document shall be no more than 30 days and ceases on the date of entry of the holder into the territory of Romania.⁷¹⁹

After their entry into Romania, if they consent to the asylum application, family members will have their application assessed according to the provisions of the Asylum Act.⁷²⁰ In practice, the family members are registered as asylum seekers, they are fingerprinted and photographed, granted temporary identity documents and follow the steps of the asylum procedure. They are scheduled for an interview and receive a decision. In all reported cases, family members were granted the same form of protection as the sponsor. IOM ROMANIA also stated that family members are granted the same form of protection as the beneficiary that applied for family reunification.⁷²¹

Galați: The family members were granted the same form of protection as the sponsor. The asylum procedure in their case is the same as for the other asylum seekers, there is no differential treatment.

Șomcuta Mare: The family members received the same form of protection as the sponsor. The asylum procedure in their case is carried out swiftly by IGI-DAI. The same was reported by the ASSOC representative. The same was reported in Rădăuți, Timisoara, Bucuresti.

If the conditions for family reunification set out in Article 30 of the Asylum Decree are not fulfilled, the case officer shall issue a decision to reject the asylum application of the family members. The rejection of the application cannot be solely based on the lack of documentation certifying family ties or marriage.⁷²² The decision shall be communicated to the sponsor beneficiary of protection who submitted the asylum application for the family members.⁷²³

⁷¹⁶ Information provided by IGI-DAI, 20 February 2020.

⁷¹⁷ Information provided by IGI-DAI, 16 February 2021.

⁷¹⁸ Article 71(3) Asylum Act.

⁷¹⁹ Article 71(3^1) Asylum Act.

⁷²⁰ Article 71(4) Asylum Act.

⁷²¹ Information provided by IOM ROMANIA ROMANIA, 18 November 2019.

⁷²² Article 31(2) Asylum Decree.

⁷²³ Article 31(3) Asylum Decree.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of international protection enjoy freedom of movement within Romania, in the sense that they may choose their place of residence freely and move freely, under the same conditions as other legally residing foreigners.⁷²⁴ Beneficiaries are not allocated to specific geographic regions or facilities.

2. Travel documents

The travel document is issued, upon request, to the beneficiaries of international protection (both persons with refugee status and subsidiary protection) in Romania for a period of 2 years, without the possibility of prolonging its validity. Upon expiry, a new travel document with the same validity period is issued.⁷²⁵ Refugees receive a dark blue trilingual travel document (Romanian, English, French) as specified in the 1951 Refugee Convention, while beneficiaries of subsidiary protection receive a different travel document, also trilingual but of grey colour, which mentions “subsidiary protection”.⁷²⁶

For beneficiaries of international protection who are abroad and do not possess valid travel documents, the diplomatic missions or consular offices of Romania, with the approval of IGI, will provide them with travel documents valid only for the return to Romania. The validity of the travel title is at most 30 days and ceases upon the holder’s entry on Romanian territory.⁷²⁷

The travel document is valid for travel to all countries, except the country of origin of the beneficiary.

Refugees may travel freely in the EU, without a visa, while beneficiaries of subsidiary protection must apply for a visa. At the base of this trend lies the European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959,⁷²⁸ and the Council Regulation (EC) No 539/2001. Before 2014, beneficiaries with subsidiary protection were assimilated to refugees and they were also exempt from the visa requirement.

In order to apply for a travel document, beneficiaries of international protection are obliged to certify their residence by submitting one of the following documents: lease agreement registered with the fiscal authority; commodity contract concluded in authentic form; or any other documents concluded under the conditions of validity provided by Romanian legislation in force regarding the housing title, which prove the acquisition of some housing rights. In addition, beneficiaries should also submit an ID photo when applying for a travel document. The travel document is issued for a fee of 258 RON/€60, which represents a tax imposed by the National Printing House.

The application (standard form) for the travel document is made at IGI-DAI, after the temporary residence permit is issued. The authority issues the travel document within 30 days.

IGI-DAI issued 1,622 travel documents to beneficiaries of international protection in 2019.⁷²⁹
In 2020, IGI-DAI issued 573 new travel documents and 909 travel documents were renewed.⁷³⁰
In 2021, IGI-DAI issued 2386 travel documents.⁷³¹

⁷²⁴ Article 20(1)(b) Asylum Act.

⁷²⁵ Article 20(8) Asylum Act.

⁷²⁶ Annexes 5 and 6 Government Decision 557/2006.

⁷²⁷ Article 20(9) Asylum Act.

⁷²⁸ European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959, signed by Romania on 5 November 1999 and ratified through Act 75/2001.

⁷²⁹ Information provided by IGI-DAI, 20 February 2020.

⁷³⁰ Information provided by IGI-DAI, 16 February 2021.

⁷³¹ Information provided by IGI-DAI, 10 March 2022.

D. Housing

Indicators: Housing

For how long are beneficiaries entitled to stay in reception centres?	12 months
Number of beneficiaries staying in reception centres as of 1 January 2022:	221

1. Stay in reception centres

Beneficiaries of international protection who participate in integration programmes and have no financial means are allowed to stay in the Regional Centres, subject to availability of places.⁷³² They may stay in the centres for 6 months with the possibility of extension for another 6 months in case of well-founded reasons, with the approval of IGI-DAI, without exceeding the implementation period of the integration programme.⁷³³

A total of 221 beneficiaries of international protection were residing in the Regional Centres at the beginning of 2022:

Centre	Total
Timișoara	1
Șomcuta Mare	29
Rădăuți	75
Galați	92
Bucharest	9
Giurgiu	15
Total	221

Source: IGI-DAI, 10 March 2022.

As for 2021, IGI-DAI reported that 717 beneficiaries were accommodated in the Regional centres.⁷³⁴

In **Giurgiu**, the director mentioned that during 2021, 14 beneficiaries of international protection were accommodated in the centre.

In **Timișoara**, the director of the regional centre reported that in 2021 only one beneficiary was accommodated in the centre.

Beneficiaries accommodated in Regional Centres have to pay rent and maintenance costs after 3 months.⁷³⁵ This was also confirmed by the directors of Timisoara, Giurgiu and Vasile Stolicu. The daily rental fee is different in every regional centre. Vulnerable beneficiaries may be accommodated free of charge in the Regional Centres.⁷³⁶

Beneficiaries of international protection who participate in integration programmes and have no financial means have the right to stay in Regional Centres or in other facilities managed by the Ministry of Internal Affairs for a general period of 12 months instead of 6 months, which may be extended for 6 months.⁷³⁷

⁷³² Article 21(1) Integration Ordinance.

⁷³³ Article 21(2) Integration Ordinance.

⁷³⁴ Information provided by IGI-DAI, 10 March 2022.

⁷³⁵ Article 21(5) Integration Ordinance. The rental fee is established at local level for the living facilities which are in the state's or territorial / administrative unit's property.

⁷³⁶ Article 34(2) and (3) Integration Ordinance. IGI-DAI may provide accommodation in its centers to vulnerable persons that do not require specialised assistance and who cannot benefit from a home from the institutions ability within the space and funds available. For well-founded reasons, the IGI-DAI may extend the integration program for these persons.

⁷³⁷ Article 21(2) Integration Ordinance.

In practice, beneficiaries of international protection in **Timișoara, București, Șomcuta Mare, Rădăuți, Galați** and **Giurgiu**, are allowed to stay for free, according to the amended Integration Ordinance, for up to 3 months, in comparison to 2 months as prescribed by the previous version of the Ordinance. Beneficiaries of international protection have to pay a rental fee after that period.

After this period the rental fees may be covered by NGOs through the implemented projects. JRS and AIDRom mentioned that this is paid until the beneficiary receives the non-refundable financial aid.

According to AIDRom, beneficiaries of international protection cannot stay for free in the regional center. They have to pay 7RON/day as a rental fee. They may be accommodated in the centre only if they are enrolled in the integration program.⁷³⁸

According to IGI-DAI, 223 vulnerable beneficiaries of international protection were registered in the integration program in 2020 (53 in Bucharest, 43 in Galați, 7 in Giurgiu, 62 in Maramures, 61 in Rădăuți, 7 in Timișoara). The average duration of their accommodation in the regional centres is 12 months.⁷³⁹

In **Șomcuta Mare**, after the 90 days that beneficiaries of international protection are allowed to stay for free, ASSOC covers the rental for at least 2 months.⁷⁴⁰

In **Rădăuți**, ICAR Foundation pays the rental fee for another two months. As a result, the beneficiary has to pay for rent only after 5 months after obtaining international protection.

In addition to this, JRS implements the project “A New House” in all the Regional Centres, funded through the AMIF national programme, which covers partially or entirely the rental fees and/or the utility costs for beneficiaries of international protection. In 2019, 241 beneficiaries of international protection received rental/utilities subsidies. The rental/utilities subsidies may be covered for a maximum of 12 months within this project. However, in 2019, the longest period for which these subsidies were granted was 10 months. These services are available to: (a) relocated or resettled beneficiaries; (b) beneficiaries enrolled in the integration programme; and (c) beneficiaries in a vulnerable situation. For each case, a request is made to IGI-DAI in order to receive their approval for assisting the case.

2. Social housing

According to the law, beneficiaries of international protection have the right to access the social housing scheme under the same conditions as Romanian citizens.⁷⁴¹

After the integration programme is completed or when a job opportunity has been identified, IGI-DAI guides the assisted person to the community where there are vacancies and informs him or her on how to get a social home under the conditions set in the law.⁷⁴²

The local public administration authorities have the obligation to ensure, within the limits of available resources, social housing for persons who have acquired a form of protection in Romania and who are to move to the respective community under the same conditions as the Romanian citizens, even if they have not established their domicile or residence in that area.⁷⁴³

If the local public administration authorities cannot provide a social home, the beneficiary may rent housing within the respective local community.⁷⁴⁴ IGI-DAI subsidises up to 50% of the rent, subject to

⁷³⁸ Information provided by AIDRom, 14 January 2022.

⁷³⁹ Information provided by IGI-DAI, 16 February 2021.

⁷⁴⁰ Information provided by LADO/ASSOC, 3 February 2022.

⁷⁴¹ Article 20(1)(q) Asylum Act.

⁷⁴² Article 28 Integration Ordinance.

⁷⁴³ Article 29(1) Integration Ordinance.

⁷⁴⁴ Article 29(2) Integration Ordinance.

availability of funding, for a maximum period of one year.⁷⁴⁵ According to IGI-DAI, 11 persons benefitted from this subsidy in 2018.⁷⁴⁶ In 2020, no beneficiary benefitted from this aid.⁷⁴⁷

Timișoara: Requests for social housing have been submitted, but until now no one has benefited from this. The local public administration authority has no social houses available; the list of requests for social housing is endless. In order to benefit from financial aid from IGI-DAI for the rent, beneficiaries have to prove that they have requested social housing and they have to have a rental contract registered at the tax authorities. According to the director of the Regional Centre Timișoara, in 2021, IGI-DAI granted subsidies (50% of the rent) to a single case.

In **Rădăuți**, this provision was applied in practice for the first time in 2021. IGI-DAI granted subsidies to a family.

In **București, Galați, Giurgiu and Șomcuta Mare**: This provision has never been applied in practice. In Șomcuta Mare, Galați, Giurgiu and Rădăuți they request assistance under the aforementioned project “A New House” run by JRS.

Galați: according to the JRS representative, IOM Romania pays the rental fee for the Afghan nationals who were evacuated from Afghanistan by the Romanian authorities.

E. Employment and education

1. Access to the labour market

Beneficiaries of international protection have the right to be employed by natural or legal persons, to carry out voluntary activities, to exercise free professions and to carry out legal acts, to carry out acts and deeds of commerce, including independent economic activities, under the same conditions as Romanian citizens.⁷⁴⁸ There are no differences between refugees and subsidiary protection beneficiaries in relation to access to employment.

Beneficiaries participating in the integration programme are registered as individuals looking for a job at the National Agency for Employment, within 30 days of signing the protocol.⁷⁴⁹

In order to carry out measures to stimulate employment, the National Agency for Employment, through its agencies, has the obligation to draw up an individual plan for each person included in the integration program and register them as a person looking for a job, according to the legal provisions. For this purpose, IGI-DAI provides information on the education and professional profile of the beneficiaries. The National Agency for Employment may also collaborate with NGOs in order to inform, counsel or provide other services to beneficiaries of international protection.

Unemployed beneficiaries of international protection included in the integration programme may also benefit from relocation, mobility or activation allowance, if they are registered as unemployed.⁷⁵⁰

1.1 Obstacles to access in practice

Although beneficiaries of international protection have the same rights as Romanian citizens when it comes to access to labour market, there are some fields where there is limited or no access. For example, doctors with refugee status or subsidiary protection do not have the right to practice medicine

⁷⁴⁵ Article 29(3) Integration Ordinance.

⁷⁴⁶ Information provided by IGI-DAI, 5 March 2019.

⁷⁴⁷ Information provided by IGI-DAI, 16 February 2021.

⁷⁴⁸ Article 20(1)(c) Asylum Act.

⁷⁴⁹ Article 24 Integration Ordinance.

⁷⁵⁰ Article 25 Integration Ordinance.

in Romania,⁷⁵¹ unless they are married to a Romanian citizen, they are family members of an EU citizen, or they have a **Long-Term Residence** permit granted by Romania or an EU Member State.⁷⁵²

Legally there are no limitations imposed on beneficiaries of international protection regarding access to labour market. In practice, knowledge of Romanian language (and in some cases English) may hinder beneficiaries' access to labour market. In addition, many of the beneficiaries do not have diplomas that certify their studies, which makes it impossible for them to apply for certain positions.

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

Timișoara: According to AIDRom, beneficiaries encounter difficulties in finding a job. The lack of knowledge of Romanian language is considered an impediment. Some of the employers are also reluctant to hire foreigners for various reasons, such as: employers have no knowledge of a widely spoken language and cannot communicate with their employees; employers are not knowledgeable in applicable law and believe they have to pay higher or different taxes for beneficiaries.⁷⁵³

Bucharest: the difficulties encountered by the beneficiaries of international protection in accessing the labour market, reported by IOM Romania since 2018, still persist in 2021. Mainly for beneficiaries who do not have diplomas, certificates of studies or qualifications. Some of the employers are not aware of the conditions under which foreigners can be employed in Romania and of the status of beneficiaries of international protection. Lack of knowledge of Romanian language, at a satisfactory level was also reported as an impediment to finding a job.⁷⁵⁴

Șomcuta Mare: According to the JRS representative, persons accommodated in the centre are periodically informed about available jobs in the area by AIDRom. There are a couple of companies which constantly recruit people in the unskilled labo/ur sector. There were 2 beneficiaries of international protection legally working in Baia Mare. No problems or difficulties in accessing the labour market were reported by the JRS representative, who also mentioned that if the beneficiaries are willing to work, jobs will be found for them. Even though there are jobs available, not all beneficiaries have expressed interest in seeking employment. Beneficiaries do not intend to remain in Șomcuta Mare because it is a small city and there is no community of foreigners; they prefer to go to **Bucharest**.

LADO/ASSOC also mentioned that there were no obstacles to finding a job as a beneficiary. Many of the beneficiaries (with the support of ASSOC, LADO partner) were employed at various factories in the area, as well as in the public administration department of Baia Mare City Hall (SPAU) as day labourers. However, this is a short-term solution. In the long run, many beneficiaries are looking for support in cities where there are communities where they can integrate more easily or they even leave the country.⁷⁵⁵

Galați: It was reported that several beneficiaries transferred their integration programme to Bucharest where there is a foreign community. 95% of the beneficiaries leave Galați and head to Cluj, Bucharest and other cities and even to other countries. There are jobs available especially in the unskilled labour sector and employment offers are received from different companies and periodically from AJOFM. Employers from the construction industry come directly to the centre. The employers require a basic or intermediary knowledge of Romanian language or English. There were beneficiaries who accepted to work for 1,200 RON / €255 and others who refused such jobs. In 2021 one beneficiary, an Afghan national, was hired as a civil engineer and worked 2 hours a day.

⁷⁵¹ The issue was debated during a meeting on 26 October 2017 with representatives of the Romanian Government, the College of Doctors, IGI, NGOs, UNHCR and the International Organisation for Migration (IOM ROMANIA ROMANIA). The conclusions of the meeting were that the Government will analyse the proposals and will try to find solutions. See EMINET, 'Obținerea dreptului de practică de către medicii străini, în contextual deficitului de personal din sistemul de sănătate românesc', 26 October 2017, available in Romanian at: <http://bit.ly/2hK7lUb>.

⁷⁵² Article 376(1) Act 95/2006 on Health Reform.

⁷⁵³ Information provided by AIDRom, 14 January 2022.

⁷⁵⁴ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁷⁵⁵ Information provided by LADO/ASSOC, 3 February 2022.

Rădăuți: it was reported that even though there are available jobs, the salaries are low and as a consequence the majority of beneficiaries leave Rădăuți and head to bigger cities such as Iasi, Cluj or Bucharest or even to other countries.

Giurgiu: According to the JRS representative, the main obstacles in finding a job are the language barrier. At the same time, it was reported that they were not respecting the working hours.

As for the impact of the pandemic in accessing the labour market AIDRom stated that there have been many layoffs or reduced working hours and therefore wage cuts. This was also reported by IOM Romania.⁷⁵⁶ Many of their beneficiaries worked in HORECA sector, which was the most affected.⁷⁵⁷

1.2 Recognition / equivalence of professional qualifications

According to the Asylum Act, beneficiaries of international protection have the right to equal treatment to Romanian citizens regarding the equivalence of studies or periods of study, the recognition of diplomas, attestations and certificates of competency, as well as of professional qualifications which give access to regulated professions in Romania, in accordance with the regulations in force.⁷⁵⁸

If the beneficiary would like to be employed in a position according to his or her qualifications, he or she has to obtain the recognition and validation of his or her diplomas. The request for recognition and validation of diplomas is assessed by the National Centre for Recognition and Validation of Diplomas (CNRED), within the Ministry of Education.

The request should include the following documents:⁷⁵⁹

1. Standardised application;
2. Certificate (act) of study for equivalence or recognition:
 - Copy if studies are in Romanian, English, French, Spanish or Italian;
 - Copy and legalised translation into Romanian for other languages;
3. Transcript or any other document from the education institution certifying the courses taken. If the recognition of the specialisation, or the field of study is not mentioned in the diploma,
 - Copy if studies are in Romanian, English, French, Spanish or Italian;
 - Copy and legalised translation into Romanian for other languages;
4. Other relevant documents e.g. full programme of course for the pursuit of a regulated profession in case of study documents obtained in third countries:
 - Copy if studies are in Romanian, English, French, Spanish or Italian;
 - Copy and legalised translation into Romanian for other languages;
5. Copies of personal identification documents i.e. passport, identity card, proof of name change if applicable;
6. Processing fee of 50 RON / €11.

The CNRED website also mentions that Apostille or over-legalisation is required for the authentication of the diplomas subject to recognition. For states parties to the Hague Apostille Convention, diplomas subject to recognition must be addressed to the Hague Apostille by the competent authorities of the issuing countries. Education titles in Italy, Greece, Spain, Portugal and Cyprus are covered by the Hague Convention Apostille, whereas other EU Member States are exempted.

For States who are not party to the Hague Apostille Convention, education titles shall be legalised or accompanied by the Certificate of Authenticity issued by the competent authorities of the country of

⁷⁵⁶ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁷⁵⁷ Ibid.

⁷⁵⁸ Article 20(1)(r) Asylum Act.

⁷⁵⁹ CNRED, Recunoașterea studiilor superioare ale cetățenilor din state membre UE, SEE și din Confederația Elvețiană, membrii de familie ai acestora, posesorii unui permis de ședere pe termen lung CE și refugiați, în vederea accesului pe piața forței de muncă, available in Romanian at: <http://bit.ly/2ySVHRc>.

origin. The legalisation is applied by the Ministry of Foreign Affairs of the issuing country and the Embassy / Consular Office of Romania in that country or by the Ministry of Foreign Affairs of the issuing country and its Embassy / Consular Office in Romania and the Ministry of Foreign Affairs of Romania. For countries where there are no diplomatic missions of Romania or who do not have diplomatic missions in Romania, titles are endorsed by the Ministry of Education and the Ministry of Foreign Affairs of the issuing country.

When requested, CNRED did not clarify whether this procedure also applies to beneficiaries of international protection. However, in case Apostille is required for beneficiaries, this would be contrary to the essence of international protection, as the person would be required to request the over-legalisation or Apostille from the Ministry of Foreign Affairs of the issuing country and its Embassy., according to IOM Romania and AIDRom, depending on the country of origin, CNRED may require Apostille or over-legalisation of beneficiaries' diplomas.⁷⁶⁰

The recognition procedure lasts 30 days according to IOM Romania. Beneficiaries receive assistance from them and from the Department of International Relations of universities where they would like to apply or from NGOs.⁷⁶¹

AIDRom stated that the preparation of the required documents takes 2-3 months and CNRED's decision is given in 30 days.⁷⁶²

No cases of such were reported in **Rădăuți** and **Șomcuta Mare**.

Galati: the JRS representative mentioned that requests for recognition of diplomas were submitted in 2021. The average duration of the procedure is 30 days.

IGI-DAI does not keep statistics on the number of beneficiaries of international protection in employment.

2. Access to education

Beneficiaries of international protection have the right to have access to all forms of education, under the same conditions as Romanian citizens.⁷⁶³ In order to have access to education, children beneficiaries of international protection need to have the minimum age provided by law for all children: 3 to 6 for pre-school education and 6 for primary education.

2.1. Enrolment at schools

The legal provisions regarding Romanian language courses for children were detailed by the new amendment of the Integration Ordinance. Therefore, it is stated that, in order to integrate minors beneficiaries of international protection into the Romanian education system, they would benefit from a preparatory course for learning the Romanian language, emphasising that the course is intensive and free of charge during a school year. It was also added that the enrolment is open throughout the calendar year, and the attendance of the course may continue during the following school year, as the case may be.⁷⁶⁴

During the first year, children are enrolled at schools as viewers and listeners; they do not receive grades and are not registered in the class book.⁷⁶⁵ At the end of the preparatory course, the level of

⁷⁶⁰ Information provided by IOM ROMANIA ROMANIA Romania, 18 November 2019.

⁷⁶¹ Information provided by AIDRom, 3 March 2021.

⁷⁶² Information provided by AIDRom, 14 January 2022.

⁷⁶³ Article 20(1)(h) Asylum Act.

⁷⁶⁴ Article 10(1) Integration Ordinance.

⁷⁶⁵ Article 10(2) Integration Ordinance. During the preparatory course children beneficiaries of international protection participate free of charge in pedagogical activities within the school units, without their presence being registered in official documents.

knowledge of Romanian language is assessed and an evaluation commission determines enrolment at school.⁷⁶⁶

Bucharest (Region 1): In 2021, In Region 1, 55 BPI children were enrolled at school by IOM Romania. Registration can be completed by IGI-DAI integration officers or counsellors from NGOs.⁷⁶⁷

Giurgiu: only 1 child was enrolled and attended online school classes during 2021, according to the JRS representative.

Galați: Children are enrolled at school from the moment they become asylum seekers. For the beneficiaries evacuated by the Romanian authorities from Afghanistan, because the asylum procedure was conducted swiftly, the enrolment procedures were done when they were granted refugee status. As for the other beneficiaries it was reported that soon after obtaining the travel documents (1-2 months) they leave the country

Timișoara: According to the director of the centre 15 children were enrolled at school in 2021. AIDRom reported that they assisted 7 children in the enrollment process in 2021. AIDRom also mentioned that during 2021 when they tried to enrol a child at kindergarten they were told to wait to see what places are available, as Romanian children have priority. Private kindergartens refused to take beneficiaries because they speak a foreign language or even without providing a reason. Another challenge encountered was children's ability to read / write in the Latin alphabet. Therefore, even if they had taken several classes in their country of origin, in Romania it was necessary to enroll them in the Second Chance for Literacy program.⁷⁶⁸

Rădăuți: Children are enrolled at school during the asylum procedure. JRS representative reported that many children were enrolled during the year, some of them attended the classes and some did not because they did not want to or they left the country.

Șomcuta Mare: LADO/ASSOC reported that they enrolled 2 children in 2021.

As regards children with special needs, the conditions for accessing education are the same as for Romanian children. The child should first be issued a degree of disability by the Complex Assessment Service of the Child with Disabilities within the Directorate-General for Social Assistance and Child Protection (DGASPC). This is a particularly complicated and bureaucratic process, which has to be repeated every year.⁷⁶⁹

Based on the evaluation, the Complex Assessment Service of the Child with Disabilities also decides if the child should be enrolled in a school for children with special needs or in a state school, and at what grade.

In **Timișoara** the same rules apply for beneficiaries of international protection as for Romanian citizens. In the case of a girl with disabilities, the case was referred to other NGOs and public authorities dealing with disabled minors. There were no problems regarding their integration, as the mother of the girl is employed as a personal assistant of the girl, and she is paid according to the law applicable to Romanian citizens. The only difficulties faced by the family are the language barrier and bureaucracy, the mother's employment and the issue of the disability certificate. Without proper support and assistance in this process, the family of the girl would not have managed. No cases were reported in 2019, 2020 nor in 2021.

⁷⁶⁶ Article 10(3) Integration Ordinance

⁷⁶⁷ Information provide by IOM ROMANIA ROMANIA, 19 February 2022.

⁷⁶⁸ Information provide by AIDRom, 14 January 2022.

⁷⁶⁹ For the highly onerous administrative requirements to be met for this process according to Common Order No 1985/1305/5805/2016, see DGASPC, *Necessary documents for the complex assessment of the child's disability*, available in Romanian at: <http://bit.ly/2hK8T0r>.

Beneficiaries of international protection who have reached the age of 18 encounter the same problems in accessing vocational training or education, regardless of their age, according to the AIDRom representative. The language is an impediment. If they do not have diplomas, they have to be examined for all subjects from the first to twelfth grade, or if they cannot certify the years of study, they have to repeat those school years in Romania following the Romanian curricula. There are very few youngsters that have chosen this path, even though professors were understanding and helpful. Another reported situation is that of youngsters that went to an Arabic school and after one year transferred to public schools. IOM Romania also pointed out the lack of diplomas and language barriers as an obstacle or the fact that certain beneficiaries are illiterate and / or do not have the appropriate level of education (for example for enrolling at certain courses it is necessary to finalise primary education (4 years of schooling). ASSOC, on the other hand, specified that along with the language barrier, in some cases there is also a lack of determination.

2.2. Integration courses

The new amendments of the Integration Ordinance stipulate that IGI-DAI, in collaboration with the authorities of the local public administration, organizes sessions of cultural accommodation and counselling activities, aiming to familiarize the adult beneficiaries of international protection with the traditions, customs, legislation and specifics of the Romanian society.⁷⁷⁰ The previous provision stipulated that IGI organizes these activities and may collaborate with public authorities and NGOs. IGI and the local public administration authorities may collaborate with other public institutions and non-governmental organizations in order to organize these activities.⁷⁷¹

Adult beneficiaries of international protection benefit from intensive and free of charge Romanian language courses, organized by the specialized structures of the Ministry of National Education, in collaboration with IGI. Enrolment is made throughout the calendar year, and the attendance of the course may continue throughout the following school year.⁷⁷² IGI-DAI, in collaboration with NGOs provides the necessary spaces for organizing the courses.⁷⁷³ The Ministry of Education appoints a qualified person to teach the Romanian language course for adults and minors and it also ensures adequate training for these teachers.⁷⁷⁴ The Ministry of Education establishes the organisation, duration and schedule of these courses.⁷⁷⁵ At the end of the preparatory course, a commission issues a certificate that demonstrates the level of knowledge of the Romanian language.⁷⁷⁶

For unaccompanied minors who are beneficiaries of international protection, IGI-DAI collaborates with DGASPC and NGO representatives. They establish the integration plan for the children and implement the activities included in the plan.⁷⁷⁷

In practice, some deficiencies in Romanian courses are reported in **Timișoara** and **Rădăuți**. Participants are not grouped based on their age – children and adults are in the same class – or on their level of education, meaning that illiterate persons and persons with higher education are grouped together. In Timișoara they are grouped in advanced and beginner groups. There is only one teacher in Timișoara for all beneficiaries.

In **Timișoara**, according to AIDRom the courses are held by a Romanian language teacher from the ISJ, twice a week. They have no knowledge whether there is a division into specific groups in these courses. They are addressed in particular to the beneficiaries in the integration program for whom participation in this course is mandatory for the successful completion of the integration program. It was also reported that the courses were held online, depending on the restrictions in place, and sometimes

⁷⁷⁰ Article 13(1) Integration Ordinance.

⁷⁷¹ Article 13(2) Integration Ordinance.

⁷⁷² Article 14(1) Integration Ordinance.

⁷⁷³ Article 14(2) Integration Ordinance.

⁷⁷⁴ Article 14(3) Integration Ordinance.

⁷⁷⁵ Article 14(4) Integration Ordinance.

⁷⁷⁶ Article 14(5) Integration Ordinance.

⁷⁷⁷ Article 35(3) Integration Ordinance.

were also cancelled.⁷⁷⁸ AIDRom also organises Romanian language classes in the same way as the ICAR Foundation.

Rădăuți: As of September 2019, beneficiaries were grouped based on their age, but they were not grouped on their level of education or level of Romanian language knowledge. The classes are held on Monday and Thursday for children and on Wednesday for adults. During the summer break the Romanian language course was not held. On the other hand, ICAR Foundation is also organising Romanian language courses. These courses are framed on the needs, level of education and knowledge of Romanian language of the beneficiaries. Before starting the course, beneficiaries have to take a test.

Șomcuta Mare: Romanian language courses are held 3 times a week in the Regional Centre with beneficiaries of international protection and asylum seekers, by a teacher from ISJ. They are grouped on the basis of their age and education level. The pandemic had a major impact on the language courses, according to LADO/ASSOC these were held online and children had no laptops or other devices.⁷⁷⁹

AIDRom also organises Romanian language classes in the same way as the ICAR Foundation.

In **Galați**, beneficiaries were not grouped based on their age, due to the high number of beneficiaries. There are 2 teachers, 1 for the children and the other for the adults. The classes are held twice a week for 2 hours. JRS is also organising Romanian language courses every weekday in Constanta and Galați. In 2021, the classes were held both online and in person. It was reported that sometimes the classes are not held, without prior notice.

In **Giurgiu**, according to JRS representatives the Romanian language classes were held by AIDRom for asylum seekers and beneficiaries of international protection. Around 12 persons participated in the courses in 2021. The director of Giurgiu Regional Centre mentioned that the preparatory course for learning the Romanian language takes place at the Tudor Vianu Theoretical High School in Giurgiu, for one year, twice a week for two hours; a number of 10 minors, beneficiaries of a form of international protection, were enrolled. The enrolment of asylum-seeking unaccompanied minors at the preparatory course was done by the legal representative. Nevertheless, at the time of registration they had already left the centre and none attended the course.

In **Bucharest** there is only one educational institution (School no. 25) where Romanian language courses are organized for foreign citizens. In 2021 the courses were held twice a week, in person and online format (depending on the restrictions imposed by the authorities due to the Covid pandemic). Participants were divided into age groups, respectively: 6-10 years, 11-14 years, 15-18 years, over 18 years. The main difficulties identified were the distance to school and the lack of electronic devices when the courses were held online.⁷⁸⁰

F. Social welfare

Beneficiaries of international protection who for objective reasons lack the necessary means of subsistence have the right to receive, upon request and within the limits of the state's financial resources, a monthly non-reimbursable aid ("aid") for a maximum period of 12 months.⁷⁸¹ The amount of aid is related to the reference social indicator under the terms and conditions established by Government Decision.⁷⁸²

⁷⁷⁸ Information provided by AIDRom, 14 January 2022.

⁷⁷⁹ Information provided by LADO/ASSOC, 3 February 2022.

⁷⁸⁰ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁷⁸¹ Article 20(1)(m) Asylum Act.

⁷⁸² Ibid.

The Integration Ordinance states that to ensure effective access to social rights, the competent authorities take into account the specific situation of the beneficiaries of international protection.⁷⁸³ New provisions were added by the amendments, stipulating that at IGI's request, local support teams may be set up to integrate beneficiaries of international protection and other foreigners who have a right of residence in Romania, as well as citizens of the Member States of the European Union, the European Economic Area and citizens of the Swiss Confederation. The local support teams are composed of IGI-DAI, local public administration authorities, public institutions and NGO representatives.⁷⁸⁴ Further rules will be published, prescribing how these support teams are established, how they operate and what their responsibilities are.⁷⁸⁵

The timeline for the submission of the application for inclusion in the integration program was prolonged from 30 days to 3 months from the date the international protection was granted, by the amended Integration Ordinance.⁷⁸⁶ Another legal provision introduced by the amendment prescribes that NGO representatives may participate at the interview conducted by the integration officer of IGI-DAI with the beneficiary of international protection. The scope of the interview is to establish the type of assistance or activities necessary for the social integration of the applicant.⁷⁸⁷

The duration of integration programmes for beneficiaries of international protection is prolonged from 6 months to 12 months, which may be extended with 6 months.⁷⁸⁸

1. Conditions for aid

The non-refundable financial aid is granted for an initial period of 6 months, with the possibility of extending it to 12 months. In order to receive non-refundable aid, beneficiaries of international protection must be enrolled in the integration programme.⁷⁸⁹ However, some groups, referred to as "special cases", are exempt from the obligation to be enrolled in the programme. The special cases are:⁷⁹⁰

- a. Unaccompanied children;
- b. Persons with disabilities;
- c. Persons who have reached retirement age and do not benefit from retirement;
- d. Pregnant women;
- e. Single-parent families with juvenile children;
- f. Victims of human trafficking;
- g. Victims of torture, rape or other serious forms of psychological or sexual violence.

In 2018, 1,146 beneficiaries of international protection were enrolled in such a programme, of whom 608 continued a programme started in 2017. 10 unaccompanied children beneficiaries of international protection were enrolled in the integration programme in 2018.⁷⁹¹

In 2019, 793 beneficiaries of international protection were enrolled in the integration programme, of whom 450 started in 2019 while the rest continued the programme started in 2018.⁷⁹²

In 2020, 588 beneficiaries of international protection were enrolled in the integration programme and in total there were 1,003 beneficiaries, of which 32 were unaccompanied minors.⁷⁹³

⁷⁸³ Article 14¹(1) Integration Ordinance.

⁷⁸⁴ Article 14¹(2) Integration Ordinance.

⁷⁸⁵ Article 14¹(3) Integration Ordinance.

⁷⁸⁶ Article 16 Integration Ordinance.

⁷⁸⁷ Article 17(1) (2) Integration Ordinance.

⁷⁸⁸ Article 20 integration Ordinance.

⁷⁸⁹ Article 60(1) Asylum Decree.

⁷⁹⁰ Article 33(2) Integration Ordinance.

⁷⁹¹ Information provided by IGI-DAI, 5 March 2019.

⁷⁹² Information provided by IGI-DAI, 20 February 2020.

⁷⁹³ Information provided by IGI-DAI, 16 February 2021.

In 2021, 986 beneficiaries of international protection were enrolled in the integration programme and in total there were 1625 beneficiaries, of whom only 23 were unaccompanied minors.⁷⁹⁴

In 2021, 55 beneficiaries were enrolled in the integration programme in **Timisoara** and 35 were excluded, according to the director. In **Giurgiu**, 44 beneficiaries were enrolled and 11 excluded. In **Galati** 283 beneficiaries were included in the integration programme and 111 were excluded. In **Somcuta Mare** 104 beneficiaries were enrolled and two excluded. In Bucharest 380 beneficiaries were enrolled, of which 155 minors and 42 were excluded.

The provision of aid is subject to the actual residence of the beneficiary, which is mentioned on the [Residence Permit](#). The beneficiary of international protection is included in the integration programme coordinated by the IGI-DAI office territorially competent for the area where he or she resides.⁷⁹⁵

In case a beneficiary would like to change his or her place of residence, he or she has to communicate this intention to IGI-DAI where he or she started the integration programme and has the obligation, within 15 days from the date of moving to the new address, to present him or herself to the IGI-DAI office territorially competent for the area in which he or she now resides or, as the case may be, to the relevant territorial entity of the Aliens Authority, to register him or herself and to make the necessary changes to the identity document.⁷⁹⁶

IGI-DAI reported that 1071 beneficiaries of international protection benefited from non-refundable financial aid in 2021.⁷⁹⁷

2. Application procedure for aid

The authority responsible for granting non-refundable aid is the County Agency for Payments and Social Inspection (*Agencia Județeană pentru Plăți și Inspecție Socială*, AJPIS). The funds necessary for granting aid are provided from the budget of the Ministry of Labour and Social Protection through the Agency for Payments and Social Inspection of the County.⁷⁹⁸

The application for non-refundable aid is drafted individually by each beneficiary of international protection who fulfils the conditions set out in the law or by his or her legal representative or guardian, according to a template established by IGI.⁷⁹⁹ This requirement raises issues in practice for unaccompanied children in Bucharest. An unaccompanied child beneficiary of international protection may not access non-refundable financial aid due to the fact that he was not appointed a legal representative by DGASPC, since the legal representative only assists unaccompanied asylum-seeking children during the asylum procedure and not after they are granted a form of protection.

AIDRom reported that in Timișoara, unaccompanied children's cases are taken over by DGASPC and are represented by the social worker/case manager within DGASPC Timișoara. In Bucharest, there are still difficulties in monitoring unaccompanied minors due to the lack of staff at the level of DGASPC, as well as the workload of their employees.⁸⁰⁰

Children have access to financial aid only when they are 18. Until then, the money is collected in an account on behalf of the beneficiary. Upon leaving the centre, the child will live in a DGASPC centre, and the director of the centre becomes the legal representative of the child.⁸⁰¹

⁷⁹⁴ Information provided by IGI-DAI, 10 March 2022.

⁷⁹⁵ Article 60(1) Asylum Decree.

⁷⁹⁶ Article 52(2) Asylum Decree.

⁷⁹⁷ Information provided by IGI-DAI, 10 March 2022.

⁷⁹⁸ Article 20(5) Asylum Act.

⁷⁹⁹ Article 60(2) Asylum Decree.

⁸⁰⁰ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁸⁰¹ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

In practice, the application is made within 3 months of the date of granting international protection, with an NGO's assistance. IGI-DAI forwards the file of the beneficiary to the AJPIS for review. The application must be accompanied by the decision granting international protection, the temporary residence permit, as well as a certificate attesting the registration in the integration programme issued by the territorially competent IGI-DAI office.⁸⁰²

In order to establish the right to aid, the AJPIS makes a social investigation within 10 days from the receipt of the application to confirm that the applicant lacks the necessary means of subsistence.⁸⁰³ The Executive Director of the AJPIS approves granting the financial aid, starting with the following month in which the application was registered with the territorial agency, on the basis of the documents submitted by IGI-DAI.⁸⁰⁴ Until the first month of payment of the aid, beneficiaries who have no means of subsistence shall receive from IGI-DAI material aid equal to the amount granted to asylum seekers, within the limits of available funds, but for no more than three months.⁸⁰⁵

IGI-DAI reviews the situation of each beneficiary of aid, twice a year, depending on the active participation of the person in the activities stipulated in the individual integration plan and submits to the competent AJPIS proposals for extending the period of granting, suspending or terminating the payment of aid.⁸⁰⁶

AIDRom reported that if the integration officer decides that the participation of the beneficiary is inconsistent, or they have not learned enough, he or she may exclude them from the program and they will, therefore, lose the financial aid. The financial aid is also lost if they find a part-time job. In order to receive the aid after the first 6 months, beneficiaries must submit a certificate to AJPIS that they are students or persons enrolled in AJOFM. Enrollment at AJOFM should be done by IGI-DAI; however, it is done by AIDRom where possible. The financial aid may also be lost when these documents are not lodged in time. Another challenge in accessing this help is that the money must be collected directly from AJPIS, and this can only be done 2-3 days a month and there is no monthly fixed day. The practice is that the AJPIS representatives contact the beneficiaries by phone, informing them when they can pick up the money. In case the beneficiary does not pick the money up in time, they are returned to the central fund, and an application has to be submitted to recover the aid.⁸⁰⁷

The same procedure for collecting the financial aid was also reported by IOM Romania. Difficulties may occur when beneficiaries of international protection move to another county, which falls within the competence of another IGI-DAI centre.⁸⁰⁸

No problems to obtain financial aid were reported in Șomcuta Mare, Galați, Rădăuți, Bucharest.

The JRS representative in **Galați** reported that AJPIS considered that the application for the financial aid should be submitted within 3 months of the decision being issued and not of the decision becoming final. A complaint was filed in this regard and the court decided that the commencement date for the 3 months time limit is the day when the judgment has become final.

Beneficiaries of international protection who participate in the integration programme, who do not meet the conditions for receiving non-refundable financial aid and who have no means of subsistence, are supported in order to fulfil the legal conditions for obtaining the minimum guaranteed income.⁸⁰⁹

⁸⁰² Article 60(2)-(3) Asylum Decree.

⁸⁰³ Article 60(5) Asylum Decree.

⁸⁰⁴ Article 60(4) Asylum Decree.

⁸⁰⁵ Article 22(3) Integration Ordinance.

⁸⁰⁶ Article 60(6) Asylum Decree.

⁸⁰⁷ Information provided by AIDRom, 14 January 2021.

⁸⁰⁸ Information provided by, 19 February 2022.

⁸⁰⁹ Article 22(1) Integration Ordinance.

Beneficiaries of international protection also have the right to benefit from social insurance, social assistance measures and social health insurance, under the conditions provided by the law for Romanian citizens.⁸¹⁰

G. Health care

Beneficiaries of international protection have the right to benefit from health insurance under the conditions provided by the law for the Romanian citizens.⁸¹¹ Persons suffering from mental health problems, including torture survivors and traumatised persons also have access to treatment in the same conditions as Romanian nationals.

Challenges in practice include lack of awareness of how the Health Insurance House (*Casa de Asigurări de Sănătate*, CAS) works and what it entails. Therefore, NGOs play a key role in assisting beneficiaries of international protection to overcome all the practical obstacles, which would be insurmountable without this type of support.

The JRS representative in **Rădăuți** reported difficulties regarding the identification of family doctors. Family doctors refuse to register beneficiaries of international protection, including children, because they have to register patients for at least six months and are afraid that beneficiaries will leave Romania. Beneficiaries who decide to stay for long term have family doctors. For the ones who have no health insurance ICAR Foundation is covering the costs of medical consultations and treatment if necessary.

Another reported issue is related to health insurance. Persons who do not earn an income are obliged to pay state health insurance for 12 months, which equals 6 gross national salaries, irrespective of the date of filing the declaration.⁸¹² In practice the amount which has to be paid monthly by the beneficiaries is 208 RON/ €44, so it increased from 190 RON/ €40 of last year. An annual health insurance (valid for 12 months) costs the equivalent of 10% of six gross minimum wages, which is 1248 RON/ €265.

NGOs may reimburse the cost of this. The payment of one month of health insurance triggers an obligation to pay for the entire year in order to access health services. If beneficiaries stop paying health insurance, they enter into debt. If they commit to stay for six months, ICAR Foundation may pay for their health insurance.

In **Galați**, within the project implemented by JRS on integration it is possible to pay for the state health insurance for a maximum of 6 months. It was reported by the JRS representative that for medical consultations and laboratory tests it is necessary to submit a written order from the primary care doctor, the family doctor. Because it is hard to identify medical doctors for beneficiaries, this task is performed by the medical doctor of IGI-DAI.

LADO/ASSOC mentioned that beneficiaries do not encounter problems in the health system if they pay for their health insurance. The only hardship is caused by the lack of knowledge of Romanian. It was emphasized that the ASSOC representative offers support to beneficiaries in finding family doctors⁸¹³

IOM Romania reported the following issues faced by beneficiaries of international protection in relation to the health care system:

- Inadequate understanding of how the health insurance system works;
- Lack of financial resources needed to pay for the social health insurance;
- Even if they are insured, there are treatments and investigations that are not covered by the state health insurance and must be paid for by the beneficiaries;
- High waiting time for certain investigations

⁸¹⁰ Article 20(1)(g) Asylum Act.

⁸¹¹ Article 20(1)(g) Asylum Act.

⁸¹² Article 180(3) Fiscal Code.

⁸¹³ Information provided by LADO/ASSOC, 3 February 2022.

- Linguistic and cultural barriers.

IOM Romania further acknowledged the important role of NGOs implementing integration projects, in supporting beneficiaries in accessing health services.⁸¹⁴

AIDRom reported that sometimes language barriers in healthcare lead to miscommunication between the medical professional and the beneficiary of international protection. AIDRom also pointed out that family doctors are reluctant to register foreigners.⁸¹⁵

In **Giurgiu**, it was reported by the JRS representative that ICAR Foundation also provides medical assistance to beneficiaries. On the other hand, the director of Giurgiu the Global Help Association in partnership with AIDRom provides medical assistance to beneficiaries.

⁸¹⁴ Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

⁸¹⁵ Information provided by AIDRom, 14 January 2022.

ANNEX I – Transposition of the CEAS in national legislation

The following section contains an overview of incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive			
Directive 2013/32/EU Recast Asylum Procedures Directive			
Directive 2013/33/EU Recast Reception Conditions Directive	Art 20(5)	Art 55 ¹ Asylum Decree	According to article 20(5) decisions for reduction or withdrawal of material reception conditions shall be based on the particular situation of the person concerned, especially with regard to persons covered by Article 21, taking into account the principle of proportionality. Member States shall ensure a dignified standard of living for all applicants. These provisions were not transposed in the Asylum Act and Decree.
Regulation (EU) No 604/2013 Dublin III Regulation	18(2)	94 ¹ Asylum Act	For persons whose applications are considered to have been tacitly withdrawn, i.e. persons who have left Romania and moved on to another EU Member State, and the asylum procedure has been discontinued, the asylum procedure may be continued if the person makes an asylum claim within 9 months of the decision to close the file, issued in case of implicit withdrawal. If the time limit has expired, the asylum claim is considered a Subsequent Application. Therefore, persons who withdraw their asylum applications and have not left the territory of the EU for at least 3 months or have not been returned to a third country or to the country of origin cannot continue their asylum procedure in case they return to Romania. As a consequence, they will have to lodge a subsequent application. This is not in line with the second paragraph of the article 18(2), which clearly states that when the Member State responsible had discontinued the examination of an application following its withdrawal by the applicant before a decision on the substance has been taken at first instance, that Member State shall ensure that the

			<p>applicant is entitled to request that the examination of his or her application be completed or to lodge a new application for international protection, which shall not be treated as a subsequent application. Moreover, the Dublin III Regulation does not foresee a time limit for the possibility to continue the asylum procedure.</p> <p>The Romanian Asylum Act does not prescribe the possibility to continue the asylum procedure if the previous application of the returned person has been rejected at first instance. In this case the person returned has to submit a subsequent application. According to Article 18(2), Member States responsible shall ensure that the person whose application was rejected only at first instance has or has had the opportunity to seek an effective remedy.</p>
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