

# Country Report: Romania



**2022  
update**

## Acknowledgements & Methodology

This report was written by Felicia Nica and was edited by ECRE.

The information in this report draws upon statistics provided by the General Immigration Inspectorate (IGI), interviews throughout 2022 and at the beginning of 2023, 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 Regional Reception Centres: Timișoara on 15 December 2022 and Giurgiu on 30-31 January 2023 and to the Public Custody Centre of Arad on 16 March 2023 and to the Public Custody Centre of Otopeni on 21 March 2023. Interviews were held with the directors of Bucharest, Rădăuți and Galați and Șomcuta Mare.

The information in this report is up to date as of 31 December 2022, 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 which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Glossary & List of Abbreviations

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 Politia de Frontiera
ITPF	Border Police Territorial Inspectorate Inspectoratul   Teritorial al Politiei de Frontiera
IGI	General Inspectorate for Immigration   Inspectoratul General pentru Migrari

IGI-DAI	General Inspectorate for Immigration – Directorate for Asylum and Integration   Inspectoratul General pentru migrări – Direcția Azil și Integrare
IML	Institute of Legal Medicine   Institutului de Medicină Legală
IOM ROMANIA	International Organisation for Migration
IPJ	County Police Inspectorate   Inspectoratul de Poliție Județean
ISJ	County School Inspectorate   Inspectoratul Școlar Județean
ISR	Social Reference Indicator   Indicator Social de Referință
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: 2022

	Applicants in year	Pending at end of year	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	12,368	1,288	467	546	2,934	11.83%	13.83%	74.33%

### Breakdown by countries of origin of the total numbers

Ukraine	4,368	734	1	148	7	0.64%	94.87%	4.49%
India	1,489	179	3	0	878	0.34%	0%	99.66%
Bangladesh	1364	72	0	0	683	0%	0%	100%
Syria	1313	122	146	270	114	27.55%	50.94%	21.51%
Pakistan	803	71	6	2	386	1.52%	0.51%	97.97%
Afghanistan	549	45	58	27	159	23.77%	11.07%	65.16%
Türkiye	511	59	19	0	78	19.59%	0%	80.41%
Somalia	267	48	168	38	65	61.99%	14.02%	23.99%
Nepal	210	9	0	0	62	0%	0%	100%
Sri Lanka	201	20	1	0	56	1.75%	0%	98.25%

**Source:** IGI-DAI. "Rejection" only covers negative decisions on the merit of the application. It does *not* cover inadmissibility decisions.



### Gender/age breakdown of the total number of applicants\*: 2022

	Number	Percentage
Total number of applicants	12,368	
Men	8,884	71.83%
Women	3,484	28.16%
Children	2,586	20.90%
Unaccompanied children	268	2.16%

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: 2022

Full statistics are not available. In 2022, in the first instance 3,947 decisions were issued by IGI-DAI.<sup>1</sup>

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	3,947		1,278	
Positive decisions	1,013	25.66%	-	-
Refugee status	467	11.83%	-	-
Subsidiary protection	546	13.83%	-	-
Negative decisions	2,934	74.33%	-	-

Source: IGI-DAI.

<sup>1</sup> 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	<a href="http://bit.ly/2g3FTjf">http://bit.ly/2g3FTjf</a> (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: 18 March 2022</i>	Hotărârea Guvernului nr. 1251 din 13 septembrie 2006 privind Normele Metodologice de aplicare a Legii 122/2006 Formă actualizată: 18 martie 2022	Asylum Decree	<a href="https://bit.ly/3jwH5zO">https://bit.ly/3jwH5zO</a> (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	<a href="http://bit.ly/2x9zGrL">http://bit.ly/2x9zGrL</a> (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 <i>Formă actualizată: 10 Octombrie 2019</i>	Integration Ordinance	<a href="https://bit.ly/2pp5IHW">https://bit.ly/2pp5IHW</a> (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	<a href="https://bit.ly/3sXCMNQ">https://bit.ly/3sXCMNQ</a> (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: 12 November 2020</i>	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 uinr.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	<a href="http://bit.ly/2x7WsFr">http://bit.ly/2x7WsFr</a> (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	<a href="http://bit.ly/2DefFYk">http://bit.ly/2DefFYk</a> (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	<a href="http://bit.ly/2DA2QHI">http://bit.ly/2DA2QHI</a> (RO)
Decision no. 1.596 of 4 December 2008 regarding the resettlement of refugees in Romania <i>Last updated: 29 October 2021</i>	Hotărâre nr. 1.596 din 4 decembrie 2008 privind relocarea refugiaților în România Formă actualizată: 29 octombrie 2021		<a href="https://bit.ly/3WVxi3S">https://bit.ly/3WVxi3S</a> (RO)
Emergency Ordinance No. 15 of 27 February 2022 regarding the provision of humanitarian support and assistance by the Romanian state to foreign citizens or stateless persons in special situations, coming from the area of the armed conflict in Ukraine <i>Last updated: 29 June 2022</i>	Ordonanță De Urgență Nr. 15 Din 27 Februarie 2022 privind acordarea de sprijin și asistență umanitară de către statul român cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina Formă actualizată: 29 iunie 2022		<a href="https://bit.ly/3HUHRjl">https://bit.ly/3HUHRjl</a> (RO)

## Overview of the main changes since the previous report update

The previous update was published in **May 2022**.

### International protection

#### *Asylum procedure*

- ❖ **Access to the territory:** There was a significant decrease (over 60%) of the migratory pressure at the border with Serbia in 2022, although the statistics from the last few months of 2022 from the relevant European agencies indicated continuously increasing migratory pressure in the Western Balkans region. The Border Police explained this phenomenon as result of securing vulnerable border areas and increasing response capacity, including FRONTEX support (374 representatives, of whom 239 operate on the ground and the rest on the Danube River), acting in collaboration with the Serbian border authorities to prevent the illegal crossing of migrants from the neighbouring country. Thus, in 2022, 27,524 people were prevented from entering the country, a 63.6% decrease compared to 2021. According to the Border Police, interpretation at the border to provide asylum information is still lacking. Asylum seekers complained about ill treatment by Border Police /Gendarmerie officers at the border.
- ❖ **Return to Serbia:** In 2022, Romania continued to return persons to Serbia based on the readmission agreement. The Timișoara Border Police Territorial Inspectorate (ITPF Timișoara) representative stated that 685 persons were returned to Serbia based on the readmission agreement in 2022, by the institution.
- ❖ **Asylum seekers:** the number of asylum seekers increased by 28,9% in 2022 with 12,368 new asylum applications registered, compared to 9,591 in 2021. However, the highest number of applicants was Ukrainians (4,398 applications), which were later assessed under the temporary protection provisions. 268 unaccompanied children were registered in 2022, compared to 1,551 registered in 2021.
- ❖ **Interpretation:** The availability of interpretation for rare languages remained an issue.
- ❖ **Videoconferencing:** interviews and court hearings were held through videoconference.
- ❖ **Accelerated procedure:** the number of asylum applications assessed in accelerated procedures further increased in 2022 to 2,306 compared to 1,968 in 2021, 885 in 2020, and 315 in 2019.
- ❖ **Integration programme:** In 2022, 795 beneficiaries of international protection were enrolled in the integration programme.
- ❖ **Family reunification:** A total of 395 applications for family reunification were made in 2021, of which 166 were admitted, 3 were dismissed and 226 applications were still pending at the end of 2022.
- ❖ **Cessation and review of protection status:** In 2022, the number of cessation decisions doubled compared to 2021 from 34 to 70. Also six withdrawal decisions were issued.

#### *Reception conditions*

- ❖ **Material reception conditions:** as of 27 February 2022, the amount of the monthly financial allowance granted to asylum seekers doubled from 480 RON / €95 to 960 RON/ €195.

- ❖ **Reception conditions:** In 2022 the hygienic conditions improved in the centres visited by the author, more specifically Timisoara and Giurgiu centres. As for the other centres, the Romanian Ombudsman's reports described the hygienic conditions as inadequate or deteriorated in Radauti, Somcuta Mare and Tudor Gociu. Renovation works were still pending in Bucharest, in the Vasile Stolnicu regional centre but had been finalised in Timișoara. Due to the renovation work in the Vasile Stolnicu centre (Bucharest) the total capacity of the centres was reduced from 1,100 places to 860 places (790 open places and 70 closed places). The construction works destined to increase the number of accommodation places in the regional centres of Timișoara and Rădăuți were suspended.
- ❖ **Specially designed closed spaced:** In 2022, three asylum seekers were placed in specially designed places. In two of the cases the measure was an order because they were considered a threat to national security.
- ❖ **Reception conditions in detention:** The construction of another facility in Arad was not finalised at the time of the author's visit on 16 March 2023.

#### *Detention of Asylum Seekers*

- ❖ **Transfer from Timișoara:** As in previous years, applicants were transferred from Timișoara to other Regional Centres due to limited capacity. Starting from April 2022 around 70-80% of asylum seekers were transferred to other centres within two to three days of their arrival. As of June 2022, by order of the general inspector of IGI, all asylum seekers from Timișoara centre were transferred.
- ❖ **Chain of transfers from one accommodation centre to another:** From June 2022 until 25 February 2023, another order of the general inspector of IGI was given to transfer asylum seekers from one regional centre to another to hinder contact with smugglers. The transfer procedure was described by the director of Galati centre as follows:

Asylum seekers were transferred from the centre where the asylum claim was made within a maximum of three days; in the next centre the preliminary interview was conducted within another three days; in seven days from the arrival in the second centre, the asylum seeker was transferred to a third centre where the personal interview was conducted. After a maximum of seven days the person was again transferred to a fourth centre where the decision was communicated. If the decision was not issued and communicated within seven days, the applicant was subject to another transfer. This chain of transfers stopped when an administrative decision was issued as the appeal is assessed by the Regional Court with jurisdiction in the locality where the regional centre is located.

#### **Temporary protection**

The information given hereafter constitute a short summary of the 2022 Report on Temporary Protection, for further information, see [Annex on Temporary Protection](#).

- ❖ **Key temporary protection statistics:** In 2022, 3,179,309 Ukrainian nationals entered Romania and a further 3,073,467 left the country within the year. As of 31 December 2022, a total of 101,706 individuals had registered for temporary protection in Romania, including 60,935 women, 40,141 men, and 34,741 minors, out of which 773 are unaccompanied minors. 1,036 persons registered for temporary protection are non-Ukrainian nationals, including 354 Russians and 292 Moldovans.

#### *Temporary protection procedure*

- ❖ **Scope:** between March and September 2022 the scope of persons eligible to temporary protection in Romania was similar to that of the EU Council decision. The scope was broadened in September 2022 to include all Ukrainian nationals regardless of when they arrived in

Romania and their family members, all persons benefitting from international protection or equivalent national protection in Ukraine before 24 February 2022 regardless of when they arrived in Romania and their family members.

- ❖ **One-stop centres:** to facilitate displaced persons' access to response services, one-stop centres were established to provide the comprehensive set of support services to displaced persons, from registration to distribution of first need items to information and counselling.
- ❖ **Information provision:** a web support and information platform available in several languages was created by an NGO in partnership with the authorities, international organisations and a bank. The government also instituted a separate information website. UN organisations set up a call centre to provide information on rights and services available to persons displaced from Ukraine. The CNRR also organised community consultations, and assistance was provided by NGOs.

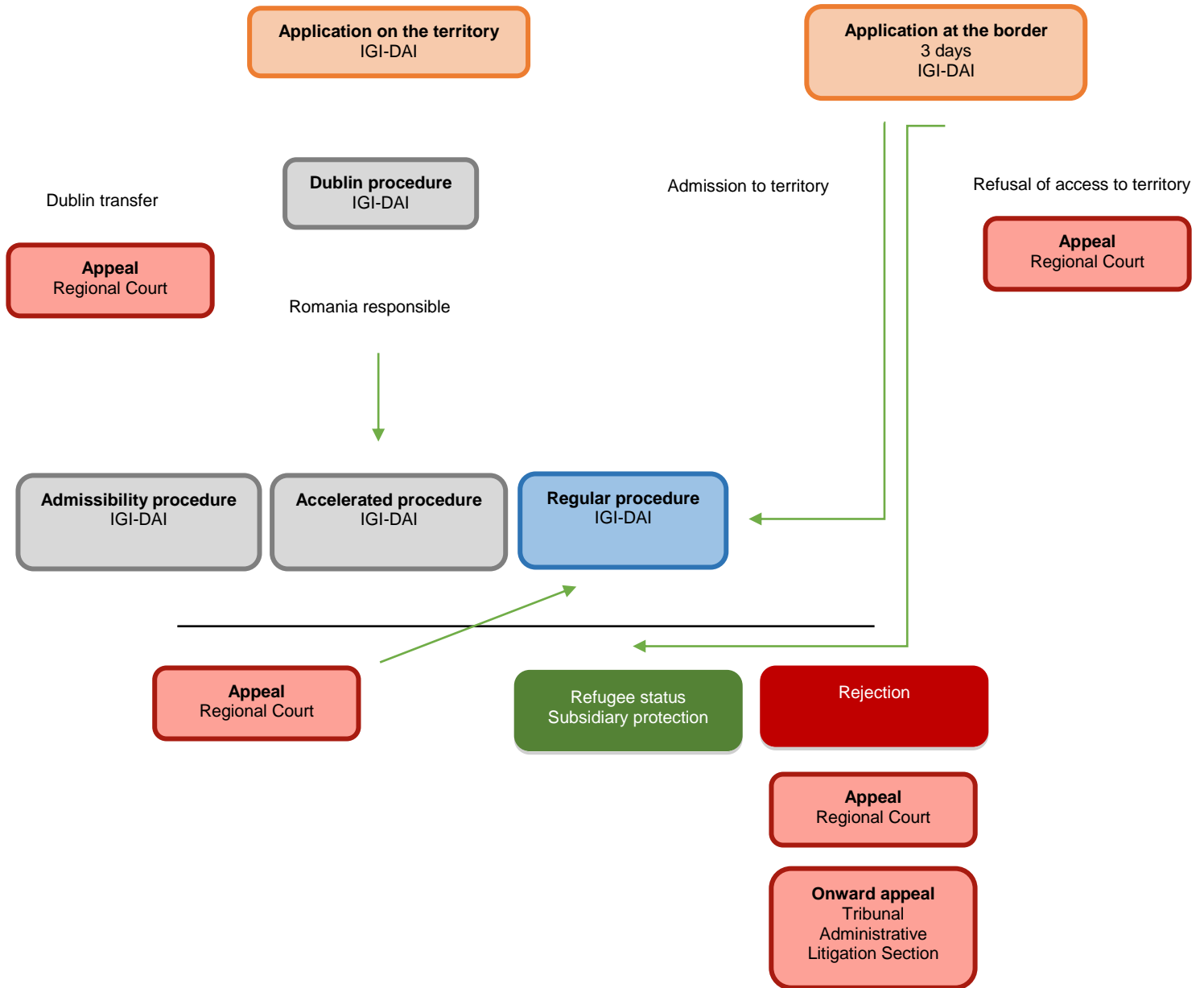
#### *Content of temporary protection*

- ❖ **Residence permit:** persons are issued a residence permit including a personal identification number, necessary to access many public services in Romania. It is valid for the entire period of application of the EU Council Decisions, meaning it is automatically renewed and does not require anything from the beneficiary on this front.
- ❖ **Access to asylum:** beneficiaries of temporary protection may lodge an asylum application at any time, and it will be examined by the authorities. In case it is denied, they continue to benefit from temporary protection. 4,398 Ukrainian nationals lodged an asylum claim between 24 February and 31 December 2022.
- ❖ **Housing:** most beneficiaries of temporary protection live in private accommodation in host communities. The government instituted the '50/20' programme, which foresees RON 50 (EUR 10) / person / day provided for accommodation and RON 20 (EUR 4) / person /day for food, to be distributed to the hosting person/family. These come as monthly cash payments. In October 2022, 70% of respondents to a survey benefitted from this programme. Approximately 7,700 persons lived in government managed accommodation centres.
- ❖ **Access to the labour market:** temporary protection beneficiaries have full access to the labour market. According to the ANOFM National Employment Services by the end of December 2022, a total of 1,357 Ukrainians had registered to receive employment assistance services and 725 of those individuals registered in the system had earned and maintained an active formal employment contract.
- ❖ **Access to education:** children under 18 fleeing Ukraine have the right to education under the same conditions and with the same funding as Romanian pre-schoolers and school aged children. This includes free of charge accommodation in boarding schools, food allowance, the right to receive school supplies, clothing, footwear, textbooks. As of 16 December 2022, 4,008 Ukrainian children were officially enrolled in the national education system, 1,431 at pre-primary level, 1,331 at primary level, and 1,246 at secondary level. However, there are increasing concerns on the actual capacity of the Romanian education system to absorb and meet the educational needs of all Ukrainian refugee children and adults. It was also noted children dropped out due to the language barrier.
- ❖ **Access to health care:** beneficiaries of temporary protection benefit from medical services, medical supplies, medicines, medical devices and medical services included in the national curative health programmes, like Romanian citizens who are insured, without paying contributions to the social health insurance system, the personal contribution for the medicines granted in the outpatient treatment and with exemption from co-payment.

# 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:<sup>2</sup> ☒ Yes ☐ No  
 Fast-track processing:<sup>3</sup> ☐ Yes ☒ No  
 Dublin procedure: ☒ Yes ☐ No  
 Admissibility procedure: ☒ Yes ☐ No  
 Border procedure: ☒ Yes ☐ No  
 Accelerated procedure:<sup>4</sup> ☒ 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 (RO)
Application ❖ At the border ❖ On the territory	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru migrari – Directia Azilsi Integrare (IGI-DAI)
Dublin	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru migrari – Directia Azilsi Integrare (IGI-DAI)
Refugee status determination	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru migrari – Directia Azilsi Integrare (IGI-DAI)
First appeal	Regional Court	Judecatorie Sectia Civila, materie: Contencios Administrativsi Fiscal
Onward appeal	County Tribunal Administrative Litigation Section	Tribunal Sectia de ContenciosAdministrativsi Fiscal
Subsequent application	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru migrari – Directia Azilsi 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)	341	Ministry of Internal Affairs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<sup>2</sup> For applications likely to be well-founded or made by vulnerable applicants.

<sup>3</sup> Accelerating the processing of specific caseloads as part of the regular procedure.

<sup>4</sup> 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.<sup>5</sup>

The Head of IGI, the general inspector, is appointed by an order of the Minister of Internal Affairs.<sup>6</sup> 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.<sup>7</sup>

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 2022<sup>8</sup> as in 2021 IGI-DAI had 29 case officers<sup>9</sup>, in comparison with 2020 when there were 23 case officers<sup>10</sup> and 16 officers responsible for the preliminary interviews.<sup>11</sup> In 2022, 4 new case officers were hired, another 2 case officers were on maternity leave and 5 case officers' positions remain vacant.<sup>12</sup>

According to IGI-DAI, all case officers receive specific training, through the organisation of seminars, the processing of guidelines, ad-hoc meetings, monitoring visits and quality assessment.<sup>13</sup>

Besides, information provided in individual cases if requested, case officers are provided information regularly through the specialised department within IGI-DAI and through the materials developed by UNHCR and EUAA.<sup>14</sup>

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<sup>5</sup> Article 49(2) Asylum Act.

<sup>6</sup> Art.2(1) DECISION no. 639 of 20 June 2007 (amended) on the organisational structure and attributions of the General Inspectorate for Immigration.

<sup>7</sup> Information provided by IGI-DAI, 22 July 2019.

<sup>8</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>9</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>10</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>11</sup> Information provided by IGI-DAI, 22 July 2019.

<sup>12</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

Specialised training on vulnerable groups is provided to all officers through the organisation of seminars, the processing of guidelines, ad-hoc meetings, monitoring visits and quality assessment. Any officer may assess applications made by vulnerable asylum seekers.<sup>15</sup>

In 2022 IGI-DAI reported that it monitors the quality of the decisions issued through an internal procedure and monitoring visits conducted jointly with UNHCR.<sup>16</sup> The quality decision is assessed after the decision has been taken.<sup>17</sup>

## 5. 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.<sup>18</sup> 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.<sup>19</sup> IGI-DAI has to register the asylum application within a maximum of 3 working days if the application was made with the IGI,<sup>20</sup> 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 competent authorities, the registration can be made within 10 working days from the date when the application was filed.<sup>21</sup>

### 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,<sup>22</sup> which includes a personal numeric code.<sup>23</sup> 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.<sup>24</sup> 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

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Information provided by IGI-DAI, 22 July 2019.

<sup>18</sup> Article 4 Asylum Act.

<sup>19</sup> Article 36<sup>1</sup>(2) Asylum Act, citing Article 35 Asylum Act.

<sup>20</sup> Article 36<sup>1</sup>(1) Asylum Act.

<sup>21</sup> Article 36<sup>1</sup>(3) Asylum Act, citing Article 35 Asylum Act.

<sup>22</sup> 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.

<sup>23</sup> Article 17(1<sup>1</sup>) Asylum Act.

<sup>24</sup> Article 43(1) Asylum Act.

to the case officer.<sup>25</sup> 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.<sup>26</sup>

### 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.<sup>27</sup> 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.<sup>28</sup> A decision is issued within 3 days from the start of the accelerated procedure.<sup>29</sup> 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.<sup>30</sup> The decision of the court is irrevocable.<sup>31</sup>

### 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.<sup>32</sup> As in the accelerated procedure, a negative decision may be appealed within 7 days from the notification. The decision of the court is irrevocable.<sup>33</sup>

### Appeal

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 the director of Timișoara Regional Centre half of the asylum claims in 2022 were made by persons who legally entered Romania, holding a working permit and were apprehended trying to irregularly cross the border from Romania to Hungary.

<sup>25</sup> Article 52(1) Asylum Act.

<sup>26</sup> Article 55(1) Asylum Act.

<sup>27</sup> Article 75(1) Asylum Act.

<sup>28</sup> Article 78 Asylum Act.

<sup>29</sup> Article 79 Asylum Act.

<sup>30</sup> Article 80(1) Asylum Act.

<sup>31</sup> Article 81(2) Asylum Act.

<sup>32</sup> Article 82 Asylum Act.

<sup>33</sup> Article 86(2) Asylum Act.

According to Romanian Border Police reports, asylum seekers arrive in Romania mainly by land through the southwestern border with Serbia,<sup>34</sup> through the southern border with Bulgaria,<sup>35</sup> and through the northern border with Ukraine<sup>36</sup>. In 2022, migrants were also intercepted by the Romanian Coast Guard in the Black Sea; according to Border Police reports 157 persons were rescued.<sup>37</sup>

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'.<sup>38</sup>

The Border Police reported that in 2022 1,396 persons were returned to neighbouring countries compared to 831 in 2021, under readmission agreements.<sup>39</sup>

Returns under readmission agreements: 2022	
Border	Number
Serbia	110
Bulgaria	290
Ukraine	53
Moldova	17
Hungary	779
Maritime border	147
<b>Total</b>	<b>1,396</b>

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, around 175 foreigners detained in Arad were returned to Serbia under the readmission agreement in 2022. From Otopeni custody centre 78 detainees were returned to Serbia in 2022, according to the representatives of the centre. Moreover, the Timișoara Border Police Territorial Inspectorate (ITPF Timișoara)

<sup>34</sup> Border Police, 'Doisprezece migranți din India și Pakistan, sprijiniți de un cetățean român, depistați la granița cu Serbia, 14 February 2022, available in Romanian at : <https://bit.ly/3mO4PR3>; 'Doisprezece cetățeni din Afganistan și Pakistan, depistați de polițiștii de frontieră timișeni, 23 Aprilie 2022: <https://bit.ly/3TgX8yV>; Cetățean sârb cercetat în stare de arest preventiv pentru trafic de migranți, 25 November 2022: <https://bit.ly/3Tjnnok>

<sup>35</sup> 'Cetățean libian, depistat ascuns într-un autocamion la PTF Giurgiu', 26 January 2022, available in Romanian at: <https://bit.ly/3LpkjFB>; 'Doi cetățeni străini depistați ascunși în cabina unui autocamion, sub o saltea', 19 January 2022: <https://bit.ly/405BUX5>; Un migrant în stare de hipotermie, ascuns pe șasiul unui autocamion, salvat de polițiștii de frontieră doljeni, 14 February 2022: <https://bit.ly/3LkzvDP>; Patru cetățeni afgani ascunși printre covoare, depistați de polițiștii de frontieră doljeni, 26 March 2022 : <https://bit.ly/3FnEyzm>; Trei cetățeni afgani, ascunși într-un TIR încărcat cu piese auto 09 March 2022 : <https://bit.ly/3YP5kHO>; Cinci cetățeni străini ascunși printre conserve și sucuri, descoperiți în P.T.F. Giurgiu, 06 June 2022: <https://bit.ly/3Te5YxD>; Șoferul unei autoutilitare arestat preventiv pentru trafic de migranți, 04 June 2022: <https://bit.ly/3yLxusB>; Doi cetățeni sirieni depistați ascunși în podeaua unui autoturism la PTF Calafat, 08 August 2022: <https://bit.ly/3JmJlgi>; Șoferul unei autoutilitare cercetat în stare de arest preventiv pentru trafic de migranți, 19 September 2022: <https://bit.ly/3ldDXJQ>; Opt cetățeni sirieni, ajutați de doi cetățeni români, descoperiți de polițiștii de frontieră giurgiuveni în timp ce încercau să treacă ilegal frontieră, 26 November 2022: <https://bit.ly/3YPdvUJ>.

<sup>36</sup> Border Police, Depistați din elicopter când au trecut ilegal frontiera, 21 April 2022, available in Romanian at: <https://bit.ly/3LoLzUo>.

<sup>37</sup> Border Police, Ambarcațiune cu migranți interceptată de polițiștii de frontieră români, în apropierea țărmului românesc al Mării Negre 19 August 2022: <https://bit.ly/3Ftlcl7>; Misiune de salvare a vieții omenești pe mare a unor migranți depistați într-o ambarcațiune din apele teritoriale românești la Marea Neagră, 02 June 2022: <https://bit.ly/3TeKQas>; 27 de migranți ajutați de două călăuze, cu o ambarcațiune turcească, descoperiți de polițiștii de frontieră din cadrul Gărzii de Coastă, 17 May 2022: <https://bit.ly/3mRMrH1>

<sup>38</sup> Border Police press releases.

<sup>39</sup> Information provided by Border Police, 6 April 2023.

representative stated that 685 persons were returned to Serbia based on the readmission agreement in 2022, by the institution.

The Border Police have reported that persons who are detected by border guards in connection with an unauthorised 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 authorised interpreter.<sup>40</sup>

According to CNRR, both returns and readmissions are made based on protocols, so these decisions are based on legal provisions and notified to the PoCs.<sup>41</sup>

According to the Border Police, a total of 4,966<sup>42</sup> persons were apprehended for irregular entry in 2022 compared to 9,053<sup>43</sup> in 2021, 6,658<sup>44</sup> in 2020 and 2,048 in 2019.<sup>45</sup>

According to the Border Police, in 2022, at the national level, the border police detected 4,966 foreign citizens while they were entering the country by fraudulently crossing the border. 6,357 foreign citizens were detected trying to illegally cross the border into neighbouring states, most of them being detected at the border with Hungary.<sup>46</sup> The Timișoara Border Police Inspectorate representative declared that 1838 persons were apprehended for irregular entry in 2022, of which 950 were Indian nationals (the high number being explained as they are exempted from visa requirements in Serbia), 185 Pakistani nationals, 160 Syrians and 160 Afghan nationals. Out of the total of persons apprehended by the ITPF Timișoara 1,652 made an asylum claim.

In 2022, a total of 6,392 asylum claims were made at the border police structures, most of them were made at the Romanian-Hungarian border – 2,897<sup>47</sup> – and 2,520 at IGI-DAI structures.<sup>48</sup>

A significant decrease (over 60%) of the migratory pressure at the border with Serbia was observed, although the statistics from the last months of 2022 from the relevant European agencies indicated a continuously increasing migratory pressure in the Western Balkans region. The Border Police explained this phenomenon as result of securing vulnerable border areas and increasing response capacity, including FRONTEX support (374 representatives, of whom 239 operated on the ground and the rest on the Danube river), acting in collaboration with Serbian border authorities to prevent the illegal crossing of migrants from the neighbouring country. Thus, in 2022, 27,524 people were prevented from entering the country, the indicator decreasing by 63.6% compared to 2021.<sup>49</sup>

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<sup>40</sup> Information provided by Border Police, 3 March 2021.

<sup>41</sup> Information provided by CNRR, 7 February 2023.

<sup>42</sup> Border Police, Summary of Border Police activities carried out in 2022, 23 February 2023, available in Romanian at: <https://bit.ly/3JFZYKE>.

<sup>43</sup> Information provided by Border Police, 2 March 2022.

<sup>44</sup> Information provided by Border Police, 3 March 2021.

<sup>45</sup> Information provided by Border Police, 12 February 2020.

<sup>46</sup> Border Police, Summary of the Border Police activities carried out in 2022, 23 February 2023, available in Romanian at: <https://bit.ly/3JFZYKE>.

<sup>47</sup> Information provided by Border Police, 6 April 2023.

<sup>48</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>49</sup> Ibid.

Breakdown by border region where the persons were apprehended:

Border regions where persons were apprehended for irregular entry: 2022	
Border	Number
Serbia	1,591
Bulgaria	504
Ukraine	4,871
Moldova	56
Hungary	41
Air border	80
Maritime border	196
Total	7,339

Source: Border Police.

It is worth mentioning that the number of persons apprehended for illegal entry into Romania through Serbia and Bulgaria in 2022 dropped considerably from 7,665 and 1,077, respectively. The number of persons apprehended for irregular entry through the maritime border increased significantly from two in 2021 to 196 in 2022.

In 2020, (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.<sup>50</sup> 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.<sup>51</sup> No cases were reported in 2022.

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.<sup>52</sup> 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 2018-2019<sup>53</sup> from Türkiye (69) and Jordan (40). According to JRS and IOM Romania, 73 persons were resettled (42 from Jordan and 31 from Türkiye).<sup>54</sup> In addition, 12 migrants rescued in the central Mediterranean were relocated to Romania.<sup>55</sup> Nine migrants were relocated from Italy and three from Malta.

In 2020, Romania resettled 37 Syrian refugees from Türkiye and 4 migrants rescued in the Mediterranean Sea were relocated from Malta.<sup>56</sup>

<sup>50</sup> Court of Appeal Timișoara, 2270/115/2018, 28.01.2019.

<sup>51</sup> Tribunal of Caras Severin, Decision 80 of 12 December 2019.

<sup>52</sup> Tribunal of Caras-Severin, Case file 2277/115/2019

<sup>53</sup> Article 3^1 (1^3) Government Decision 1596/2008.

<sup>54</sup> IGI-DAI, Annual Activity Report of 2019, available in Romanian at: <https://bit.ly/3cUh1FU>.

<sup>55</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>56</sup> 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 2022-2023 was 200 refugees in need of resettlement. During 2021, 75 people were resettled to Romania and the operations are to continue in 2022.<sup>57</sup> In 2022, 81 Syrians were resettled to Romania – 41 from Lebanon and 40 from Türkiye.<sup>58</sup>

### Pushbacks and border monitoring

In 2019, 2,048 persons were apprehended for crossing, or attempting to cross, the border.<sup>59</sup> The Border Police prevented the entry of 6,042 persons.<sup>60</sup> 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.<sup>61</sup> In 2021, 9,053 persons were apprehended for attempting to cross the border and 11,232 persons were prevented from entering the country<sup>62</sup> (See table below).

According to the ITPF Timișoara, responsible for 3 counties in border areas (Timis, Caras Severin, Mehedinti) the statistics for persons prevented from entering the country just in this limited area were as follows: 2019 – 6,107, 2020 – 34,938, 2021 – 75,303 and 2022- 27,469.

Persons apprehended for crossing or attempting to cross the border		
	Persons apprehended for irregular entry	Persons whose entry was prevented by Border Police
<b>2019</b>	2,048	6,042
<b>2020</b>	6,658	12,684
<b>2021</b>	9,053	11,232*
<b>2022</b>	4,966	9,044

\* 11,232 foreign citizens were not allowed to enter because they did not fulfill the legal entry conditions. The main reasons for this measure were the following: they did not possess the necessary documentation to justify the purpose and conditions of their stay or they did not have a valid visa or a valid residence permit.<sup>63</sup> According to the ITPF Timișoara representative in 2021, 75,303 people were prevented from entering the country by the Border Police jointly with the Serbian Border authorities. In 2022, 27,469 persons were prevented from entering Romanian territory.

Persons apprehended for irregular entry: 2022	
Country	Number
Syria	213
Afghanistan	70
Türkiye	61
Iran	24
Morocco	24
Total	522

Source: Border Police. The Border Police only reported persons apprehended at border crossing points.

<sup>57</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>58</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>59</sup> Information provided by Border Police, 12 February 2020.

<sup>60</sup> Ibid.

<sup>61</sup> Information provided by Border Police, 13 March 2021.

<sup>62</sup> Information provided by Border Police, 02 March 2022

<sup>63</sup> Border Police, Summary of Border Police activities carried out in 2022, 23 February 2023, available in Romanian at: <https://bit.ly/3JFZYKE>.



In 2022, UNHCR Serbia reported 1,232 pushbacks from Romania.<sup>64</sup> The number has decreased significantly in comparison with 2020, when 13,409 were collectively expelled from Romania to Serbia.

The CNRR representative in **Timișoara** stated that many asylum seekers reported that they entered Romania at their first attempt, while only one person complained that he had tried to cross the border 10 times. The same was reported by the CNRR representative in Giurgiu.

CNRR reported that its counselors did not receive any reports of push-backs or collective expulsions.<sup>65</sup>

### **Ill-treatment at the border**

According to the Save the Children/CNRR representative in **Timișoara**, no reports of ill-treatment at the border were made by asylum seekers. They only complained that their phones were confiscated by the Border Police for further investigations. The same was echoed by NGO representatives in **Giurgiu**.

CNRR stated that its counselors are not aware of any cases of ill-treatment.<sup>66</sup>

In October 2022, the Border Violence Monitoring Network (BVMN) observed an increase in violence in the pushbacks perpetrated by Romanian police officers at the Serbian-Romanian border in the “triangle” area, where the Romanian, Hungarian and Serbian borders unite. They collected testimonies from mostly Syrians who declared that they had been beaten (with batons/hands/other), pushed to the ground, insulted, threatened, their money had been stolen and their phones destroyed by two Romanian officers wearing camouflage uniforms.<sup>67</sup>

### **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.<sup>68</sup>

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.<sup>69</sup>

CNRR reported that, following consultations with UNHCR on the information needs at the border with Ukraine and Moldova, 10 000 leaflets with information on the asylum procedure were drafted and translated into Ukrainian and distributed at border crossing points with Ukraine and the Republic of Moldova in order to increase access to accurate information on the RSD procedure.

CNRR discovered that there were no updated information leaflets on the asylum procedure in other languages. The team started working on a new leaflet on the right to ask for asylum in Romania to disseminate in 2023. Leaflets can only be displayed at border-crossing points with prior approval by the authorities (Border Police), but the authorisation process has started.

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<sup>64</sup> UNHCR, *Country Reports Serbia*, available at: <https://bit.ly/3XjgWCA>.

<sup>65</sup> Information provided by CNRR, 7 February 2023.

<sup>66</sup> Information provided by CNRR, 7 February 2023.

<sup>67</sup> The Border Violence Monitoring Network, *Illegal Pushbacks and Border Violence Reports*, October 2022, available in English at: <https://bit.ly/3lIDqjt>

<sup>68</sup> Article 35<sup>1</sup> Asylum Act.

<sup>69</sup> Information provided by Border Police, 2 March 2022.



In 2022, leaflets with *DOPOMOHA*<sup>70</sup> were distributed by CNRR to the people coming from Ukraine. The leaflet promoted the DOPOMOHA platform which contained official and secure information. Also, it indicated contact data for all the relevant Romanian authorities.<sup>71</sup>

During the author's visit to ITPF Timișoara, representatives from the institution showed what leaflets are available at Moravita crossing point. These were the following: a CNRR leaflet in English on the rights and obligations of foreigners taken into public custody printed under a project implemented in 2018/2019, FRONTEX leaflets on access to asylum procedure in English and in French and a booklet on the right to complain in several languages. The representatives emphasised that the FRONTEX leaflets are the most used.

The director of Timișoara centre reported that the Border Police uses interpreters that IGI-DAI refuses to contract because there were suspicions that they were connected with smugglers.

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.

CNRR stated that any person detained at the border for illegal crossing or who presents themselves at a border-crossing point, following hearings by the judicial police officer, is informed that they have the right to make an asylum application. Furthermore, CNRR mentioned that any interview, hearing or investigation made by the authorities (Border Police) is accompanied by an interpreter.

The representatives of ITPF Timișoara declared that an interpreter is called when foreigners are apprehended. Foreigners are informed about the right to make an asylum application immediately verbally in English or in writing through FRONTEX leaflets. The Border Police has access to interpreters in all languages spoken by apprehended migrants and in case of need they can contact the embassies for guidance.

The Border Police reported that they provide information both orally and in writing. The available leaflets in English, French, Arabic and different dialects of the Arabic are made by UNHCR. No interpreter is present at the information session.<sup>72</sup>

CNRR counselors observed that few reports were received regarding the information provision at the Bulgarian, Serbian and Hungarian borders. However, at Otopeni International Airport, three people reported that they did not have access to information during their detention in the transit area. They stated that the Border Police officers ignored their requests and did not call interpreters when needed.<sup>73</sup>

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. Given the Memorandum of Understanding between the UNHCR and the General Inspectorate of the Border Police, the representatives will mutually notify each other when immediate intervention is needed at the border crossing-point/transit area, via telephone/e-mail.<sup>74</sup>

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<sup>70</sup> DOPOMOHA (means help in Ukrainian) is a web support and information platform for migrants fleeing the war in Ukraine. It is a project created by Code for Romania in partnership with the Department for Emergency Situations (DSU), The UN Refugee Agency, International Organisation for Migration (OIM) and the National Romanian Council for Refugees (CNRR), more information is available on the website: <https://bit.ly/3liRatl>.

<sup>71</sup> Information provided by CNRR, 7 February 2023.

<sup>72</sup> Information provided by Border Police, 6 April 2023.

<sup>73</sup> Information provided by CNRR, 7 February 2023.

<sup>74</sup> Ibid.

## 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). CNRR is UNHCR's implementing partner as described in the Memorandum of Understanding. The border monitoring activities include: formal meetings with the authorities, monitoring missions at border crossing points and public custody centres, and counselling sessions on international protection with people who request assistance at the border.

When carrying out monitoring activities, there were no major obstacles. However, when immediate intervention is needed, the access of the counselors is delayed by formal notifications and prior approvals. CNRR will have further meetings with the Border Police to discuss a quicker way of accessing persons of concern in urgent cases.

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 2022, a total of 77 monitoring visits were conducted by CNRR at the border, of which 69 visits were conducted at the Serbian, Bulgarian and Hungarian borders, 8 at the Moldovan and Ukraine borders. None of the monitoring visits were conducted jointly with UNHCR. No cross-border monitoring visits were conducted in 2020, 2021 or 2022.

## 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.<sup>75</sup> In 2021 the number slightly decreased to 11,232 persons.<sup>76</sup> In 2022 the number decreased again to 9,044.<sup>77</sup>

Persons refused entry: 2022	
Country	Number
Moldova	2,949
Ukraine	1,615
Türkiye	736
Russia	501
Turkmenistan	216
Total	9,044

Source: Romanian Border Police

<sup>75</sup> Information provided by Border Police, 3 March 2021.

<sup>76</sup> Information provided by Border Police, 2 March 2022.

<sup>77</sup> Information provided by Border Police, 6 April 2023.

Breakdown of the total number of persons refused entry by border region (2022):

Persons refused entry by border region: 2022	
Border	Number
Moldova	3,653
Ukraine	1,843
Serbia	715
Air border	1,439
Bulgaria	928
Hungary	299
Maritime border	167
<b>Total</b>	<b>9,044</b>

Source: Romanian Border Police.

In 2022, at the level of the General Inspectorate of Border Police (IGPF), four appeals against refusal of entry were processed.<sup>78</sup>

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.<sup>79</sup> This form is provided to the person concerned in Romanian and English.<sup>80</sup>

As the Aliens Act does not foresee a special remedy against the decision of refusal of entry, general administrative law applies.<sup>81</sup> 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.<sup>82</sup>

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).<sup>83</sup> The appeal is assessed in 30 days.<sup>84</sup> 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,<sup>85</sup> or when appealing to the court.<sup>86</sup>

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.<sup>87</sup>

<sup>78</sup> Information provided by Border Police, 6 April 2023.

<sup>79</sup> Article 8(4) Aliens Act.

<sup>80</sup> Information provided by Border Police, 12 February 2020.

<sup>81</sup> Act 554/2004 on Administrative Litigation.

<sup>82</sup> Articles 6-18 Act on Administrative Litigation.

<sup>83</sup> Article 7(1) Act on Administrative Litigation.

<sup>84</sup> Article 7(4) in conjunction with Article 2(1g) Act on Administrative Litigation.

<sup>85</sup> Article 14 Act on Administrative Litigation.

<sup>86</sup> Article 15 Act on Administrative Litigation.

<sup>87</sup> Article 9(1) Aliens Act.

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.<sup>88</sup> 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.<sup>89</sup>

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.<sup>90</sup> 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.<sup>91</sup> 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.<sup>92</sup>

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.<sup>93</sup>

### **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,<sup>94</sup> irregular exit from the country is punishable under the Criminal Code by imprisonment from 6 months to 3 years or a fine.<sup>95</sup>

Up to 2018, asylum seekers or other migrants apprehended trying to irregularly cross the border into Hungary, were sanctioned only with a fine.<sup>96</sup> 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.<sup>97</sup> 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.

According to the Director of the Regional Centre Timişoara there were no such cases in 2022. The same was echoed by the stakeholders interviewed from **Şomcuta Mare, Galaţi, Rădăuţi, Timişoara, Bucharest.**

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<sup>88</sup> Article 9(2) Aliens Act.

<sup>89</sup> Article 9(3) Aliens Act.

<sup>90</sup> Article 9(5) Aliens Act.

<sup>91</sup> Article 9(6) Aliens Act.

<sup>92</sup> Article 9(7) Aliens Act.

<sup>93</sup> Article 9(8) Aliens Act.

<sup>94</sup> Article 11 Asylum Act.

<sup>95</sup> Article 262(1) Criminal Code.

<sup>96</sup> Only one case of imprisonment for attempt to irregularly cross the border from 2016 was reported by JRS representative.

<sup>97</sup> 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.

## 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 IGI<sup>98</sup> 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.<sup>99</sup>

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.<sup>100</sup>

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.<sup>101</sup>

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.<sup>102</sup>

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.<sup>103</sup>

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 possession, persons accompanying him or her and other elements which may contribute to resolve the case in due time.<sup>104</sup>

CNRR reported one case where the Border Police refused to register the asylum claim at Otopeni International Airport. There were two Indian citizens who arrived in Romania on 26 September 2022,

<sup>98</sup> Article 36^1(1) Asylum Act.

<sup>99</sup> Article 36^1(2) Asylum Act, citing Article 35 Asylum Act.

<sup>100</sup> Article 36^1(3) Asylum Act, citing Article 35 Asylum Act.

<sup>101</sup> Article 38(5) Asylum Act.

<sup>102</sup> Information provided by IGI-DAI, 21 August 2018.

<sup>103</sup> Information provided by Border Police, 27 August 2018.

<sup>104</sup> Information provided by IGI-DAI, 21 August 2018.

with the intention to continue their journey to their final destination, Belgrade, Serbia. They were detained in the transit area of Otopeni Airport without being informed about the reasons. They stated that they had manifested their will to make an asylum claim and that they did not receive any information about whether their requests had been registered. They were eventually returned to Cairo, Egypt (the country from which they had travelled to Romania), and the justification of the Border Police was that they were part of a larger group of Indian citizens who had encountered problems with the airline companies with whom they had travelled and were supposed to continue their journey. The airline company that was supposed to take them from Otopeni to Belgrade refused to board them on the plane due to a misunderstanding between that company and the one which had brought them from Cairo. The Border Police argued that it was not within their competence to intervene in this situation. No further explanations were submitted and there was no prompt response to the urgent request from the CNRR counsellors to be granted access to the respective foreigners for assistance in the transit area.<sup>105</sup>

Asylum seekers are transported by the Border Police to IGI-DAI. 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.<sup>106</sup> In addition, when assessing an asylum claim, IGI-DAI cannot reject it solely on the ground that it was filed late.<sup>107</sup>

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.<sup>108</sup>

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.<sup>109</sup> The identification data stated by unaccompanied minor are recorded in the special register.<sup>110</sup>

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.<sup>111</sup>

According to IGI-DAI, in 2022, 2,520 asylum applications were submitted with IGI-DAI, 20% of all new asylum applications.

In **Rădăuți**, asylum seekers still complain about the fact that the Border Police does not use interpreters who speak their native language. According to the legal counsellor of Rădăuți, asylum seekers who make an asylum application directly at the centre are asked if they speak English and the asylum request is written in broad terms, the interpreters are called afterwards. It was observed that the majority of asylum seekers, Syrian nationals, who made an asylum claim directly at the centre were accompanied by relatives or friends who could interpret for them. They also mentioned that when transfers arrive from Timișoara, there was no interpreter present, as they arrive during the night.

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<sup>105</sup> Information provided by CNRR, 7 February 2023.

<sup>106</sup> Article 36(3) Asylum Act.

<sup>107</sup> Article 13(3) Asylum Act.

<sup>108</sup> Information provided by IGI-DAI, 21 August 2018.

<sup>109</sup> Article 39(3) Asylum Act.

<sup>110</sup> Information provided by IGI-DAI, 21 August 2018.

<sup>111</sup> Article 39(4) Asylum Act.

In **Șomcuta Mare**, the director of the centre is present when asylum seekers are transferred from Timișoara, and with the help of someone from the group who speaks English, they provide them with general information on the ROI, rights and obligations. In case of asylum applications made directly at the centre there is an interpreter present if the applicant cannot communicate with the officer in charge.

In **Galați**, the majority of asylum seekers were transferred from Timișoara. Because groups arrive late at night, the information session is held the next day by IGI-DAI staff from the integration department, logistics and the psychologist and medical assistant along with NGO representatives. The cultural mediator or interpreter facilitates communication.

In **Giurgiu** when asylum applications are made directly at the centre, IGI-DAI ensures the availability of an interpreter, if not physically present then over the phone, according to the director of the centre. Only 38 applications were made directly at the centre in 2022. The majority of asylum seekers (1055) were transferred from Timișoara and at the transfer there is no interpreter. The security officer provides information in writing.

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, personal details and a registration number.<sup>112</sup> The format of the temporary identity document was changed in 2021, and now it is a plastic card, similar to the residence permit.

The director of **Timișoara** centre reported that temporary identity documents were issued only for those who remained in the centre. In 2022, 99% of asylum seekers were transferred to other centres, within a maximum of three days from their arrival in the centre.

In **Galati** not all transferred asylum seekers had temporary identity documents at arrival. The same was reported also in **Șomcuta Mare**. The director of Galati centre noted that until all elements of the asylum request were determined asylum seekers were not allowed to leave the centre, this meaning the preliminary interview and issuance of the temporary identity documents, which was done the next day after their arrival in the centre. The director of **Giurgiu** centre stated that the majority had no identity documents, these were made at the preliminary interview. The JRS/CNRR 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. This was still the case in 2022. Only one or two persons from the group were allowed to go outside to buy food. Asylum seekers reported that this practice is problematic because the ones who go outside request a share of the shopping list.

In **Rădăuți** the majority of those transferred from Timișoara had temporary identity documents, according to the representatives of the centre.

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<sup>112</sup> A template can be found at: <https://bit.ly/2Q77KQ6>.

## 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 2022: 1,288

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.<sup>113</sup>

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.
- (e) When the reason for suspension no longer exists, the assessment period cannot be less than 20 days.<sup>114</sup>

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 total<sup>115</sup>: 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.<sup>116</sup>

The term of 6 months may be extended successively for new cumulative periods, not exceeding 9 months, when:<sup>117</sup>

- ❖ 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.<sup>118</sup>

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.

IGI-DAI reported that in 2022 the deadline to issue a decision was prolonged in 142 cases. No statistics were provided with regards to the reasons for prologation or its duration.<sup>119</sup>

<sup>113</sup> Article 52(1) Asylum Act.

<sup>114</sup> Article 52(4) Asylum Act.

<sup>115</sup> Article 52(2) Asylum Act.

<sup>116</sup> Article 52(3) Asylum Act.

<sup>117</sup> Article 52(5) Asylum Act.

<sup>118</sup> Article 52(6) Asylum Act.



In **Galati** it was reported that in three cases the deadline was extended for additional verifications in two cases and in one case because there was no interpreter for Somali.

In **Șomcuta Mare**, the deadline was respected in 2022. There was only one case where the deadline was extended by 15-20 days due to an additional interview. The director of the centre said the asylum seeker was informed why the deadline for the decision had been extended when he had the second interview.

In **Bucharest**, the deadline was prolonged in 76 cases for further information or additional interviews. The director of Vasile Stolicu centre stated that the time period had been extended for 15-30 days and asylum seekers had been informed.

In **Timișoara**, there were no cases where the average duration was extended, according to the director of the centre.

In **Giurgiu** the term was extended by 30 days in nine cases due to the case officers's holiday or when further information was needed, according to the director. The director mentioned that the respective asylum seekers had been informed about the term extension and reasons verbally when temporary documents were extended.

In **Rădăuți**, the deadline was extended in 17 cases. Asylum seekers were informed about the extension when the DTI had to be extended, according to the director of the centre. The reasons for the extension were also communicated.

According to IGI-DAI statistics, in 2022 the average duration was 30-60 days<sup>120</sup> in the regular procedure compared to 45 in 2021<sup>121</sup>, 30-60 days in 2020 and 50 days in 2018.<sup>122</sup> It was 10 days<sup>123</sup> in the case of an accelerated procedure compared to 3 days in 2020. It was 1 day<sup>124</sup> for the border procedure compared to 3 days reported for 2020<sup>125</sup>. In practice, the average length of the asylum procedure from the moment of 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: 2022.	
Regional Centre for Procedures and Accommodation for Asylum Seekers	Average duration in days
Timișoara	30
Șomcuta Mare	40
Rădăuți	30
Galați	45
Bucharest	30-60
Giurgiu	21

**Rădăuți:** the duration of the procedure depended on the declarations made by the asylum seekers at the interview. The procedure could last 5 weeks according to the legal counselor.

**Giurgiu:** the director reported the transferred asylum seekers had a preliminary interview and personal interview scheduled the day after their arrival. This also depended on the availability of interpreters. For example, because there is only one interpret of Bengali language, IGI-DAI had to organise all the

<sup>119</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>120</sup> Ibid.

<sup>121</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>122</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>123</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>124</sup> Ibid.

<sup>125</sup> Information provided by IGI-DAI, 16 February 2021.

interviews with Bangladeshi nationals before the interpreter's one month holiday. This was also reported by the director in **Rădăuți** where both interviews for Bangladeshi nationals who arrived from Timișoara on Saturday were conducted on a Sunday.

**Șomcuta Mare** : the file was handed over to the case officer within seven to ten days from the day the asylum application was made.

According to CNRR the average duration was 30 days in Bucharest, Galați, Timișoara and Giurgiu, 45 days in, between 7-30 days in Rădăuți, and 3-7 days in some cases even 30 days in Șomcuta Mare .<sup>126</sup>

## 1.2. Prioritised examination and fast-track processing

According to the law, priority is given to asylum applications lodged by unaccompanied children.<sup>127</sup> 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.<sup>128</sup> 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.<sup>129</sup> There have been no reported cases of this situation in practice.

**Șomcuta Mare**, the director of the centre mentioned that in general the procedure lasts 30 days for unaccompanied minors.

**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 and there is only one legal representative for all asylum-seeking children. The interview was scheduled according to the availability of the legal representative. It was reported that unaccompanied minors often left the centre: before and also after the interview, some even after they were granted a form of protection by the first instance court.

**Galați**: The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. This was echoed by the director of the centre. The assessment of their application depended on the availability of a legal representative and interpreter. However, the director stated that the legal representative has two days per week allocated to unaccompanied minors (Tuesday and Thursday). He further mentioned that applications of asylum seekers who presented a risk of illegal migration were assessed as a priority. Applications made by vulnerable asylum seekers were assessed with greater caution.

**Timișoara**: Even though IGI-DAI takes all the necessary measures with priority – in a maximum of three days after the unaccompanied child has been accommodated in the centre – and the legal representative is assigned in two to three 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 2022, the asylum claims of unaccompanied children were assessed in two months due to the lack of legal representatives. Asylum applications of single women and families were processed in 30 days.

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<sup>126</sup> Information provided by CNRR, 7 February 2023.

<sup>127</sup> Article 16(1) Asylum Act.

<sup>128</sup> Article 16(2) Asylum Act.

<sup>129</sup> Article 19<sup>11</sup> Asylum Act.

**Giurgiu:** The director of Giurgiu stated that the assessment of applications made by unaccompanied minors lasts longer because it depends on the appointment of a legal representative. However, the procedure did not exceed 30 days.

**Bucharest:** According to the director of Stolnicu applications made by vulnerable persons and exceptional cases were assessed with priority.

The same was also reported by the director of **Timișoara** centre. Asylum applications made by asylum seekers from Pakistan, Bangladesh and India were assessed with priority, in an accelerated procedure. This practice was still in place in 2022, until the general inspector ordered all asylum seekers from Timișoara to be transferred to other centres.

CNRR stated that in 2022 asylum applications assessed in accelerated procedure and those made by vulnerable persons (with visible vulnerabilities) were analysed with priority. In the case of the latter, the priority consisted in shortening the procedure by conducting the interview swiftly.<sup>130</sup>

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.<sup>131</sup>

In 2021, IGI-DAI reported that 1,551 asylum applications were prioritised.<sup>132</sup> For 2022, IGI-DAI invoked the legal provision, but did state the number of prioritised applications.<sup>133</sup>

### 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?  
❖ If so, are interpreters available in practice, for interviews?
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision?
3. Are interviews conducted through video conferencing?
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?  
❖ If so, is this applied in practice, for interviews?

According to the law, an interview is conducted in order to assess the elements of an application for international protection.<sup>134</sup> 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:<sup>135</sup>

- 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.<sup>136</sup>

<sup>130</sup> Information provided by CNRR, 7 February 2023.

<sup>131</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>132</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>133</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>134</sup> Article 19(2) Asylum Act.

<sup>135</sup> Article 45(3) Asylum Act.

<sup>136</sup> Article 48 Asylum Act.

In 2022, 3,696 interviews were conducted, of which 329 were through videoconference. IGI-DAI reported that they had no statistics on the number of asylum applications assessed without an interview.<sup>137</sup>

### 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.<sup>138</sup>

#### 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 Timișoara 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:** according to the director there was a lack of interpreters. Interpreters of rare languages such as Somali, Tigrigna and other languages from Ethiopia and Eritrea are hard to find, or even non-existent in the country as a whole. There is only one Somali interpreter in Bucharest. Double interpretation (from one language to another and then into Romanian) was not used in 2022.

**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 Farsi interpreter is also used in Galați by IGI-DAI and the courts. Double interpretation was used in one to two cases, according to the director of the centre. He also reported that they had interpreters of Tigrigna, Arabic, Turkish, Russian and Ukrainian. However, as reported in Galați, there was a lack of interpreters of rare languages.

**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, this was not the case in 2022, as there were no Somali asylum seekers. No new interpreters were recruited in 2022. Double interpretation was not used in 2022.

**Giurgiu:** The director mentioned that there were 15 contracts signed with interpreters of Arabic, Hindi, Urdu, Pashto, Persian, Turkish, Dhari, Russian, Farsi, Tajik, and Ukrainian. There is still a lack of interpreters at national level, especially for Tamil and Sinhala as for Somali there is only one interpreter in Bucharest. According to the director double interpretation was used in 2022 for asylum seekers from Sri Lanka from Tamil/Sinhala to English and English to Romanian.

**Bucharest:** According to the director of Stolnicu there are interpreters for Arabic, English, Pashto, Dari, Punjabi, Hindi, Urdu, Farsi, Turkish, Spanish, French, Somali, Kurdish, Sorani, Kurmanji, Persian, Russian, Ukrainian, Sinhala, Tigrinya, Tamil, Amharic, Oromo. Double interpretation was used in 2022 for Sinhala – English – Romanian and Amharic – English – Romanian, according to the director of the centre.

**Șomcuta Mare:** The Regional Centre collaborates with the same interpreters as last year, in the following languages: Farsi, Dari, Arabic, English and French and they also have Somali, Bengali interpreters. Double interpretation was not used during 2022.

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<sup>137</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>138</sup> Article 45(2) Asylum Act.

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 Bengali, 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 2022 the number of female case officers increased in all centres. In **Șomcuta Mare**, during 2022 there were four case officers, two men and two women; at the end of 2022 one of the female officers was moved to another centre. In **Rădăuți**, in 2022, a woman case officer was hired, so there are three male case officers and a woman. In **Timișoara** there are six case officers of whom 3 are female case officers. In **Bucharest**, there are six female case officers out of nine, according to the director of Stolnicu centre. In **Giurgiu** there are four case officers of whom one is a woman and in **Galați** there are two female case officers and four men. However, one woman case officer is on maternal leave.

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 still have private conversations with the asylum seeker and do not translate the conversation, or they express emotions, however not at the same scale as in previous years;
- ❖ Asylum seekers complained that an interpreter 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).
- ❖ Asylum seekers complained that the transcript was not read at the end of the interview in most of the centres.

In **Timișoara**, in 2022 no issues were reported with regards to the quality and conduct of interpreters.

**Rădăuți:** asylum seekers complained that their declarations were not relayed exactly or coherently, after they received a negative decision. Many asylum seekers declared that the interpreter made a summary of the transcript - not only in Rădăuți centre, but also in the other centres.

**Giurgiu:** the CNRR representative reported that asylum seekers have complained after a negative decision. One asylum seeker complained after the interview that he would like to conduct it again as the interpreter was of another religion and did not understand his problems. He was advised to request this with the IGI-DAI, however, the CNRR representative had no information on the outcome of this case.

**Galați:** Asylum seekers did not complain about the interviews conducted, quality of the interview or conduct of interpreters. According to the director they only complained when they were rejected. The director stated that interviews should be recorded in order to avoid these claims.

The directors of Timișoara, Vasile Stolnicu, Șomcuta Mare, Rădăuți 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 2022 was like 2021 and 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.<sup>139</sup>

It was noted that only CNRR and ICAR Foundation had the funds for the services provided by interpreters.

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.<sup>140</sup> 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.

In 2022, 329 interviews were conducted through videoconferencing in total in all the regional centres.<sup>141</sup>

**Timișoara:** all interviews with asylum seekers who made an application in detention were conducted through videoconference, according to the director of Timișoara centre.

**Galați:** IGI-DAI conducted interviews through videoconferencing with interpreters from other regional centres, in cases of asylum seekers who spoke Somali and Bengali.

**Rădăuți:** In 2022 interviews were conducted through videoconferencing for Somali and Bangladeshi asylum seekers. No complaints were made by asylum seekers with regards to interviews conducted in this manner, apart from interpreters making a summary of the transcript instead of interpreting it word for word.

**Giurgiu:** Videoconferencing was also used to conduct interviews with interpreters from Bucharest for asylum seekers from Sri Lanka, Iraq and Pakistan.

**Bucharest:** the director of Stolnicu centre mentioned that videoconference was of all asylum application made from detention centres.

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<sup>139</sup> Information provided by CNRR, 15 February 2022 and 7 February 2023.

<sup>140</sup> 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.

<sup>141</sup> Information provided by IGI-DAI, 11 March 2022.

## 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.<sup>142</sup>

At the end of the interview, the transcript of the interview is orally translated by the interpreter to the applicant.<sup>143</sup> 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.<sup>144</sup> After this, the transcript is signed on every page by all the persons present at the interview.<sup>145</sup> 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.<sup>146</sup> 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.<sup>147</sup>

In **Timișoara**, Asylum seekers from India and Bangladesh were notified of the date of the interview when the asylum claim was made, according to the director of the centre. In case of asylum claims made in detention the interview was scheduled the next day through videoconference.

In **Galati**, the director of the centre reported that asylum seekers are informed in writing of the date of interview when they are accommodated in the centre.

In **Bucharest** 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.

In **Giurgiu**, the director of the centre said that asylum seekers are informed verbally at the preliminary interview that they will have the personal interview later that day or the next day. Asylum seekers accommodated outside the centre receive this information in writing. The director also mentioned that in general nine interviews were conducted per day.

According to CNRR, although in the vast majority of cases, the transcript is read at the end of the interview, there were also situations when the asylum seekers declared that this did not happen. Such problems were reported in all six centers.<sup>148</sup>

According to the directors of Timișoara, Giurgiu, Rădăuți and Vasile Stolnicu centres the transcript is read in full. If necessary, the case officer may conduct another interview with the asylum seeker.<sup>149</sup>

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<sup>142</sup> Article 45(5) Asylum Act.

<sup>143</sup> Article 45(7) Asylum Act.

<sup>144</sup> Article 45(6) Asylum Act.

<sup>145</sup> Article 45(8) Asylum Act.

<sup>146</sup> Article 45(9) Asylum Act.

<sup>147</sup> Article 45(10) Asylum Act.

<sup>148</sup> Information provided by CNRR, 7 February 2023.

<sup>149</sup> Article 45(11) Asylum Act.

## 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.<sup>150</sup> The decision may be communicated to the lawyer or NGO representative representing the asylum seeker, if the asylum seeker has expressly requested this.<sup>151</sup>

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.<sup>152</sup> 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.<sup>153</sup>

In 2022, a total of 678 appeals against IGI-DAI decisions were filed before the Regional Courts.<sup>154</sup> According to the information provided by the Regional Courts the number of appeals in 2022 was 544. This was a significant decrease in comparison with last year, when a total of 1,489 appeals were made.

Appeals registered by Regional Courts: 2022	
Regional Court	Number of appeals
Bucharest (District 4)	253*
Galați	84
Baia-Mare	55**
Giurgiu	155***
Rădăuți	60****
Timișoara	92*****
<b>Total</b>	<b>544</b>

Source: Regional Courts

<sup>150</sup> Article 54(1) Asylum Act.

<sup>151</sup> Article 54(1<sup>^</sup>1) Asylum Act.

<sup>152</sup> Article 54(1) Asylum Act.

<sup>153</sup> Article 65 Asylum Act.

<sup>154</sup> Information provided by IGI-DAI, 22 February 2023.



\*of which 42 appeals were in an accelerated procedure, 143 in a regular procedure and 50 in subsequent procedure.

\*\*of which 12 appeals were in an accelerated procedure, 5 appeals in a subsequent procedure and 60 appeals in refugee cases, of which 38 were in a regular procedure.

\*\*\*of which 25 appeals were in an accelerated procedure.

\*\*\*\*of which 45 appeals were in a regular procedure and 15 in an accelerated procedure.

\*\*\*\*\*of which 35 appeals were in a regular procedure and 56 in an accelerated procedure.

## Time limits

The deadline for lodging an appeal is 10 days from the day the decision was communicated.<sup>155</sup> The appeal has automatic suspensive effect, if it was lodged within the term prescribed by law.<sup>156</sup>

The law contains a procedural safeguard in case of appeals lodged after the time limit set out bylaw.<sup>157</sup> 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.<sup>158</sup> While this review is pending, the foreigner cannot be removed from the country.<sup>159</sup>

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.<sup>160</sup> 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.<sup>161</sup>

The appeal has to be motivated in fact and in law.<sup>162</sup> It may be lodged at IGI-DAI, which has issued the decision or directly to the competent court.<sup>163</sup> 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.<sup>164</sup> 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.<sup>165</sup>

In general, there are no problems in appealing a decision, if asylum seekers consult the legal counsellor of an NGO.<sup>166</sup> In **Bucharest**, when communicating the decision, IGI-DAI also provides the asylum seeker with the postal address of the Romanian National Council for Refugees (CNRR) in English. Asylum seekers are told by the representative of IGI-DAI who communicates the decision, that they have to go to CNRR for legal counselling and assistance for lodging an appeal. This practice has been in place since 2017.

It was reported by the director of the centre, that in **Timișoara**, 95% of the appeals are lodged at IGI and the rest directly at the court.

Article 62 of the Asylum Act provides that asylum cases should be dealt with priority before other civil matters.<sup>167</sup> The court should take a decision on the appeal within 30 days.<sup>168</sup> The court has to motivate its decision within 5 days of it being pronounced.<sup>169</sup>

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<sup>155</sup> Article 55(1) Asylum Act.

<sup>156</sup> Article 55(2) Asylum Act.

<sup>157</sup> Article 69 Asylum Act.

<sup>158</sup> Article 69(1) Asylum Act.

<sup>159</sup> Article 69(2) Asylum Act.

<sup>160</sup> Article 69(3) Asylum Act.

<sup>161</sup> Article 69(4) Asylum Act.

<sup>162</sup> Article 57(1)(c) Asylum Act.

<sup>163</sup> Article 56 Asylum Act.

<sup>164</sup> Articles 56(1) and 57 Asylum Act.

<sup>165</sup> Article 425(b) Civil Code.

<sup>166</sup> Information provided by CNRR, 9 January 2018.

<sup>167</sup> Article 62(1) Asylum Act.

<sup>168</sup> Article 64(2) Asylum Act.

<sup>169</sup> Article 64(3) Asylum Act.

In 2020, IGI-DAI statistics refer to 1 to 2 months average duration of the appeal procedure.<sup>170</sup> For 2021, IGI-DAI reported that there are no statistics on the duration of the procedure.<sup>171</sup> The same was stated for 2022.<sup>172</sup> 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: 2022	
Regional Court	Number of days
Bucharest (District 4)	113,32*
Galați	34,74
Baia-Mare	10-45
Giurgiu	-
Rădăuți	60
Timișoara	60

\* 98.71 days in case of subsequent procedure and 83.65 days in case of accelerated procedure

Source: Regional Courts.

**Șomcuta Mare:** The Regional Court Baia Mare reported that the decisions were reasoned within one to ten days.<sup>173</sup>

**Galați:** According to the director the procedure in first instance court lasts two to three months. In general, the appeal procedure has two court hearings at two weeks or one month apart.

**Rădăuți:** the legal counsellor noted that the appeal procedure has a maximum of two court hearings, if there is an interpreter the procedure is finalised at the first court hearing. Asylum seekers receive subpoenas within one week and one month after the appeal was lodged. According to the director the average duration of the appeal procedure is 30 days.

**Timișoara:** According to the director of Timișoara centre, the average duration of the appeal procedure in case of a regular procedure was 60 days and in case of accelerated procedure 30-45 days. 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 and 2021 in 2022 in Timișoara the majority of cases examined by the court were examined in accelerated procedures.

**Bucharest:** the average duration of the appeal procedure is around 3-4 months, according to the director of Stolnicu centre. 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 were a few 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 83.65 days, in case of subsequent applications 98.71 days.<sup>174</sup>

**Giurgiu:** according to the director of the centre the appeal procedure lasts around 45 days. The CNRR representative stated that the appeal procedure may be longer because interpreters refuse to go to

<sup>170</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>171</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>172</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>173</sup> Information provided by Regional Court Baia Mare, 26 January 2023.

<sup>174</sup> Information provided by Regional Court District 4 Bucharest, 8 March 2023.

hearings, because they are only paid at the end of the trial. Some interpreters were paid two years later. There have been cases when there were four to five hearings due to the absence of an interpreter. The Regional Court Giurgiu failed to provide the average duration of the procedure.<sup>175</sup>

CNRR reported the same average duration of the appeal in 2022 as in 2021, as follows: in Timișoara was 60-90 days for the ordinary procedure and 15-20 days for accelerated procedures; in Șomcuta Mare it was 30 days for the ordinary procedure; it was 60 days in Galați; and 30 days in Rădăuți, District 4 Bucharest and Giurgiu.<sup>176</sup>

## 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.<sup>177</sup>

The Regional Court in **Galați** hears the asylum seeker *ex officio* depending on the case or if the lawyer requests it. 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**, according to the director, the court decides if it hears the asylum seeker or not.

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 clients.

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.<sup>178</sup> This is respected in practice in all the courts.

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<sup>175</sup> Information provided by Regional Court Giurgiu, 22 February 2023.

<sup>176</sup> Information provided by CNRR, 15 February 2022 and 7 february 2023..

<sup>177</sup> Article 63 Asylum Act.

<sup>178</sup> Article 58 Asylum Act.

## Decision

The Regional Courts took 347 decisions in 2022, according to IGI-DAI.<sup>179</sup>

According to data provided by the Regional Courts, apart from the Giurgiu Regional Court, a total number of 467 decisions were issued in 2022, by five of the Regional Courts.

Decisions by Regional Court: 2022				
Regional Court	Total	Refugee status	Subsidiary protection	Rejection
Bucharest (District 4)	198	5	6	168
Galați	82	1	2	79
Baia-Mare*	47	3	1	41
Giurgiu	-	-	-	-
Rădăuți	59	2	5	46
Timișoara	81	1	6	70
TOTAL	467	12	20	404

\* 2 appeals rejected as inadmissible

Source: Regional Courts.

At the national level, there is a court portal available online,<sup>180</sup> and as of 2022 asylum cases registered at the Regional Court of Giurgiu are no longer 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. This was still the case in 2022. The legal counselor requested to access the electronic file, but these requests were rejected.

The practice has also changed at the Regional Court and the Administrative Country Court of **Giurgiu**, where all the appeals were previously published and included full names, file number and a summary of the decision. As of 2022 no information has been published on the portal. The legal counsellor reported that asylum seekers had no access to the electronic files. Requests were made by the legal counsellor but they were rejected. Asylum seekers are not aware of the first instance court decision, unless the legal counsellor calls the court's registry or if they are aware of the court hearing and inform the asylum seeker to tell their lawyer paid through state legal aid to convey the decision over the phone. Decisions are communicated very late to asylum seekers. Decisions are drafted between two to five months later. It was also reported that subpoenas are communicated very late.

In addition, decisions of the Regional Courts of Rădăuți and Giurgiu are no longer 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.<sup>181</sup>

The Regional Court Baia Mare reported that the court ordered *ex officio* the appointment of a lawyer for all asylum seekers. The decision is communicated at the indicated residence. At the same time the court reported 18 cases where the onward appeal was not lodged. According to the director of the centre all asylum seekers are appointed a lawyer paid through state legal aid and they inform them

<sup>179</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>180</sup> Ministry of Justice, *Portalul instanțelor de judecată*, available in Romanian at: <http://bit.ly/2hGMVhM>.

<sup>181</sup> Romanian Legal Information Institute (Rolii), available in Romanian at: <https://bit.ly/2PKL4Yw>.

about the decision of the court. The decisions of the first instance court are drafted within one to ten days.<sup>182</sup>

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 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 30 days. This was echoed also by the court, which stated that decisions are reasoned in 30 days.<sup>183</sup>

The decisions of the Regional Court and Administrative Country 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 decision is reasoned in 3.58 days, according to the court. The director stated that if the asylum seeker is present in the centre the legal counsellor of IGI-DAI informs the CNRR legal counsellor who informs the asylum seeker of the court's decision.

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. 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.

The Regional Court of **Bucharest District 4** mentioned that when the asylum seeker is in public custody, in Otopeni, or accommodated at the Bucharest Regional Center, the decision is communicated by the court's clerk to the representatives of the centre by fax/mail/telephone. And when the applicant is not in one of the previously described situations, the decision is made available to him/her through the court registry. As regards the average duration of drafting the reasoned decision the court shared the following information: 113.3 days - for complaints in regular procedure; 98.7 days - for complaints in the subsequent procedure; 83.7 days - for complaints in the accelerated procedure.<sup>184</sup>

According to CNRR, in 2022, apart from the Regional Court Galați, where the average duration of drafting the decision was 10 days, the rest of the courts, including the Bucharest District 4 Regional Court, had an average duration of drafting decisions of 30 days, with delays reported of up to 60 days.<sup>185</sup>

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<sup>182</sup> Information provided by the Regional Court Baia Mare, 26 January 2023.

<sup>183</sup> Information provided by the Regional Court Timisoara, 16 February 2023.

<sup>184</sup> Information provided by the Regional Court District 4 Bucharst, 8 March 2023.

<sup>185</sup> Information provided by CNRR, 7 February 2023.

### 1.4.2 Onward appeal

IGI-DAI reported that, in 2022, there were 303 onward appeals before the Administrative County Courts.<sup>186</sup> According to the information provided by the Administrative County Courts the number of onward appeals was 307.

Onward appeals by Administrative County Court: 2022	
Regional Court	Total
Bucharest	55
Galați	28
Maramures	26
Giurgiu	158
Suceava	21
Timișoara	19
<b>TOTAL</b>	<b>307</b>

Source: Administrative County Courts.

The law prescribes the possibility to appeal the decision of the Regional Court.<sup>187</sup> 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.<sup>188</sup> 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.<sup>189</sup>

In 2021 and 2022 IGI-DAI reported that there were no statistics on the average duration of the onward appeal.<sup>190</sup> In 2020 they reported that the procedure was 2-3 months.<sup>191</sup> In practice, this varies from one court to another:

Average duration of the onward appeal procedure by Administrative County Court: 2022	
Administrative County Court	Number of days
Bucharest	0-180
Galați*	60
Maramureș	90-120
Giurgiu	131
Suceava	117,21
Timișoara	92

\* the duration is calculated from the date when the onward appeal was registered by the Administrative County Court and not from the day this was lodged at the first instance court

Source: Administrative County Courts.

The onward appeal does not look at facts but examines if the appealed decision is compliant with the applicable rules.<sup>192</sup> As a consequence, the onward appeal has to include the grounds for illegality on

<sup>186</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>187</sup> Article 66 Asylum Act.

<sup>188</sup> Article 67 Asylum Act.

<sup>189</sup> Article 66(2) and (4) Asylum Act.

<sup>190</sup> Information provided by IGI-DAI, 11 March 2022 and 22 February 2023.

<sup>191</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>192</sup> Article 483(3) Civil Procedure Code.

which the appeal is based.<sup>193</sup> The decision has to be motivated within 10 days from the day it is communicated by the Regional Court.

**Timișoara:** According to the director of the Regional Centre of Timișoara, the average duration of the onward appeal was two months and the reasoned decision was drafted in 45 days.

**Giurgiu:** The director of the Giurgiu centre stated that the average duration was 120 days.

**Șomcuta Mare:** the Administrative County Court reported that in general there are 3 hearings that last 3-4 months.

**Rădăuți:** The legal counsellor mentioned that at the first or second hearing the case was finalised and the average duration of the onward proceedings was two to three months. At the first hearing, at a maximum at the second hearing the court proceedings are finalised.

**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.

**Galati:** the director reported an average of two to three months for the onward appeal.

CNRR reported that the duration of the onward appeal was 60 days in Galati, 30 days in Rădăuți, Bucharest and Șomcuta Mare, 60-120 days in Giurgiu and Timișoara.<sup>194</sup>

In **Bucharest** according to a lawyer who is also the head of the Judicial Assistance Service of the Bucharest Bar Association, since 2018 lawyers have started to lodge onward appeals against the decision of the Regional Court, but they are not aware if they have the mandate to also draft the reasoned appeal in these cases. In 2022, the situation was the same, according to the legal counsellor of IGI-DAI.

On the other hand, CNRR stated that in general, CNRR lodges onward appeals if the asylum seeker presents the decision. In the situation where the complaint of an asylum seeker who was assisted by an ex officio lawyer was rejected, the appeal was drawn up by the CNRR legal advisors and submitted personally by the applicant in question. However, there were also situations in which the ex officio lawyer filed the personal appeal.<sup>195</sup>

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.<sup>196</sup>

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.

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<sup>193</sup> Article 486(1)(d) Civil Procedure Code.

<sup>194</sup> Information provided by CNRR, 7 February 2023.

<sup>195</sup> Information provided by CNRR, 9 December 2019.

<sup>196</sup> Article 87(2)(3) Civil Procedure Code.

## Decisions

According to IGI-DAI, in 2022 364 onwards appeals were finalised, of which 283 were favourable for IGI-DAI and 81 for the asylum seekers.<sup>197</sup>

However, the Administrative County Courts reported a total of 302 decisions issued.

Decisions by Administrative County Court: 2022								
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	68	6	0	5	8	24 unfounded +3 statutory limitation+1 inadmissible+3 withdrawn	19	0
Galați	24	1	0	1	2	12	6	1
Maramureș	23	0	2	-	1	13+1 statutory limitation	4	-
Giurgiu	148	2	6	1	3	129	-	7
Suceava	19	1	5	0	5	5	2	0
Timișoara	20	1	0	1	10	8	0	-
<b>TOTAL</b>	<b>302</b>	<b>11</b>	<b>13</b>	<b>8</b>	<b>29</b>	<b>191</b>	<b>31</b>	<b>8</b>

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.<sup>198</sup>

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

<sup>197</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>198</sup> Article 17(1)(s) Asylum Act.



taken, as well as the possibility to challenge the decision which granted, reduced or withdraw the material reception conditions.<sup>199</sup>

### 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**, operated since August 2012 with a capacity of 15 places and one in **Bucharest**, working since 2015 with 18 places. They accommodated vulnerable persons, especially single mothers with children. The AIDRom centres in these cities were funded both by AMIF and by external donors. In addition, the legal counsellor of AIDRom also provided legal counselling and assistance in the IGI-DAI of **Bucharest (Tudor Gociu)**. As of December 2022 this project, including the accommodation spaces was no longer running.

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.

Through the "Advocacy for access to the territory, information regarding international protection, child protection and refugee integration" project, implemented by CNRR, UNHCR Romania has the possibility to grant lawyers' fees for asylum seekers and beneficiaries of international protection, based on their vulnerability, complexity or strategic interest for advocacy campaigns. Through this project 14 attorneys' fees were awarded in 2022.<sup>200</sup>

Legal representation by a lawyer under the Legal Aid Act includes representation in the administrative phase of the procedure.<sup>201</sup> 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.<sup>202</sup> 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.

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<sup>199</sup> Ibid.

<sup>200</sup> Information provided by CNRR, 7 February 2023.

<sup>201</sup> Government Emergency Ordinance 51/2008.

<sup>202</sup> Information provided by the National Union of Romanian Bar Associations, 8 January 2018.

## Legal assistance in appeals

In court proceedings, legal aid may only be provided by CNRR, who have limited funds for legal representation. In 2022, CNRR covered 107 attorneys' fees, from AMIF funds. The conditions for awarding the fee depends on the vulnerability of the cases, their complexity or strategic interest in the context of the advocacy campaigns developed at the level of the NGO.<sup>203</sup> 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 155 appeals received by the court in 2022, only 23 cases made an application for legal aid, (of which 22 were submitted by CNRR)<sup>204</sup> and 15 legal aid applications were rejected.<sup>205</sup> The court failed to provide reasons for the dismissal of requests.<sup>206</sup> No reviews of the applications for legal aid were lodged in these rejected cases.<sup>207</sup> According to the CNRR representative the reason for the dismissal of the requests was that the asylum seeker had already benefited from specialised legal assistance from an NGO and it was not considered justified to grant an *ex officio* lawyer and in addition the applicant's income exceeded 300RON / €60.<sup>208</sup> 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. As regards the review of rejected decisions, CNRR said that it is impossible to lodge a review because the procedural documents are communicated late, and the asylum seekers receive the court decisions documents after the procedural deadline. Moreover, there are cases when they receive no answer to their application for state legal aid and go to the court hearing without knowing if they have an attorney appointed or not.

The Administrative County Court Timiș reported two applications.<sup>209</sup> CNRR reported 17 applications submitted.<sup>210</sup>

The Regional Court **Baia Mare** stated that in all asylum cases a lawyer paid through the state legal aid was appointed *ex officio* <sup>211</sup> and the Administrative County Court Maramures reported nine applications, all admitted. The legal counsellor of CNRR submitted 52 applications in 2022.<sup>212</sup>

The Regional court Rădăuți reported that in the 60 appeals registered in 2022, seven applications for state legal aid were made and all were admitted.<sup>213</sup> CNRR reported 62 applications made in Rădăuți in 2022.<sup>214</sup>

The Regional Court District 4 Bucharest stated that out of 235 appeals registered in 2022, only seven requests for state legal aid were made, all admitted.<sup>215</sup> CNRR reported only 37 applications made in

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<sup>203</sup> Information provided by CNRR, 15 February 2022.

<sup>204</sup> Information provided by CNRR, 7 February 2023.

<sup>205</sup> Information provided by the Regional Court Giurgiu, 22 January 2023.

<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<sup>208</sup> Article 8 of the Government Emergency Ordinance 51/2008 was modified on 15 January 2023, which reads as following: A person may benefit from the state legal aid if in the last two months prior to the request the average net monthly income per family member is below the level equivalent to 25% of the gross minimum basic salary in the country. In this case, the amounts that constitute public judicial aid are fully covered by the state.

<sup>209</sup> Information provided by the Administrative County Court Timis, 25 February 2023.

<sup>210</sup> Information provided by CNRR, 15 February 2022.

<sup>211</sup> Information provided by the Regional Court Baia Mare, 26 February 2023.

<sup>212</sup> Information provided by CNRR, 15 February 2022.

<sup>213</sup> Information provided by the Regional Court Radauti, 19 January 2022

<sup>214</sup> Information provided by CNRR, 15 February 2023.

Bucharest during 2022.<sup>216</sup> On the other hand, in the Regional Court Galați as in 2020 and 2021 no such applications were submitted, even though there were 84 appeals lodged throughout the year.<sup>217</sup> In contrast, CNRR reported that 84 applications were made by their legal counsellor in Galați.<sup>218</sup>

As regards the applications for state legal aid at the level of the Administrative County Courts, the number is even lower. The Administrative County Court **Maramures** reported 9 cases, the Administrative County Court **Suceava** reported 2, the Administrative County Court **Timis** 2 and at the Administrative County Court **Bucharest** one application, which was rejected as unfounded. The court refused to mention the reason, invoking the confidentiality of the asylum procedure. At the same time, the Administrative County Court **Galați** reported that a lawyer paid through state legal aid is always appointed *ex officio*.

In most cases, asylum seekers turn to legal counsellors for drafting and lodging the appeal against a negative decision of IGI-DAI. CNRR has funds for attorneys' 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 2022, 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 two trainings for lawyers in 2022.<sup>219</sup>

In the Regional Centre of **Galați**, 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) 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 CNRR, when the asylum seeker was represented by a lawyer paid through the state legal aid scheme.

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 legal counsellor the attorneys paid through the state legal aid scheme do not

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<sup>215</sup> Information provided by the Regional Court District 4 Bucharest, March 2023. The court noted that the low number may be explained as the requests for state legal aid are not attached to the appeal and their IT system only found this number.

<sup>216</sup> Information provided by CNRR, 7 February 2023.

<sup>217</sup> Information provided by the Regional Court Galați, 16 February 2023.

<sup>218</sup> Information provided by CNRR, 7 February 2023.

<sup>219</sup> Information provided by CNRR, 7 February 2023.

contact, discuss the case with the asylum seekers or even read the file. It was also reported that attorneys paid through 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 2022.

CNRR reported that in 2022 as in 2021<sup>220</sup>, 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. Also, in some cases, the *ex officio* lawyers did not take the necessary steps to lodge the onward appeal against the negative decision of the first instance court.<sup>221</sup>

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.

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.<sup>222</sup>

The information provided by the domestic courts shows that in a high number of cases an onward appeal was not lodged. Based on the information provided both by the Administrative County Court of **Bucharest** Regional Court District 4 Bucharest results that out of 98 first instance court decision only 55 were appealed against.<sup>223</sup> In **Giurgiu** 54 decisions were not appealed against.<sup>224</sup> In **Galati** out of 82 decisions issued only 59 were not appealed against.<sup>225</sup> In **Timișoara** 70 decisions were not appealed.<sup>226</sup> In **Șomcuta Mare** 18 decisions were not appealed<sup>227</sup> and in **Suceava** 24.<sup>228</sup>

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<sup>220</sup> Ibid.

<sup>221</sup> Ibid.

<sup>222</sup> Information provided by CNRR, 15 February 2022.

<sup>223</sup> Information provided by the Regional Court District 4 Bucharest, 7 March 2023 and Administrative County Court Bucharest 30 January 2023.

<sup>224</sup> Information provided by the Regional Court Giurgiu, 20 February 2023.

<sup>225</sup> Information provided by the Regional Court Galati, 16 February 2023.

<sup>226</sup> Information provided by the Regional Court Timișoara, 16 February 2023.

<sup>227</sup> Information provided by the Regional Court Baia Mare, 26 January 2023.

<sup>228</sup> Information provided by the Administrative County Court Suceava, 15 February 2023.

While in 2019<sup>229</sup> IGI-DAI provided statistics with regards to cases in which an onward appeal was not lodged, in 2020, 2021 and 2022 IGI-DAI reported that they have no statistics on this matter.<sup>230</sup>

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. 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

#### Dublin statistics: 2022

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	551	11	Total	5,754	306
Bulgaria	205	2	Germany	1,376	90
Greece	73	0	Austria	1,366	93
Germany	5	4	France	1,100	42
Cyprus	4	0	Italy	457	0
Spain	2	0	Slovakia	109	17
Poland	2	1	Netherlands	102	11

Source: IGI-DAI, 22 February 2023.

In 2022, Romania issued 551 requests compared to 815 in 2021,<sup>231</sup> 168 in 2020 and received 5,754 requests compared to 9,493 in 2021 and 3,221 in 2020 under the Dublin Regulation. The following criteria were used:

Outgoing and incoming Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	8	34
Regular entry: Articles 12 and 14	24	486
Irregular entry: Article 13	264	230
Dependent persons and humanitarian clause: Articles 16 and 17(2)	1	2
“Take back”: Articles 18 and 20(5)	254	5,002
Total outgoing and incoming requests	551	5,754

Source: IGI-DAI, 22 February 2023 (information requests under article 34 of the Dublin-regulation are not included).

<sup>229</sup> 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.

<sup>230</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>231</sup> Information provided by IGI-DAI, 11 March 2022.

### 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 2022 in the cases of 2-3 unaccompanied children with relatives in other State Members, according to the director of the centre. They were transferred in Germany and the Netherlands.

**Șomcuta Mare:** The director of the centre reported 67 outgoing cases ( 61 take charge and six take back) and the recipient country was Bulgaria. None of the asylum seekers were transferred to Bulgaria, as they left the centre before a decision was issued.

**Giurgiu:** according to the director of the centre, there were 165 outgoing requests, of which 31 were granted access to the asylum procedure in Romania. The main recipient countries were Bulgaria, Greece, Croatia, and Cyprus. Transfers were carried out to Bulgaria.

**Galați:** 47 outgoing requests were reported by the director of the centre. The majority of the cases (34) were hits for Bulgaria. No transfers were carried out.

**Rădăuți:** 38 outgoing requests were made of which 10 were to Bulgaria, four to Greece and one to Germany.

**Bucharest:** in 2022 there were 11 outgoing requests, according to the director of Vasile Stolnicu centre.

The most frequent criteria for outgoing requests were "take back", mainly addressed to Bulgaria and Greece. Similarly, the majority of incoming requests to Romania concern "take back" cases.<sup>232</sup>

### 2.1.2 The dependent persons and discretionary clauses

In 2022, Romania issued one outgoing request and received two incoming requests based on the humanitarian clause. No outgoing nor incoming requests based on the dependent persons clause were issued or received in 2022. The sovereignty clause was not applied in 2022.<sup>233</sup>

## 2.2 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

<sup>232</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>233</sup> Information provided by IGI-DAI, 22 February 2023.

been detained, they agreed to it. In case the applicant does not comply with the obligation to be photographed and fingerprinted,<sup>234</sup> 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.<sup>235</sup>

### 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** and Galați 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.<sup>236</sup>

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;<sup>237</sup>
- Designation of his or her residence in a Regional Centre of Procedures for Asylum Seekers;<sup>238</sup>
- Placement or, as the case may be, remaining in public custody (detention).<sup>239</sup>

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.<sup>240</sup> Reporting duties and residence in a specific place may be imposed in order to ensure the transfer.<sup>241</sup> 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.<sup>242</sup>

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.

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<sup>234</sup> In accordance with Article 19(a) Asylum Act.

<sup>235</sup> Article 18(3) Asylum Decree.

<sup>236</sup> Article 19<sup>1</sup>(1)-(2) Asylum Act.

<sup>237</sup> Article 19<sup>2</sup>(1)(a) Asylum Act.

<sup>238</sup> Article 19<sup>2</sup>(1)(b) Asylum Act.

<sup>239</sup> Article 19<sup>2</sup>(1)(d) Asylum Act.

<sup>240</sup> Article 19<sup>2</sup>(3) Asylum Act.

<sup>241</sup> Articles 19<sup>3</sup> and 19<sup>4</sup> Asylum Act.

<sup>242</sup> Article 19<sup>14</sup>(10) Asylum Act.

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.<sup>243</sup> In Bucharest, and Șomcuta Mare the stakeholders reported no transfers.

**Timișoara:** According to the director of the Regional Centre, the Dublin procedure lasted around six months and transfers were conducted within two to three weeks. The Save the Children representative reported that the procedure lasted for longer in case of unaccompanied minors who were accommodated at DGASPC, between four and nine months.

**Rădăuți:** the Dublin procedure lasted approximately three months in case charge requests and two months for take back requests.

**Bucharest:** in 2022 transfers were carried out to other Member States according to the deputy director of Vasile Stolnicu, as follows: 1 Austria, 2 Bulgaria, 2 Poland, 2 Germany and 1 Finland. Transfers were carried out within 2-3 months after the request being sent to the other Member State.

**Giurgiu:** transfers were carried out to Bulgaria within 21 days after their acceptance.

**Șomcuta Mare:** no transfers were reported.

**Galați:** No transfers were reported by the director. At the time of the author's interview with the director of the centre on 6 March 2023 one detained asylum seeker's transfer to Bulgaria was pending. He had been accepted by Bulgaria on 20 September 2022.

Romania issued 551 requests and implemented 11 transfers in 2022, thereby indicating a transfer rate of 1.99 %.<sup>244</sup>

## 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.<sup>245</sup>

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

<sup>243</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>244</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>245</sup> Article 43(3) Asylum Act.



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.<sup>246</sup> 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 implementation of the transfer decision.<sup>247</sup> The request for suspension is decided urgently in the council chamber by final conclusion, and the parties are summoned.<sup>248</sup> The implementation of the transfer decision is suspended until the court decides on the request for suspension.<sup>249</sup>

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.<sup>250</sup>

The court shall settle the case within maximum 30 days.<sup>251</sup> The competent court is the Regional Court (Judecatoria) with territorial jurisdiction over the area in which IGI has issued the decision.<sup>252</sup> The decision of the court is final.<sup>253</sup>

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.<sup>254</sup>

No appeals were registered by the Regional Courts, according to the information provided.

<sup>246</sup> Article 17(1)(f<sup>1</sup>) 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.

<sup>247</sup> Article 121(3) Asylum Act.

<sup>248</sup> Ibid.

<sup>249</sup> Article 121(4) Asylum Act.

<sup>250</sup> Article 121(5) Asylum Act.

<sup>251</sup> Article 121(6) Asylum Act.

<sup>252</sup> Article 121(2) Asylum Act.

<sup>253</sup> Article 121(7) Asylum Act.

<sup>254</sup> Article 121(8) Asylum Act.

## 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.<sup>255</sup>

73 outgoing requests were made to Greece in 2022, according to the statistics provided by IGI-DAI and no transfers to Greece were carried out.<sup>256</sup>

The directors of **the regional centres** stated that transfers to Greece are not carried out.

**Bulgaria:** the highest number of “take back” requests (205) were issued to Bulgaria but only two transfers were carried out.<sup>257</sup>

## 2.7 The situation of Dublin returnees

The Asylum Act includes provisions concerning cases of express and tacit withdrawal of an asylum application.<sup>258</sup> 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.<sup>259</sup> In case of tacit withdrawal, IGI-DAI writes a report regarding the absence of the asylum seeker from the interview.<sup>260</sup> 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.<sup>261</sup>

<sup>255</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>256</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>257</sup> *Ibid.*

<sup>258</sup> Article 51 Asylum Act.

<sup>259</sup> Article 51(1)(b) Asylum Act.

<sup>260</sup> Article 51(3) Asylum Act.

<sup>261</sup> Article 51(5) Asylum Act.

When the asylum seeker expressly withdraws his or her asylum claim, this is considered an explicit withdrawal of the asylum application.<sup>262</sup> 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.<sup>263</sup>

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.<sup>264</sup> 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.<sup>265</sup>

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.

In 2022 Romania received 306<sup>266</sup> incoming transfers, compared to 600<sup>267</sup> incoming transfers in 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;<sup>268</sup>
- Comes from a [First Country of Asylum](#);<sup>269</sup>
- Comes from a European safe third country which has agreed to his or her readmission;<sup>270</sup>
- Comes from a [Safe Third Country](#);<sup>271</sup>
- Makes a subsequent application without new elements.<sup>272</sup>

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

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<sup>262</sup> Article 51(1)(a) Asylum Act.

<sup>263</sup> Article 51(2) Asylum Act.

<sup>264</sup> Article 94<sup>1</sup> Asylum Act.

<sup>265</sup> Article 94<sup>1</sup>(1)(a) Asylum Act.

<sup>266</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>267</sup> Information provided by IGI-DAI, 11 March 2022.

<sup>268</sup> Article 50<sup>1</sup> Asylum Act.

<sup>269</sup> Article 95 Asylum Act.

<sup>270</sup> Article 96 Asylum Act.

<sup>271</sup> Article 97 Asylum Act.

<sup>272</sup> Article 91(b) Asylum Act, in conjunction with Article 88(2)(a)-(b).

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.<sup>273</sup>

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

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

According to IGI-DAI, in 2022 there were no applications dismissed as inadmissible because the applicant came from a First Country of Asylum, European safe third country or safe third country, because Romania has no list of safe countries.<sup>274</sup>

### 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?

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

Pursuant to Article 97<sup>1</sup> 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.<sup>275</sup> 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.<sup>276</sup>

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?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
❖ If yes, is it automatically suspensive	<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.<sup>277</sup> 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.

<sup>273</sup> Information provided by IGI-DAI, 20 February 2020 and 11 March 2022.

<sup>274</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>275</sup> Article 97<sup>1</sup>(2) Asylum Act.

<sup>276</sup> Article 97<sup>1</sup>(4) Asylum Act.

<sup>277</sup> Article 97<sup>1</sup>(3) Asylum Act.

### 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

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☐ Yes ☒ No
2. Where is the border procedure mostly carried out? ☐ Air border ☒ Land border ☐ Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
4. 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
5. Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

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.<sup>278</sup> 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.<sup>279</sup>

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.<sup>280</sup>

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.<sup>281</sup> However, if the asylum application is still pending after the 20-day deadline, the asylum seeker is granted access to the territory.<sup>282</sup>

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.<sup>283</sup> Asylum seekers accommodated in these centres receive 3 meals a day free of

<sup>278</sup> Article 82 Asylum Act.

<sup>279</sup> Article 83(3) Asylum Act.

<sup>280</sup> Article 83(1)(a), (b) and (c) Asylum Act.

<sup>281</sup> Article 87(1) Asylum Act.

<sup>282</sup> Article 87(5) Asylum Act.

<sup>283</sup> Article 87(2) Asylum Act.

charge, under conditions established by a Government Decision.<sup>284</sup> The asylum seeker subject to border procedure is not entitled to receive the material reception conditions for meals.<sup>285</sup>

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.<sup>286</sup> Leaflets will be updated by CNRR in 2023.

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.

According to the director of the Regional Centre of **Timișoara**, there was one asylum application made in 2022 at the border-crossing Moravița and it was rejected.

The director of Vasile Stolnicu centre reported 10 cases of applications assessed under the border procedure in Otopeni airport.

**Șomcuta Mare:** 156 applications were made by Ukrainian nationals; they were granted access to the territory.

**Galati:** 219 applications were made by Ukrainian nationals and were granted access to territory.

**Rădăuți:** Eight applications were reported by the director of the centre.

In 2022 there were 551 asylum applications processed under the border procedure, according to IGI-DAI. The main countries of origin of the applicants were Ukraine, Afghanistan, Syria, Russia and Cuba.<sup>287</sup>

According to the Border Police, 6392<sup>288</sup> asylum applications were made at Border Police structures, this does not mean that they were necessarily assessed under the border procedure.

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<sup>284</sup> Article 87(3) Asylum Act.

<sup>285</sup> Article 87(4) Asylum Act.

<sup>286</sup> Article 87(7) Asylum Act.

<sup>287</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>288</sup> Information provided by Border Police, 2 March 2022.

## 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?  

☒ Yes ☐ No

☐ Yes ☒ No

☒ Yes ☐ No

  - ❖ If so, are questions limited to nationality, identity, travel route?
  - ❖ If so, are interpreters available in practice, for interviews?
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.<sup>289</sup> 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.<sup>290</sup> In case of subsequent applications, there is no interview. The decision is issued on the basis of a written application.

The interview is conducted at the border by a case officer of the territorially competent branch of IGI-DAI, under the same rules as the personal interview in the regular procedure. The only difference relates 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?  

☒ Yes ☐ No

☒ Judicial ☐ Administrative

☒ Yes ☐ Some grounds ☐ No

  - ❖ If yes, is it
  - ❖ If yes, is it automatically suspensive

The asylum seeker has the possibility to challenge the decision issued by IGI-DAI within 7 days from the day the decision was communicated.<sup>291</sup> The competent court to decide on the appeal is the territorially competent Regional Court.<sup>292</sup> The provisions on submission of the appeal in the regular procedure apply accordingly.<sup>293</sup>

The court shall take a decision on the appeal within 5 days.<sup>294</sup> 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.<sup>295</sup>

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,<sup>296</sup> as the foreigner subject to the

<sup>289</sup> Article 83(1) Asylum Act.

<sup>290</sup> Article 83(4) Asylum Act.

<sup>291</sup> Article 85(1) Asylum Act.

<sup>292</sup> Article 85(2) Asylum Act.

<sup>293</sup> Ibid.

<sup>294</sup> Article 86(1) Asylum Act.

<sup>295</sup> Ibid.

<sup>296</sup> Article 86(3) Asylum Act.



border procedure must leave Romania as soon as the asylum procedure has finished.<sup>297</sup> 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
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  - ❖ 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
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  - ❖ Does free legal assistance cover
 

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

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

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

#### 5. Accelerated procedure

##### 5.1. General (scope, grounds for accelerated procedures, 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:<sup>298</sup>

- ❖ 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;

<sup>297</sup> Article 17(1)(a) Asylum Act.

<sup>298</sup> Article 76 Asylum Act.



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).

**Timișoara:** According to the director of the Regional Centre of Timișoara, 914 asylum applications made by nationals of Bangladesh, India, Pakistan were assessed in an accelerated procedure in 2022.

**Rădăuți:** 146 asylum applications made were assessed in accelerated procedures. They invoked economic reasons.

**Galați:** 342 cases reported by the director (from Bangladesh, Pakistan, India, Sri Lanka, Vietnam, Tunisia, Egypt) were assessed in an accelerated procedure.

**Bucharest:** 88 applications were assessed in accelerated procedure. The main nationalities were India, Morocco, Algeria and Sri Lanka.

**Giurgiu:** According to the director of the centre 526 (compared to 136 in 2021) asylum claims were assessed under the accelerated procedure due to economic reasons being invoked by applicants from Algeria, India, Armenia, Sri Lanka, Morocco, Türkiye, India, Azerbaijan.

**Șomcuta Mare:** 283 applications were assessed in accelerated procedure.

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.<sup>299</sup> 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 that 2,306 applications were assessed under the accelerated procedure in 2022, up from 1,968 in 2021 and more than double compared to 2020 when 885 were reported, up from 315 in 2019, 167 in 2018 and 382 in 2017.<sup>300</sup> The main countries of origin were India, Bangladesh, Pakistan, Morocco and Nepal.

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<sup>299</sup> Article 78 Asylum Act.

<sup>300</sup> Information provided by IGI-DAI, 14 February 2018, 5 March 2019, 20 February 2020, 16 February 2021, 11 March 2022 and February 2023.

## 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.<sup>301</sup>

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.

<sup>301</sup> 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.<sup>302</sup> This clause may be interpreted as a non-exhaustive list of persons which may be considered in need of special procedural guarantees.

Article 5<sup>1</sup>(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.<sup>303</sup>

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 5<sup>1</sup>(2) of the Act.<sup>304</sup> 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.<sup>305</sup>

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.<sup>306</sup> IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.<sup>307</sup>

<sup>302</sup> Article 2(1)(b<sup>1</sup>) Asylum Act.

<sup>303</sup> Article 5<sup>1</sup>(3) Asylum Act.

<sup>304</sup> Article 5(1) Asylum Decree.

<sup>305</sup> Article 5(2) Asylum Decree.

<sup>306</sup> Article 5(3) Asylum Decree.

<sup>307</sup> 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 2022 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 Timișoara** 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 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. The forms are also filled in by the medical staff and psychologist and the integration department.

In **Timișoara**, 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 a cultural mediator, who helps with the interpretation when the assessment is made. The Timișoara centre had a psychologist from January 2020 until November 2021. As of 1 November 2022 a new psychologist was hired. 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 2022 no 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**, in 2022 there was no psychologist. The screening of vulnerability was carried by filling out the forms by IGI staff in order to determine the individual needs regarding vulnerable cases. The centre has three medical assistants and a doctor. In 2022, according to the director of Vasile Stolicu centre unaccompanied minors, single women were identified.

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 without an interpreter. 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 director of **Șomcuta Mare** centre said that specific forms were filled in when the asylum claim was made. The vulnerabilities of the asylum seekers identified by IGI-DAI were all visible: pregnant women, single parent families, elderly and unaccompanied children. IGI-DAI had no psychologist in the centre in 2021. The position was filled on 1 April 2022.

According to the director of **Galați** centre, all asylum seekers are screened by the medical assistant. The Psychologist returned from maternity leave in July 2022. She saw all asylum seekers within five days of their arrival at the centre and a follow-up interview is conducted if the asylum seeker consents to it. The evaluation is done with the help of an interpreter or with another asylum seeker who speaks English.

According to the director 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.

The legal counsellor in **Rădăuți** said that theoretically asylum seekers are screened but has no knowledge as to whether this is done in practice. Vulnerable asylum seekers are identified by NGOs. In 2022 a person with HIV was identified by an NGO representative. As of March 2022 the centre had no psychologist. According to the director of the centre vulnerable asylum seekers may be identified at any stage of the procedure by filling in forms.

The director of **Giurgiu** stated that the screening for vulnerability is done by the nurse of IGI-DAI. As of January-February 2021 the centre had no medical doctor. During 2022 no medical doctor was hired. Furthermore, vulnerable asylum seekers are identified as such during the preliminary and personal interview.

Article 12<sup>308</sup> 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.

In 2022, IGI-DAI reported 2,586 minors, of whom 268 unaccompanied minors, seven persons with disabilities, 509 elderly persons, five pregnant women, 506 single parent families, one victim of human trafficking, six persons with mental disabilities, and eight persons who had experienced torture, rape or other serious forms of psychological, physical or sexual violence were identified.<sup>308</sup>

## 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.<sup>309</sup> 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.<sup>310</sup>

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.<sup>311</sup> The person shall be deemed to have reached the age of 18 at the time of lodging the asylum application.<sup>312</sup> However, if a psychologist of IGI-DAI determines, after an evaluation, that the grounds for

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<sup>308</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>309</sup> Article 41(2) Asylum Act.

<sup>310</sup> Ibid.

<sup>311</sup> Article 41(3) Asylum Act.

<sup>312</sup> Article 41(4) Asylum Act.

refusal to carry out the age assessments examination are well-founded, the asylum seeker will not be considered an adult.<sup>313</sup>

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.<sup>314</sup>

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.<sup>315</sup>

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.<sup>316</sup> 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.<sup>317</sup>

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.<sup>318</sup>

According to the Procedural Rules on expert assessments and findings and other forensic work for establishing the age of a person, the forensic findings and forensic expertise related to living persons, at the request of the judicial bodies, consist of clinical and complementary radiological, haematological, serological, bacteriological, anthropological, dermatological, genetic exams and other.<sup>319</sup> 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.<sup>320</sup>

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 2022 in **Timișoara, Șomcuta Mare, Bucharest Rădăuți** and **Giurgiu**.

In **Galati**, eight age assessments were requested, of whom two left the centre and six were declared minors, according to the director. The director also mentioned that they try to do as many assessments as possible and that assessment is made at IML the county hospital, free of cost; the minor is accompanied by the medical assistant, who also informs him/her about the assessment.

In 2022, IGI-DAI reported that six age assessments were requested.<sup>321</sup>

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<sup>313</sup> Article 41(5) Asylum Act.

<sup>314</sup> Article 41(6) Asylum Act.

<sup>315</sup> Article 41(7) Asylum Act.

<sup>316</sup> Article 16(4)(c) Asylum Act, in conjunction with Article 22 Asylum Decree.

<sup>317</sup> Article 16(4<sup>1</sup>) Asylum Act.

<sup>318</sup> National Network of Legal Medicine, *Tipuri de expertize medico-legale*, available in Romanian at: <http://bit.ly/2ETRT4A>.

<sup>319</sup> Article 26(a) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

<sup>320</sup> Article 14(2) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

<sup>321</sup> Information provided by IGI-DAI, 11 March 2022.

## 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 5<sup>1</sup>(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.<sup>322</sup>

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.<sup>323</sup>

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.<sup>324</sup>

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. However, in 2022 no reports were filled.

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

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.

**Șomcuta Mare**: according to the director special attention was given to vulnerable persons.

**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.<sup>325</sup>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.<sup>326</sup>

<sup>322</sup> Article 5<sup>1</sup>(5) Asylum Act.

<sup>323</sup> Article 5<sup>1</sup>(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.

<sup>324</sup> Article 46 Asylum Act.

<sup>325</sup> Articles 75(2) and 84 Asylum Act.

<sup>326</sup> Information provided by IGI-DAI, 14 February 2018.



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 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.<sup>327</sup> Their appeal was rejected by the regional court.

In 2022, in Rădăuți a woman who was HIV positive was assessed in an accelerated procedure, she appealed the decision and was also rejected by the court.

No such cases were reported in the other 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 49<sup>1</sup> 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.<sup>328</sup> 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.<sup>329</sup>

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.<sup>330</sup> 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.<sup>331</sup> The results of the medical examination are assessed by IGI-DAI in corroboration with other elements of the application for international protection.<sup>332</sup>

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.<sup>333</sup> 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

<sup>327</sup> IGI-DAI, Decision no 419955/h/HIA.

<sup>328</sup> Article 49<sup>1</sup>(1) Asylum Act.

<sup>329</sup> Article 49<sup>1</sup>(2) Asylum Act.

<sup>330</sup> Article 49<sup>1</sup>(3) Asylum Act.

<sup>331</sup> Article 49<sup>1</sup>(4) Asylum Act.

<sup>332</sup> Ibid.

<sup>333</sup> Article 19(c) Asylum Act.



possibility of being persecuted or of being exposed to a risk of serious harm.<sup>334</sup> 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.<sup>335</sup> 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.<sup>336</sup> 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.<sup>337</sup> The asylum application of an asylum seeker who has no capacity is filed by the counsellor after his or her appointment.<sup>338</sup> 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.<sup>339</sup> The interview of an asylum seeker without capacity shall be carried out in the presence of the counsellor.<sup>340</sup>

According to the directors of the centres, in **Galați, Rădăuți, Șomcuta Mare and Timișoara** there were no cases in which a medical examination under Article 49<sup>1</sup> was requested by IGI-DAI in 2022, except in **Bucharest** where IGI-DAI requested a medical examination (psychiatric expert opinion) regarding the establishment of the degree of disability (mental retardation) of a person. The file was still pending in March 2023.

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.<sup>341</sup> 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".<sup>342</sup> 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.

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.

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<sup>334</sup> Article 16(1)(b) Asylum Decree.

<sup>335</sup> Article 42(1) Asylum Act.

<sup>336</sup> Article 42(2) Asylum Act.

<sup>337</sup> Article 42(3) Asylum Act.

<sup>338</sup> Article 42(4) Asylum Act.

<sup>339</sup> Article 42(5) Asylum Act.

<sup>340</sup> Article 42(6) Asylum Act.

<sup>341</sup> 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>.

<sup>342</sup> ICAR Foundation, Health services for the improvement of reception and residence conditions for asylum seekers in Romania, available at: <http://bit.ly/2jtR4Xw>.

In general, asylum seekers submit medical reports from the country of origin either to IGI-DAI or the court. In 2022 no reports were submitted in Timișoara, Șomcuta Mare, Galați, Rădăuți, Giurgiu, except Bucharest, according to the directors of these centres.

#### 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.<sup>343</sup> IGI-DAI shall take the necessary steps, as soon as possible, to appoint a legal representative to assist the unaccompanied minor applying for asylum during the procedure, including during the admissibility and Dublin procedure as the case may be.<sup>344</sup>

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.<sup>345</sup>

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.<sup>346</sup>

#### 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.<sup>347</sup> 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.<sup>348</sup>

<sup>343</sup> Articles 16 and 40 Asylum Act.

<sup>344</sup> Article 16(2) Asylum Act.

<sup>345</sup> Article 16(3) Asylum Act.

<sup>346</sup> Article 16(4) Asylum Act.

<sup>347</sup> Article 21(3) Asylum Decree.

<sup>348</sup> Article 40(1) Asylum Act.

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.<sup>349</sup> 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.<sup>350</sup>

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

**Timișoara:** The notification is sent in the first working day after the minor's arrival at the centre to DGASPC and the legal representative is appointed in 2-3 weeks, according to the director of the centre. Without the appointment order they cannot schedule the interview. DGASPC appoints the same person, who is a legal counsellor, as the legal representative for all the unaccompanied minors.

**Șomcuta Mare:** IGI-DAI sends out the notification to DGASPC on the same day that the unaccompanied child is accommodated in the Regional Centre. In general, the legal representative is appointed in 80-90 % of the cases on the same day, according to the director of the centre. In 2022, a single legal representative, a woman, legal counsellor was appointed for all the unaccompanied children (for 40 children). NGO representatives prepare the appeals against negative decisions and the legal representative signs it.

**Galați:** IGI-DAI sends a notification to DGASPC for the appointment of a legal representative the next day of registration of the asylum claim of the unaccompanied child. 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 (60 unaccompanied minors in 2022) with no other person to fulfil her duties in case she is on medical leave or holidays. The legal representative is a social assistant. According to the director of the centre the legal representative has two days per week dedicated to unaccompanied children in the centre.

**Rădăuți:** IGI-DAI sends a notification to DGASPC for the appointment of a legal representative. The procedure of appointment is no longer delayed. There is only 1 legal representative appointed for unaccompanied children and he is a legal counsellor. During his holidays the legal representative is substituted by another legal representative. According to the NGO representative, 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. Conversely, the director of the centre reported that they meet and discuss on the day of the interview. The appeal is lodged by the CNRR representative.

**Giurgiu:** DGASPC appoints several social assistants to act as legal representatives. According to the director of the centre he/she is appointed within seven days of the minor arriving. The CNRR representatives 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. There was a period when children had no legal representative. 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 one to two weeks. As of July 2021, legal representatives were appointed from DGASPC District 2. In the beginning there were two social assistants appointed and lately only one (for 92 children), who also became more knowledgeable in this field. According to the director of the centre for the appeals they have requested assistance from NGO legal counsellors.

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<sup>349</sup> Article 39(3) Asylum Act.

<sup>350</sup> Article 40(2) Asylum Act.

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.<sup>351</sup>

### 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.<sup>352</sup> 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.<sup>353</sup> 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.<sup>354</sup>

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.<sup>355</sup>

The legal representative has to be present at the interview with the unaccompanied child,<sup>356</sup> and may intervene at the end of the interview.<sup>357</sup> 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.<sup>358</sup> 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.<sup>359</sup>

The legal representative also has to submit the request of enrolment of the unaccompanied child to preparatory courses.<sup>360</sup>

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:** According to the director of the centre children may contact the legal representative directly. Appeals are drafted by NGOs. The legal representative only signs them and she needs to be notified a day before.

In **Șomcuta Mare**, one legal representative was appointed. The director of the centre reported that the legal representative meets the children before the interview and they may contact him.

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<sup>351</sup> Ombudsman, Recommendation 57 of 26 February 2020, available in Romanian at: <https://bit.ly/380EvZR>.

<sup>352</sup> Article 4(g) Child Protection Act.

<sup>353</sup> Article 39(1) Asylum Act.

<sup>354</sup> Article 16(2<sup>^</sup>1) Asylum Act.

<sup>355</sup> Article 77(3) Child Protection Act.

<sup>356</sup> Article 47(1) Asylum Act.

<sup>357</sup> Article 23(1) Asylum Decree.

<sup>358</sup> Article 47(2) Asylum Act.

<sup>359</sup> Articles 56(2) and 66(2) Asylum Act.

<sup>360</sup> Article 6(4) Asylum Decree.

The legal representative who was appointed by DGASPC to represent unaccompanied children in **Rădăuți** is a male, social assistant. 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 **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.

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 provisions 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.<sup>361</sup>

Save the Children noted that previously there have been trainings and conferences on legal representation of unaccompanied minors organised 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.<sup>362</sup>

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<sup>361</sup> Ombudsman, Special Report on Respecting the Children's Rights in Romania, 2019, 198, available in Romanian at: <https://bit.ly/362ZDef>.

<sup>362</sup> Ombudsman, *Annual Report 2018*, 601-602.

## 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.<sup>363</sup> New elements or circumstances have to be submitted in order for a subsequent application to be admissible.<sup>364</sup>

Therefore, the Asylum Act prescribes that access to a new asylum procedure shall be granted if one of the following conditions is met:<sup>365</sup>

- ❖ 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.<sup>366</sup> If the time limit has expired, the asylum claim is considered a subsequent application.

If the persons have left the territory of the EU or have been removed to a third country or the country of origin, as set out in Articles 19(2) and (3) of the Dublin Regulation, and their asylum procedure has been terminated by a decision closing the file, a new claim lodged in Romania is not deemed a subsequent application.<sup>367</sup>

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.<sup>368</sup>

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.<sup>369</sup> The law

<sup>363</sup> Article 88(1) b) Asylum Act.

<sup>364</sup> Article 88(2)(a)-(b) Asylum Act.

<sup>365</sup> Ibid.

<sup>366</sup> Article 94<sup>1</sup>(1)(b) Asylum Act.

<sup>367</sup> Article 94<sup>1</sup>(1)(a) Asylum Act.

<sup>368</sup> Article 88(1)(a) and (3) Asylum Act.

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.<sup>370</sup> 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.<sup>371</sup> 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.<sup>372</sup>

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.<sup>373</sup> This decision may be appealed within 2 days from the day it is communicated.<sup>374</sup> The competent court is the Regional Court territorially competent for the area in which IGI-DAI issued the decision.<sup>375</sup>

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.<sup>376</sup> 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 her application and the conditions under which the decision can be challenged.<sup>377</sup> 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.<sup>378</sup>

Rejected subsequent applications may be appealed before the territorially competent Regional Court within 10 days of communication.<sup>379</sup> Judicial review of rejected subsequent applications has no automatic suspensive effect.<sup>380</sup> 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.<sup>381</sup> In this case the foreigner has the right to remain on the territory of Romania

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<sup>369</sup> Article 40(1) Asylum Decree.

<sup>370</sup> Article 89(1) Asylum Act.

<sup>371</sup> 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.

<sup>372</sup> Article 89(2)(a) Asylum Act.

<sup>373</sup> Article 89(3) Asylum Act.

<sup>374</sup> Article 89(4) Asylum Act.

<sup>375</sup> Article 89(5) Asylum Act.

<sup>376</sup> Article 91(1) Asylum Act.

<sup>377</sup> Article 91(3) Asylum Act.

<sup>378</sup> Article 91(4) Asylum Act.

<sup>379</sup> Article 93(1) and (2) Asylum Act.

<sup>380</sup> Article 93(3) Asylum Act.

<sup>381</sup> Article 93(4) Asylum Act.



until the court has ruled on this request.<sup>382</sup> The permission to remain on the territory of Romania shall be granted until the moment of the court's pronouncement on the appeal.<sup>383</sup>

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.<sup>384</sup>

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 43 applications, of which 24 were made by foreigners in Arad detention centre.

**Giurgiu:** the director of the regional centre stated that only five subsequent applications were made in 2022 and all were rejected.

**Șomcuta Mare:** no applications were lodged in 2022, according to the director.

**Bucharest:** 128 applications were made during 2022. No further information was provided on the number of admitted and rejected applications.

**Galați:** Four subsequent applications were made and were rejected. Two were made by Russian nationals and two by Somali nationals.

**Rădăuți:** 12 subsequent application were made in 2022 and were admitted, as they were submitted by Ukrainian nationals.

A total of 105<sup>385</sup> subsequent applications were lodged in 2020 down from 165 in 2019, down from 230 in 2018.

In 2022, 187 subsequent applications were made.<sup>386</sup>

Subsequent applications: 2022	
Country of origin	Number applications
Afghanistan	71
Syria	26
Iraq	10
RD Congo	7
Ukraine	7

Source : IGI-DAI.

<sup>382</sup> Article 93(5) Asylum Act.

<sup>383</sup> Article 93(6) Asylum Act.

<sup>384</sup> Article 94(2) Asylum Act.

<sup>385</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>386</sup> Information provided by IGI-DAI, 22 February 2023.



## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |  |
|--|---|--|
| 1. Does national legislation allow for the use of “safe country of origin” concept?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept?      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is the safe third country concept used in practice?                                | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> 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.<sup>387</sup> 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.<sup>388</sup> The asylum application of a person who comes from a safe country of origin is rejected as manifestly unfounded, unless the factual situation or the evidence presented by the applicant shows the existence of a well-founded fear of persecution or a risk of serious harm. In this case, the applicant shall be given access to the regular procedure.<sup>389</sup>

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.<sup>390</sup>

No applications were rejected on the basis of the safe country of origin concept in 2022.<sup>391</sup>

### 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;

<sup>387</sup> Article 77(2) Asylum Act.

<sup>388</sup> Article 77(3) Asylum Act.

<sup>389</sup> Article 77(4) Asylum Act.

<sup>390</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>391</sup> Information provided by IGI-DAI, 22 February 2023.

- ❖ 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.<sup>392</sup>

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,<sup>393</sup> 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”.

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.<sup>394</sup>

One application was dismissed on the basis of the safe third country concept in 2018.<sup>395</sup> In 2019, no applications were dismissed on the basis of the safe third country concept.<sup>396</sup> The same was reported in 2022.<sup>397</sup>

### 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:

<sup>392</sup> Article 96(2) Asylum Act.

<sup>393</sup> Article 97<sup>2</sup> Asylum Act.

<sup>394</sup> Article 97<sup>1</sup>(4) Asylum Act.

<sup>395</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>396</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>397</sup> Information provided by IGI-DAI, 16 February 2021.

- ❖ 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.<sup>398</sup>

In 2022, no applications were dismissed on the basis of the first country of asylum concept.<sup>399</sup>

## 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 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.<sup>400</sup>

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.<sup>401</sup>

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.<sup>402</sup> Where necessary for the proper understanding of the information, this may also be communicated orally at the preliminary interview.<sup>403</sup>

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

<sup>398</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>399</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>400</sup> Article 17(1)(f) Asylum Act.

<sup>401</sup> Article 2(2) Asylum Decree.

<sup>402</sup> Article 2(1) Asylum Decree.

<sup>403</sup> Ibid.

**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 ROI are displayed in the building where they are accommodated in English, French and Arabic. 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 without 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. No information sessions were organised in 2022.

With regard to children, all stakeholders interviewed reported that they receive the same leaflets and information as adult asylum seekers.

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 on general information (when do they receive their temporary identity documents, financial aid and when are they able to leave) 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. Subsequently, collective information meetings are held by the NGO representatives. According to the director unaccompanied children are counselled with more attention and information provision is adapted to their age.

**Rădăuți:** no collective information sessions were held in 2020, 2021 or in 2022 according to a stakeholder. According to the director of the centre asylum seekers are informed in writing when they arrive at the centre. Subsequently, the information about asylum seekers' rights and obligations and the procedure is provided by the NGOs individually. CNRR presents a video with all the relevant information. Group information sessions with an interpreter have been held when ROI was breached.

**Galați:** when transferred asylum seekers are accommodated in the centre there is no information provision, because they arrive very late. Group information sessions with the help of an interpreter are held 24-48h after their arrival in the centre. IGI-DAI provides on their rights, obligations, ROI, Dublin Procedure, services provided by each NGO. When the asylum claim is made directly at the centre information is provided in writing.

**Bucharest:** 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.

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.

The majority of respondents pointed out that the written information they receive from IGI-DAI or NGOs is not very effective as most asylum seekers are illiterate or have difficulty reading through information which is lengthy, complex and, 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 practice, respondents reported that there is no specifically tailored information provided to unaccompanied asylum-seeking children. They are informed in the same way as adults, while they are also informed that they will have a legal representative. In general, unaccompanied children do not understand what this means. UNHCR also stated that there is a lack of accessible and adequate information materials for asylum-seeking children.

## 1.2. Information on the Dublin procedure

IGI-DAI has the obligation to inform the asylum seeker of the content of the common leaflet drawn up by the European Commission.<sup>404</sup> 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.<sup>405</sup> 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 upon their arrival at the centre. A general leaflet is also provided at the same time according to the director.

**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.

**Șomcuta Mare:** Asylum seekers are informed at the beginning of the asylum procedure about the Dublin procedure and what it entails, by NGOs. When the asylum procedure is suspended, information and a general leaflet is provided. Asylum seekers are informed about the Member State to which a request was sent.

**Rădăuți:** Asylum seekers receive a common leaflet and oral information that the Dublin procedure has been triggered and information on the Member State to which a request has been sent. CNRR provides information on the Dublin procedure through a video. The same video is also played for minors.

**Galați:** General information is provided during collective information sessions. A common leaflet is provided when the asylum claim is made. When the asylum procedure is suspended, they receive written information, including on the Member State to which the request has been made.

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 **Timișoara**, upon their arrival, when they are fingerprinted asylum seekers are informed verbally, because there have been no leaflets for quite some time, 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 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 **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

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<sup>404</sup> Article 118 Asylum Act.

<sup>405</sup> Article 118(1) Asylum Act.

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.<sup>406</sup>

**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.

## 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.

<sup>406</sup> Article 118(2) Asylum Act.

## 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?<sup>407</sup> ☐ Yes ☒ No  
❖ If yes, specify which:

Romania previously awarded refugee status and subsidiary protection to applicants from countries such as **Syria** and **Iraq**, who made up the majority of positive decisions in 2017. However, the trend with regard to Iraqi nationals changed during 2017 when the recognition rate for Iraqi nationals was 66.4%, it dropped to 35% in 2018 and in 2019 dropped further to 10,9%.

In 2022, as in previous years, in **Timișoara** it was reported that all Syrian nationals were granted a form of protection. In Giurgiu, Rădăuți, Șomcuta Mare and Galati asylum applications of Syrian nationals are also rejected, according to the directors of these centres. In Rădăuți the majority of Syrian asylum seekers are rejected, including unaccompanied children; only one or two were granted a form of protection. In Galati only a few Syrian national asylum seekers' applications were rejected.

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<sup>407</sup> Whether under the "safe country of origin" concept or otherwise.



## 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.<sup>408</sup> 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.<sup>409</sup> In the Dublin procedure the right to remain on the territory of Romania ceases on the date of the transfer.<sup>410</sup>

Subsequent applicants do not have the right to material reception conditions.<sup>411</sup>

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.<sup>412</sup> If IGI-DAI finds that the applicant has the means to ensure an adequate standard of living and can contribute to the costs of

<sup>408</sup> Article 56(6) Asylum Decree.

<sup>409</sup> Article 17(7) Asylum Act.

<sup>410</sup> Article 17(1)(a) Asylum Act.

<sup>411</sup> Article 88<sup>1</sup> Asylum Act.

<sup>412</sup> 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.<sup>413</sup>

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.

Since 9 March 2022, when the Romanian government lifted all COVID-19 restrictions, there have been no restrictions or measures imposed in the regional centres, according to the directors of the centres.

At the time of the author's visit on 16 February 2023 at the ITPF Timișoara there were four shipping containers where asylum seekers were accommodated and two mobile toilets placed in the inner court yard of the institution. One of these containers was presented to the author. It had eight bunk beds, without mattresses and a broken fan heater. The representatives of ITPF stated that the mattresses were taken out for cleaning. They also declared that these containers had not been used since December 2022; they are only used when there is a group of 10-20 people waiting for their interview and registration process. In the first trimester of 2022 ITPF Timișoara had to process groups of 10-12 persons.

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 27 February 2022 (in original currency and in €):	960 RON/ €195
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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, which were doubled as of 27 February 2022:<sup>414</sup>

Food daily allowance of 20 RON / €4.08 from 10 RON / €2.08 per person;

Clothing one-off allowance of 135 RON/ €27.55 from 67 RON / €13.95 per person during summer and 200 RON/ €40.81 from 100 RON / €20.83 per person during winter;

Pocket money of 12 RON/ €2.45 from 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.

<sup>413</sup> Ibid.

<sup>414</sup> Article 55(1) Asylum Decree, modified by Decision 277 of 27 February 2022.

Monthly amounts of financial allowances for different categories of applicants are as follows<sup>415</sup>:

Monthly amount of financial allowances for asylum seekers	
Category	Amount of allowances
Single adults	960 RON / €195
Pregnant women in months 1-4 Ill persons upon admission to infirmary	1,140 RON / €232
Pregnant women in months 5-9 Women giving birth who do not breastfeed	1,200 RON / €244
Women giving birth who breast feed Children aged 0-5 months	1,260 RON / €256
Children aged 6-12 months	1,380 RON / €280

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,<sup>416</sup> heating assistance<sup>417</sup> and a family allowance.<sup>418</sup> Romanian nationals – families and single persons – are entitled to a minimum guaranteed income as a form of social assistance.<sup>419</sup> 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. Starting from 1 March 2022 the ISR increased to 525,5 RON/ €107. The minimum guaranteed income level is as follows:

Monthly amount of minimum guaranteed income		
Category	Percentage ISR	Amount
Single adults	28.3%	149 RON / €30
Family of two	51%	269 RON / €55
Family of three	71.4%	376 RON / €77
Family of four	88.4%	465 RON/ €96
Family of five	105.4%	554 RON / €114

In addition, the State affords an allowance for all children, including nationals and non-nationals, up to the age of 18.<sup>420</sup> 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:<sup>421</sup> 600 RON / €122 for children up to the age of 2, or 3 in case of a disabled child; 243 RON / €49 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.<sup>422</sup>

<sup>415</sup> Article 55(2) a-g Asylum Decree, modified by Decision 277 of 27 February 2022.

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

<sup>417</sup> Emergency Government Ordinance 70/2011 on social protection measures during the cold season, available at: <http://bit.ly/2mtUk2t>.

<sup>418</sup> Act 277/2010 on Family Allowance, available at: <http://bit.ly/2FvzrN3>.

<sup>419</sup> Article 1(1)-(2) Act 416/2001 on Minimum Guaranteed Income.

<sup>420</sup> Article 1 Act 61/1993 on the State Child Allowance.

<sup>421</sup> Article 3 Act 61/1993 on the State Child Allowance.

<sup>422</sup> Article 17(1)(n<sup>1</sup>) Asylum Act.

### Accommodation allowance where reception capacity is exceeded.

A new form of reception conditions was included by the 2015 reform. When the capacity in the reception centres for asylum seekers is exceeded, IGI-DAI may grant asylum seekers an accommodation allowance for the purpose of renting a house or contracting specialised services for the reception and accommodation of asylum seekers in individual or collective locations, within the limits of the available funds.<sup>423</sup> 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 808 RON / €165; and maintenance assistance of 145 RON / €29.59 during the summer season and 185 RON / €37.75 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%.<sup>424</sup>

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.<sup>425</sup>

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.<sup>426</sup>

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.

Asylum seekers moved from Tudor Gociu centre to Giurgiu while their appeal was pending at Administrative Court District 4 Bucharest were also eligible for these reimbursements. The legal counselor in Giurgiu centre stated that they enquired and the respective asylum-seekers will be reimbursed if they present the travel tickets.

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.<sup>427</sup> Asylum seekers who perform this kind of activity benefit from an additional allowance for food of 10 RON / €2 per day.<sup>428</sup> According to the director of Galati centre this provision is applied frequently. In Rădăuți, the director stated that in 2022 there were cases when they provided this amount. The legal counsellor, however, declared that there were no such cases. The director of the Giurgiu centre mentioned that no additional allowance had been afforded in 2022.

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<sup>423</sup> Article 17(8) Asylum Act.

<sup>424</sup> Article 55(4) Asylum Decree, modified by Decision 91 of 19 January 2022.

<sup>425</sup> Article 17(1)(q) Asylum Act.

<sup>426</sup> Article 56(2<sup>^</sup>1) Asylum Decree.

<sup>427</sup> Article 55(9) Asylum Decree.

<sup>428</sup> Article 55(10) Asylum Decree.

According to the director of **Timișoara** centre, the majority of asylum seekers were transferred before they received financial aid, especially in the last part of 2022, when asylum seekers were transferred in a maximum of three days after their arrival. This was also confirmed by the directors from the other centres. Based on the financial assessment made in Timișoara; asylum seekers received the financial aid in the destination centre, according to the director of Timișoara.

It was reported by the CNRR representative in **Giurgiu**, that asylum seekers receive the financial aid a week after their arrival at the centre, as the assessment of their financial situation has to be approved in Bucharest, as Giurgiu centre is not a financial controller. In **Galati** asylum seekers are granted the aid within 3 days.

### 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 "A.C.A.S.A. - Complex Social Assistance for Asylum Seekers".<sup>429</sup> The project ended in December 2022 and there is no continuation in 2023. AIDRom provided material assistance to asylum seekers accommodated in all Regional Centres, in the 2 Accommodation and Counselling Centres run by AIDRom in **Bucharest** and **Timișoara**.

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 consisted 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.

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. According to AIDRom representative the indicators were the same in 2022.

### 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.<sup>430</sup> Accordingly, these are laid down in the Asylum Decree.

IGI-DAI may limit or withdraw the material reception conditions where the applicant:<sup>431</sup>

- ❖ 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;

<sup>429</sup> Information provided by AIDRom, 4 March 2021.

<sup>430</sup> Article 19^1(1) Asylum Act.

<sup>431</sup> Article 55^1 Asylum Decree.

- ❖ 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 asylumseekers 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.<sup>432</sup> 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: 2022		
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 2022, 82 persons received a decision to withdraw their reception conditions.

**Șomcuta Mare:** Nine decisions were issued for those who had left the centre for more than 72 hours without an approved request.

**Rădăuți:** Asylum seekers received withdrawal of reception conditions decisions for leaving the centre without formal approval, for breaching the ROI. Five decisions were issued. For the asylum seekers who breached the ROI by causing damage in the centre the allowance was suspended for one month.

**Giurgiu:** according to the director of the regional centre 456 decisions to withdraw the financial allowance were issued, because the asylum seekers left the regional centre and in the case of 10 unaccompanied children who were taken over by DGASPC

<sup>432</sup> Article 55^1(3) Asylum Decree.

**Galați:** 12 decisions were issued and in most of the cases this occurred to asylum seekers who left the regional centre without prior approval or for repeated violations.

**Bucharest:** the director of Stolnicu Centre reported that they issued 131 decisions suspending the 10 RON pocket money for asylum seekers who failed to comply with ROI.

According to IGI-DAI, 9,462 withdrawals of reception conditions decisions (eviction notices) were taken in 2022,<sup>433</sup> compared to 1099 in 2021<sup>434</sup>, 803 in 2020<sup>435</sup> and 639 in 2019.<sup>436</sup> IGI-DAI stated that these eviction notices were issued for asylum seekers who left the centre without a formal request for more than 72 hours. Of the total number of decisions 3,350 were issued for Ukrainians who were accommodated in the mobile camps

Bucharest	Timișoara	Galați	Rădăuți	Șomcuta Mare	Giurgiu	Total
328	2630	886	3728	814	1074	9,462

Source: IGI-DAI, 22 February 2023.

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.<sup>437</sup>

The sanction imposed was suspension of the daily amount of 10 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.<sup>438</sup>

The decision on reduction or withdrawal of reception conditions may be challenged, subject to the rules applicable in the Accelerated Procedure: Appeal.<sup>439</sup> In 2019, the first and only appeal was drafted, but the applicant did not lodge it. In 2022, no decision to withdraw or reduce the reception conditions was challenged.

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<sup>433</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>434</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>435</sup> Information provided by IGI-DAI, 16 February 2022.

<sup>436</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>437</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>438</sup> Ibid.

<sup>439</sup> Article 19<sup>1</sup>(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?

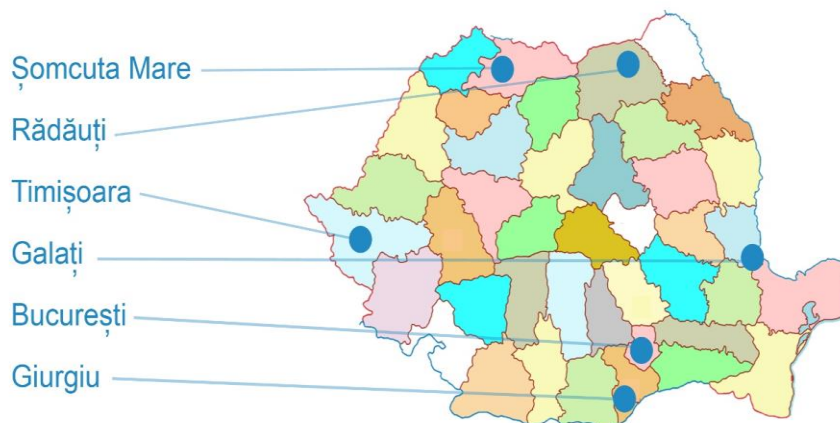
☒ Yes

☐ 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.<sup>440</sup> 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.<sup>441</sup> Authorisation is issued following an individual, objective and impartial assessment. In case IGI-DAI refuses to grant authorisation, its decision shall be motivated.<sup>442</sup>

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**.

While in previous years, applicants were transferred from Timișoara to other Regional Centres due to limited capacity, starting from April 2022 around 70-80% of asylum seekers were transferred to other centres within two to three days of their arrival. As of June 2022, by order of the general inspector of IGI, all asylum seekers from Timișoara centre were transferred. According to the Director of the Regional Centre of Timișoara and NGO representatives, 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. No problems were reported with regards to the transfer process.

According to the director of Timișoara, food packages were not offered to asylum seekers when they were transferred to other centres in the second half of 2022. An AIDRom representative stated that there were moments when asylum seekers did not receive transfer packages, as there were more than 1,000 asylum applicants transferred in 2022 and only 385 transfer packages foreseen in the implemented project.

<sup>440</sup> Article 19(g) Asylum Act.

<sup>441</sup> Article 7 Asylum Decree.

<sup>442</sup> Article 19(g) Asylum Act.

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.

According to IGI-DAI, in 2022, 208 decisions assigning a specific residence,<sup>443</sup> reception centres, for the asylum seekers, were taken, in line with article 19(4) of the Asylum Act, compared to decisions 26 decisions taken in 2020.<sup>444</sup>

From June 2022 until 25 February 2023, another order of the general inspector of IGI was given to transfer asylum seekers from one regional centre to another in order to hinder contact with smugglers. The transfer procedure was described by the director of Galati centre as follows:

The asylum seeker was transferred from the centre where the asylum claim was made in a maximum three days; in the next centre the preliminary interview was conducted within another three days; in seven days from the arrival in the second centre, the asylum seeker was transferred to a third centre where the personal interview was conducted. After a maximum of seven days the person was again transferred to a fourth centre where the decision was communicated. If the decision was not issued and communicated within seven days, the applicant was subject to another transfer. This chain of transfers stopped when an administrative decision was issued as the appeal was assessed by the Regional Court with jurisdiction in the locality where the regional centre was located.

CNRR reported that this measure was not entirely effective. From the practice encountered by the CNRR legal counsellors, due to this practice the asylum procedure tended to be more difficult, applicants were less cooperative because of the length of the asylum procedure. Moreover, the legal counsellor in Timișoara centre noticed that the human trafficking networks were still widespread, and the asylum seekers remained in contact with the smugglers, who were well aware of this chain of transfers.<sup>445</sup>

The director of Galati centre also mentioned that this measure entailed a lot of human and financial resources.

While the capacity of Tudor Gociu centre is 96 places, during 2022 the capacity was reduced to 25 and even to 10 places by order of the general inspector. When this occurred, asylum seekers were transferred to Giurgiu centre. According to CNRR, the asylum seekers returned and remained in Bucharest. The asylum seekers declared that they wanted to stay in Bucharest as they were already integrated there and it would be difficult for them to find a job and housing in Giurgiu. They lived in private accommodation or with friends from their community. They were afforded material assistance from Giurgiu centre.<sup>446</sup>

The ITPF Timișoara representatives reported that to discourage Timișoara being an intermediary stop, the Border Police jointly with IGI and the Jandarmerie conducted raids twice a day at the usual meeting places of migrants.

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<sup>443</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>444</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>445</sup> Information provided by CNRR, 7 February 2023.

<sup>446</sup> Information provided by CNRR, 8 March 2023.



## 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: 1100
3. Total number of places in private accommodation: Not available
4. Type of accommodation most frequently used in a regular procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Most asylum seekers are accommodated in Regional Centres for Accommodation and Procedures for Asylum Seekers, managed by IGI-DAI. The management of reception is decentralised to the level of counties.

The capacity of the different Regional Centres operating across the country (see Freedom of Movement) is as follows:

Capacity and occupancy of the reception system: 2022		
Centre	Capacity	Asylum seekers accommodated during 2022
Timișoara	250	2688
Șomcuta Mare	100	1627
Rădăuți	130	1583
Galați	200*	803
Bucharest	10**	256
Giurgiu	100	1079
<b>Total</b>	<b>790</b>	<b>8036</b>

\*May be extended to 310, according to the director of the centre.

\*\*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, 22 February 2023.

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 Vasile Stolnicu centre (Bucharest) the capacity of the centres was reduced to 790 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. However, the construction works in Timișoara and Rădăuți were suspended, due to a lawsuit filled by the constructor regarding the price of the construction works.

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 **Șomcuta 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 175.

In **Rădăuți**, the capacity may be extended to 150 places officially, according to the director of the centre. The average occupancy during 2022 was 113.85 places.

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 75, but this was only for a short period of time, because they were leaving the centre.

In **Galati**, according to the director of the centre, the capacity of the centre in 2022 was 310 places. The highest number of asylum seekers accommodated in the centre was 157.

**Bucharest:** the highest number of accommodated asylum seekers was 85.

## 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. In 2022 the Ombudsman conducted monitoring visits in Bucuresti, Galati, Rădăuți, Șomcuta Mare and Giurgiu.<sup>447</sup>

### 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 1<sup>st</sup> December 2020.<sup>448</sup> ETC moved to another facility as of 1<sup>st</sup> 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,

<sup>447</sup> Ombudsman, Visiting reports, available in Romanian at: <https://bit.ly/3myecV5>;

<sup>448</sup> UNHCR, *ETC Timișoara*, 14 December 2016, available at: <http://bit.ly/2DuZqDN>; *Operations in Romania*, 16 December 2016, available at: <http://bit.ly/2D0OjkO>.

“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 modernisation of the central heating system.<sup>449</sup> The renovation work commenced with building C and in January 2022 was finalised. Renovation of building B started in March 2022 and at the time of the author’s visit only minor details were still to be finalised. Metal bars were installed on all windows. The construction work for the additional accommodation places and offices was suspended. In 2022 the highest number of asylum seekers was 250 during July and August and they were accommodated in the centre for two to three days until they were transferred. Two shipping containers were installed in the courtyard, where IGI-DAI registered beneficiaries of temporary protection.

### **The Regional Centre Șomcuta 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 2, 4, 6, 8 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).<sup>450</sup> The centre has a capacity of 100 places. In August 2021 it was extended to 200 places and as of March 2022 the capacity was increased with 50 more places, by transforming the gym room into an accommodation room.<sup>451</sup>

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.<sup>452</sup> The gym and prayer room were converted into accommodation in 2020 in order to increase reception capacity.<sup>453</sup> Each room has a refrigerator, which serves 10 persons. Construction of new accommodation places started in October/November 2021. The construction work was also suspended, as the constructor is the same in both centres Rădăuți and Timișoara. There is still 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’.

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<sup>449</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>450</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Șomcuta Mare*, 36/2017, available in Romanian at: <http://bit.ly/2E7EANw>, 4-5.

<sup>451</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Șomcuta Mare*, 29 March 2022, available in Romanian at: <https://bit.ly/3L8jAsg>

<sup>452</sup> 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.

<sup>453</sup> *Ibid*, 3-4.

The rooms have a maximum capacity of four and 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 in each room. In 2022 the clubs and the gym were functional and transformed into accommodation rooms only when necessary. Specially designed closed spaces were used as accommodation rooms only in January for the Afghan refugees. The prayer room still exists. The highest number of asylum seekers accommodated in the regional centre in 2022 was 157. In February-March 2022 four shipping containers were installed for the registration of beneficiaries of temporary protection.<sup>454</sup>

### **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.

The renovation of the Vasile Stolnicu centre started in July 2021 and was still not finalised at the end of 2022. All the asylum seekers were moved to the Tudor Gociu centre.

The building of Tudor Gociu has four floors. Asylum seekers are accommodated on the third and fourth floors. There are 24 rooms for accommodation, one kitchen on each floor, four bathrooms and two washing rooms. All windows have metal bars. The director of the Vasile Stolnicu centre describes 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.

### **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 eight rooms. At the time of the author's visit in January 2023, there were 8 accommodation rooms with different capacity from 4, 8, 15, 16, 17, 24 to 26 beds. The capacity of the centre could be increased by 74 places. Each room is equipped with refrigerators; the number of refrigerators depends on the number of beds. There are two kitchens with four stoves and three sinks. Only one kitchen was used by the asylum seekers, the other one was locked. There are two bathrooms, one for men and one for women, with five 'squat toilets' and five showers. The women's bathroom was also locked. The gym is used as a deposit room for old refrigerators and washing machines and single use bed sheets. There is also a club where Romanian language classes were held by AIDRom with seven desks and chairs a small collection of books in Romanian. The isolation room was being used at the time of the author's visit by a beneficiary of international protection with a medical condition, who used to live in the Vasile Stolnicu centre. The isolation room had its own bathroom and half of the room was serving as a deposit of beds. A prayer space was set up next to the kitchen. The centre has a small courtyard, but it is not accessible as it is surrounded by a fence. In the backyard old furniture, beds, sinks are deposited. The two tents that were set up in the courtyard for medical screening in 2020, were in an advanced state of degradation. However, they were not used anymore. The rooms were painted and small repairs were carried out. The majority of the beds in the visited rooms were new and all the mattresses were covered in plastic to protect them from bed bugs.

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<sup>454</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Galati*, 7 July 2022, available in Romanian at: <https://bit.ly/41WQj9G>

## 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.<sup>455</sup> 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 - December 2022 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:** The Ombudsman described the hygienic conditions in the majority of rooms as appropriate. However, there were also rooms with inadequate hygienic conditions: walls were dirty and scratched.<sup>456</sup> Bathrooms were clean, but there were also bathrooms with worn down sanitary installations. The kitchens were also described as clean and appropriate, the stoves were new. The Ombudsman observed that out of 28 rooms only two were equipped with air conditioning and recommended its installation in all rooms. The director of the centre reported that the living conditions had improved in 2022, as they painted the entire building, the linoleum was replaced, mattresses and furniture were changed. The water pipes in bathrooms were repaired. The centre is still confronting bed bugs infestation, even though disinfection is carried out twice a month.

**Șomcuta Mare:** The Ombudsman reported inadequate hygienic conditions in kitchens: mould and food scraps were observed next to the pipes, there was no furniture where asylum seekers could eat. In 2021, the JRS representative reported that 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. At the time of the Ombudsman's visit at the end of March 2022 this was still an issue, mould and infiltration was observed. Bathrooms were in a precarious state of hygiene: walls with damp, damaged sanitary items, no head showers, rusty toilets.<sup>457</sup> The director reported that sink faucets, light switches and electrical outlets were changed during the year and the roof had been repaired. The rooms affected by damp were not used. In 2023 the centre will be painted according to the director.

In **Bucharest:** according to the Ombudsman the hygienic conditions in Tudor Gociu centre have deteriorated. The furniture, mattresses, linoleum were worn down. On the 4<sup>th</sup> floor dampness and mould was observed by the visiting team. The bathrooms were in a poor state of cleanliness and hygiene: mouldy walls, damp, doors were dirty, broken tiles, rusty toilets, showers without a hose or shower head and the lighting was not working. The kitchens were also dirty.<sup>458</sup>

In **Giurgiu**, the author observed during their visit, and it was also confirmed by interviewed NGO representatives, that the hygiene conditions had improved. Hallways were freshly painted, rooms were clean and painted, only in one room were there doodles on the walls. The conditions had also improved from the Ombudsman's visit on 15 April 2022, when it was noted that hallways were dirty and not painted as well as the accommodation rooms, refrigerators were dirty and smelly and bugs were also spotted. With regards to the bathrooms the situation was the same as reported by the Ombudsman, water on the floor, damp, the walls separating the showers were rusty, there was a leaking pipe and it smelt. The toilets had old tiles and the smell was unbearable. The director of the centre stated that the centre will be renovated, without knowing when works would start.

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<sup>455</sup> Article 55(1) Asylum Decree.

<sup>456</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Galați*, 7 July 2022, available in Romanian at: <https://bit.ly/41WQj9G>

<sup>457</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Șomcuta Mare*, 29 March 2022, available in Romanian at: <https://bit.ly/3L8jAsg>

<sup>458</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Bucharest*, 19 April 2022, available in Romanian at: <https://bit.ly/3zfbTJk>

In **Rădăuți**, the Ombudsman reported that the bathrooms, even though they were renovated in 2021, were worn down and the hygienic conditions were inadequate. The kitchens were also dirty, the tiles were broken and dirty bugs were spotted on the dirty floor. The same situation was observed in the building intended for the accommodation of vulnerable asylum seekers: the floors and walls were dirty.<sup>459</sup> It was also reported by the NGO representative that hot water and heating was not available 24h/7 in the accommodation rooms or the NGO offices. Asylum seekers complained that during cold days the heating was not on all day. Also, bed bugs remain an issue. The director of the centre reported that during 2022 rooms, kitchen, bathrooms and hallways had been refurbished.

In **Timișoara**, NGO representatives reported that residents did not complain about bed bugs, fleas, bugs, the poor condition of mattresses and plumbing in the showers and toilets. After the renovation the centre is clean; asylum seekers clean their rooms. At the time of the author's visit there were only three asylum seekers accommodated in the centre in building C, of whom one asylum seeker had been living in the centre for a longer period of time. The rooms, kitchen and bathrooms were tidily kept. Asylum seekers who were to be transferred were accommodated in the same two rooms. The mattresses in these rooms were not so well kept. All the kitchen equipment and refrigerators were replaced. The bathrooms were also clean.

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.<sup>460</sup>

AIDRom stated that the Romanian language classes were held in person, 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.<sup>461</sup>

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

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.- In Timișoara these are not organised as there are no children
- Facilitating access to education and cultural accommodation
- Services to ensure their basic needs
- Facilitating access to social and medical services, when necessary
- Social counseling for children and adults
- 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.

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<sup>459</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Radauti*, 14 April 2022, available in Romanian at: <https://bit.ly/3F7xjeP>.

<sup>460</sup> 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.

<sup>461</sup> Information provided by AIDRom, 4 March 2021.



In 2022 Romanian classes were held by AIDRom and activities for children were also organised in all centres, except Timișoara.

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

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

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.<sup>462</sup> 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 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.<sup>463</sup>

Access to the labour market is granted under the same conditions set out by law for Romanian citizens.<sup>464</sup> 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).<sup>465</sup>

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.<sup>466</sup> Moreover, the provisions

<sup>462</sup> Article 17(1)(o) Asylum Act.

<sup>463</sup> Ibid.

<sup>464</sup> Ibid.

<sup>465</sup> Article 6<sup>^</sup>1(1)-(5) Asylum Decree.

<sup>466</sup> Article 17(1)(o<sup>^</sup>1) Asylum Act.

of the Asylum Decree on access to employment for asylum seekers also refer to the possibility to participate in vocational training programmes.<sup>467</sup>

From the discussions held with the stakeholders, it appears that in 2022, asylum seekers did not face 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 director of the centre 33 asylum seekers were employed during the year.

**Rădăuți:** There were four asylum seekers legally employed.

**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. It was reported that five asylum seekers were employed in 2022. **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. Five asylum seekers were employed during 2022, according to the director of the centre.

**Timișoara:** according to the director of Timișoara Regional Centre two to three asylum seekers requested proof of their right to work, but the director was not aware if they had been employed. The Save the Children representative stated that they had left before finding a job.

**Giurgiu:** the director reported that 10 asylum seekers were employed in 2022.

The number of applicants who were employed as of the end of 2019 was 26.<sup>468</sup> IGI-DAI reported that the number of asylum seekers employed at the end of 2021 was 18.<sup>469</sup> The number of asylum seekers with right to work was also provided – 276 compared to 970 in 2020.<sup>470</sup>

## 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.<sup>471</sup> Access to education is therefore free and unconditional.<sup>472</sup>

Compulsory general education consists of 10 grades and includes primary and lower secondary education. Compulsory education ends at the age of 18.<sup>473</sup>

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

<sup>467</sup> Article 6<sup>^</sup>1(4) Asylum Decree.

<sup>468</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>469</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>470</sup> Information provided by IGI-DAI, 16 February, 2021.

<sup>471</sup> Article 17(1)(p) Asylum Act.

<sup>472</sup> Article 6(1) Asylum Decree.

<sup>473</sup> Article 16(1) and (2) Public Education Act.



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 Șomcuta 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 2022, nine children were enrolled at school. 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.

In **Rădăuți**, no problems were reported with the enrolment procedure. This is ensured by the integration officer. In 2022 children enrolled at school, some of them attended the classes and some refused to go because they did not understand anything.

**Șomcuta Mare**: as in 2021, in 2022 no children were enrolled at school, according to the director, because they left the centre.

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. This was also reported for 2022.

**Bucharest**: there were nine requests for enrolment in 2022. As of 2020 children have been enrolled at the “25 School”.

None of the children accommodated in the regional centre **Timișoara** 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 said they were enrolled at school. Conversely, according to the Save the Children representatives, children are enrolled at school only when granted a form of protection, by AIDRom. The ISJ had enrolled them at “second chance”, motivating that there are no places available in the regular schools, as Ukrainian children had priority.

### **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.<sup>474</sup> 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 2022 preparatory courses were provided in most of the regional centres, except Timișoara.

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<sup>474</sup> Article 18(1)-(4) Asylum Act.

**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. Asylum seekers did not participate, according to the director of the centre, only beneficiaries.

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 **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 separately by a professor from ISJ four times a week. Children learn Romanian language, colour and play.

In **Șomcuta Mare**, according to the director the course is conducted at the school where they are enrolled.

In **Bucharest**, preparatory courses are held at School 25, according to the director of the centre.

Asylum-seeking children with special needs enjoy the same alternative arrangements as those provided for Romanian children. Throughout 2022, 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?               | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No      |                             |
| 2. Do asylum seekers have adequate access to health care in practice?                                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| 3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| 4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

Access to health care for asylum seekers covers the right to receive free primary care and appropriate treatment, emergency hospital care and free health care and treatment in cases of acute or chronic illnesses 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.<sup>475</sup>

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.<sup>476</sup>

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.<sup>477</sup> After receiving the personal identification number, asylum seekers may register in the public health insurance system and, if they 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.

In 2022, not all the regional centres had a medical doctor employed.

<sup>475</sup> Article 17(1)(m) Asylum Act.

<sup>476</sup> Article 17(1)(m<sup>^</sup>1) Asylum Act.

<sup>477</sup> Article 17(1<sup>^</sup>1) Asylum Act.

In **Giurgiu**, according to the director there is a nurse and a psychologist. 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 577 asylum seekers during 2022 and three counselling sessions were held with 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 2022 IGI-DAI did not hire a medical doctor, so there was only the doctor from the ICAR Foundation, who is present once a week. 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. A summary evaluation is made without an interpreter, after which the medical file is drafted. There was no psychologist in the centre from December 2021 until November 2022. A social assistant was also hired in 2022, who has responsibilities mainly during the integration programme.

**Bucharest:** In 2022, the centre had three medical assistants and one medical doctor and the psychologist position has been vacant since August 2021.

**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. As of April 2022 the centre also has a psychologist. The centre had a medical assistant from the beginning of the year until end of March 2022 (she took over the psychologist position) and as of June 2022 a new medical assistant was hired.

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 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 specialised psychological assistance and counselling.<sup>478</sup>

### Specialised treatment

The Asylum Act provides for the right of asylum seekers with special needs to receive adequate health care.<sup>479</sup> In practice, the ICAR Foundation is the only organisation with the necessary experience in

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<sup>478</sup> AIDRom, News Release, available in Romanian at: <https://bit.ly/38pzGtl>.

<sup>479</sup> Article 17(1)(n) Asylum Act.

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.

In 2022 in Rădăuți an asylum seeker who was HIV positive was treated through the state scheme.

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

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

☒ Yes

☐ No

An applicant with special reception needs is a vulnerable person according to Article 5<sup>1</sup> of the Asylum Act, who needs special guarantees to enjoy his or her rights and fulfil his or her obligations under the law.<sup>480</sup> Article 5<sup>1</sup>(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.<sup>481</sup>

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 arrived asylum seekers, while general practitioners provide weekly medical consultations (see [Health Care](#)).<sup>482</sup>

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.<sup>483</sup> 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.<sup>484</sup> What is more, during their visit in the regional centre of Timișoara, the Ombudsman

<sup>480</sup> Article 2(1)(b)<sup>2</sup> Asylum Act.

<sup>481</sup> Article 5(1)-(4) Asylum Decree.

<sup>482</sup> AIDRom, *Adapted and accessible health services for asylum seekers in Romania*, available at: <http://bit.ly/2Dz3v9U>.

<sup>483</sup> Article 17(1)(l) Asylum Act.

<sup>484</sup> 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.

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.<sup>485</sup>

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:<sup>486</sup>

- 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.<sup>487</sup> 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.<sup>488</sup> 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.<sup>489</sup>

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 three meals per day. There are 2 rooms with 8 places. Asylum seekers are accommodated together with Romanian children. Save the Children representatives stated that no activities are organised for them; they are not allowed to leave the centre only accompanied by the social assistants and they are able to use their phones only 2 hours per day. In October 2022 Save the Children bought a TV for them. During 2022, there were 6 unaccompanied minors accommodated at DGASPC. It was also reported that the representative of the DGASPC centre allowed 4 children (not related) to leave with a Romanian man who presented a power of attorney from Syria.

**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 2022 there were no children accommodated at the family house managed by Somaschi. In the regional centre unaccompanied children are accommodated separately.

<sup>485</sup> Ombudsman, Report, 2021, p.7, available in Romanian at: <https://bit.ly/3DZGvA7>

<sup>486</sup> Article 60 ROI.

<sup>487</sup> Article 58(3) Asylum Decree, in conjunction with Article 78(1) Child Protection Act.

<sup>488</sup> Article 58(3^1) Asylum Decree.

<sup>489</sup> Article 58(4) Asylum Decree.

**Galați:** In 2022, it was reported that only two unaccompanied children were accommodated at DGASPC day and the night shelter for homeless children, under the authority of DGASPC. They were taken over by DGASPC in 2021.

**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. 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. In 2022 there were no children accommodated at DGASPC.

**Giurgiu:** 10 unaccompanied minors under the age of 16, were taken over by DGASPC.

**Bucharest:** In 2022 unaccompanied children were also accommodated in the Ciresarii Emergency Reception Center of DGASPC District 5, according to the director. According to the director of the Vasile Stolnicu centre four unaccompanied children under the age of 16 were accommodated in DGAPSC centre.

According to IGI-DAI, 89 unaccompanied children were accommodated in DGASPC centres in 2022. At the end of the year there were 15 minors left in DGASPC centres.<sup>490</sup>

## 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.

In **Șomcuta Mare**, 40 children were accommodated, if they were accompanied by relatives they were accommodated in the same room, if not they were placed together with other children.

In **Giurgiu**, 178 unaccompanied children over the age of 16 were accommodated in the regional centre, according to the director. He further mentioned that if they are accompanied by adult relatives they are accommodated together.

In **Galati**, 60 unaccompanied children were accommodated in the centre. If they were accompanied by adults they were placed together with the adults.

In **Bucharest**, 92 unaccompanied children were accommodated in Tudor Gociu during the year.

In 2019, a total of 230 unaccompanied children were accommodated in Regional Centres.<sup>491</sup> At the end of 2020, 412 unaccompanied children were accommodated in Regional Centres.<sup>492</sup> In 2021, IGI-DAI reported a total number of 2,630 of unaccompanied children accommodated in the regional centres.<sup>493</sup> In 2022, the number of unaccompanied minors decreased significantly to 386 and at the end of the year 26 unaccompanied minors were accommodated in the regional centres.<sup>494</sup>

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<sup>490</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>491</sup> Information provided by IGI-DAI, 5 March 2020.

<sup>492</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>493</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>494</sup> Information provided by IGI-DAI, 22 February 2023.



### 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. In 2022, families were accommodated separately in **Bucharest**, the director said.

In **Galați**, if there were available places families were accommodated separately.

In **Șomcuta Mare**, families are accommodated separately from the other residents.

**Timișoara**: families are accommodated separately if there are available places. In 2022 the centre was not overcrowded.

In **Rădăuți** families are in general accommodated separately, but also with other persons. The building designed for vulnerable persons was not used as the medical office flooded when the showers were used.

Beyond the Regional Centres managed by IGI-DAI, AIDRom used to run 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.

In 2022, according to the director of Timișoara, 26 asylum seekers were accommodated in the AIDRom centre in Timișoara. IGI-DAI reported that 85 persons were accommodated in both centres during 2022 and at the end of the year there were 14 persons accommodated.<sup>495</sup> According to AIDRom representative in Timișoara, in December 2022, the persons accommodated in the centre had to leave as the project was finalised and no more funding was available.

## 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.<sup>496</sup> 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.<sup>497</sup> Where necessary to ensure an adequate understanding of the information by the applicant, it may also be presented orally during the preliminary interview.<sup>498</sup> Competent officers are also required to inform asylum seekers on how to contact NGOs and UNHCR and how to obtain legal assistance and representation.<sup>499</sup> The General Director of IGI appoints the official responsible for ensuring the conditions to carry out the above activities.<sup>500</sup>

<sup>495</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>496</sup> Article 17(1)(f) Asylum Act; Article 2(1) Asylum Decree.

<sup>497</sup> Article 2(1) Asylum Decree.

<sup>498</sup> Article 2(1<sup>^</sup>1) Asylum Decree.

<sup>499</sup> Article 2(2) Asylum Decree.

<sup>500</sup> Article 2(3) Asylum Decree.

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.<sup>501</sup> The applicant has to sign an acknowledgment of receipt of the information leaflets.

In practice, asylum seekers are expected to contact the NGOs in the Regional Centres in order to get more detailed information on reception conditions, house rules and their rights and obligations.

**Bucharest:** The Regulation of Internal Order (ROI) is provided in writing by the officer at the checkpoint of the regional centre, at the time of accommodation in the centre, according to the director.

**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. The author noticed that ROI was not displayed in the centre.

**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. 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.

**Șomcuta Mare:** Asylum seekers are provided general information on the ROI and the projects implemented by NGOs in the Regional Centre, upon transfer from Timișoara. 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. Furthermore, the integration officer also organises group information sessions on ROI and the medical staff informs them about hygienic rules.

**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. ROI was displayed in Romanian, Arabic, English and French on the doors of the accommodation rooms.

**Rădăuți:** NGO representatives inform them orally during counselling sessions. Posters with ROI are displayed in several languages on the doors where asylum seekers are accommodated. According to the director of the centre posters were displayed in the centre. The NGO representative stated that these were not displayed after the walls were painted.

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.<sup>502</sup> However, according to the stakeholders interviewed by the author, this is not respected in practice, in all centres.

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<sup>501</sup> Article 5(1) and (2) ROI.

<sup>502</sup> Article 5(3) ROI.



## 2. Access to reception centres by third parties

### Indicators: Access to Reception Centres

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

☒ Yes

☐ With limitations

☐ No

Pursuant to Article 17(1)(r) of the Asylum Act, asylum seekers have the right to be visited by family members, representatives of national and international NGOs and bodies with duties in the field of asylum or human rights, authorised and accredited under the law.

The house rules prescribe that visitors shall have access to the centre premises, including closed spaces, only through the access control post, based on identity documents such as identity card, passport, diplomatic identity card or residence permit. Visitors' access to the centre premises, including closed spaces, shall be allowed only after they have been authorised by the service staff at the access control post and after registering the entry in the Visitor Record Register. Authorities are forbidden from retaining the documents at the access control post.

NGOs implementing projects funded by the AMIF national programme have access to reception centres for the duration of their projects, based on protocols with IGI-DAI.

## G. Differential treatment of specific nationalities in reception

There is no difference in treatment based on nationality with respect to reception. All Regional Centres accommodate different nationalities.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of persons detained in 2022:	936
2. Number of persons in detention at the end of 2022:	81
3. Number of detention centres:	2
4. Total capacity of detention centres:	274

#### Specific measures until 9 March 2022

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.<sup>503</sup> Detainees in Arad and Otopeni receive masks from IGI and CNRR

#### 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.<sup>504</sup>

In 2022 in **Rădăuți** a woman Russian national was detained in the specially designed closed space for 30 days on national security reasons. The detention order was appealed against and the court decided to maintain the detention order. She was granted refugee status.

In **Galați**, a Russian national was also detained in this specially designed closed space also due to national security reasons. The order was appealed against and the court rejected the appeal. According to the director of the centre the reasons were communicated to the applicant. He was detained for approximately 20 days. He later withdrew his asylum application and voluntary left Romania to Türkiye. IGI-DAI reported that in 2022 four orders to place asylum seekers in specially designed closed spaces were issued.<sup>505</sup>

Capacity of specially designed closed spaces: 2022	
Centre	Capacity
Timișoara	15
Șomcuta Mare	15
Rădăuți	10
Galați	30
Bucharest	0
Giurgiu	0
<b>Total</b>	<b>70</b>

Source: IGI-DAI, 22 February 2023.

<sup>503</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>504</sup> Article 19^7(1) Asylum Act.

<sup>505</sup> Information provided by IGI-DAI, 22 February 2023.

## 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.<sup>506</sup> 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.<sup>507</sup>

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.<sup>508</sup>

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 2022, 110 asylum applications were made from public custody centres, 92 in Arad and 18 in Otopeni.<sup>509</sup>

In 2022 a total of 936 foreigners were detained in the public custody centres, compared to 1,327 in 2021, 1,241 in 2020 and 377 in 2019, of whom 589 persons were detained in Otopeni and 446 in Arad.

**Arad:** During the author’s visit to the Public Custody Centre of **Arad** on 16 March 2023, there were 32 foreigners, all men, in detention out of whom two were asylum seekers from Pakistan and Guinea. According to the representative of Arad, a total number of 92 asylum applications were made in Arad, out of which 33 were granted access to the regular procedure. In addition, 26 subsequent applications were made, out of which only five were granted access to the regular procedure. The majority of applicants were Turkish nationals. However, the Director of Timișoara Centre reported that 84 asylum applications were made in 2022 in Arad, out of which only 16 were assessed in the regular procedure.

**Otopeni:** According to the director of the Otopeni Public Custody Centre 589 persons were detained in Otopeni in 2022. The majority of detainees were from India (106) and Pakistan (83). 18 first time asylum applications were made in 2022.<sup>510</sup> No statistics on the number of migrants who lodged a subsequent application were provided, nor the number of asylum seekers who were granted access to the regular procedure.

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.<sup>511</sup> Therefore, in these cases the procedure is

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<sup>506</sup> Article 101(1) Aliens Ordinance.

<sup>507</sup> Article 103(3) Aliens Ordinance.

<sup>508</sup> Article 19^14(1) Asylum Act; Article 101(2) Aliens Ordinance.

<sup>509</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>510</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>511</sup> Article 19^15(1) Asylum Act.

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 Timișoara 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 Timișoara, 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 19<sup>5</sup>(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.

The law provides that the "risk of absconding" within the meaning of Article 19<sup>5</sup>(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.<sup>512</sup> The Asylum Act sets out the criteria for determining the existence of a "risk of absconding":<sup>513</sup>

- The applicant crossed or was caught trying to illegally cross the state border of Romania after filing the asylum application;
- The applicant was caught trying to illegally cross the state border of Romania, and the asylum application was filed after the person was apprehended;
- 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.<sup>514</sup>

<sup>512</sup> Article 19<sup>6</sup>(3) and (2) Asylum Act.

<sup>513</sup> Article 19<sup>6</sup>(4) Asylum Act.

<sup>514</sup> Article 19<sup>2</sup>(3) Asylum Act.

## 1.2 Detention of asylum seekers in public custody centres

Under Article 19<sup>13</sup> of the Asylum Act an asylum seeker may be placed or maintained in detention (“public custody”) in the cases foreseen by the Aliens Ordinance,<sup>515</sup> 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;<sup>516</sup>
- (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:<sup>517</sup>

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;<sup>518</sup>
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.

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.<sup>519</sup> If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined.

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<sup>515</sup> 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.

<sup>516</sup> Article 19<sup>13</sup> Asylum Act, in conjunction with Article 19<sup>14</sup>(1) Asylum Act.

<sup>517</sup> Article 19<sup>14</sup>(2) Asylum Act.

<sup>518</sup> Article 19<sup>14</sup>(2)(e) Asylum Act, citing Article 19<sup>2</sup>(1)(a)-(b).

<sup>519</sup> Article 101(8) Aliens Ordinance.

## 1. 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.<sup>520</sup> These consist of:<sup>521</sup>

- ❖ 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.<sup>522</sup>

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.<sup>523</sup>

IGI-DAI reported 208 asylum seekers subject to a restrictive measure in 2022, they were designated place of stay in one of the Regional Centres<sup>524</sup>

### 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,<sup>525</sup> namely removal from Romania or transfer under the Dublin Regulation.

## 2. 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.<sup>526</sup>

<sup>520</sup> Article 19^2(1) Asylum Act.

<sup>521</sup> Article 19^2(1) Asylum Act.

<sup>522</sup> Article 19^5(1) Asylum Act.

<sup>523</sup> Article 19^2(2) Asylum Act.

<sup>524</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>525</sup> Article 19^13(2) Asylum Act.

<sup>526</sup> Article 19^5 Asylum Act, in conjunction with Article 42(2) Asylum Act.

## 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.<sup>527</sup>

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.<sup>528</sup> In this situation, IGI requests an age assessment, with his or her prior consent.<sup>529</sup> 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 2022, there were no accompanied children, families or other vulnerable persons detained in Arad or Otopeni.<sup>530</sup>

According to the Director of **Otopeni**, a pregnant woman and a single parent family (mother and her less than a year-old baby) were detained in 2022. All were returned to Sebia, the pregnant woman was detained for a month and the mother and child for two weeks.

In 2022, in **Arad**, there were no accompanied children or other vulnerable persons detained. Eight single women were detained in Arad during the year.

IGI-DAI reported that no vulnerable persons were detained in 2022.<sup>531</sup>

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.<sup>532</sup>

According to the director of Otopeni there was one migrant with psychological issues, who was released after two days due to his condition.

The Arad representative stated that no persons had been released due to a medical condition in 2022. 10 detainees had had chronic diseases.

### 3. 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?

1-5 months (see below for more details)

#### Specially designed closed spaces

According to Article 19<sup>7</sup>(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

<sup>527</sup> Article 29 Public Custody Centres Regulation.

<sup>528</sup> Article 131<sup>1</sup>(1) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

<sup>529</sup> Article 131<sup>1</sup>(2) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

<sup>530</sup> Information provided by CNRR, 15 February 2022.

<sup>531</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>532</sup> Information provided by IGI-DAI, 14 February 2018.

for an additional 30-day period.<sup>533</sup> Accordingly, the total period of detention in those spaces may never exceed 60 days.<sup>534</sup>

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.<sup>535</sup>

### Detention ("public custody") centres

Detention in public custody centres is also ordered for an initial period of 30 days<sup>536</sup> and it may not exceed 6 months.<sup>537</sup> 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.<sup>538</sup> 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.<sup>539</sup>

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 2022 was as follows:

Duration of detention – Public Custody Centre Arad: in 2021	
Duration	Number of persons
> 5 days	10
> 10 days	31
>20 days	46
>30 days	65
> 6 months	61
> 1 year	9
<1 year	0

Source: IGI, Director of Arad Public Custody Centre, 16 March 2023.

A foreigner from Tunisia detained in Otopeni declared during the author's visit that he had been detained for one year in Arad.

According to the directors of **Otopeni** the average duration of detention in 2022 was 3-5 months.

According to IGI-DAI, in 2019, the average duration of detention was 1-5 months.<sup>540</sup> In 2020, IGI-DAI reported an average duration of detention of 264 days.<sup>541</sup> In 2022 IGI-DAI said they had no statistics regarding the average duration of the procedure.<sup>542</sup>

<sup>533</sup> Article 19^7(3) Asylum Act.

<sup>534</sup> Article 19^7(5) Asylum Act.

<sup>535</sup> Article 19^7(6) Asylum Act.

<sup>536</sup> Article 19^14(1) Asylum Act.

<sup>537</sup> Article 19^14(6) Asylum Act.

<sup>538</sup> Article 19^14(7) Asylum Act.

<sup>539</sup> Article 19^14(10) Asylum Act.

<sup>540</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>541</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>542</sup> Information provided by IGI-DAI, 22 February 2023.



## Detention in border and transit zones

Detention upon apprehension cannot exceed 24 hours under the Romanian Constitution and the Criminal Procedure Code.<sup>543</sup> According to the ITPF Timișoara persons apprehended were not held for more than 24 hours in Border Police custody.

## 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.

#### 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: 2022	
Detention centre	Capacity
Otopeni	114
Arad	160
<b>Total</b>	<b>274</b>

Capacity in Arad may be extended to 206 places but only for limited periods.  
Capacity in Otopeni can be extended to 132 places.

In 2022, in the **Arad** centre the highest number of foreigners detained was 156. In Otopeni the highest number of persons was 54.

Asylum seekers placed in public custody centres shall be detained, as far as possible, separately from other categories of foreigners.<sup>544</sup> In practice, this not the case according to the directors of the **Arad** and **Otopeni** centres.

Persons who are convicted of crimes are also to be accommodated in separate rooms from other categories of foreigner nationals. Foreigner nationals considered ‘undesirable’<sup>545</sup> are accommodated

<sup>543</sup> Article 23 Romanian Constitution; Article 209 Criminal Procedure Code.

<sup>544</sup> Article 19^16(1) Asylum Act.

separately from the others, according to the Directors of Otopeni and Arad. Those who are convicted of crimes are only accommodated separately in Otopeni.

### 1.3. Transit zones

Romania has an airport transit zone in **Otopeni Airport** in Bucharest, with a capacity of 22 places. Eight people were detained in Otopeni Airport in 2022.<sup>546</sup> According to the Border Police they were held for 36 hours and eight asylum requests were made from airport transit zones.<sup>547</sup>

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 2022 there were 16 airport transit zones, with a total capacity of 108 places.<sup>548</sup>

Capacity airport transit zones: 2022	
Airport	No. places
"Henri Coandă" Bucharest	8
Băneasa Bucharest	8
Baia Mare	0
Suceava	3
Iași	8
Bacău	4
Craiova	8
„Delta Dunării” Tulcea	0
Timișoara	14
Arad	6
Oradea	3
Cluj-Napoca	14
Satu Mare	8
Târgu Mureș	6
Sibiu	8
„Mihail Kogălniceanu” Constanța	10
<b>TOTAL</b>	<b>108</b>

Source: Border Police, 6 April 2023.

<sup>545</sup> 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.

<sup>546</sup> Information provided by Border Police, 6 April 2023.

<sup>547</sup> Ibid.

<sup>548</sup> Information provided by the Border Police, 3 March 2021.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |   |   |  |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ If yes, is it limited to emergency health care?       | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> 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.<sup>549</sup>

The representative of **Arad** centre emphasised the lack of administrative staff, police officers and of nurses as an issue. At the time of the author’s visit there were three nurses hired, of whom one was on medical leave for more than 90 days. During 2022 there were two medical nurses and as of 14 May 2022 there were three. The nurses had been working 12 hours per day until June 2022 and as of June 24 hours with 72 hours rest. The working schedule was also adapted to the actual needs. The centre has a medical doctor contracted through a service provider contract. The doctor is present in the centre 3 hours per day on weekdays. Some of the interviewed detainees declared that some of the police officers have no English language skills. 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 representatives of both centres stated that they received a translation device which allows them to discuss issues with the migrants. The device is similar to Google translate. The representative of Arad centre said it is used for written communication, while the director of Otopeni stated that it is used for oral communication.

The director of **Otopeni** stated that they manage to communicate with foreign nationals in English or by using this new device. Nevertheless, they need interpreters to communicate with detainees.

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.

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. This was still reported in 2022.

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.

<sup>549</sup> Article 103(3) Aliens Ordinance.

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. Both centres have leaflets also in Arabic, Pashto, Kurdish and Chinese. The author noticed posters in different languages that were displayed in the dining space and the hallways.

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 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.

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.<sup>550</sup> 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 finalised 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. Representatives of Otopeni centre stated that building A had been renovated: walls were painted, a sanitary installation was repaired. Washing machines, refrigerators and ping pong tables were bought and they are in the process of changing the bedding, mattresses, pillows and covers.

**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.<sup>551</sup> Each room is designed to accommodate 4 people and has 4.5 to 6m<sup>2</sup> per person.<sup>552</sup> At the time of the author's visit there were 32 foreigners detained.

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 construction works will be finalised in the summer-autumn of 2023.

In 2022, in **Otopeni** the highest number of detainees was 54, as building A was closed and foreigners were only accommodated in building B, which has a capacity of 54 places. At the time of the author's visit there were 37 foreigners detained, including a woman from Cuba.

During the visit carried out to Otopeni on 21 March 2023, 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

<sup>550</sup> 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/2BPRsK>, 2.

<sup>551</sup> 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.

<sup>552</sup> *Ibid*, 10.

is in the other building was also clean. The outside space had not been improved, the representatives of the centre said improvement works are foreseen in 2023.

During the visits carried out to Arad on 16 March 2022, the detention conditions in the public custody centre were satisfactory. Since September 2022 all foreigners have been accommodated in building B, in order to save money for heating. At the time of the visit the detainees were outside their rooms in the hallways. The rooms were not visited. The hygienic conditions and overall cleanliness of the centre were good. Building C, which was not occupied, was sanitised, walls were painted and small repairs were done. There was no mother and child room. 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 windows of the building where people were accommodated were opaque, so it is not possible to look outside.

In **Otopeni**, the rooms are equipped with their own bathroom, individual beds with mattresses, table, chairs, cupboards, and a television. At the time of the author's visit the rooms were locked. Occupied rooms were not visited, but from the door it could be observed that the walls had been scribbled on. The room where the author had the interviews with the detainees also had dirty walls, was written all over, and the mattresses looked worn down. The bed linen is changed every week and washed in the centre according to the director of Otopeni. 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.

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.<sup>553</sup> Detainees interviewed from the Otopeni and Arad centres declared that they had received some clothing and hygienic products from CNRR.

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.<sup>554</sup>

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.

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<sup>553</sup> Information provided by CNRR, 9 December 2019.

<sup>554</sup> Article 30(1)-(4) Public Custody Centres Regulation.

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. The representative of the centre said they had tried to find another provider, but is quite difficult because the number of meal portions may vary from one day to another. 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.<sup>555</sup>

**Arad** has two courtyards of 120m<sup>2</sup> 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 representatives of Arad centre, 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 that they go outside once every three or five days for 20-30 minutes. The Ombudsman reported that foreigners complained that they are allowed outside only twice a week and recommended measures to be taken to ensure outside activities everyday.<sup>556</sup> They also said that rooms are not always opened during the day, it depends on the police officers on duty if the rooms are locked for most of the day or not. At the time of the author's visit the doors were open and detainees were socialising. It was also noticed that they were allowed to smoke inside. There is a workout room in Arad but only two fitness machines were functional at the time of the author's visit. However, this was not used by the foreigners. There is no library in Arad; books are stored in the psychologist's office, and detainees may borrow them. One of the representatives of the centre said the foreigners receive different games, such as rummy, puzzles, chess. TVs were recently installed in their rooms, according to the representative of the centre.

In **Otopeni** people are allowed on the terrace after meals under supervision everyday, depending on the availability of the police officers and according to the director. She also mentioned that outdoor time in the courtyard does not take place everyday. All the detainees interviewed said that they had no daily outdoors time. One of them said that he had outdoor time during warm days only once a week and foreigners are also taken on the terrace when there are disinfections. Another detainee said that in the three months since he had been detained he had been outside only twice. 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.<sup>557</sup> During the author's visit rooms were locked, foreigners were allowed to exit their rooms to discuss with the author or with the NGO representatives present at that time in the centre. The director of the centre said that doors are open between 8AM and 10PM. The centre has a functional gym, but it only has a few pieces of equipment. According to one of the police officers the equipment was broken. However, the director said they were working. Two of the interviewed detainees were not aware of the existence of the gym and how they could use it. 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. In 2022 in **Arad**, TVs were installed in all rooms in building B. One of the interviewed detainees stated that the TV was installed on the day of the author's visit. The rest of the foreigners declared they had a TV in the room.

According to the directors of the two centres, detainees have no internet access in detention.

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<sup>555</sup> Article 26(1)-(2) Public Custody Centres Regulation.

<sup>556</sup> Ombudsman, Visit Report, 6 October 2022, p.5, available in Romanian at: <https://bit.ly/40hXeZO>.

<sup>557</sup> Ombudsman, Visit Report, p.11

Social activities were not organised in 2022 neither **Otopeni** nor in **Arad**.

The need for social workers in detention centres has been emphasised by the Ombudsman since 2016.<sup>558</sup> This was still relevant in 2022.

**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.<sup>559</sup> 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.<sup>560</sup>

**Otopeni** has a general practitioner, a full-time psychologist and 3 nurses. The doctor's schedule is 7 hours per day on weekdays, while the medical staff works in 24h shifts. In March 2023 an additional nurse will be employed.

**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 16 March 2023, there were three nurses, of whom only two were working in 24h shifts. When new persons arrive at 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 medical office in **Arad** performs medical tests for the diagnosis of infectious / contagious diseases such as HIV, hepatitis and drug tests for all detainees. 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. There is also a contract signed with a pharmacy for the provision of medicines.

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. The medical office in **Otopeni** performs HIV, hepatitis B and C and drug tests on all of the detainees. In cases of long-term hospitalisations or serious medical issues a temporary personal identification number is issued by the National Health Insurance House. In 2022 if there was a need for specialist consultations the detainees are taken to the Clinic or Hospital of MAI.

In 2022 there were no detainees released from **Arad** due to their medical conditions. In **Otopeni** only one detainee with a psychiatric disorder was released due to his medical condition, according to the director.

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<sup>558</sup> 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".

<sup>559</sup> Article 104(6) Aliens Ordinance.

<sup>560</sup> Article 104(2) Aliens Ordinance.



According to the law, the psychologist of the centre makes the psychological evaluation of persons detained in the centre, drafts psychological observation sheets and provides specialist assistance throughout their stay.

For foreigners with psychological or psychiatric problems, the psychologist of the centre informs the Director of the centre immediately or his or her legal substitute and, where appropriate, makes proposals for specialist consultations to hospital departments.<sup>561</sup>

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.

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 or new translation device. 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.

There were no suicide attempts in 2022 in neither of the centres. As for hunger strikes, there were persons who stated their intention to go on hunger strike, but in one to two 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.<sup>562</sup> The Aliens Ordinance also provides for appropriate medical care and treatment for vulnerable persons in detention centres.<sup>563</sup>

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 emphasised 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

<sup>561</sup> Article 38 Public Custody Centres Regulation.

<sup>562</sup> Article 19^11(3) Asylum Act.

<sup>563</sup> Article 104(7) Aliens Ordinance.



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.<sup>564</sup>

Article 13 of the Public Custody Centres Regulation details visiting hours in detention centres for the following groups:<sup>565</sup>

- (a) Representatives of diplomatic missions or foreign consular offices representing the detainees' interests: 09:00 – 20:00 every day;
- (b) Representatives of national, international or non-governmental organisations competent in the area of migration, authorised and accredited under the law: 09:00 – 20:00 every day;
- (c) Family members or other persons who need to state the reasons for visiting: 10:00 – 12:00 and 14:00 – 17:00 for a maximum of 30 minutes, three times a week, usually on Tuesday, Friday and Sunday;
- (d) Legal representatives: 09:00 – 20:00 every day.

Lawyers have to hold a power of attorney from the foreigner held in detention. In some cases, lawyers have not been allowed access to detention centre on the ground that they had not had their lawyer's card validated by the Bar Association.

Visits are authorised by the Head of the Centre or his or her legal representative. In the absence of cooperation Protocols, visits by NGO representatives are authorised by the Director of the IGI Migration Directorate.

Media and politicians have access to detention centres if their request is approved.

The Public Custody Centres Regulation prescribes the conditions under which detainees may use the phone in order to contact people outside the centre.<sup>566</sup> 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.

In **Arad** there is one functional phone in building B. The phone is made available for a day for foreigners accommodated on one floor and the next day for the ones accommodated on the other floor, according to the detainees interviewed. Phone wires were installed in each common room in building C and a phone is connected for two hours in each common room. Each foreigner has around 20 minutes access to the phone. The Ombudsman also confirmed that the number of phones (four) is not enough, even more so when the centre is at full capacity.<sup>567</sup> 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. 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.

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<sup>564</sup> Article 103(4) Aliens Ordinance.

<sup>565</sup> Article 13(1)-(3) Public Custody Centres Regulation.

<sup>566</sup> Article 12(1)-(4) Public Custody Centres Regulation.

<sup>567</sup> Ombudsman, Visit Report, 6 October 2022, p.5, available in Romanian at: <https://bit.ly/40hXeZO>.

## 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  
❖ 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.<sup>568</sup>

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 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 are present in centres three to five days per week.<sup>569</sup> However, during the author's visit to Otopeni centre it was noticed that the schedule of the legal counsellor was every Tuesday from 9:30 to 12:00. Detainees also confirmed this. 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.<sup>570</sup> Conversely, some detainees 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 and English. 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.

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.<sup>571</sup> The appeal formulated against detention is subject to lighter formalities, as it is exempt from the judicial stamp duty.<sup>572</sup> 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.<sup>573</sup> The Court of Appeal has to examine the appeal within 3 days from the date of receipt, and its decision is final.

<sup>568</sup> Article 104(3) Aliens Ordinance.

<sup>569</sup> Information provided by CNRR, 7 February 2023.

<sup>570</sup> Ibid.

<sup>571</sup> Articles 19^7(7) and 19^14(8) Asylum Act.

<sup>572</sup> Article 19^16(3) Asylum Act.

<sup>573</sup> Article 19^14(8) Asylum Act.

The Court of Appeal of Bucharest had registered only four appeals against detention as of 1 January 2021.<sup>574</sup> According to representatives of the Otopeni centre the appeals were filed by CNRR representatives.

In comparison with previous years when only a few appeals were lodged against detention orders, in 2022, the the Court of Appeal of Timișoara had registered 23 appeals against detention orders of the Prosecutor's Office attached to the Court of Appeal of Bucharest. However, 22 appeals were rejected and 1 annuled as judicial taxes were not submitted.<sup>575</sup>

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.<sup>576</sup>

According to the Courts of Appeal of Timișoara, in 2022, court hearings were held through videoconferences in 54 cases.<sup>577</sup> In Otopeni court hearings were held in person and also online, according to the director of the centre and interviewed detainees.

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.<sup>578</sup>

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.<sup>579</sup>

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.<sup>580</sup>

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

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<sup>574</sup> Information provided by the Court of Appeal Bucharest, 7 February 2022.

<sup>575</sup> Information provided by the Court of Appeal Timișoara, 07 and 17 February 2022.

<sup>576</sup> Information provided by CNRR, 15 February 2022.

<sup>577</sup> Information provided by the Court of Appeal Timișoara, 17 February 2023.

<sup>578</sup> Article 19<sup>14</sup>(4) Asylum Act.

<sup>579</sup> Court of Appeal of Bucharest, Decision 2472/2018, 29 May 2018.

<sup>580</sup> Court of Appeal of Bucharest, Decision 2767/2018, 13 June 2018.

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.<sup>581</sup> 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

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.<sup>582</sup> 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 “Specialised 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.<sup>583</sup> CNRR also confirmed, that legal counselling is provided upon request at every stage of the procedure.<sup>584</sup>

In **Arad**, legal counselling is ensured by the legal counsellor of **Timișoara**, according to CNRR. However, CNRR reported there were no asylum claims made by foreigners detained in Arad or Bucharest in 2022.<sup>585</sup> In practice 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.

CNRR reported that, IGI informs CNRR Bucharest by email when an asylum application is made.<sup>586</sup> The representative of Arad centre said they inform the CNRR representative working in the centre if an asylum claim is made, because while the detainee is an asylum seeker, he/she cannot benefit from the services provided under the project implemented. The director of Timișoara centre said they inform the legal counsellor in Timișoara if an asylum claim was made from the detention centre, but not every time. Nevertheless, it seems that the communication between IGI and CNRR was flawed in 2021 and as well as in 2022 because, CNRR reported that there were no asylum requests made in detention centres in 2022,<sup>587</sup> even though the representative of Arad centre reported 92 asylum applications.

Therefore, no appeals were drafted by CNRR in 2021 and 2022.<sup>588</sup> According to the director of Timișoara centre, all appeals were lodged by the applicants. He also noted that detained asylum seekers are not counselled by anyone before the interview and none of the appeals were admitted by the court.

As regards asylum seekers in **Otopeni** centre, the representatives of the centre stated that they are counselled before the interview by CNRR, as they inform the NGO if an asylum claim is made via email,

<sup>581</sup> Article 101(13) Aliens Ordinance.

<sup>582</sup> Article 19^16(2) Asylum Act.

<sup>583</sup> Information provided by CNRR, 15 February 2022.

<sup>584</sup> *Ibid.*

<sup>585</sup> Information provided by CNRR, 7 February 2023.

<sup>586</sup> *Ibid.*

<sup>587</sup> Information provided by CNRR, 15 February 2022.

<sup>588</sup> *Ibid.*

and that appeals are drafted by CNRR. Two of the detainees interviewed by the author in Otopeni stated they drafted the appeal in English and French respectively and they only discussed it with the CNRR counselor after submitting the appeals.

The lack of proper counselling in Otopeni detention centre was also emphasised 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 and online in Bucharest and in person for detainees in Arad.

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.

## 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.<sup>589</sup> 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.<sup>590</sup>

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.<sup>591</sup> 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 organisations, 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.<sup>592</sup>

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:<sup>593</sup>

- ❖ 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.<sup>594</sup>

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.<sup>595</sup> Each region has at least one Regional Centre for asylum seekers.

1. After more than 2 years of no integration project implemented in Region 1<sup>596</sup>, IOM Romania in partnership with AIDRom and the Schottener Social Services Foundation implemented the project “InterAct + Active participation and integrated services for migrants from Romania” between 25 December 2020 – 24 December 2022. Region 1 includes **Bucharest** and the

<sup>589</sup> Article 15 Integration Ordinance.

<sup>590</sup> Article 16 Integration Ordinance.

<sup>591</sup> Article 17 Integration Ordinance.

<sup>592</sup> Article 18(1) Integration Ordinance.

<sup>593</sup> Article 18(2) Integration Ordinance.

<sup>594</sup> Article 20 Integration Ordinance.

<sup>595</sup> Romania is Home, *Integration programs*, available in Romanian at: <https://bit.ly/2RXBfZk>.

<sup>596</sup> Since 2 August 2019, no integration project was being implemented in Region 1.

following counties: Ilfov, Prahova, Buzău, Dâmbovița, Argeș, Vâlcea, Gorj, Brașov și Covasna.<sup>597</sup> 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 organising meetings with potential employers; financial education sessions; financial incentives to beneficiaries of a form of international protection that constantly participates in the activities organised by the project team.<sup>598</sup>

2. JRS is implementing 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 organisations that come into contact with foreigners or within their communities.<sup>599</sup> 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 two per person.
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.<sup>600</sup> 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).<sup>601</sup>
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 organisational 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, 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,

<sup>597</sup> Romania e Acasa, Integration Programmes, available in Romanian at: <https://bit.ly/3H5z2zF>. According to IOM Romania, 773 beneficiaries of international protection benefitted from its services in 2021.

<sup>598</sup> Information provided by IOM Romania, 19 February 2022.

<sup>599</sup> JRS Romania, available in Romanian at: <https://bit.ly/3l6oEOP>.

<sup>600</sup> AIDRom, available in Romanian at: <https://bit.ly/3BBJxJZ>.

<sup>601</sup> Ibid.



teaching materials); cover the costs for food / nursery / kindergarten / boarding / after-school.<sup>602</sup> As of December 2022, no project was being implemented as the proposal submitted by the NGO was rejected.

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.<sup>603</sup> Region 5 includes **Timișoara**, and Arad, Bihor, Hunedoara, Mehedinți și Caraș Severin counties.<sup>604</sup> 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 legalisations.<sup>605</sup>
6. In Region 6, from December 2020-December 2022 the GlobalHelp Association, in partnership with IOM Romania and AIDRom, implemented the project ‘Regional network for the integration of migrants in Romania – MyRO’. Region 6 includes Giurgiu, Călărași, Ialomița, Teleorman, Olt și Dolj.<sup>606</sup> As of December 2022, no project was being implemented in Region 6, as no NGO applied for the call for proposals launched by IGI-DAI.

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,<sup>607</sup> including the case of a person with PTSD.<sup>608</sup> 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.<sup>609</sup>

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<sup>602</sup> LADO, available in Romanian at: <https://bit.ly/3sWtjHc>. 134 beneficiaries on international protection were assisted by LADO and ASSOC in 2021.

<sup>603</sup> Information provided by AIDRom, 14 January 2022. 179 beneficiaries of international protection were assisted by AIDRom in 2021.

<sup>604</sup> AIDRom, available in Romanian at: <https://bit.ly/3BxZErM>.

<sup>605</sup> Information provided by AIDRom, 14 January 2022.

<sup>606</sup> GlobalHelp Association, available in Romanian at: <https://bit.ly/3oYbfeQ>.

<sup>607</sup> (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 NL18.21071, 5 December 2018.

<sup>608</sup> (Germany) Administrative Court of Aachen, Decision 6 L 606/18.A, 6 July 2018.

<sup>609</sup> (Netherlands) Administrative Court of Roermond, Decision NL18.5246, 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.<sup>610</sup>

The conditions for issuing a residence permit – in the form of a card – are prescribed by the Asylum Decree.<sup>611</sup> 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.<sup>612</sup>

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,<sup>613</sup> 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, three weeks in Timișoara, according to the director of the regional centre of Timișoara, three weeks in Rădăuți, three weeks in Galați, two to three weeks in Giurgiu. As for Șomcuta Mare the director was not aware of the average duration.

Difficulties and delays may arise when the beneficiaries do not understand the procedure and do not bring all the required documents.<sup>614</sup>

As regards the renewal of residence permit, beneficiaries of international protection do not encounter any problems. Before the expiry of the residence permit, they fill in a request of renewal and a new card is issued in the same time frame as mentioned above.

IGI-DAI issued 511 residence permits to refugees and 629 to subsidiary protection beneficiaries in 2022. These were residence permits issued for the first time; beneficiaries had not held another residence permit in the previous 6 months. A total of 2,677 residence permits were issued in 2022, irrespective of the protection status and if these were first time residence permits.<sup>615</sup>

<sup>610</sup> Article 20(6) Asylum Act.

<sup>611</sup> Article 51 Asylum Decree.

<sup>612</sup> Article 50(3) Asylum Decree.

<sup>613</sup> The form is available at: <http://bit.ly/2xaDCgJ>.

<sup>614</sup> Information provided by IOM, 19 February 2022.

<sup>615</sup> Information provided by IGI-DAI, 22 February 2023.

Residence permits per Regional Centre	
Centre	Total
Timișoara	193
Șomcuta Mare	207
Rădăuți	179
Galați	326
Bucharest	1,660
Giurgiu	81
<b>Total</b>	<b>986</b>

Source: Directors Regional Centres

## 2. Civil registration

The procedure of civil registration is set out in Act 119/1996.<sup>616</sup>

### 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.<sup>617</sup> 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;<sup>618</sup>
- 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.

ASSOC/LADO reported that beneficiaries do not encounter any issues in case of civil registration.<sup>619</sup>

AIDRom reported some difficulties in registering a newborn. The birth certificate is issued without a personal identification number for all newborn beneficiaries for international protection. It was further reported that a medical doctor had refused to vaccinate a child due to the lack of the personal identification number. Therefore, AIDRom had to pay for a vaccine which is usually provided for free.

In **Galati** the JRS representative provided assistance for the issuance of a birth certificate for a four-year old child. The cost of authorised interpretation was also covered by IGI-DAI and translation of the document was covered by the organisation. Overall, according to the JRS representative there were no more problems registered.

In **Rădăuți** the NGO representative provided support for the registration of one newborn. No problems were reported. The families were accompanied by the NGO representative and interpretation was also

<sup>616</sup> Act 119/1996 on civil registration acts, available in Romanian at: <http://bit.ly/2nFDcYr>.

<sup>617</sup> Article 25(3) Act 119/1996.

<sup>618</sup> Local Council of Timișoara, *Marriage Registration*, available in Romanian at: <https://bit.ly/2CSb8si>.

<sup>619</sup> Information provided by LADO/ASSOC, 20 February 2023.

ensured. It was reported that the authorities were not familiar with the residence permits. The same issue was also pointed out by IOM Romania.<sup>620</sup>

## 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. In 2022 as 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. Beneficiaries with working contracts did not encounter any problems in opening a bank account.

In **Șomcuta Mare** ASSOC/LADO had no information on this subject.<sup>621</sup>

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. Refuza pe motiv ca nu contr de munca. Este o banca care deschide indiferent de nationalitate. 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.<sup>622</sup> The director of Timișoara centre reported that in 2022, no beneficiary complained about this situation.

In **Rădăuți**: beneficiaries can only open a bank account when they have an employment contract. A beneficiary, a Syrian national was refused by several banks.

In **Giurgiu**, in general banks refuse to open accounts according to the AIDRom representative. In 2022 a beneficiary of international protection managed to open a bank account at a certain bank.

**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.<sup>623</sup> 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 2022: 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.<sup>624</sup>

Long-term residence or permanent residence status is regulated by Government Emergency Ordinance No. 194/2002 ("Aliens Ordinance"). The conditions for obtaining long-term or permanent residence status are prescribed by Article 71 of the Aliens Ordinance and do not differ for refugees and people granted subsidiary protection.

<sup>620</sup> Information provided by IOM, 19 February 2022.

<sup>621</sup> Information provided by LADO/ASSOC, 20 February 2023.

<sup>622</sup> Information provided by AIDRom, 14 January 2022.

<sup>623</sup> Information provided by IOM Romania, 19 February 2022.

<sup>624</sup> Information provided by IGI-DAI, 16 February 2021.

- (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.<sup>625</sup> 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.<sup>626</sup>

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,<sup>627</sup> or are married to a person holding Romanian citizenship for at least 5 years.<sup>628</sup>

According to the law, this period of residence starts from the moment when the asylum application was lodged.<sup>629</sup>

- (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.<sup>630</sup>
- (c) **Public order / national security:** The applicant must not pose a threat to public order or national security.<sup>631</sup>
- (d) **Health insurance.**<sup>632</sup>
- (e) **Accommodation:** The applicant has to prove the legal possession of a living space.<sup>633</sup>
- (f) **Means of subsistence:** The applicant has to prove he or she has at least the level of the gross average income in Romania.<sup>634</sup>

Article 72 of the Aliens Ordinance sets out the documents that the applicant has to submit personally, when requesting the permanent residence status:

- ❖ Travel document<sup>635</sup> for which there is an exemption for beneficiaries of international protection;<sup>636</sup>
- ❖ Proof of the legal possession of the living space, in accordance with the law;<sup>637</sup>
- ❖ Proof of the means of subsistence at the gross average earning in Romania;<sup>638</sup>
- ❖ Proof of health insurance;<sup>639</sup>
- ❖ Criminal record, issued by the Romanian authorities.<sup>640</sup>

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.<sup>641</sup>

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<sup>625</sup> Article 71(1)(a) Aliens Ordinance.

<sup>626</sup> Article 71(1)(a)(i) Aliens Ordinance.

<sup>627</sup> Article 71(1)(a)(v) Aliens Ordinance.

<sup>628</sup> Article 71(1)(a)(vi) Aliens Ordinance.

<sup>629</sup> Article 71(1)(a)(vii) Aliens Ordinance.

<sup>630</sup> Ibid.

<sup>631</sup> Article 71(1)(f) Aliens Ordinance.

<sup>632</sup> Article 71(1)(c) Aliens Ordinance.

<sup>633</sup> Article 71(1)(d) Aliens Ordinance.

<sup>634</sup> Article 71(1)(b) Aliens Ordinance.

<sup>635</sup> Article 72(1)(a) Aliens Ordinance.

<sup>636</sup> Article 146 Asylum Act.

<sup>637</sup> Article 72(1)(b) Aliens Ordinance.

<sup>638</sup> Article 72(1)(c) Aliens Ordinance.

<sup>639</sup> Article 72(1)(d) Aliens Ordinance.

<sup>640</sup> Article 72(1)(e) Aliens Ordinance.

<sup>641</sup> Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

The AIDRom representative in Timișoara reported no issues in relation to requests for long-term residence.

Applications for permanent residence status are examined by a special committee of IGI.<sup>642</sup> 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.<sup>643</sup>

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.<sup>644</sup>

**Galați:** According to the legal counsellor, there were requests registered and no issues were reported.

In 2017, 890 long-term residence permits were issued to refugees and 467 to beneficiaries of subsidiary protection.<sup>645</sup> Statistics for 2018, 2019, 2020 and 2021 were not made available.

In 2022 the directors of the regional centres reported statistics regarding the number of requests for long-term residence permits lodged, as follows:

Requests long-term residence permit per Regional Centre	
Centre	Total
Timișoara	27
Șomcuta Mare	No statistics
Rădăuți	5
Galați	15
Bucharest	138
Giurgiu	No statistics
<b>Total</b>	

#### 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 2022: Not available

The main criteria for naturalisation are laid down in Article 8(1) of the Act on Romanian Citizenship.<sup>646</sup> The applicant must:

- (a) Have legally resided in Romania continuously for at least 8 years, or at least 5 years since the day of marriage to a Romanian national;
- (b) Prove, through behaviour, actions and attitude, loyalty to the Romanian State, and not undertake or support actions against the rule of law or national security and declare that he or she has not taken such actions in the past;
- (c) Have reached the age of 18;

<sup>642</sup> Article 73(1)-(2) Aliens Ordinance.

<sup>643</sup> Article 73(3) Aliens Ordinance.

<sup>644</sup> Article 73(4)-(5) Aliens Ordinance.

<sup>645</sup> Information provided by IGI-DAI, 14 February 2018.

<sup>646</sup> Act 21/1991 of 1 March 1991, available in Romanian at: <http://bit.ly/2xafo6v>.

- (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.<sup>647</sup> 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”<sup>648</sup> or “who can significantly promote the image of Romania through outstanding performance in sports”.<sup>649</sup> The Romanian Government considered these amendments “necessary” and found that “not adopting them urgently will significantly affect the nationality acquisition and reacquisition process”.<sup>650</sup>

The competent authority is the National Authority for Citizenship (NAC).<sup>651</sup>

CNRR mentioned that several issues with regard to the citizenship acquisition process are still the same, as reported in 2021, and even became more severe in 2022, 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.<sup>652</sup> 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.<sup>653</sup> CNRR added that there is no separate procedure for beneficiaries of international protection who would like to obtain Romanian citizenship, requests are processed under the legal provision for foreigners with legal residence.<sup>654</sup>

AIDRom reported two to three persons who applied in 2022 for Romanian citizenship were rejected as they failed the general knowledge test. It was reported by an AIDRom representative that the tests are difficult, even for a Romanian citizen.

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<sup>647</sup> Article 8(2) Act on Romanian Citizenship.

<sup>648</sup> Article 8<sup>1</sup> Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

<sup>649</sup> Article 8<sup>2</sup> Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

<sup>650</sup> Government Emergency Ordinance No. 37/2015 of 15 September 2015.

<sup>651</sup> For further details, see European Statelessness Network, *Ending Childhood Statelessness: A case study on Romania*, 2015, available at: <http://bit.ly/2DxDsiz>.

<sup>652</sup> Information provided by CNRR, 15 February 2022.

<sup>653</sup> Ibid.

<sup>654</sup> Information provided by CNRR, 7 February 2023.

**Galați:** one beneficiary was granted Romanian citizenship in 2022, the JRS representative was not aware when the request was made.

**Rădăuți:** the legal counselor reported that there was one request and it is still pending.

**Șomcuta Mare:** LADO/ASSOC was not aware of any requests.<sup>655</sup>

**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.<sup>656</sup>

IGI-DAI does not keep statistics on citizenship granted to beneficiaries of international protection.<sup>657</sup>

## 5. Cessation and review of protection status

### Indicators: Cessation

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

Article 98(1) of the Asylum Act prescribes the grounds for cessation of refugee status as cases where the beneficiary:

- (a) Has voluntarily re-availed him or herself of the protection of the country of nationality;
- (b) Having lost his or her nationality, has voluntarily re-acquired it;
- (c) Has acquired a new nationality and enjoys the protection of the country of his or her new nationality;
- (d) Has voluntarily re-established him or herself in the country which he or she left or outside which he or she remained owing for the reasons on the basis of which he or she was granted refugee status;
- (e) Can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail him or herself of the protection of the country of nationality or habitual residence and cannot invoke, in order to justify such refusal, imperious reasons of concern to previous persecutions; or
- (f) Expressly renounces refugee status granted by Romania in writing.

Article 99(1) of the Asylum Act provides the following grounds for cessation of subsidiary protection:

- (a) When the circumstances which led to its grant have ceased to exist or have changed to such an extent that this form of protection is no longer necessary; or
- (b) When the beneficiary expressly renounces in writing, to the subsidiary protection granted by the Romanian State.

These provisions on changed circumstances do not apply to a 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.<sup>658</sup>

<sup>655</sup> Information provided by LADO/ASSOC, 20 February 2023.

<sup>656</sup> Information provided by IOM Romania, 19 February 2022.

<sup>657</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>658</sup> Articles 98(2)-(3) and 99(2) Asylum Act.

Article 102 of the Asylum Act describes the cessation and withdrawal procedure. It shall be triggered *ex officio* by IGI-DAI or at the proposal of one of the institutions responsible 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.<sup>659</sup> The interview is not conducted in case the beneficiary of international protection has acquired Romanian citizenship.<sup>660</sup> 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.<sup>661</sup>

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.<sup>662</sup>

Upon request, IGI-DAI grants UNHCR access to information on the procedure for reconsideration of the situation of beneficiaries of international protection and on the decisions issued, if the beneficiary has consented to this. In fulfilling its supervisory role under Article 35 of the Refugee Convention, UNHCR

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<sup>659</sup> Article 103(1)(c) Asylum Act.

<sup>660</sup> Article 103(3) Asylum Act, citing Article 98(1)(c).

<sup>661</sup> Article 103(4) Asylum Act.

<sup>662</sup> Article 103(5) Asylum Act.



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.<sup>663</sup>

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.<sup>664</sup> The cessation or withdrawal of the form of protection shall not have effect on the person's family members.<sup>665</sup>

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.<sup>666</sup> If the decision states also the obligation to leave the Romanian territory, IGI shall issue and enforce the return decision.<sup>667</sup>

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 did not occur systematically in 2018-2022.

In **Timișoara** and Giurgiu no cessation decisions were issued in 2022. In Rădăuți only one decision was issued in the case of a Syrian national. In Galați one decision of cessation was issued for a Syrian nation who acquired the nationality of the USA.

IGI-DAI provided the information that they had issued 70 cessation decisions (17 cessation of refugee status and 53 of subsidiary protection). One of the beneficiaries renounced the form of pretection granted. The main countries of origin were Ukraine, Syria and Iran.<sup>668</sup>

Cessation decisions per Regional Centre	
Centre	Total
Timișoara	0
Șomcuta Mare	22
Rădăuți	1
Galați	1
Bucharest	23
Giurgiu	0
<b>Total</b>	<b>47</b>

Source: directors regional centres

The number doubled from last year when 34 cessation decisions were issued (main countries Syria, Iraq, Egypt)<sup>669</sup> down from 55 cessation decisions in 2020 (main countries Syria, Iraq and Ukraine),<sup>670</sup> 57 in 2019 (31 cessation of refugee status and 26 of subsidiary protection), up from 3 decisions issued in 2018.<sup>671</sup>

<sup>663</sup> Article 103(6) Asylum Act.

<sup>664</sup> Article 104(1) Asylum Act.

<sup>665</sup> Article 104(2) Asylum Act.

<sup>666</sup> Article 104(3) Asylum Act.

<sup>667</sup> Article 104(4) Asylum Act.

<sup>668</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>669</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>670</sup> Information provided by IGI-DAI, 16 March 2021.

<sup>671</sup> Information provided by IGI-DAI, 5 March 2019, 20 February 2020.

## 6. Withdrawal of protection status

### Indicators: Withdrawal

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

**Refugee status** is revoked where:

- (a) the person who has been granted refugee status has made false statements, failed to provide certain data or used false documents that were decisive for granting refugee status, and there are no other grounds for maintaining the status of refugee; or
- (b) after granting the refugee status it was discovered that the person should have been excluded from being a refugee.<sup>672</sup>

**Subsidiary protection** is revoked under the same grounds as the refugee status,<sup>673</sup> the only difference being the grounds of exclusion.

The withdrawal procedure is the same as the Cessation procedure. There were two in **Timișoara**, of which in one case the court maintained the form of protection and in one the protection was revoked. Two in **Galați** and in both cases the international protection was maintained. In Bucharest, the director stated there were three cases of withdrawal.

IGI-DAI issued six decisions of withdrawal of protection status (Syria, Afghanistan) in 2022.<sup>674</sup>

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

2. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No  
❖ If yes, what is the waiting period?
3. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No  
❖ If yes, what is the time limit?
4. 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;

<sup>672</sup> Article 100 Asylum Act.

<sup>673</sup> Article 101 Asylum Act.

<sup>674</sup> Information provided by IGI-DAI, 22 February 2023.

- ❖ 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.<sup>675</sup> Beneficiaries of international protection are also not required to prove the existence of income, accommodation or health insurance for family reunification.

They only need to prove the family relationship with the family member or the fact that the marriage was concluded before entering the territory of Romania.<sup>676</sup> 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

Family reunification applications are 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.<sup>677</sup>

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.<sup>678</sup>

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.<sup>679</sup>

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.<sup>680</sup> 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.<sup>681</sup>

## 1.3. Cases of family reunification in 2022 per regional centre

In **Giurgiu**, according to the director of the centre 10 applications were made and all were admitted.

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<sup>675</sup> Article 71(1) Asylum Act.  
<sup>676</sup> Article 71(3) Asylum Act.  
<sup>677</sup> Article 30(1) Asylum Decree.  
<sup>678</sup> Article 30(2) Asylum Decree.  
<sup>679</sup> Article 30(3) Asylum Decree.  
<sup>680</sup> Article 30(4) Asylum Decree.  
<sup>681</sup> Article 30(5) Asylum Decree.

**Timișoara:** According to the director of Regional Centre Timișoara, there were seven cases of family reunification in 2022 and they were admitted.

In **Galați** around 50 applications were made, of which 40 were admitted and four rejected. One application was made by an unaccompanied minor.

**Rădăuți:** 60 requests were lodged, of which 52 were admitted and eight rejected.

**Bucharest:** 236 applications were made. There were no statistics on the number of admitted applications provided.

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.<sup>682</sup>

**Șomcuta Mare:** according to LADO/ASSOC, nine requests for family reunification were submitted in 2022, of which six requests were admitted. It was also reported IGI-DAI does not request original documents, furthermore the family reunification form to be filled contains the following wording: “copies of personal documents”.<sup>683</sup> According to the director of the centre, 53 requests for family reunification were filed, of which two were rejected.

#### 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.<sup>684</sup> 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.<sup>685</sup> In all cases, the unaccompanied child's views will be taken into account and given due weight.<sup>686</sup>

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.<sup>687</sup> The decision provided may be challenged under the same conditions as a decision delivered by IGI-DAI in the Regular Procedure.<sup>688</sup>

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.<sup>689</sup> 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.<sup>690</sup>

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.<sup>691</sup>

In **Galați**, it was reported that applications made by an unaccompanied minor are assessed slowly. There was a case of a child who applied for family reunification in July 2022 and as of February 2023 she still had not received a decision. According to the director the procedure is initiated by the legal representative jointly with the NGO representative.

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<sup>682</sup> Information provided by IOM Romania, 19 February 2023.

<sup>683</sup> Information provided by LADO/ASSOC, 20 February 2023.

<sup>684</sup> Article 72(1) Asylum Act.

<sup>685</sup> Article 72(2) Asylum Act.

<sup>686</sup> Article 72(2) Asylum Act.

<sup>687</sup> Article 72(3) Asylum Act.

<sup>688</sup> Article 72(4) Asylum Act.

<sup>689</sup> Article 73(1) Asylum Act.

<sup>690</sup> Article 73(2) Asylum Act.

<sup>691</sup> Article 73(3) Asylum Act.

In **Rădăuți**, the reunification procedure is triggered by NGOs. In 2022, there were six applications made by unaccompanied minors, according to the director.

In **Șomcuta Mare** in 2021 the procedure was initiated by the unaccompanied minors, with the assistance of the legal representative,<sup>692</sup> while in 2022 the procedure was initiated by the legal representative, according to LADO/ASSOC.<sup>693</sup> According to the director of the centre no applications were made by unaccompanied children.

In **Bucharest** the family reunification procedure in case of unaccompanied children is triggered by IGI-DAI, according to IOM Romania.<sup>694</sup> 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.

**Timișoara:** the director of the centre reported that in 2022 there was 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,<sup>695</sup> 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.<sup>696</sup>

IGI-DAI stated they have no statistics regarding the average duration of the procedure.<sup>697</sup>

**Timișoara:** The average duration of the procedure was seven months, according to the director of IGI-DAI. AIDRom also stated that the procedure takes five to six months until the decision is communicated and 9 months - from the date of submission until the family member's arrival in Romania.<sup>698</sup>

**Șomcuta Mare:** According to LADO/ASSOC the average duration of the family reunification procedure is 90 days, and some family members arrive in three months others six months later, depending on the country of origin and diplomatic relations between the countries.<sup>699</sup> The director is not aware of the duration of the procedure.

**Rădăuți:** according to the director the average duration of the family reunification procedure was 6 months. According to the legal counselor the procedure was swift, and in a maximum of one month the decision was communicated.

**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.<sup>700</sup>

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<sup>692</sup> Information provided by LADO/ASSOC, 3 February 2022.

<sup>693</sup> Information provided by LADO/ASSOC, 20 February 2023.

<sup>694</sup> Information provided by IOM Romania, 19 February 2022.

<sup>695</sup> Information provided by IOM Romania, 19 February 2022 and Information provided by LADO/ASSOC, 3 February 2022.

<sup>696</sup> Article 31(4) Asylum Decree.

<sup>697</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>698</sup> Information provided by AIDRom, 14 January 2022.

<sup>699</sup> Information provided by ASSOC, 20 February 2023.

<sup>700</sup> Information provided by IOM Romania, 19 February 2022.

**Giurgiu:** The procedure takes between seven to eight months until a decision is given, according to the director of the centre.

**Galați:** In general, the procedure takes around six to nine months and it depends on the case officers' workload. For unaccompanied minors the procedure lasts the same amount of time. According to the director of the centre the average duration of the procedure is six months. Family members may arrive in Romania between two months and one year later, depending on the country of origin.

In 2022, IGI-DAI reported a total of 395 applications for family reunification (102 Syria, 223 Somalia, 25 Afghanistan, 10 Pakistan, 9 Palestine, 8 Iraq, 5 stateless, 4 Yemen, 3 Ukraine, 2 Sudan, 2 Bangladesh, 2 Iran), of which 166 were admitted and 3 dismissed and the rest (226) were still pending at the end of 2022.<sup>701</sup>

## 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.<sup>702</sup>

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.<sup>703</sup>

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.<sup>704</sup> 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.<sup>705</sup>

**Galați:** The family members were granted the same form of protection as the sponsor, according to the director. 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, Timișoara, București.

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.<sup>706</sup> The decision shall be communicated to the sponsor beneficiary of protection who submitted the asylum application for the family members.<sup>707</sup>

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<sup>701</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>702</sup> Article 71(3) Asylum Act.

<sup>703</sup> Article 71(3<sup>1</sup>) Asylum Act.

<sup>704</sup> Article 71(4) Asylum Act.

<sup>705</sup> Information provided by IOM ROMANIA ROMANIA, 18 November 2019.

<sup>706</sup> Article 31(2) Asylum Decree.

<sup>707</sup> 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.<sup>708</sup> 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.<sup>709</sup> 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”.<sup>710</sup>

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.<sup>711</sup>

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,<sup>712</sup> 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.<sup>713</sup>

In 2020, IGI-DAI issued 573 new travel documents and 909 travel documents were renewed.<sup>714</sup>

In 2021, IGI-DAI issued 2,386 travel documents.<sup>715</sup>

In 2022, IGI-DAI issued 2,204 travel documents.

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<sup>708</sup> Article 20(1)(b) Asylum Act.

<sup>709</sup> Article 20(8) Asylum Act.

<sup>710</sup> Annexes 5 and 6 Government Decision 557/2006.

<sup>711</sup> Article 20(9) Asylum Act.

<sup>712</sup> 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.

<sup>713</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>714</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>715</sup> 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.<sup>716</sup> 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.<sup>717</sup>

A total of 845 beneficiaries of international protection were residing in the Regional Centres at the beginning of 2022:

Centre	Total
Timișoara	28
Șomcuta Mare	111
Rădăuți	84
Galați	100
Bucharest	514
Giurgiu	8
<b>Total</b>	<b>845</b>

Source: IGI-DAI, 22 February 2023. IGI-DAI reported that some of these beneficiaries only stayed for short period of time in the centres, until they found a flat and were enrolled in the project implemented by JRS- A new home.

In **Giurgiu**, the director mentioned that during 2022, five beneficiaries of international protection were accommodated in the centre.

In **Timișoara**, the director of the regional centre reported that in 2022 only six (three men and three women) beneficiaries were accommodated in the centre.

In **Rădăuți**, 174 beneficiaries were accommodated during 2022, according to the director.

In **Galați**, 154 beneficiaries were accommodated during 2022, according to the director.

In **Șomcuta Mare** 25 beneficiaries were accommodated, according to the director.

In **Bucharest**, 38 beneficiaries were accommodated, according to the director.

Beneficiaries accommodated in Regional Centres have to pay rent and maintenance costs after 3 months.<sup>718</sup> This was also confirmed by the directors of Timișoara, 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.<sup>719</sup>

<sup>716</sup> Article 21(1) Integration Ordinance.

<sup>717</sup> Article 21(2) Integration Ordinance.

<sup>718</sup> 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.

<sup>719</sup> 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.



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.<sup>720</sup>

In practice, beneficiaries of international protection in **Timișoara, Bucuresti, 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.

The rental fee to be paid by the beneficiaries differs from one centre to another, as follows:

Centre	Rent summer	Rent winter
Timișoara	220 RON / €44	310 RON / €63
Giurgiu	248 RON / €50	387 RON / €79
Șomcuta Mare	280 RON / €57	431 RON / €87
Galați	330 RON / €67	480 RON/ €98.
Bucharest	249 RON / € 50	273 RON / €55
Rădăuți	238 RON / €49	295 RON/ €60

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. LADO/ASSOC stated that the period for which they may cover the cost of rent depends on several factors, namely: how long the beneficiary chooses to stay in the centre, how much money he/she has left according to the budget allocated by the project, as it is possible that he/she previously benefitted from some medical services or the translation of some personal documents given that the money for these expenses is provided from the same budget.<sup>721</sup>

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.<sup>722</sup>

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.

## 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.<sup>723</sup>

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.<sup>724</sup>

<sup>720</sup> Article 21(2) Integration Ordinance.

<sup>721</sup> Information provided by LADO/ASSOC, 20 February 2023

<sup>722</sup> Information provided by LADO/ASSOC, 3 February 2022.

<sup>723</sup> Article 20(1)(q) Asylum Act.

<sup>724</sup> Article 28 Integration Ordinance.

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.<sup>725</sup>

If the local public administration authorities cannot provide a social home, the beneficiary may rent housing within the respective local community.<sup>726</sup> IGI-DAI subsidises up to 50% of the rent, subject to availability of funding, for a maximum period of one year.<sup>727</sup> According to IGI-DAI, 11 persons benefitted from this subsidy in 2018.<sup>728</sup> In 2022, no beneficiary benefitted from this aid.<sup>729</sup>

**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 2022, 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 2022 this was not applied.

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.

## 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.<sup>730</sup> 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.<sup>731</sup>

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.<sup>732</sup>

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<sup>725</sup> Article 29(1) Integration Ordinance.

<sup>726</sup> Article 29(2) Integration Ordinance.

<sup>727</sup> Article 29(3) Integration Ordinance.

<sup>728</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>729</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>730</sup> Article 20(1)(c) Asylum Act.

<sup>731</sup> Article 24 Integration Ordinance.

<sup>732</sup> Article 25 Integration Ordinance.

## 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 in Romania,<sup>733</sup> 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.<sup>734</sup>

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 representative, beneficiaries do not encounter difficulties in finding a job, they just have to be willing to work. AIDRom assists them in finding a job. As reported last year, 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.<sup>735</sup>

**Bucharest:** according to the representative of the centre 10 beneficiaries were employed during the year. 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.<sup>736</sup>

**Somcuta Mare:** LADO/ASSOC mentioned that there were no obstacles to finding a job as a beneficiary, but for many of them the language barrier is and remains a problem.<sup>737</sup> The director mentioned that 10 beneficiaries were employed during 2022.

**Galați:** It was reported that several beneficiaries transferred their integration programme to Bucharest where there is a foreign community and a better job offer than in Galați. 50% 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 every month 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. They may face hurdles in finding a job because of lack of diplomas and knowledge of Romanian language; age was also an impediment for some beneficiaries. A beneficiary failed to obtain recognition of his diploma because the respective job does not exist in Romania. According to the director of the centre 14 beneficiaries were employed during 2022.

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<sup>733</sup> 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/2hK7IUb>.

<sup>734</sup> Article 376(1) Act 95/2006 on Health Reform.

<sup>735</sup> Information provided by AIDRom, 14 January 2022.

<sup>736</sup> Information provided by IOM Romania, 19 February 2022.

<sup>737</sup> Information provided by LADO/ASSOC, 20 February 2023.

**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. According to the centre representatives seven beneficiaries were employed during 2022.

**Giurgiu:** According to the AIDRom representative, there are available jobs for beneficiaries. Moreover, they received support from AIDRom in finding a job. Seven beneficiaries were legally employed in 2022.

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.<sup>738</sup> Many of their beneficiaries worked in HORECA sector, which was the most affected.<sup>739</sup>

## 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.<sup>740</sup>

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:<sup>741</sup>

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 origin. The legalisation is applied by the Ministry of Foreign Affairs of the issuing country and the

<sup>738</sup> Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

<sup>739</sup> Ibid.

<sup>740</sup> Article 20(1)(r) Asylum Act.

<sup>741</sup> 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>.

Embassy / Consular Office of Romania in that country or by the Ministry of Foreign Affairs of the issuing country and its Embassy / Consular Office in Romania and the Ministry of Foreign Affairs of Romania. For countries where there are no diplomatic missions of Romania or who do not have diplomatic missions in Romania, titles are endorsed by the Ministry of Education and the Ministry of Foreign Affairs of the issuing country.

When requested, CRNED did not clarify whether this procedure also applies to beneficiaries of international protection. However, in case Apostille is required for beneficiaries, this would be contrary to the essence of international protection, as the person would be required to request the over-legalisation or Apostille from the Ministry of Foreign Affairs of the issuing country and its Embassy., according to IOM Romania and AIDRom, depending on the country of origin, CNRED may require Apostille or over-legalisation of beneficiaries' diplomas.<sup>742</sup>

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.<sup>743</sup>

LADO/ASSOC reported that the procedure lasts from two or three days to a maximum of 30 days. Beneficiaries may be assisted in this process by the Romanian language teacher or the counsellor who works in the centre.<sup>744</sup>

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 2022. All were solved positively, except in cases where the job provided by the diploma does not exist in Romania. The average duration of the procedure is 45-120 days.

In Timișoara the AIDRom representative reported the case of a beneficiary who requested the equivalence of medical studies but failed the Romanian language test.

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.<sup>745</sup> In order to have access to education, child 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.<sup>746</sup>

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<sup>742</sup> Information provided by IOM ROMANIA ROMANIA Romania, 18 November 2019.

<sup>743</sup> Information provided by AIDRom, 3 March 2021.

<sup>744</sup> Information provided by LADO/ASSOC, 20 February 2023.

<sup>745</sup> Article 20(1)(h) Asylum Act.

<sup>746</sup> Article 10(1) Integration Ordinance.

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.<sup>747</sup> At the end of the preparatory course, the level of knowledge of Romanian language is assessed and an evaluation commission determines enrolment at school.<sup>748</sup>

**Bucharest (Region 1):** In 2022, in Region 1, 208 BPI children were enrolled at school by IGI-DAI, according to the director.

**Giurgiu:** According to the AIDRom representative two unaccompanied children were attending school classes in 2022. Children were enrolled at school by the Romanian teacher of the organisation. Conversely the director of the centre reported that none of the children attended.

**Galați:** Children are enrolled at school from the moment they become asylum seekers. It was mentioned that the quality of the schooling exercise is falling below standards because it does not take into account the crucial steps of integration of beneficiaries in class cohorts. Some of the children complained that they were bullied by their peers. In one instance a 17 year-old was enrolled in first grade based on the fact that he had no Romanian language skills. In 2022 46 children beneficiaries of international protection were enrolled at school, according to the director of the centre.

**Timișoara:** The director of Timișoara centre reported that no children were enrolled at school in 2022. However, the AIDRom representative reported that around 15 children were enrolled at school. During 2022 ISJ enrolled the children beneficiaries of international schooling regardless of age at second chance school. The issue was reported to IGI-DAI and as of June-July 2022 children are enrolled in a school within the radius of their residence.

**Rădăuți:** Children are enrolled at school during the asylum procedure. The legal counsellor reported that children were enrolled during the year, some of them attended the classes and refused to continue because they did not understand anything in class, and some did not attend because they did not want to or they left the country. According to the director of the centre 63 beneficiaries were enrolled at school in 2022.

**Șomcuta Mare:** LADO/ASSOC reported that in general there are no issues with the enrolment of children beneficiaries who are accommodated in the centre. However, for beneficiaries who live in Baia Mare or other similar localities, there are problems when enrolling at schools, due to the limited places in classes, especially due to the high number of Ukrainian minors (many of whom speak Romanian), who had priority. Five children were enrolled at school in 2022.<sup>749</sup> According to the director of the centre three children were enrolled at the school in Șomcuta Mare and after they moved to Baia Mare they were easily transferred at the school there. In addition, a girl was enrolled at kindergarden.

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.<sup>750</sup>

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.

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<sup>747</sup> 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.

<sup>748</sup> Article 10(3) Integration Ordinance

<sup>749</sup> Information provided by LADO/ASSOC, 20 February 2023.

<sup>750</sup> 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>.



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, 2021 nor in 2022.

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, organises sessions of cultural accommodation and counselling activities, aiming to familiarise the adult beneficiaries of international protection with the traditions, customs, legislation and specifics of the Romanian society.<sup>751</sup> The previous provision stipulated that IGI organises 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 organisations in order to organise these activities.<sup>752</sup>

Adult beneficiaries of international protection benefit from intensive and free of charge Romanian language courses, organised by the specialised 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.<sup>753</sup> IGI-DAI, in collaboration with NGOs provides the necessary spaces for organising the courses.<sup>754</sup> 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.<sup>755</sup> The Ministry of Education establishes the organisation, duration and schedule of these courses.<sup>756</sup> At the end of the preparatory course, a commission issues a certificate that demonstrates the level of knowledge of the Romanian language.<sup>757</sup>

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.<sup>758</sup>

In **Timișoara**, according to AIDRom the courses are held by a Romanian language teacher from the ISJ, once a week. They are grouped based on their age and knowledge of Romanian language. They

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<sup>751</sup> Article 13(1) Integration Ordinance.

<sup>752</sup> Article 13(2) Integration Ordinance.

<sup>753</sup> Article 14(1) Integration Ordinance.

<sup>754</sup> Article 14(2) Integration Ordinance.

<sup>755</sup> Article 14(3) Integration Ordinance.

<sup>756</sup> Article 14(4) Integration Ordinance.

<sup>757</sup> Article 14(5) Integration Ordinance.

<sup>758</sup> Article 35(3) Integration Ordinance.



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 were also cancelled.<sup>759</sup> AIDRom also organises Romanian language classes twice a week in the same way as the ICAR Foundation, online and in person.

**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 by a teacher from ISJ. The language courses are held for adults and if there is a high number of beneficiaries they are grouped based on their nationality and Romanian language skills, according to the director of the centre.

AIDRom also organises Romanian language classes in the same way as the ICAR Foundation.

In **Galați**, JRS representative was not aware if beneficiaries were grouped based on their knowledge. due to the high number of beneficiaries. There are two teachers, one for children and the other for adults. The classes are held three times per week for two hours. JRS is also organising Romanian language courses every weekday in Constanta and Galați. It was reported that sometimes the classes are not held during vacations. The director of the centre mentioned that the course may be held separately for children and adults, but not so many are interested in attending the class.

In **Giurgiu**, according to AIDRom representatives the Romanian language classes were held by AIDRom for asylum seekers and beneficiaries of international protection. 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. 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 organised for foreign citizens. 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.<sup>760</sup>

## 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.<sup>761</sup> The amount of aid is related to the reference social indicator under the terms and conditions established by Government Decision.<sup>762</sup> More exactly the amount of the financial aid is 1,08 ISR<sup>763</sup> and equals 567,54RON/ €115.

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<sup>759</sup> Information provided by AIDRom, 14 January 2022.

<sup>760</sup> Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

<sup>761</sup> Article 20(1)(m) Asylum Act.

<sup>762</sup> Ibid.

<sup>763</sup> Article 20 (5<sup>1</sup>) Asylum Act.

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.<sup>764</sup> 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.<sup>765</sup> Further rules will be published, prescribing how these support teams are established, how they operate and what their responsibilities are.<sup>766</sup>

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.<sup>767</sup> 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.<sup>768</sup>

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.<sup>769</sup>

## 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.<sup>770</sup> However, some groups, referred to as "special cases", are exempt from the obligation to be enrolled in the programme. The special cases are:<sup>771</sup>

- 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 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.<sup>772</sup>

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.<sup>773</sup>

In 2022, 795 beneficiaries of international protection were enrolled in the integration programme and a total of 1803 were in the programme, of whom 1008 continued the programme from 2021.<sup>774</sup> There were 28 unaccompanied minors enrolled in the integration programme during 2022.<sup>775</sup>

<sup>764</sup> Article 14<sup>1</sup>(1) Integration Ordinance.

<sup>765</sup> Article 14<sup>1</sup>(2) Integration Ordinance.

<sup>766</sup> Article 14<sup>1</sup>(3) Integration Ordinance.

<sup>767</sup> Article 16 Integration Ordinance.

<sup>768</sup> Article 17(1) (2) Integration Ordinance.

<sup>769</sup> Article 20 integration Ordinance.

<sup>770</sup> Article 60(1) Asylum Decree.

<sup>771</sup> Article 33(2) Integration Ordinance.

<sup>772</sup> Information provided by IGI-DAI, 16 February 2021.

<sup>773</sup> Information provided by IGI-DAI, 10 March 2022.

<sup>774</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>775</sup> Ibid.

In 2022, 74 beneficiaries were enrolled in the integration programme in **Timișoara** and 22 were excluded, according to the director and 34 continued the programme from the year before. In **Giurgiu**, 28 beneficiaries were enrolled and 34 excluded, while 41 continued their integration programme from 2021. Only 15 beneficiaries finalised the one-year integration programme in 2022. In **Galati** 66 beneficiaries were included in the integration programme, one continued the programme from 2020 and 98 were excluded. In **Șomcuta Mare** 160 beneficiaries were enrolled, of whom one unaccompanied minor. In Bucharest 495 beneficiaries were enrolled, and 990 persons were following the integration programme (including the ones enrolled last year) and 249 were excluded. In Rădăuți 107 were enrolled and 83 continued the integration programme from 2021.

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.<sup>776</sup>

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.<sup>777</sup>

IGI-DAI reported that 1,564 beneficiaries of international protection benefited from non-refundable financial aid in 2022.<sup>778</sup>

## 2. Application procedure for aid

The authority responsible for granting non-refundable aid is the County Agency for Payments and Social Inspection (*Agenția Județeană pentru Plăți și Inspecție Socială*, AJPIS). The funds necessary for granting aid are provided from the budget of the Ministry of Labour and Social Protection through the Agency for Payments and Social Inspection of the County.<sup>779</sup>

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.<sup>780</sup> 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.<sup>781</sup>

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.<sup>782</sup>

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<sup>776</sup> Article 60(1) Asylum Decree.

<sup>777</sup> Article 52(2) Asylum Decree.

<sup>778</sup> Information provided by IGI-DAI, 22 February 2023.

<sup>779</sup> Article 20(5) Asylum Act.

<sup>780</sup> Article 60(2) Asylum Decree.

<sup>781</sup> Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

<sup>782</sup> Information provided by IOM 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.<sup>783</sup>

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.<sup>784</sup> 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.<sup>785</sup> 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.<sup>786</sup>

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.<sup>787</sup>

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.<sup>788</sup>

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.<sup>789</sup>

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. The financial aid is lost for the entire family if one of the members of the family is working and the amount per family member is more than the financial aid.

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.<sup>790</sup>

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<sup>783</sup> Article 60(2)-(3) Asylum Decree.

<sup>784</sup> Article 60(5) Asylum Decree.

<sup>785</sup> Article 60(4) Asylum Decree.

<sup>786</sup> Article 22(3) Integration Ordinance.

<sup>787</sup> Article 60(6) Asylum Decree.

<sup>788</sup> Information provided by AIDRom, 14 January 2021.

<sup>789</sup> Information provided by, 19 February 2022.

<sup>790</sup> 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.<sup>791</sup>

## 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.<sup>792</sup> 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.<sup>793</sup> An annual health insurance (valid for 12 months) costs the equivalent of six gross minimum wages, which was 2,550 RON/ €520, and 10% (social insurance contribution rate for health), that is 1,530 RON/ €310.

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 emphasised that the ASSOC representative offers support to beneficiaries in finding family doctors<sup>794</sup>

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
- ❖ Linguistic and cultural barriers.

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<sup>791</sup> Article 20(1)(g) Asylum Act.

<sup>792</sup> Article 20(1)(g) Asylum Act.

<sup>793</sup> Article 180(3) Fiscal Code.

<sup>794</sup> Information provided by LADO/ASSOC, 3 February 2022.

IOM Romania further acknowledged the important role of NGOs implementing integration projects, in supporting beneficiaries in accessing health services.<sup>795</sup>

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.<sup>796</sup> This was still the same in 2022.

In **Giurgiu**, it was reported by the AIDRom representative that through their project MyRo they also provided medical assistance to beneficiaries up to 850 RON/ 173 EUR, which could also have included the reimbursement of health insurance. However, in the last two years they had not covered such costs, because beneficiaries were either not interested or they were employed. The appointment of family doctors was not an issue as the medical doctor employed by the ICAR Foundation was also a family doctor and beneficiaries were registered with her.

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<sup>795</sup> Information provided by IOM ROMANIA ROMANIA Romania, 19 February 2022.

<sup>796</sup> 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 <sup>1</sup> 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 <sup>1</sup> 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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